



# The Civil Solicitors Survey 2013

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The Scottish Legal Aid Board

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# 1. Executive Summary

## *About the research*

This report presents the findings from a nationwide survey of solicitors who undertake legally aided civil work. The overarching purpose of the research was to develop SLAB's understanding of solicitors' views and experiences of the civil legal assistance process.

The survey was carried out by way of a telephone administered questionnaire during March and April 2013. The 2013 civil solicitor survey achieved 337 responses from solicitors representing 262 different firms. This represents a strong response rate of 23%. A response rate of this level gives confidence that the views of the sample are representative of solicitors as a whole. Only 'active' civil solicitors were interviewed; those who confirmed they had actively worked on at least one civil legal assistance case in the past year (A1). Over half the responses (53%) came from a partner in the firm (A4).

## *Supply and demand*

Most solicitors thought the number of civil legal assistance solicitors in their local area was 'about right' (68%); although 16% said that there were 'too few' (B11). This is an improvement on the views of civil solicitors in the SLAB survey of 2010.

Those in Grampian, Highland & islands Sheriffdom (which includes Aberdeen) were more likely than average to say there are 'too few' solicitors in their local area (29%). SLAB is helping address supply in this region through the Aberdeen Civil Legal Assistance Office (CLAO), which covers Aberdeen and Aberdeenshire, and the Inverness CLAO which covers Highlands, Moray, Western Isles, Orkney and Shetland, and also has an office in Argyll & Bute.

The areas of law where solicitors thought legally aided clients would be most likely to have problems in finding a solicitor are 'benefits & tax credits' (40%) and 'immigration & nationality' (36%). This information has been shared with SLAB's 'monitoring supply' project. Research (undertaken in 2012/13) for the Making Justice Work project Enabling Access to Justice suggests that lay advisors have a strong role to play, particularly in the area of welfare benefits, which means that finding a solicitor will often not be necessary for assistance in this area. This may also apply to other areas of law, especially where Tribunals are used.

Most respondents (84%) thought it likely that their firm would still be working on civil legal assistance cases in 3 years time, with just 8% (26 people) saying this was unlikely.

18% of respondents (59 people) thought it likely that their firm would recruit a trainee solicitor(s) within the next year (A13). This is very similar to the findings in 2010.

## *Applications Process*

Solicitors were asked about their satisfaction with the application process in relation to four types of civil legal aid (A&A/ABWOR, civil legal aid, special urgency and sanction). Compared with 2010, dissatisfaction has increased on all aspects, apart from A&A/ABWOR. The majority of solicitors are still satisfied or neutral with each of the applications processes; however for civil legal aid, special urgency and sanction procedures there was a large minority who expressed dissatisfaction.

This was largely anticipated, since there have been significant policy changes which are designed to make the whole process more cost effective, but which have not all been well received by the profession. These changes include: the requirement for solicitors only to submit client financial forms when they have all the relevant information; changes to guidance on 'reasonableness' of granting civil legal aid and stage reporting civil legal aid cases. All of these, and their impact, are described more fully in the main body of the report (section 5).

### *Accounts process*

A number of issues were raised around accounts. Soon after the solicitor survey was completed, SLAB decided to undertake a further piece of research focussing on accounts processes, and potential improvements to these. This comprised an online survey, followed by individual / group discussions. This was managed by the Accounts Department, with input from SLAB's Research Unit.

Solicitors were asked about their satisfaction with the civil accounts process in relation to three types of civil legal assistance process (A&A/ABWOR, civil legal aid - block fee and civil legal aid - time & line). In each case a majority of respondents were satisfied or neutral, however a sizeable minority (varying from 23% for block fees to 31% for A&A/ABWOR) were dissatisfied.

Solicitors were most likely to be dissatisfied with the A&A/ABWOR accounts processes, as Figure 6 above shows. Although these figures are high, there has been a significant improvement since 2010 (when 41% were dissatisfied). The main change to A&A/ABWOR accounts processes since 2010 is the introduction of legal aid online, A&A/ABWOR accounts were one of the first account types that could be submitted using the online system. This is likely to be a contributing reason for the increase in satisfaction since then, although there is clearly still work to be done in increasing this.

Solicitors were more likely to be dissatisfied with the time & line process (29%) and less so with the block fee process (23%), however this was not a statistically significant difference. A large proportion of people answered 'don't know / don't use' to both questions (18% for time & line and 21% for block fees). This may reflect the use of law accountants in submitting accounts.

## 2. Introduction

### *About the Scottish Legal Aid Board*

The Scottish Legal Aid Board (SLAB) has managed legal aid in Scotland since 1987. It is a non-departmental public body, and aims to provide access to justice for those eligible and in need of it, in a cost effective manner.

SLAB has three strategic aims:

- to deliver efficient, effective and value for money legal assistance services
- to broaden access by exploring new ways of providing and supporting quality assured legal advice services
- to contribute to the improvement and effective operation of the justice system.

Legal aid allows those who would not otherwise be able to afford it to get help for their legal problems. This help comes in the form of solicitors, counsel (advocates and solicitor advocates) and financial help for other court costs. Legal aid policy and fee rates are set by the Scottish Government.

### *About the research*

This report presents the findings from a nationwide survey of solicitors who undertake legally aided civil work. Stakeholder engagement is a key part of the Scottish Legal Aid Board's research programme; research with solicitors throughout Scotland allows SLAB to monitor and assess its ability to meet the needs of solicitors and applicants while identifying areas for improvement. The overarching purpose of the research was to develop SLAB's understanding of solicitors' views and experiences of the civil legal assistance process. In doing so, the research sought to canvass the views of solicitors across the country and to speak with staff with different professional experiences, as well as from different demographic backgrounds.

The research had 2 main aims:

- To collect information on the business structures and supply of civil legal assistance services across Scotland, looking at the volume and type of civil legal assistance work carried out by solicitors.
- To collect practitioner views on the efficiency and ease of use of the various civil legal assistance processes.

The last major survey of the profession undertaken by SLAB was the 2010 Solicitor Survey. That survey had a wider scope and collected solicitors' views on civil, criminal and children's legal assistance work.

Due to the number of changes currently being made to the criminal and children's legal assistance processes and also to keep the questionnaire to a manageable length it was decided that the 2013 survey would focus solely on solicitors' experiences of civil legal assistance work. Therefore, while the solicitors in the project sample may also undertake criminal and children's legal assistance work, the survey only asked about the work they did under civil legal assistance.

SLAB was also planning a survey of civil applicants and it was decided to carry out the two surveys concurrently. This allowed us to jointly commission the two surveys; this meant we could work as efficiently as possible, and it allowed us to use responses to both surveys to provide a clearer picture of the supply and accessibility of civil legal assistance services in Scotland.

### *Questionnaire Design*

Many of the questions asked were the same as those in the 2010 solicitor survey, this allows us to compare findings over time. However we also added a number of new questions to reflect changes in practice and procedure.

The questionnaire consisted of mainly closed questions with some additional open-ended questions which allowed solicitors to express their views on certain subjects in greater detail.

### *Fieldwork*

All survey preparation work and questionnaire development was undertaken internally by SLAB's research unit. Due to the scale of the project and also to reassure solicitors that the research was independent from SLAB and responses would not be identifiable we commissioned the fieldwork for this project to an external research agency: Progressive Partnership Ltd. The survey was carried out by way of a telephone administered questionnaire during March and April 2013.

The questionnaire was piloted with solicitors before the main fieldwork began. This was important for testing the length of the interview, to ensure both interviewers and respondents understood the questions, check that the most appropriate response options were included and to ensure that the routing through the questionnaire was correct. A total of seven pilot interviews were completed. The feedback from the pilot was encouraging with only a few minor amendments made to the survey.

Prior to the fieldwork a mailshot was sent out to make all solicitors registered on the Civil Legal Assistance Register aware of the upcoming research. A news article about the research was also placed on the homepage of SLAB's website.

Interviews were carried out by telephone, using computer assisted telephone interviewing technology (CATI). Contacts for each solicitor were scheduled at various times of the day. However, these attempts were capped at a maximum of six calls per solicitor so that the survey did not become a nuisance to the firm or the solicitor. If respondents were not available to complete the survey at the time they were called appointments were made where possible.

### *Sample*

The sample data provided to Progressive Partnership included the details of 1,525 solicitors (from approximately 600 firms) who had submitted a civil legal assistance application to SLAB in the previous year. The final available sample after removing solicitors who were not able to participate in the survey (for reasons such as retirement, being unavailable during the fieldwork period etc) was 1,456.

The 2013 civil solicitor survey achieved 337 responses from solicitors representing 262 different firms. This represents a strong response rate of 23%. A response rate of this level gives confidence that the views of the sample are representative of solicitors as a whole. Only 'active' civil solicitors were interviewed; those who confirmed they had actively worked on at least one civil legal assistance case in the past year (A1). Over half the responses to the 2013 survey (53%) came from a partner in the firm (A4). The 2010 solicitor survey returned 416 responses in total across all solicitor types (civil, criminal and children's). 266 of those responses were from solicitors who said their main practice area was civil.

### 3. Profile of respondents

#### *Firm profile*

24% of respondents practised in a firm that only undertook civil work (A5), with the remainder also undertaking children's (26%), criminal (6%) or children's and criminal (44%). The majority of respondents (60%) said that their firm undertook civil legal assistance work most often (A6), with a further 17% undertaking roughly equal amounts of civil legal assistance work with another type of work (such as criminal). The majority of respondents (69%) worked for a firm that had been undertaking civil legal assistance work for over 10 years (A8).

Respondents were asked about the types of work their firm undertook on a legally aided basis (A7). The numbers undertaking the different types of work reflect our understanding of the patterns of legally aided civil work in general, as would be expected from a representative sample. There are areas offered by the majority of firms, such as 'family' (88% of respondents) and 'mental health welfare/adults with incapacity' (74%). Other areas such as 'immigration & nationality' (15%), 'education' (22%) or 'discrimination/human rights' (25%) are more niche. Firms from the Glasgow & Strathkelvin Sheriffdom are over-represented amongst 'immigration & nationality' (42%, whereas they accounted for 28% of respondents (B1)). However we know that much immigration & nationality work is undertaken in the Glasgow & Strathkelvin area, due to the make-up of the local population and the proximity of the Dungavel immigration removal centre. Hence we expect this to be an area where there is higher availability of immigration legal services, due to higher levels of demand.

24% of respondents said that between 1% - 25% of their firms' work was funded by legal assistance, with 16% saying that they were funded 76% - 100% by legal assistance (A9).

Nearly half of respondents, 44%, work in a firm employing 2 - 4 solicitors across Scotland. Sole practitioners were the smallest group, at 13% (A10).

In most firms (85%), partners work on civil legal assistance cases (A12).

The responses by Sheriffdom correspond reasonably well with the percentage of population in each Sheriffdom, although Central, Tayside & Fife was slightly over-represented at the expense of South Strathclyde, Dumfries & Galloway (B1).

#### *Solicitor profile*

Solicitors were asked what types of civil legal assistance they had actively worked on in the last year (A3). They were most likely to have worked on civil A&A (96%), closely followed by civil legal aid (94%), with 40% having worked on civil ABWOR.

All solicitors completing the survey were asked to give an estimate of how many civil legal assistance cases they had worked on in the last year (A2). 20% of respondents did not feel able to provide an estimate. A substantial proportion had worked on 50 or fewer (42%), with 15% having worked on over 100. This is as expected, analysis of civil applications shows that a small proportion of solicitors undertake a high number of cases. Most of those registered make only small numbers of applications. This is due to factors such as combining private practice with legal aid work and undertaking types of work not eligible for legal aid.

40% of respondents said that they personally only undertook civil work (A16). However the majority (60%) also did either criminal, children's or both criminal and children's work in addition. 64% of respondents said that they undertook civil legal assistance work most often (A17); 14% undertook criminal most often, and a further 13% said they undertook equal amounts of civil work with another type (such as children's), or all three types equally.

## Demographics

The responses to a number of demographic questions in the survey are reported below. The Law Society of Scotland commissioned research in 2013 looking at the profile of the profession overall. This is obviously far wider than the scope of our survey since it includes those in private practice and criminal solicitors, as well as those working in areas of law not covered by legal aid. However it does give us something to compare our responses with.

Respondents to the SLAB survey were fairly evenly split between male (48%) and female (52%) (H1). This is similar to the findings on civil solicitors from SLAB's 2010 solicitor survey, as well as the 2013 Law Society survey, where they were split 50% male and 50% female.

The '45 - 54' age group was best represented in our survey, with 33% of respondents (H2). In SLAB's 2010 solicitor survey 35% were in this age group. In the Law Society's survey the age categories were very slightly different ('46 - 55' for example), and the '26 - 35' category was the largest single group. The larger amount of younger respondents in the Law Society survey is almost certainly due to the fact that the 2013 SLAB survey targeted partners in a firm, who are typically older. This was done in order to get the most informed answers to questions about the firm's status and intentions.

There are no comparisons with previous SLAB solicitor surveys to the following demographic questions, since they were not asked in previous years.

In 2013, 93% of responses were from 'white' ethnic groups (H3), with 1% Asian or Asian British and 6% 'prefer not to say'. This is broadly similar to the findings from the Law Society, where 97% were white and 1% did not disclose this information.

44% of respondents belonged to no religion, with a further 14% preferring not to answer this question (H4). Amongst those who did belong to a religious group, a total of 40% were affiliated to a Christian religion. 2% (5 people) belonged to other faiths. Again this is broadly in line with the findings of the Law Society, where 44% had no religious belief, 47% were Christian and 2% belonged to other faiths.

74% of respondents said they were heterosexual, with 25% preferring not to provide a response and 1% gay/lesbian (H5). The responses to the Law Society found 3% of respondents reported being lesbian/gay/bisexual, with the majority heterosexual. In the Law Society's survey a far smaller proportion (3%) chose not to answer the question; this is most likely due to the purposes of the two surveys. The Law Society's had 'demographics' as one of the main aims of the survey; we might therefore assume that those who preferred not to answer these questions might have refused to take part in the survey in its entirety. The response rate to the Law Society's survey (which went to all solicitors and trainees on the roll of the Society) was just under 25% (similar to the SLAB survey which was 23%). Another possible reason for the difference in 'prefer not to say' responses might be that the younger age group, who formed a larger proportion of the Law Society's survey, are more inclined to answer this type of question.

No respondents said that their gender identity was not that assigned at birth, although 21% chose not to provide a response (H6). Fewer than 0.5% of respondents to the Law Society survey indicated that they were transgender.

Most respondents (91%) did not have a long-standing illness, health problem or disability that limited their daily activity or the work they could do, with 7% preferring not to say; however 2% of respondents (6 people) said that they did (H7). The Law Society findings for the profession overall show that 4% consider themselves to have a disability.

#### 4. Supply and demand

Most solicitors thought the number of civil legal assistance solicitors in their local area was 'about right' (68%); although 16% said that there were 'too few' (B11). This is an improvement on the views of civil solicitors in the SLAB survey of 2010; at this time 40% thought there were 'too few' civil legal assistance solicitors in their local area. As well as the increase in numbers of solicitors registered to do civil legal aid in the past few years, this may reflect the work SLAB and other justice partners have done in using Government grants to help meet unmet demand in defined geographic areas and types of law. For example, through ethnic minority, money advice or housing & homelessness projects.

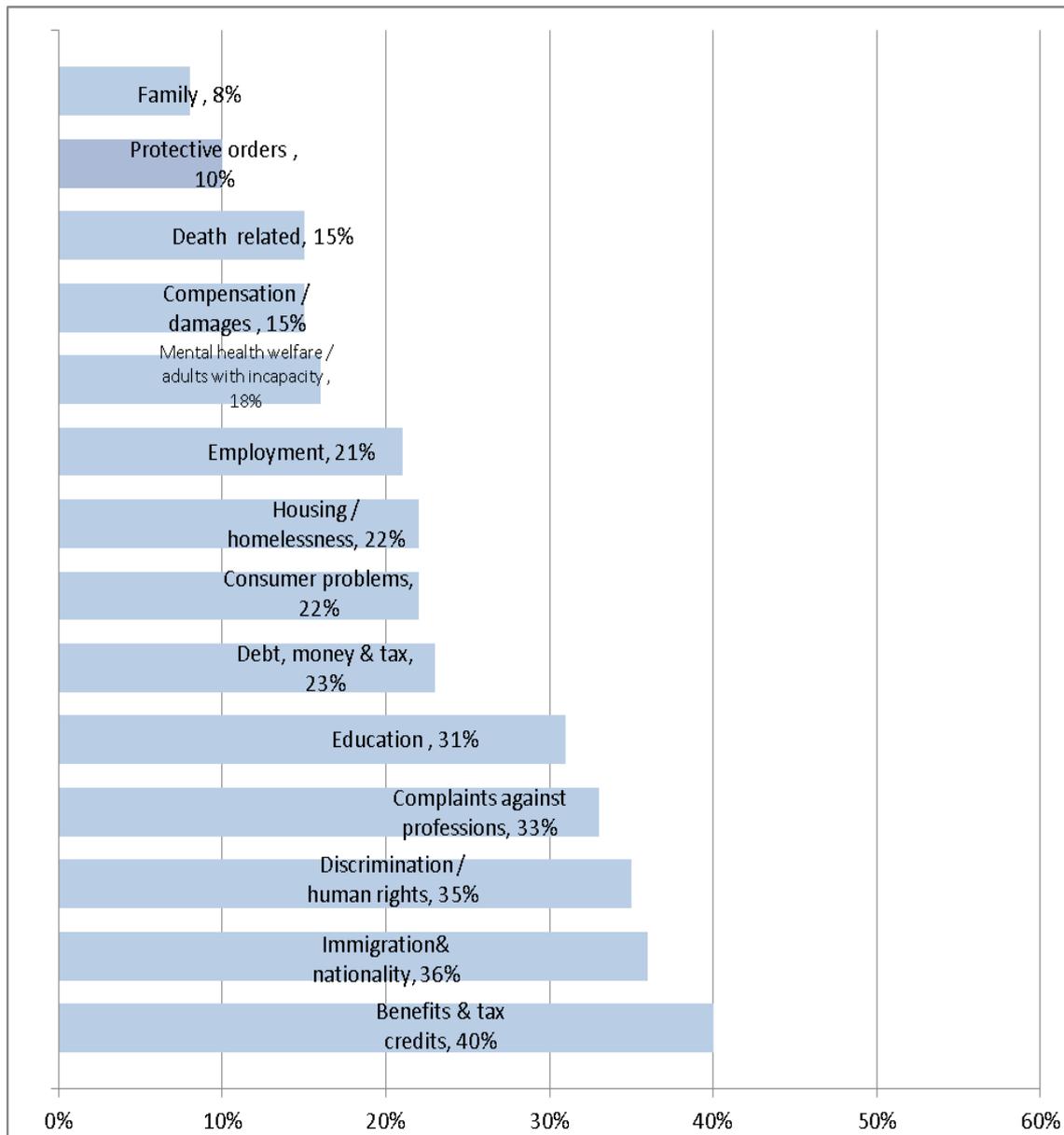
In the 2013 survey, those in Grampian, Highland & Islands Sheriffdom were more likely than average to say there are 'too few' solicitors in their local area (29%). SLAB is helping address supply in this region through the use of the Inverness Civil Legal Assistance Office (CLAO), which covers Highlands, Moray, Western Isles, Orkney and Shetland, and also has an office in Argyll & Bute. CLAO can either refer clients who are eligible for legal aid to solicitors in private practice, or the solicitors there (employed by SLAB) may sometimes take the case themselves if they cannot refer it on.

The areas of law where solicitors thought legally aided clients would be likely to have problems in finding a solicitor are shown in Figure 1 overleaf. Benefits & tax credits (40%), immigration & nationality (36%) and discrimination & human rights (35%) are the areas where solicitors were most likely to think legally aided clients would have problems.

Respondents from Glasgow & Strathkelvin Sheriffdom were less likely than average to think that people would have problems finding a legal aid solicitor for immigration & nationality work (23%, compared with the average of 36%). Since much work relating to immigration & nationality is done in this area this may give a more accurate view of the situation.

This information has been shared with SLAB's 'monitoring supply' project. Research (undertaken in 2012/13) for the Making Justice Work project, Enabling Access to Justice, suggests that lay advisors have a strong role to play, particularly in the area of welfare benefits, which means that finding a solicitor will often not be necessary for assistance in this area. This may also apply to other areas of law, especially where Tribunals are used.

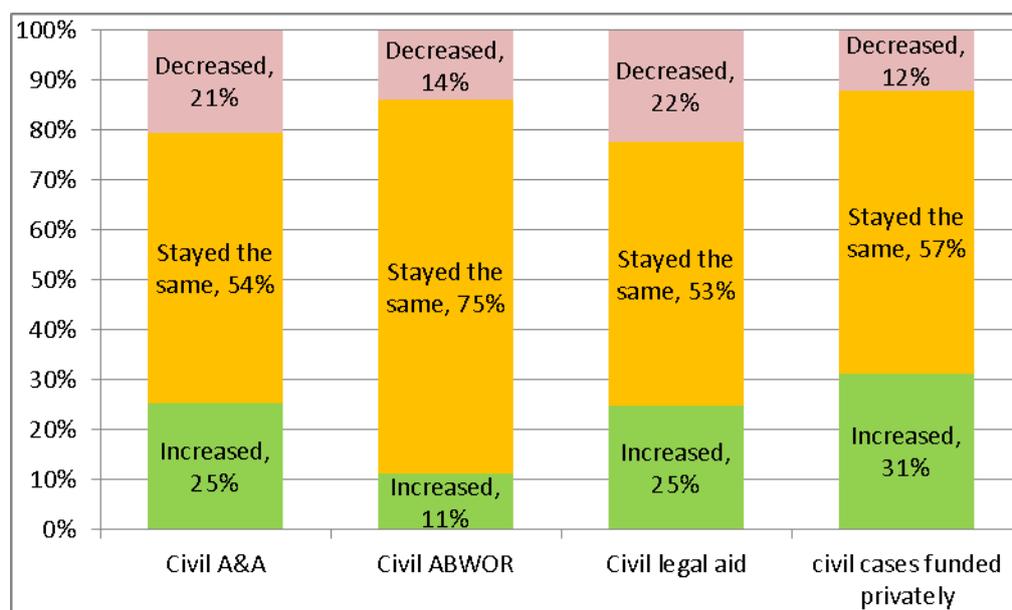
**Figure 1: Expectation that legally aided clients would have problems finding a solicitor (by area of law)**



## Changes in supply

Respondents were asked about how their firms' caseload had changed over the past year for four different types of work (B4). Amongst those who were able to give an opinion, most felt that their firms' level of work had stayed the same<sup>1</sup>. This was largest for civil ABWOR (75%), with the others all very similar (from 53% to 57%). Those who felt it had changed were more likely to say it had increased than decreased. The largest increase (31%) and smallest decrease (12%) was for 'civil cases funded privately'. Figure 2 below illustrates this.

**Figure 2: Changes in caseload during the past year.**



A similar question was included in the 2010 solicitors' survey, although it was addressed to partners only. It had a far lower proportion of 'don't know' responses (suggesting that the 'don't knows' in 2013 may have been non partners). The 2010 survey did not ask about changes to privately funded work. For all three types of civil legal aid work in Figure 2 above, a greater proportion of civil solicitors (43% for A&A, 17% for ABWOR and 41% for civil legal aid) said their caseload had increased in 2010, with fewer saying it had stayed the same or decreased. This is in line with our expectations given the changes to numbers of applications in the past few years. The economic crisis which was first widely felt in 2008 precipitated an increase in civil legal aid applications. In addition the Scottish Government increased the limits of financial eligibility for civil legal aid in 2009/10. Grants of civil legal aid rose from 12,113 in 2008/09 to 15,049 in 2009/10. The number has fallen since then (13,427 in 2012/13) but it is still 11% higher than in 2008/09. Solicitors in 2010 would therefore have already been likely to have seen an increase in their caseload.

Respondents were also asked for more specific new areas of work offered by their firm in the last 2 years (B2). For all areas of work the majority of respondents had not changed their offering. Taken with the previous findings on overall increases, this suggests that, where firms have increased caseload overall (Figure 2), they are more likely to undertake more work in existing areas of law, rather than expand into new areas. 'Immigration & nationality' and 'mental health welfare/adults with incapacity' were the areas firms were most likely to have added. 7% of respondents had started offering 'immigration & nationality' on a legally aided basis, with 5% starting to offer it privately. 8% had begun offering 'mental health welfare/adults with incapacity' under legal aid, with 5% starting to offer it privately. In all the other areas of law covered, no more than 3% had begun offering it either privately or under legal aid.

For the firms that had expanded into new case types there were three main reasons for this (B3). One was 'to meet demand in the local area', for example one respondent whose firm had begun

<sup>1</sup> Note that the figures in this paragraph and in Table 2 relate only to those who were able to give an opinion in response to this question.

offering immigration work said this was due to an increase in the number of Lithuanians and Polish in the local area. Sometimes the new areas of work were due to an individual solicitor, for example a new solicitor bringing specialist skills, or someone who has developed an interest in a new area of work. The third most common reason was that the firm restarted legal aid work or began operating within the past 2 years.

Over the past 3 years there has been a sizeable increase in the number of solicitor firms registered to provide civil legal assistance services, as well as the numbers of applications for civil legal aid. Respondents were asked to suggest reasons for the increase in the number of firms registered to provide civil legal assistance (B5). The reasons given were in line with other indicators that SLAB is aware of. The most common reasons given were; the effect of the economic climate on solicitors (firms are moving into legal aid as other areas of work decrease) (100 respondents) and that more people are now eligible, due to both the economic situation (66 respondents) and the increase in eligibility (19 respondents).

Respondents were also asked why they thought there has been an increase in the number of civil legal aid applications being made in the last year (B6). Again the responses were in line with what SLAB has observed through other means. The most common reason given was that more people are eligible for legal aid, both due to an increase in eligibility and because many have less disposable income due to the recession (183 responses).

Most respondents (84%) thought it likely that their firm would still be working on civil legal assistance cases in 3 years time, with just 8% (26 people) saying this was unlikely (B7). The main reason given (B8) by those who thought they would not be working on civil legal assistance in 3 years time was that 'the work is not financially viable for their firm' (18 responses). When asked what would replace civil legal assistance work (B9) the most common suggestion was 'private work' (16 responses).

18% of respondents (59 people) thought it likely that their firm would recruit a trainee solicitor(s) within the next year (A13). This is very similar to the findings in 2010, where 20% expected to recruit trainees within the next year. In 2013, just under three-quarters of respondents who expected to recruit a trainee said that they expected the trainee to work on civil legal assistance cases (43 people - A14).

Amongst the 71% not expecting to offer traineeships (240 people), the most common reasons for this were: 'cannot afford to' (97 responses), 'do not need one' (66) or 'already have one' (50) (A15). This is in line with what we were told in 2010.

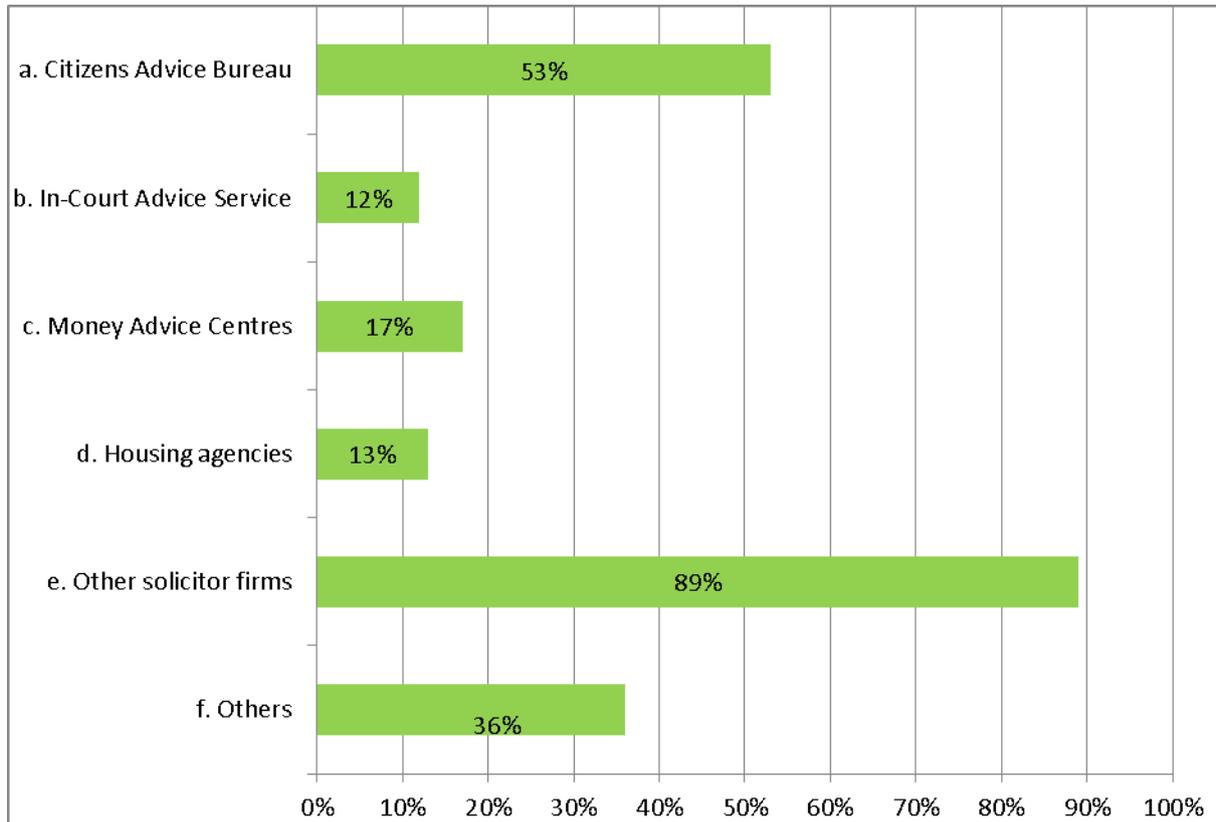
Respondents were asked their firm's views on accepting new civil legal assistance clients (B10). The majority (72%) said they were deciding on a case by case basis, with 22% accepting all clients who were likely to be eligible for civil legal assistance. Only 5 people (1%) said they were not accepting any new clients on a civil legal assistance basis.

Views on whether the increases in financial eligibility made by the Scottish Government in 2009 have helped more people to access/obtain civil legal assistance were somewhat mixed (B14). However the largest single proportion (45%) thought they had helped people.

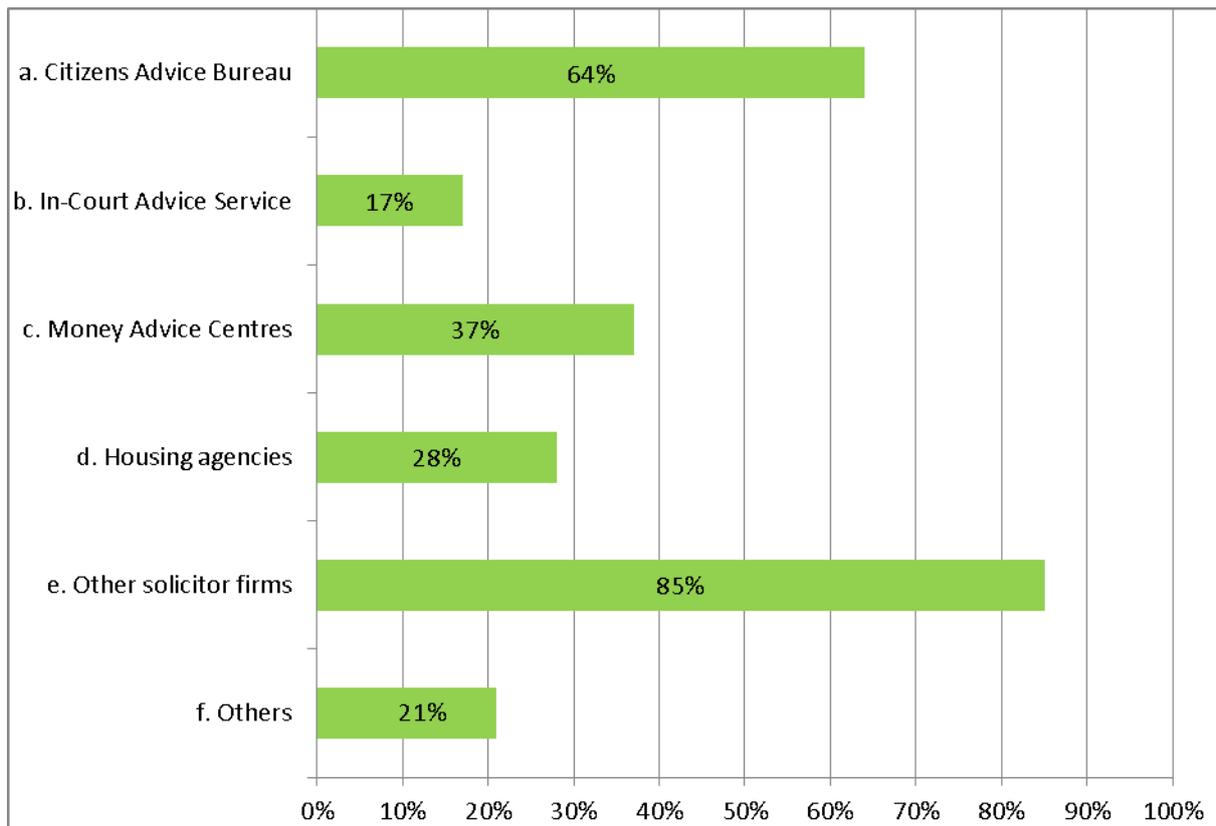
### Client referrals

Other solicitor firms are the most important link for client referrals (B15 & B16); with 89% of respondents having had clients referred from other firms, and 85% having referred clients to other firms. The Citizen's Advice Bureaux are also important sources of referral, with over 50% having received referrals or made referrals to them in the 12 months prior to the survey. Figures 3 (below) & 4 (overleaf) show the main sources of client referral.

**Figure 3: Sources of referral in the past year.**



**Figure 4: Referred to in the past year.**

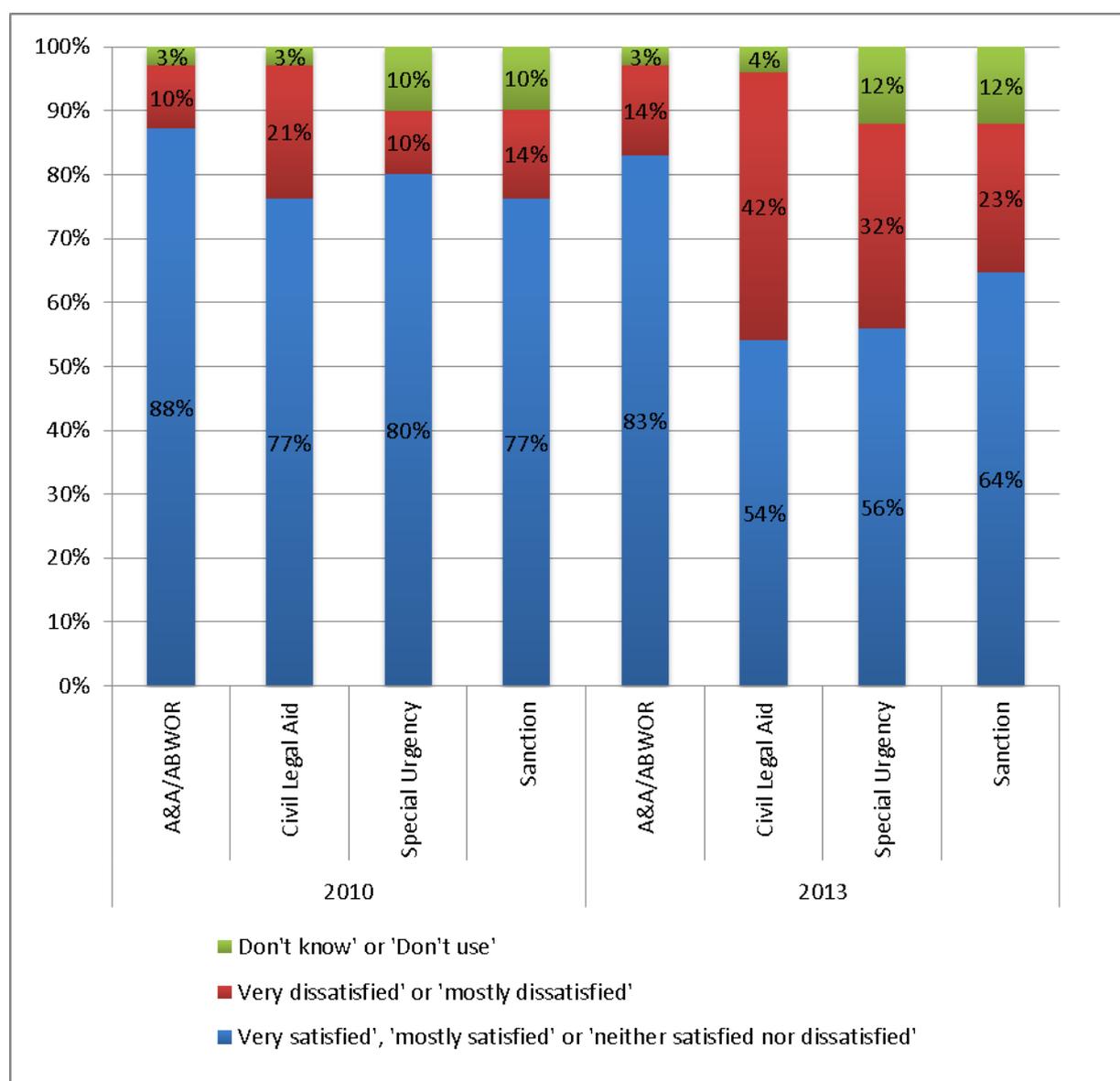


The most common reason for referring people on to other agencies (B17) was because they needed assistance in an area of work not offered by the referring firm (69%). Specific areas of work were financial (11%), housing (6%) and employment (2%). 25% of respondents said one of the most common reasons for referring clients was a conflict of interest (for example firms cannot advise both parties in a divorce).

## 5. SLAB Application processes

Solicitors were asked about their satisfaction with the application process in relation to four types of civil legal assistance process (A&A/ABWOR, civil legal aid, special urgency and sanction (C1a - C1d)). More solicitors were satisfied or neutral on each of these measures than dissatisfied, however there was a large minority who expressed dissatisfaction on each of these measures. Figure 5 below gives the percentages satisfied / neutral and dissatisfied for each aspect of applications. Compared with 2010, dissatisfaction had increased significantly on all aspects, apart from A&A/ABWOR. This was largely anticipated, since there have been significant changes to regulations, policy and practice (for example, to the special urgency application process) since 2010. These changes are mainly associated with the legal aid savings programme; they have not been welcomed by all solicitors and the survey results suggest that these have influenced solicitor views. Findings are discussed below for each of the four application areas. There was an increase in dissatisfaction of 4 percentage points in A&A/ABWOR between these two years, however this is not statistically significant.

Figure 5: Satisfaction with the application process (2010 & 2013)



### *A&A/ABWOR intimations*

The most common reason given for dissatisfaction with the A&A/ABWOR intimation process (C2a) was in relation to solicitors having to undertake financial verification checking of client's eligibility (22 out of 46 people). This is a significant change in procedure implemented since 2010, however dissatisfaction has not decreased significantly since 2010. Another change is that A&A/ABWOR can no longer be intimated on paper. However this does not appear to have had a negative impact; the online system was only mentioned by 5 (of 46 dissatisfied) people as a cause of dissatisfaction.

### *Civil legal aid applications*

Longer term trends, although not directly comparable, tend to confirm that satisfaction in 2013 (not including A&A/ABWOR) is markedly different from previous years: a question in relation to satisfaction with civil legal applications services in 2003 ("Overall, how satisfied are you with the services provided by civil applications?") gave very similar results to those received in 2010 (71% were 'very satisfied', 'satisfied' or 'average', whilst 29% were 'dissatisfied' or 'very dissatisfied').

The increase in dissatisfaction with the civil application process is not unexpected. A number of reforms have been implemented in recent years. These were designed to improve the operation, efficiency and cost of civil legal aid in various ways, by changing solicitors procedure in dealing with civil legal aid; however they are not necessarily popular with the profession.

A significant change to civil legal aid in recent years has been the tapering upward of financial eligibility in 2009. In April 2009 legal aid was made now available to those with a disposable income up to £25,000. In 2008/09 (the year before 'tapering' was introduced) the maximum disposable income for eligibility was £10,306. The additional people brought into the scope of legal aid by tapering will all be liable to a contribution, and will have to fill out a financial Form 2 when applying. Having a higher disposable income means that many of these people are likely to have more complex financial affairs than those eligible prior to tapering.

Although tapering was introduced around a year before the previous solicitors' survey was undertaken, it is likely that the increase in dissatisfaction seen in 2013 is linked with the increase in complex means applications. This has been accentuated for solicitors by SLAB's policy, implemented in July 2011, to return civil legal aid applications to solicitors where either the financial form has not been completed in full, or where financial verification has not been provided. At this initial stage solicitors can only submit applications when they have the necessary information.

In May 2010 changes were made to the guidance issued by SLAB on its approach to the reasonableness test for civil legal aid. The changes were considered necessary to ensure that public funding was being made available in appropriate cases only. The changes mean that we now expect to be given much more information than was previously the case on:

- prospects of success in a case including giving details of the likelihood of success on a numerical scale
- prospects of recovery which now also requires an estimation of likely success based on a numerical scale;
- all attempts made to settle a case without resorting to litigation, including details of attempts made to settle the case by the other side, and;
- the practical benefit the applicant will obtain from the litigation.

Applications that do not provide sufficient information in relation to prospects, negotiations and practical benefit to an applicant are now more likely to be refused. This revised approach to this test will mean that solicitors do have to provide more information which may detract from its

popularity with the profession. Between 2009/10 and 2010/11 the civil legal aid grant rate fell 5.1 percentage points, to 73.9%<sup>2</sup>.

Stage reporting has been a requirement where a grant of civil legal aid is made since October 2003 and is a means by which solicitors provide SLAB with periodic reports on the progress being made in a case and its continuing prospects for success. Solicitors are also meant to tell SLAB about events in a case that may impact on whether or not legal aid should continue. Stage reporting is needed to ensure that public funding is only made available for cases that continue to have prospects of success and need funding to obtain suitable access to justice. Prior to February 2012, when time based reports were requested by SLAB, the compliance rate was only around 50%. A number of changes to the process came into effect at the end of February 2012. These changes increased the frequency with which time based reports are needed and introduced a more detailed list of situations where unprompted reports are required. Where time based reports are not sent to us, the grant of civil legal aid is suspended and may ultimately be terminated. If an unprompted stage report is not submitted when it should have been and it would have covered a significant issue that may have impacted on whether or not a grant of civil legal aid continued we now consider whether or not payment should be made for any work undertaken from the point when the unprompted stage report should have been lodged. This additional requirement to provide information which is now effectively enforced is also likely to be viewed by some solicitors as an additional burden.

These explanations are supported by the comments received by solicitors, which do not appear to be around any substantially different issues than in 2010 (bureaucracy, complexity, time spent on making applications). For them, the issues themselves have not changed, it is just that solicitors are now having to deal with them more directly, they are being seen more often, and some financial situations are more complicated than will have been seen previously.

The most common reasons for dissatisfaction with the civil legal aid application process (C2b) given by those who were dissatisfied were in relation to bureaucracy, complexity or inefficiency of the application process: 46 people raised this as an issue, from a total of 197 comments.

35 people made comments specifically about the online system, some of which were very general and others specific. The time spent scanning and uploading documents was a commonly mentioned theme. SLAB are currently reviewing their Document Management facility which will result in some changes to the online system. This is due to be implemented in Spring 2014. Amongst other things, it is anticipated that this will improve the overall speed of uploading documents. However the time it takes to upload documents is also affected by the document size and quality of a firms' internet connection. Solicitors also mentioned that they could not print the completed civil form. This is being addressed as part of a 'civil enhancements' programme (currently being specified). It is hoped this will be completed during 2014/15. SLAB welcomes user feedback on the Legal Aid Online (LAOL) system; this forms the basis of the on-going 'enhancement workstream'.

28 comments mentioned the length of time it takes SLAB to process applications or make decisions, whilst a further 28 cited issues with the financial verification Form 2, either directly for themselves, or for their clients. The Form 2 has recently been reviewed with support from external consultants with expertise in this field, with a view to reducing rejections rates (which were around 90%). A new Form 2 was issued on 1<sup>st</sup> August 2013, and resulting changes to the rejection rate are being monitored.

22 respondents were dissatisfied with how time consuming they felt the civil legal aid application process is. 21 felt that SLAB was likely to always refuse initial applications, with 9 feeling that

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<sup>2</sup> In 2009/2010 23,397 decisions on civil legal aid applications were made and 79% were granted; in 2010/2011 of a total of 22,680 decisions, 73.9% were granted.

there was poor decision making or inconsistency by SLAB or that SLAB gives poor or inconsistent guidance on applications.

141 solicitors gave reasons for their dissatisfaction with the civil legal aid application process. A number of people mentioned more than one issue in their comments, meaning that a total of 189 points were raised.

### *Special urgency applications*

The special urgency application process saw a large reduction in satisfaction compared with both 2010 and a similar question in 2003 (C1c). The percentage satisfied / neutral was 80% in 2010, but fell to 56% in 2013, whilst dissatisfaction grew from 10% in 2010 to 32% in 2013. Ten years previously, the 2003 solicitor survey asked “How satisfied are you with the time taken to deal with special urgency applications using form SU4?”; 80% of respondents were satisfied or neutral at this point. Although the question is not directly comparable with those used in recent years, it does suggest that there has been a shift in long-term satisfaction over the past decade.

The high levels of dissatisfaction seen in 2013 are likely due to changes made by the Scottish Government in 2011 to the scope of special urgency. These removed various steps in proceedings from special urgency, including orders seeking interim residence and interim contact. The purpose was to reduce the number of cases raised in court prior to the civil legal aid application being decided. There was clear awareness by many respondents of the regulatory changes, and these were felt to have made special urgency cover more difficult to obtain (as would be expected). The refusal rate for special urgency requests is high at present, around 65%, suggesting that there is disagreement with SLAB’s policy and possible a lingering misperception on when it should be used. This is confirmed by comments from some respondents, which suggest they are not entirely clear about the changes in scope.

Although it is understandable that sections of the profession are unhappy with the changes, this research does suggest that the changes are preventing special urgency being used when it is not considered justified. Considerable research was undertaken by SLAB into the use made of the special urgency provisions. This showed that actions were often being raised under special urgency when there was no evidence that it was needed. This meant that work was being done before SLAB was able to consider whether the case was eligible for legal aid. Where civil legal aid was not granted the legal aid Fund still paid for work done under special urgency. A total of 20% of the applications that were started using the special urgency provisions were refused civil legal aid because they did not meet one or more of the statutory tests. SLAB’s research also showed that the firms of solicitors that made low use of special urgency reported that the outcomes for their clients were not affected by this.

84 of the 108 who were dissatisfied with the special urgency process responded to a question asking them to give reasons for this (C2c). The most common reasons given by those who were dissatisfied were around the reasons for refusal (38 responses) and the coverage of special urgency (24 responses). There was clear awareness by many respondents that special urgency is now more difficult to get: “extremely difficult to get, whereas before it was easier”. As noted earlier, this might be expected since the reforms did remove some actions from the scope of special urgency.

There was also a theme of issues around the process itself, separate to any changes in what is covered by special urgency. Part of this concerned the online application system which was described by some of those dissatisfied as “cumbersome” and “onerous”. A lack of clarity about what information is expected was also mentioned. Related to this was the view by some respondents that special urgency would be granted if they kept trying: “[being granted] usually takes 2 or 3 shots”. If this is happening in practice it is obviously time consuming and costly, both

for solicitors and for SLAB staff. It also confirms other suggestions that solicitors are unclear about what information they need to supply.

Respondents also noted having to re-enter information that had already been supplied, either in resubmitting an application (“reconsideration button not available as with legal aid”), or for a related application (for instance for civil legal aid). It was felt that this should not be necessary with the online system. Specific issues mentioned with the online system were: “there is a word limit placed on applications”, “online applications mean the questions are quite narrow as well as unclear what they’re asking for.”, “the user interface is unnecessarily complex”. One respondent was also concerned that SLAB were “unwilling to discuss matters by telephone”.

### *Sanction applications*

Dissatisfaction with sanction applications has also risen since the previous solicitors’ survey, from 14% in 2010, to 37% in 2013. This is likely to be due to changes that have been implemented since 2010 in relation to the approach being taken on sanction to instruct counsel in family sheriff court actions. The purpose of this has been to ensure that tax-payers money is being spent appropriately and efficiently. Applications for counsel in family sheriff court cases are now granted less often than they used to be.

The high numbers of refusals (22 of 81 comments received) was the most common reason given by solicitors when asked about their reasons for dissatisfaction with sanctions (C2d). One solicitor noted “it used to be a very easy process, but in the past 2 - 3 years has become far harder”. This bears out the suggestion that the change in SLAB’s approach to granting sanction may be a reason for the increase in dissatisfaction. Refusals were also mentioned as a key reason in 2010, but this does appear to be a more prevalent theme in 2013.

## 6. SLAB accounts processes

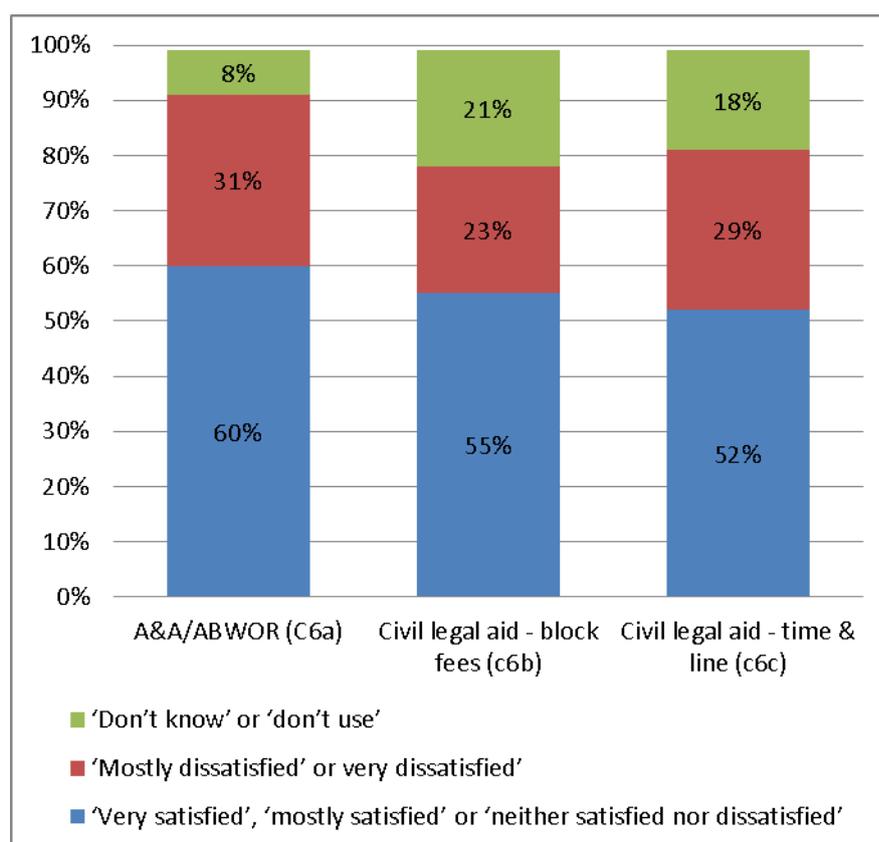
Many firms use more than one method of completing accounts, and who they use may vary depending on the type of account). 46% of respondents said that they framed accounts themselves (C3). Law accountants were also widely used; 44% said they used an independent law accountant, with 17% using one employed directly by their firm.

The main reasons given for using law accountants (C4) were that it took too much time for solicitors (or other non-specialists) to do them/speeds up the process (102 of 206 responses) and that it is a specialist role / complex process (68 responses). Some respondents gave more than one reason for using law accountants. 37 solicitors noted that law accountants were used for particular case types only, with 'larger or more complex' cases being the most commonly cited (23 respondents).

41% of respondents (139 people) said that their firm used a case management system (C5). Of the 48 respondents who knew which one, the most commonly mentioned was Lawware (11) and Carteus (10).

Solicitors were asked about their satisfaction with the civil accounts process in relation to three types of civil legal assistance process (A&A/ABWOR, civil legal aid - block fee and civil legal aid - time & line, C6a - C6c). In each case a majority of respondents were satisfied or neutral, however a sizeable minority (varying from 23% to 31%) was dissatisfied, see Figure 6 below.

*Figure 6: satisfaction with accounts processes*



### *A&A/ABWOR accounts*

Solicitors were most likely to be dissatisfied with the A&A/ABWOR accounts processes, as Figure 6 above shows. Although these figures are high, there has been a significant improvement since 2010 (when 41% were dissatisfied). The main change to A&A/ABWOR accounts processes since 2010 is the

introduction of legal aid online (LAOL), A&A/ABWOR accounts were one of the first account types that could be submitted using the online system. This is likely to be a contributing reason for the increase in satisfaction since then, although there is clearly still work to be done in increasing this. Further improvements to the online system for A&A and ABWOR accounts are planned for 2014.

106 respondents gave reasons for their dissatisfaction with the accounts process for A&A/ABWOR, with some giving more than one reason. The main reasons given by solicitors for dissatisfaction are that the process is too slow &/or time consuming (47 responses), abatements are unreasonable (38) and abatements are made too frequently (29). The 'slow process' comments were in relation to both the online system and the accounts process itself.

5 respondents mentioned their concern over being abated on items that were mentioned as Law Society of Scotland Good Practice Guidelines; 'letters of engagement' were specifically mentioned as well as other correspondence.

### *Civil legal aid accounts*

Solicitors were also asked about their satisfaction with both the 'block fee' and the 'time & line' civil accounts processes. They were more likely to be dissatisfied with the time & line process (29%) and less so with the block fee process (23%), however this was not a statistically significant difference. A large proportion of people answered 'don't know / don't use' to both questions (18% for time & line and 21% for block fees). This may reflect the use of law accountants in submitting accounts, or may reflect 'specialisation' within some firms, where (for example) more experienced solicitors will do time & line work, and less so will concentrate on cases paid by block fees.

Comparisons with 2010 are limited for two reasons: firstly, there was only one question in 2010, which covered both block fees and time & line ("How satisfied are you with the accounts process for Civil legal aid?"); secondly, the proportion answering 'don't know / don't use' was far lower in 2010 (8%). By excluding those who responded 'don't know / don't use' from both years we can compare those who expressed an opinion. Using only these responses shows that satisfaction with time & line accounts is almost unchanged (64% of those who expressed an opinion were satisfied in 2013, compared with 62% in 2010), and that satisfaction with the block fee process is significantly higher (71% of those who expressed an opinion). However, given the scope of the 2010 question we cannot be sure that there is an increase in satisfaction with the block fee process; in 2010 respondents might have been satisfied with this, but dissatisfied with the time & line process and have answered accordingly.

The most common reason given for dissatisfaction with the block fee system (C7b) is on the issue that 'fees are seen to be too low/don't cover work done' (27 responses). These are set centrally, by the Scottish Government, and are designed to cover work done on the average case. Generally speaking, therefore, this level of dissatisfaction cannot be seen to relate to SLAB's own service, but rather than fees themselves. The second most common reason for dissatisfaction was around the process, and that it was seen to be slow and/or time consuming (20 responses) and that 'abatements were too frequent or unreasonable' (13 responses). These former comments were mostly in relation to the process itself; issues with the online system were only rarely given as a reason for dissatisfaction with block fee accounts.

The reasons for dissatisfaction with the time & line accounts process (C7c) were similar to those provided for the other accounts areas. The most common reasons for dissatisfaction with the time & line process were that it is 'time consuming' (36 responses), abatements are seen to be both 'unreasonable' (26 responses) and 'too frequent' (19 responses), and the 'fees are too low' (11 responses).

A number of issues were raised around accounts. Soon after the solicitor survey was completed, SLAB decided to undertake a further piece of research focussing on accounts processes, and potential improvements to these. This comprised an online survey, followed by individual / group discussions. This was managed by the Accounts Department, with input from SLAB's Research Unit.

#### *Templates.*

Solicitors can apply for sanction for an expert in a civil legal aid case or an increase in authorised expenditure to cover common advice & assistance work in certain case types, such as asylum.

Most respondents (87%) use civil legal aid templates, although 9% said they did not (C8). Suggestions for other templates that solicitors would like to see introduced (C9) included: children's referral/panel cases (7), immigration / further leave to remain (7), power of attorney (6), guardianship (4) and more mental health (4).

## 7. Guidance and communication

Almost all those questioned knew about the civil legal assistance handbook (99%), and most solicitors use it (D1). 73% of respondents said that they use it at least monthly, although 8% noted that they never use it. This is in line with findings from the 2010 survey.

Those who did use the civil legal assistance handbook were asked how helpful they found it (D2). The majority (88%) found it helpful or were neutral. Those who used it less frequently (quarterly or yearly) were less likely to find it helpful and more likely to find it unhelpful than those who used it more frequently (monthly or more often). This is positive, since it shows that those using the handbook are finding it useful.

Solicitors were asked about their use of SLAB's website ([www.slab.org.uk](http://www.slab.org.uk)). This is separate from the Legal Aid Online site, which civil practitioners use for many interactions with SLAB, including submitting applications and accounts. 6% of respondents said that they never use SLAB's website (D3). However 78% use it at least weekly, with 40% using it daily. Those who use the website appear to use it more often than in 2010, when 50% used it at least weekly. Most of those who use it found SLAB's website helpful, or were neutral on this; only 6% found it unhelpful (D4).

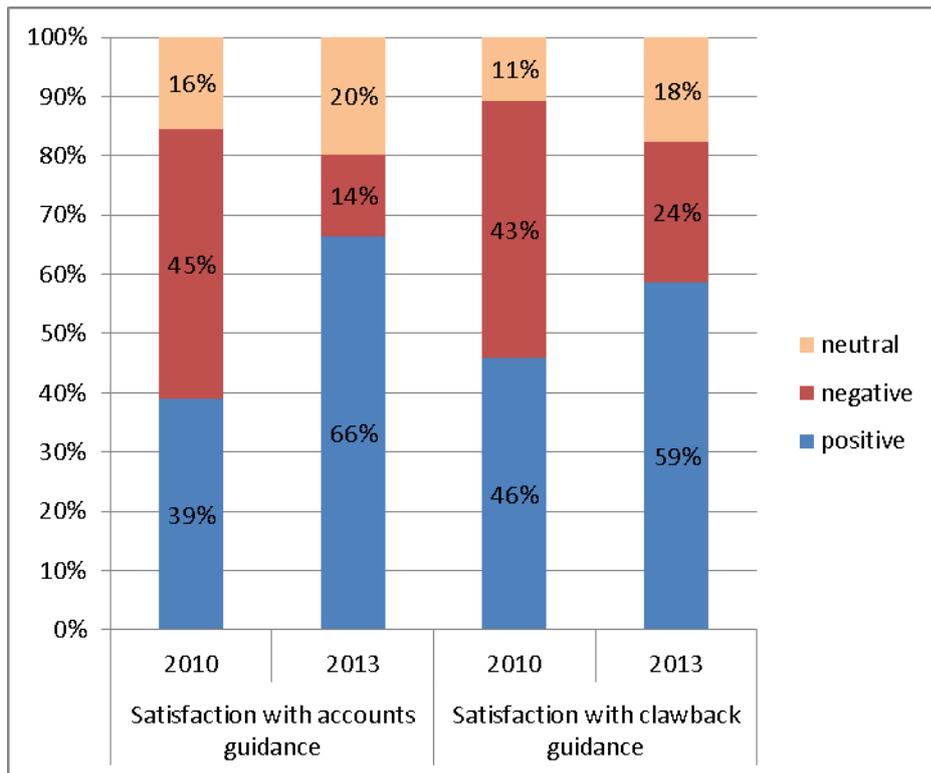
The vast majority of solicitors (86%) find the mailshots sent by SLAB helpful (D5), although 11% said they did not find them helpful and 2% noted that they do not read them. When asked what the best way for SLAB to keep them informed and updated on general legal assistance matters, the majority of respondents (71%) confirmed that mailshots were preferred (D7). A number of people also suggested using email and/or the legal aid online system to notify them of changes.

63 people made suggestions for improving the mailshots, including half of those who did not find them useful (D6). When asked for comments, the most frequent single response was that there are too many mailshots and the overall number should be reduced (16 people) 10 people suggested that paper mailshots were no longer needed and that these should be sent by email or published on SLAB's website. In June 2013, SLAB stopped issuing paper mailshots and began to send them all by email. The Scottish Legal Aid Board is currently developing its digital strategy; part of this process is likely to include exploring solicitor's views on use of email communications, such as the mailshot. The next solicitor's surveys (both civil and criminal) are also likely to cover perceptions of this, and other measures in relation to Communications. 9 people asked that the archive of past mailshots be made searchable or that the search facility should be improved (currently this is done by date, or through a general website search) and 8 thought that they should be more concise / clearer.

Most respondents felt that there is sufficient guidance available on how to make civil applications (D8 & D9). Respondents were slightly more likely to agree in relation to A&A/ABWOR (89% agreed or were neutral, with 6% 'don't know'), compared with civil legal aid, where 87% agreed or were neutral (5% 'don't know'). This is in line with findings from the civil solicitors in the 2010 survey.

Solicitors were less likely to agree that there is sufficient guidance on civil accounts issues and clawback (D10 & D11). Although the majority were still satisfied or neutral (78% for accounts and 66% for clawback), 12% think there is insufficient guidance on accounts issues and 20% that there is insufficient information and guidance for solicitors on clawback. However, in comparison with 2010, there has been a statistically significant increase in satisfaction for both accounts and clawback guidance, as Figure 7 overleaf shows. Over the intervening years SLAB has taken steps to improve the guidance on these issues; both at source (the handbook) and also through mailshots on specific issues. The increase in satisfaction reflects this. SLAB will continue to address communication issues with solicitors, applicants and other stakeholders.

Figure 7: Satisfaction with guidance on accounts and clawback - excluding 'don't know' (2013 & 2010)



28% of respondents (95 people) had a suggestion for improving SLAB’s guidance on clawback (D12). 19 suggestions (of 133) said it should be simplified, 17 people suggested that there needs to be more transparency / clarification of SLAB’s decision making process. 16 thought that there should be improved guidance for solicitors.

Other specific suggestions were on the theme that SLAB should improve communication on clawback with applicants. There were a total of 24 suggestions on this theme: ‘improve the clarity of guidance designed for applicants’ (15 people), ‘communicate directly with applicants (5), ‘introduce a clawback calculator to help clients make informed decisions on settlements’ (4) and ‘produce a dummies guide/FAQ’ (4). 7 people thought there should be more material on SLAB’s website, or a dedicated clawback section on the website.

Most solicitors (76%) had experienced a client coming to them for advice because they were an opponent in a civil legal assistance application (D13). 67% of respondents overall agreed that there is enough guidance for those opposing cases on how and when to make representations (D14). Amongst those who had experience of opposing clients (those answering ‘yes’ to D13), 81% thought there was enough guidance for those opposing cases, although 13% thought there was not.

104 suggestions were given for additional guidance, with 30% of respondents (100 people) offering suggestions (D15). The most common response was around giving clearer guidelines on how to apply successfully (18 responses). SLAB considers each application on both the merits of the case and the financial eligibility of the applicant, as well as reasonableness. The details of these are provided in the Civil Legal Aid Handbook (available on [www.slab.org.uk](http://www.slab.org.uk)). Since every case is slightly different it is impossible to clarify precisely what is likely to be a successful application.

### Quality Assurance

Just over two-thirds of solicitors (67%) had had their work peer reviewed as part of the Civil Quality Assurance (QA) Scheme (E1). Overall, 61% agreed that they felt knowledgeable about the QA scheme, with a further 15% being neutral (E2a). Of the remainder, 17% did not feel knowledgeable, whilst 7% thought this was not relevant or did not know. Amongst those who had not been subject

to a peer review (those who answered 'no' at E1) 33% did not feel knowledgeable about QA and 15% did not know, or felt it was not relevant. This shows that many of those who had not experienced a review still felt knowledgeable about the process. Amongst all of those who did not feel knowledgeable about the QA scheme (78 people), the most common reasons for this (E3a) was that they had not been through the process, or had not been through it enough (18 people). 12 people said they had not heard of it at all.

Amongst those who gave an opinion, the majority (90%) agreed or were neutral when asked if they were satisfied with the civil quality assurance scheme (E2b). However 79 people, 23% of all respondents, were not able to give an opinion on this. Only 26 respondents gave reasons why they were not satisfied with the scheme (E3b), and there was no clear consensus on this. Some questioned the validity of having the scheme at all (7 responses), 10 responses identified problems with how it was running (the use of other solicitors as peer reviewers (5) and inconsistency (5), whilst others thought it was not operating as it should on minor points (3 responses).

Solicitors were asked whether they thought the civil quality assurance scheme is an effective means of ensuring the quality of the work conducted by a firm (E2c). As with the previous question, a high proportion of people (22%) felt unable to give an opinion. Amongst those who gave an opinion, 84% agreed or were neutral, with 15% disagreeing.

#### *Seeking awards of expenses in family cases*

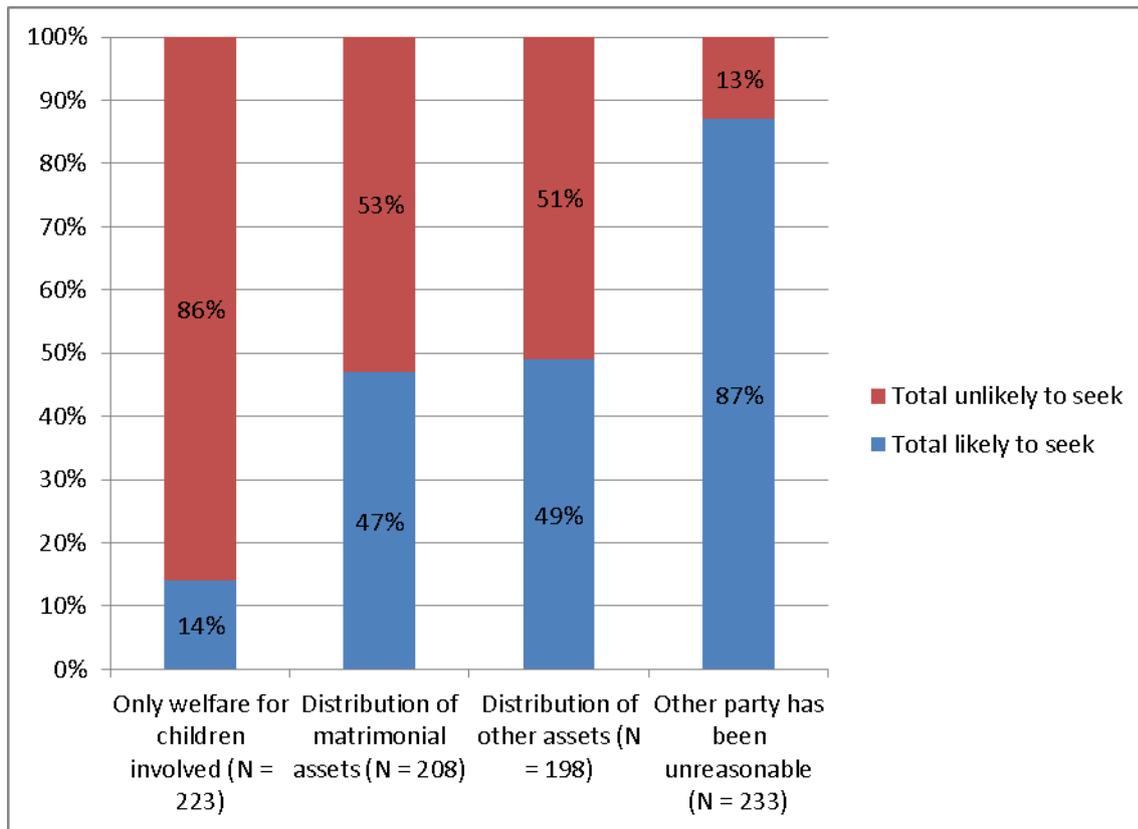
In 2012 SLAB undertook a short review of expenses seeking behaviour in legally-aided family cases, this described current practice in Scotland and other jurisdictions, as well as discussing the reasons for this. The solicitor's survey was seen as a way of adding to our knowledge on this. SLAB would like to increase the propensity to seek awards of expenses in legally aided family cases. Awards of expenses can save money for the tax-payer and potentially benefit the assisted person (if they have paid a contribution or had clawback).

The review suggested that practice in seeking expenses was similar for both privately funded and legally aided cases. The responses to the 2013 survey largely confirm this; solicitors are most likely to say there is 'no difference' in practice between privately funded and legally aided cases, in regards to seeking expenses. However where they do differentiate they are more likely to seek expenses in privately funded cases. In response to a question about why solicitors do not seek expenses in legally aided cases; there was a strong body of opinion that often there is little point since the other party will usually not be in a position to pay.

Solicitors were asked why expenses are not always sought by successful parties in family cases (F1). They were able to give more than one response to this question. A large number of respondents (103) said they did not know. Of those that did give a response, the most common one (100 responses) was that in many cases there was no point as the other party would unlikely have the ability to pay. 79 people noted that an agreement not to seek expenses was usually part of the negotiation process (67 responses), or that seeking expenses would be a barrier to achieving resolution (12 responses). 64 people said that the sheriff would be unlikely to grant expenses in a family case.

Solicitors were asked a series of 4 questions about circumstances in which they would be likely to seek awards of expenses. For each question a very high proportion of solicitors answered 'don't know', ranging from 31% - 41%. These responses have been excluded from the analysis and discussion below. Most of the solicitors (78%) who responded 'don't know' had initially said that they did family work (at A7j), so they might have been expected to have answered. Figure 8 below shows the responses to each of the questions.

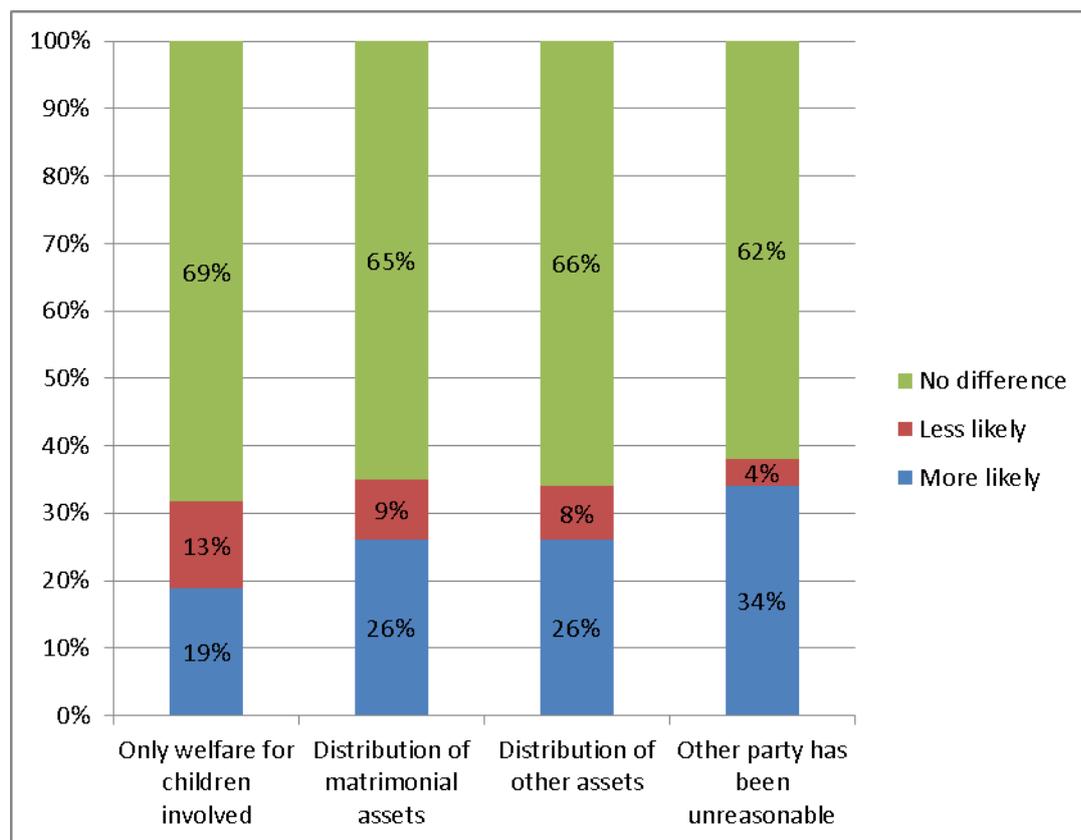
**Figure 8: In each of the following legally aided family cases how likely would you be to seek expenses?**



Unsurprisingly, where only welfare of the children was involved most solicitors (86%) would be unlikely to seek expenses (F2a). Where assets (either matrimonial or other) are being distributed as part of the case, solicitors were fairly evenly split on whether they would seek expenses or not. In practice, evidence suggests that the majority of solicitors would not seek expenses in these cases if they had a legally-aided client. However the question did not specify whether or not the opponent was legally aided, therefore they may be assuming they were not when answering this question. Most solicitors (83%) said they would seek expenses in a legally-aided case when the other party had behaved unreasonably.

In each of the above scenarios (welfare of children, distribution of matrimonial assets, distribution of other assets and unreasonable behaviour) the majority of solicitors said that whether the case was privately funded or legally aided would make no difference to their likelihood of seeking expenses. Where there was a difference, the majority of solicitors in each scenario, would be more likely to seek expenses if the case was privately funded. Figure 9 below illustrates this. As noted above (F1) solicitors were very aware that seeking expenses in cases where the opponent has no obvious assets is pointless. Even if they are awarded the perception is that they will not be recoverable, therefore this might explain why some solicitors would be more likely to seek expenses in privately funded cases.

*Figure 9: Are you more or less likely to seek expenses in the following circumstances if the case is funded privately rather than through legal assistance?*



The responses to all these questions have been provided to the solicitor’s survey Project Board, and they will consider whether any further activity around seeking awards of expenses is required.

### *Service standards*

63% of solicitors were aware of what SLAB’s service standards for making correct decisions are (C10). Of these, 56% agreed that the service standards were sufficient to allow them to undertake civil legal assistance work for their clients in a timely manner (C12).

Of the 38% who did not agree (80 people), the most common reason for dissatisfaction with service standards (C12) was that the time given in the standards is ‘too long’ (30 responses). 13 mentions were made of the fact that cases are continued too often (when SLAB asks for further information). It was felt by some that this could be done more efficiently (“[SLAB contact us] requesting information we have submitted already, or they will make a second request for information that could have been included with the first request”). Some responses specified where they thought timescales were insufficient: ‘accounts’ (5), ‘special urgency’ (5), ‘sanction’ (2) and ‘A&A for housebound clients’ (1).

## 8. The future of legal aid

Half of the respondents to the survey were aware of the Scottish Government's publication 'A Sustainable Future for Legal Aid', although only 12% had read it (G1).

72% were aware of the various saving packages introduced by the Scottish Government to make savings towards the cost of civil legal assistance (G2).

Respondents were asked for suggestions on where savings could be made to the civil legal assistance system without restricting access to justice (G3). 151 people had suggestions, with a total of 186 suggestions received. 44 comments had a broad theme around reducing spend on outlays, including experts (15), bar reports (13) and counsel/advocates (6).

40 comments related to stricter assessment criteria / reducing eligibility, the most common being in relation to stricter merits criteria merits (13), means testing guardianship cases/adults with incapacity (9) and taking certain case types (personal injury, contact and benefits were mentioned) out of legal aid (7).

Other broad themes were around: SLAB working more efficiently (17), various suggestions for savings in other areas (16), reducing bureaucracy in the legal process (15), clients to take more responsibility (14), dangers of restricting justice through savings (12), increased monitoring to reduce waste (9), increasing the use of block fees (7), using court more effectively (2) and 8 miscellaneous.

Respondents were also asked to suggest ways of improving the operation of the civil legal assistance scheme (G4). 52% of respondents (175 people) said they had a suggestion, and a total of 229 separate suggestions were made. The most common theme was around making legal aid more cost effective for the time spent on it by solicitors (37 responses). As well as suggestions to increase fee rates, solicitors also suggested reducing the areas for which they were responsible (such as applicant verification). Fee rates are matters for the Scottish Government. Other areas are considered by SLAB as part of the overall operation of the justice system.

## 8. Conclusion & next steps

The solicitor survey continues to provide baseline evidence on solicitor views. For example, we have seen that satisfaction with guidance on accounts and clawback has improved considerably since 2010. The value of this baseline evidence is not always immediate, but having a record over time helps to identify longterm trends in activity and views. In this instance, we were able to identify areas where we can seek to improve communication with solicitors still further. It is also important to recognise that solicitors, as legal aid suppliers, will not always be happy with changes to legal aid; this is indicated by the mixed comments in response to the survey. Changes will have had a particular impact during a period when public spending is under great pressure and solicitors are feeling the impact of the recession.

The survey complements other methods of communication that we have with solicitors. It allows us to get an overall picture from the profession, as well as focussing on particular issues if required. Other ways we communicate directly with solicitors (including seeking their views) are: roadshows on specific topics, attending / speaking at events organised by the Law Society and others, undertaking surveys on specific topics and meeting with individual solicitors / firms. In addition projects and other developments (such as legal aid online, criminal contributions) have an associated individual at SLAB that solicitors are invited to contact with queries and comments. The details are provided on our website or in mailshots to solicitors.

Some of the findings from the survey supported other evidence, gathered by SLAB, for instance around supply issues. The core aim of this work is to identify areas that may pose access to justice concerns. This is done through analysing SLAB's civil application data. The solicitor survey (amongst other means) is a useful and effective way of cross checking and supplementing the data; using more than one source gives us a fuller picture and increased confidence in our findings. The information from the survey on supply of legal aid solicitors has been shared with the SLAB team responsible for monitoring the availability and accessibility of legal services. Research (undertaken in 2012/13) for the Making Justice Work project on Enabling Access to Justice alongside other data from the courts, tribunals and other advice organisations suggests that lay advisors have a strong role to play, particularly in the area of welfare benefits, which means that finding a solicitor will often not be necessary for assistance in this area. This may also apply to other areas of law, especially where Tribunals are used and suggests that some of the areas of concern flagged up by solicitors in the survey may not in fact be problematic in the way they perceive.

Solicitor views in relation to accounts processes have been used to inform the accounts assessment best value review process. Further improvements to the online system for A&A and ABWOR accounts are planned for 2014.

As always, SLAB will build on the experience of the civil solicitor survey to inform future surveys, for both criminal and civil solicitors. For instance, we are compiling a core set of questions which will allow us to compare views over time. The 2013 survey had an expanded demographics section, which achieved a good response rate. It gave us confidence that the sample of solicitors we spoke to was representative of the profession in general (except on age, which was expected as we had targeted partners). Demographics questions contribute to our equalities awareness and we intend to continue to explore this in future surveys.