

3. Civil legal assistance

Section notes

1. Subject matter groupings have been refined in 2008-2009. The figures for 2007-2008 have been restated to reflect these changes including the removal of contempt of court to its own section.

3.1 Intimations of civil advice and assistance and ABWOR by subject matter

Subject matter	2008-2009	2007-2008
Civil advice and assistance		
Adults with incapacity	1,130	849
Aliment/Child Support Agency	981	820
Antisocial Behaviour Orders (ASBO)	383	383
Breach of contract	703	737
Children (Scotland) Act	1,943	1,855
Civil appeal	169	136
Complaints against professional bodies	788	847
Contact	11,452	9,948
Conveyancing	145	167
Criminal Injuries Compensation Authority	1,595	1,698
Discrimination	96	82
Divorce	6,961	7,203
Employment	1,983	1,518
Family/matrimonial-other	3,397	3,061
Hire purchase/debt	7,955	7,358
Housing	4,096	4,180
Human rights	160	79
Immigration and asylum	6,066	6,352
Interdict/harassment/non-harassment	5,056	4,917
Judicial review	576	985
Medical negligence	710	586
Mental health	905	1,022
Power of attorney	798	554
Recovery of heritable property	4,196	3,577
Reparation	7,430	7,085
Residence	2,628	2,408
Separation	4,698	4,365
State benefit	6,377	6,033
Wills/executory	2,170	1,951
Other	4,024	5,046
Total civil advice and assistance	89,571	85,802
Civil ABWOR		
Bankruptcy/petition by debtor	19	45
Employment tribunals	265	219
Immigration and asylum	1,664	1,491
Mental health	2,117	2,306
Sequestration	25	66
Other	51	17
Total civil ABWOR	4,141	4,144
Total civil advice and assistance and ABWOR	93,712	89,946

3.2 Civil legal aid applications

Proceedings	Sheriff court		Court of Session		Other courts		Total	
	2008-2009	2007-2008	2008-2009	2007-2008	2008-2009	2007-2008	2008-2009	2007-2008
Family/matrimonial	10,681	9,672	58	101	1	0	10,740	9,773
Debt	537	609	20	21	0	0	557	630
Reparation	1,499	1,224	118	113	1	0	1,618	1,337
Judicial review	0	0	173	349	0	0	173	349
Appeals	208	155	169	126	14	22	391	303
Housing/recovery of heritable property	1,606	1,420	8	7	0	0	1,614	1,427
Adults with incapacity	1,352	953	1	0	0	0	1,353	953
Medical negligence	90	87	84	89	0	0	174	176
Immigration and asylum	1	0	412	330	0	0	413	330
Breach of contract	79	66	6	2	0	0	85	68
Other	496	404	122	107	2	4	620	515
Total	16,549	14,590	1,171	1,245	18	26	17,738	15,861

3.3 Civil legal aid grants (including grants on review)

Proceedings	Sheriff court		Court of Session		Other courts		Total	
	2008-2009	2007-2008	2008-2009	2007-2008	2008-2009	2007-2008	2008-2009	2007-2008
Family/matrimonial	7,072	7,060	39	81	0	0	7,111	7,141
Debt	192	254	8	9	0	0	200	263
Reparation	765	710	71	63	0	0	836	773
Judicial review	0	0	70	82	0	1	70	83
Appeals	81	75	118	66	6	12	205	153
Housing/recovery of heritable property	703	695	5	2	0	0	708	697
Adults with incapacity	1,220	910	1	0	0	1	1,221	911
Medical negligence	33	35	42	57	0	0	75	92
Immigration and asylum	0	0	245	223	0	0	245	223
Breach of contract	34	32	3	1	0	0	37	33
Other	187	214	85	64	1	3	273	281
Total	10,287	9,985	687	648	7	17	10,981	10,650
Grants with contribution							2,353	2,463
Grants with no contribution							8,628	8,187
Total							10,981	10,650
Average value of contribution, where payable							£1,050	£1,027

Note

1. This table shows contributions payable at the grant of the civil legal aid application, or when granted on review

3.4 Accounts paid and average case costs - civil advice and assistance and ABWOR

Diagnostic accounts	Detailed accounts							All civil advice and assistance and ABWOR					
	Number of cases	Total paid £000	Number of cases	Solicitor £000	Solicitor outlays £000	Counsel outlays £000	Total outlays £000	Total paid £000	Total number of cases 2008-2009	Total paid 2008-2009 £000	Total paid 2007-2008 £000	Average case cost 2008-2009 £	Average case cost 2007-2008 £
Civil advice and assistance (excluding ABWOR)													
Adults with incapacity	2	0	758	172	23	1	23	195	760	195	161	256	265
Aliment/Child Support Agency	2	0	807	129	9	0	9	138	809	138	126	170	155
Antisocial Behaviour Orders (ASBO)	1	0	325	48	1	0	1	50	326	50	49	152	149
Breach of contract	1	0	578	71	5	0	5	76	579	76	67	131	159
Civil appeals	1	0	119	22	1	4	5	26	120	26	33	219	338
Complaints about professional bodies	451	14	325	35	2	1	3	38	776	52	88	67	81
Contact	7	0	9,437	1,818	33	2	34	1,852	9,444	1,852	1,721	196	193
Conveyancing	1	0	122	15	4	1	4	19	123	19	28	157	205
Criminal Injuries Compensation Authority	4	0	1,422	144	9	1	9	154	1,426	154	190	108	114
Discrimination	0	0	60	13	2	1	3	15	60	15	4	257	118
Divorce	5	0	6,495	1,439	67	5	71	1,511	6,500	1,511	1,814	232	237
Employment	5	0	1,566	445	23	27	50	495	1,571	495	492	315	302
Family/matrimonial - other	6	0	3,999	719	60	8	68	787	4,005	787	746	196	195
Hire purchase/debt	675	23	6,232	700	15	7	21	721	6,907	745	805	108	107
Housing	537	17	3,185	426	30	3	33	459	3,722	477	804	128	141
Human rights	15	0	88	9	1	0	1	10	103	10	26	100	106
Immigration and asylum	1	0	5,860	1,729	439	26	465	2,194	5,861	2,194	1,725	374	349
Interdict/harassment/non-harassment	9	0	4,619	671	10	1	11	681	4,628	682	744	147	147
Judicial review	1	0	414	89	14	13	28	117	415	117	150	282	246
Medical negligence	0	0	292	84	93	0	93	177	292	177	25	607	397
Mental health	0	0	1,160	827	294	3	297	1,123	1,160	1,123	1,182	968	1,101
Power of attorney	0	0	552	90	27	0	27	117	552	117	97	213	199
Recovery of heritable property	0	0	2,975	536	18	4	21	558	2,975	558	220	187	172
Reparation	12	0	5,469	978	402	21	423	1,400	5,481	1,401	1,646	256	265
Residence	6	0	2,256	530	10	1	11	541	2,262	541	489	239	233
Restoration of driving licence	0	0	8	1	0	0	0	1	8	1	6	166	139
Separation	4	0	3,576	1,011	46	4	50	1,061	3,580	1,061	1,248	296	284
State benefit	2,799	92	3,182	506	172	3	175	681	5,981	773	971	129	127
Wills/executory	2	0	1,670	154	9	2	11	165	1,672	165	180	98	100
Other	1,615	51	2,436	352	49	24	72	424	4,051	475	709	117	114
Total civil advice and assistance	6,162	199	69,987	13,762	1,862	162	2,024	15,786	76,149	15,985	16,545	210	200
Civil ABWOR													
Bankruptcy/petition by debtor			22	1	0	0	0	1	22	1	2	66	110
Employment tribunals			33	36	1	7	7	43	33	43	124	1,314	1,113
Immigration and asylum			1,579	1,006	236	14	250	1,257	1,579	1,257	912	796	686
Mental health			2,593	2,592	967	11	978	3,570	2,593	3,570	1,558	1,377	1,143
Restoration of driving licence			1	1	0	1	1	2	1	2	11	1,756	249
Sequestration			36	2	0	0	0	2	36	2	7	65	78
Other			18	5	1	4	5	10	18	10	11	571	227
Total civil ABWOR	0	0	4,282	3,644	1,205	37	1,242	4,886	4,282	4,886	2,624	1,141	875
Total civil advice and assistance and ABWOR 200	6,162	199	74,269	17,405	3,067	199	3,266	20,672	80,431	20,870	-	259	-
Total civil advice and assistance and ABWOR 2007-2	6,502	205	79,141	16,428	2,342	2	2,344	18,964	85,664	-	19,169	-	224

Note

1. In this table, payments to advocates and solicitor advocates are included under Counsel outlays, as regulation 17(1) of the Advice and Assistance (Scotland) Regulations 1996 only provides for payments to the solicitor, of fees and outlays

3.5 Accounts paid and average case costs - civil legal aid

Proceedings	Number of cases	Solicitor £000	Advocate £000	Solicitor advocate £000	Outlays £000	Total paid 2008-2009 £000	Total paid 2007-2008 £000	Average case cost 2008-2009 £	Average case cost 2007-2008 £
Sheriff court									
Family/matrimonial	8,117	10,761	916	0	5,419	17,095	16,613	2,106	2,043
Debt	341	302	51	0	46	400	330	1,172	1,029
Reparation	893	2,420	448	0	1,034	3,902	4,903	4,369	3,507
Appeals	122	89	84	0	47	220	241	1,804	2,430
Housing/recovery of heritable property	1,009	316	13	0	28	357	320	353	387
Adults with incapacity	899	642	1	0	314	957	695	1,064	1,152
Medical negligence	33	63	13	0	39	116	76	3,507	2,721
Immigration and asylum	2	0	0	0	0	0	0	25	0
Breach of contract	39	62	77	0	18	157	85	4,034	2,075
Discrimination	3	5	3	0	1	9	4	2,850	3,862
Other	380	417	268	0	124	809	920	2,129	2,341
Total sheriff court	11,838	15,077	1,874	0	7,071	24,021	24,187	2,029	2,043
Court of Session									
Family/matrimonial	71	274	277	1	173	724	621	10,195	7,300
Debt	10	23	18	0	10	52	91	5,157	5,718
Reparation	238	1,317	1,509	0	1,357	4,182	5,769	17,572	22,103
Judicial review	124	157	186	0	135	479	567	3,861	4,261
Appeals	105	119	420	1	167	707	341	6,731	4,806
Housing/recovery of heritable property	1	0	1	0	0	1	6	1,377	2,880
Adults with incapacity	1	1	0	0	1	1	0	1,205	0
Medical negligence	36	140	86	0	288	513	330	14,264	13,192
Immigration and asylum	320	106	196	31	81	415	217	1,298	1,886
Breach of contract	2	13	12	0	2	27	25	13,507	8,168
Other	104	141	291	0	140	572	858	5,502	6,916
Total Court of Session	1,012	2,290	2,997	32	2,354	7,674	8,823	7,583	10,567
Total other courts	16	42	195	0	70	307	123	19,180	13,709
All courts									
Family/matrimonial	8,188	11,034	1,192	1	5,592	17,819	17,233	2,176	2,098
Debt	351	325	69	0	56	451	422	1,286	1,252
Reparation	1,131	3,737	1,957	0	2,391	8,084	10,672	7,148	6,433
Judicial review	124	157	186	0	135	479	567	3,861	4,261
Appeals	227	209	504	1	214	927	582	4,083	3,423
Housing/recovery of heritable property	1,010	316	14	0	29	358	325	355	393
Adults with incapacity	900	642	1	0	315	958	695	1,064	1,152
Medical negligence	69	203	99	0	327	629	406	9,119	7,660
Immigration and asylum	322	106	196	31	81	415	217	1,290	1,886
Breach of contract	41	75	90	0	19	184	110	4,496	2,490
Discrimination	3	5	3	0	1	9	4	2,850	3,862
Other	500	600	755	0	333	1,688	1,901	3,376	3,614
Total all courts 2008-2009	12,866	17,409	5,067	32	9,494	32,002	-	2,487	-
Total all courts 2007-2008	12,685	18,231	5,474	0	9,429	-	33,133	-	2,612

Note

1. Reparation cases include those paid in terms of the extra statutory concession and of regulation 3 (as amended) of the Civil Legal Aid (Scotland) (Fees) Regulations 1989, where the legal representatives have elected to opt for the party and party expenses recovered from the opponent

3.6 Amounts recovered by the Legal Aid Fund

	2008-2009 £000	2007-2008 £000
Contributions from assisted persons	1,180	1,062
Expenses from opponents	8,081	10,344
Amounts awarded to assisted persons transferred to Legal Aid Fund	1,286	1,355
Total recoveries	10,548	12,762

Notes

1. These are amounts actually received by the Board, not amounts due to it.
2. A breakdown of total amounts recovered is shown in the Analysis of Payments in table 7.1

3.7 Intimations of civil advice and assistance and ABWOR by gender

	Male applicant		Female applicant		No gender recorded		Total
Civil advice and assistance	40,135	45%	49,408	55%	28	0%	89,571
Civil ABWOR	2,694	65%	1,446	35%	1	0%	4,141
Total 2008-2009	42,829	46%	50,854	54%	29	0%	93,712
Total 2007-2008	40,860	45%	48,412	54%	674	1%	89,946

3.8 Increases in limit of authorised expenditure of civil advice and assistance and ABWOR

	Applications for increase		Increases granted		Increases refused	
	2008-2009	2007-2008	2008-2009	2007-2008	2008-2009	2007-2008
Templated civil advice and assistance	41,069	26,218	40,048	25,740	513	297
Non-templated civil advice and assistance	28,201	37,486	23,562	31,100	2,999	4,029
Templated ABWOR	2,528	1,715	2,321	1,457	25	16
Non-templated ABWOR	4,319	4,920	4,473	4,809	67	116
Total civil advice and assistance and ABWOR	76,117	70,339	70,404	63,106	3,604	4,458

Note

1. These figures include decisions at first instance and decisions after reconsideration.
2. Prior year figures have been restated to reflect the new table structure.

3.9 Disposal of applications under regulation 16(3) (hardship provisions) of the Advice and Assistance (Scotland) Regulations 1996

	Applications	Granted	Total payments £000
Client claimed	409	105	73
Solicitor claimed	275	137	80
Total 2008-2009	684	242	153
Total 2007-2008	722	318	184

3.10 Intimations of steps taken under regulation 18(1)(a) and certificates granted under regulation 18(1)(b) of the Civil Legal Aid (Scotland) Regulations 2002 (legal aid in matters of special urgency)

	2008-2009	2007-2008
Intimations under regulation 18(1)(a)	8,683	7,611
Certifications under regulation 18(1)(b)	1,536	1,207
Total	10,219	8,818

3.11 Analysis of full applications where legal aid was refused or abandoned at first instance

Court	Refused on merits		Refused on means		Abandoned		Total	
	2008-2009	2007-2008	2008-2009	2007-2008	2008-2009	2007-2008	2008-2009	2007-2008
Court of Session	457	627	20	26	55	59	532	712
Sheriff court	3,038	2,892	464	409	2,072	2,225	5,574	5,526
Other courts	9	6	1	0	0	4	10	10
Total	3,504	3,525	485	435	2,127	2,288	6,116	6,248

Note

1. In this table and in tables 3.13 and 3.14, refused on merits includes applications refused on the basis of no probable cause, or unreasonableness, where the proceedings are statutorily excluded from civil legal aid.

3.12 Disposal of applications for review of decision to refuse legal aid

Applications	2008-2009			2007-2008		
	Received	Allowed	Refused	Received	Allowed	Refused
Family/matrimonial	1,120	759	162	1,176	1,068	195
Debt	158	65	55	199	115	76
Reparation	513	235	202	499	294	192
Judicial review	53	18	30	85	23	49
Appeals	93	44	34	87	53	38
Housing/recovery of heritable property	106	66	18	90	88	15
Adults with incapacity	38	33	4	74	69	7
Medical negligence	56	26	21	56	32	23
Immigration and asylum	83	57	15	52	53	7
Breach of contract	31	19	6	31	18	13
Other	175	71	65	154	111	60
Total	2,426	1,393	612	2,503	1,924	675

3.13 Applications for civil legal aid and decisions by gender

	Male applicant				Female applicant			
	2008-2009		2007-2008		2008-2009		2007-2008	
Applications	7,796	44%	6,734	42%	9,942	56%	9,127	58%
Total grants	4,464	41%	4,150	39%	6,517	59%	6,500	61%
Refused on merits	1,940	55%	1,959	56%	1,564	45%	1,566	44%
Refused on means	177	36%	149	34%	308	64%	286	66%
Abandoned	963	45%	1,003	44%	1,164	55%	1,285	56%

3.14 Applications for civil legal aid and decisions by pursuer/defender

	2008-2009			2007-2008		
	Pursuer	Defender	Other	Pursuer	Defender	Other
Applications	10,217	5,045	2,476	9,165	4,550	2,146
Total grants	6,645	2,689	1,647	6,576	2,690	1,384
Refused on merits	1,949	928	627	1,956	847	722
Refused on means	302	150	33	264	142	29
Abandoned	1,098	870	159	1,216	898	174

3.15 Analysis of contributions payable by assisted persons

	£0	£1-£50	£51-£100	£101-£250	£251-£500	£501-£800	£801-£1,200	£1,201-£1,700	OVER £1,700
Court of Session	607	3	2	10	11	10	11	13	20
Sheriff court	8,015	45	46	165	344	367	419	450	436
Other courts	6	0	0	0	0	0	0	0	1
Total 2008-2009	8,628 (78.6%)	48 (0.4%)	48 (0.4%)	175 (1.6%)	355 (3.2%)	377 (3.4%)	430 (3.9%)	463 (4.2%)	457 (4.2%)
Total 2007-2008	8,187 (76.9%)	54 (0.5%)	65 (0.6%)	182 (1.7%)	374 (3.5%)	401 (3.8%)	443 (4.2%)	489 (4.6%)	455 (4.3%)

Of those contributions, the breakdown between capital and income was as follows:

Capital contributions	10,945	0	0	2	3	2	2	3	24
Income contributions	8,639	48	49	176	355	383	433	467	431

Note

1. Included in the table are 25 cases, where both a capital and income contribution was payable
2. This table show contributions payable at the grant of the civil legal aid application, or when granted on review

3.16 Sanctions in civil legal aid cases

	Applications received	Applications granted	Applications refused	Applications abandoned
Expert witness/unusual expenditure	4,268	3,362	634	0
Templated sanctions	61	20	0	0
Counsel (advocates and solicitor advocates)	1,990	908	613	2
Total 2008-2009	6,319	4,290	1,247	2
Total 2007-2008	5,991	4,215	934	2

3.17 Applications for extensions of grants of civil legal aid

	Applications received	Applications granted	Applications refused
Family/matrimonial	776	584	66
Debt	18	11	0
Reparation	47	40	4
Judicial review	6	5	0
Appeals	30	2	0
Housing/recovery of heritable property	6	3	1
Adults with incapacity	8	12	0
Medical negligence	23	13	1
Immigration and asylum	0	1	0
Breach of contract	1	3	0
Other	52	20	1
Total 2008-2009	967	694	73
Total 2007-2008	927	664	62

3.18 Applications for change of solicitor in civil legal cases

	Applications received	Applications granted	Applications refused
Total 2008-2009	892	791	31
Total 2007-2008	781	719	20

3.19 Accounts paid under special urgency (whereby in certain circumstances work carried out where legal aid is not subsequently granted, is paid for out of the Fund)

	Solicitor £000	Advocate £000	Solicitor advocate £000	Outlays £000	Number of cases	Total paid £000	Average case cost £
Total 2008-2009	331	113	3	191	1,389	637	459
Total 2007-2008	586	109	0	268	1,564	963	616

Note

1. The amounts shown in this table are also included in the figures in table 3.5

Throughout this statistics section

- figures for grants and refusals of applications do not necessarily equal numbers of applications, since decisions on applications received towards the end of one year may not be reached until the following year
- unless otherwise stated, figures for accounts paid include VAT and are prepared on a cash basis and include all accounts passed for payment during the year
- in tables showing accounts paid, unless otherwise stated, outlays include all payments other than fees paid to solicitors and advocates - for example, expert witnesses