



# Report to the Scottish Government

## Monitoring of availability and accessibility of legal services **Third Report**

December 2014

The Scottish Legal Aid Board

[www.slab.org.uk](http://www.slab.org.uk)

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## Executive summary

This report sets out the work undertaken by the Scottish Legal Aid Board (SLAB) to fulfil its new function of providing Scottish Ministers with advice and information on the availability and accessibility of legal services.

The Legal Services (Scotland) 2010 Act introduced, on 1 April 2011, a new general function for the Scottish Legal Aid Board of monitoring the availability and accessibility of legal services in Scotland, including by reference to any relevant factor relating particularly to rural or urban areas. For the purposes of this monitoring function, legal services are defined as services provided by solicitors and advocates.

The monitoring function is not restricted to those legal services funded by SLAB or other public funders. It therefore includes privately funded services, whether provided to individuals or bodies corporate, and legal services such as conveyancing, insolvency and other private or public client work that would not normally fall within the scope of legal aid.

The analysis set out in the report shows that, for some areas of law, advisers other than solicitors and advocates may be the most prominent sources of assistance. This observation is important in terms of assessing the impact of any identified issues about access to legal services.

Availability of legal services in this context means solicitors or advocates willing to act in different areas of law for different client groups. Availability is important in terms of how it impacts on access to legal services.

In discharging its new function and duty, it would not have been practical for SLAB to attempt to establish objective benchmarks of whether legal services are accessible. SLAB has instead sought to identify evidence as to whether there are, or are likely to be, problems with accessibility in practice.

SLAB intends continually to monitor on the basis that a problem with access to legal services is defined as the inability of potential clients to find solicitors or advocates to act in different areas of law or various geographic areas.

In the context of advising Ministers, SLAB's strategy is to assess the risk of actual instances of systemic problems with access occurring by looking at:

- the probability of an access problem occurring; and,
- reports of actual instances of problems with access.

Whilst individuals or businesses may experience problems finding or retaining a solicitor, these may be isolated incidents which, although important to the individual involved, are not representative of how the legal services market as a whole is operating. We aim to collect information on actual instances of problems in a systematic and comparable way, so that any systemic problems can be identified.

Our analysis shows that there is evidence suggesting potential systemic access problems for repossession of owned property and for some areas of the country in relation to mental health law. A full list of areas of law and our assessment is set out in Appendix 2.

- Overall, for repossession of owned property we have assessed this as an amber area, to be kept under review. Our view is that there is a medium probability that a systemic access problem is occurring in specific areas of the country. In terms of reports of actual instance of problems with access, one respondent has suggested that people do encounter difficulties with accessing legal services for these kinds of case. At the local level, drawing on the data presented in the last report, there may be some areas where access to solicitor services is more difficult, but we have not received any specific reports of actual instances of problems.
- On mental health law, our previous report had identified potential concerns in three areas of Scotland. We sought the views of key stakeholders on the data and our conclusions. Respondents agreed with our assessment that the three council areas noted in the previous report were areas of concern. This included feedback from Social Work Scotland's Mental Health Sub-Group, which involves representatives from the local authorities highlighted. Our assessment has therefore been refined to reflect the high probability that there systemic access problems are occurring in Clackmannanshire, Stirling and West Dunbartonshire.
- Personal injury was an area we looked at for the first time in this report. SLAB's current view is that there is a low probability that systemic accessibility issues are leading to actual instances of problems. We have received no reports of actual instances of problems with access and the data we have available to us does not suggest that there is an issue with accessibility or availability of legal services for this area of law.
- For domestic abuse, the additional insight provided by stakeholders confirms our earlier assessment that domestic abuse is an area of law where there is a fairly low risk of risk of actual instances of systemic problems with access to legal services.
- In relation to repossession of rented property and debt for individuals, we have maintained our assessment of these areas as being low risk.
- We are aware of concerns around access to justice in relation to employment tribunals, following the introduction of The Employment Tribunals and the Employment Appeal Tribunal Fees Order 2013. As noted in our first report, we intend to revisit our assessment of this area of law in future when the system of fees has bedded in. If, as a result of these changes, fewer people were to pursue remedies via the employment tribunal, this may impact on the availability and accessibility of legal services in this particular field over time, as work to take employment tribunal claims reduces and solicitors are assigned to other areas of business.



This is the third year of carrying out this duty and we aim to build on the progress which we have made to identify, collect and collate relevant data in the coming year.

## Background and purpose

### Background

The Legal Services (Scotland) 2010 Act (the Act) introduced, on 1 April 2011, a new general function for the Scottish Legal Aid Board (SLAB) of monitoring the availability and accessibility of legal services in Scotland, including by reference to any relevant factor relating particularly to rural or urban areas.

SLAB was also given a new power to provide advice to Scottish Ministers as it considered appropriate in relation to the availability and accessibility of legal services. Finally, the Act introduced a duty on SLAB to provide information to Scottish Ministers from time to time, as they may require, relating to the availability and accessibility of legal services.

To assist in meeting these requirements, the Act also places a duty on a number of bodies to provide SLAB with such information as it may reasonably require. The three bodies are the Law Society of Scotland, the Faculty of Advocates and the Scottish Court Service.

This report sets out the work undertaken by SLAB to discharge its new function and provides Scottish Ministers with advice and information on the availability and accessibility of legal services. More information on how we discharge our function and arrive at assessments is set out in Appendix 6.

### Purpose

In light of the intention behind the monitoring function, as set out above, SLAB will monitor accessibility on the basis that a problem with access to legal services is defined as the inability of potential clients to find or obtain the services of solicitors or advocates willing to act in different areas of law or various geographic areas. We intend to identify actual instances of problems with access, or levels of supply that appear likely to increase the risk of this happening.

Whilst individuals or businesses may experience problems finding or retaining a solicitor, these may be isolated incidents which are not representative of how the legal services market as a whole is operating. We aim to collect information on actual instances of problems in a systematic and comparable way, so that any systemic problems can be identified. More detailed information on how we intend to monitor availability and accessibility is set out in the next section.

The monitoring function is not restricted to those legal services funded by SLAB or other public funders. It therefore includes privately funded services, whether provided to individuals or bodies corporate, and legal services such as conveyancing, insolvency and other private or public client work that would not normally fall within the scope of legal aid. The analytical framework set out in this report is established with that broad scope in mind.

Within this very broad spectrum, the policy memorandum for the Act directly linked the monitoring duty to areas of law where the Scottish Parliament viewed that the current legal services market may not be operating effectively, including

family law, employment and social welfare law. The initial reports therefore considered these areas at this early stage in the implementation of the duty and we are continuing to focus on areas that affect individuals.

In implementing this duty SLAB does not expect to be able to establish objective benchmarks for the adequacy of any particular level of availability or accessibility. Previous research in this field and the work of other organisations investigating similar issues is consistent with our belief that this is not possible in practice.

### **Time period covered by the report**

This report seeks to incorporate the most up-to-date information, along and responses to that from relevant stakeholders. This leads to some older data being reported and relied upon in the report. The reason for the time lag is two-fold. SLAB relies on collation of data from a number of sources, which becomes available in the months following the end of the financial year. Secondly, we seek the views of key stakeholders on the data and our interpretation of it through the correspondence-only panel and by way of meetings of the AJRG. Both these processes necessarily take time, but are essential to ensuring that our assessments are as robust as possible. We would expect stakeholders to advise if their experience suggested a substantial change that required attention since the data had been collected.

## Availability of legal services

For the purposes of this monitoring function, legal services are defined as services provided by solicitors and advocates.

The services of advocates are not related to where their offices are located, as they serve all areas of Scotland. The Faculty of Advocates advise that an advocate will be found in all cases where instructions are sought.

This section provides a snapshot of the volume and spread of solicitors and their firms across the country.

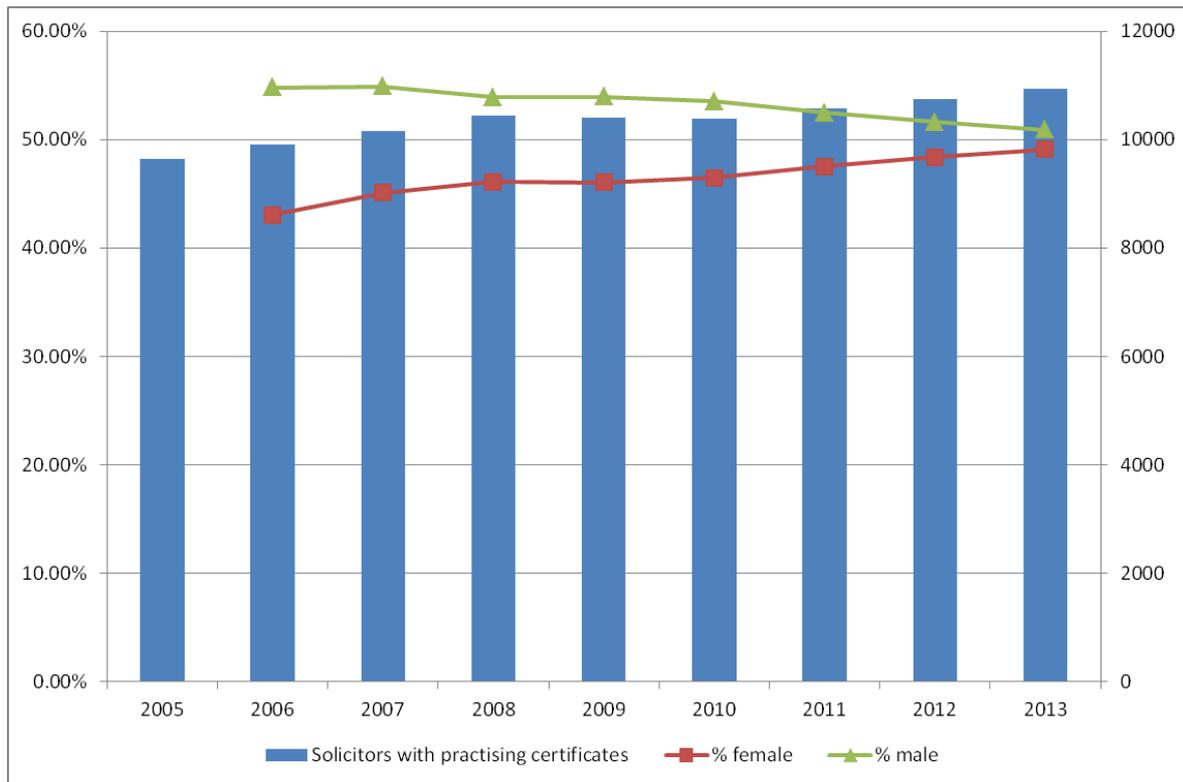
The annual report from the Law Society of Scotland sets out the overall number of solicitors holding practising certificates. This is set out in graph 1, which shows modest growth in the number of solicitors holding practising certificates and whether they are male or female. In terms of broad availability of legal services, it is positive that there are more solicitors available to undertake work and that the make up of the profession is becoming more reflective of the population in Scotland as a whole (where 52% are female).

Data supplied by the Law Society of Scotland suggests that the number of firm branches has dropped slightly, from 2,066 in early 2013 to 2,011 in December 2013. This may be a one-off fall. Further data to be supplied in the coming years will help to establish whether this is an emerging trend.

In terms of assessing availability and how this might affect access, we do not know the overall size and shape of the legal services market (for example, the volume of transactions undertaken in which areas of law) and how that has changed over time, which would be a better indicator of broad availability of legal services. This is an area where we propose undertaking research to fill this gap in our knowledge.

The number of firms and solicitors registered to provide legal aid work on the civil legal aid and criminal legal aid registers is higher than five years ago, although the number of criminal firms and solicitors registered has fallen slightly in the past two years. At the end of March 2014 there were 679 firms registered to provide civil legal assistance. This is 45 more than 2009. There were 581 firms and 1,409 solicitors registered to provide criminal legal assistance. This is around 6 more firms and 40 more solicitors than 2009. For children's legal assistance there were 374 firms and 886 practitioners registered. There are no comparable figures from earlier years.

**Graph 1: Number of solicitors with practising certificates on 31<sup>st</sup> October of each year<sup>1</sup>, by gender**



We have used data provided by the Law Society of Scotland to compare the 2013 mid-year estimated population of the various urban and rural areas to the number of branches in each type of area (Graphs 2 and 3).<sup>2</sup>

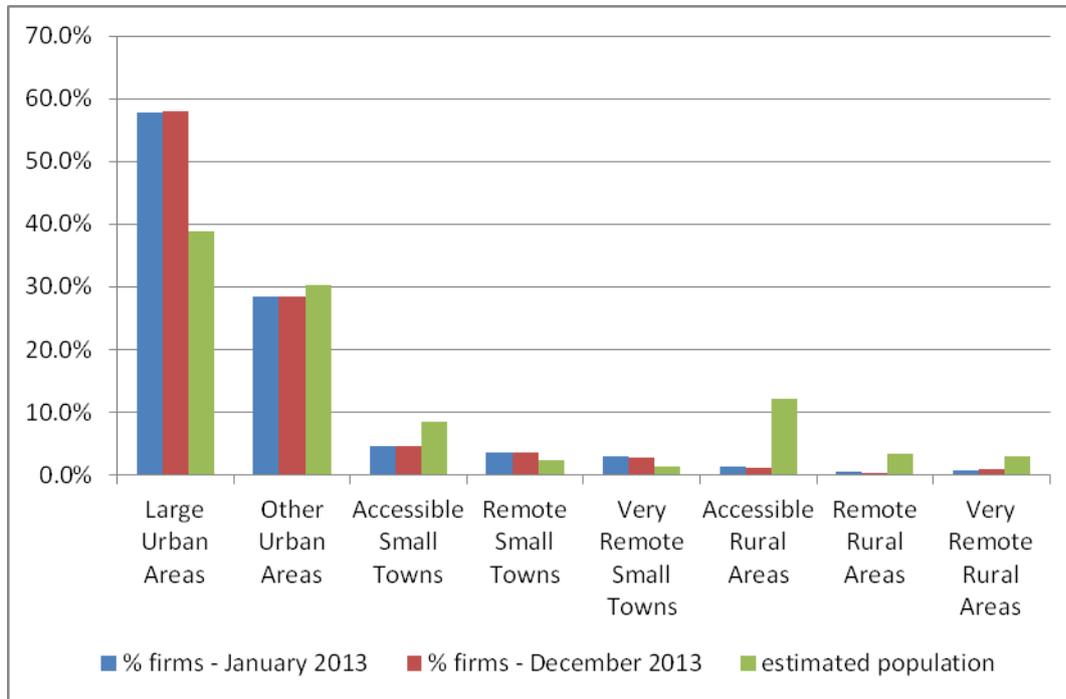
Graph 2 shows that close to 60% of firm branches are located in large urban areas, compared to less than 40% of the Scottish population, whereas for accessible rural areas - which are on the periphery of urban areas - the proportion of branches is far lower than their 12% share of the population. A similar pattern can be seen for accessible small towns.

Turning to remote small towns and very remote small towns, we can see that the proportion of firm branches is higher than expected when compared to the share of the population, as measured by the 2011 mid-year estimate. The opposite is true of remote and very remote rural areas.

<sup>1</sup> Source: Law Society of Scotland, Annual Reports

<sup>2</sup> We are using different data to previous reports, which result in slight variations in the figures, but not the overall pattern.

**Graph 2: Proportion of total firm branches and 2011 Mid Year Estimated population by 8 Fold Urban Rural Classification<sup>3</sup>**



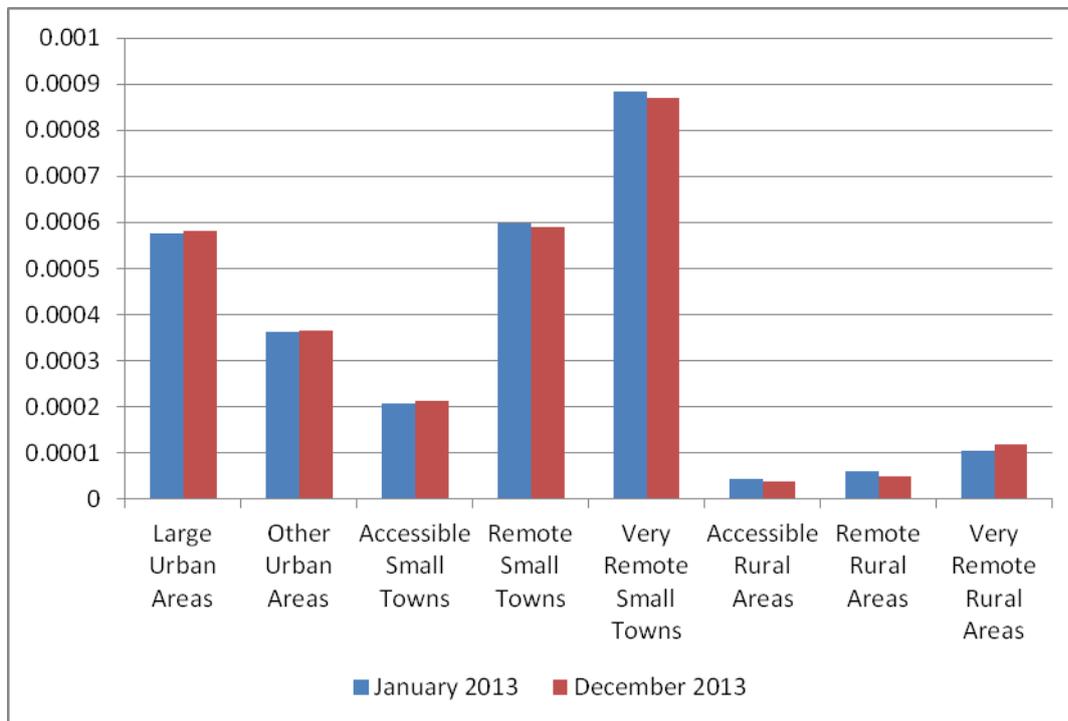
<sup>3</sup> Sources: General Register Office for Scotland, 2010 Mid-Year Estimates; Law Society of Scotland, find-a-solicitor tool; Scottish Government, urban-rural classification 2009/10.



Graph 3 shows how many firm branches there are for each person in the different areas set out in the 8-fold urban rural classification. The key point here is the relatively high number of firm branches per person that is in evidence for remote small towns and very remote small towns. Along with the data presented in Graph 2, this indicates that remote areas are being served by firm branches based fairly locally, in small towns.

The pattern for urban and more accessible areas shows a similar story, with large urban and other urban areas showing a higher number of firm branches per person compared to accessible rural areas and accessible small towns.

**Graph 3: Number of firm branches per person by 8 Fold Urban Rural Classification<sup>3</sup>**



Graph 2 and



Graph 3 suggest that, in general, there may be a link between the location of firm branches and the geographic area served. There appears to be an important role for firm branches in remote and very remote small towns, whilst accessible rural areas are served by firm branches in large urban areas.

The Law Society of Scotland have provided additional information which allows us to analyse the location of firm branches by council area, areas of law practised by solicitors, organisation type and the number of solicitors.

Table 1 shows the number of solicitors who are members of the Law Society of Scotland and their principal place of business, broken down by type of organisation<sup>4</sup> and council area. In line with the analysis presented above, this demonstrates that there are solicitors working from branches that are spread across the country. This is consistent with SLAB's own data that shows solicitors doing legally aided work all across Scotland.

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<sup>4</sup> Non-member organisation includes public sector bodies or other organisations not classified as solicitor firms.

**Table 1: Number of solicitors at December 2013 by council area and organisation type<sup>5</sup>**

	Branch Office	Firm - Incorporated	Firm - Partnership	Non-member Org	Subsidiary Company	Total
Aberdeen City	240	227	300	247	0	<b>1,014</b>
Aberdeenshire	28	7	65	8	4	<b>112</b>
Angus	23	7	44	21	0	<b>95</b>
Argyll & Bute	10	7	40	15	0	<b>72</b>
Scottish Borders	10	4	44	2	3	<b>63</b>
Clackmannanshire	10	5	15	8	0	<b>38</b>
West Dunbartonshire	18	9	22	22	0	<b>71</b>
Dumfries & Galloway	10	47	70	23	2	<b>152</b>
Dundee City	49	112	111	75	5	<b>352</b>
East Ayrshire	4	25	41	34	0	<b>104</b>
East Dunbartonshire	5	0	25	11	0	<b>41</b>
East Lothian	12	0	23	10	0	<b>45</b>
East Renfrewshire	0	5	5	10	3	<b>23</b>
Edinburgh	504	1,406	636	932	32	<b>3,510</b>
Falkirk	10	30	23	29	0	<b>92</b>
Fife	43	126	93	63	0	<b>325</b>
Glasgow City	720	879	769	449	63	<b>2,880</b>
Highland	40	63	114	57	0	<b>274</b>
Inverclyde	6	10	32	19	0	<b>67</b>
Midlothian	9	0	7	4	0	<b>20</b>
Moray	6	11	40	17	1	<b>75</b>
North Ayrshire	9	2	45	18	0	<b>74</b>
North Lanarkshire	16	39	75	57	0	<b>187</b>
Orkney Islands	1	10	2	9	0	<b>22</b>
Perth & Kinross	24	55	76	62	0	<b>217</b>
Renfrewshire	14	53	66	75	0	<b>208</b>
Shetland Islands	0	0	13	12	0	<b>25</b>
South Ayrshire	12	23	64	26	0	<b>125</b>
South Lanarkshire	16	67	56	75	1	<b>215</b>
Stirling	6	18	39	30	2	<b>95</b>
West Lothian	25	9	44	22	0	<b>100</b>
Western Isles	0	11	3	10	0	<b>24</b>
<b>Scotland</b>	<b>1,880</b>	<b>3,267</b>	<b>3,002</b>	<b>2,452</b>	<b>116</b>	<b>10,717</b>

<sup>5</sup> Firm partnership (principal office) – traditional solicitor partnership model; Firm incorporated (principal office) – limited liability partnership or otherwise incorporated solicitor firms; Branch offices – satellites from the principal office of solicitor firms; Non-member organisations – includes public sector bodies or other organisations not classified as solicitor firms; Subsidiary companies – for solicitors working in organisations that are part of larger company groups

Table 2 sets out the number of firm branches operating across Scotland, by organisation type.

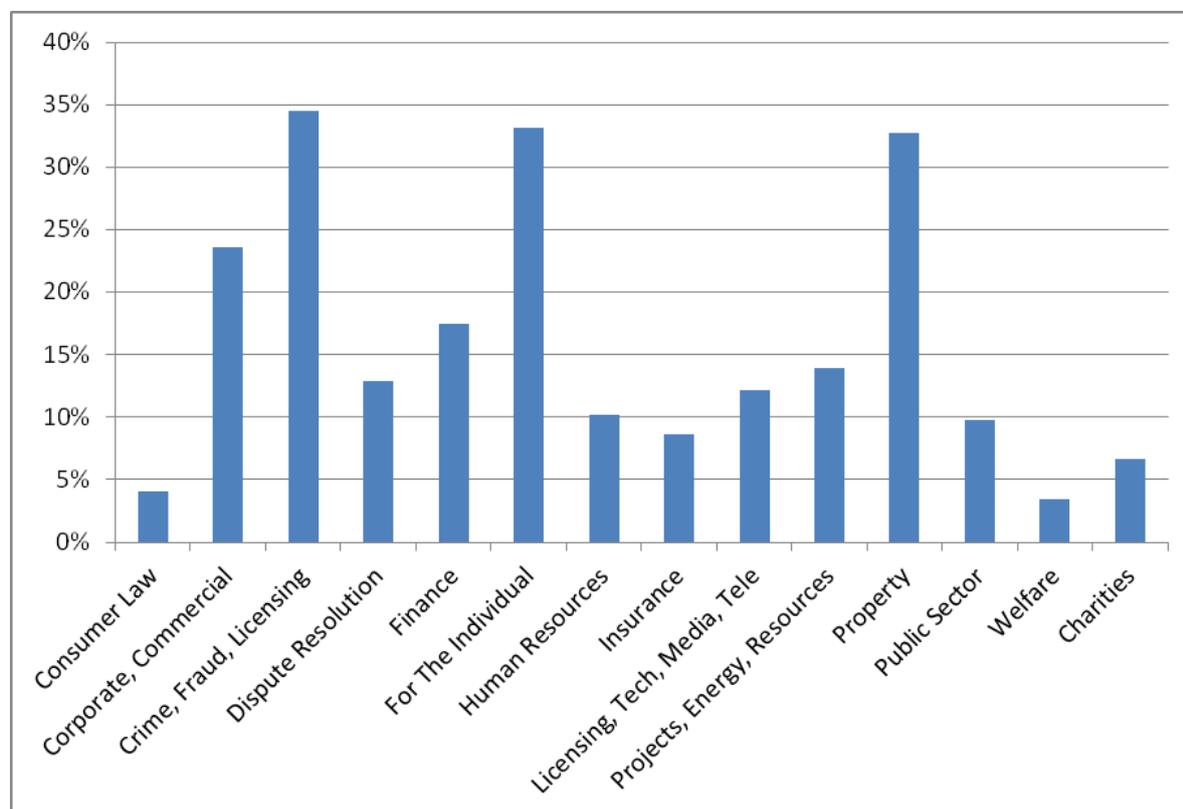
**Table 2: Number of firm branches at December 2013 by council area and organisation type**

Firm council area by locality	Organisation Type					Total
	Branch Office	Firm - Incorporated	Firm - Partnership	Non-member Org	Subsidiary Company	
Aberdeen City	16	15	50	71	0	152
Aberdeenshire	12	3	21	5	1	42
Angus	6	3	14	5	0	28
Argyll & Bute	6	3	12	5	0	26
Scottish Borders	5	3	17	2	2	29
Clackmannanshire	3	2	6	2	0	13
West Dunbartonshire	7	3	11	3	0	24
Dumfries & Galloway	7	9	24	6	1	47
Dundee City	7	3	34	12	1	57
East Ayrshire	2	8	17	4	0	31
East Dunbartonshire	3	0	14	2	0	19
East Lothian	8	0	9	3	0	20
East Renfrewshire	0	2	3	1	1	7
Edinburgh	44	53	115	146	3	361
Falkirk	4	7	11	7	0	29
Fife	18	23	44	15	0	100
Glasgow City	62	94	204	106	5	471
Highland	13	16	36	22	0	87
Inverclyde	3	4	13	7	0	27
Midlothian	4	0	3	1	0	8
Moray	3	2	13	4	1	23
North Ayrshire	5	1	20	2	0	28
North Lanarkshire	9	11	38	11	0	69
Orkney Islands	1	2	2	3	0	8
Perth & Kinross	7	10	18	16	0	51
Renfrewshire	6	13	22	17	0	58
Shetland Islands	0	0	6	4	0	10
South Ayrshire	5	6	21	7	0	39
South Lanarkshire	11	19	27	18	1	76
Stirling	4	4	12	9	1	30
West Lothian	10	4	14	5	0	33
Western Isles	0	3	2	3	0	8
<b>Scotland</b>	<b>291</b>	<b>326</b>	<b>853</b>	<b>524</b>	<b>17</b>	<b>2011</b>

Solicitors can choose to update their profile with the Law Society of Scotland to provide information on the areas of law in which they offer services. Around 36% of solicitors working from a place of business in Scotland have chosen to provide this information. As

the data in Graph 4 is partial - being based on just over a third of solicitors' responses - it should be treated with caution.

**Graph 4: Specialist area by proportion of solicitors who have provided information, Scotland, December 2013**



The AJRG has been most interested in reviewing those areas of law where individuals seeking help are most likely to be involved (such as family or employment law), as group members consider that these are more likely to present issues with the accessibility and availability of legal services.

#### Current conclusions and further work identified

The information presented here does not suggest that any particular area of the country lacks coverage by solicitor firms, taking account of population size. In future, with data covering more than two years, we will be able to monitor any shifts in the distribution of these with reference to urban and rural areas. Further work to understand the relationship between location of firm branch and the client, such as through alternatives to face-to-face meetings, will help to clarify the links between measures of availability and access. This will feed into the assessment of the risk of actual instances of systemic problems with access occurring.

## Accessibility of legal services

This section focuses on the priority areas of law which were identified by members of the AJRG in May 2015 and in the Policy Memorandum for the Act. Aside from the assessment on personal injury, this section follows up on areas analysed in the previous monitoring report. We also note where members of the AJRG, wider panel, or other groups, have suggested that there may be issues around accessibility of legal services. The table in appendix 2 sets out our high level assessment of other areas of law, where data is available, including our continued assessment for those priority areas covered in the first two monitoring reports.

As noted above, in our assessment of areas of law, we have taken account of the context within which legal services are operating, in terms of whether they are mainly publicly or privately funded and how significant a share of the market is taken by solicitors and advocates. We know from population surveys<sup>6</sup> that for some types of problem most people do not seek help from solicitors and that, in terms of publicly funded assistance, advice agencies or local authorities provide a greater amount of advice on some types of issues than solicitors or advocates.

We are however not attempting to assess whether different sources of assistance are more or less appropriate, or for example whether they are of sufficient quality, or if they are affordable. Where these kinds of issues are raised by the AJRG or in analysis, they will be fed into Making Justice Work Project 3, Enabling Access to Justice<sup>7</sup>. Our focus is on problems with access to legal services, defined as the inability of potential clients to find solicitors or advocates willing to act in different areas of law or various geographic areas.

As an example of the context within which legal services are operating, the Scottish Crime and Justice Survey for 2012/13 includes the following data, which sets out an overview of where individuals went for help when seeking assistance in resolving a range of civil problems.<sup>8</sup> The questionnaire sets a seriousness threshold for problems by asking respondents: *“Please only tell us about problems you would say caused you difficulty or could not be easily solved.”*

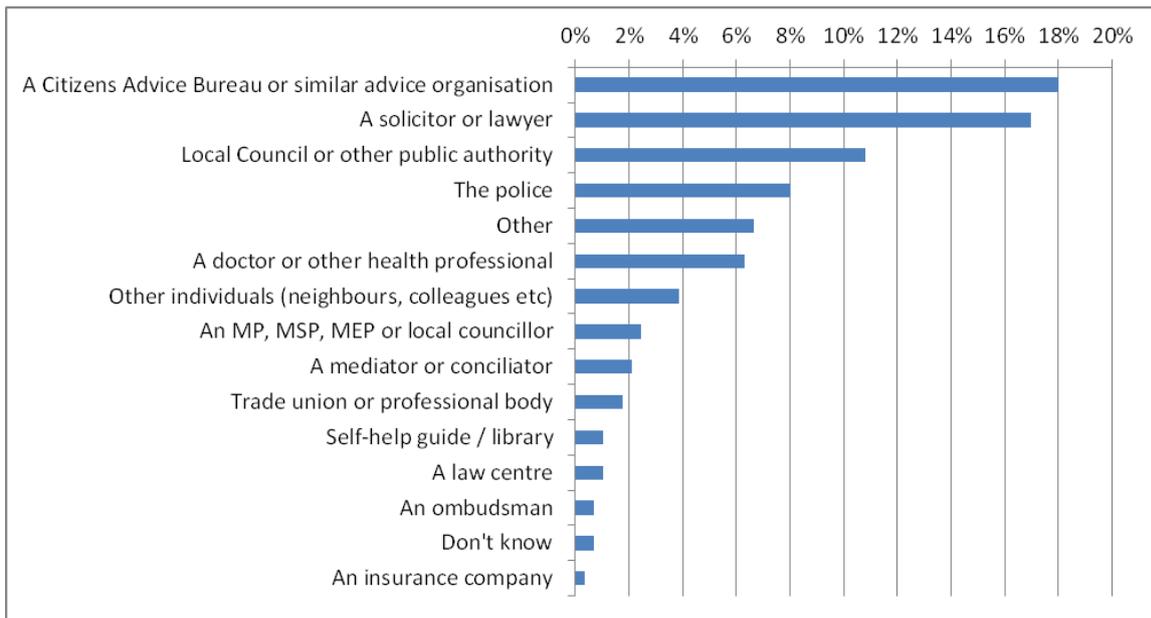
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<sup>6</sup> Examples include the civil module of the Scottish Crime and Justice Survey, the survey underpinning Paths to Justice Scotland (2001), and the various surveys which supported the Community Legal Services: Assessing Need for Advice in Scotland (2004) report.

<sup>7</sup> More information on the Making Justice Work programme can be found at <http://www.scotland.gov.uk/Topics/Justice/legal/mjw>

<sup>8</sup> The problem types were: problems with neighbours; problems with faulty goods or services; money or debt problems; housing; harassment; divorce or separation; child contact, residence or maintenance; benefit problems; employment problems (other than finding work); mental health problems; unfair treatment by the police; problems with an injury due to accident; discrimination; medical negligence; immigration problems. A brief but more detailed description of the issues which may arise under these problem types is also given to survey respondents.

**Graph 5: Where people sought help or advice to solve most important problem<sup>9</sup>**



Analysis and assessment has mainly focussed on the national level, as we need to build up information sources at the local authority level before being able to undertake robust analysis; where possible, sub-national results have been presented.

<sup>9</sup> Source: Scottish Government, Scottish Crime and Justice Survey 2012/13.

### **Repossession (owned property)**

The second monitoring report concluded that SLAB did not have sufficient information to provide a conclusive assessment on the probability that a systemic problem with access is occurring. Whilst there were clear differences between courts in relation to the volume of legal aid applications and cases taken forward by solicitors under SLAB's grant funding programme, we were unsighted as to the extent of the role of solicitors acting on a private basis and publicly funded solicitor assistance that was not funded by SLAB.

In order to remedy these deficiencies, we pursued a number of lines of enquiry.

Firstly, we reviewed the data made available to us by the Scottish Court Service (SCS) which includes an indication of whether pursuers or defenders in disposed cases have been represented by a firm of solicitors. The data is drawn from a case management system, which is set up to assist with administering court processes rather than reporting on performance. The case management system does not require completion of the section for recording representation and therefore we have been advised that the result is that more parties may be shown as unrepresented than is the case in practice. The data on representation from SCS does not include those cases which have been sisted, as this means the case has not formally been disposed. Taking into account these caveats alongside the further views garnered from stakeholders, we are of the view that the information from SCS supports the contention that only in a minority of cases are individuals represented by solicitors, whereas pursuers in mortgage repossession cases are represented in the vast majority of cases.

We also asked those who regularly represent lenders in these kinds of cases what their impression was of the proportion of individuals who obtain representation by solicitors. The view was expressed that individuals are represented by solicitors in a minority of cases and that these solicitors were usually employed in the public or third sector, rather than acting on a private basis.

This view was supported by the experience of the Civil Legal Assistance Office in Edinburgh, which focusses on housing debt issues. They reported that individuals who they assist can have experienced difficulties in finding a solicitor willing to take on their case, especially under the legal aid scheme. This suggests that, in areas where there is no specific solicitor provision in place, people are likely to experience problems with accessing solicitor services.

Lastly, we sought the views of Shelter Scotland, as an organisation that has both its own law service and an expertise in housing law. Their view was that most individuals obtaining representation from solicitors would be doing so under a publicly-funded route, rather than on a private fee basis. Data provided by Shelter Scotland's Housing Law Service, when combined with SLAB's information, suggests that publicly-funded solicitor services are accessed by a minority of individuals.

A widespread view was that, as most solicitor services are clustered in the central belt, there may be accessibility and availability problems in rural areas - although the data does not suggest a systemic problem in that regard.

Different opinions were expressed in relation to the effect of contributions and clawback under the legal aid scheme for repossession of owned property on availability and accessibility of legal services. One respondent noted it was a barrier to people defending their case, whilst another expressed the view that individuals were content with the arrangements when they were explained.

Current conclusion for repossession of owned property

Overall, building on the analysis conducted for the second monitoring report, our view is that there is a medium probability that a systemic access problem is occurring. In terms of reports of actual instance of problems with access, one respondent has suggested that people do encounter difficulties with accessing legal services for these kinds of case.

At the local level, drawing on the data presented in the last report, there may be some areas where access to solicitor services is more difficult, but we have not received any specific reports of actual instances of problems.

**Table 3: Assessment of systemic problems with access to solicitors for repossession of owned property**

	Probability that a systemic access problem is occurring	Reports of actual instances of problems with access	Exposure [Probability Reports] x
	1 (low) - 5 (high)	1 (no reports) - 5 (consistently reported systemic access problems)	1-4 Green 5-14 Amber 15-25 Red
Repossession of owned property	3	2	6

Future work for monitoring legal services

In order to better understand whether there are local issues, we intend to update the sheriff court data presented in the second report and to undertake some specific survey work with relevant local organisations to seek a view on any actual instances of problems with access to solicitors.

Areas of interest for other projects and organisations

Whilst we assess this area of law as exhibiting a high probability that a systemic problem with access to legal services is occurring, there are other routes to representation, including by approved lay representatives which were introduced by the Home Owner and Debtor Protection (Scotland) Act 2010.

Respondents to our enquiries noted that a substantial barrier to people obtaining representation was that many individuals appear to choose not to engage with the repossession process at all, or only at a very late stage.

These considerations speak to wider issues than can be covered by SLAB’s monitoring function.

### Repossession (rented property)

Building on our analysis in the second monitoring report, we sought additional information and insight from Shelter Scotland. Data provided by Shelter Scotland's Housing Law Service, when combined with SLAB's information, suggests that publicly-funded solicitor services are accessed by a minority of individuals.

A widespread view was that, as most solicitor services are clustered in the central belt, there may be accessibility and availability problems in rural areas - although the data does not suggest a systemic problem in that regard.

#### Current conclusion for repossession of rented property

Overall, SLAB has not received reports on actual instances of people experiencing problems with access to legal services, but data indicates that this area of law has a medium probability that a systemic problems with access is occurring.

**Table 4: Assessment of systemic problems with access to solicitors for repossession of rented property**

	Probability that a systemic access problem is occurring	Reports of actual instances of problems with access	Exposure [Probability Reports] x
	1 (low) - 5 (high)	1 (no reports) - 5 (consistently reported systemic access problems)	1-4 Green 5-14 Amber 15-25 Red
Repossession of rented property	3	1	3

#### Future work for monitoring legal services

As this area of law remains assessed as a low risk, we will update our assessment for repossession of rented property in line with our workplan, as set out in appendix 7.

## Domestic abuse

This section deals with the potential remedies available for alleged victims of domestic abuse, whether those fall within the civil or criminal justice system. Legal services for alleged perpetrators of domestic abuse who need representation under the criminal legal system are covered in the appendix by a separate topic on criminal defence services.

The data presented in the second monitoring report showed that the number of civil legal aid applications and cases in the civil court relating to domestic abuse are very much smaller than the number of cases reported in the criminal justice system. That report concluded that there is a fairly stable level of provision of legal service under legal aid for people seeking protection through civil law, albeit concerns have been raised in the past about access to solicitors by way of legal aid.

We considered that the circumstances leading to an application for a civil remedy may reflect a pattern of abuse that may have given rise to multiple criminal justice interventions. It is also possible that some victims may consider that a criminal justice intervention obviates the need for a civil remedy if, for example, an abuser is issued with special bail conditions or is convicted and given a custodial sentence. Such outcomes (and particularly special bail conditions) may achieve a degree of protection similar to that which may be sought via a civil remedy. However, they may also be shorter term in their effect, meaning that a criminal justice intervention cannot always be viewed as a suitable or ongoing alternative to seeking a civil remedy.

We have explored this area in more depth with stakeholders with an interest in cases involving domestic abuse. We obtained valuable additional insight on both the civil and criminal remedies available for alleged victims of domestic abuse.

We also canvassed the views of stakeholders on the data and assessment reached in our second monitoring report. On the civil side, a couple of respondents noted general concerns about the availability of solicitors to undertake work on interdicts or non-harassment orders, especially through legal aid - although no specific instances were brought to our attention.

In relation to the criminal justice system, we heard that non-harassment orders were a sentencing option that was being sought and granted more often than seen previously, notably as a result of dedicated arrangements around domestic abuse courts. Depending on the circumstances of the case, NHOs can be granted alongside other sanctions or a custodial sentence. The length of an NHO can vary by years, again depending on the particular circumstances of a case.

Scottish Women's Aid undertook research with their members, which was aimed at identifying whether there were actual instances of problems with access to civil legal remedies, and if so, what the causes of the problems were. Nearly 300 responses were received over the period from July-September 2013. Scottish Women's Aid analysed the returns and they report a picture which is consistent

with the views of other stakeholders and the assessment provided in our previous report.<sup>10</sup>

### Current conclusion on domestic abuse

The additional insight provided by stakeholders confirms our earlier assessment that domestic abuse is an area of law where there is a fairly low risk of risk of actual instances of systemic problems with access to legal services.

**Table 5: Assessment of systemic problems with access to solicitors for domestic abuse**

	Probability that a systemic access problem is occurring	Reports of actual instances of problems with access	Exposure [Probability x Reports]
	1 (low) - 5 (high)	1 (no reports) - 5 (consistently reported systemic access problems)	1-4 Green 5-14 Amber 15-25 Red
Domestic abuse	2	2	4

### Future work for monitoring legal services

As this area of law remains assessed as a low risk, we will update our assessment for domestic abuse in line with our workplan, as set out in appendix 7.

We will ask interested stakeholders whether they would be able to put in place arrangements to monitor actual instances of problems with access, so that we can benefit from this information for the next assessment.

### Areas of interest for other projects and organisations

Responses to Scottish Women’s Aid highlighted a number of areas where SLAB may be able to provide useful clarification and guidance to local groups on the operation of legal aid, especially in respect of financial eligibility.

<sup>10</sup> Scottish Women’s Aid intends to publish a report on this research.

## Mental health law

We concluded in our second monitoring report that there appeared to be a high probability of a systemic problem with solicitor representation occurring in three areas for mental health law: Clackmannanshire, Stirling and West Dunbartonshire.

In each area, the number of hearings is comparatively small, but the proportion of hearings where a solicitor or advocate is listed as a contact is low overall and has been for a number of years. Further analysis of the data shows that this is not a reflection of a particular type of case being over-represented in these areas - they all show lower proportions of solicitors being listed as contacts case types such as Section 63, Section 92 and Section 95 applications.

We sought the views of key stakeholders on the data and our conclusions. Respondents agreed with our assessment that the three council areas noted in the previous report were areas of concern. This included feedback from Social Work Scotland's Mental Health Sub-Group, which involves representatives from the local authorities highlighted.

### Current conclusion on mental health law

Our assessment has therefore been refined to reflect the high probability that there systemic access problems are occurring in Clackmannanshire, Stirling and West Dunbartonshire.

**Table 6: Assessment of systemic problems with access to solicitors for mental health law**

	Probability that a systemic access problem is occurring	Reports of actual instances of problems with access	Exposure [Probability Reports] x
	1 (low) - 5 (high)	1 (no reports) - 5 (consistently reported systemic access problems)	1-4 Green 5-14 Amber 15-25 Red
Clackmannanshire	5	1	5
Stirling	5	1	5
West Dunbartonshire	5	1	5
Mental health law in other areas	1	1	1

### Future work for monitoring legal services

We will share our findings with the Scottish Government, the Scottish Tribunals and Administrative Justice Advisory Committee, the relevant local authorities and the President's Office of the Mental Health Tribunal Scotland.

We will reassess this area of law in line with our workplan as set out in appendix 7.

## Personal injury

### *Overall context for issues relating to injuries caused by an accident experienced by individuals in Scotland*

The results of the 2010/11 civil module of the Scottish Crime and Justice Survey provides an estimate that 2% of people experience problems to do with an injury caused by an accident within a 3 year time period, with 90% having either resolved or still seeking to resolve their problem when interviewed. This means around 10% of people gave up trying to resolve their problem or did not attempt to resolve it. 80% of those who sought to resolve their problem did so with help or advice.

People reported being most likely to approach a solicitor (56%), friends and family (26%) or a trade union (12%) where they did seek advice.

### *Overall context for issues relating to medical negligence experienced by individuals in Scotland*

The results of the 2010/11 civil module of the Scottish Crime and Justice Survey provides an estimate that 1% of people experience problems to do with medical negligence within a 3 year time period, with 74% having either resolved or still seeking to resolve their problem when interviewed. 76% of those who sought to resolve their problem did so with help or advice.

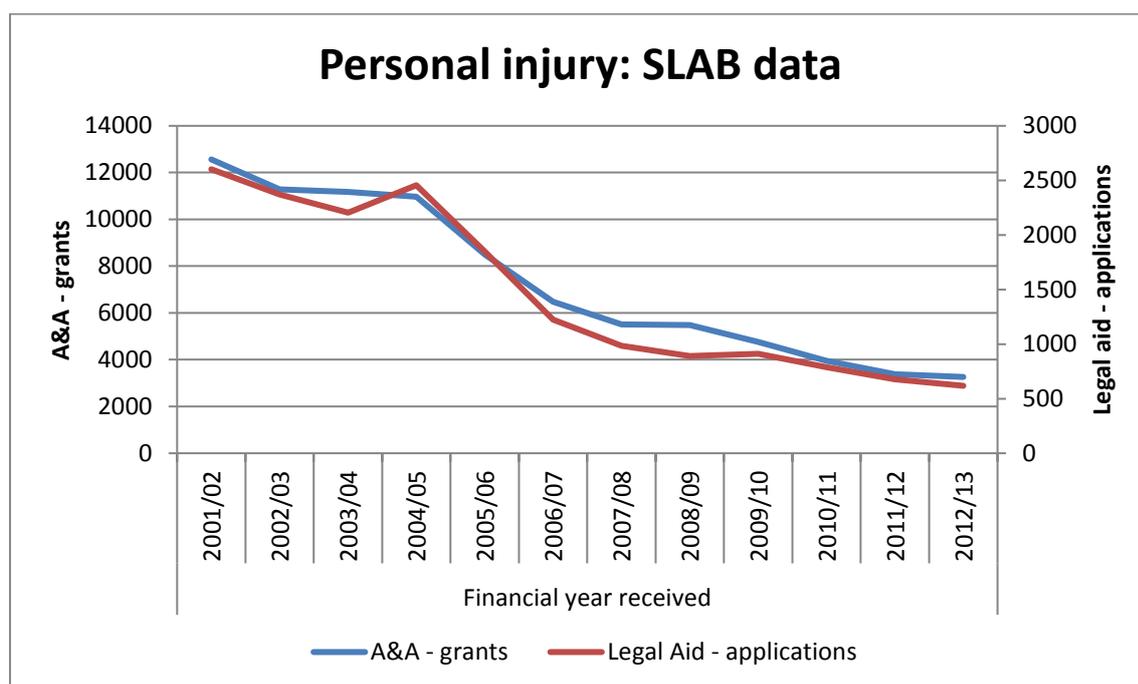
People reported being most likely to approach a solicitor (38%), health professionals (24%) or friends and family (21%) where they did seek advice.

### *Representation by solicitors*

Research by the [Scottish Government from 2002](#) suggests that only 1% of cases involving solicitors resolved by way of proof at court, with the rest being settled on or before the proof/trial date.

The Scottish Legal Aid Board provides access to public funding for eligible personal injury cases. Over the long term, requests for this source of assistance have been declining as more people are helped under private feeing arrangements.

**Graph 6: SLAB data on personal injury grants and applications**



The Scottish Court Service collates data from their case management system which includes a section for recording information on whether a party was represented or not by a firm of solicitors.

The table below sets out the overall level of representation in the Sheriff Court and compares this to personal injury overall and to specific types of personal injury.

**Table 7: Representation at Sheriff Court in 2012/13**

	Pursuer (%)			Defender (%)		
	represented	not represented	assumed represented	represented	not represented	assumed represented
All cases	30%	58%	6%	10%	52%	30%
Personal injury (overall)	59%	40%	1%	64%	23%	16%
Road traffic accident	51%	49%	1%	61%	26%	15%
Injury at work	66%	34%	1%	61%	21%	21%
Clinical negligence	87%	9%	4%	54%	13%	37%

There appears to be a higher level of representation for personal injury cases compared to all cases going through the Sheriff Court. However, the case management system does not require completion of the section for recording representation and therefore we have been advised that the result is that more parties are shown as unrepresented than is the case in practice. We can be confident that most people are getting representation in personal injury cases at the Sheriff Court, as the level of representation is likely an underestimate of the true position.

Many personal injury cases are raised in the Court of Session, where there is automatic sanction for counsel, as shown in Table 8.

**Table 8: Personal injury cases initiated in Sheriff Courts and Court of Session**

Case type	2008/09	2009/10	2010/11	2011/12	2012/13	2012/13 (CoS only)
Road traffic accident	3,441	4,637	5,790	4,614	5,106	821
Accident at work	1,921	1,844	1,802	1,751	1,758	894
Other	1,211	2,559	955	931	1,190	528
Asbestos	242	541	345	294	436	404
Clinical negligence	173	235	242	256	235	154
<b>Total initiated</b>	<b>6,988</b>	<b>9,816</b>	<b>9,134</b>	<b>7,846</b>	<b>8,725</b>	<b>2,801</b>

Unfortunately we do not have representation data from SCS available to us for Court of Session cases, although feedback from respondents indicates that high levels of representation for both pursuers and defenders (over 90%) would be expected. In 2012/13 SLAB received 137 applications for legal aid for personal injury or clinical negligence cases that were raised in the Court of Session.

#### **Reports of problems with access to solicitors or advocates**

Two thorough reviews of the civil courts have been undertaken in recent years, which included a focus on access to justice and legal services. Neither the Review of Expenses and Funding of Civil Litigation in Scotland (the Taylor Review), nor the Report of the Scottish Civil Courts Review (Gill Review), found that there was an issue with regard to access to the services of solicitors or advocates for personal injury work.

The Gill Review noted that the proposed changes to the civil courts structure should ensure that personal injury cases are not dispersed throughout the sheriff court system, but rather centralised in a specialist personal injury court. The reason for not dispersing cases set out was: “That might make it uneconomic for the profession to provide the current level of service and access to the courts that personal injury claimants currently enjoy.” (Para 153, Chapter 4)

The Justice Committee issued a call for evidence on the Courts Reform (Scotland) Bill, as part of their scrutiny of the Bill<sup>11</sup>. A number of these focussed on the impact of changes proposed to transfer exclusive jurisdiction for some personal injury cases that currently proceed in the Court of Session to the Sheriff Court. The submissions made suggest that there is not currently an issue with access to solicitors or advocates for personal injury cases, no matter which particular subset of cases is looked at.

A number of submissions, notably those from trade unions and groups of advocates, suggested that there may be issues with access to appropriate representation by

<sup>11</sup> The Justice Committee’s work on this area can be found here: <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/73253.aspx>

advocates as a result of the changes being proposed. Trade union submissions suggest that the effect of the Enterprise and Regulatory Reform Act 2013 combined with the jurisdictional changes set out in the Courts Reform (Scotland) Bill may result in a lack of access to counsel when it is needed.

The Scottish Government and the Scottish Legal Aid Board provided evidence to the committee which suggested that such a problem would not arise. The key issue from their perspective is that counsel will be available for complex cases where they are needed under the proposed reforms.

#### Current conclusion on personal injury

We have no data available to us at the moment which suggests an issue, or reports of problems with accessibility or availability of legal services for this area of law. SLAB's current view is that there is a low probability that systemic accessibility issues are leading to actual instances of problems.

**Table 9: Assessment of systemic problems with access to solicitors for personal injury**

	Probability that a systemic access problem is occurring	Reports of actual instances of problems with access	Exposure [Probability x Reports]
	1 (low) - 5 (high)	1 (no reports) - 5 (consistently reported systemic access problems)	1-4 Green 5-14 Amber 15-25 Red
Personal injury	1	1	1

#### **Other areas of law**

This section provides brief updates on the position with respect to other areas of law, where minor work has been undertaken.

Under debt for individuals, we were asked by the AJRG to seek advice from stakeholders on the use of time orders under the Consumer Credit Act 1974, as there was a concern that there may be an issue with individuals gaining access to solicitor help in relation to these orders. The response we received gave a full explanation as to why, in their view, time orders were little used. The key reason was that they had a narrow focus and had been superseded in large part by other types of procedure.

#### **Specific groups**

We plan to engage representatives from organisations who advocate on behalf of service users who may need legal services and who have protected characteristics. This will be done by way of a specific event which will seek to explore the range of problems with access to justice that people with protected characteristics may face.

## Appendix 1: Interpretation of Legal Services (Scotland) Act 2010

### AVAILABILITY OF LEGAL SERVICES

1. Section 141 of the 2010 Act introduces new responsibilities for SLAB in relation to monitoring and advising Scottish Ministers as to the availability of legal services in Scotland.
2. The provisions amend section 1 of the 1986 to introduce a new general function on SLAB to monitor the availability and accessibility of legal services in Scotland. The definition of legal services is broad, beyond legal services that are publicly funded and indeed beyond those providing by lawyers. In carrying out this function, the Act specifies that SLAB should make reference to relevant factors relating to urban and rural areas.
3. The 2010 Act also amends section 2 of the 1986 Act by providing a new power for SLAB to provide advice to Scottish Ministers as we consider appropriate in relation to the availability and accessibility of legal services.
4. Finally, section 3 of the 1986 Act is amended to give SLAB the duty to give the Scottish Ministers such information as they may require relating to the availability and accessibility of legal services. There is no fixed time period during which this must be done, such as via an annual report, the provision only stating that SLAB must from “time to time” give Scottish Ministers the information they require.
5. To assist in meeting these requirements, the section 142 of the 2010 Act also amends section 35A of the 1986 Act to place a duty on a number of bodies to provide SLAB with such information as it may reasonably require. The requirements are not specified beyond that definition. The three bodies are the Law Society, the Faculty and the Scottish Courts Service.

*What type of services does the duty cover?*

6. The definition of legal services in the Act is extremely broad. It is given in section 3:
  - 3 Legal services
    - (1) For the purposes of this Act, legal services are services which consist of (at least one of)—
      - (a) the provision of legal advice or assistance in connection with—
        - (i) any contract, deed, writ, will or other legal document,
        - (ii) the application of the law, or
        - (iii) any form of resolution of legal disputes,
      - (b) the provision of legal representation in connection with—
        - (i) the application of the law, or
        - (ii) any form of resolution of legal disputes.

7. However, the explanatory notes to the Act clarify that, other than the Part of the Act relating to confirmation and will writing services, “the Act is restricted to legal services provided by businesses involving legal professionals (meaning solicitors, advocates, licensed conveyancers and executry practitioners, and those with rights to conduct litigation and/or rights of audience by virtue of section 27 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (“the 1990 Act”))”.
8. It appears reasonable to interpret legal services for the purposes of our duty in line with the explanatory notes, so it is not quite as broad as section 3 might on first reading imply. Nevertheless, the duty is clearly not restricted to those legal services funded by SLAB or other public funders. It therefore includes privately funded services, whether provided to individuals or bodies corporate, and legal services such as conveyancing, insolvency and other private or public client work that would not normally fall within the scope of legal aid.

*What is the intention behind the provisions?*

9. While SLAB is not required to monitor access to justice *per se*, the Policy Memorandum to the Bill explicitly links the monitoring duty to the regulatory principle of promoting access to justice. It states that section 96 (as it was numbered in the Bill) provides that SLAB must monitor availability of legal services and if it considers that to be inadequate it may report that to Scottish Ministers.
10. These provisions are also directly linked to the Equal Opportunities section of the Policy Memorandum, in which it is stated that there are a range of areas of law where the current legal services market may not be operating effectively including family law, employment and social welfare law.
11. This suggests that the new requirements go beyond a mere counting of providers, perhaps involving an assessment of the adequacy of such provision. This would then equip SLAB to advise Ministers as to any lack (or possibly also excess) of supply.
12. However, we have always been wary in the past of offering any assessment as to the adequacy or otherwise of a given level of supply. Our existing supply mapping work measures change over time and differences between areas of the country in terms of number of suppliers and their level of publicly funded activity. This enables us to assess whether some areas (of law or geography) are out of kilter with the norm, thereby suggesting a potential access to justice problem. We have steered away from declaring categorically that any particular part of the country or area of law has adequate supply, as some individuals may always be unable to access the services they need for a range of complex reasons.
13. As such, while we can identify trends and areas of potential difficulty, such as where the number of suppliers looks low relative to other areas, it is unlikely that we will be able to reach firm conclusions about the objective adequacy of

any particular level of availability or accessibility. We would suggest that it is not realistic for us to approach the performance of this function on the basis that we will somehow define adequacy and develop tools to measure the availability and accessibility of services against this standard. Instead, we think it sufficient (and in keeping with Parliament's intention) that we put in place mechanisms to enable us to identify actual instances of inadequate access or levels of supply that appear likely to increase the risk of this happening.

## Appendix 2: High level assessment of systemic problems with access to legal services

Type of law			Assessment		
Level 1	Level 2	Level 3	Probability that a systemic access problem is occurring	Reports of actual instances of problems with access	Exposure [Probability x Reports]
			1 (low) - 5 (high)	1 (no reports) - 5 (consistently reported systemic access problems)	1-4 Green 5-14 Amber 15-25 Red
Crime - prosecution	Contentious	Non-sexual crimes of violence	1	1	1
		Sexual offences	1	1	1
		Crimes of dishonesty	1	1	1
		Fire raising, vandalism etc.	1	1	1
		Other crimes (including drugs)	1	1	1

Type of law			Assessment		
Level 1	Level 2	Level 3	Probability that a systemic access problem is occurring	Reports of actual instances of problems with access	Exposure [Probability x Reports]
			1 (low) - 5 (high)	1 (no reports) - 5 (consistently reported systemic access problems)	1-4 Green 5-14 Amber 15-25 Red
		Miscellaneous offences	1	1	1
		Motoring offences	1	1	1
Crime - defence	Contentious	Non-sexual crimes of violence	1	1	1
		Sexual offences	1	1	1
		Crimes of dishonesty	1	1	1

Type of law			Assessment		
Level 1	Level 2	Level 3	Probability that a systemic access problem is occurring	Reports of actual instances of problems with access	Exposure [Probability x Reports]
			1 (low) - 5 (high)	1 (no reports) - 5 (consistently reported systemic access problems)	1-4 Green 5-14 Amber 15-25 Red
		Fire raising, vandalism etc.	1	1	1
		Other crimes (including drugs)	1	1	1
		Miscellaneous offences	1	1	1
		Motoring offences	1	1	1
Reparation	Contentious	Road traffic accidents	1	1	1

Type of law			Assessment		
Level 1	Level 2	Level 3	Probability that a systemic access problem is occurring	Reports of actual instances of problems with access	Exposure [Probability x Reports]
			1 (low) - 5 (high)	1 (no reports) - 5 (consistently reported systemic access problems)	1-4 Green 5-14 Amber 15-25 Red
		Injury at work	1	1	1
		Clinical negligence	1	1	1
		Slips and trips	1	1	1
		Professional negligence	No assessment possible with currently available data.		
		Other negligence	No assessment possible with currently available data.		
Wills, trusts and executry	Contentious	Contested executry	No assessment possible with currently available data.		
	Non-contentious	Wills	No assessment possible with currently available data.		
		Trusts	No assessment possible with currently available data.		
		Executry and estate administration	No assessment possible with currently available data.		
Conveyancing	Non-contentious	For commercial properties	No assessment possible with currently available data.		

Type of law			Assessment		
Level 1	Level 2	Level 3	Probability that a systemic access problem is occurring	Reports of actual instances of problems with access	Exposure [Probability x Reports]
			1 (low) - 5 (high)	1 (no reports) - 5 (consistently reported systemic access problems)	1-4 Green 5-14 Amber 15-25 Red
		For residential properties	No assessment possible with currently available data.		
Family and relationships	Contentious	Children (e.g., care proceedings)	1	2	2
		Divorce and separation	1	1	1
		Domestic abuse	2	2	4
		Protective orders	No assessment possible with currently available data		
	Non-contentious	Children (e.g., adoption)	No assessment possible with currently available data		
Property, construction and planning	Contentious	Landlord and tenant problems	No assessment possible with currently available data		
		Repossession (rented property)	3	1	3
		Repossession (owned)	3	2	6

Type of law			Assessment		
Level 1	Level 2	Level 3	Probability that a systemic access problem is occurring	Reports of actual instances of problems with access	Exposure [Probability x Reports]
			1 (low) - 5 (high)	1 (no reports) - 5 (consistently reported systemic access problems)	1-4 Green 5-14 Amber 15-25 Red
		property)			
		Homelessness	No assessment possible with currently available data		
		Boundaries and rights of way	No assessment possible with currently available data		
		Planning applications	No assessment possible with currently available data		
	Non-contentious	Landlord and tenant (e.g., drawing up contracts)	No assessment possible with currently available data		
		Other reasons for drawing up contracts	No assessment possible with currently available data		
		Property finance	No assessment possible with currently available data		
		Property leasing	No assessment possible with currently available data		
		Planning applications	No assessment possible with currently available data		
Employment (excluding	Contentious <sup>12</sup>	Pensions	2	1	1
		Unfair dismissal			

<sup>12</sup> This assessment was undertaken prior to the introduction of The Employment Tribunals and the Employment Appeal Tribunal Fees Order 2013.

Type of law			Assessment		
			Probability that a systemic access problem is occurring	Reports of actual instances of problems with access	Exposure [Probability x Reports]
<i>Level 1</i>	<i>Level 2</i>	<i>Level 3</i>	1 (low) - 5 (high)	1 (no reports) - 5 (consistently reported systemic access problems)	1-4 Green 5-14 Amber 15-25 Red
injury at work)		Redundancy			
	Non-contentious	Pensions	No assessment possible with currently available data		
		Establishing and maintaining contracts	No assessment possible with currently available data		
Immigration and nationality	Contentious	Immigration and asylum	No assessment possible with currently available data		
	Non-contentious	National insurance details, visa applications	No assessment possible with currently available data		
Consumer problems	Contentious	Sale of goods and services	No assessment possible with currently available data		
		Hire purchase agreements	No assessment possible with currently available data		
		Time shares	No assessment possible with currently available data		
		Motor vehicles	No assessment possible with currently available data		
Welfare and benefits	Contentious	Community care	No assessment possible with currently available data		
		Education	No assessment possible with currently available data		
		Benefits (including housing benefits)	No assessment possible with currently available data		
		Mental health: Stirling	5	1	1
		Mental health:	5	1	1

Type of law			Assessment		
Level 1	Level 2	Level 3	Probability that a systemic access problem is occurring	Reports of actual instances of problems with access	Exposure [Probability x Reports]
			1 (low) - 5 (high)	1 (no reports) - 5 (consistently reported systemic access problems)	1-4 Green 5-14 Amber 15-25 Red
		Clackmannanshire			
		Mental health: West Dunbartonshire	5	1	1
		Mental health: other areas	1	1	1
	Non-contentious	Applications for benefits	No assessment possible with currently available data		
Human rights	Contentious	Civil liberties	No assessment possible with currently available data		
		Actions against the police	No assessment possible with currently available data		
		Discrimination (excluding employment)	No assessment possible with currently available data		
		Other rights including specialist areas such as rights to life	No assessment possible with currently available data		
Intellectual property rights	Contentious	Patents	No assessment possible with currently available data		
		Trademarks	No assessment possible with currently available data		
		Copyright	No assessment possible with currently available data		
		Confidentiality	No assessment possible with currently available data		

Type of law			Assessment		
Level 1	Level 2	Level 3	Probability that a systemic access problem is occurring	Reports of actual instances of problems with access	Exposure [Probability x Reports]
			1 (low) - 5 (high)	1 (no reports) - 5 (consistently reported systemic access problems)	1-4 Green 5-14 Amber 15-25 Red
	Non-contentious	IT	No assessment possible with currently available data		
		Patents	No assessment possible with currently available data		
		Trademarks	No assessment possible with currently available data		
		Copyright	No assessment possible with currently available data		
		IT	No assessment possible with currently available data		
Corporate taxation	Contentious	Indirect taxation	No assessment possible with currently available data		
		Property taxation	No assessment possible with currently available data		
		International taxation	No assessment possible with currently available data		
	Non-contentious	Indirect taxation	No assessment possible with currently available data		
		Property taxation	No assessment possible with currently available data		
		International taxation	No assessment possible with currently available data		
Corporate structuring and finance	Non-contentious	Mergers and acquisitions	No assessment possible with currently available data		
		Joint ventures	No assessment possible with currently available data		
		Public takeovers	No assessment possible with currently available data		
		Privatisations	No assessment possible with currently available data		
		Issuance of securities	No assessment possible with currently available data		
		Corporate insolvency	No assessment possible with currently available data		
Other	Contentious	Infringement of	No assessment possible with currently available data		

Type of law			Assessment		
Level 1	Level 2	Level 3	Probability that a systemic access problem is occurring	Reports of actual instances of problems with access	Exposure [Probability x Reports]
			1 (low) - 5 (high)	1 (no reports) - 5 (consistently reported systemic access problems)	1-4 Green 5-14 Amber 15-25 Red
business affairs		contracts	No assessment possible with currently available data		
		Competition and regulatory issues (including work for charities, corporates and government bodies)			
		Environmental			
		Licensing			
	Non-contentious	Procurement (including work for both corporates and government bodies)			
		Licensing			
		Business registration			
Other	Contentious	Defamation	No assessment possible with currently available data		
		Compensation arising from fraud	No assessment possible with currently available data		
		International or cross-border actions	No assessment possible with currently available data		

Type of law			Assessment		
Level 1	Level 2	Level 3	Probability that a systemic access problem is occurring	Reports of actual instances of problems with access	Exposure [Probability x Reports]
			1 (low) - 5 (high)	1 (no reports) - 5 (consistently reported systemic access problems)	1-4 Green 5-14 Amber 15-25 Red
		Personal taxation	No assessment possible with currently available data		
	Non-contentious	Personal taxation	No assessment possible with currently available data		
Debt	Contentious	Debt management (debtor)	1	2	2
		Debt collection	No assessment possible with currently available data		
Other public and administrative law	Contentious	Judicial review	No assessment possible with currently available data		
		Public inquiries	No assessment possible with currently available data		

## Appendix 3: AJRG terms of reference

### Access to Justice Reference Group

#### Terms of Reference

#### 1. *Purpose*

- 1.1 The dual purpose of the Access to Justice Reference Group (AJRG) is to:
- assist the Scottish Legal Aid Board (SLAB) to discharge its function under the Legal Services (Scotland) Act 2010 to monitor the availability and accessibility of legal services in Scotland, with reference to relevant factors relating to urban and rural areas.
  - assist SLAB and Scottish Government to gather stakeholder views on work related to Making Justice Work Project 3: Enabling Access to Justice

#### 2. *Context: monitoring availability and accessibility of legal services*

- 2.1 The AJRG will form part of SLAB's undertakings to discharge the new function:
- Analysing SLAB's data on trends in legal assistance and supply
  - Supplementing this with other sources of data about legal services, including information that may be requested of the Law Society of Scotland, the Faculty of Advocates and the Scottish Court Service,
  - Seeking the views of stakeholders, including service providers and users.

#### 3. *Role of Group and Members: monitoring availability and accessibility of legal services*

- 3.1 The AJRG is a group of bodies with a shared interest in, and experience of, the provision or use of legal services. Its role is to help define the scope of legal service, provide information and insight into access to legal services and to review data prepared and gathered by SLAB and others on these matters.
- 3.2 The AJRG will take the role of a reference group and its specific tasks will include:
- Providing insight on data and reports prepared by SLAB and others, including the relation to the wider social and economic context within which legal services are sought and provided;
  - Suggesting sources of information or data on access to legal services;
  - Providing information about access to legal services;
  - Reviewing the work plan for the Group.

3.3 The Scottish Legal Aid Board will chair the Group.

#### **4. *Scope: monitoring availability and accessibility of legal services***

4.1 The scope of the AJRG's work is to assist SLAB in monitoring the availability and accessibility of legal services, which is broadly defined in the Legal Services (Scotland) Act.

4.2 The duty is not restricted to those legal services funded by SLAB or other public funders. It therefore includes privately funded services, whether provided to individuals or bodies corporate, and legal services such as conveyancing, insolvency and other private or public client work that would not normally fall within the scope of legal aid. The policy memorandum for the Act directly links the monitoring duty to areas of law where the current legal services market may not be operating effectively, including family law, employment and social welfare law.

4.3 The work of the AJRG will have an operational focus and assist SLAB to identify actual instances of problems with access or levels of supply that appear likely to increase the risk of this happening. The group will not be expected to reach firm conclusions about the objective adequacy of any particular level of availability or accessibility.

#### **5. *Context: Making Justice Work Project 3***

5.1 The Making Justice Work Programme is one of the justice outcomes changes programmes, contributing to National Outcome 16: 'Our public services are high quality, continually improving, efficient and responsive to local people's needs'. There are five projects within the programme.

5.2 SLAB is project managing Making Justice Work Project 3: Enabling access to justice (MJW Project 3), on behalf of the Scottish Government. MJW Project 3 has the following purpose:

To develop a sustainable system for access to justice focused on early intervention which will support and empower people to avoid or resolve informally disputes and problems wherever possible and enable access to appropriate and proportionate assistance and to a range of methods of dispute resolution, including courts, tribunals and appropriate alternatives.

5.3 MJW Project 3 includes the following sub-projects:

MJW 3.1 - Strategic planning and co-ordination of publicly funded legal assistance

MJW 3.2 - Legal capability

MJW 3.3 - Review of costs & funding of litigation

MJW 3.4 - Development of ADR

5.4 Analytical work to identify and gather evidence of delivery of objectives and achievement of benefits will form part of the development of each sub-project, but will be brought together at project level. Consideration of issues such as triage and methods of delivery (including online and telephone-based services) will also cut across these sub-projects.

5.5 MJW Project 3 is only considering civil problems or disputes.

## **6. *Role of Group and Members: Making Justice Work Project 3***

6.1 The AJRG is a group of bodies with a shared interest in, and experience of, the system of access to civil justice. Its role is to provide insight into the system of access to civil justice and to review reports prepared by SLAB.

6.2 The AJRG will take the role of a reference group and its specific tasks will include:

- Providing insight on data and reports prepared by SLAB and others, including the relation to the wider social and economic context within which the system of access to civil justice operates;
- Suggesting sources of information and evidence on elements of the system of access to civil justice;
- Offering views on plans prepared by SLAB and others to take forward MJW Project 3.

6.3 The Scottish Legal Aid Board will chair the Group.

## **7. *Scope: Making Justice Work Project 3***

7.1 The scope of the AJRG's work is to assist SLAB and Scottish Government take forward actions under MJW Project 3 by providing stakeholder views.

7.2 MJW Project 3 is only considering civil problems or disputes. Advice to businesses or other bodies and privately funded advice services, other than in relation to sub-project 3.3 are excluded from scope, as is reorganisation of court or tribunal structures and processes.

7.3 The work of the AJRG will be wide-ranging, including operational, strategic and policy issues in relation to enabling access to justice.

## **8. *Members***

8.1 The AJRG will be made up of the following members:

- The Scottish Legal Aid Board (Chair)
- Citizens Advice Scotland

- Convention of Scottish Local Authorities
- Equality and Human Rights Commission
- Faculty of Advocates
- Law Society of Scotland
- Money Advice Scotland
- Scottish Association of Law Centres
- Scottish Court Service
- Scottish Government
- Scottish Women's Aid
- Professor Alan Paterson
- LawWorks Scotland
- Charlie Irvine - Scottish Mediation Network

## **9. Meetings**

- 9.1 Meetings will be convened two or three times per year. The first meeting will take place on 29 June 2011 with future meetings to be convened thereafter.
- 9.2 The secretariat function will be carried out by SLAB. SLAB will aim to send out agendas and papers at least five working days before meetings.

## Appendix 4: Wider panel correspondence list

In the past, we have written to a number of bodies in order to canvas their views on accessibility and availability of legal services. For this report we have consulted specifically with those organisations whose names are underlined.

An organisation representing business or third sector bodies, who may be providers or purchasers of legal services:

- SCVO - for third sector as purchasers of legal services
- Forum of Private Business
- Scottish Chambers of Commerce
- Association of British Insurers
- Confederation of British Industry Scotland

A body representing providers of legal services:

- Scottish Law Agents Society
- Family Law Association
- Association of Personal Injury Lawyers
- Scottish Legal Action Group
- Society of Will Writers Scotland

An organisation advocating on behalf of people who may need legal services:

- Regional equality councils:
  - West of Scotland
  - Central Scotland
  - Edinburgh and Lothians
  - Grampian
- Capability Scotland
- Enable
- RNIB
- Action on Hearing Loss
- SAMH
- Sense Scotland
- Scottish Association for Mental Health
- Enable
- Violence Against Women partnerships
- Equality Network
- Age Scotland
- Families Need Fathers
- Scottish Independent Advocacy Alliance
- Society of Chief Officers of Trading Standard in Scotland
- Children in Scotland
- Children 1<sup>st</sup>
- Friends of the Earth
- Which?
- Scottish Commissioner for Children and Young People
- Child Poverty Action Group

- Scottish Refugee Council
- Rights Advice Scotland

A body providing advice or legal services and as an organisation advocating on behalf of service users who may need legal services:

- Amina - Muslim Women's Association
- Shelter Scotland
- Scottish Trades Union Congress

A body providing advice or legal services:

- Environmental Law Centre
- Ethnic Minorities Law Centre
- Child Law Centre
- StepChange Debt Charity

Bodies with wider duties that relate to advice or legal services:

- ICAS
- Scottish Human Rights Commission
- Accountant in Bankruptcy
- Mental Welfare Commission

## Appendix 5: Further organisations invited to comment or provide data

Civil Legal Assistance Office  
Council of Mortgage Lenders  
Ascent Legal Scotland  
Aberdein Considine  
TLT Solicitors  
Finance and Leasing Association  
Council of Mortgage Lenders  
Mental Health Tribunal Scotland  
Social Work Scotland Mental Health subgroup  
Rape Crisis  
ASSIST  
Women's Support Project  
Zero Tolerance  
Crown Office and Procurator Fiscal Service  
Govan Law Centre  
Castlemilk Law and Money Advice Centre  
PayPlan  
National Debtline Scotland  
Personal Injury Committee of the Scottish Civil Justice Council  
NHS Central Legal Office  
Forum of Insurance Lawyers

## Appendix 6: Full background, definitions and purpose

### Background

The Legal Services (Scotland) 2010 Act (the Act) introduced, on 1 April 2011, a new general function for the Scottish Legal Aid Board (SLAB) of monitoring the availability and accessibility of legal services in Scotland, including by reference to any relevant factor relating particularly to rural or urban areas.

SLAB was also given a new power to provide advice to Scottish Ministers as it considered appropriate in relation to the availability and accessibility of legal services. Finally, the Act introduced a duty on SLAB to provide information to Scottish Ministers from time to time, as they may require, relating to the availability and accessibility of legal services.

To assist in meeting these requirements, the Act also places a duty on a number of bodies to provide SLAB with such information as it may reasonably require. The three bodies are the Law Society of Scotland, the Faculty of Advocates and the Scottish Court Service.

This report sets out the work undertaken by SLAB to discharge its new function and provides Scottish Ministers with advice and information on the availability and accessibility of legal services. Where appropriate, the report also highlights areas of importance for the Making Justice Work programme.

### Definitions

In broad policy terms, “legal services” are recognised as encompassing the wide range of agencies that are in place to help individuals deal with problems of a legal nature, or what can be classed as “justiciable problems”. For the purposes of this new monitoring function however, legal services are defined as services provided by solicitors and advocates<sup>13</sup>. This is due to the specific context in which the duty was developed, and the purpose the role was to serve.

For the purposes of the Act, in general, “legal services” refers to services which consist of (at least one of)–

- (a) the provision of legal advice or assistance in connection with–
  - (i) any contract, deed, writ, will or other legal document,
  - (ii) the application of the law, or
  - (iii) any form of resolution of legal disputes,
- (b) the provision of legal representation in connection with–
  - (i) the application of the law, or
  - (ii) any form of resolution of legal disputes.

As set out above, this kind of definition normally takes in a wide range of different providers of advice, such as accountants, human resources consultants, paid and

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<sup>13</sup> See Appendix 1 for interpretation of the Act and its explanatory notes

volunteer advisers in advice-giving organisations, as well as solicitors and advocates.

The function given to SLAB is however based on a narrower definition of legal services provided in the explanatory notes to the Act, which sets out that legal services should be construed as services provided by legal professionals, meaning (in the main) solicitors and advocates.

The function also requires SLAB to monitor legal services with reference to availability and accessibility.

The availability of legal services has been defined, in this context, as meaning solicitors or advocates willing to act in different areas of law for different client groups. Availability is important in terms of how it impacts on access to legal services and the intention behind the provisions was to monitor whether any change in availability results in problems with accessibility.

In this sense, accessibility has been defined as the ability of potential clients to find solicitors or advocates willing to act in different areas of law or various geographic areas. Of course, being able to find a solicitor willing to act in a matter may not always mean the same as being able to access that solicitor. Accessibility has many facets, including: physical accessibility, which may be problematic for some with physical disabilities; issues with opening hours, for those with employment or caring responsibilities; proximity, for those with limited access to transport; language, for those for whom English is not their first language; cost, where the assistance sought may be unaffordable; quality, for example where, notwithstanding a willingness to act, the only available local provider lacks sufficient experience in a particular area of law.

While clearly relevant to the effectiveness of arrangements for access to legal services, this range of issues is not directly within the remit of SLAB's monitoring role. The focus of the monitoring function is on the extent to which services are made available and in practice are accessed. This report describes the approach SLAB is taking to monitoring this. However, to the extent that the factors set out above manifest themselves in systemic problems of availability or accessibility, they should be captured by the arrangements we have put in place for identifying reported incidences of actual problems in access or availability. In other words, while our role does not require that SLAB proactively to seek to monitor (for example) the cost of legal services, or the physical accessibility of solicitors' offices, we have put in place arrangements to identify problems in availability or access flowing from such issues. Where these kinds of underlying concerns are identified to or by SLAB, they will be reported to Ministers for consideration as to whether and how they might be addressed, for example, through the Making

Justice Work programme<sup>14</sup> or other initiatives to improve the operation of the justice system.

The Act also requires SLAB to monitor availability and accessibility with reference to urban and rural factors. The Scottish Government produces an urban rural classification<sup>15</sup>, which identifies a number of standard classifications of areas in Scotland based on the population size of settlements and drive-times to centres of population. The 8-fold classification will be used for this monitoring role.

### **Purpose**

In light of the intention behind the monitoring function, as set out above, SLAB will monitor accessibility on the basis that a problem with access to legal services is defined as the inability of potential clients to find or obtain the services of solicitors or advocates willing to act in different areas of law or various geographic areas. We intend to identify actual instances of problems with access, or levels of supply that appear likely to increase the risk of this happening.

Whilst individuals or businesses may experience problems finding or retaining a solicitor, these may be isolated incidents which are not representative of how the legal services market as a whole is operating. We aim to collect information on actual instances of problems in a systematic and comparable way, so that any systemic problems can be identified. More detailed information on how we intend to monitor availability and accessibility is set out in the next section.

The monitoring function is not restricted to those legal services funded by SLAB or other public funders. It therefore includes privately funded services, whether provided to individuals or bodies corporate, and legal services such as conveyancing, insolvency and other private or public client work that would not normally fall within the scope of legal aid. The analytical framework set out in this report is established with that broad scope in mind.

Within this very broad spectrum, the policy memorandum for the Act directly linked the monitoring duty to areas of law where the Scottish Parliament viewed that the current legal services market may not be operating effectively, including family law, employment and social welfare law. The initial report therefore considered these areas at this early stage in the implementation of the duty and we are continuing to focus on areas that affect individuals

In implementing this duty SLAB does not expect to be able to establish objective benchmarks for the adequacy of any particular level of availability or accessibility.

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<sup>14</sup> An overview of the Making Justice Work programme can be found on the Scottish Government's website (<http://www.scotland.gov.uk/Topics/Justice/legal/mjw>)

<sup>15</sup> The classification can be found on the Scottish Government's website: <http://www.scotland.gov.uk/Topics/Statistics/About/Methodology/UrbanRuralClassification>

Previous research in this field and the work of other organisations investigating similar issues is consistent with our belief that this is not possible in practice.

By way of illustration, in order to assess the adequacy of provision, we would need to be able to specifically define and then collect information on:

1. the total requirement for services provided by solicitors and advocates to people and organisations with particular problems (for example an employment dispute) or needs (for example drawing up a will) in different areas of law, whether or not they have sought to resolve that problem or taken steps to meet that need.
2. a matching set of information on the type and range of legal services on offer from all solicitors and advocates

Without extremely detailed information on the nuance of each problem being experienced or the potential legal need, it is not possible to determine whether a person or organisation requires the specific assistance which can be provided by a solicitor or advocate, as opposed to taking steps themselves, or obtaining help from another source (for example a human resources professional or a will writer). Whether an individual requires assistance from different sources of help further depends upon their personal knowledge, skills and experience. In terms of resource, this kind of information could only be collected via very detailed surveys of the population and organisations at different geographic levels, equivalent to conducting an initial diagnostic interview with a potential client.

Similarly, the set of information on the type and range of legal services would require a commitment to undertake a detailed survey of the profession, obtaining information that can robustly be matched to the data generated by any survey.

As both the requirement for advice and the type and range of legal services (and alternatives) on offer will change over time, the surveying would have to be repeated regularly. Furthermore, the combined results from the surveys would not necessarily present an accurate picture of whether reported services were in practice adequate to meet reported requirements for advice from solicitors and advocates, without recourse to detailed information on whether people or organisations were in fact able to access legal services.

As this final requirement most closely resembles our approach to our function, we believe that our approach is the most appropriate and proportionate, in light of the availability of data and the intention behind the Act.

## **How we monitor availability and accessibility of legal services**

SLAB has developed a framework within which we will monitor availability and accessibility of legal services, which are defined as services provided by solicitors or advocates.

### **Overview of analytical strategy**

### *Monitoring the availability of legal services*

Availability of legal services in this context means solicitors or advocates willing to act in different areas of law for different client groups. Availability is important in terms of how that impacts on access to legal services.

### *Monitoring the accessibility of legal services*

As noted above, SLAB will not seek to establish objective benchmarks of whether legal services are accessible (as this is not possible), but will instead look to assess whether there are problems with accessibility.

SLAB will monitor this on the basis that a problem with access to legal services is defined as the inability of potential clients to find solicitors or advocates to act in different areas of law or various geographic areas.

### *Assessing the risk of actual instances of systemic problems with access*

SLAB's strategy is to bring monitoring of availability and accessibility together by assessing the risk of actual instances of systemic problems with access occurring by looking at:

- the probability of an access problem occurring; and,
- reports of actual instances of problems with access.

Putting the probability and reports of an access problem together will give a measure of exposure - the likelihood that a systemic access problem is occurring. This assessment of risk will be structured using the analytical framework set out at

Table 1.

**Table 10: Analytical framework**

	Probability that a systemic access problem is occurring	Reports of actual instances of problems with access	Exposure [Probability Reports] x
	1 (low) - 5 (high)	1 (no reports) - 5 (consistently reported systemic access problems)	1-4 Green 5-14 Amber 15-25 Red
Broken down by framework for analysis			

The assessment of systemic access problems is structured by areas of law, client type and geographic area. Detailed information on the analytical strategy and how we have segmented legal service provision by area of law, client and geography is set out in the analytical strategy, which is attached as appendix 6.

However, in common with other bodies which have a similar monitoring role<sup>16</sup>, we have found that there are significant gaps in the data currently available for analysis, which is reflected in the assessment table in appendix 2. In light of this, we may wish to undertake specific work to help make an assessment.

#### **Assessing the probability that a systemic access problem is occurring**

Problems with access could be linked to changes in availability of legal services, potentially defined as the number of branches of firms in an area, but there are difficulties with using this measure. A drop in the number of branches may not represent a problem with access; similarly, where the number of branches remains stable or increases this may not mean that access to legal services is adequate. In the first instance, solicitor firms from outwith the area may be serving that locality; in the second, there may still be more need for legal assistance than is being met by the currently available supply.

More direct measures of access to legal services, such as SLAB's application data, should be subjected to careful interpretation in the same way. There are also measures of need or demand for legal assistance (such as population surveys), which can give good indications of potential access problems. For the assessment

<sup>16</sup> In England and Wales, the Legal Services Board has a wider duty to oversee the impact of the introduction of market reforms. Their first monitoring report lists 25 indicators based on existing data and 60 indicators which they intend to collect. [http://www.legalservicesboard.org.uk/what\\_we\\_do/Research/Publications/pdf/market\\_impacts\\_of\\_the\\_legal\\_services\\_act\\_interim\\_baseline\\_report.pdf](http://www.legalservicesboard.org.uk/what_we_do/Research/Publications/pdf/market_impacts_of_the_legal_services_act_interim_baseline_report.pdf)

of probability that a systemic access problem is occurring, the main sources of information for this assessment will be administrative data or surveys.

In our assessment of areas of law, we will take account of the context within which legal services are operating, in terms of whether they are mainly publicly or privately funded and how significant a share of the market is taken by solicitors and advocates. We know from population surveys<sup>17</sup> that for some types of problem most people do not seek help from solicitors and that, in terms of publicly funded assistance, advice agencies or local authorities provide a greater amount of advice on some types of issues than solicitors or advocates.

Data from administrative sources or from surveys can only provide an indication that there may be a problem with accessibility, not least because they will always give a partial view of the world. For example, potential clients of solicitors and advocates may over time start to prefer to seek assistance from other providers of law-related help, resulting in fluctuations in collected data about solicitor provision which do not necessarily reflect accessibility problems.

These data will be considered in relation to the wider social and economic environment within which legal services are sought and provided. We are however not attempting to assess whether different sources of assistance are more or less appropriate, or for example whether they are of sufficient quality, or if they are affordable. Where these kinds of issues are raised by the AJRG or in analysis, they will be fed into Making Justice Work Project 3, Enabling Access to Justice. Our focus is on problems with access to legal services, defined as the inability of potential clients to find solicitors or advocates willing to act in different areas of law or various geographic areas.

### **Assessing reports of actual instances of problems with access**

As noted above, the difficulty in relying on administrative data is that it can only provide an indication that there may be a problem; an indication which will be subject to a number of substantial caveats. Systematically collecting reports on actual instances of an issue with access to legal services can help to overcome this limitation.

When assessing actual instances of problems with access, we will use reports from potential clients unable to find a solicitor or advocate as the main source of evidence. These may come direct to SLAB or via the organisations on the Access to Justice Reference Group and the wider reference panel (both described below). We aim to collect and analyse information on actual instances of problems in a

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<sup>17</sup> Examples include the civil module of the Scottish Crime and Justice Survey (2009, 2010, and 2011), the survey underpinning Paths to Justice Scotland (2001), and the various surveys which supported the Community Legal Services: Assessing Need for Advice in Scotland (2004) report.

systematic way to permit consistency of assessment across areas of law and geography.

As with the data collected in relation to the probability of a systemic problem with access, we will carefully consider reports of actual instances of problems in their particular context, but with reference to our specific definition of access to legal services. To the extent that the information about actual access problems reported to SLAB makes it possible, we will seek to identify any themes as to underlying factors in access problems, such as cost, physical accessibility and quality and report these to Ministers such that appropriate actions to address these issues, if any, can be identified.

## **Arrangements we have put in place to gather information**

SLAB is discharging its function using a number of approaches:

1. Analysing SLAB's own data on trends in legal assistance and supply
2. Supplementing this with other sources of data about legal services, including information that has been requested of the Law Society of Scotland, the Faculty of Advocates and the Scottish Court Service,
3. Seeking the views of stakeholders, including service providers and users.

SLAB undertakes regular monitoring and analysis of patterns of supply of civil, children's and criminal legal assistance which are supported by the Legal Aid Fund. SLAB is building on this analysis to carry out its wider monitoring function under the Legal Services (Scotland) Act 2010. Additional information provided by other organisations has helped to produce a fuller view of the legal services market and this is referenced throughout this report.

SLAB was asked to convene an Access to Legal Services Reference Group by Scottish Ministers to assist with the third of the approaches set out above. The group now has a dual function, which includes commenting on the implementation of the Making Justice Work project "Enabling Access to Justice" and has been renamed the Access to Justice Reference Group (AJRG). The AJRG is a group of bodies with a shared interest in, and experience of, the provision or use of legal services.<sup>18</sup> Its role is to help define the scope of legal services, provide information and insight into access to legal services and to review data prepared and gathered by SLAB and others on these matters. There have been seven meetings of the group since May 2011.

The work of the AJRG has an operational focus and assists SLAB to identify actual instances of problems with access or levels of supply that appear likely to increase the risk of this happening. In line with SLAB's analytical strategy, the group is not expected to reach firm conclusions about the objective adequacy of any particular level of availability or accessibility.

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<sup>18</sup> The terms of reference for the Access to Justice Reference Group are set out in appendix 3.

In order to supplement the work of the AJRG, we invited a wide range of organisations to be involved in a correspondence-only panel including many interest groups or representative bodies involving consumers or providers of legal services<sup>19</sup>. SLAB will write to this wider correspondence-only panel periodically, seeking comment on user or provider experiences in relation to the availability or accessibility of legal services.

Further direct work with a wide range of members from these groups, and others, has identified data relevant to the availability or accessibility of legal services which they hold or could collect.<sup>20</sup> We anticipate that additional sources of information will be identified and incorporated into SLAB's monitoring as analysis progresses.

For example, we have put in place procedures to count the number of calls reporting problems with access to solicitors or advocates being made to the Scottish Legal Complaints Commission and our own legal aid helpline.

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<sup>19</sup> A full list of organisations is provided in appendix 4.

<sup>20</sup> A full list of organisations is provided in appendix 5.

## Appendix 7: Workplan

Type of law			Assessment
Level 1	Level 2	Level 3	Review date (planned)
Crime - prosecution	Contentious	Non-sexual crimes of violence	2012 (2016)
		Sexual offences	2012 (2016)
		Crimes of dishonesty	2012 (2016)
		Fire raising, vandalism etc.	2012 (2016)
		Other crimes (including drugs)	2012 (2016)
		Miscellaneous offences	2012 (2016)
		Motoring offences	2012 (2016)
Crime - defence	Contentious	Non-sexual crimes of violence	2012 (2016)
		Sexual offences	2012 (2016)
		Crimes of dishonesty	2012 (2016)
		Fire raising, vandalism etc.	2012 (2016)

Type of law			Assessment
Level 1	Level 2	Level 3	Review date (planned)
		Other crimes (including drugs)	2012 (2016)
		Miscellaneous offences	2012 (2016)
		Motoring offences	2012 (2016)
Reparation	Contentious	Road traffic accidents	2014 (2018)
		Injury at work	2014 (2018)
		Clinical negligence	2014 (2018)
		Slips and trips	2014 (2018)
		Professional negligence	2014 (2018)
		Other negligence	2014 (2018)
Wills, trusts and executry	Contentious	Contested executry	(2015)
	Non-contentious	Wills	(2015)
		Trusts	(2015)
		Executry and estate administration	(2015)
Conveyancing	Non-contentious	For commercial properties	(2015)
		For residential properties	(2015)
Family and relationships	Contentious	Children (e.g., care proceedings)	2012 (2016)
		Divorce and separation	2012 (2016)

Type of law			Assessment		
Level 1	Level 2	Level 3	Review date (planned)		
		Domestic abuse	2013 and 2014 (2018)		
		Protective orders	(2015)		
	Non-contentious	Children (e.g., adoption)	(2015)		
Property, construction and planning	Contentious	Landlord and tenant problems	(2015)		
		Repossession (rented property)	2013 and 2014 (2018)		
		Repossession (owned property)	2013 and 2014 (2015)		
		Homelessness	(2015)		
		Boundaries and rights of way	(2015)		
		Planning applications	(2015)		
	Non-contentious	Landlord and tenant (e.g., drawing up contracts)	(2015)		
		Other reasons for drawing up contracts	(2015)		
		Property finance	(2015)		
		Property leasing	(2015)		
		Planning applications	(2015)		
		Employment (excluding injury at work)	Contentious	Pensions	2012 (2016)
				Unfair dismissal	
Redundancy					
Non-contentious	Pensions	(2016)			
	Establishing and maintaining contracts	(2016)			
Immigration and nationality	Contentious	Immigration and asylum	(2015)		
	Non-contentious	National insurance details, visa applications	(2015)		
Consumer problems	Contentious	Sale of goods and services	(2015)		
		Hire purchase agreements	(2015)		

Type of law			Assessment
Level 1	Level 2	Level 3	Review date (planned)
		Time shares	(2015)
		Motor vehicles	(2015)
Welfare and benefits	Contentious	Community care	(2015)
		Education	(2015)
		Benefits (including housing benefits)	2012 and 2013 (2017)
		Mental health	2013 and 2014 (2018)
	Non-contentious	Applications for benefits	2012 and 2013 (2017)
Human rights	Contentious	Civil liberties	(2015)
		Actions against the police	(2015)
		Discrimination (excluding employment)	(2015)
		Other rights including specialist areas such as rights to life	(2015)
Intellectual property rights	Contentious	Patents	(2017)
		Trademarks	(2017)
		Copyright	(2017)
		Confidentiality	(2017)
	Non-contentious	IT	(2017)
		Patents	(2017)
		Trademarks	(2017)
		Copyright	(2017)
Corporate taxation	Contentious	Indirect taxation	(2017)
		Property taxation	(2017)
		International taxation	(2017)
	Non-contentious	Indirect taxation	(2017)
		Property taxation	(2017)
		International taxation	(2017)
Corporate structuring and finance	Non-contentious	Mergers and acquisitions	(2017)
		Joint ventures	(2017)
		Public takeovers	(2017)
		Privatisations	(2017)
		Issuance of securities	(2017)
Other	Contentious	Corporate insolvency	(2017)
		Infringement of	(2017)

Type of law			Assessment
Level 1	Level 2	Level 3	Review date (planned)
business affairs		contracts	
		Competition and regulatory issues (including work for charities, corporates and government bodies)	(2017)
		Environmental	(2017)
		Licensing	(2017)
	Non-contentious	Procurement (including work for both corporates and government bodies)	(2017)
		Licensing	(2017)
		Business registration	(2017)
	Other	Contentious	Defamation
Compensation arising from fraud			(2015)
International or cross-border actions			(2015)
Personal taxation			(2015)
Non-contentious		Personal taxation	(2015)
Debt	Contentious	Debt management (debtor)	2013 and 2014 (2018)
		Debt collection	(2015)
Other public and administrative law	Contentious	Judicial review	(2015)
		Public inquiries	(2015)

## Contact details

Further information and versions in alternative formats are available on request from:

John Osborne

The Scottish Legal Aid Board  
Policy and Development Team  
44 Drumsheugh Gardens  
Edinburgh  
EH3 7SW

Email: [osbornejo@slab.org.uk](mailto:osbornejo@slab.org.uk)

Tel: 0131 240 1889