



Adam Griffith, policy officer at the Advice Services Alliance, investigates the distribution of new civil cases in 2007/08, based on information provided by the Legal Services Commission (LSC) in its latest annual report and statistical information.

Solicitors, NFPs and telephone advice

Introduction

Following the record-breaking number of civil cases started in 2006/07, the LSC target for 2007/08 was set at 850,000 new cases, of which 700,000 would be provided by face-to-face advisers and 150,000 by CLS Direct (since renamed Community Legal Advice (CLA)).¹ The LSC's latest annual report and statistical information reveal that:

- the face-to-face target was narrowly missed, with 668,067 cases started;
- the target for telephone advice was missed by a wide margin, with 84,575 cases started.²

The overall picture

The headline figures in the LSC's annual reports give the number of civil cases started by solicitors and not-for-profit organisations (NFPs) as Legal Help cases, cases started by CLA specialists, and a few 'others' (mostly people helped by housing duty schemes, but also via mediation and the family pilot). The figures do not include immigration and asylum, or cases conducted under legal aid certificates. The figures for the last three years are set out in Table 1.³

The figures highlight three trends in particular:

- Solicitors have averaged around 450,000 new matter starts (NMS) since 2003/04.⁴

The figure for 2007/08 is worrying. Solicitors' family cases, in particular, were down by about 20,000 from 2006/07.⁵ This

may be due partly to a policy change encouraging the immediate issuing of certificates in domestic violence cases.⁶

- NFPs' NMS continued to rise, as they have done every year since 2000, but the rate of increase slowed in 2007/08.⁷
- There was a significant rise in CLA figures, followed by a significant fall.

If the immigration figures are included, the overall picture is the same; however, the proportional changes for solicitors and NFPs are greater, reflecting the fact that solicitors' NMS in immigration dropped sharply in 2007/08, whereas NFPs' immigration NMS rose.⁸

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

- 155,065 in 2005/06;
- 151,247 in 2006/07; and
- 137,963 in 2007/08.⁹

Community Legal Advice

The most significant change concerns telephone advice provided by CLA. Starting in late 2006, a telephone operator

system was introduced so that callers speak to an operator, and have their eligibility checked, before speaking to a specialist adviser. In its latest annual report, the LSC states that the number of calls dealt with by the operator service, without the need to transfer them, was 'almost double what we expected'.¹⁰

The LSC has told the author that, during 2007/08:

- 166,297 matters were dealt with and closed by the operator service;
- 61,732 callers were referred to a face-to-face provider (and to no other source);
- 76,621 callers were referred to telephone specialists, who opened 84,575 cases as a result.¹¹

Overall, therefore, only 25 per cent of matters in 2007/08 were referred to CLA specialists. However, the proportion was much higher in the categories of law in which they specialise, being 37 per cent in employment, 42 per cent in welfare benefits, 47 per cent in debt, 50 per cent in education and 54 per cent in housing.¹²

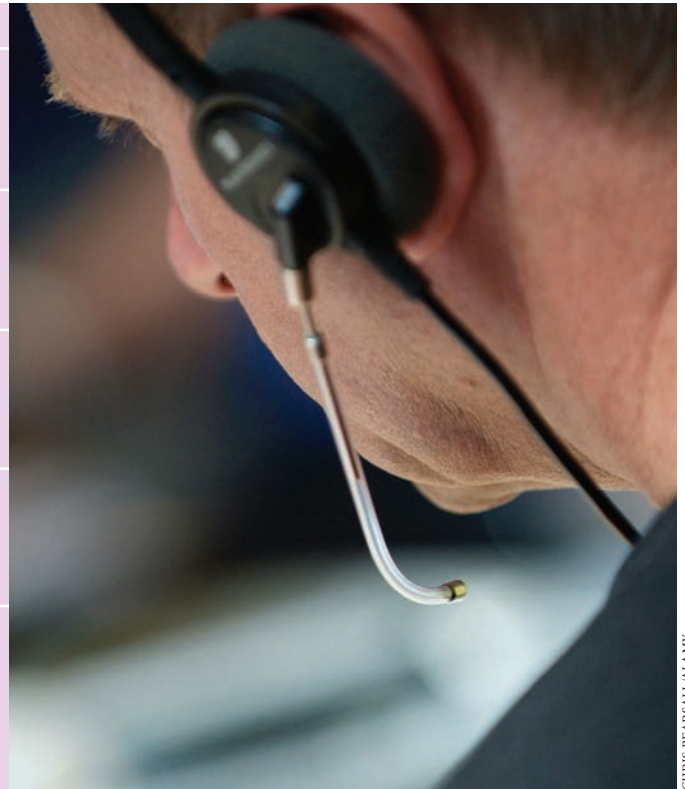
It would appear that the introduction

Table 1	2005/06	2006/07	2007/08	% change between 06/07 and 07/08
Solicitors	449,890	446,794	419,230	- 6.2%
NFPs	163,140	201,875	214,090	+ 6.0%
CLA*	73,625	111,319	84,575	- 24%
Others	21,855	36,575	34,747	- 5.0%
Total	708,510	796,563	752,642	- 5.5%

*Previously CLS Direct

Table 2	2005/06	2006/07	2007/08
Debt	102,542	121,287	111,463
– Solicitors	16%	14%	14%
– NFPs	55%	55%	67%
– CLA*	29%	31%	20%
Education	7,279	11,930	9,067
– Solicitors	30%	15%	18%
– NFPs	6%	5%	10%
– CLA*	64%	80%	71%
Employment	23,071	22,222	22,638
– Solicitors	25%	6%	19%
– NFPs	25%	29%	32%
– CLA*	50%	45%	49%
Housing	110,404	133,311	127,257
– Solicitors	54%	44%	44%
– NFPs	35%	34%	38%
– CLA*	11%	22%	18%
Welfare benefits	98,965	125,152	126,589
– Solicitors	24%	19%	19%
– NFPs	62%	62%	66%
– CLA*	14%	19%	15%

* Previously CLS Direct



of the operator service has enabled CLA to deal with many more queries, but that far fewer queries are reaching CLA specialists.¹³ The reasons for this are not clear but are likely to include:

- the need to pass the financial eligibility test before reaching a specialist;
- the operator service screening out simpler cases rather than transferring them.

Who advises about what

The overall trends described above are reflected in the distribution of new cases started between solicitors, NFPs and CLA over the last three years. Family cases, of course, are overwhelmingly started by solicitors. The distribution of new cases in the main categories covered by CLA specialists is set out in Table 2.¹⁴

In terms of actual numbers of cases, solicitors' NMS fell in all categories except for welfare benefits, while NFPs' NMS rose in all categories. CLA cases, in general, rose and fell, but they maintained a high 'market share' in education and employment. In employment, their numbers fell in 2006/07 and rose the following year, in contrast to the general trend.

Conclusion

Over the last year, advisers and commentators have understandably concentrated their attention on the LSC's reform programme, and in particular the introduction of fixed fees. The evidence available so far does not suggest that fixed

fees have had a dramatic effect on civil cases started. It does suggest that the redistribution of Legal Help cases between private practice and NFPs, particularly in social welfare law, has continued. What is not clear is whether or not the balance between face-to-face and telephone advice has shifted.¹⁵

- 1 For a discussion of the 2006/07 figures, see Adam Griffith, 'Playing the numbers game', *Independent Lawyer*, June 2007, p12.
- 2 *Annual report and accounts 2007/08*, LSC, pp8 and 17 respectively, available at: www.legalservices.gov.uk/docs/about_us_main/LSC_Annual_Report_200708_Final.pdf. The LSC has informed the author it now believes that the number of face-to-face cases started to have been underestimated by between 5,000 and 10,000.
- 3 *Annual report 2005/06*, p18, available at: www.legalservices.gov.uk/docs/archive/LSCAnnualReport2005-06_final.pdf; *Annual report and accounts 2006/07*, p19, available at: www.official-documents.gov.uk/document/hc0607/hc07/0716/0716.pdf; and *Annual report and accounts 2007/08*, p19, LSC, see note 2. The percentage calculations are the author's own.
- 4 See note 1.
- 5 *Statistical information 2007/08*, LSC, p4, Table CLS2, available at: www.legalservices.gov.uk/docs/about_us_main/webstats0708_v2Final.pdf.
- 6 See note 2, p19.
- 7 See note 1.
- 8 See note 5, p4, Table CLS2.
- 9 *Annual report 2005/06*, p19; *Annual report and accounts 2006/07*, p19; and *Annual report and*

accounts 2007/08, p21, LSC, see note 3.

10 See note 2, p19.

11 Information provided to the author by the LSC.

12 See note 11.

13 According to the LSC: 'In 2007/08 the total number of calls dealt with or referred by the service was 70% higher than in 2006/07', *Annual report and accounts 2007/08*, p20, see note 2.

14 The figures are in Table CLS2, *Statistical information 2005/06*, available at: www.legalservices.gov.uk/docs/archive/Webstats_v5_final.pdf and *Statistical information 2007/08*, see note 5. The percentage calculations are the author's own.

15 In recent advertisements, the LSC states that it is 'looking to expand the current service across England and Wales in the categories of debt, housing, welfare benefits and employment' (for example, *Law Society Gazette*, 4 September 2008, p29).