



# Solicitors' Views on the Impact of the Civil Legal Aid Reform

Research Study Conducted for  
the Scottish Legal Aid Board



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# Introduction

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## Background

The Scottish Legal Aid Board was established in 1987 to manage legal aid in Scotland. Currently the legal aid system is in a period of reform, with the most significant changes for 50 years being made to civil legal aid in October 2003. To evaluate and review how these changes have operated, the Scottish Legal Aid Board commissioned MORI Scotland to conduct a programme of research among solicitors. The research comprised two main components: an exploratory stage of 30 one-to-one telephone depth interviews with solicitors, and a main telephone survey of 300 solicitors across Scotland. The overarching aim of the research was to provide the Scottish Legal Aid Board with a greater understanding of solicitors' knowledge of, and attitudes towards, civil legal aid reform, which in turn would inform a report to Scottish Ministers.

## Aims and Objectives

The overarching aim of the research was to provide the Scottish Legal Aid Board with a greater understanding of solicitors' knowledge of, and attitudes towards, civil legal aid reform. This information will be used to evaluate and review how these changes have operated and will subsequently be used to inform a report to Ministers. Some of the key themes addressed in the research include:

- assessing response to the civil reforms (e.g. which changes solicitors are favourable towards and/or critical of, if and how, firms' service provision has been affected/changed as a result, whether any parts of the fee table cause particular problems, what issues the reporting stage has raised, how successful the new application forms are, etc.

## Methodology

The research comprised two main components: an exploratory stage of depth interviews and a national quantitative survey among solicitors, both of which were conducted by telephone.

The exploratory research consisted of 30 one-to-one telephone depth interviews with solicitors who personally carry out civil legal aid work. These were carried out between 5<sup>th</sup> and 14<sup>th</sup> September 2005. The depth interviews were conducted to ensure that the main survey would cover all the relevant issues. The majority (59%) of the interviews were conducted with a Managing Partner or Partner of the firm as this was usually the person who was responsible for carrying out most of the firm's civil legal aid casework.

The second stage of the research was a national telephone survey among solicitors who personally carry out civil legal aid work. A total of 300 interviews were conducted with solicitors between 24<sup>th</sup> October and 11<sup>th</sup> November 2005. The survey was conducted by MTS (MORI Telephone Surveys) using CATI (computer assisted telephone interviewing).

In both instances, quotas were set on volume of civil legal aid casework and whether a firm was situated in an urban or rural location. Only one interview was conducted per firm.

## Presentation and Interpretation of the Data

Two of the key strengths of qualitative research are that it allows issues to be explored in detail and enables researchers to test the strength of people's opinions and the underlying rationale for people's attitudes and behaviours. However, it needs to be remembered that qualitative research does not allow conclusions to be drawn about either the extent to which something is happening among the wider target audience (although one might surmise that particular opinions appear to be widespread) or percentages of people that have certain attitudes or opinions. Qualitative research is designed to be illustrative rather than providing statistically representative data. Findings from the exploratory depth interviews are only presented to add greater insight or clarification to the findings from the more robust national survey.

The survey findings represent the views of a sample of solicitors, and not the entire population of solicitors in Scotland, so they are subject to sampling tolerances, meaning that not all differences will be statistically significant. Where percentages do not sum to 100%, this may be due to computer rounding, the exclusion of 'don't know' categories or multiple answers. Throughout the report and topline results (marked-up questionnaire), an asterisk (\*) denotes any value of less than half a percent.

In the report, reference is made to “net” figures. This represents the balance of opinion on attitudinal questions, and provides a useful means of summarising the balance of opinion in five point scale questions. In the case of a “net agree” figure, this represents the percentage who agree about a particular issue, less the percentage disagree. For example, if the degree to which solicitors agree that better remuneration is paid is recorded as 19% agree and 62% dissatisfied, the “net agree” figure is - 43 points.

A separate volume contains detailed computer analysis by a number of population sub-groups such as gender, region, length of time involved in civil legal aid work and volume of applications dealt with annually. Please note that there is minimal reporting of significant differences between some sub-groups such as region, volume of caseload and urban/rural split due to the small base sizes involved.

Appended to this report are the topline findings to the survey and a breakdown of the regional crossbreak.

## Publication of Data

As with all our studies, there should be no publication of the data without the prior approval of MORI. This would only be refused on the basis of inaccuracy and misinterpretation of the results.

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*Susan King*

## Executive Summary

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- **Knowledge:** The majority of solicitors feel they are knowledgeable about matters relating to civil legal aid reform (almost eight in ten said they were knowledgeable). Throughout the research it is interesting to note that there are very few instances where those who thought they were knowledgeable had significantly different opinions to those who said they were not knowledgeable. However, responses to some questions illustrate that some confusion exists. This is illustrated when asked who sets the fees for civil legal aid, 31% said the Board and 15% the Law Society, rather than the Scottish Executive.
- **Commitment to legal aid:** Six in ten solicitors surveyed said their firm would be certain to or likely to continue doing civil legal aid work in three years' time, compared with three in ten who would not (not likely to/certain not to). Of this group, 9% said they were certain not to be doing civil legal aid work in three years time. The main reason firms envisaged stopping civil legal aid work was linked to the perception that it is no longer profitable for them to do and that they are better off doing other types of private work.
- **Impact on case load:** Very few solicitors said they are now doing more civil legal aid work since the reforms. Similar proportions feel they are doing less or about the same. Although, more solicitors said they are now doing less than more civil legal aid work since the reforms, encouragingly many solicitors are still taking on new clients.
- **Fee rates:** Only 4% of those surveyed said there had been a 21% increase in fees, the figure that has been stated in all civil reform communications, whilst in total 46% recognised that there had been an increase. However, there is a real perception among a significant proportion of solicitors that fees have not increased since the reforms were introduced in October 2003. Two in five said there has been no increase at all and three in five disagreed that better remuneration is paid for most cases. The qualitative research highlighted this also with many solicitors reporting that they are not being paid '*adequately*' for the work they do.
- **Fee issues:** The majority of solicitors agreed that the account's process has been simplified and that earlier payment is now received as cases progress through stage payments. However, the new '*block fee*' system is perceived as being inappropriate particularly for complex family cases; high value/complex financial cases and actions involving difficult clients. There is overwhelming support for the changes to block fees already identified, with four in five solicitors in favour of the changes proposed.

- ***Administration and quality assurance:*** The reforms brought about various new procedures and processes within the civil legal aid system. Solicitors' attitudes are, on the whole, favourable towards many of these changes - with the exception being the issue of increased administration levels. In particular, solicitors found the stage reporting process relatively easy to produce compulsory reports. The majority of solicitors who have had a Peer Review or administration audit have found that the newly introduced quality assurance system has improved their internal administration procedures. The majority of solicitors feel the revised application forms allow them to provide the necessary information, although some feel there are still too many *unnecessary questions to answer*, as well as *too much supporting information* being required. Opinions are more mixed as to whether the changes made to special urgency work has actually improved arrangements and whether or not it is now easier to get a block account settled by the Board.
- ***Guidance:*** Solicitors, on the whole, use the updates and guidance provided by the Board about the reform itself. There is a perception by a small minority that they do not have to *read the guidance because they already know what to do without reading it* or that they don't, in fact, *have the time to read the guidance*.
- ***Financial eligibility:*** There is widespread recognition that clients now have more contact with the Board over financial eligibility queries since the reforms. Most solicitors do not want to be involved in financial eligibility, with two in three of solicitors surveyed saying they don't want to be involved in financial eligibility at all, and a further one in five said they don't want to be involved much. However, almost all solicitors surveyed maintain they do not refer clients to another organisation for assistance in financial eligibility matters, with most preferring to assist clients directly or that they hadn't thought of doing it.
- ***Overall attitudes towards the reforms:*** On the whole, the majority of solicitors feel that some of the reforms have benefited them and their practice, by *simplifying the accounts process with the introduction of the civil legal aid block fee system and allowing for earlier payment as cases progress through stage payments*. However, on the issue of whether *better remuneration is paid for most cases and the new system rewards efficient conduct of cases* the majority tend to disagree with these statements.
- ***Recommendations for change:*** When asked to make two recommendations to the Scottish Legal Aid Board on how to improve the civil legal aid process the most commonly mentioned themes were: *increasing fees and revising the 'block fee' system, making the 'block fee' system more flexible to take into account different types of cases, reducing the administrative burden, simplifying and speeding up processes, as well as simplifying the forms*.

# Key Findings

## Commitment to Legal Aid Work

In the most instances, the Managing Partner or Partner is responsible for conducting civil legal aid cases. The majority (74%) of respondents participating in the survey having been involved in civil legal aid for over 10 years with around one in three (33%) firms processing in excess of 52 applications annually. As Figure 1 illustrates, most types of legal aid work accounts for less than 10% of firms' annual fees.

**Table 1: Profile of Respondents**

Profile of respondents							%
<i>Base: All solicitors, 300</i>							
<b>Length of time involved in civil legal aid</b>							
Less than a year							2
Over 1 year up to 5 years							11
Over 5 years and up to 10 years							11
Over 10 years							74
<b>No. of applications for civil legal aid annually</b>	<b>Solicitor perception</b>	<b>Applications made profile</b>					
52 applications or higher	33	15					
24-51 applications	29	23					
12-23 applications	17	25					
6-11 applications	11	18					
Less than 6 applications	8	19					
<b>Proportion of the firm's fees accounted for by types of legal aid work</b>	<10%	10%-25%	>25%-50%	>50%-75%	>75%	All	
Family -complex cases	54	16	6	2	0	0	
Family - non-complex cases	55	19	4	2	*	0	
Reparation	59	8	1	0	1	1	
Social welfare such as housing, debt, benefits	45	4	1	0	*	*	
Court of session casework	51	1	1	*	0	0	

*Source: MORI*

As Table 1 illustrates, there was a difference between the perception of solicitors about the number of civil applications their firm submitted and the volume of applications recorded by the Board for each sample group. Throughout the report we consider the perception of the volume of applications made.

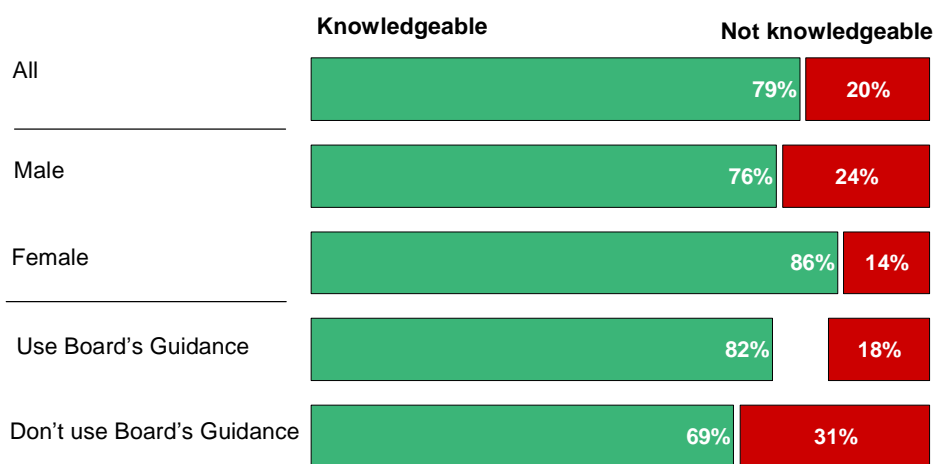
The majority of solicitors feel they are knowledgeable about matters relating to civil legal aid reform as Figure 1 illustrates.

In looking at the degree to which solicitors state they are knowledgeable across different sub groups, it would appear that women are more knowledgeable about matters relating to civil legal aid reform than men (86% versus 76%). Those who maintain that they do not use the guidance provided by the Board are almost twice as likely to say they are *not knowledgeable* than those who do (31% versus 18%).

**Figure 1 Level of Knowledge of Civil Legal Aid Reform, by Gender & Use of Board's Guidance**

## Level of Knowledge of Civil Legal Aid Reform

**Q How knowledgeable do you feel about matters relating to civil legal aid reform?**



Base: 300 solicitors, 24 Oct. – 11 Nov. 2005

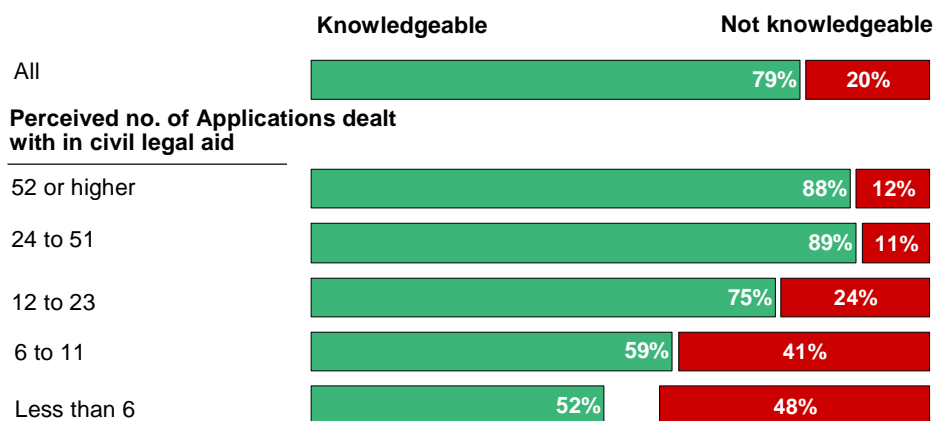
Source: MORI

As one would anticipate there is a correlation between those who are knowledgeable and the degree to which firms are involved in legal aid cases. Those who say they are knowledgeable are more likely to be involved in a higher volume of civil legal aid casework (for example, 88%; 52 applications or more, 89%; 24 – 51 applications compared with 52% of those who processed less than 6 applications) as illustrated in Figure 2.

**Figure 2: Level of Knowledge of Civil Legal Aid Reform, by Case Load Volume**

## Level of Knowledge of Civil Legal Aid Reform

**Q How knowledgeable do you feel about matters relating to civil legal aid reform?**



Base: 300 solicitors, 24 Oct. – 11 Nov. 2005

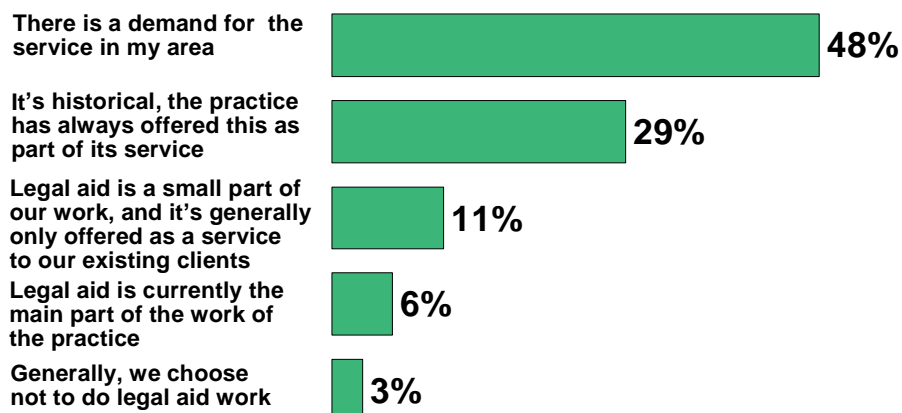
Source: MORI

The main reasons solicitors gave for doing civil legal aid work include: *there is a demand for the service in their area* (48%) and *it's historical, the practice has always offered this as part of the service* (29%). Among those who say that it is historical, those who disagree that better remuneration is paid for most cases are more likely to say this as those who agree that they are better paid.

**Figure 3: Main Reason for doing Civil Legal Aid Work**

## Main Reason for Doing Civil Legal Aid Work

**Q What is the main reason for your firm doing civil legal aid work?**



Base: 300 solicitors, 24 Oct. – 11 Nov. 2005

Source: MORI

These findings were reiterated in the depth interviews. Most solicitors felt they were providing a public service and that they should be able to provide for a variety of clients; not just private clients, but less privileged clients in the areas where their firms are based. Other solicitors said their practice had been doing civil legal aid work for as long as they could remember and that it's just one of the services they provide.

*I would say the area where we are is quite a poor area and a lot of work is legally aided. So there's a high demand for it.*

*Probably historic, because we have always done it and we are asked by clients if legal aid is available and we say it is.*

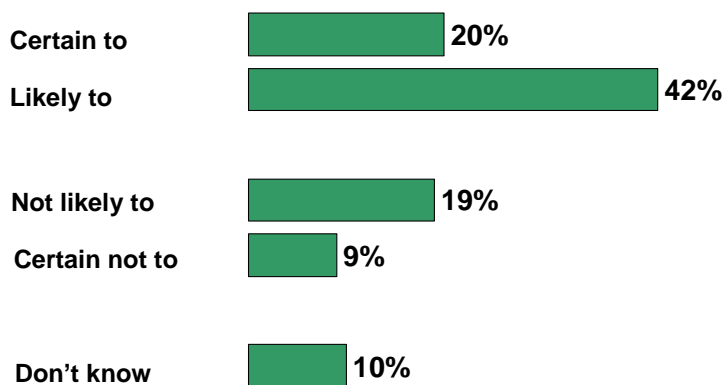
*I think it's partly historic and partly social duty and client obligation.*

Six in ten (62%) solicitors surveyed said that their firm was either 'certain to' or 'likely to' be doing civil legal aid work in three years' time compared to 28% who said they are either 'not likely to' or 'certain not to'. Of this group, 9% said they were 'certain not to' be doing civil legal aid work in three years time. There is a correlation between those who see themselves doing civil legal aid work in three years' time and volume of case work. Solicitors who are more likely to say that their firm is 'certain to' be doing civil legal aid work in the future include those who are doing higher volumes of civil legal aid case work (for example, 30% of those doing 52 applications a year compared with 6% of those doing 6 to 11 applications per year).

**Figure 4: Likelihood of doing Civil Legal Aid in 3 Years' Time**

### Likelihood of Doing Civil Legal Aid in 3 Years' Time

**Q Do you think your firm will be doing civil legal aid work in 3 years' time?**



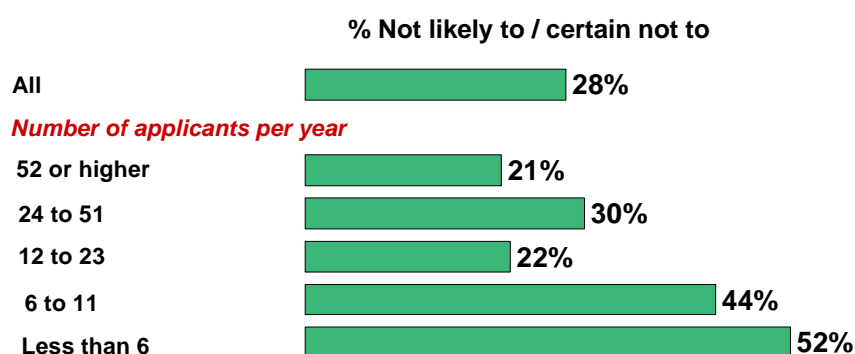
Base: 300 solicitors, 24 Oct. – 11 Nov. 2005

Source: MORI

**Figure 5: Likelihood of doing Civil Legal Aid in 3 Years' Time**

### Likelihood of Doing Civil Legal Aid in 3 Years' Time

**Q Do you think your firm will be doing civil legal aid work in 3 years' time?**



Base: 300 solicitors, 24 Oct. – 11 Nov. 2005

Source: MORI

Unsurprisingly, there is also a correlation between those who agree that better remuneration is now paid and the level to which solicitors are likely to be involved in civil legal aid in the future, e.g. those who disagree that better remuneration is paid are three times as likely to say that they are not likely

to/certain not to be involved in civil legal aid in 3 years' time than those who agree remuneration has improved (36% disagree versus 12%). In looking at regional variations those who are based in the East are more likely to say they will not be involved in civil legal aid than those in the West (46% versus 21%).

The main reasons solicitors gave for why they are uncertain that their firm would continue to do civil legal aid work is due to the perception that *legal aid was less profitable for them to do than other types of private work* (44%) and *legal aid fees are not high enough* (35%).

## Impact of Reform on Volume of Case Load

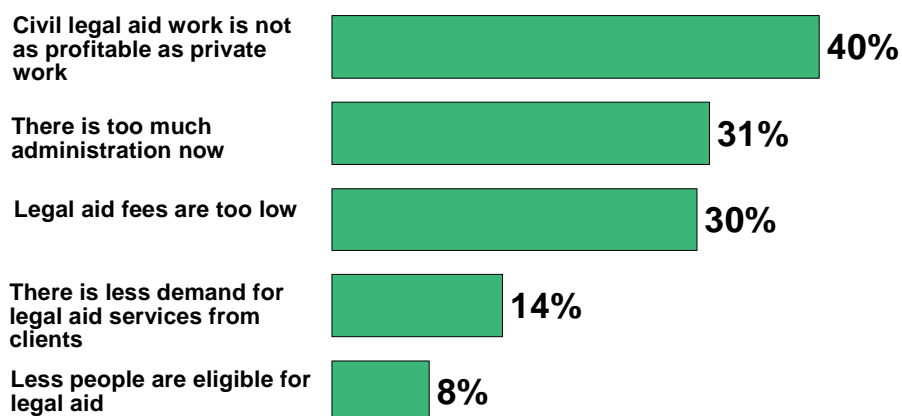
Half of solicitors (51%) said they are now doing less civil legal aid case work than before the reforms in October 2003. This is compared to 7% who said they are doing more and 42% who said their civil legal case work has stayed the same. Those who are most likely to say they are doing less include those involved in Family - complex cases (51%), family - non complex cases (51%) and those undertaking civil cases in the court of session (51%). There is a correlation between those saying they do less and the level to which solicitors feel that better remuneration is paid with those who disagree with this view being considerably more likely to say they are doing less civil legal aid work than those who agree with this statement (61% versus 26%). Unsurprisingly, those who feel that they are '*not likely to/certain not to*' be involved in civil legal aid in 3 years' time are more inclined to be currently doing less than those who are certain to be continuing to be involved in the future (78% versus 38%). In reviewing the degree to which solicitors are doing less civil legal aid work on a regional basis, those based in the East (68%) and Central/Fife/Tayside (58%) are more inclined to be doing less than those in the West (45%).

Of the few solicitors who are doing more work since the reforms, the main reason given is that the firm *takes referrals from other solicitors* (80%). The main reasons solicitors feel they are doing less civil legal aid case work include: *it wasn't as profitable as private work* (40%), *there is too much administration now* (31%) and *legal aid fees are too low* (30%).

Figure 6: Reasons for doing Less Civil Legal Aid Work

## Reasons for Doing Less Civil Legal Aid Work

Q Why do you do less of this type of work since the reform in October 2003?



Base: All who said they are doing less work (154), 24 Oct. – 11 Nov. 2005

Source: MORI

The main types of work solicitors said they are doing less of include: family complex cases (80%), family – non complex cases (64%) and reparation cases (60%). There is a correlation between those who think that fees are too low and the level to which solicitors are likely to continue being involved in civil legal aid work in the future. Those who are unlikely to/certain not to continue are considerably more likely to think that legal aid fees are too low than those who are likely to be involved in the future (41% versus 17%).

Most solicitors interviewed in the depth interviews said they were either doing about the same or less civil legal aid work since the reforms. The main reason solicitors gave for why they were doing less civil legal aid work was that the work was not as lucrative as it once was. Other work and, in particular, conveyancing and private client work were seen to be more cost effective alternatives and more beneficial to the profitability of the firm.

Conversely, other solicitors remarked that there is always a *steady flow* of civil legal aid work and that they haven't noticed any real difference in the volume of work they do since the reforms. Of the few that said they were doing more civil legal work since the reforms, there was a perception that procedures are a lot easier now and it's a lot quicker to get civil legal aid applications approved by the Board.

There is the perception among some solicitors that the amount of civil legal aid work their firm does now is not directly related to the reforms. Rather, they are doing more or less work due to a change in their firms' own personal circumstances; whether they have taken on more private clients at the expense

of civil legal aid clients or they are now doing more because other firms are referring work to them.

*I think the reason we're probably doing less is not really because of the reform itself. I think it's just simply because we maybe have a better reputation and we've built up more private clients.*

*To be honest, probably more civil legal aid work, but whether that's anything to do with the change in reforms or not or just a change in my own personal circumstances I'm not entirely sure.*

*We're doing more, but it's because our firm has built up the civil business quite a lot since then.*

Around six in ten (57%) said they have not stopped taking on new clients for any types of civil legal aid work, while 43% said they have. Again, significant differences exist among those solicitors who disagreed that better remuneration is paid for most cases and those that agreed. In the case of the former, solicitors are significantly more likely than those that agreed to have said they have stopped taking on new clients for any types of civil legal aid work (52% disagree, compared with 26% who agree). In looking at regional variations, those based in the East are more likely to have stopped taking on new clients than those in the West (59% versus 38%).

The majority (80%) of solicitors who have stopped taking on new clients have *referred them to another firm*, a third (36%) have taken them on *as a private fee basis* and 10% have taken them on as another non legal aid basis such as *no-win no fee or conditional fee*. The main types of cases solicitors are choosing to refer to other firms include: *reparation* (54%), *employment* (53%) and *social welfare* (50%).

When asked how solicitors envisage the amount of legal aid work changing in the future the main theme arising from the depths was that the amount of civil legal aid work firms do will fall in the future. There was a real perception that civil legal aid work is no longer profitable and some solicitors even went on to say that they are in many cases running at a loss. Solicitors also reported being more selective of the types of cases they took on, preferring instead to take on cases that were less demanding. There was a perception among some that matrimonial and reparation cases were not cost effective and that the 'block fee' did not cover the complex nature of these cases adequately.

## Impact on Availability of Supply

Two-thirds (64%) of solicitors feel that there has been a decrease in the amount of civil legal aid provision in the area where their firm is based, compared to 17% who perceive there has been no change and 3% who said there has been an increase. In looking at regional variations in relation to the level to which solicitors agree that there has been a decrease in the amount of civil legal aid provision, those based in Central/Fife/Tayside are more likely to hold this view than those working in the West (77% versus 57%). Overall, the main reasons solicitors have given for their decision includes: *they personally know the firms who have changed* (61%) and they have heard this from *talking to colleagues* (61%).

The perception that there has been a fall in civil legal aid provision in the area where firms are based was also evident from the depth interviews. Some solicitors remarked that there are certain firms they know who are refusing to do certain types of civil legal aid work, such as matrimonial and reparation as mentioned previously because they are more time consuming and are not paid as well as other types of work.

*Yes, there are a lot of firms who have stopped doing it all together.*

*Yes, we sometimes feel like the poor relations because we're getting quite a few referrals from other lawyers. Because we're still doing it. They're just not doing it.*

## Impact on Changes on Work with Clients

Two-thirds (67%) of solicitors maintain the reforms have had an impact on their work with civil legal aid clients, while 31% said the reforms have not. Once again, those who disagreed that better remuneration is paid for most cases are significantly more likely to have said the reforms have had an impact on their work with clients (75% versus 51%) than those who agree with this view. The main change solicitors feel the reforms have made to their work is that *there is more administration* (63%). Other changes include: the perception that they *now spend less time meeting with clients* (16%) that they are now *providing a poorer service to clients than before because they only do what work they are paid for* (12%) and they *have less frequent contact with clients* (7%).

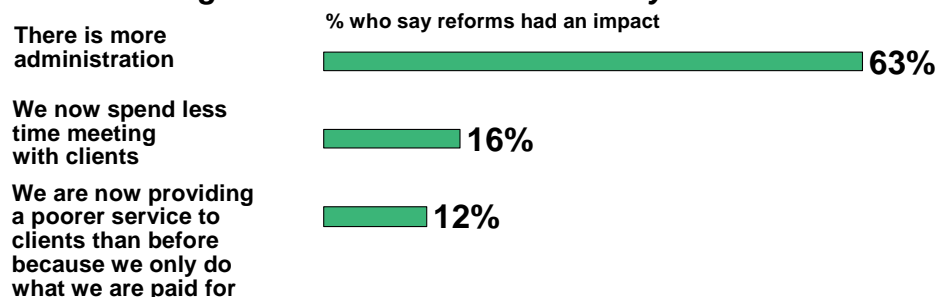
Figure 7: Changes Reforms have made to Client Work

### Changes Reforms have made to Client Work

**Q Have the reforms had an impact on your work with civil legal aid clients?**



**Q What changes have the reforms made to your client work?**



Base: 300 solicitors; all who said reforms have impacted on their work (202), 24 Oct. – 11 Nov. 2005 Source: MORI

This is reflected in the findings from the depth interviews. Many of the solicitors felt that the changes have had some impact on the way civil legal aid is run in their firm. A common theme was the amount of extra administration they now had to do which has resulted in them spending less time with clients.

Other solicitors felt the changes had not really had much of an impact on their clients. While some said the reforms had had a positive effect on their firms' procedures by tightening them up which has resulted in them keeping better records than in the past.

*It's certainly had changes on the way we run legal aid work in our firm. I mean there are far more checks, regulations etc...You spend a lot more time on administrative stuff.*

*Yes, I'd say it has. In certain instances, we'll say to clients you've got a complicated case that we're not prepared to deal with under a legal aid basis simply because the new legal aid changes do not award us for the amount of work we have to do.*

*I don't think that we've had to make changes to our working practices. I think that we were documenting things properly before the regulations came in, so I don't think it's made a great deal of difference to the administration of the office.*

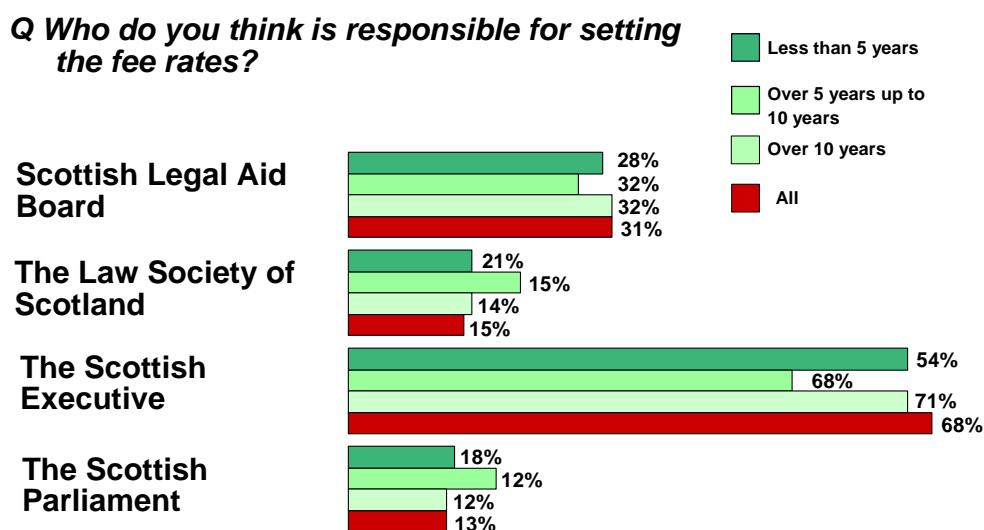
## Fees Rates

The Scottish Executive is responsible for overall legal aid policy while the Scottish Parliament deals with legislation affecting legal aid. The majority (68%) of solicitors cited the Scottish Executive as being responsible for setting the fee rates for civil legal aid and 13% named the Scottish Parliament. One in three (31%) maintained that this responsibility lay with the Scottish Legal Aid Board, while one in six (15%) cited the Law Society of Scotland. Interestingly, there are no significant differences between those who perceived themselves to be 'knowledgeable' about civil legal aid reform and those who maintain they are 'not knowledgeable.'

Those solicitors who have been involved with civil legal aid over a longer period are significantly more likely than those who are newer to the work to have named the Scottish Executive as being responsible for setting the fee rates for civil legal aid (for example, 71% of those who have been involved in civil legal aid for over 10 years, compared with 54% who have been involved less than 5 years).

**Figure 8: Knowledge of who Sets the Fee Rates, by Length of Service**

### Knowledge of who Sets the Fee Rates



Base: 300 solicitors, 24 Oct. – 11 Nov. 2005

Source: MORI

The reform was implemented in order to ensure that better arrangements were in place for paying solicitors. In addition, one of the objectives was to ensure that solicitors' fees increase by 21%. One of the main concerns for solicitors, however, is that they are not being paid adequately for the work they do.

There is a real perception among many solicitors (41%) that fees have not increased at all since the reforms were implemented. When asked to what degree they thought civil legal aid fees have increased since 2003, one in five (20%) said they had increased by less than 10% and a similar proportion (21%) feel that the increase has been somewhere between 10%-20%. Only 4% said the fees increase was 21%.

Solicitors who said they are 'uncertain' whether or not their firm would be doing civil legal aid in three years' time are significantly more likely than those who said they are 'certain to' be doing civil legal aid work in the future to have said that there has been no increases in civil legal aid work (58% versus 33% respectively).

In looking at regional variations, those based in Central/Fife/Tayside are more likely to say there has been no increases at all than those elsewhere.

**Table 2: Perception of Level of Increase of Fees**

<b>Q To what degree do you think civil legal aid fees have increased?</b>					
	<b>All</b>	<b>Likelihood of firm doing civil legal aid in 3 years' time</b>		<b>Level to which solicitors agree better remuneration is paid</b>	
		<b>Certain to/Likely to</b>	<b>Not likely to/certain not to</b>	<b>Agree</b>	<b>Disagree</b>
	<b>(%)</b>	<b>(%)</b>	<b>(%)</b>	<b>(%)</b>	<b>(%)</b>
<i>Base: 300 solicitors</i>					
By more than 21%	1	2	-	5	-
By 21%	4	5	1	5	4
By 10% - 20%	21	27	12	54	11
< 10%	20	23	13	18	19
No increase	41	33	58	5	58
<i>Source: MORI</i>					

To examine this issue further, solicitors were asked about what type of cases they felt they were being paid 'better' or 'worse' for since the reforms. Overall, opinions are fairly conflicting with 46% saying that all civil legal aid cases, in general, are paid 'worse' compared to 21% who feel that payment is 'better' and 21% who cite that there had been 'no change'. In particular, six in ten (60%) solicitors maintain that complex family cases are 'worse' off, while one in three

(35%) and one in five (21%) think this is the case for non-complex cases and reparation cases respectively. Around one in seven (14%) maintain that Court of Session cases are paid 'worse'.

There is a correlation between those who consider that all civil legal aid cases are worse off and the likelihood of solicitors continuing to be involved in civil legal aid within the next 3 years. Those who are not likely to/certain not to be doing civil legal aid in 3 years' time are more likely to consider cases are paid worse than previously than those who are likely to continue (61% versus 39%). As the table below illustrates this is reinforced in the level to which solicitors agree or disagree that better remuneration is paid.

**Table 3: Perception of whether Cases are Paid Better, Worse or the Same**

**Q I'm going to read out different types of cases and I would like you to tell me if they are paid better, worse or the same since the reforms in October 2003?**

	All	Likelihood of firm doing civil legal aid in 3 years' time		Level to which solicitors agree better remuneration is paid	
		Certain to/Likely to	Not likely to/certain not to	Agree	Disagree
<i>Base: 300 solicitors</i>					
<b>All Civil Legal Aid Cases</b>	(%)	(%)	(%)	(%)	(%)
Better Off	21	27	9	68	6
Worse	46	39	61	5	66
No Change	21	24	13	21	19

*Source: MORI*

As illustrated in the comments below solicitors feel very strongly about the rates of pay and the level to which they are remunerated which is a consistent theme throughout.

*Provide proper remuneration for solicitors by looking at the rates of pay for similar services and ensure similar remuneration for solicitors. Ensure fairer approach by legal aid staff to approval of accounts, ceasing the current target bonus schemes in the Scottish*

*Legal Aid Board which are encouraging unjustified reductions of accounts.*

*They have to make it less bureaucratic. Although the intention is to make it easier it has the exact opposite effect and in a system that doesn't pay competitively its now less remunerative. They have to raise the rates even if they were to make it one page it would still not be worth your while. You can't expect professionals to work for those rates in this day and age.*

*Pay for work that we do at a reasonable rate so solicitors start coming back to legal aid work.*

*Increase the unit from the current level. In terms of fees I think it would be justified to increase them further or you have the danger of solicitors dropping out of the legal aid system altogether.*

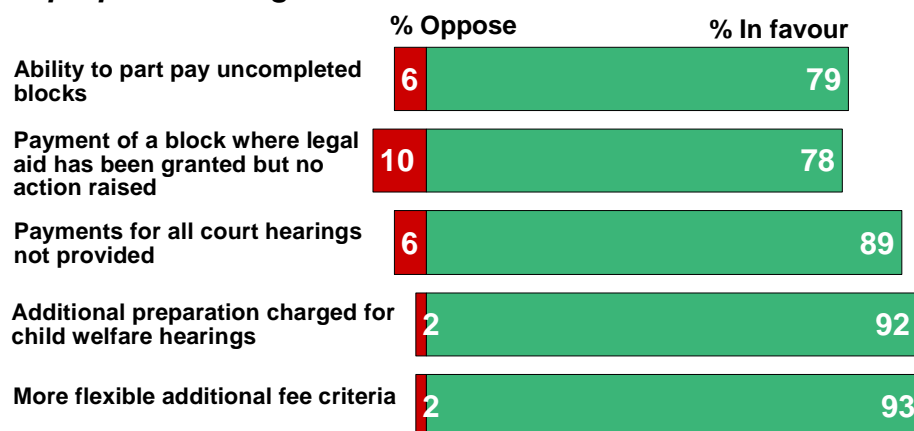
## Fee Issues

One of the reforms introduced in October 2003 was the single simplified 'block fee' structure which is based on rewarding efficiency and progress in resolving a case for the benefit of a client. The Scottish Legal Aid Board has already identified areas of change within the 'block fee' system and were subsequently interested in knowing whether solicitors are generally for or against a number of proposed changes. As the chart below illustrates, the majority of solicitors are in favour of the proposed changes to the 'block fee' system. There was little variation among sub-groups for this question.

**Figure 9: Perception of Proposed Changes to Block Fee System**

### Block Fee System

**Q I am going to read out a number of proposed changes and I would like you to tell me if you would be for or against each proposed change.**



Base: 300 solicitors, 24 Oct. – 11 Nov. 2005

Source: MORI

When asked if there are any other ways in which the 'block fee' system could be improved, one in five (20%) solicitors think that there should be *more discretion from the Scottish Legal Aid Board for more complex cases*, while around one in ten feel that it should be *made more flexible* (11%) or that there should be *add-ons and/or additional 'block fees'* (8%).

Findings from the qualitative research reinforced this, with many solicitors reporting that they are not being paid adequately for the work they do and that the new 'block fee' system is not flexible enough to accommodate different types of cases. Solicitors are of the opinion that the Board should allow firms more flexibility to select an alternative system for the type of case they are working on. Several solicitors showed a preference for being able to choose

between the new system of the 'block fee' and the old system of 'time and line account'.

*Time and line - we should be paid for work done rather than in blocks. They expect too much of legal aid lawyers for the fees paid.*

*Revamp the block fee system to take into account complex family cases and to ensure that payment is quicker for complex cases*

*Allow solicitors to choose between block fees and detailed fees.*

*There's such difficulty in the whole legal aid process. It either pays for efficiency of the solicitors or it has the block fee system which gives the incentive to do as little as possible.*

An overwhelming majority (82%) feel the 'block fee' is inappropriate for complex family action cases. In addition, 72% of solicitors maintain the 'block fee' is inappropriate for high value, complex financial cases while two-thirds (66%) have the same view in relation to actions involving difficult clients. Although many solicitors think the 'block fee' is inappropriate for some types of cases, two in five (41%) found it easier to get their block account settled by the Board than under the old system. One in three (36%) disagree with this and one in five (23%) were unable to comment. Solicitors who are either 'certain to/likely to' be doing civil legal aid work in three years' time are significantly more likely than those who are unlikely to continue to have found it easier to get their block account settled under the new system (46% versus 28% respectively).

The reforms in 2003 introduced a number of changes to certain processes and procedures. One such change was the introduction of stage reporting. This was introduced to allow the Board to monitor the developments in a case and to consider whether it was reasonable to allow legal aid funding to continue. Half (49%) of solicitors find this new process easy (9% *very easy*; 40% *fairly easy*), compared with 21% who regard it as difficult (6% *very difficult*; 15% *fairly difficult*). The most popular suggestions for improving the stage reporting process include: *doing away with the reports altogether* (19%), making it *less bureaucratic* (13%) and *reducing the amount of information there is to report* (12%). One in six (16%) maintain that *no changes are required* to this process.

There are fairly mixed views among solicitors as to whether they consider it easier or more difficult to get their block account settled by the Board (41% yes, 36% no). In looking at regional variations, those based in the North (58%) are more inclined to consider it easier than those working in the East (22%) or Central/Fife/Tayside regions (32%).

As part of the reforms, stage payments were introduced to provide solicitors with earlier payments than was available under the old system. Two in five (42%) take advantage of this, however, the majority (55%) do not submit an account to the Board to obtain payment in stages. The main reason provided is *it's easier to wait to the end of the case* (58%).

•

The depth interviews explored solicitors' knowledge of model accounts. Few solicitors were aware that the Board had produced a model account to simplify the preparation of accounts. There was also a perception by many of these solicitors that the revised 'block fee' system hasn't really changed their use of law accountants. If they have a law accountant, they continue to use them in the same way as before, which is usually to send larger quantities of cases to the law accountant at once rather than one at a time.

On a positive note, solicitors' experience of the 'block fee' system at the accounts' assessment stage is good as the following comments illustrate.

*Once it's in the 'block fee' they just pay it rather than quibble with you.*

*Its probably easier actually. There's less debate about what's properly chargeable. Certainly with time passing it's becoming clearer to everybody what should be charged so there are fewer accounts sent back.*

*They have less abatements coming back now than they used to.*

## Stage Reporting

Around half (50%) find the stage reporting process easy to give compulsory reports, when a key stage or time period is reached. The remainder find it difficult (21%) or are ambivalent (26%; neither easy nor difficult). There are fairly mixed views as to how solicitors would suggest improving the stage reporting process with one in five (19%) recommending 'doing away with it altogether'. Other suggestions put forward are 'make it less bureaucratic' (13%), 'reduce the amount of information to report' (12%) or 'provide reminders' (9%) while one in six (16%) feel that 'no changes are required'.

More solicitors found the process of stage reporting easy rather than difficult. However, some remarked that although they found the process relatively easy, they thought the process was *unnecessary* and a *nuisance* as the following verbatim comments illustrate.

*A little bit more flexibility on the submission of forms and getting them in on time. Take into consideration circumstances where time limits can't be met. Abolish stage reporting - instead just request regular updates by a short letter.*

*I think it's a relatively straightforward form and I haven't had any queries coming from report sent in.*

*Not only do you have the bureaucracy of having to stage report but then it seems to get followed by supplementaries.*

*A little bit more flexibility on the submission of forms and getting them in on time. Take into consideration circumstances where time limits can't be met. Abolish stage reporting - instead just request regular updates by a short letter.*

*More realistic timeframes for carrying out paperwork. Each firm having their own primary contact within the Legal Aid Board.*

## Quality Assurance

The reforms also introduced a new quality assurance system. The majority (67%) of solicitors do not think that this new system has changed how their office practices or, indeed, how they handle cases. One in three (31%) hold the opposite view. Those solicitors who are more likely to continue doing civil legal aid reform in three years' time are significantly more likely to have said the new quality assurance system has changed the way their office practices and handles cases than those who are certain not to (38% versus 21% respectively).

The main changes solicitors feel the new quality assurance system has made to their work include: *improvements to internal administration* (32%) and a *tightening up of procedures* (26%). One in three (35%) think it is just *another level of administration*.

Solicitors interviewed in the preliminary stage of the study made similar comments. In particular, it was felt that there were a number of benefits of the new quality assurance system. Solicitors felt it gave them ideas for new systems, improved the standard of their files and encouraged solicitors to *sing from the same hymn book*. There were, however, some concerns about the new system, in particular it was felt that it was *just another level of administration*, that it was a *waste of time and money* and that firm's are *already overseen by The Law Society*.

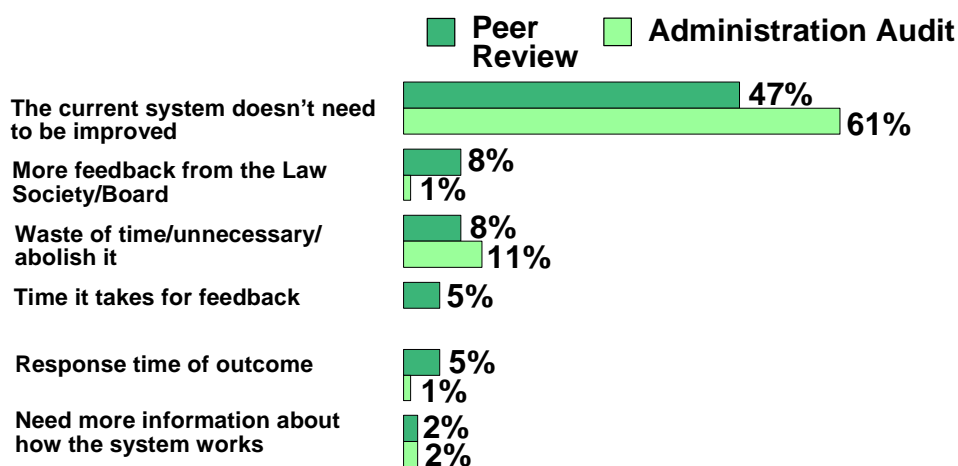
One of the main aspects of the new quality assurance system is the introduction of a regular *Peer Review*, which is administered by the Law Society of Scotland. Six in ten (59%) solicitors maintain they have had a Peer Review since October 2003, while 65% have had an *Administration Audit* which is conducted by the Scottish Legal Aid Board. One in four (26%) have had neither of these. Solicitors working in practices that are dealing with greater volumes of civil legal aid applications annually are significantly more likely than those dealing with fewer to have had both a Peer Review and/or an administration audit (for example, 81% who work in a firm that deals with 52 applications or higher had a administration audit compared with 48% who work in a firm that deal with less than 6 applications).

Those solicitors that have had a Peer Review since 2003 were asked what improvements could be made to it. Nearly half (47%) of those asked are satisfied with the current system and think *it didn't need to be improved*. One in twelve (8%) would like to see *more feedback from The Law Society of Scotland* while the same proportion think the Peer Review is a *waste of their time and should be abolished*. Similar suggestions were made by those who have experienced an administration audit. Six in ten (61%) expressed satisfaction with the procedure by saying it *did not need to be improved* and 11% think *it is unnecessary and should be abolished*.

**Figure 10: Improvements to peer Audit Review or Administration Audit**

## Improvements to Peer Review or Administration Audit

**Q** What improvements could they make to the administration audit/peer review which is conducted by the Board, if any?



Base: all who have had an administration audit (194)/ Peer Review (177), 24 Oct. – 11 Nov. 2005

Source: MORI

*A bit more feedback. Certainly from the Peer Review. Even if its positive feedback. I've had nothing back from it other than my files returned.*

*I thought that when the person came to our office, I thought the time spent wasn't very long. I think it's a good idea though, but the procedures and points are quite thorough and they've been well thought out.*

*I don't really think there is much else they can do. They're either going to call in every single file which is just unworkable or they are going to call in a selection which is what they're doing. I don't think there is anything else they could do.*

## Special Urgency

Changes were also made to *special urgency* arrangements to make them easier to operate and to allow for payment of determination accounts. Opinions are mixed as to whether these changes have actually improved arrangements for *special urgency* work. Two in five (39%) feel it has improved, however, one in three (35%) think it has not and one in six (16%) are not aware of any changes while one in ten (11%) do not know either way. The main reason solicitors cite for finding the arrangements for *special urgency* work difficult are due to *the application forms and process being difficult* (43%) as the verbatim comments below illustrate.

*It's sometimes a bit of a nightmare, because they want you to put Reg 18 first and then you've got to put SU4 in and then you've got to fill out a legal aid application, then you've got to chase up your client for a statement.*

*Because of the 28 day rule, unless your application is in you aren't going to get paid for your emergency cover.*

*Obviously sometimes you have difficulty - maybe for reasons outwith your control in submitting the forms within 28 days. So maybe there could be more discretion there if that happens.*

*I'm not sure what time limits they have to reply but if they could speed it up, speeding it up would obviously help.*

## Communication - Updates & Guidance

Application forms for civil legal aid were changed in the reforms. It was intended that they would be simpler, but provide the Board with more detail on why the case should receive legal aid support. The majority of solicitors (71%) feel the revised forms allow them to provide the necessary information, compared to 25% who disagree. Of the 25% who disagree seven in ten (70%) feel the forms *had too many unnecessary questions*, 57% think that *too much supporting information is required* and 14% have *difficulty in assessing case costs*.

The issue of *simplifying* the forms was also highlighted in the depth interviews as a key issue, particularly in relation to the number of questions listed, while others suggesting that these should be made available electronically as illustrated.

*There should be less forms and not so much duplication of information on each one. In this day and age it is ridiculous that you can't save these forms. They should be in digital form so that they can be downloaded.*

*Definitely, definitely simplify the forms, especially form 2. Form 2 is a nightmare. You're kind of celebrating if you have to fill in form 1. Simplify form 2 whatever happens and remove these silly rules about time limits for rendering your account and for emergency mandates.*

*Also more communication in the applications process. Often there is needless letter writing when things could be dealt with by short phone calls.*

*Improve the forms. Get rid of unreasonable questions like reasonable cause and having to say in advance what experts will cost.*

## Communication - About Changes

The Scottish Legal Aid Board has commissioned a separate study with MORI Scotland which will examine solicitors' satisfaction levels with the Board in more depth than the current study. For the purposes of this study, solicitors' communication with the Board and the Board's communication with applicants will only be considered from the point of view of actual civil legal aid guidance rather than how effective the Board's overall communications actually are.

The Board has published updates and guidance about the reforms since before the reform in October 2003 to assist solicitors in providing information about the legal basis for a case. An overwhelming majority (83%) of solicitors said they use this guidance to help them complete applications. One in six (16%) say they do not. Solicitors who perceive themselves to be knowledgeable about matters relating to civil legal aid reform are significantly more likely to have used the guidance than those who said they were not knowledgeable (85% versus 74% respectively). The general perception of the Board's guidance from the depth interviews was that the guidance was helpful and allowed for more efficient processing by the Board. However, there were concerns about the sheer volume of information required.

*It kept you informed of what was happening and when things were going to happen and obviously the new forms asking you questions. It gave you guidance as to what sort of answers the Board needed.*

*I find the sheer volume and frequency is hard to cope with and you're having to refer to lots of different bits of paper. There are so many changes and so much communication. It's almost overkill.*

*I think the Board is quite good at keeping up to date. I have no complaints.*

*Not only have I got the guidance but I've got the Recorder and what not. Yes, I use whatever's available by and large. I wish I'd gone to the roadshow but I don't think any of the dates suited me.*

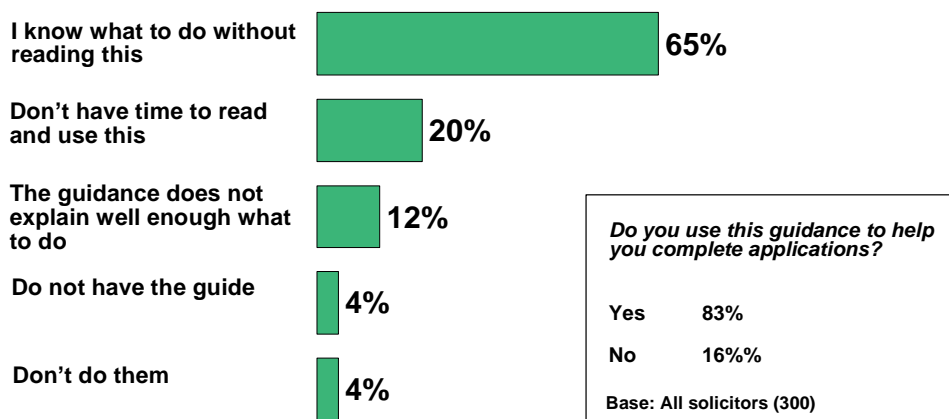
*I used it a lot initially. I mean now I kind of know what sort of information the Board are wanting, but certainly initially I found that very helpful to have that.*

There is a perception by some that the guidance is not useful because *they (i.e. solicitors) already know what to do without reading it (65%)*. Others maintain they didn't *have enough time to read it (20%)*.

**Figure 11: Use of Guidance about the Reforms**

## Use of Guidance about the Reforms

**Q The Board published updates and guidance about the reforms, including civil merits guidance in October 2003 to assist solicitors to provide information about the legal basis for a case.**



Base: All those who do not use the guidance (49 solicitors), 24 Oct. – 11 Nov. 2005

Source: MORI

Solicitors who took part in the depth interviews were asked what improvements could be made to the civil legal aid guidance. The following verbatims provide a cross section of suggestions for improvement. (Shortly after the conclusion of the survey, the Board published a comprehensive legal aid handbook which includes all guidance on civil legal aid previously issued.)

*They probably need another seminar or another CD-Rom or something. Although we can look up the Legal Aid Board's website but it's still not enough. We still need more.*

*Having example answers of what would be acceptable in certain circumstances, in certain types of cases would be good.*

*I know they issued one in 2003, a fairly comprehensive one, they could maybe do another one I suppose. Maybe every so often they could do a periodical update with all the bits in one section.*

## Communication - the Board's Contact with Applicants

The reforms also made changes to the *financial eligibility* process to encourage greater direct contact by the applicant with the Board, rather than the solicitor having to deal with financial eligibility queries. There is an agreement among solicitors (79%) that clients now have more contact with the Board over *financial eligibility* matters since the reforms.

There was a general consensus that in an ideal world, clients would provide all the information for financial eligibility to the Board directly. Two-thirds (65%) said they do not want to be involved in *financial eligibility* matters at all. Only 12% expressed interest in being involved with this (3% a great deal and 9% a fair amount).

**Table 4: Involvement in Financial Eligibility, by Position in Firm & Likelihood of being Involved in Civil Legal Aid in the Future**

**Q The Board made changes to the financial eligibility process to encourage greater direct contact by the applicant with the Board, rather than the solicitor having to deal with any financial eligibility queries (e.g. Form 2). To what extent do you and your firm want to be involved in financial eligibility?**

	All	Likelihood of doing Civil Legal Aid in 3 Years' Time		Position in Firm		
		Certain to/Likely to	Not Likely to/Certain not to	Managing Partner/ Partner/ Consultant	Solicitor /Asst. Sol.	Trainee /Assoc. Sol.
<i>Base: 300 Solicitors</i>	(%)	(%)	(%)	(%)	(%)	(%)
A great deal	3	3	4	3	2	5
A fair amount	9	11	6	6	10	18
Not very much	23	26	14	19	44	18
Not at all	65	60	74	71	44	58

*Source: MORI*

In contrast to the low interest in being involved in financial eligibility, almost all solicitors surveyed (94%) said they don't refer clients to other organisations for assistance in completing financial eligibility forms.

Of those who do refer clients, the most common organisations solicitors refer clients to include: Citizens Advice Bureau (63%) and the Scottish Legal Aid Board (44%).

*“Depends on the circumstances. If there was a problem with income and there was a lack of certainty and it looked a straightforward question that can be dealt with, I’d refer them to the Legal Aid Board. If there were some circumstances like debts or something else in their background they may need advice before they approach the Board and I’d refer them to Citizens Advice”.*

*“I sometimes tell them to go to Citizens Advice, but sometimes it’s easier to just help them yourself”.*

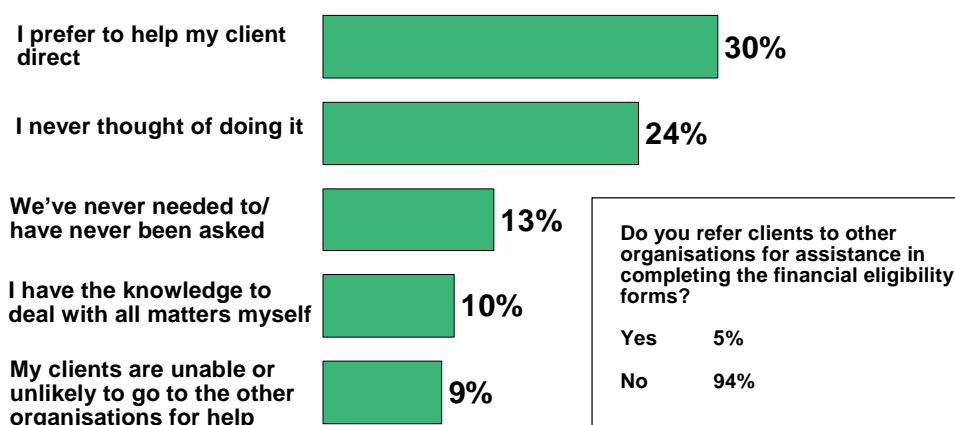
*“If there was a problem I would say phone up the Legal Aid Board yourself.”*

The main reason solicitors do not refer clients to other organisations is that solicitors *prefer to help their client themselves* (30%). A further 24% had *never thought of doing it*, while 10% said they *had the knowledge to deal with all matters myself*.

**Figure 12: Referral of Clients – Financial Eligibility**

## Referral of Clients – Financial Eligibility

**Q** *What is the main reason you do not refer clients to other organisations for assistance in financial eligibility matters?*



Base: All those who don't refer clients (282 solicitors), 24 Oct. – 11 Nov. 2005

Source: MORI

## A More Efficient Civil Legal Aid System

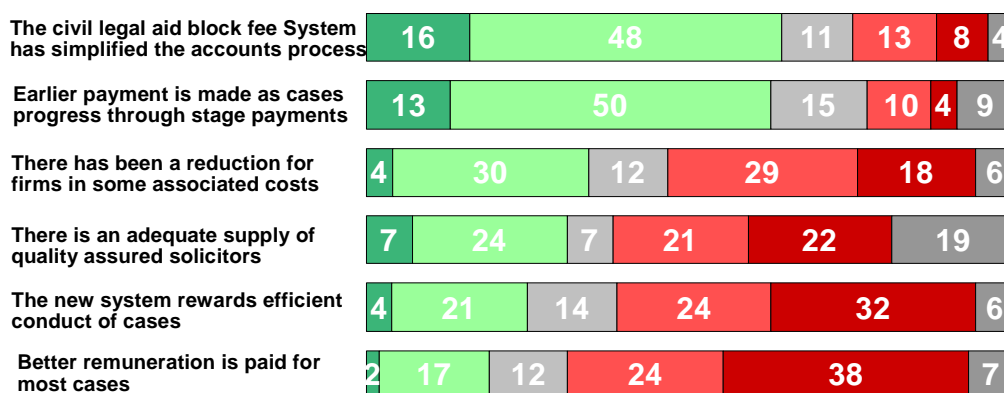
Solicitors were asked about some of their overall attitudes towards the reforms. On the whole, the majority of solicitors feel that some of the reforms have benefited them and their practice, by *simplifying the accounts process with the introduction of the civil legal aid block fee system* and *allowing for earlier payment as cases progress through stage payments*. However, on the issue of whether *better remuneration is paid for most cases* and the *new system rewards efficient conduct of cases* the majority tend to disagree with these statements. Opinions are more mixed as to whether *there has been a reduction for firms in some associated costs* and whether *there is an adequate supply of quality assured solicitors* as Figure 12 illustrates.

Figure 13: Level of Impact of Reform

### Level of Impact of Reform

Q Do you agree or disagree that the reform has achieved the following?

■ % Strongly agree   
 ■ % Tend to agree   
 ■ % Neither/nor   
 ■ % Tend to disagree   
 ■ % Strongly disagree   
 ■ % Don't know



Base: 300 solicitors, 24 Oct. – 11 Nov. 2005

Source: MORI

There is a correlation between those who agree that better remuneration is paid and the level to which solicitors are likely to continue being involved in civil legal aid work in the future. Those who say they are certain to/likely to be involved in civil legal aid work in 3 years' time are more inclined to agree that better remuneration is paid than those who are not likely to/certain not to (24% versus 8%). Similarly, those who have stopped taking on clients are considerably more likely to disagree that better remuneration is paid than those who have not (75% versus 52%).

Solicitors who have worked in civil legal aid work for longer are also significantly more likely than those who have worked for 5 years or less to disagree that *better remuneration is paid for most cases* (74% over 5 years to 10 years, 63% over 10 years, compared with 46% less than 5 years).

**Table 5: Impact of Reform on Remuneration**

**Q To what extent do you agree or disagree that better remuneration is paid for most cases?**

	All	Likelihood of firm doing civil legal aid in 3 years' time		Have you stopped taking on new clients	
		Certain to/Likely to	Not likely to/certain not to	Yes	No
	(%)	(%)	(%)	(%)	(%)
<i>Base: 300 solicitors</i>					
Agree	19	24	8	12	25
Disagree	62	55	78	75	52
Net Agree	-43	-31	-69	-63	-28

*Source: MORI*

The majority (64%) agree that the 'block fee' system has simplified the accounts process. Those who are certain to/likely to be doing civil legal aid in 3 years' time are more inclined to agree with this view than those who are not likely to continue (67% versus 54%).

On the subject of whether the new system rewards efficient conduct of cases, solicitors are more likely to disagree than agree with this view (56% versus 25%). Those who are certain not to continue being involved in civil legal aid in the future are more likely to disagree with this statement than those who see themselves as doing civil legal aid work (68% versus 53%).

There are fairly mixed views as to whether there is an adequate supply of quality assured solicitors (32% agree; 43% disagree) with one in five (18%) not sure.

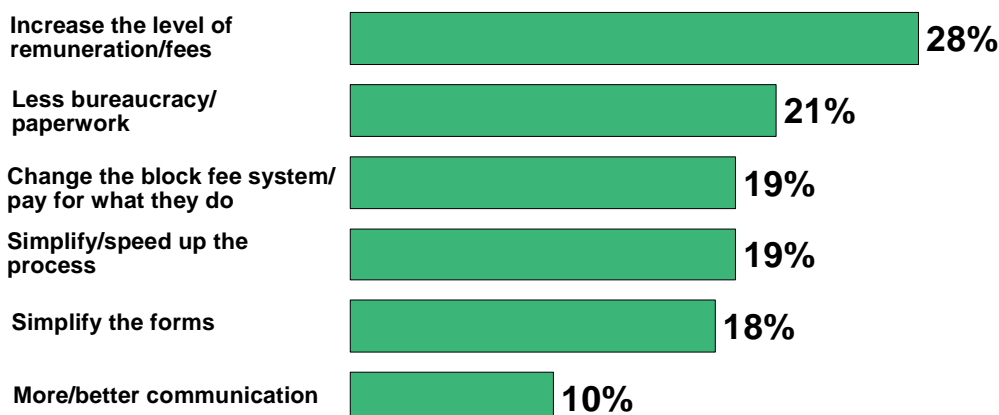
## Areas for Improvement

At the end of the survey, solicitors who took part in the national telephone survey and the depth interviews were asked to make two recommendations on how they could improve the civil legal aid process. The most popular suggestions include: *increasing the level of remuneration, less bureaucracy and paperwork, changing the 'block fee' system to pay for the work they do, simplifying and speeding up the process, simplifying the forms and more, better communication from the Board* as Figure 13 illustrates.

**Figure 14: Areas for Improvement**

### Areas for Improvement

**Q** *If you could make two recommendations to the Scottish Legal aid Board on how to improve the civil legal aid process, what would they be?*



Base: 300 solicitors, 24 Oct. – 11 Nov. 2005

Source: MORI

*Well, if you are going to encourage solicitors to do it even at the rates that are being paid, then the whole system has to be completely streamlined much simpler application forms. Availability of legal aid without problems, certificates being issued speedily, no need to report as you go along, little in the way of obtaining sanction. Let the solicitors get on with it, get the cases dealt with, put in the accounts and get paid. If they don't do that, the people who are going to suffer are the clients.*

*Start again. Think what the purpose of legal aid is meant to be. Current system is not assisting access to justice but reducing it.*

*To change the block payment, to payment for work done and to cut down the paperwork, or administration.*

*They have to increase the level of payment for all fees and I think there has to be an alternative to the block fee because it does not adequately reflect the work involved in certain cases.*

*Simplify the applications procedure and to increase the remuneration to those of us who are still providing the service.*

*I think the system should be more flexible. It should recognise the fact that solicitors are generally honest, trustworthy, hard working individuals who are doing their very best to secure a favourable outcome for the client, which means that there are certain cases which will involve a significant volume of additional work which is not in any way catered to in the block fee system.*



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# Appendices

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# Appendix 1 - Topline Results

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- Results are based on a telephone survey of 300 solicitors which was conducted between 24<sup>th</sup> October and 11<sup>th</sup> November 2005. The study was conducted by MORI Scotland for the Scottish Legal Aid Board and examined solicitors' knowledge of, and attitudes towards, civil legal aid reform.
- An asterisk (\*) indicates a percentage of less than 0.5% but greater than zero. Where percentages do not add up to 100, this may be due to computer rounding, multiple responses, or the exclusion of don't know categories.
- Base is all (300) unless stated

## Background

**Before we discuss specific elements of the reform, it would be very helpful for me to know a little about your firm and your experience of civil legal aid case work.**

**QC Are you...?**

	%
Managing Partner/Partner	68
Consultant	2
Solicitor/ Assistant Solicitor	17
Trainee Solicitor/Associate	13
Other (please specify)	1

---

**QD Who in the organization is responsible for carrying out the majority of the civil legal aid cases?**

	%
Yourself	86
Another Managing Partner/Partner	6
Another Consultant	0
Another Solicitor/ Assistant Solicitor	2
Another Trainee Solicitor/Associate	2
Other (please specify)	1
Don't know	2

---

**QE How many practicing solicitors at your firm do any type of civil legal aid work (including partners and consultants)**

	%
Sole practitioner (one)	27
2 to 4 solicitors	62
5 to 9 solicitors	8
10 or more solicitors	3

---

**QF For how long has your firm been involved in civil legal aid case work?**

	%
Less than a year	2
Over 1 year up to 5 years	11
Over 5 years and up to 10 years	11
Over 10 years	74
Don't know	1

---

**QG Which of the following types of work is your firm involved in?**

	%
Civil - private client	96
Civil - legal aid funded	99
Criminal – private client	69
Criminal - legal aid funded	70
Trade union / legal expenses insurance funded work	16
No win, no fee basis	31
Children's legal aid work	86
Other	3

---

**QH Please can you tell me how many applications for civil legal aid a year your firm deals with?**

	%
52 applications or higher	33
24 to 51 applications	29
12 to 23 applications	17
6 to 11 applications	11
Less than 6 applications	8
Can't remember	2

**QI What type(s) of civil legal aid case work is your firm involved in?**

	%
Family complex cases	90
Family – non complex cases	92
Reparation	80
Social welfare such as housing, debt, benefits	59
Employment	48
Representing opponents in legal aid cases	83
Undertaking civil cases in the Court of Session	62
Other	2

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**QJ Please can you tell me what proportion of the firm's fees are accounted for by the following type of legal aid work?**

	< 10%	10% – 25%	Over 25% - 50%	Over 50% - 75%	Over 75%	All (i.e. 100%)	DK
	%	%	%	%	%	%	%
A Family – complex cases	54	16	6	2	0	0	12
B Family – non complex cases	55	19	4	2	*	0	13
C Reparation	59	8	1	0	1	1	11
D Social welfare such as housing, debt, benefits	45	4	1	0	*	*	8
E Court of Session casework	51	1	1	*	0	0	9

**Q Are you...?**

	<b>%</b>
Male	63
Female	37

## Commitment to Legal Aid Work

Base: All respondents (300)

**Q1 How knowledgeable do you feel about matters relating to civil legal aid reform?**

	%
Very knowledgeable	15
Fairly knowledgeable	64
Not very knowledgeable	17
Not at all knowledgeable	3
No opinion	*

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**Q2 What is the main reason you and your firm do civil legal aid work?**

	%
There is a demand for the service in my area	48
It's historical, the practice has <u>always</u> offered this as part of its service	29
Legal aid is a small part of our work, and it's generally only offered as a service to our existing clients	11
Legal aid is currently the <u>main</u> part of the work of the practice	6
Generally, we choose not to do legal aid work	3
Other	3
Don't know/no opinion	*

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**Q3 Do you think your firm will be doing civil legal aid work in three years time?**

	%
Certain to	20
Likely to	42
Not likely to	19
Certain not to	9
Don't know	10

---

Base: All not likely to or certain not to be doing civil legal aid work (85)

**Q4 What do you think is the main reason your firm will stop doing civil legal aid work?**

	%
Legal aid is less profitable for us to do than other type of private work	44
Legal aid fees are not high enough	35
The system is too bureaucratic	14
There is too much paperwork	4
Not economically viable	2
There is not the demand for the service	1
We are taking on fewer clients generally	0
Our firm does not have the staff to offer legal aid services	0
Other	1

---

## Impact of Reform on Volume of Case Load

Base: All Respondents (300)

**Q5 In your opinion do you think you are now doing more or less civil legal aid case work than before the reform in October 2003, or has it stayed the same?**

	%
More	7
Less	51
Stayed the same	42
Don't know	*

Base: All who said they are doing more work (20)

**Q6 What type of work in particular do you do more of?**

	%
Family – non-complex cases	90
Family –complex cases	85
Social welfare such as housing, debt, benefits	25
Reparation	20
Court of Session work	20
Other	5

**Q7 Why do you do more of this type of work since the reform in October 2003?**

	%
The firm takes referrals from other solicitors	80
The procedure is a lot easier	0
It's a lot quicker to get through applications	0
The Board is quicker at processing things	0
Other	20

Base: All who said they are doing less work (154)

**Q8 What type of work in particular do you do less of?**

	%
Family –complex cases	80
Family – non-complex cases	64
Reparation	60
Social welfare such as housing, debt, benefits	42
Court of Session work	38
Other	3

**Q9 Why do you do less of this type of work since the reform in October 2003?**

	%
Civil legal aid work is not as profitable as private work	39
Legal aid fees are too low	30
There is too much administration now	32
There is less demand for legal aid services from clients	14
We do less private client work generally	1
Other	20
Don't know	3

Base: All respondents (300)

**Q10 Have you stopped taking on new clients for any types of civil legal aid work?**

	%
Yes	43
No	57
Don't know	1

Base: All who have stopped taking on new clients (128)

**Q11 Have you instead taken on these clients on a private fee basis, other non-legal aid basis and/or referred clients to another solicitors firm?**

	%
On a private fee basis	36
Other non-legal aid basis (e.g. no-win no fee or conditional fees)	10
Referred to another firm	80
None of these	10

---

Base: All who have referred clients to another firm (103)

**Q12 Which of the following types of cases are you referring to other firms?**

	%
Reparation	54
Employment	53
Social welfare such as housing, debt, benefits	50
Family	48
Asylum/immigration	42
Court of Session work	41
Other	7

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## Impact of Reform on Availability of Supply

Base: All respondents (300)

**Q13 To your knowledge, in the local area where your firm is based, has there been an increase, decrease or no change in the amount of civil legal aid provision?**

	%
Increase	3
Decrease	64
No change	17
Don't know	17

---

Base: All who answered Q13 (249)

**Q14 What leads you to think this?**

	%
I personally know the firms who have changed	61
I have just heard this from talking to colleagues	61
I have had clients referred from other firms	42
Other	4
Don't know	2

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## Impact of Changes on Work with Clients

Base: All respondents (300)

**Q15 Have the reforms had an impact on your work with civil legal aid clients?**

	%
Yes	67
No	31
Don't know	2

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Base: All who said reforms have impacted on their work (202)

**Q16 What changes have the reforms made to your client work?**

	%
There is more administration	63
We now spend less time meeting with clients	16
We are now providing a poorer service to clients than before because we only do what work we are paid for	12
We have less frequent contact with clients	7
Do not take on legal aid cases anymore	3
Too time consuming	2
We are now providing a better service to clients	2
We are more selective with what client we take on	2
Doing the same work for less money	2
It is easier to inform clients about progress of cases	*
We are resolving cases earlier	*
It is easier to advise clients about the cost of cases	0
Other	10
Don't know	*

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## Fee Rates

Base: All respondents (300)

**Q17 Who do you think is responsible for setting the fee rates for civil legal aid?**

	%
Scottish Legal Aid Board	31
The Law Society of Scotland	15
The Scottish Executive	68
The Scottish Parliament	13
Other	2
Don't know	5

**Q18 To what degree do you think civil legal aid fees have increased?**

	%
By more than 21%	1
By 21%	4
By 10% – 20%	21
< 10%	20
There have been no increases at all	41
Don't know	13

**Q19 I'm going to read out different types of cases and I would like you to tell me, in your opinion, if they are paid better, worse or the same since the reforms in October 2003?**

	Better off	Worse	No change	No opinion
	%	%	%	%
A All civil legal aid cases in general	21	46	21	13
B Family –complex cases	13	60	13	14
C Family –non complex cases	28	35	26	11
D Reparation	12	21	28	39
E Court of Session cases	6	14	12	69

<b>Fee Issues</b>
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**Q20 A single simplified block fee structure for most sheriff court cases was introduced as part of the civil reforms.**

**The Board has already identified areas of change within the ‘block fee’ system. I am going to read out a number of proposed changes and I would like you to tell me if you would be for or against each proposed change.**

		In favour	Oppose	No opinion
		%	%	%
A	Ability to part pay uncompleted blocks	79	6	15
B	Payment of a block where legal aid has been granted but no action raised	78	10	12
C	Payments for all court hearings not provided for	89	6	5
D	Additional preparation charged for child welfare hearings	92	2	6
E	More flexible additional fee criteria	93	2	5

**Q21 Are there any other areas which you think could improve the block fee system? What is the main one?**

	<b>%</b>
More discretion from the Board for more complex cases (i.e. should receive more money for more work)	20
Make it more flexible	11
Add-ons and/or additional block fees	8
Abolish the block fee system	6
Generally increase amount paid per block	5
Pay for each child welfare appearance	2
Waiving of 20 mile travel threshold	1
Other	10
None	15
Don't know	22

**Q22 Are there any types of case where you think the 'block fee' is inappropriate?**

	<b>%</b>
Complex family actions	82
High value/ complex financial cases	72
Actions involving difficult clients	66
Reparation actions	2
Child welfare cases	2
None	4
Other	8
Don't know	4

---

**Q23 Do you find it easier to get your block account settled by the Board than under the old system?**

	<b>%</b>
Yes	41
No	36
Don't know	23

---

**Q24 Stage payments were introduced to provide earlier payment for solicitors than was available under the old system.**

**In those cases where it is appropriate, do you submit an account to the Board to obtain payment in stages?**

	<b>%</b>
Yes	42
No	55
Don't know	3

---

Base: All who do not submit an account to the Board (164)

Q25 **What is the main reason for you not submitting a stage payment account to the Board?**

	%
Its easier just to wait to the end of the case	58
There's more paperwork	19
I'm not prepared to send file to the law accountant	12
I don't know the form to use or how to complete it	2
I didn't know I could	1
It takes a while to get paid	1
I have had problems in the past	1
It takes a while to get paid	1
I have had problems in the past	1
Other	6
Don't know	2

---

## Stage reporting

Base: All respondents (300)

**Q26 How easy or difficult do you find the stage reporting process to give compulsory reports, when a key stage or time period is reached?**

	%
Very easy	9
Fairly easy	40
Neither easy nor difficult	26
Fairly difficult	15
Very difficult	6
Don't know	3

---

**Q27 If you could improve the stage reporting process, what one suggestion would you make to the Board?**

	%
Do away with reports altogether	19
Make it less bureaucratic	13
Reduce the amount of information to report	12
Provide reminders/send reminders earlier	9
Provide more guidance on what to report	3
Make it easier to claim payment at the same time	1
There are no changes needed	16
Other	10
Don't know	17

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## Quality Assurance

**I am now going to ask you some questions relating to quality assurance and the new system of reviews.**

<b>Q28</b>	<b>Which of the following, if any, have you been involved in since October 2003?</b>	<b>%</b>
	A 'Peer Review'	59
	An administration audit (i.e. conducted by the Board)	65
	None of these	26

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<b>Q29</b>	<b>Has the introduction of quality assurance made any changes to how your office practices or in case handling?</b>	<b>%</b>
	Yes	31
	No	67
	Don't know	2

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Base: All who said the Introduction of quality assurance had made a change to how their office practices or handles cases (93)

<b>Q30</b>	<b>What is the <u>main</u> change that quality assurance has made to your work?</b>	<b>%</b>
	It is just another level of administration	35
	We have improved our internal administration	32
	It's a test of record keeping procedures (i.e. it has tightened up our rules)	26
	It has helped improve our client service	5
	Other	1

---

Base: All who have had an administration audit (194)

**Q31 What improvements could they make to the administration audit which is conducted by the Board, if any?**

	%
The current system doesn't need to be improved	61
Waste of time/unnecessary/abolish it	11
Need more information about how the system works	2
More feedback from the Board	1
Its restricted to current matters instead of getting old files that have been archived	1
Response time of outcome	1
Time it takes for feedback	0
Other	8
Don't know	18

---

Base: All who have had a peer review (177)

**Q32 What improvements could be made to the peer review which is conducted by The Law Society, if any?**

	%
The current system doesn't need to be improved	47
More feedback from The Law Society	8
Waste of time/unnecessary/abolish it	8
Time it takes for feedback	5
Response time of outcome	5
Need more information about how the system works	2
Not to take current files	2
Better trained/more experienced reviewers	2
Get files back quicker	2
Other	7
Don't know	20

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## Special urgency

Base: All respondents (300)

**Q33 Changes were also made to make special urgency arrangements easier to operate, and to allow for payment of determination accounts. Have these improved arrangements for special urgency work?**

	%
Yes	39
No	35
Was not aware of changes	16
Don't know	11

---

Base: All who have said arrangements had not improved special urgency work (104)

**Q34 What is the main reason you find the arrangements for special urgency work difficult?**

	%
The application forms and process is difficult	43
The firm was not able to meet the 28 day rule	11
Don't find it difficult/no change to the old system	10
Time delays	6
It is difficult to get the necessary information from the client	6
Further guidance on making applications is needed	6
Uncertainty of being paid	5
Too much bureaucracy/paperwork	2
Other	10
Don't know	5

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## Application Forms

Base: All respondents (300)

**Q35 New civil legal aid application forms were introduced to make it easier to provide the necessary information so that the Board can properly consider the application.**

**Do you find the revised civil legal aid forms allow you to provide the necessary information?**

	%
Yes	71
No	25
Don't know	4

---

Base: All who do not think the forms allow them to provide necessary information to the Board (74)

**Q36 Why do you find the forms do not allow you to provide the necessary information?**

	%
Too many unnecessary questions to answer	70
Too much supporting information to be given	57
Difficulty in assessing case costs	14
Difficulty in assessing what's reasonable	9
Difficulty in assessing prospects of success	3
Other	9

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## Communication from the Board about the changes

Base: All respondents (300)

**Q37 The Board published updates and guidance about the reforms, including civil merits guidance in October 2003 to assist solicitors to provide information about the legal basis for a case. Do you use this guidance to help you complete applications?**

	%
Yes	83
No	16
Don't know	1

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Base: All those who do not use guidance to help complete their forms (49)

**Q38 Why not?**

	%
I know what to do without reading this	65
Don't have time to read and use this	20
The guidance does not explain well enough what to do	12
Don't do them	4
Do not have the guide	4
I have not read this	0
Other	6

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## The Board's Contact with Applicants

**The Board made changes to the financial eligibility process to encourage greater direct contact by the applicant with the Board, rather than the solicitor having to deal with any financial eligibility queries (e.g. Form 2)**

Base: All respondents (300)

**Q39 To what extent do you and your firm want to be involved in financial eligibility?**

	%
A great deal	3
A fair amount	9
Not very much	23
Not at all	65
Don't know	1

**Q40 In your opinion, do you think that clients now have more contact with the Board over financial eligibility queries since the reforms in October 2003?**

	%
More	79
Less	2
Stayed the same	10
Don't know	9

**Q41 Do you refer clients to other organisations for assistance in completing the financial eligibility forms?**

	%
Yes	5
No	94
Don't know	1

Base: All who refer clients to other organisations for assistance in completing the financial eligibility forms (16)

**Q42 Which of the following organisations do you refer clients to for assistance in financial eligibility matters?**

	%
Citizens Advice Bureau	63
Scottish Legal Aid Board	44
Other advice agencies such as council services	31
Department of Work & Pensions/ Job Centres	13
Law centres	0
Other	0

Base: All who do not refer clients to other organisations for assistance in completing the financial eligibility forms (282)

**Q43 What is the main reason for you not refer clients to other organisations for assistance in financial eligibility matters?**

	%
I prefer to help my client direct	30
I never thought of doing it	24
We've never needed to/have never been asked	13
I have the knowledge to deal with all matters myself	10
My clients are unable or unlikely to go to the other organisation for help	9
I want to ensure I know how the case is progressing and have control	6
There are no other organisations to refer them to	4
I would find out any extra information needed and inform my client	1
Other (please write in)	2

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**The Level to which Reform has established a More Efficient Civil Legal Aid System**

**We've just got two more questions to go and I would like to find out about some of your overall attitudes to the reform.**

Base: All respondents (300)

**Q44 Do you agree or disagree that the reform has achieved the following?**

		Strongly agree	Tend to agree	Neither agree of disagree	Tend to disagree	Strongly disagree	Don't know / No opinion
		%	%	%	%	%	%
A	Better remuneration is paid for most cases	2	17	12	24	38	7
B	Earlier payment is made as cases progress through stage payments	13	50	15	10	4	8
C	The civil legal aid block fee system has simplified the accounts process	16	48	11	13	8	4
D	There has been a reduction for firms in some associated costs (such as lower costs for preparing accounts)	4	30	12	29	18	6
E	The new system rewards efficient conduct of cases	4	21	14	24	32	5
F	There is an adequate supply of quality assured solicitors	7	24	7	21	22	18

And Finally...

**Q45 If you could make two recommendations to the Scottish Legal Aid Board on how to improve the civil legal aid process, what would they be?**

**Top 10 mentions**

	%
Increase the level of remuneration/Fees	28
Less bureaucracy/Paperwork	21
Change the block fee system/Pay just for what they do	19
Simplify/Speed up the process	19
Simplify the forms	18
More/Better communication/Information	10
Pay on the time and line basis	5
Increase flexibility	5
Reduce duplication	4
Better trained/Qualified staff	4

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**Q46 Do you agree to be .....**

	<b>Yes</b>	<b>No</b>
	%	%
Named as a respondent	73	27
Have your comments attributed	58	42

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## Appendix 2 - Regional Breakdown

LOCAL AUTHORITY	REGION IN SURVEY	TOTAL
Aberdeen City	North	19
Aberdeenshire	North	7
Angus	Central/Fife/Tayside	5
Argyll & Bute	West	7
Clackmannanshire	Central/Fife/Tayside	1
Dumfries & Galloway	West	13
Dundee City	Central/Fife/Tayside	11
East Ayrshire	West	4
East Dunbartonshire	West	1
East Lothian	East	3
Edinburgh, City of	East	24
Falkirk	Central/Fife/Tayside	7
Fife	Central/Fife/Tayside	21
Glasgow City	West	65
Highland	North	10
Inverclyde	West	9
Moray	Central/Fife/Tayside	4
North Ayrshire	West	7
North Lanarkshire	West	16
Orkney Islands	North	2
Perth & Kinross	West	8
Renfrewshire	West	7
Scottish Borders	East	5
South Ayrshire	West	8
South Lanarkshire	West	16
Stirling	Central/Fife/Tayside	8
West Dunbartonshire	West	7
West Lothian	East	5
<b>Grand Total</b>		<b>300</b>

REGION	TOTAL
Central/Fife/Tayside	65
East	37
North	38
West (Strathclyde, Glasgow City and Dumfries and Galloway)	160
<b>Grand Total</b>	<b>300</b>



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