



Solicitors
Regulation
Authority

Advocacy in the solicitors' profession

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Executive Summary

Background to the research

1. The aim of this research is to gain a better understanding about advocacy in the profession. Specifically, on who is providing advocacy services, what types of advocacy they provide and the types of courts they practise in. This follows concerns raised by various reviews, in particular in relation to criminal advocacy.
2. As a regulator, we have a role in ensuring that solicitors are competent and meet high professional standards.
3. The research provides information and evidence to feed into the programme of work on advocacy standards focusing on:
 - how we can assure the standard of criminal and civil advocacy more effectively
 - reviewing the Higher Rights of Audience (HRA) standards
 - initiatives to support solicitors to maintain standards.
4. The main objectives of this research are to:
 - update our understanding of solicitors providing advocacy in the criminal, family, civil and administrative courts including the types of cases they are working on, the types of advocacy they are providing and the use of HRA
 - collate views and perceptions of firms and solicitors on the experience, skills and competences of criminal and civil advocates
 - understand the processes firms follow to assign cases to their solicitors, assess ongoing competence and update the knowledge, skills and competences of their solicitors.

Methodology and scope

5. The study used online questionnaires to survey:
 - Firms providing advocacy.
 - Individual solicitors working in private practice.
 - Individual solicitors working in-house.
 - Individual solicitors working for the Crown Prosecution Service (CPS).¹

¹ The CPS survey received a total of 73 responses and was too low to report meaningful results. These have therefore been excluded from the analysis.

6. Within each survey we looked at different types of advocacy:
 - Criminal
 - Civil (excluding family)
 - Family
 - Tribunals
 - Other types of advocacy.
7. The survey achieved a total of 2,830 responses from individual solicitors and 851 responses from firms.
8. As we do not record advocacy as a distinct work type or area of practice it was challenging to identify firms or individuals currently providing advocacy. We know who holds HRA but we do not who is providing advocacy in the lower courts without HRA. Therefore, the strategy was to develop a sample of those likely to provide advocacy based on set criteria such as excluding firms who generate more than 80% of their turnover from conveyancing, including individual solicitors who have HRA and those who selected criminal as a work area.
9. The questionnaires covered:
 - Profiling information: size and type of firm/organisation, areas of law and proportion of work involving advocacy.
 - Case work: type of cases, types of advocacy, number of cases, types of courts practised in, proportion of advocacy at these courts, engagement with vulnerable clients and reasonable adjustments.
 - Higher Rights of Audience (HRA): the use of HRA, the types of cases requiring HRA and proportion of work requiring HRA.
 - Choosing an advocate: proportion of work completed in house, processes for assigning cases to advocates and factors influencing choice of advocate.
 - Quality assurance and monitoring: approaches to quality assuring and monitoring work by the organisation worked for and barriers to reporting poor advocacy.
 - Training: provision of advocacy training.

Key findings

Overview of respondents

10. Firms providing advocacy services tended to be relatively small with two to four partners (42%) (across all the five areas).² Sole practices also provide advocacy in courts accounting for over one third (37%) of all the advocacy across the five areas. It is rare for large firms to carry out advocacy.

A third of the firms (32%) have solicitors who have an HRA qualification.

11. The respondents worked in private practice (81%), 10% worked in central or local Government, 4% worked at the CPS and 1% worked in the third sector. 3% of respondents worked in other types of organisations.³

12. In-house solicitors work in a variety of organisations, the in-house respondents worked mainly in local Government, local authorities and health and social work activities.

Area of law

13. Almost two thirds of firms (60%) are providing civil advocacy, 32% providing criminal advocacy, 47% in the area of family law and 45% providing advocacy at tribunals. Other niche areas of advocacy (8%) included arbitration, prison law and inquests.

14. For the individual solicitors providing advocacy within private practice: 44% focused on civil advocacy excluding family, 34% provided advocacy in family law, and 27% in criminal advocacy. Other niche areas of advocacy (12%) included arbitration, court of protection cases and inquests.

15. 62% of respondent firms had a contract with the Legal Aid Agency. Firms providing criminal advocacy were more likely to have a larger percentage of their work funded by Legal Aid.

16. 42% of solicitors undertook legal aid work.

Higher Rights of Audience (HRA)

17. HRA⁴ is a qualification that allows a solicitor to act as an advocate in the higher courts in England and Wales. The current total number of solicitor advocates with HRA is 6,764. This represents around 5% of all practising solicitors.

² The five areas are criminal, family, civil (excluding family), tribunals and other.

³ For the profession as a whole, approximate figures are 78% working in private practice, 15% working in commerce and industry, 4% working in central or local Government, 1% working at the Crown Prosecution Service (CPS) and 2% working in other types of organisations.

⁴ [Higher rights of audience, Solicitors Regulation Authority, 2013](#)

18. 22% of respondent solicitors working in private practice have HRA. For those that do hold HRA, 46% hold criminal HRA, 40% hold civil HRA and 14% hold both qualifications.
19. There is a concern that, under the current system, newly qualified solicitors, with no or very limited experience, could be providing advocacy in complex cases. However, our findings show that for private practice solicitors, 37% (over one third) who hold criminal HRA obtained it 10 years after qualifying. For those who hold civil HRA, two thirds obtained it at least three years after qualifying.
20. For those that hold HRA within private practice, almost half (49%) started to provide advocacy in the higher courts within one year of obtaining their HRA. 26% have never used their HRA qualification in the higher courts.
21. Individual private practice solicitors providing criminal advocacy are more likely to hold criminal HRA (44%) compared to family (11%), civil (19%) and tribunals (19%).
22. A few respondents commented that the Civil HRA is not entirely suitable for family practitioners as they felt that family law requires a different skill base and the applicable law is fundamentally different.
23. Few solicitors seem to be using their HRA for the advocacy services they provide. A quarter of private practice respondents (26%) stated that the advocacy they provided did not require HRA, 37% of respondents stated that between 1-20% of their advocacy work required HRA. Only 14% of respondents required their HRA for over 70% of the advocacy services they provide.
24. For private practice solicitors, 23% of those providing criminal advocacy said that between 70-100% of their advocacy work required them to have HRA compared to 6% of those providing family advocacy, 7% in civil advocacy and 7% in tribunals. Around 12% of solicitors providing criminal advocacy, 34% providing family advocacy, 32% providing civil advocacy and 22% providing advocacy in tribunals said the advocacy they provide does not require HRA.
25. For in-house solicitors, the vast majority (84%), required HRA for less than 20% of their total advocacy work. A small number (3%) required HRA for over 70% of their total advocacy services. It is anticipated these are likely to be within niche areas of law such as commercial or corporate litigation in the higher courts.

Casework and courts

Types of courts and HRA

26. Solicitors represent clients in all types of courts. The type and nature of the case determines the type of court.
27. The majority of criminal advocacy takes place in the lower courts. The majority of civil, family and other types of advocacy takes place in the county court and family courts.

28. A majority of firms provide criminal advocacy in the magistrates' courts (76%), followed by Crown Court (51%) and the Youth Court (51%).
29. For those firms providing advocacy in family, civil and other types of advocacy, a majority of the advocacy took place in the county court (58%), followed by family court (39%), High Court (22%) and magistrates' court (22%).
30. For individual private practice solicitors, the majority (56%) provided advocacy in the family courts followed by the county court (25%). For in-house solicitors who provide types of civil advocacy, 41% did so in the county court, and 28% in the magistrates' court.
31. Most tribunals are set up to allow applicants to represent themselves. 30% of individual solicitors provide advocacy in employment tribunals, followed by first tier tribunal immigration and asylum chamber (19%) and other types of tribunals (28%). A small portion (2%) provided advocacy in social security and child support tribunals.
32. In-house solicitors mostly provided advocacy in employment tribunals (40%), followed by first tier tribunal immigration and asylum chamber (6%) and other tribunals (32%). Many in-house solicitors working in local councils or corporate organisations are providing advocacy in employment disputes and human resources cases.
33. As expected, most private practice solicitors providing criminal advocacy in the Court of Appeal (86%) and Crown Court (74%) do hold HRA as opposed to 43% and 45% in the magistrates' court and Youth Court respectively.
34. Firms who have solicitors working in the civil, family and other courts tended not to have HRA. For example, firms stated that 72% of their solicitors who worked in the family court did not hold HRA.
35. Overall, most individual solicitors working in private practice providing advocacy in family, civil, tribunals and other areas do not hold HRA. For example, only 28% of private practice solicitors providing advocacy in the family courts hold HRA and of private practice solicitors providing advocacy in employment tribunals, 90% did not hold HRA.

Type of criminal offence

36. For those working in the area of criminal advocacy the top five types of offences they provided advocacy for are:
 - assault (63%)
 - drug offences (51%)
 - dishonesty and fraud (48%)
 - theft (43%)
 - bail applications (42%).

More serious offences such as murder accounted for 2%.

Type of criminal hearing

37. Private practice solicitors conducting criminal advocacy will defend clients at different types of hearings. The most frequent types of hearing are sentencing and guilty pleas. A minority will do full trials on a regular basis (16%, one case per week) and appeals from the magistrates' courts are rarely or never conducted (77%). Procedural hearings (including bail applications or pleas and case management) are conducted very frequently.
38. There was a fairly even split of those who hold HRA and those who do not, conducting these types of hearings with the exception of committals for sentencing where 65% were dealt with by solicitor advocates holding HRA.

Type of case

39. For all other firms that do not provide criminal advocacy services, the most common cases are:
- divorce (26%)
 - children (19%)
 - personal injury (16%)
 - immigration (13%)
 - employment (13%).
40. Most cases are not handled by solicitors with HRA. The majority are dealt with by non-HRA solicitors or barristers possibly reflecting the complexity of the case and which type of court is dealing with the case.
41. For private practice solicitors those working in all types of advocacy other than criminal and tribunals, the top five types of cases worked on are:
- children cases (39%)
 - divorce (29%)
 - care proceedings (23%)
 - commercial disputes (22%)
 - contractual disputes (21%).

Contractual and commercial disputes are more likely than other types of cases to have solicitors with HRA representing clients.

42. For in-house solicitors those working in all types of advocacy other than criminal, the top five types of cases worked on are:
- other (39%) mostly cases related to the court of protection, inquests, planning and professional/regulatory prosecutions
 - employment (19%)
 - children (19%)
 - debt (17%)
 - rented housing (16%).

Care proceedings and children cases are more likely than other types of cases to have solicitors with HRA representing clients.

Money claims

43. Almost half of the firms dealt with money claims (48%). The types of claims that firms deal with are 82% in the fast track, 76% in the multi-track and 68% in the small track.⁵
44. Small claims are dealt with mainly by solicitors who do not have HRA (70%). Around one third (31%) of all multi claims are dealt with by barristers.
45. 34% of private practice solicitors dealt with money claims. Of these claims:
 - 60% are small claims
 - 70% are fast track claims
 - 76% are multi-track claims.

One fifth of solicitors dealing with multi-track claims have HRA.

Vulnerable clients

46. Clients involved in both civil and criminal trials may be vulnerable. This could be due to personal characteristics such as age, drug or alcohol addictions, mental health problems or cultural and language barriers. But even the most sophisticated and empowered clients may be vulnerable when they are dealing with critical, often life-changing and distressing circumstances.
47. Firms are likely to provide advocacy to clients on low income (47%), low literacy (36%), health problems (28%), English as a second language (28%) and mental health issues (27%).⁶
48. Private practice solicitors are more likely to provide advocacy to clients on low income (48%), low literacy (35%) and with mental health issues (32%).⁷ For those solicitors working in-house they are unlikely to represent clients with most of these personal characteristics. On average less than 10% of their clients are on a low income or have mental health issues and these are likely to be in organisations such as charities or advice agencies.
49. Respondents commented on the types of reasonable adjustments they usually made for clients such as payment plans, use of interpreters, access adjustments, signposting to intermediary support agencies and home visits. Other types of assistance included helping clients understand the legal process and documents.

Choosing an advocate

50. The top three factors considered, when choosing solicitor advocates for cases were type and severity of the case, advocate specialism and experience and competence of advocates for firms, private practice solicitors and in-house

⁵ The small claims track involves claims not exceeding £10,000. The fast track is the normal route for claims between £10,000 and £25,000. More complex and important cases are assigned to the multi-track.

⁶ These results are multi response based on “always” and “very often”.

⁷ These results are multi response based on “always” and “very often”.

solicitors. For both firms and solicitors, having a solicitor who held HRA was the least important factor. Advocate specialism and experience was the most important factor for private practice solicitors.

51. Criminal advocacy tends to have more work completed in house than other areas of law. Many respondents commented that solicitor advocates are fully aware and responsive of when to retain work in house and when to instruct a barrister.

Perceptions of advocate competency

52. We have defined four core professional standards⁸, which all advocates should meet:

- Demonstrate the appropriate level of knowledge, experience and skill.
- Proper presentation of a case.
- Present clear and succinct written/and or oral submissions.
- Conduct focused questioning.

The survey asked respondents for their perceptions on the overall quality of advocates against these standards.

53. Overall, firms thought that quality of advocacy against these standards was good, with hardly any respondents giving these a “poor” or “very poor” rating. Demonstrating the appropriate level of knowledge, experience and skill had the most positive feedback (43% thought it was “good” or “very good”) and only 7% thought it was “average”. Conducting focused questioning was rated the lowest out of the standards with 16% perceiving this as “average” for advocates.
54. For private practice solicitors, the ranking of the four standards aligned with the firms. However, individual solicitors were more likely than firms to rate some of the standards as “average”. For example, 27% rated the ability to conduct focused questioning as “average” and 4% think it is “poor”.
55. Respondents were also asked for their views on specific skills of criminal/civil advocates within the profession generally such as supporting vulnerable people, communication, sentencing and case preparation. Firms were much more positive than individual solicitors with their ratings.

Quality assurance and monitoring

56. Organisations who provide advocacy have an important role to play in ensuring and maintaining the quality of advocacy provided by their solicitor advocates. Advocates should be competent and have the right knowledge and skills to represent their clients. Individual solicitors have an obligation to maintain their competence.

⁸ [Competence standards for solicitor advocates](#)

57. Various methods are used to monitor quality such as supervision of files, client feedback, reviewing complaints, appraisals, shadowing, auditing and observation of advocates in court.
58. 45% of firms said they monitor the quality of their solicitor's advocacy per case. 15% of firms said they monitor solicitors every month. Worryingly, 21% of firms stated that they do not formally monitor the quality of advocacy.⁹
59. Firms commented on the methods they use to detect and deal with poor advocacy. These included feedback from other advocates and the judiciary as well as clients.
60. Solicitors working in private practice were not as positive in terms of how often their firm monitored the quality of their advocacy. For example, 45% of firms stated they monitored advocacy per case, compared with only 25% of solicitors. This is even lower for in-house (13%). For private practice solicitors, the most common frequency for monitoring advocacy was "once a month" (40%). For in-house solicitors, it is either at least once a quarter (26%) or do not formally monitor quality (26%).

Training

61. We ask solicitors to maintain their competence by keeping their knowledge and skills up to date. This helps to make sure the public receives a good service from their solicitor.
62. In the firm survey, only 50% of firms stated they provide advocacy training to their solicitors. Of those firms that did provide advocacy, 57% said it was only provided by external providers. 30% of all firms said this training was provided in house and 13% said they provided training online.
63. Firms had provided recent training on case preparation (71% this year¹⁰, 22% last year), followed by training in Advocacy (67% this year, 23% last year). Firms tended not to provide any training on criminal law and procedure (45% said never) and sentencing (52% said never). A quarter of firms (24%) had never provided training on supporting vulnerable people.
64. Private practice solicitors had training in evidence (50% this year or last year), case preparation (46%) and civil law procedure (43%). Around one third had received training on supporting vulnerable people (this year). In-house solicitors had received some training for advocacy, the recent focus has been mainly on contentious work (24% said they had training this year and 16% said they had training last year), civil law and procedure (22% this year and 19% last year) and transactional legal work (15% this year and 8% last year).
65. Many respondents commented on the lack of available training courses and the high cost.

⁹ Some of these could be sole practitioners.

¹⁰ This year being the date of the survey, 2017/8.

Reporting poor advocacy

66. We want to make it easier for stakeholders to report concerns to us and remove any potential barriers.
67. The survey results showed that only 1% of firms, 0.6% of private practice solicitors and 1% of in-house solicitors had ever reported poor advocacy to us.
68. The main barriers cited by firms are lack of clarity about how to report (22%), difficulty in drawing a line between poor advocacy and professional misconduct (22%) and lack of understanding on what poor advocacy looks like (19%). Although over half of firms (55%) saw no barriers to reporting poor advocacy.
69. For private practice solicitors and in-house solicitors, the biggest barrier is lack of clarity about how to report (40% and 43% respectively), followed by lack of clarity about who to report to (SRA or LeO) (33% and 34% respectively). In contrast to firms, only 34% of private practice solicitors and 27% of in-house solicitors think there are no barriers to reporting poor advocacy.

Perceptions of advocacy

70. It is important to establish a benchmark of current perceptions against a set of standards in order to measure the effectiveness of any programme or initiatives in improving the quality of advocacy.
71. Respondents were asked for their views on various aspects of criminal advocacy. 85% of private practice solicitors think there is a problem in terms of solicitors leaving or retiring from criminal advocacy and not being replaced by younger solicitors. 74% think that criminal advocacy is losing skilled advocates to other sectors. 67% of respondents think there are very few opportunities for advocates to learn through shadowing.
72. Respondents were asked for their perceptions on aspects of non-criminal advocacy. 40% of private practice respondents agreed or strongly agreed that the implementation of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) in April 2013 resulted in a significant reduction in demand for advocates. 34% disagreed or strongly disagreed that an online court system for money claims up to £25K would benefit legal service users as this may lead to an explosion of claims without merit, based on no legal advice.
73. In comparing results for criminal and civil advocacy:
 - 43% and 42% of respondents working in criminal advocacy and civil advocacy respectively strongly disagreed or disagreed, that advocates regularly take on cases beyond their skills and competence.
 - 65% and 39% of respondents working in criminal advocacy and civil advocacy respectively strongly agreed or agreed, that solicitor advocates are increasingly dealing with more serious cases in the magistrates' court.

- 62% and 42% of respondents working in criminal advocacy and civil advocacy respectively strongly agreed or agreed that advocates skills in dealing with vulnerable witnesses has improved over the last few years.

74. Other issues related to advocacy included:

- **Fewer opportunities for advocates to learn** due to less time in court, the closed nature of some courts, less advocacy conducted in general, reluctance of firms to provide learning opportunities and tendency to instruct barristers.
- **Advocates take on cases beyond their skills and expertise** due to legal aid cuts, pressure from firms and because advocacy is conducted infrequently.
- **Losing skilled advocates** particularly in criminal practice to other more lucrative areas of practice.
- **Legal Aid** cuts were cited for poor standards and poor remuneration.
- **Litigants in Person (LIP)** seems to be an increasing issue creating extra burden on advocates.
- **Simplifying legal processes** seemed to be an issue particularly in relation to civil areas of law.
- **Judicial perceptions.** Echoing some of the findings from our judicial perceptions research¹¹, a few respondents felt there was distinct bias in favour of barristers by judges.

75. Finally, respondents were asked their views on how they think the overall quality of advocacy has changed over the last 10 years. Amongst firms, 39% thought it had improved, 34% thought the quality had stayed the same, 17% thought it had declined and 9% did not know.

76. A slightly smaller proportion of solicitors think the quality of advocacy has improved (30% for private practice solicitors, 31% for in-house). One fifth of private solicitors (21%) thought that the overall quality of advocacy has declined.

¹¹ [Judicial Perceptions of the Quality of Criminal Advocacy](#)

Conclusion

77. This research covers new ground in terms of a study looking specifically at advocacy in the profession within the context of the different areas of law of advocacy (criminal, family, civil and tribunals) and was designed to cover a wide range of topics to provide information on evidence gaps.
78. The findings show that criminal advocacy is carried out mainly in house by small practices. Most of the advocacy is carried out in the magistrates' courts and youth courts. For those that hold Criminal HRA, over one third obtained it at least 10 years after qualifying showing that those providing advocacy in complex cases in the higher courts are experienced solicitors. Furthermore, firms and solicitors stated they were more likely to instruct a barrister than conduct the advocacy themselves due to economic reasons, efficiency, and to some extent confidence in their skills, perhaps due to lack of opportunities to build these in court and lack of training.
79. Most criminal advocates will defend clients at sentencing and guilty plea hearings. This is borne out in the criminal statistics where there are now more guilty pleas entered prior to trial. Only a minority work regularly on full trials.
80. Civil (non family) is the largest area of law where the most advocacy is provided. Family law practitioners are least likely to hold HRA and some commented that the Civil HRA is not entirely suitable for them as they felt that family law requires a different skill base and the applicable law is fundamentally different. HRA are obtained and used in practice less frequently. A small proportion of solicitors need their HRA for the majority of the advocacy they provide.
81. The majority of tribunal cases were related to employment and most of these solicitors do not hold HRA.
82. Almost a quarter of private practice solicitors holding HRA have never used their HRA qualification in the higher courts.
83. People who have a legal issue that is heard before a court are likely to be vulnerable due to the distressing circumstances. Solicitors (with the exception of those working in-house) regularly provide advocacy services to people on low income, low literacy and with mental health issues yet, a quarter of firms stated they had never provided training on supporting vulnerable people. Despite this, and as supported by the perceptions of the judiciary research, many solicitors were providing a range of reasonable adjustments to assist their clients and solicitors felt that advocates skills in dealing with vulnerable people had improved in the last few years.
84. Organisations and solicitors also influence the quality of advocacy by the processes used for assigning cases to solicitor advocates, how they supervise and quality assure the work of solicitor advocates, and how they approach training to ensure continuing competence and professional development. Firms tended to view the frequency of their quality assurance and monitoring processes in a much more positive light than solicitors. For example, almost half of firms said they monitored the quality of advocacy per case compared to only a quarter of private practice solicitors and much less

for in-house solicitors. There was a consensus that court observations were hardly used to monitor quality.

85. It is important to establish a benchmark of the views of the profession. When asked about core skills related to advocacy such as knowledge, presentation of a case, clear submissions and focused questioning, most firms and solicitors thought these were very good or good. On looking at specific skills, sentencing (criminal) seemed to be the weakest area which is in line with findings related to training where almost half of private practice solicitors had never received training on sentencing.
86. Overall, the availability and high cost of appropriate training seems to be an issue particularly for in-house solicitors.
87. Over half of firms and a third of solicitors felt there were no barriers to reporting, however, there is a need to make it easier and clearer for stakeholders to report concerns to us. The main barrier to reporting was lack of clarity about how to report. Our research with the judiciary found similar findings and ultimately it is all the parties (including court staff and firms) involved in the case that are witness to incidents of poor advocacy and we must do more to encourage them to report to us.
88. The main issues as perceived by firms and solicitors are that there are very few opportunities for advocates to learn advocacy skills. Many did not think advocates took on cases beyond their skills and competence. Yet at the same time, criminal advocates did agree they were increasingly dealing with more serious cases in the magistrates' courts. Specifically, within criminal advocacy, the overwhelming majority felt that solicitors leaving or retiring from this area were not being replaced by younger solicitors and skilled advocates were being lost to other sectors. Within civil advocacy many felt that cuts in legal aid has resulted in a significant reduction in demand for advocates and conversely, they were dealing more with litigants in person which is creating an extra burden on them as they are having to assist these litigants.
89. Finally, the view from around approximately one third of firms and individual solicitors was that the overall quality of advocacy had improved over the last 10 years. An equal proportion thought it had stayed the same. Around one fifth of respondents thought quality had declined.
90. Our role is to make sure that solicitors are competent and meet high professional standards. Advocacy is a high risk area, as poor advocacy carries serious consequences for the people involved, whether it is a criminal defendant facing loss of their liberty, a child at the centre of complex family proceedings, a person who faces losing their job at an employment tribunal or people involved in claims for personal injury or house repossessions.
91. The findings from the research can help us to develop better ways of assuring advocacy standards. The research provides information and evidence to feed into the programme of work on advocacy standards focusing on:
 - how we can assure the standard of criminal and civil advocacy more effectively
 - reviewing the HRA standards
 - initiatives to support solicitors to maintain standards.

1 Introduction

1.1 Background to the research

92. The aim of this research is to gain a better understanding about advocacy in the profession. Specifically, on who is providing advocacy services, what types of advocacy they provide and the types of courts they practise in. This follows concerns raised by various reviews, in particular in relation to criminal advocacy.
93. As a regulator, we have a role in ensuring that solicitors are competent and meet high professional standards. Without a benchmark on advocacy services it can be difficult to address any lack of competence that may be found.
94. The research will provide information and evidence to feed into the programme of work on advocacy standards focusing on how we can assure the standard of criminal and civil advocacy more effectively. This work also involves reviewing the Higher Rights of Audience (HRA) standards and a range of initiatives to support solicitors to maintain standards.
95. The main objectives of this research are to:
- update our understanding of solicitors providing advocacy in the criminal, family, civil and administrative courts including the types of cases they are working on, the types of advocacy they are providing and the use of HRA
 - collate views and perceptions of firms and solicitors on the experience, skills and competences of criminal and civil advocates
 - understand the processes firms follow to assign cases to their solicitors, assess ongoing competence and update the knowledge, skills and competences of their solicitors.

1.2 Advocacy and the courts

96. High quality advocacy is crucial if clients are to receive appropriate and just outcomes to their cases in court. Poor advocacy could result in loss of rights and freedoms for which financial redress is inadequate. Despite the undoubtedly important role that advocacy plays in our judicial system, very little empirical research has been undertaken to assess the types and quality of advocacy.
97. The gap in knowledge between consumer and legal representative places greater emphasis on the regulator to monitor standards and act on evidence

of poor quality.¹² In addition, clients involved in criminal and civil trials may be vulnerable.

98. There are a range of areas where solicitors provide advocacy services, the main areas are within:
 - Criminal
 - Civil (excluding family)
 - Family
 - Tribunals
 - Other niche areas such as inquests, prison law and arbitration.
99. Criminal cases include motoring offences, burglary, drug offences, rape and murder. All criminal cases start in the magistrates' court, but the more serious criminal matters are sent to the Crown Court.
100. Civil cases are those that do not involve family matters or failure to pay council tax. These cases are mainly dealt with by county courts and typically relate to debt, the repossession of property, personal injury, the return of goods and insolvency. Particularly important, complex or substantial cases are instead dealt with in the High Court. Judicial reviews and privacy injunctions are also included within civil justice.
101. There are two types of case heard in the family courts. Public law cases involve care orders and emergency protection orders. Private law cases are brought by individuals. They include applications for parental responsibility, financial support and contact. Some family matters are also heard in the county courts or the High Court.
102. Tribunals are specialist judicial bodies which decide disputes in particular areas of law. There are dozens of different types of appeals and disputes which are heard in tribunals. The first tier hears most cases, and an upper tier primarily reviews appeals. The three largest tribunals are Employment, Immigration and Asylum, and Social Security and Child Support. These accounted for 83% of tribunal receipts in April to June 2018.
103. A Youth Court is a special type of magistrates' court for people aged between 10 and 17 and hears all cases against children, except for serious cases like manslaughter, murder and rape.
104. All these cases appear before a complex landscape of different courts and tribunals. The court system broadly divides into the lower courts, such as the magistrates' court or the county court, and the higher courts, such as the High Court and Court of Appeal. The structure of the courts is shown at Appendix I. The structure of the tribunals is shown at Appendix II.
105. Unlike criminal cases - in which the state prosecutes an individual - civil court cases arise where an individual or a business believes their rights have been infringed. For these cases, which court hears a particular case is

¹² Our new enforcement strategy will be published on 7 February 2019.

determined partly by the subject matter, but more commonly by the amount in dispute.

106. The small claims track involves claims not exceeding £10,000. The fast track is the normal route for claims between £10,000 and £25,000. More complex and important cases are assigned to the multi-track.
107. Claims under £25,000 cannot be started in the High Court.¹³ The county courts deal with most civil cases. Appeals from the county court are heard by the High Court.

1.3 Higher Rights of Audience (HRA)

108. On admission, solicitors and Registered European Lawyers gain the right of audience and the right to conduct litigation in the lower courts:

- magistrates' courts including the Youth Court
- county courts
- the Intellectual Property Enterprise Court
- the Family Court
- coroners' courts
- the European courts
- tribunals.

109. They must take a compulsory advocacy assessment in order to gain a right of audience before the higher courts:

- the Crown Court
- the High Court
- the Court of Appeal
- the Supreme Court
- the Privy Council.

110. Solicitors gain rights of audience before the lower courts from admission but must take additional qualifications for the higher courts. Solicitors have a right to conduct litigation from admission. Therefore, in the magistrates and youth courts solicitors can provide advocacy as soon as they have qualified.

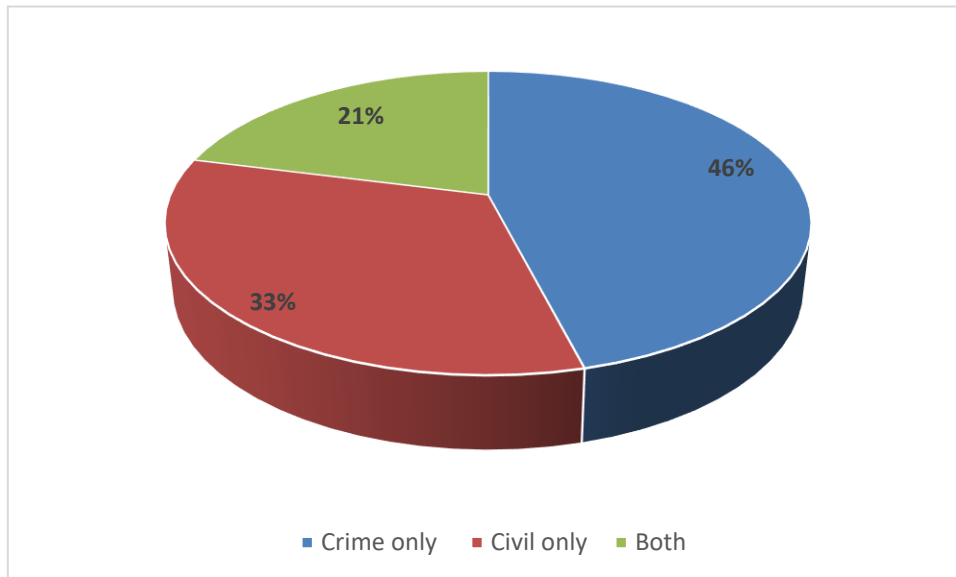
111. The SRA's programme of work will focus on reviewing this assessment to reflect the current landscape of legal practice.

112. Higher Rights of Audience is a qualification that allows a solicitor to act as an advocate in the higher courts in England and Wales. Solicitors can become qualified to represent clients in the criminal courts, civil courts or both. The current total number of solicitor advocates is 6,764. This represents around 5% of all practising solicitors. As illustrated by Figure 1,

¹³ [Civil Proceedings Rules 1998](#)

3,113 solicitors hold HRA Criminal, 2,244 hold HRA Civil and a further 1,407 hold both HRA Criminal and HRA Civil.

Figure 1: Number of practising solicitors having HRA: December 2018



1.4 Criminal Advocacy - concerns and issues on the quality of advocacy

113. The landscape of criminal advocacy has changed significantly in recent years. Recorded and reported crime is down and fewer cases are reaching the criminal courts. There were an estimated 10.6 million incidents of crime in the year ending March 2018 (including fraud and computer misuse). 1.61 million individuals were dealt with formally by the criminal justice system, this represents a fall of 7% from the previous year, a record low. The number of individuals prosecuted at all courts fell by around 5%.¹⁴
114. In the 12 months ending March 2018, 1.38 million defendants were prosecuted at magistrates' courts, down from 1.45 million in the previous year. Since 2010 the total number of trials in magistrates' courts has fallen by 24% to 137,000 in 2017.
115. At the Crown Court, receipts have fallen by 3% since Q1 2018 and by 13% since Q2 2017. Since 2014, receipts have been falling, with a 17% decrease from 2014 to 2017.¹⁵ The guilty plea rate was unchanged from 2016 at 67%, after a fall from 70% in 2014, and was the lowest rate since 2006.
116. The proportion of defendants dealt with in the Crown Court who were known to have had legal representation at their first hearing decreased by two percentage points between 2010 and 2016 but has since increased by two

¹⁴ [Criminal Justice Statistics Quarterly March 2018](#)

¹⁵ [Criminal court statistics quarterly, England and Wales April to June 2018](#)

percentage points to 95% in 2017, the same level as 2010.¹⁶ These key statistics are shown in the infographic at Appendix III.

117. Criminal advocacy is an area which has come under increased scrutiny from both a public and political perspective and has led to reviews and proposals such as the Jeffrey Review, the Quality Assurance Scheme for Advocates (QASA) and the Taylor Review.
118. **The Jeffrey Review**¹⁷: The review was commissioned by the Ministry of Justice in 2013, it raised concerns about the quality of criminal advocacy. It reported concerns by the judiciary about solicitors retaining work beyond their competence and concern over the advocacy training of solicitors.
119. **Quality Assurance Scheme for Advocates (QASA)**: We will be looking at an alternative to QASA however, the Supreme Court ruled that the evidence related to poor criminal advocacy was sufficiently serious to justify the QASA.¹⁸
120. **The Taylor Review - Review of the Youth Justice System**¹⁹: In 2016, the Government published a review of the Youth Court system, The Taylor Review made 36 recommendations including a mandatory training scheme for legal professionals appearing in the Youth Court. Changes in fee structure for youth court cases were also recommended to encourage experienced advocates to represent clients.
121. **Youth Court Advocacy Proceedings Review**²⁰: Published in 2015 by the Bar Standards Board (BSB) and CILEx Regulation. The review highlighted the lack of training in the specialist procedures and sentencing powers of the Youth Courts. It discussed the difficulty of advocates to engage and communicate with young defendants and that more newly-qualified lawyers tend to appear in these courts, as well as the inadequate preparation of cases.
122. Coroners' court advocacy: Bishop James Jones' report into the lessons to be learned from the Hillsborough litigation (2017)²¹ and Dame Elish Angiolini's report into deaths and serious injuries in police custody (2017)²² both criticised over aggressive and adversarial advocacy.
123. We conducted joint research with the BSB on the quality of advocacy of both solicitor advocates and barristers in the higher courts as perceived by the

¹⁶ [Criminal court statistics quarterly, England and Wales January to March 2018 \(annual 2017\)](#)

¹⁷ [The Jeffrey Review](#)

¹⁸ [Supreme Court Judgment on QASA](#)

¹⁹ [Review of the Youth Justice System in England and Wales](#)

²⁰ [Youth Proceedings Advocacy Review](#)

²¹ ['The patronising disposition of unaccountable power' A report to ensure the pain and suffering of the Hillsborough families is not repeated, 1 November 2017, The Right Reverend James Jones KBE](#)

²² ['Report of the Independent Review of Deaths and Serious Incidents in Police Custody', Rt. Hon. Dame Elish Angiolini DBE QC, January 2017](#)

judiciary.²³ The judges felt that most advocacy was adequate, with concerns expressed about standards of case preparation and advocates' ability to ask focused questions of witnesses and defendants. They felt that advocates' skills in dealing with vulnerable witnesses had improved, but that advocates had few opportunities to learn through shadowing and that some may take on cases beyond their experience. Judges were uncertain over when, and how, they should report poor advocacy to regulators.

124. We have also conducted a thematic review of firms carrying out criminal work.²⁴ We found that a high proportion of Crown Court work was sent to external counsel. Several firms said they relied on their advocates' post qualification experience (PQE) as a measure of competency and provision of training was limited.
125. The judiciary and non-solicitor advocates have consistently stated that the quality of advocacy has declined in recent years and that advocates are taking on cases beyond their level of competence. Specific concerns have been raised about standards of case preparation, presentation, and the cross-examination of witnesses and defendants.^{25,26}
126. Poor advocacy carries risks as all participants are vulnerable, defendants highly so. The criminal courts represent one of the greatest powers that the state can use against an individual, with serious consequences if that power is used against the wrong individual.

1.5 Civil, Family and Tribunals Advocacy

127. We know that the issues facing criminal advocacy in the market include: vulnerable consumers, quality of advocacy, cuts in legal aid and training of advocates. Whilst there is some evidence and research on criminal advocacy, there is very limited research on other areas of advocacy.
128. In civil litigation, solicitors practising before the lower courts only, do not need any further accreditation beyond their practising certificate. They are not subject to any additional investigation of their competence. This covers the great majority of civil litigation. Only the minority of litigation that involves the High Court, Court of Appeal and Supreme Court requires the possession of higher rights.

²³ [Judicial Perceptions of the Quality of Criminal Advocacy](#)

²⁴ [Criminal advocacy thematic review](#)

²⁵ ['Report of the thematic review of the quality of prosecution advocacy and case presentation', HM Crown Prosecution Service Inspectorate \(HM CPSI\), July 2009](#)

²⁶ ['Perceptions of Criminal Advocacy', ORC International, 26th March 2012](#)

Civil

129. The largest proportion of county court claims received are for specified money claims, accounting for 76% of all claims in 2016. Unspecified money claims made up 8% of county court claims received in 2016. The majority (95%) were personal injury claims. Many types of claims can now be issued through an online process.²⁷

130. In April to June 2018, county court claims decreased by 13% to 493,000. Of these, 392,000 were specified money claims (down 14% on the same period in 2017).²⁸ Unspecified money claims were down 3% to 33,900. There were 74,200 claims defended and 15,400 claims that had gone to trial in April to June 2018, up 1% and 10% respectively.

131. In April to June 2018, 42,000 money claims were allocated to track, 9% more than the same period in 2017. Compared to April to June 2017, of these allocations:

- 21,000 were allocated to small claims, a decrease of 1%, accounting for 50% of all allocations
- 17,700 were allocated to fast track, an increase of 25%, accounting for 42% of all allocations
- 3,400 were allocated to multi-track, an increase of 9%, accounting for 8% of all allocations.

132. In April to June 2018, almost all (97%) unspecified money defences had legal representation for both the defendant respondent and claimant, compared with around a third (33%) of specified money defences.²⁹

Family

133. There has been an increase in the number of cases starting in family courts. 68,141 new cases started in family courts in April to June 2018, up 7% on April to June 2017, driven by an 18% rise in matrimonial cases starting.³⁰

134. Our research on experiences of consumers who may be vulnerable in family law³¹ showed fairly strong agreement by consumers that their solicitor met the core competencies, particularly those relating to their professional manner.

²⁷ [Civil Justice Statistics January to March 2018](#)

²⁸ This follows the implementation of the Pre-Action Protocol for Debt Claims which was introduced in October 2017. The main aim of the protocol is to encourage early engagement between parties to resolve disputes without needing to start court proceedings.

²⁹ [Civil Justice Statistics Quarterly April to June 2018](#)

³⁰ [Family Court Statistics Quarterly, England and Wales, April to June 2018](#)

³¹ [Experiences of consumers who may be vulnerable in family law](#)

Tribunals

135. In April to June 2018, Her Majesty's Courts and Tribunals Service (HMCTS) recorded an increase in tribunal receipts when compared to the same quarter in 2017, up 34%.
136. The three largest tribunals make up the majority (83%) of tribunal receipts in April to June 2018. These are:

- **Social Security and Child Support (SSCS)** - 37% of receipts. SSCS receipts have decreased by 15% when compared to April to June 2017.
- **Employment Tribunal (ET)** - 38% of receipts. Single claims received at ETs continue to rise following the abolition of ET fees on 26 July 2017, more than doubling this quarter. The number of single claim receipts has more than doubled (up 165%) to 10,996 in the current quarter.

Nearly three quarters of employment tribunal claimants (74%) were represented by a lawyer in 2017/18, down from 86% in 2016/17. In contrast, 17% of claimants in 2017/18 had no representation, up from 9% in 2016/17.

- **First Tier Tribunal Immigration and Asylum Chamber (FTTIAC)** - 8% of receipts. In April to June 2018, FTTIAC receipts increased by 51% (to 11,900) compared to the same period in 2017.

1.6 Advocacy service providers

137. Solicitors, barristers, legal executives, costs lawyers, trade mark attorneys and patent attorneys all provide advocacy services in various courts.
138. Greater access to the advocacy market has meant that a variety of different advocates, with different experience and training, are now working in the courts.
139. It is important we make sure all solicitors undertaking advocacy are providing a high quality service, irrespective of their professional background and experience.
140. Solicitors provide advocacy within private practice firms, as in-house solicitors for organisations and Government and within the Crown Prosecution Service (CPS).
141. Following the introduction of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) 2012 on 1 April 2013 the scope of services funded as part of civil legal aid changed. This legislation removed legal aid eligibility for some civil cases. The removal of legal aid for many Private law cases in

April 2013 resulted in a change in the pattern of legal representation over time. In April to June 2018, the proportion of disposals where neither the applicant nor respondent had legal representation was 38%, an increase of 21 percentage points since April to June 2013. Correspondingly, the proportion of cases where both parties had legal representation dropped by 16 percentage points to 19% over for the same period. This has had implications for people who cannot afford a solicitor, leading to more people representing themselves as well as fewer solicitors working in legal aid and providing advocacy in courts.

2 Methodology

142. The study used online questionnaires to survey:

- Firms providing advocacy
- Individual solicitors working in private practice
- Individual solicitors working in-house
- Individual solicitors working for the Crown Prosecution Service (CPS).

2.1 Online surveys

143. The firm survey was sent to the Compliance Officers for Legal Practice (COLP) of private practice firms. The individual surveys were sent direct to solicitors.

144. There were separate surveys for firms and individual solicitors in order to explore and compare the profile and perceptions of advocacy work within firms and at an individual level.

145. The survey achieved a total of 2,830 responses from individual solicitors and 851 responses from firms.

146. Within each survey we looked at different types of advocacy - criminal, civil (excluding family), family, tribunals and other.

2.2 Developing a sample of firms and individuals providing advocacy

147. As we do not record advocacy as a distinct work type or area of practice it was challenging to identify firms or individuals currently providing advocacy. Therefore, the strategy was to develop a sample of those likely to provide advocacy. This was based on the following set of criteria:

Firms

- All firms, except those with a turnover of less than £1,000.
- Exclusion of those firms with more than 80% turnover from conveyancing.

Individual solicitors

- Practising Certificate (PC) holders working in private practice, commerce and industry, the CPS and Government.
- All those with HRA, both criminal and civil.

- All those who stated advocacy as a work area.
- All those who have selected criminal law as a work area.

148. The questionnaires were piloted with 100 firm and 100 individual solicitor respondents. They were then reviewed and amended, before being sent to the entire survey population³² in early August 2018.

149. All potential respondents were sent an email with a link to the survey. The filter questions directed potential respondents to the relevant survey.

2.3 Firm survey

150. The firm questionnaire³³ covered the following themes and can be found at Appendix IV.

- **Firm profiling information:** size and type of firm, areas of law and proportion of work involving advocacy.
- **Advocate details:** number of solicitors who work as criminal advocates or advocates in the civil, family and administrative courts, PQE experience, number of solicitors holding HRA Criminal and/or Civil.
- **Casework:** number of matters requiring advocacy, types of cases conducted in the various courts, proportion of cases in each of the courts, who deals with different types of cases, types of hearings, vulnerable clients and reasonable adjustments.
- **Choosing an advocate:** proportion of work completed in-house, processes for assigning cases to advocates and factors influencing choice of advocate.
- **Quality assurance and competence of advocates:** knowledge, skills and competences important for advocates, approaches to quality assuring and monitoring the work of advocates, approaches to assessing the competence of advocates and barriers to reporting poor advocacy.
- **Training:** provision of advocacy training.

³² The population consisted of approximately 7,300 firms and 81,800 individuals. Please note that we do not know how many of these the survey was applicable for and therefore this should not be taken as a response rate.

³³ Note in all questions where percentages do not add up to 100%, these are multi response questions.

2.4 Solicitor survey

151. The solicitor survey³⁴ covered the following themes and can be found at Appendix V.

- **Advocate profiling information:** type of work organisation, role, type of advocacy, post-qualification experience, age, gender, ethnicity.
- **Higher Rights of Audience (HRA):** the use of HRA, the types of cases requiring HRA and proportion of work requiring HRA.
- **Case work:** type of cases, types of advocacy, number of cases, types of courts practised in, proportion of advocacy at these courts, engagement with vulnerable clients and reasonable adjustments.
- **Skills and competence:** knowledge, skills and competences needed to be a good advocate and perceptions of advocacy.
- **Quality assurance and monitoring:** approaches to quality assuring and monitoring work by the organisation worked for and barriers to reporting poor advocacy.
- **Training:** types of training course and frequency of training.

152. The CPS survey received a total of 73 responses from CPS solicitors, this was too low to report meaningful results. These have therefore been excluded from the analysis.

³⁴ Note in all questions where percentages do not add up to 100%, these are multi response questions.

3 Research findings from firms and individual solicitors

3.1 Overview of respondents

153. This section provides an overview of the profile of respondents.

154. There was a total of 851 responses from firms. Of these, 39% were complete responses, 46% were partial responses and 15% of these firms did not provide advocacy in courts. Of these 83% (647³⁵ firms) undertook some type of advocacy in courts or at tribunals.

155. Ten percent of firms responding are Alternative Business Structures.

Firms providing advocacy services tended to be relatively small with 42% having two to four partners (across all the five areas).³⁶ Sole practices also provide advocacy in courts, accounting for over one third (37%) of all the advocacy across the five areas. It is rare for large firms to carry out advocacy.

A third of the firms (32%) have solicitors who have a HRA qualification.

156. There was a total of 2,830 responses from individual solicitors. Of these, 35% were complete responses, 43% were partial responses and 22% of these firms did not provide advocacy in courts. Of these 77% (n=2017) solicitors provided some type of advocacy in courts or at tribunals.

157. Figure 2 shows the types of organisations the respondents work in, with 81% working in private practice, 10% working in central or local Government, 4% working at the Crown Prosecution Service (CPS), and 1% working in the third sector. 3% of respondents worked in other types of organisations.³⁷

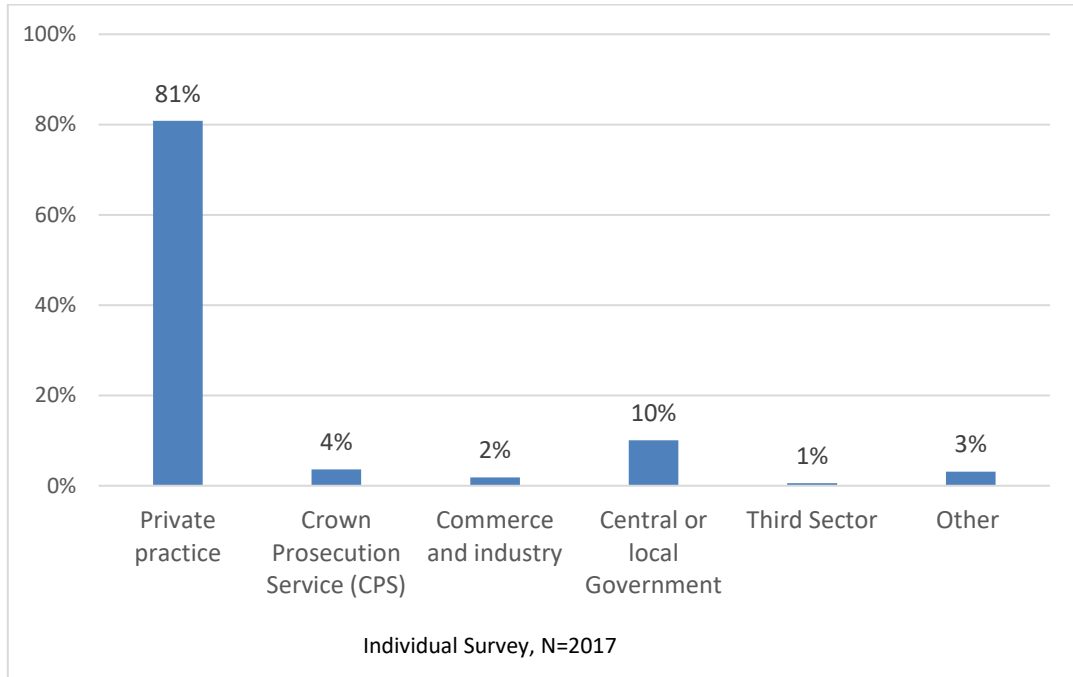
158. For those working in private practice, 9% worked in sole practices, 13% worked in practices with two to four practising solicitors and 25% worked in firms with 5 to 25 practising solicitors with 21% working in firms with more than 100 practising solicitors.

³⁵ The survey is applicable to only those who undertake any type of advocacy in the courts and tribunals. Therefore, the base figure is 647 for firms and 2017 for individual solicitors.

³⁶ The five areas are criminal, family, civil (excluding family), tribunals and other.

³⁷ For the profession as a whole, approximate figures are 78% working in private practice, 15% working in commerce and industry, 4% working in central or local Government, 1% working at the Crown Prosecution Service (CPS) and 2% working in other types of organisations.

Figure 2: Solicitors - Types of organisations



159. In-house solicitors work in a variety of organisations, the in-house respondents worked mainly in local Government, local authorities and health and social work activities.

160. For those working in private practice, the ratio of male to female respondents was 53% to 43% respectively. Over half of respondents (52%) were aged between 35 and 54 years of age, with 14% aged between 25 and 34 years of age and 8% aged 65 and over. 77% of respondents are White, 4% are Black, 8% are Asian, 2% are of mixed origin and 7% preferred not to say. 6% of respondents had a disability.³⁸

161. For those respondents working as in-house solicitors, 29% of respondents worked in an organisation with 11-25 practising solicitors and 7% worked in organisations employing more than 100 solicitors.

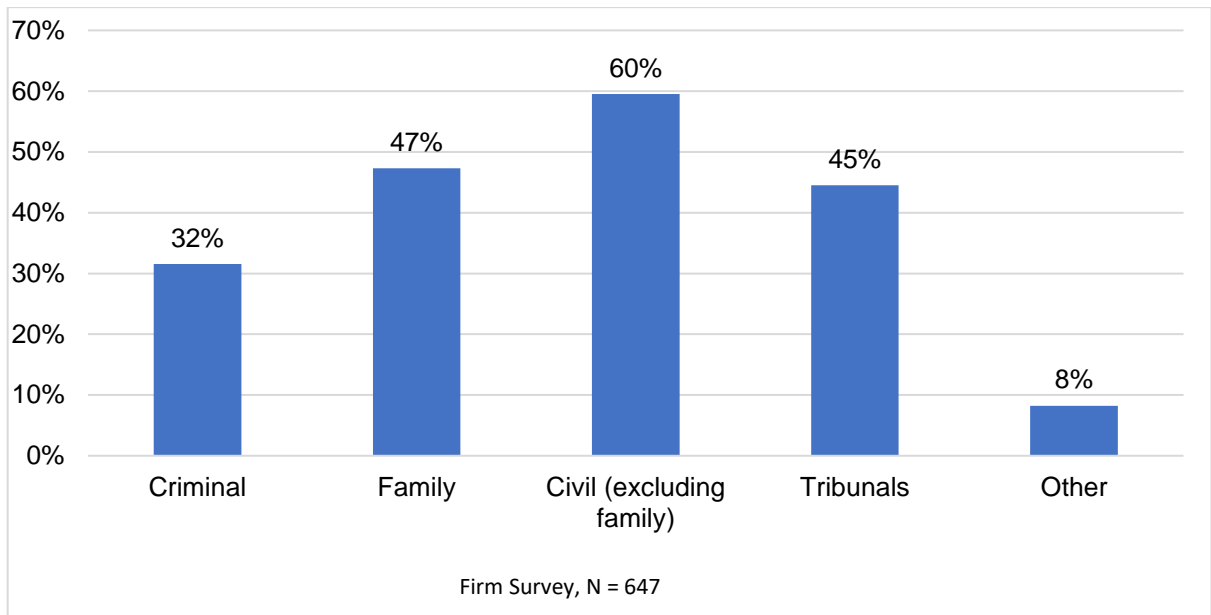
162. For those working in-house, the ratio of male to female respondents was 37% to 60% respectively. 63% were aged between 35 and 54 years of age, with 7% aged between 25 and 34 years of age and 3% aged 65 and over. 84% of respondents are White, 4% are Black, 3% are Asian, 4% are of mixed origin, 1% were any other ethnic group and 6% preferred not to say. 10% of respondents had a disability.

³⁸ The latest diversity data (2017) shows that women make up 48% of the profession. BAME solicitors account for 21% of all solicitors and 3% of solicitors had a disability. Most lawyers are aged between 25 and 44 years of age (58%).

3.2 Area of law

163. Figure 3 shows the types of advocacy services provided by the firms, with 60% of firms providing civil advocacy, 32% providing criminal advocacy, 47% in the area of family law and 45% providing advocacy at tribunals. Other niche areas of advocacy (8%) included arbitration, prison law and inquests.

Figure 3: Firms - Types of advocacy provided by private practice solicitors



164. The top three areas of law in which the firms provide the most advocacy were family/matrimonial, litigation and landlord and tenant.

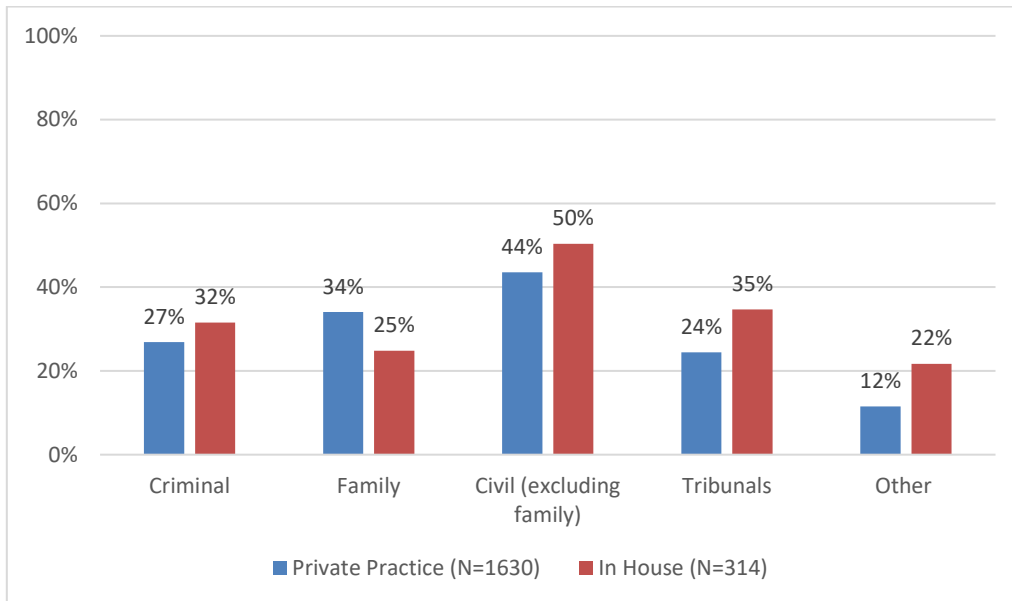
165. Firms providing criminal advocacy operated in various court circuits, with 42% in the South Eastern circuit and 23% in the Northern circuit.

166. Figure 4 shows the types of advocacy services provided by individual solicitors. There were 1,630 private practice solicitors: 44% focused on civil advocacy excluding family, 34% provided advocacy in family law, and 27% in criminal advocacy. Other niche areas of advocacy (12%) included arbitration, court of protection cases and inquests.

167. 64% of respondents providing criminal advocacy were also police station representatives.

168. For in-house solicitors, the most common area of law practised for advocacy is litigation.

Figure 4: Types of advocacy provided by individual solicitors



Legal aid

169. Criminal legal aid includes work carried out in police stations and in criminal courts in relation to people being investigated or charged with criminal offences. Overall workload decreased by 7% to 271,000, with expenditure increasing by 4% to £224m in the year ending June 2018. Although Crown Court work comprises a relatively small portion of criminal legal aid in terms of volume, it consistently accounts for around two thirds of all criminal legal aid expenditure. Conversely, advice relating to the police station makes up the largest portion of workload but a much smaller proportion of expenditure.³⁹

170. The implementation of LASPO in April 2013 resulted in large reductions in legal help workload. Overall workload decreased by 5% to 66,000 with expenditure decreasing by 4% to £173m in the year ending June 2018. The main areas of law that remain in scope for legal aid are some special cases of family, immigration, housing and mental health.

171. 62% of respondent firms had a contract with the Legal Aid Agency. Firms providing criminal advocacy were more likely to have a larger percentage of their work funded by legal aid.

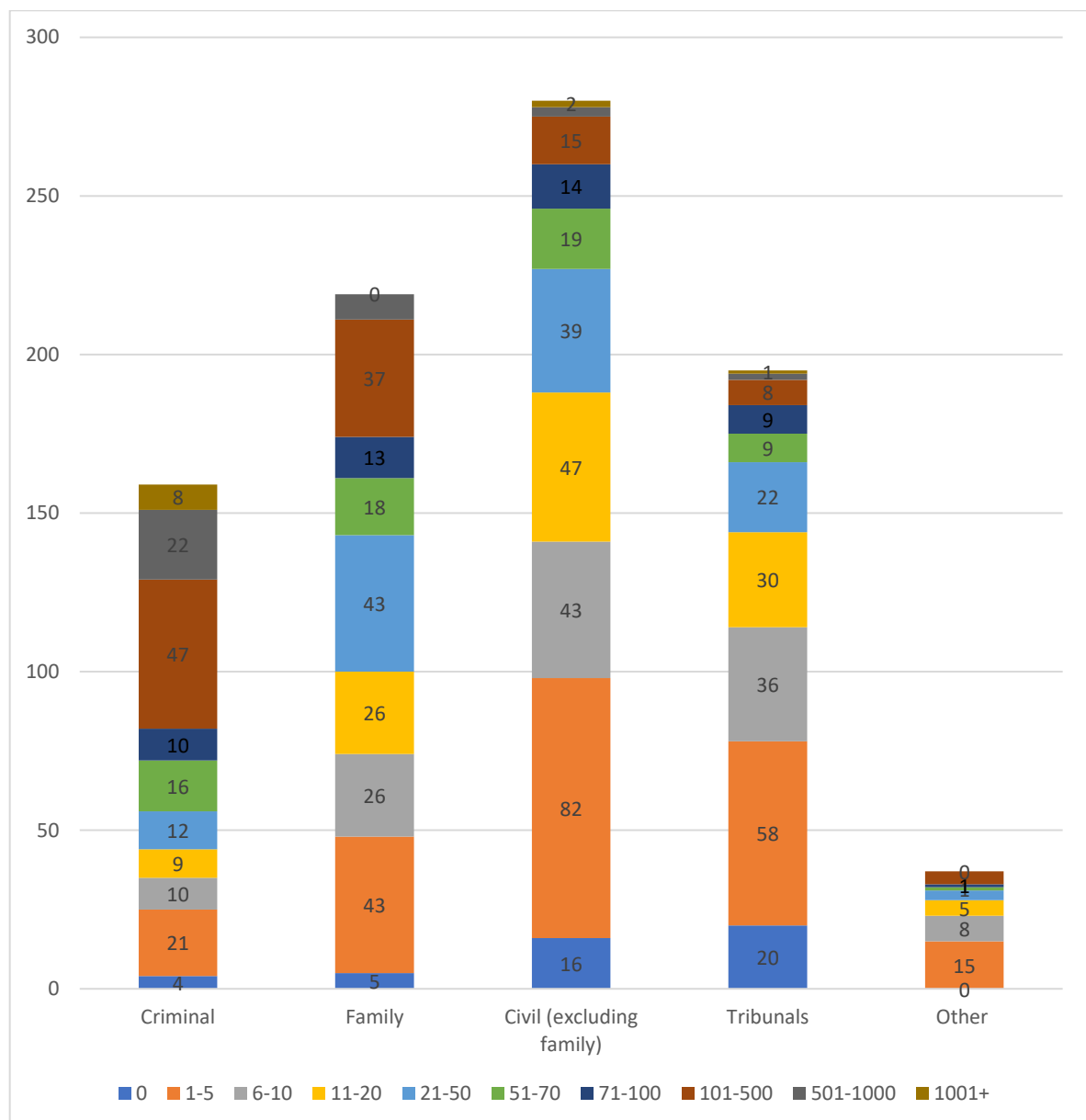
172. 42% of solicitors undertook legal aid work.

³⁹ [Legal Aid Statistics Quarterly April to June 2018](#)

Number of matters requiring advocacy

173. A firm will deal with a range of matters, with only a proportion requiring advocacy depending on the type of matter. Criminal matters require the highest proportion of advocacy as shown in Figure 5. For criminal matters, 47 firms said 101-500 matters required advocacy compared to civil where 82 firms said 1-5 matters required advocacy. For family cases, 43 firms stated that 21-50 matters required advocacy and for tribunals, 58 firms said that 1-5 matters required advocacy.

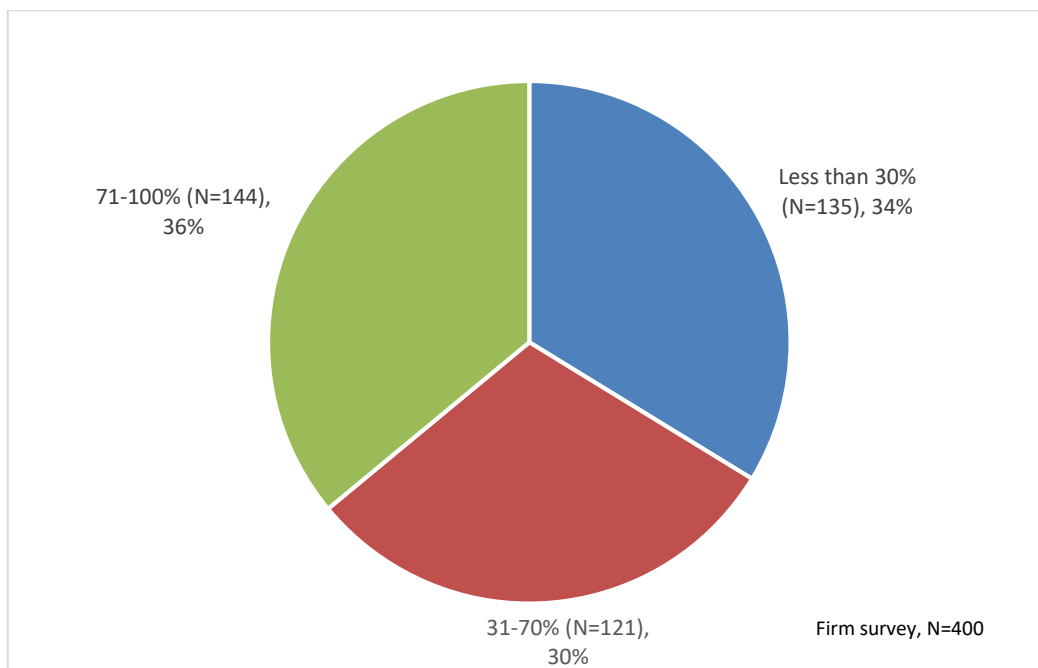
Figure 5: Firms - Number of advocacy matters



Advocacy completed in house by firms

174. A firm will deal with many matters, not all require advocacy and not all will be referred to counsel or another third party. Firms were asked what proportion of cases requiring some form of advocacy were completed in-house. About a third (34%) said less than 30% of advocacy work was completed in-house, and 36% of firms have more than 70% of their total work requiring advocacy completed in-house, as in Figure 6.

Figure 6: Firms - Proportion of cases requiring advocacy completed in-house



175. Criminal advocacy tends to have more work completed in-house than other areas of law. We know the criminal practice market is dominated by smaller firms. Our criminal advocacy thematic review also found that firms use in-house solicitors to support the vast majority of criminal work in magistrates' courts and youth courts.

176. Many respondents commented that solicitor advocates are fully aware when to retain work in-house and when to instruct a barrister. In fact, they said it was cheaper for the client to use a barrister.

“Solicitor advocates tend to know when a case requires the specialist advocacy provided by external counsel.”

“We normally outsource advocacy to barristers, not least because it's generally cheaper for the client.”

“All cases in mags [magistrates] court are dealt with by solicitors. Most cases in Crown Court are dealt with by barristers from local chambers. HRAs are only used for straightforward appeals, committals for sentence or PTPHs [pre-trial and preliminary hearings] at Crown Court.”

One respondent felt that there was an appropriate balance between using barristers and HRA solicitors for the benefit of all.

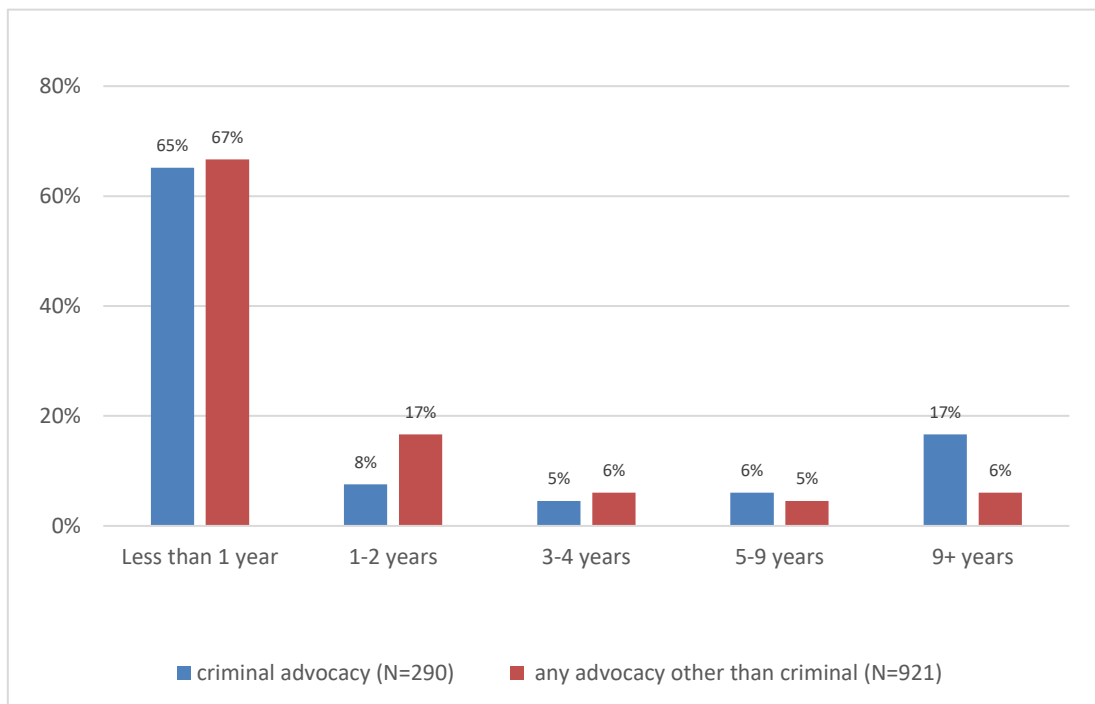
“Provided there are appropriate procedures in place to allocate advocates and monitor performance there is an appropriate balance between the deployment of counsel and HRA which is to the benefit of the client and generally, to the criminal justice system.”

3.3 Levels of experience and Higher Rights of Audience (HRA)

Post qualification experience and advocacy

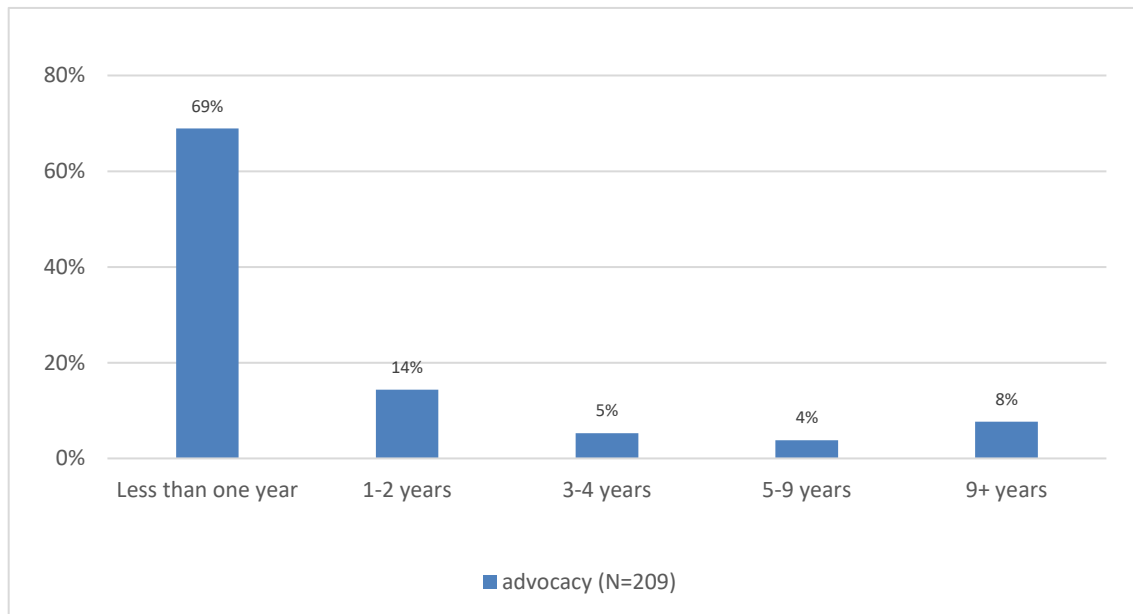
177. Individual respondents were asked how many years of post-qualification experience (PQE) they had when they first started providing advocacy. In private practice, 65% of respondents providing criminal advocacy and 67% providing all other types of advocacy had less than one-year PQE. The respective results for criminal and other types of advocacy for more than nine years of PQE are 17% and 6%, as shown in Figure 7.

Figure 7: PQE of private practice solicitors when first started to provide advocacy



178. For in-house solicitors as seen in Figure 8, around 69% had less than one year PQE when they first started proving any advocacy and 8% had more than nine years.

Figure 8: PQE of in-house solicitors when first started to provide advocacy



Higher Rights of Audience (HRA)

179. HRA⁴⁰ is a qualification that allows a solicitor to act as an advocate in the higher courts in England and Wales. Solicitors can become qualified to represent clients in the criminal courts, civil courts or both. The current total number of solicitor advocates is 6,883, which represents around 5% of all practising solicitors.

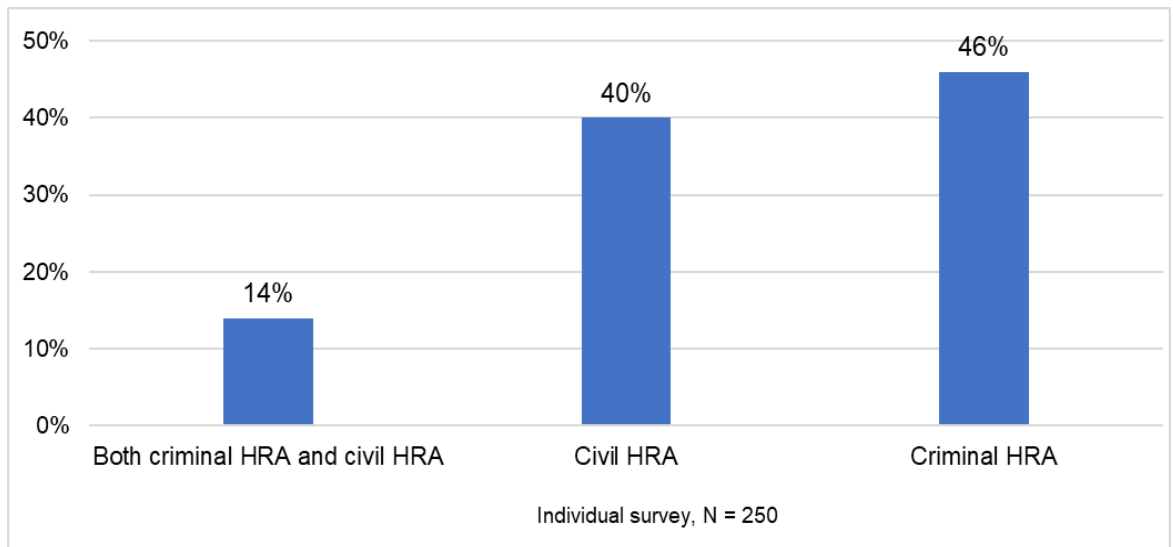
180. The Statement of Standards for Solicitor Higher Court Advocates sets out what is expected of a competent solicitor advocate before and during a trial.⁴¹ It sets out the standards that solicitors are expected to demonstrate when seeking higher rights. It is the framework against which candidates are trained. There are separate assessments for criminal and civil proceedings offered by various providers.

181. A HRA qualification gives rights of advocacy in the higher courts and 22% of respondent solicitors working in private practice have HRA. For those that do hold HRA, Figure 9 shows that 46% hold criminal HRA, 40% hold civil HRA and 14% hold both qualifications.

⁴⁰ [Higher rights of audience, Solicitors Regulation Authority, 2013](#)

⁴¹ [Statement of standards for solicitor higher court advocates, Solicitors Regulation Authority, 2015](#)

Figure 9: Types of HRA held by private practice solicitors



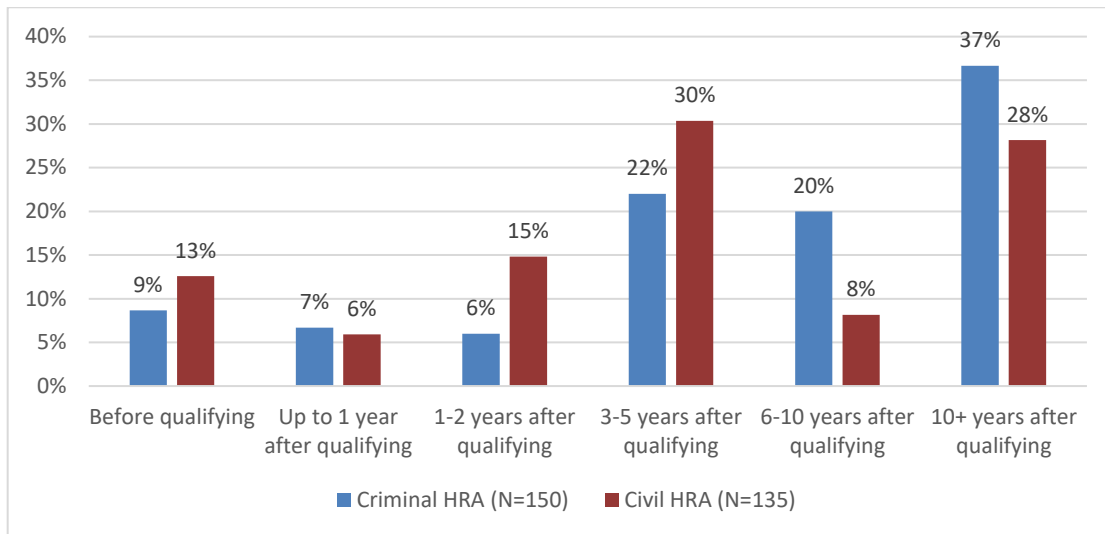
182. For those solicitors working in-house, 18% have HRA.⁴² For those that do hold HRA, 18% hold criminal HRA, 60% hold civil HRA and 21% hold both qualifications.

183. There is a concern that, under the current system, newly qualified solicitors, with no or very limited experience, could be providing advocacy in complex cases. However, our findings as in Figure 10, show that for private practice solicitors over one third (37%) who hold criminal HRA obtained it 10 years after qualifying. For those who hold civil HRA, two thirds obtained it at least three years after qualifying.⁴³

⁴² Please note, N=38 and therefore results should be treated with caution.

⁴³ Any qualified or trainee solicitor can undertake the assessment, the actual grant is made by the SRA to qualified solicitors with a practising certificate. Trainee solicitors taking the higher rights assessment will therefore need to wait until qualification to apply for the grant and begin exercising their qualifications.

Figure 10: Time in obtaining the HRA qualification for private practice solicitors



184. For in-house solicitors, the sample is too small to report any meaningful result.

185. For those that hold HRA within private practice, almost half (49%) started to provide advocacy in the higher courts within one year of obtaining their HRA. 26% have never used their HRA qualification in the higher courts.

One respondent commented that HRA is a qualification that is obtained but hardly used.

“Many solicitors acquire higher rights of audience for reasons of “credentialism” rather than to actually engage in advocacy in the superior courts. Most solicitors do not fully utilise their current advocacy rights, which are considerable, let alone engage in advocacy in the higher courts. In other words, it is a qualification obtained but often not used.”

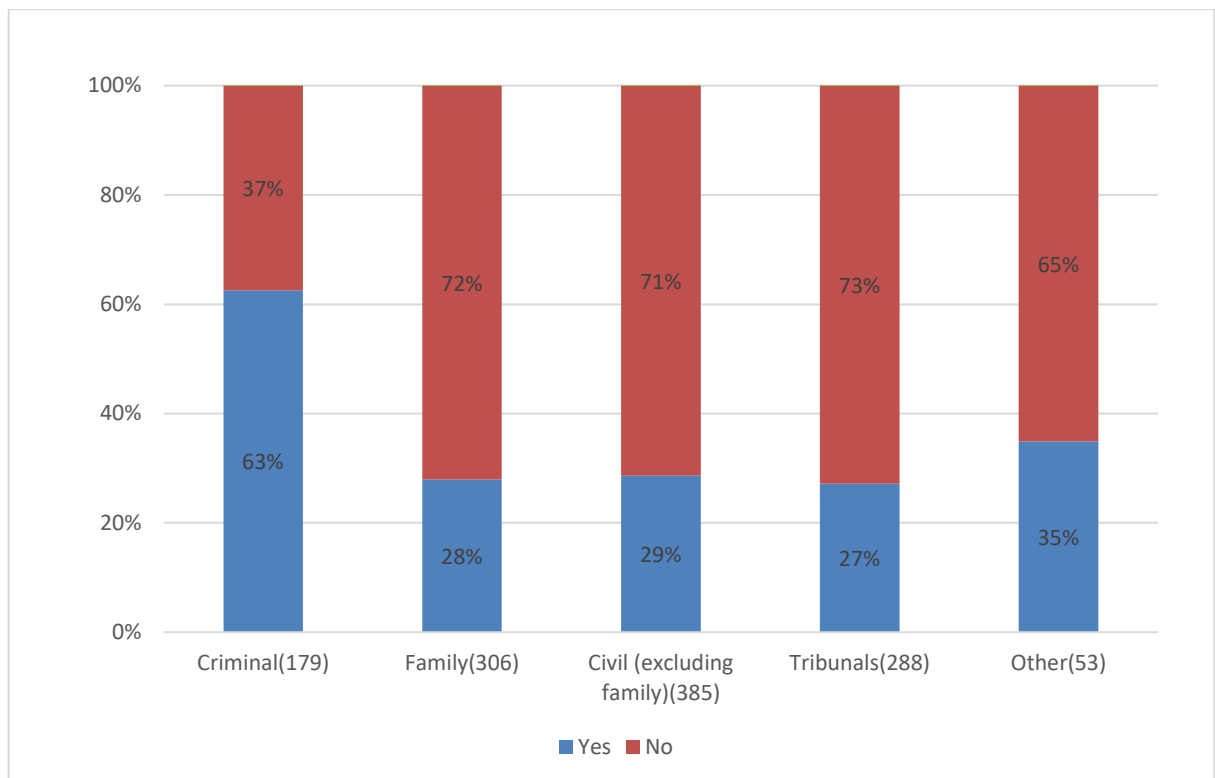
Another felt that the terminology used for solicitors with HRA, referred to as solicitor advocates, was confusing and did not differentiate with solicitors providing advocacy in the lower courts.

“I do not think solicitors should be able to call themselves solicitor advocates (which they do) in the signature or at court unless they have their higher audience rights as this lowers standards as the higher rights advocates get tainted with advocates who are not to the same standard nor as competent. If there was a distinction for higher court advocates it would mean judges and other barristers would have the proper regard to them. Those who want to call themselves a solicitor advocate should apply for their higher audience rights. I think the SAHCA [The Solicitors’ Association of Higher Courts Advocates] is useful as it is the only organisation for higher rights solicitors.”

Area of law and HRA

186. Firms practising in criminal advocacy tend to have a greater proportion of solicitors holding HRA (63%), this is much smaller for family (28%), civil (29%) and tribunals (27%). Figure 11 shows the number of solicitors within firms who hold HRA and do not hold HRA, over the five areas of types of advocacy, as stated by firms.

Figure 11: Firms - HRA qualification and area of law



187. Individual private practice solicitors providing criminal advocacy are more likely to hold criminal HRA (44%) compared to family (11%), civil (19%) and tribunals (19%) as in Figure 12. This is to be expected as criminal advocacy is more likely to require cases to be heard in the higher courts.

188. A few respondents commented that the Civil HRA is not entirely suitable for family practitioners.

“There is not a specific course or module for family law. I therefore completed civil. Perhaps this could be a further optional module.”

“I would propose that family HRA should be distinct from civil as skill base and applicable law fundamentally different.”

“The Higher Rights Qualification focuses on Civil Law that puts a lot of Family Lawyers off pursuing it.”

Figure 12: Solicitors - HRA qualification and area of law

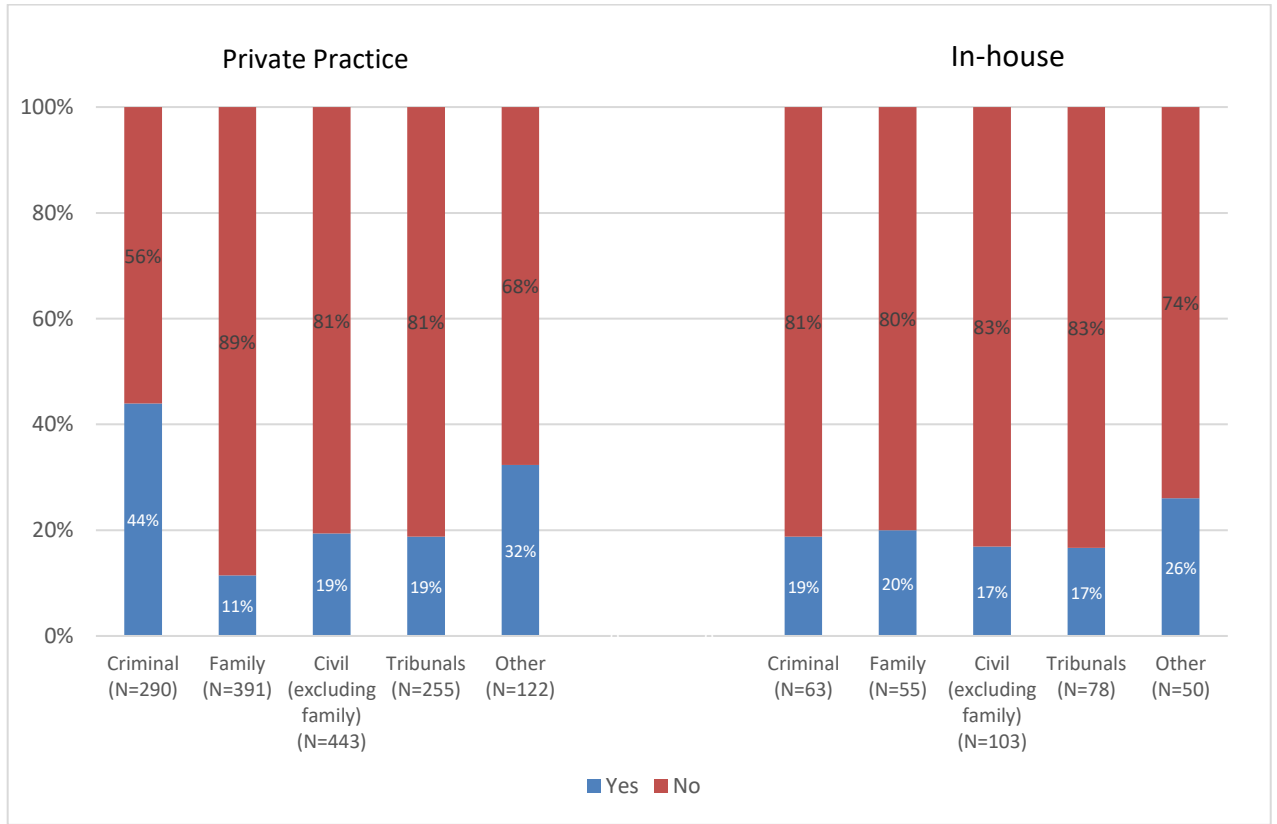
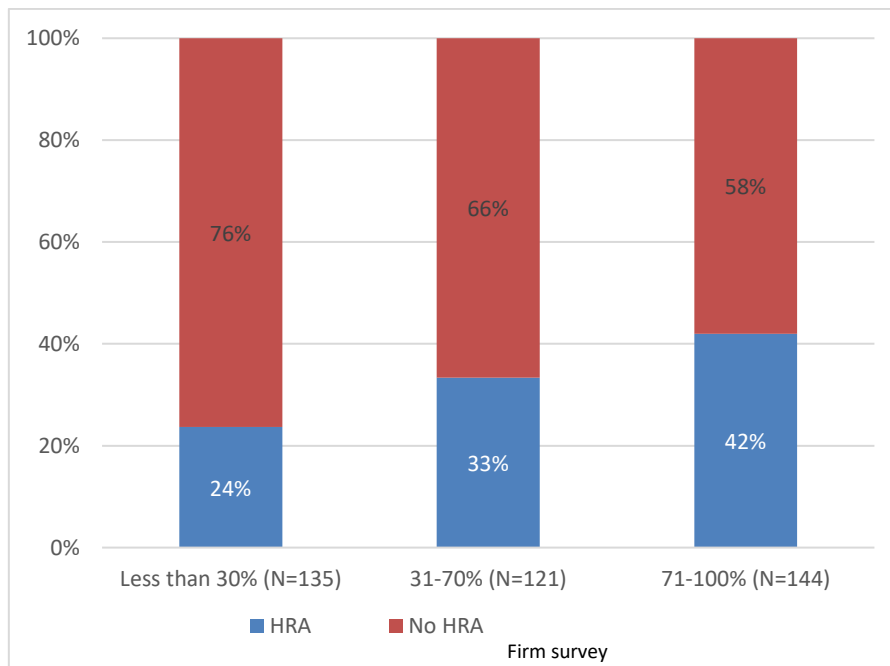
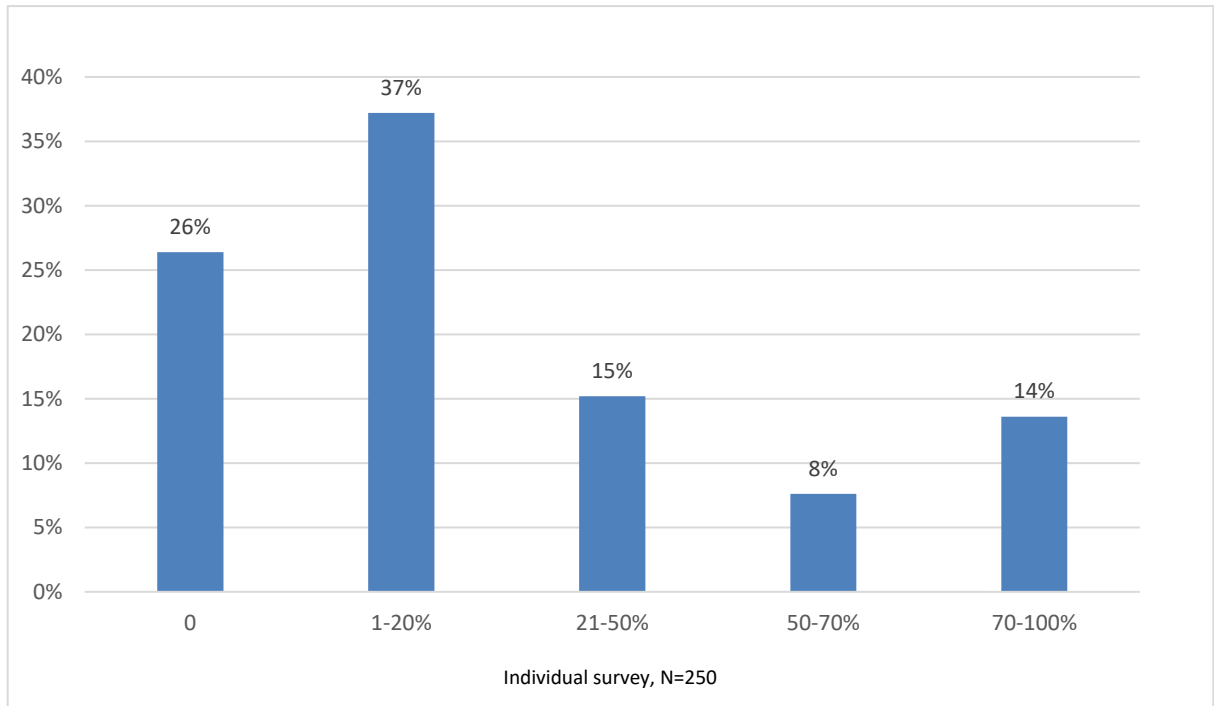


Figure 13: Advocacy completed in-house by firms and HRA



189. For private practice firms who provided less than 30% of advocacy in-house, around one quarter (24%) hold HRA. As the amount of advocacy completed in house increases so does the proportion of solicitors holding HRA within the firm as shown by Figure 13. Solicitors with HRA are therefore able to work on more complex cases in higher courts and provide advocacy in-house.

Figure 14: Proportion of advocacy work requiring HRA for private practice solicitors



190. Individual solicitors working in private practice and in-house were asked what proportion of their advocacy work required them to have HRA as in Figure 14. A quarter of respondents (26%) stated that the advocacy they provided did not require HRA, 37% of respondents stated that between 1-20% of their advocacy work required HRA. Only 14% of respondents required their HRA for over 70% of the advocacy services they provide.

191. For private practice solicitors, 23% of those providing criminal advocacy said that between 70-100% of their advocacy work required them to have HRA compared to 6% of those providing family advocacy, 7% in civil advocacy and 7% in tribunals. Around 12% of solicitors providing criminal advocacy, 34% providing family advocacy, 32% providing civil advocacy and 22% providing advocacy in tribunals said the advocacy they provide does not require HRA.

192. For in-house solicitors, the vast majority (84%), required HRA for a less than 20% of their total advocacy work. Only 3% required HRA for over 70% of their total advocacy services. It is anticipated these are likely to be within niche areas of law such as commercial or corporate litigation in the higher courts.

3.4 Casework and courts

193. Solicitors represent clients in all types of courts. The type and nature of the case determines the type of court. The court system broadly divides into the lower courts, such as the magistrates' court or the county court, and the higher courts, such as the High Court and Court of Appeal.
194. This section sets out the findings for:
- Types of courts.
 - HRA and courts.
 - Type of criminal offence and advocacy work.
 - Type of criminal hearing and advocacy work.
 - Type of case and advocacy work.
 - Money claims.
 - Vulnerable clients.

Types of courts

195. Criminal cases will start in the magistrates' court, but the more serious criminal matters are sent to the Crown Court. Appeals from the Crown Court will go to the High Court, and potentially to the Court of Appeal or even the Supreme Court.
196. Civil cases will sometimes be dealt with by magistrates but may well go to a county court. Again, appeals will go to the High Court and then to the Court of Appeal - although to different divisions of those courts.
197. The tribunals system has its own structure for dealing with cases and appeals, but decisions from different chambers of the Upper Tribunal, and the Employment Appeals Tribunal, may also go to the Court of Appeal.
198. This section provides an overview of the types of courts where solicitors provide advocacy. Figure 15 represents the findings from firms about the types of criminal courts their solicitors represent defendants. A majority of firms provided criminal advocacy in the magistrates' courts (76%), followed by Crown Court (51%) and the Youth Court (51%). Only solicitors with HRA can appear before the higher courts.
199. Individual criminal solicitors also stated that most of their work is within the magistrates' court followed by the Crown Court and Youth Courts as shown in Figure 16.

Figure 15: Firms - Types of criminal courts

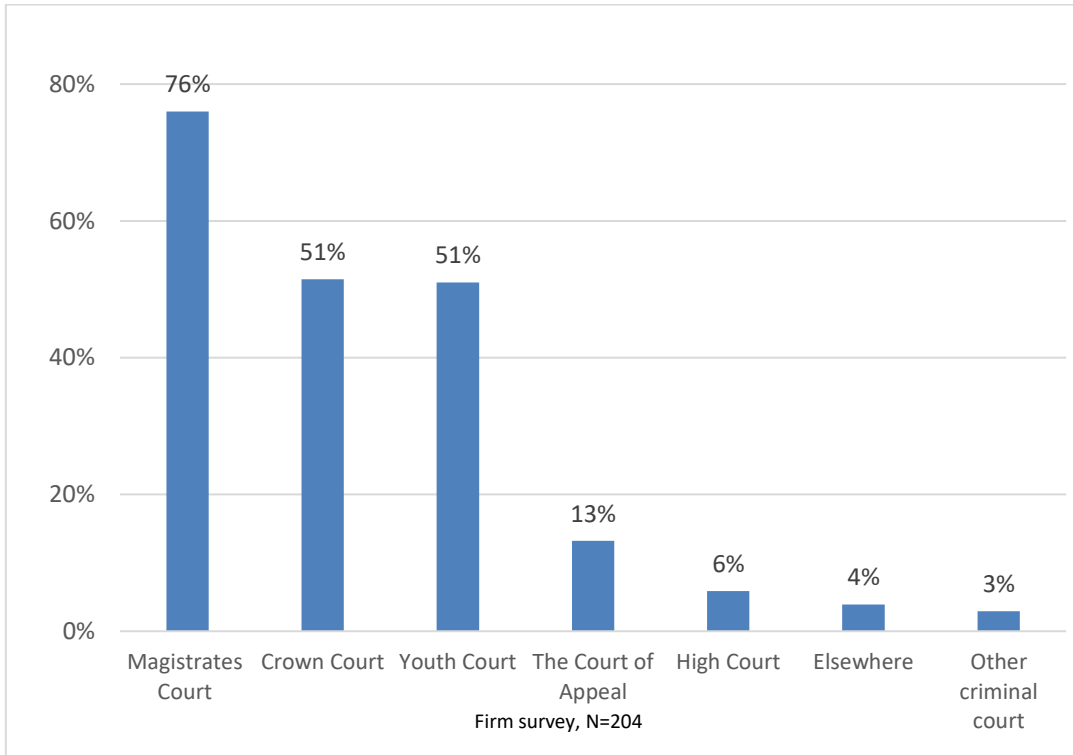
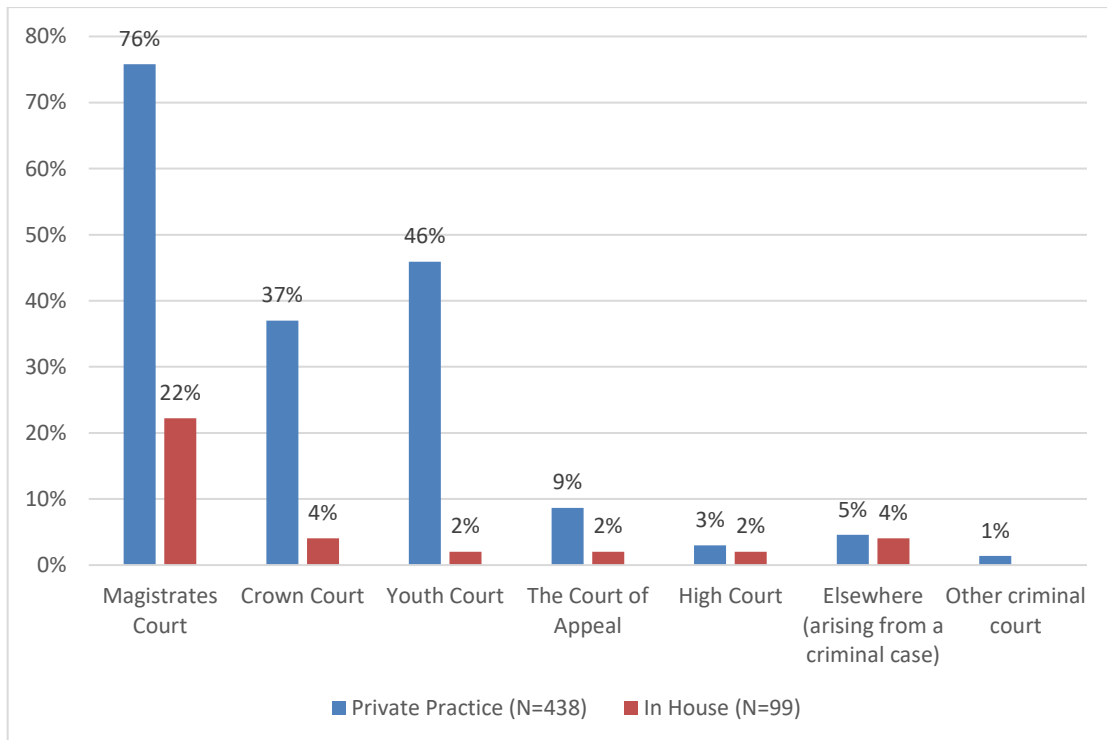


Figure 16: Solicitors - Types of criminal courts



200. For those firms providing advocacy in family, civil and other types of advocacy, a majority of the advocacy took place in the county court (58%), followed by family court (39%), High Court (22%) and magistrates' court (22%) as seen in Figure 17.

201. For individual private practice solicitors, the majority (56%) provided advocacy in the family courts followed by the county court (25%). For in-house solicitors who provide types of civil advocacy, 41% did so in the county court, followed by the magistrates' court (28%), as shown in Figure 18.

Figure 17: Firms - Types of civil and other courts

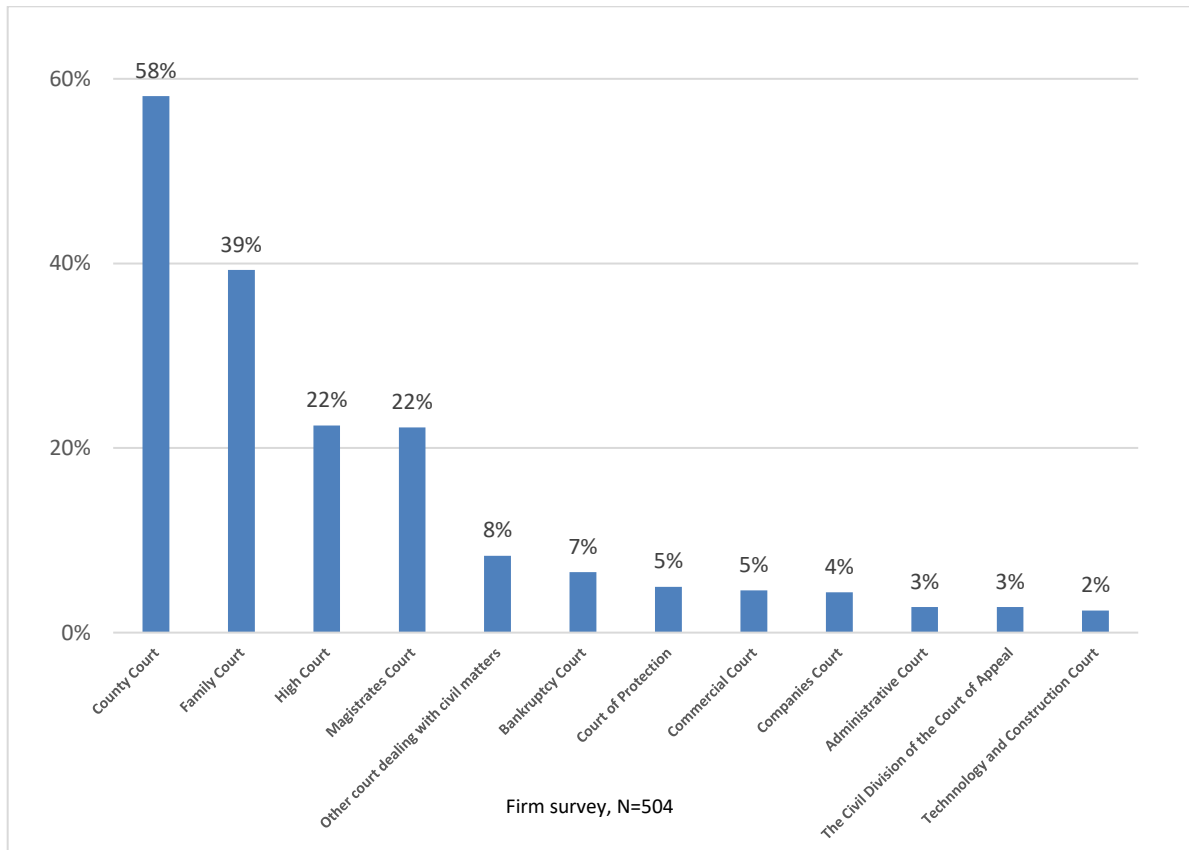
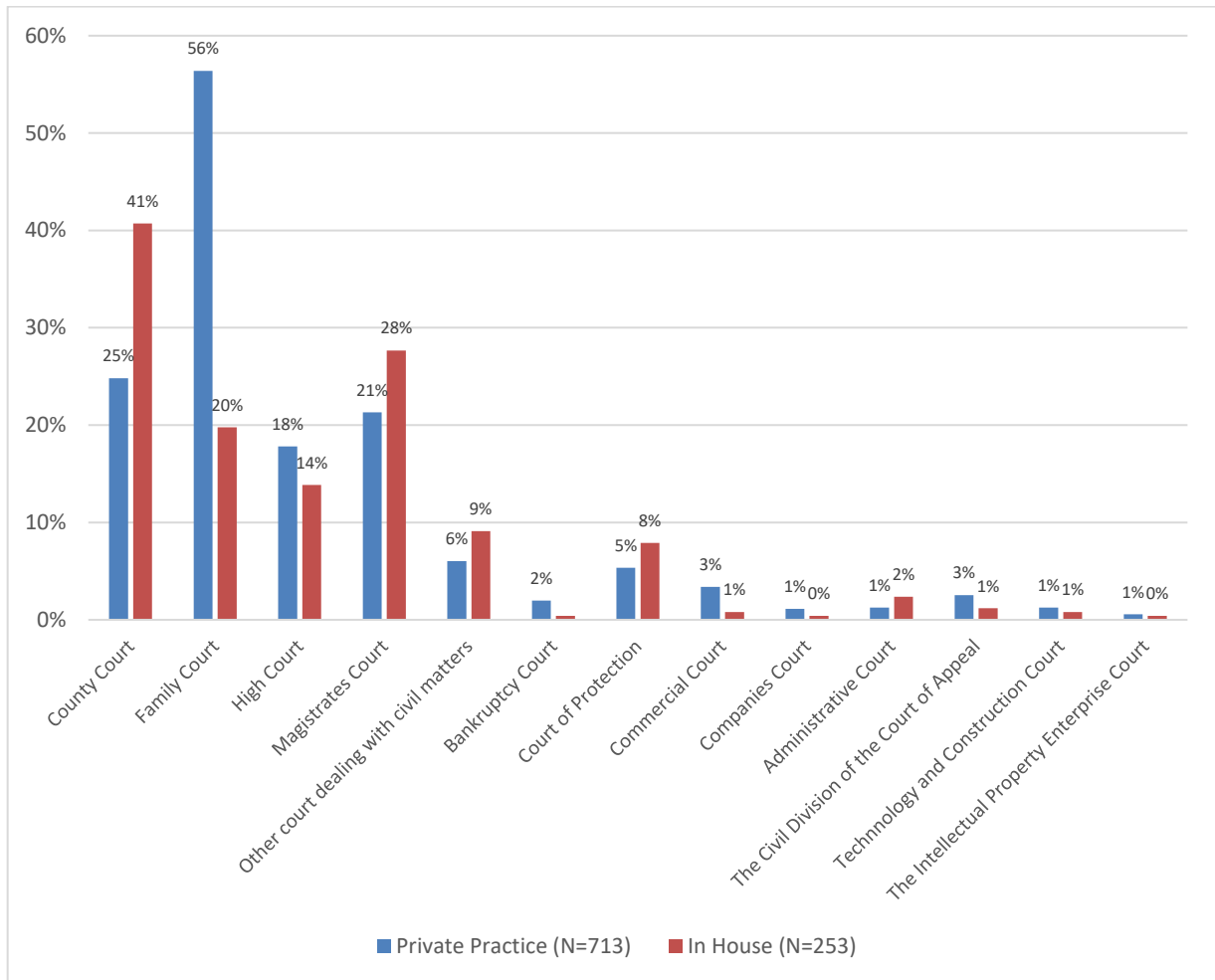


Figure 18: Individuals - Types of civil and other courts



202. Most tribunals are set up to allow applicants to represent themselves. Figure 19 shows that out of the firms that provided advocacy work in tribunals, 36% were in employment tribunals, followed by first tier tribunal immigration and asylum chamber (28%) and other types of tribunals (22%). A small portion (4%) of firms provided advocacy in social security and child support tribunals.

203. Individual solicitors providing advocacy in tribunals follows a similar trend with 30% providing advocacy in employment tribunals, followed by first tier tribunal immigration and asylum chamber (19%) and other types of tribunals (28%) as in Figure 20. Again, a small portion (2%) provided advocacy in social security and child support tribunals.

204. In-house solicitors mostly provided advocacy in employment tribunals (40%), followed by first tier tribunal immigration and asylum chamber (6%) and other tribunals (32%). Many in-house solicitors working in local councils or corporate organisations are providing advocacy in employment disputes and human resources cases.

Figure 19: Firms - Types of tribunals

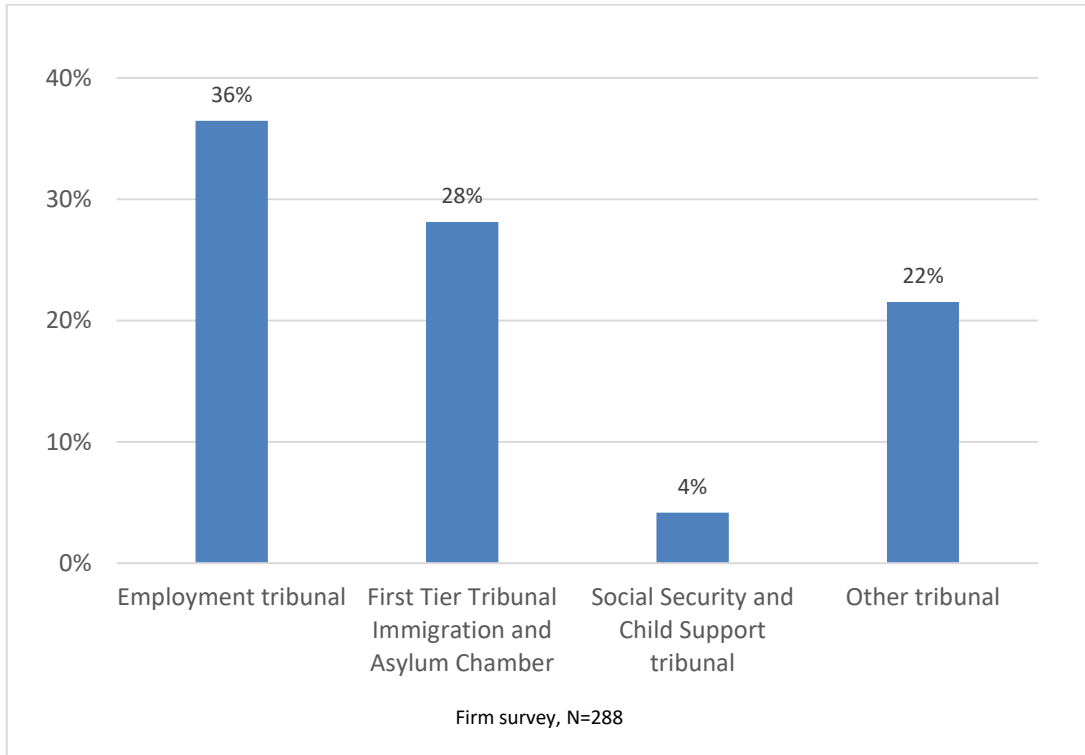
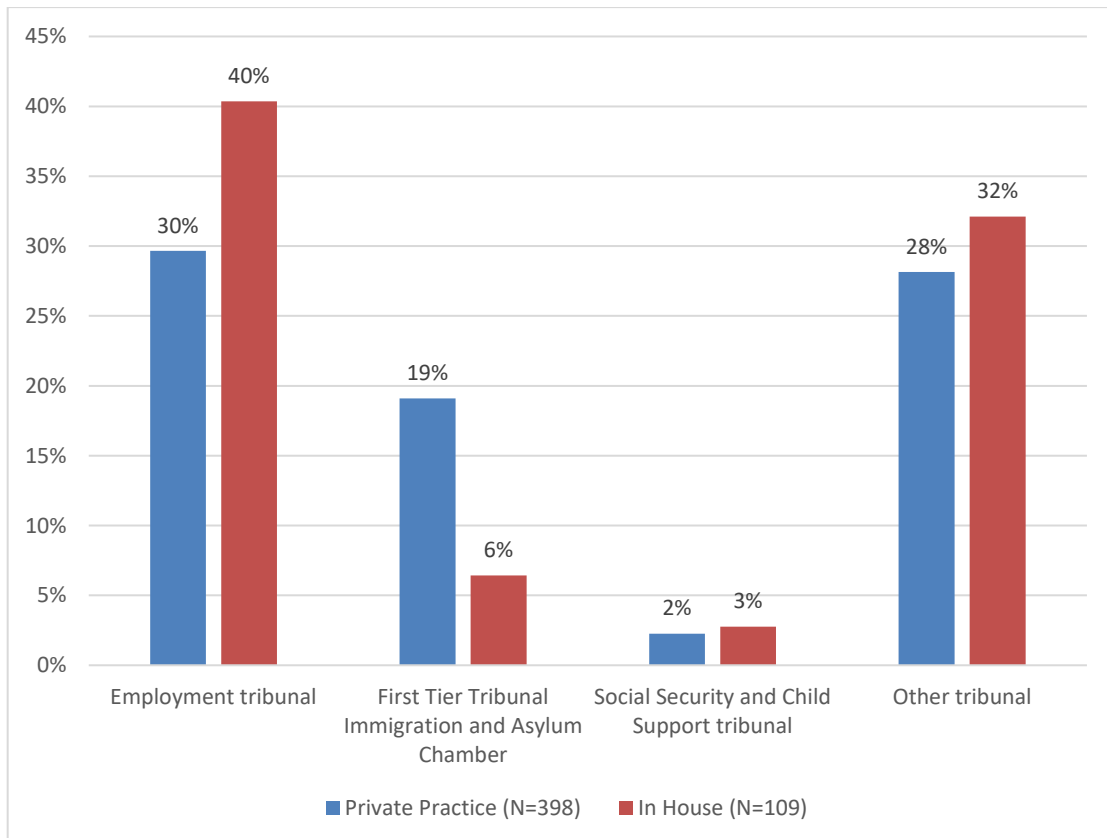


Figure 20: Solicitors - Types of tribunals



Higher Rights of Audience and Courts

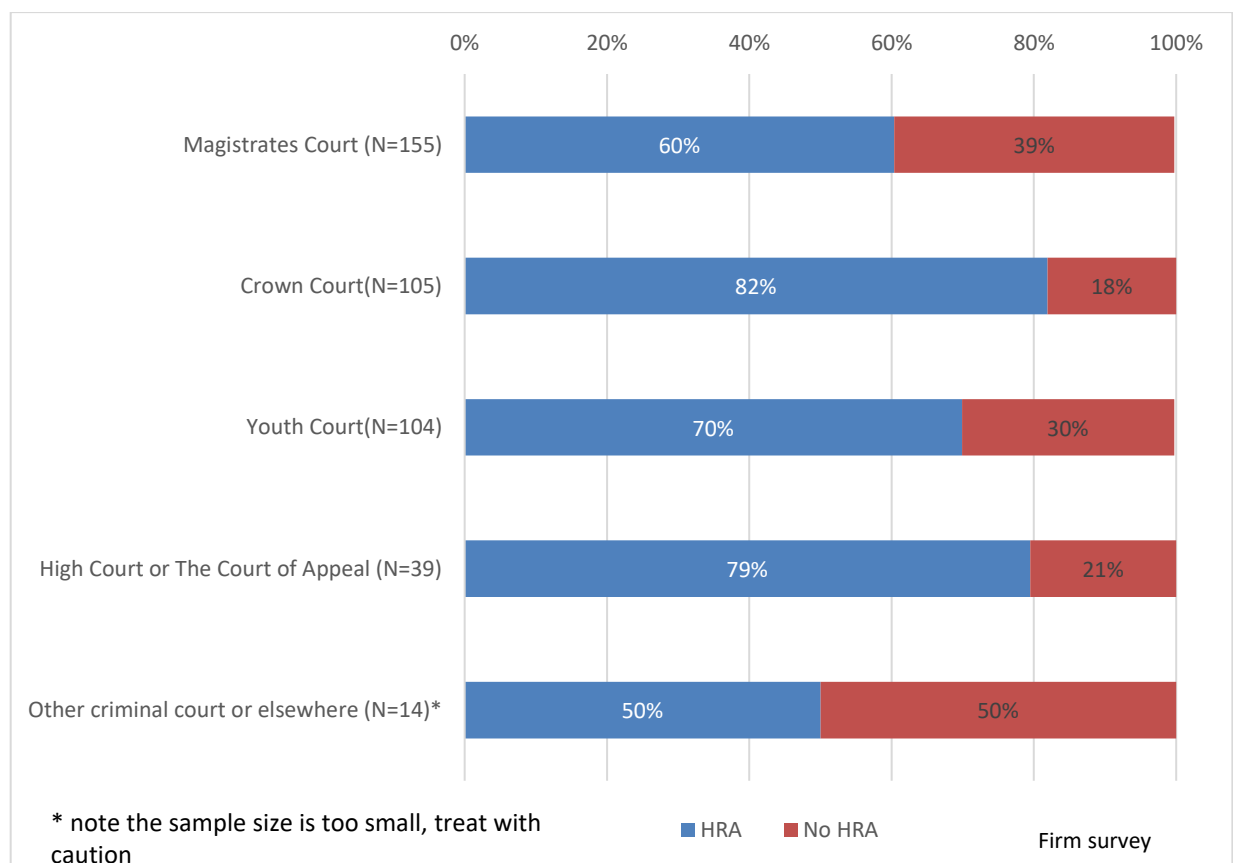
205. Only solicitors with HRA can appear before the higher courts. This section focuses on solicitors working in the various courts and if they held HRA.

Criminal Courts

206. Firms stated that 60% of their solicitors who appear in the magistrates' courts on criminal cases have HRA. Firms whose solicitors provide advocacy in Crown Court said 82% of them have HRA. Surprisingly, 21% of firms stated their solicitors who appear before the High Court or Court of Appeal do not have HRA⁴⁴ as seen in Figure 21.

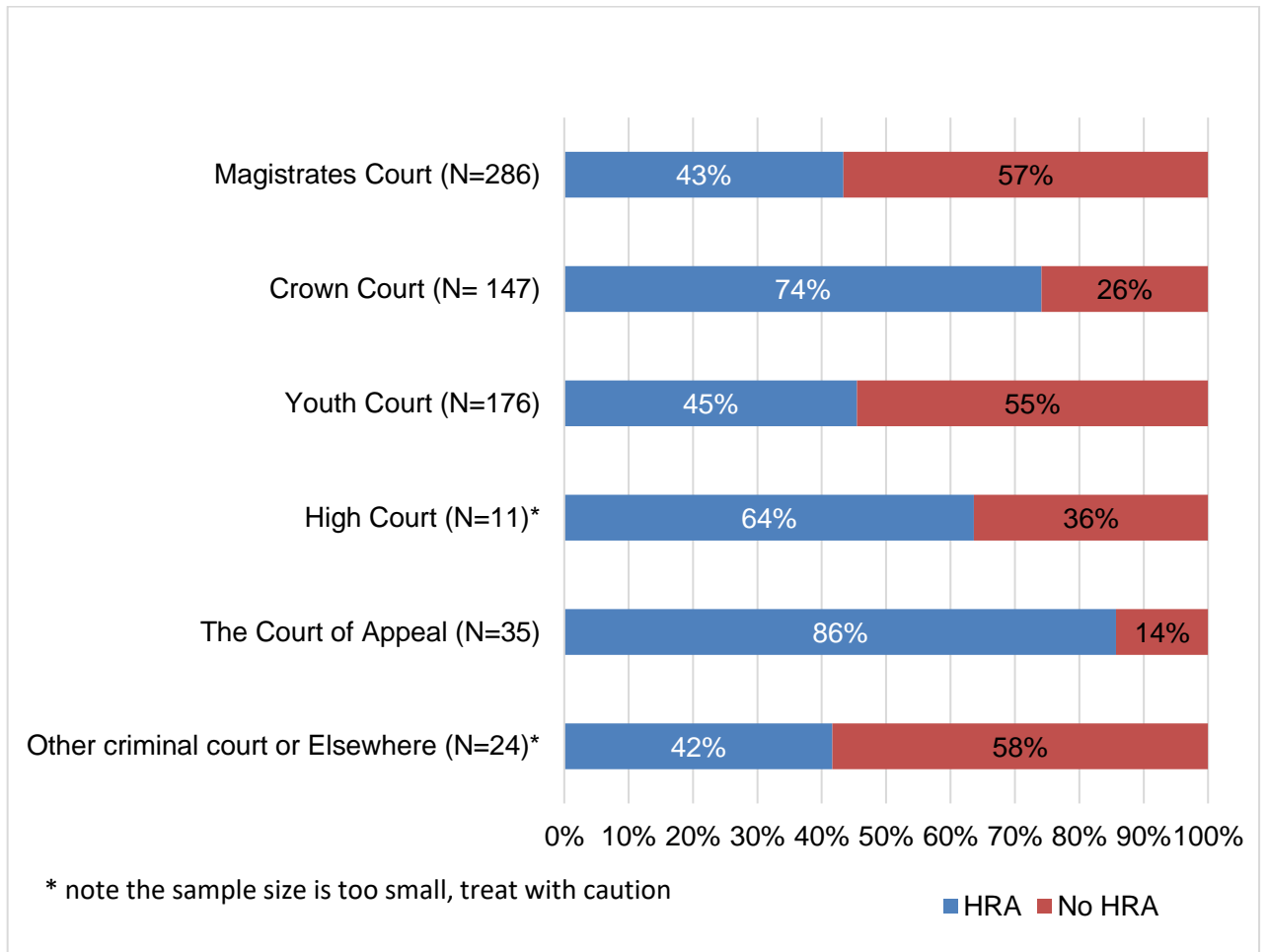
207. Figure 22 provides an overview of the criminal courts in which private practice solicitors practise and if they hold HRA or not. As expected, most solicitors providing criminal advocacy in the Court of Appeal (86%) and Crown Court (74%) do hold HRA as opposed to 43% and 45% in the magistrates' court and Youth Court respectively.

Figure 21: Firms - Criminal courts and HRA



⁴⁴ Note when N is small, the results should be treated with caution.

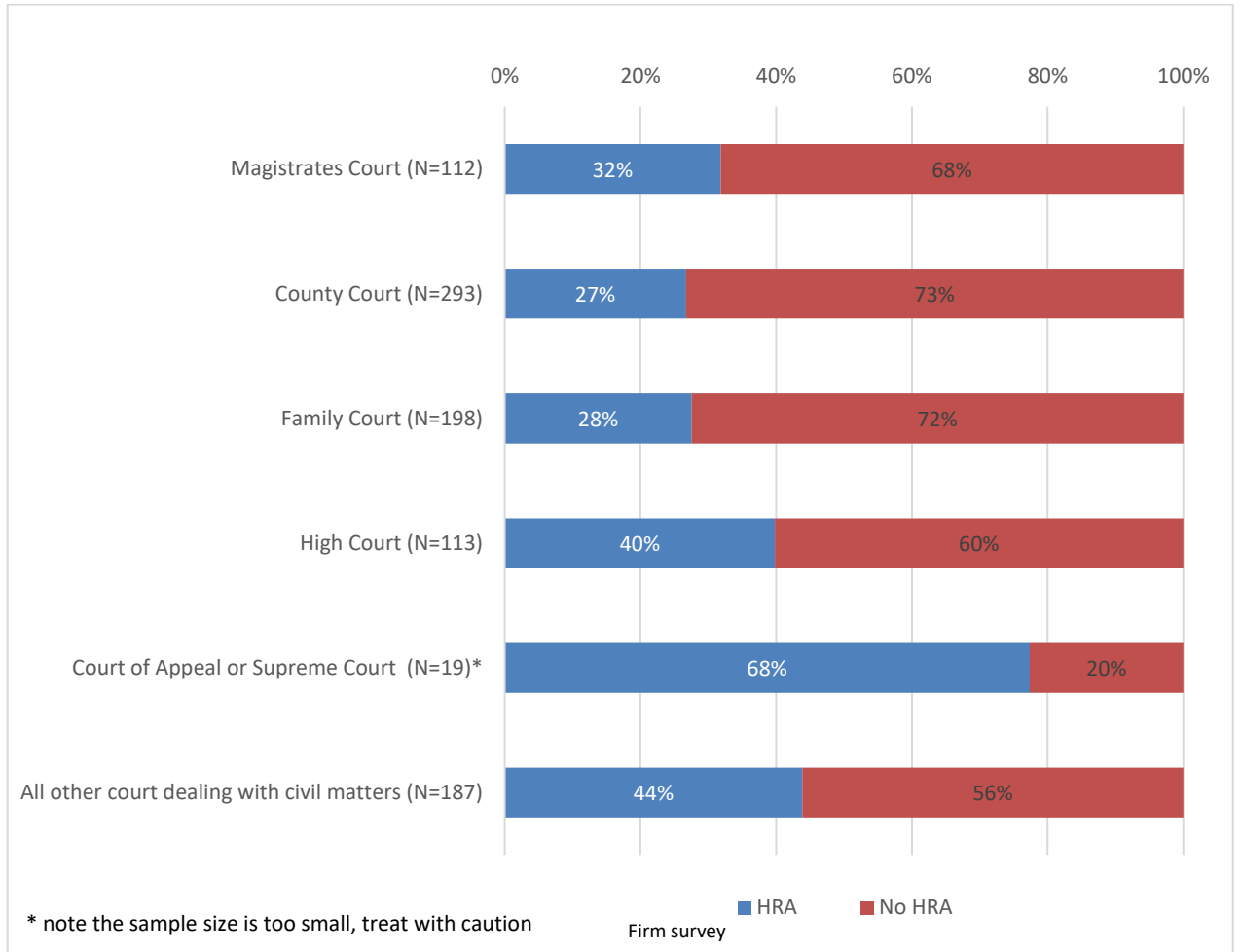
Figure 22: Private practice solicitors – Criminal courts and HRA



Family, Civil, Other

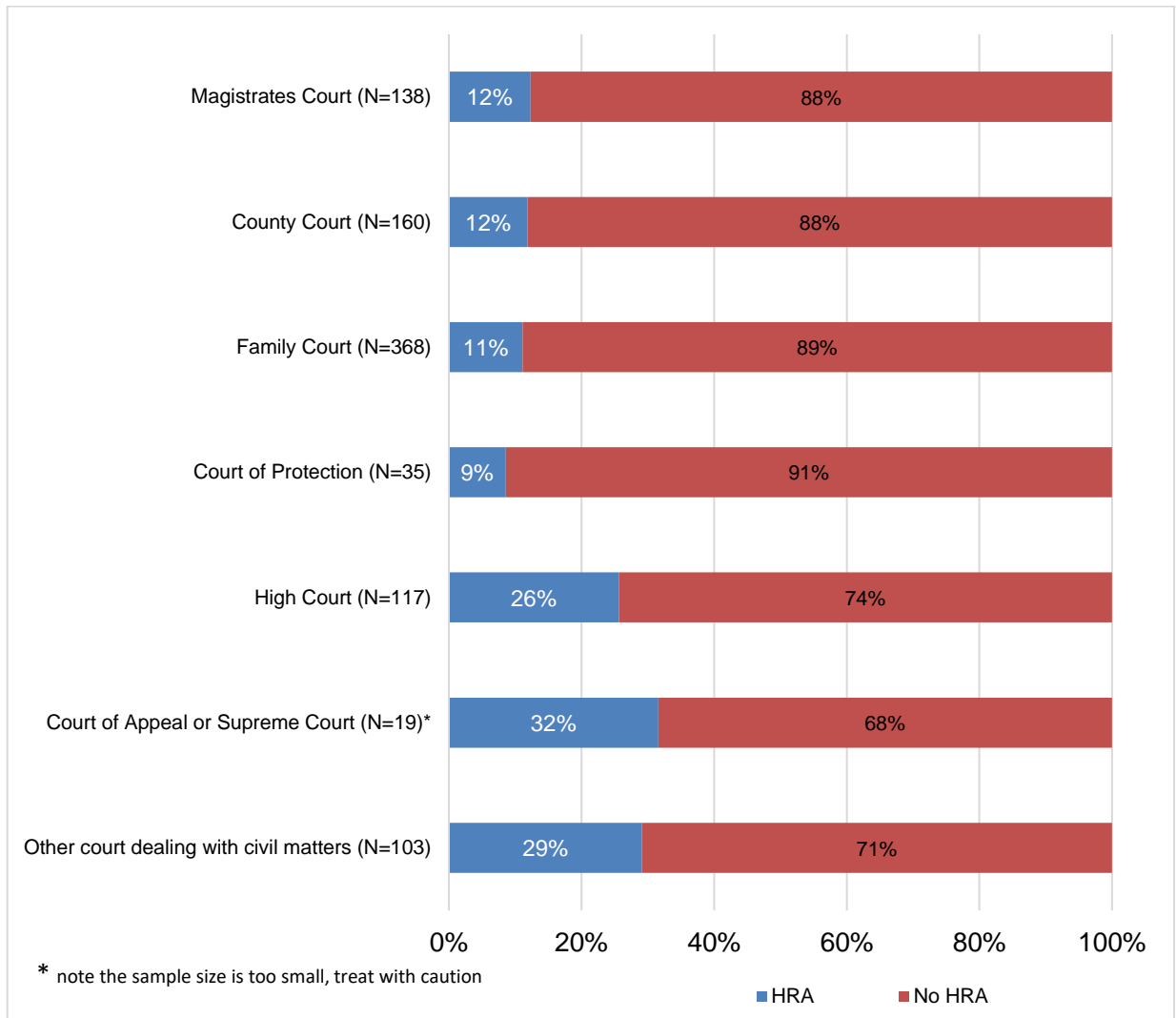
208. Firms who have solicitors working in the civil, family and other courts tended not to have HRA. For example, firms stated that 72% of their solicitors who worked in the family court did not hold HRA. Most working in the Court of Appeal or Supreme Court did hold HRA as shown in Figure 23.

Figure 23: Firms - Civil and other courts and HRA



209. Figure 24 provides an overview of those individuals working in private practice providing advocacy in family, civil and other areas and if they hold HRA or not. Overall, most solicitors do not hold HRA. For example, only 28% of private practice solicitors providing advocacy in the family courts hold HRA.

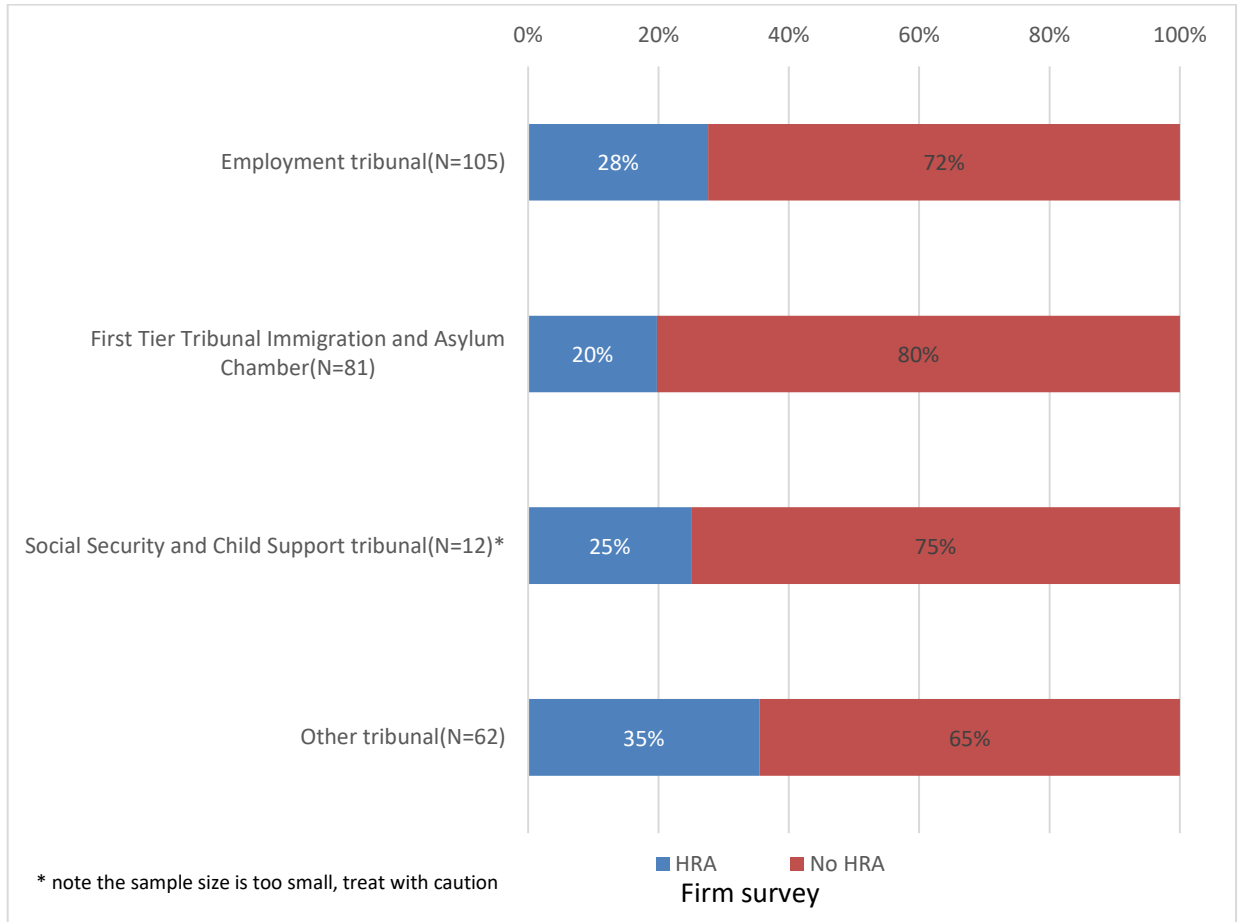
Figure 24: Private practice solicitors - Civil and other courts and HRA



Tribunals

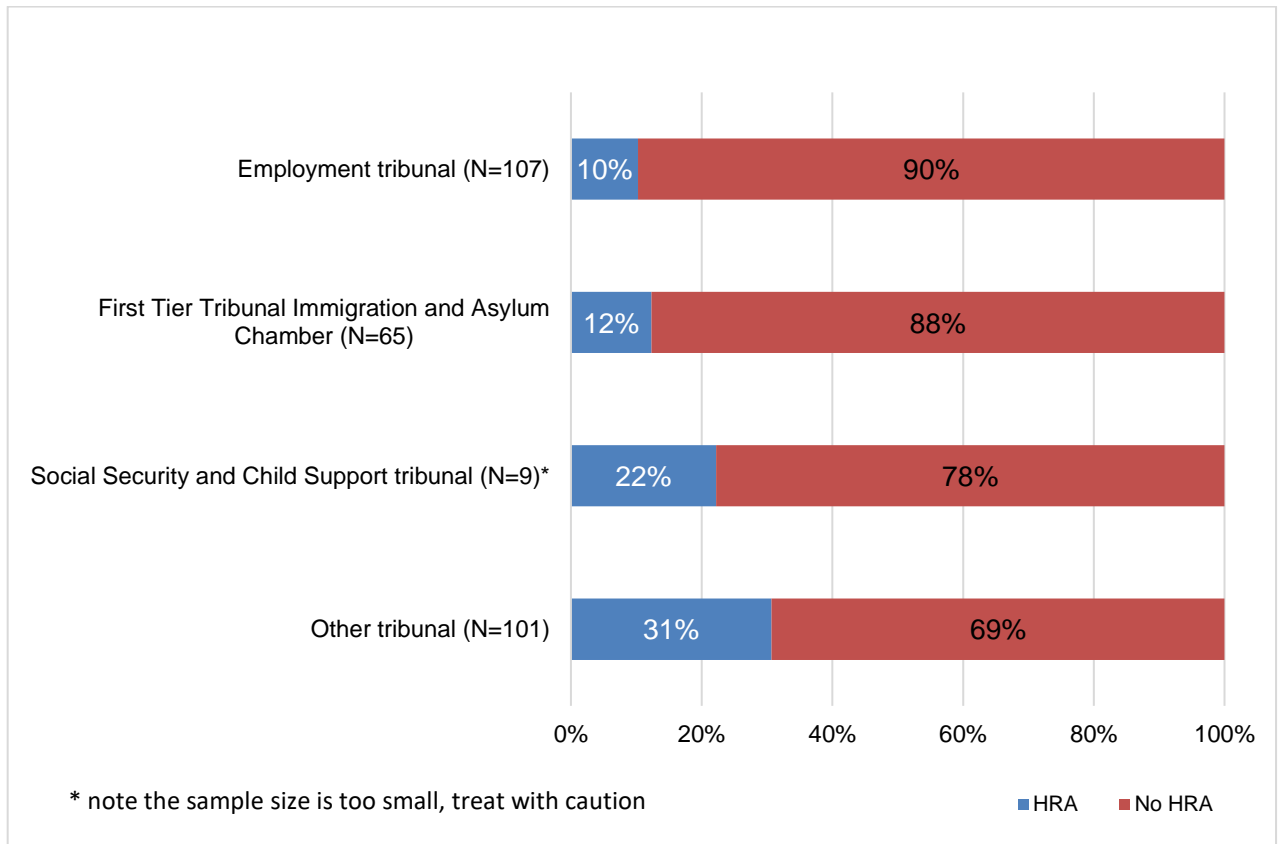
210. Figure 25 shows the types of tribunals where firms provide advocacy and if their solicitors hold HRA. For example, those firms with solicitors providing advocacy in the employment tribunal, 72% did not have HRA. For first tier tribunal immigration and asylum chamber, 80% were without HRA. Most of the advocates do not require HRA and indeed the tribunals are designed for lay people to put their case forward without representation.

Figure 25: Firms - Tribunals and HRA



211. The trend is similar for individual solicitors. A majority do not have HRA in tribunal hearings that require advocacy. For example, private practice solicitors providing advocacy in employment tribunals, 90% did not hold HRA and for first tier tribunal immigration and asylum chamber, 88% were without HRA as shown by Figure 26. A similar pattern is seen for in-house solicitors.

Figure 26: Private practice solicitors - Tribunals and HRA



Type of criminal offence and advocacy work

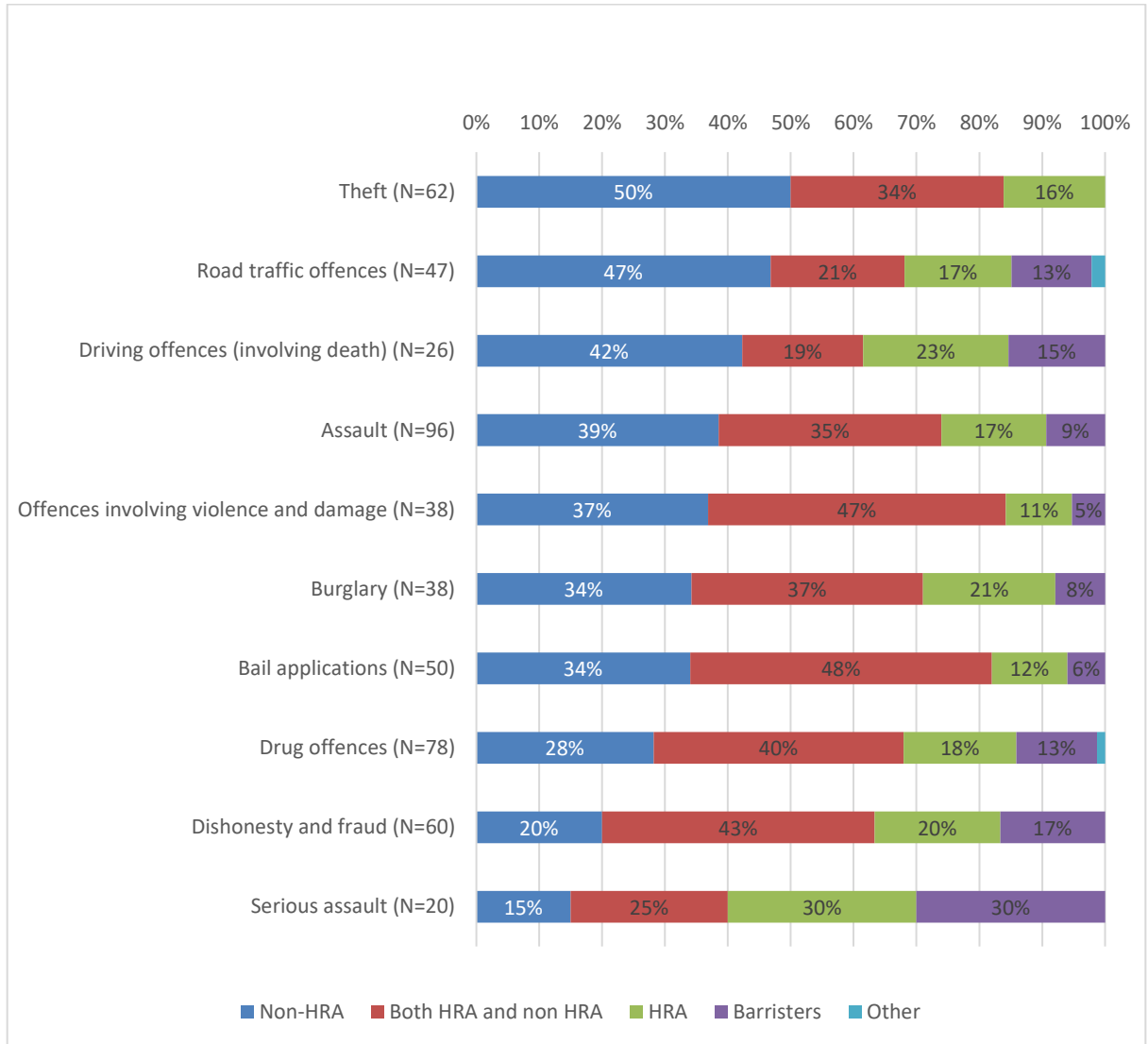
212. For those working in the area of criminal advocacy the top five types of offences they provided advocacy for are:

- assault (63%)
- drug offences (51%)
- dishonesty and fraud (48%)
- theft (43%)
- bail applications (42%).

More serious offences such as murder accounted for 2%.

213. Figure 27 shows that there are all types of offences dealt with by solicitors with HRA and without HRA, as well as referred to barristers. For example, firms do not usually refer theft cases to barristers, and these are dealt with mainly by solicitors without HRA (50%). Only 6% of a firm's cases involving bail applications are dealt with by barristers.

Figure 27: Firms - Type of offence and who undertakes advocacy



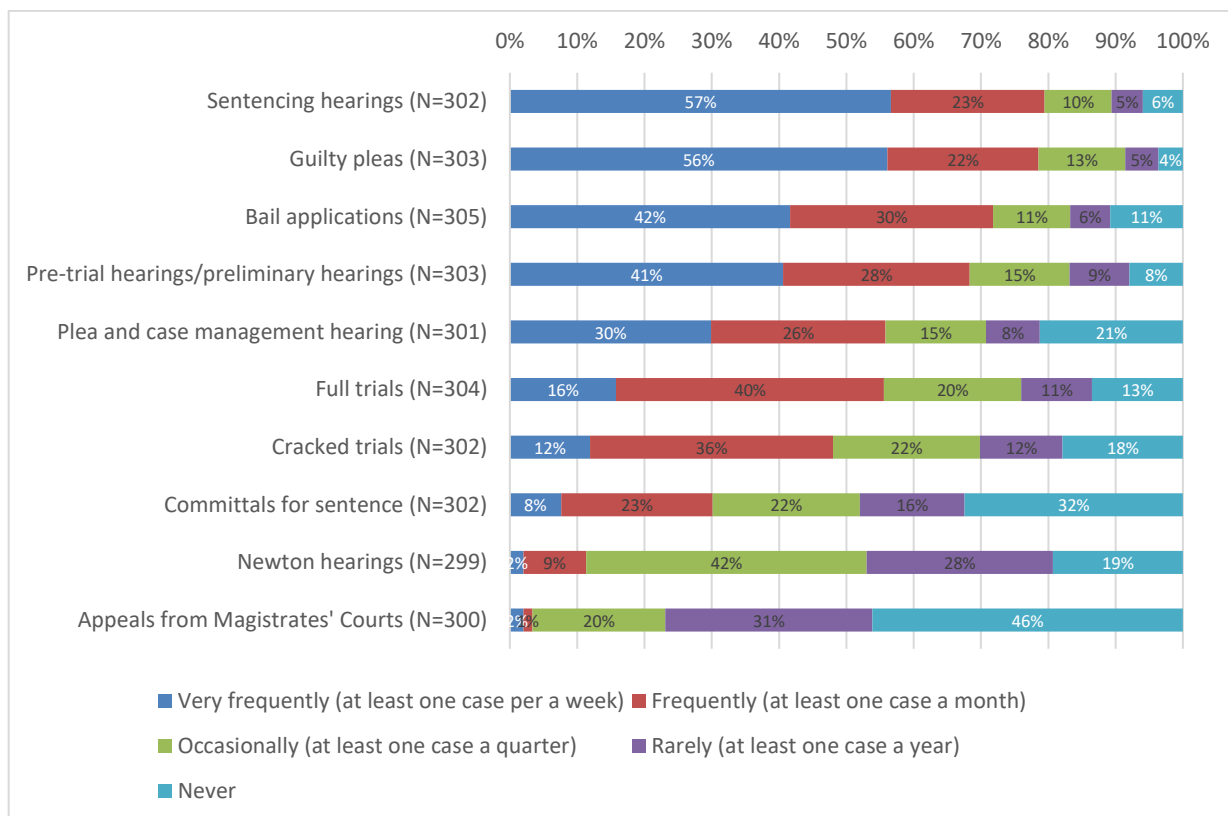
214. The most common types of offences dealt with by private practice solicitors are as listed above for firms. There was a fairly even split of those who hold HRA and those who do not, working on each type of offence with the exception of serious assault where 70% were dealt with by solicitor advocates holding HRA.

Type of criminal hearing and advocacy work

215. Private practice solicitors conducting criminal advocacy will defend clients at different types of hearings. Figure 28 shows that the most frequent type of hearings is sentencing and guilty pleas. A minority will do full trials on a regular basis (16%, one case per week) and appeals from the magistrates' courts are rarely or never conducted (77%). Procedural hearings (including bail applications or pleas and case management) are conducted very frequently.

216. There was a fairly even split of those who hold HRA and those who do not, conducting these types of hearings with the exception of committals for sentencing where 65% were dealt with by solicitor advocates holding HRA.

Figure 28: Firms - Type of criminal hearing



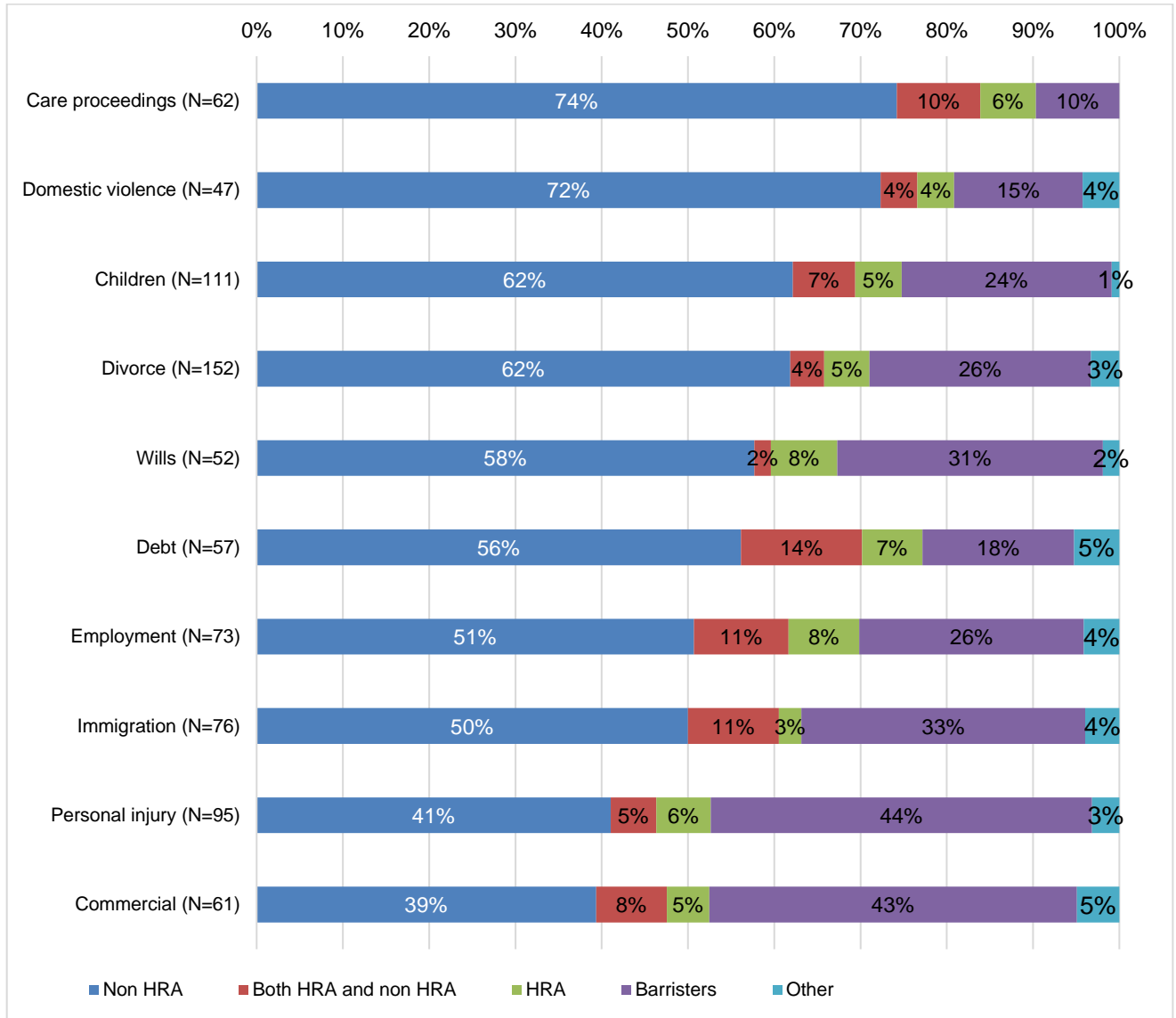
Type of case and advocacy work

217. For all other firms that do not provide criminal advocacy services, the most common cases are:

- divorce (26%)
- children (19%)
- personal injury (16%)
- immigration (13%)
- employment (13%).

218. As illustrated by Figure 29, most cases are not handled by solicitors with HRA. The majority are dealt with by non-HRA solicitors or barristers possibly reflecting the complexity of the case and which type of court is dealing with the case.

Figure 29: Firms - Type of case and who undertakes advocacy



219. For private practice solicitors those working in all types of advocacy other than criminal and tribunals, the top five types of cases worked on are:

- children cases (39%)
- divorce (29%)
- care proceedings (23%)
- commercial disputes (22%)
- contractual disputes (21%).

Contractual and commercial disputes are more likely than other types of cases to have solicitors with HRA representing clients.

220. For in-house solicitors those working in all types of advocacy other than criminal, the top five types of cases worked on are:

- other (39%) mostly cases related to the court of protection, inquests, planning and professional/regulatory prosecutions
- employment (19%)
- children (19%)
- debt (17%)
- rented housing (16%).

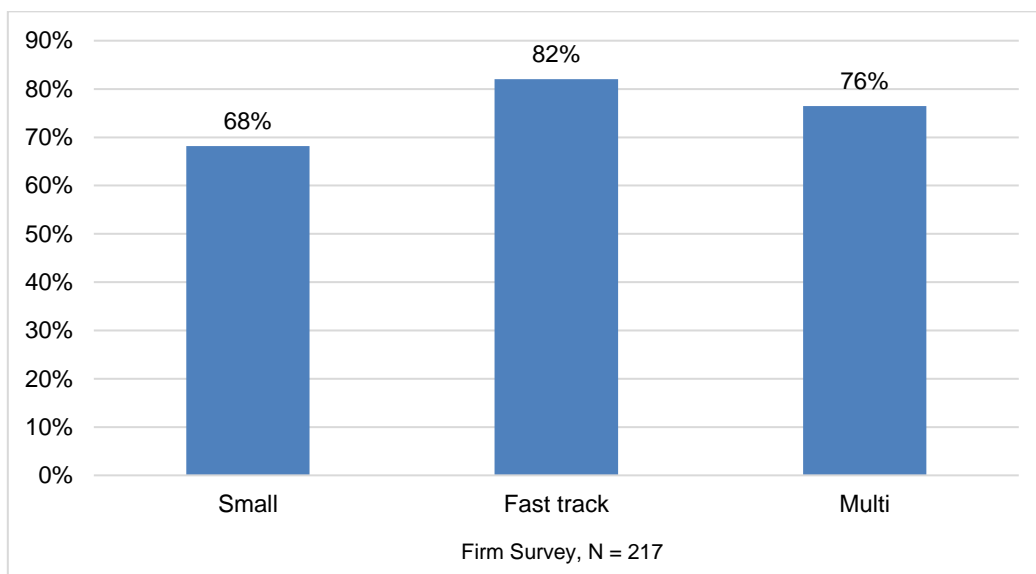
Care proceedings and children cases are more likely than other types of cases to have solicitors with HRA representing clients.

221. For firms whose solicitors provide advocacy at tribunals, around a third of tribunals were dealt with by neither solicitors nor barristers. One third were dealt with by barristers and the remainder were mainly dealt with by solicitors with no HRA.

Money claims

222. Almost half of the firms dealt with money claims (48%). The types of claims that firms deal with are 82% in the fast track, 76% in the multi-track and 68% in the small track ⁴⁵ as shown in Figure 30.

Figure 30: Firms - Types of money claims



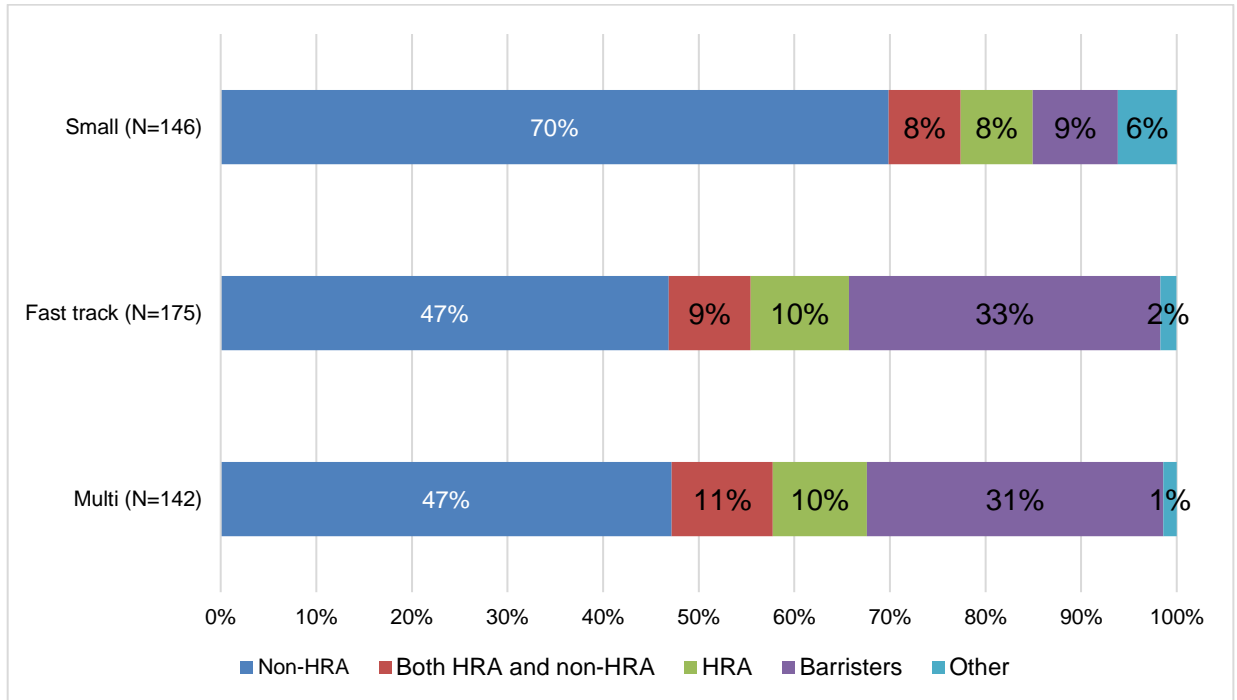
223. Small claims are dealt with mainly by solicitors who do not have HRA (70%). Around one third (31%) of all multi claims are dealt with by barristers. Fast track claims are dealt mainly by barristers (33%) but also by solicitors with no HRA (47%) as shown in Figure 31.

⁴⁵ The small claims track involves claims not exceeding £10,000. The fast track is the normal route for claims between £10,000 and £25,000. More complex and important cases are assigned to the multi-track.

One respondent commented on the use of barristers for multi-track claims.

“The willingness of solicitors dealing with multi-track civil cases to deal with any of their own advocacy at interlocutory hearings has diminished to the point where I rarely find myself against anyone other than counsel.”

Figure 31: Firms - Type of claim and who deals with claim

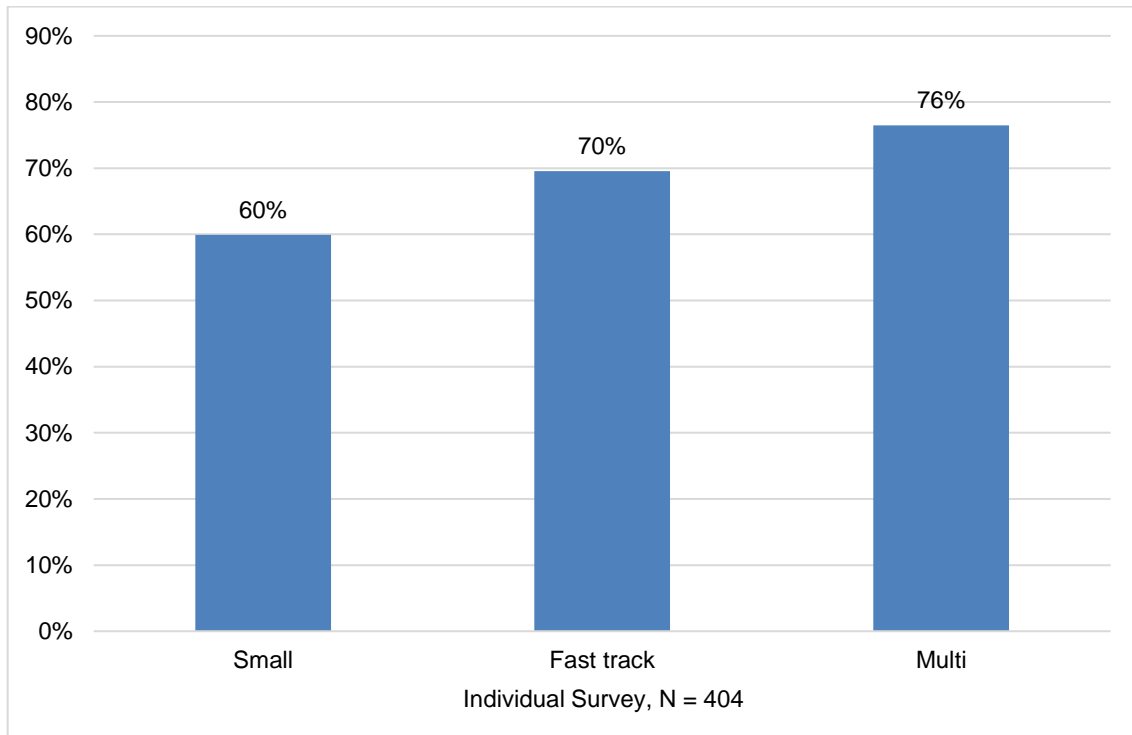


224. Figure 32 shows that 34% of private practice solicitors dealt with money claims. Of these claims:

- 60% are small claims.
- 70% are fast track claims.
- 76% are multi-track claims.

One fifth of solicitors dealing with multi-track claims have HRA.

Figure 32: Type of claims dealt with by private practice solicitors



Vulnerable clients

225. The legal sector is an example of a profession where the gap in knowledge between the provider and consumer is at its most profound and it is difficult for consumers to understand the legal process or service they are accessing, make an informed choice about legal representation, identify what constitutes a good standard of service, and to seek redress if they consider the service they received to be of poor quality.

226. Clients involved in both civil and criminal trials may be vulnerable. This could be due to their personal characteristics such as age, drug or alcohol addictions, mental health problems or cultural and language barriers. But even the most sophisticated and empowered clients may be vulnerable when they are dealing with critical, often life-changing and distressing circumstances.

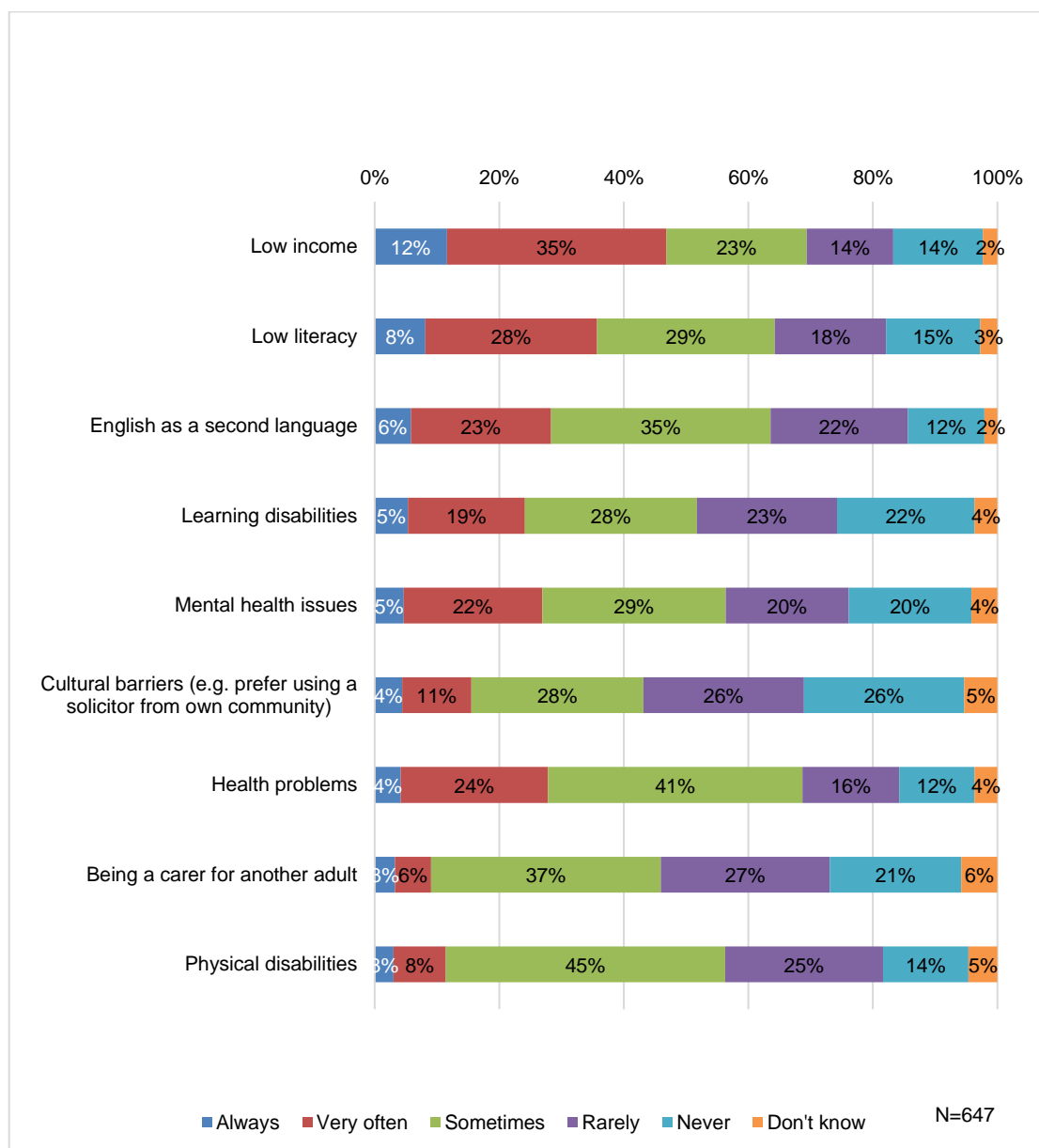
227. Criminal defendants, especially young individuals are inherently vulnerable. For example, 33% of boys and 41% of girls entering youth custody have mental health concerns.⁴⁶ Child law cases often involve highly vulnerable people.

⁴⁶ [Key characteristics of admissions to youth custody April 2014 to March 2016, Youth Justice Board Placement Service \(2016: 27\).](#)

228. Where failings in competence lead to miscarriages of justice, remedies are generally financial. This is not always a comprehensive remedy. While civil cases usually rest on monetary or property concerns, for which remedies can be available if there is a miscarriage of justice, some issues such as family or educational concerns cannot be solved in financial terms.

229. Firms are likely to provide advocacy to clients on low income (47%), low literacy (36%), health problems (28%), English as a second language (28%) and mental health issues (27%)⁴⁷ as illustrated in Figure 33.

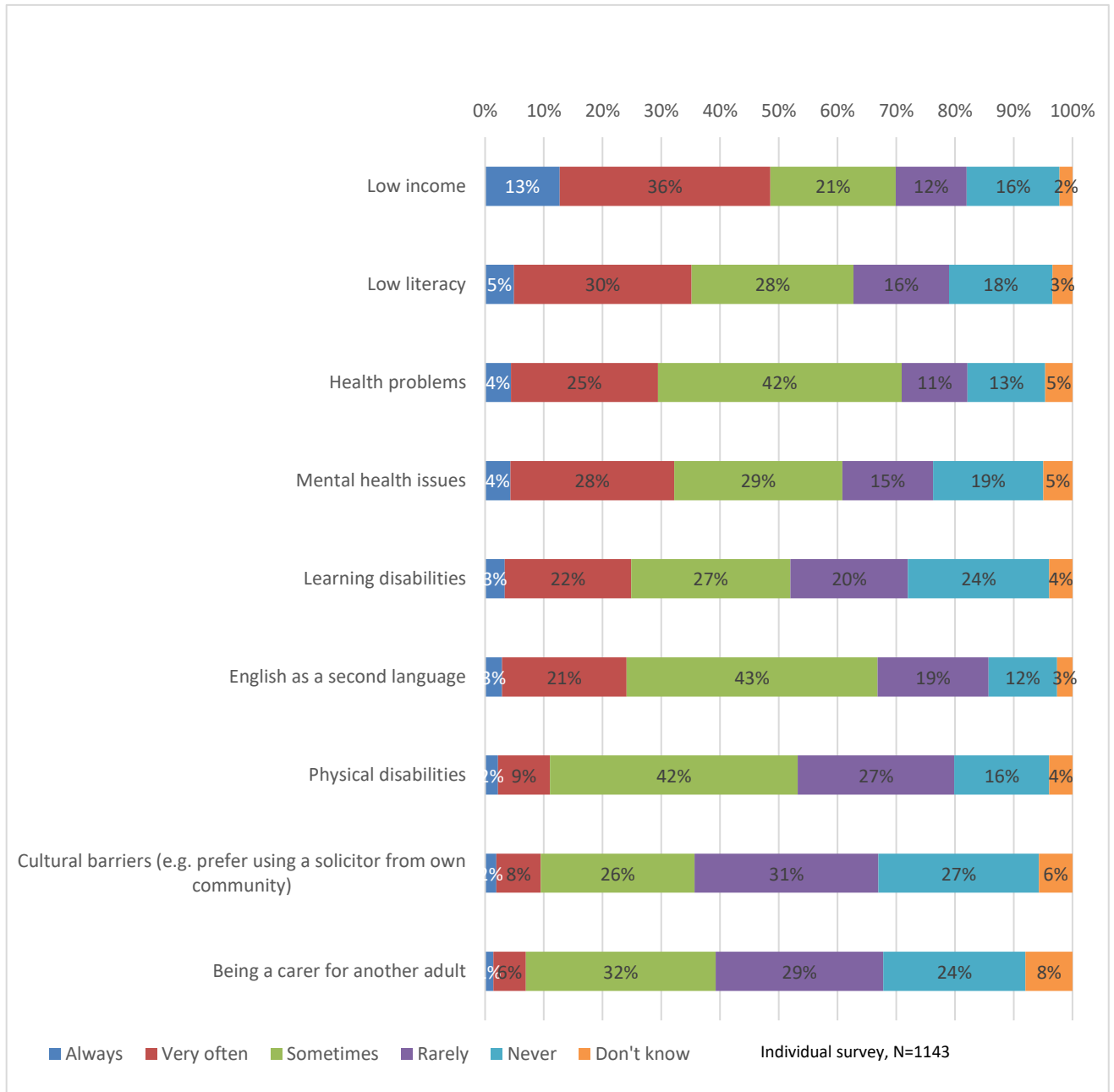
Figure 33: Firms - Vulnerable clients



⁴⁷ These results are multi response based on “always” and “very often”.

230. Private practice solicitors are more likely to provide advocacy to clients on low income (48%), low literacy (35%) and with mental health issues (32%) as shown in Figure 34.⁴⁸ For those solicitors working in-house they are unlikely to represent clients with most of these personal characteristics. On average less than 10% of their clients are on a low income or have mental health issues and these are likely to be in organisations such as charities or advice agencies.

Figure 34: Private practice solicitors - Vulnerable clients



⁴⁸ These results are multi response based on “always” and “very often”.

231. Respondents commented on the types of reasonable adjustments they usually made for clients such as payment plans, use of interpreters, access adjustments, signposting and home visits.

“Low income we offer payment plans.”

“...flexible fee structure ... varied payment options for those with low income. We do some pro bono work as well. We have connections with many local charities especially organisations assisting people with physical and mental health difficulties as well as learning difficulties who are able to assist us.”

“Interpreters for non-English speaking clients.”

“Access adjustments for clients with physical disabilities.”

“Home visits are undertaken if client is unable to attend offices and give instructions. ...arrangements are made to either go to a local library or cafe to obtain instructions.”

Other types of assistance included helping clients understand the legal process and documents.

“We read documents to clients who have learning difficulties and gently ask questions to ensure they've understood the information.”

“Regular, short appointments to go through advice in bite size chunks and letters sent using appropriate language.”

“...assistance in reading through documents together rather than sending them out to a client to read at home alone... that a family member or close friend is also present (with the client's permission) to assist in understanding and communication.”

“Not assuming that clients understand language such as the word “remorse” which they would not use every day.”

“Infographics instead of or alongside written advice, keeping meetings short to deal with one or a limited number of issues at a time...”

One advocate who is also a District Judge (DJ) commented on the failure of advocates to help vulnerable clients.

“I'm also a deputy DJ besides an advocate. I'm stunned by the consistent failure of defence advocates to spot vulnerability in their clients and seek reasonable adjustments in contested matters...”

The following comments relate to considerations provided by solicitors and firms in relation to court hearings and efforts made to sign post to intermediary support agencies.

“...obtaining cognitive assessments to ensure appropriate ways of working with clients; ensuring appropriate adjustments within the court process e.g. breaks, agreed areas of questioning...”

“...reduce stress, such as requesting the court's permission to submit written evidence on their behalf.”

“Make sure that they have prescribed medication when in court or in a police station. This is part and parcel of criminal practice familiar to all lawyers in this field.”

“...it is just that because clients often vulnerable I make an effort to understand their background and challenges to ensure that the Courts/prosecution are aware.”

“...getting psychological assessments and cognitive assessments...”

“...refer to Local Authority Adult services if required...ensure there's effective liaison with mental health professionals e.g. Community Psychiatric Nurse.”

“We have information to make referrals for intermediary services and to sign post clients to advocacy support service/mental health charities/community drug and alcohol services.”

“We utilise support services wherever appropriate e.g. women's groups, mental health workers and, more formally, e.g. an intermediary at court. We use interpreters and seek family assistance when necessary. It's a holistic approach.”

3.5 Choosing an advocate

232. There are many factors that may influence the choice of advocate. Research conducted by our thematic team⁴⁹ found that firms take into account a variety of factors when choosing a criminal advocate for a case. Advocate experience and client choice were the two main factors.
233. The Jeffrey Review raised a concern that solicitor advocates in criminal cases may be retaining work in-house beyond their competence. Our thematic review found that a large proportion of Crown Court work is sent to external counsel and firms do take into account the experience of the advocate and client choice.
234. Similar findings were found here as shown in Figure 35, the top three factors firms considered, when choosing solicitor advocates for cases were type and severity of the case (71%), advocate specialism and experience (61%), and competence of advocates (53%). The least considered factor was a requirement the advocate held HRA.

⁴⁹ [Criminal Advocacy Thematic Review](#)

Figure 35: Firms - Factors in choosing an advocate

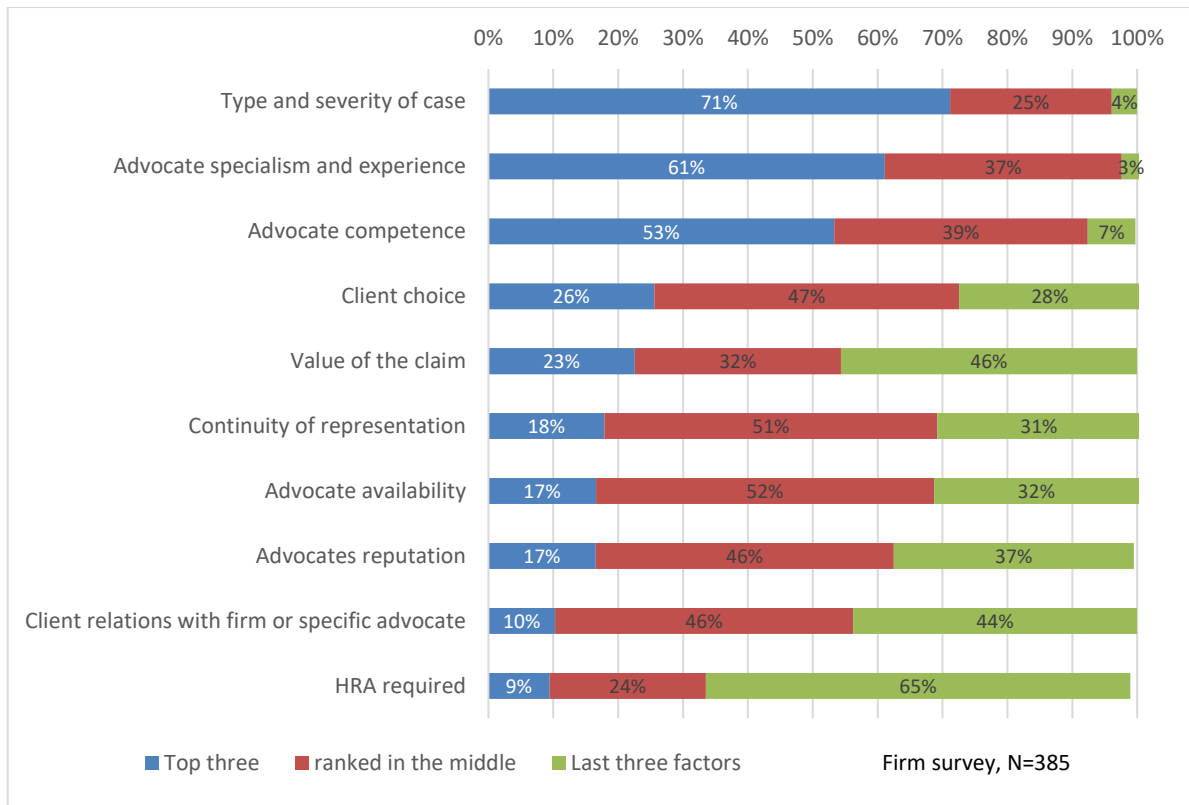
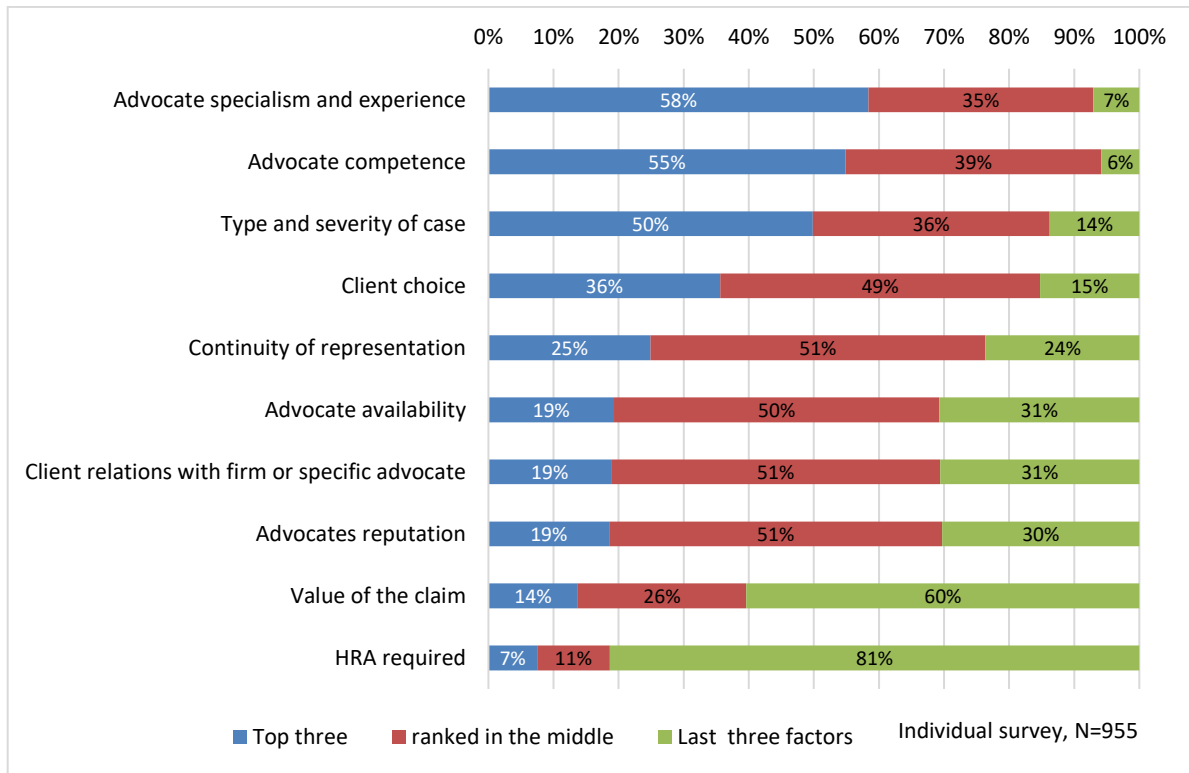


Figure 36: Private practice solicitors - factors in choosing an advocate



235. Private practice solicitors were asked the important factors they thought were taken into account when cases were assigned to them. The top three factors were advocate specialism and experience (58%), advocate competence (55%) and type and severity of the case (50%) as in Figure 36.
236. Among in-house solicitors, their opinion was that type and severity of the case (62%), advocate specialism and experience (61%) and advocate skills and competence (48%) were the top three factors when cases were assigned to them. For all solicitors, having HRA was the least important factor.
237. These factors in choosing an advocate are illustrated by the following comments from respondent firms.

“Cases are allocated to the person most suitable to undertake the task. All matters are supervised irrespective of the lawyer's PQE and experience, but case allocation is determined by experience, client relationship and expertise.”

“Our preference is to instruct a barrister due to the cost of travel, waiting at court etc, it is usually most economical for clients.”

“...another factor is the client's budget.”

“Any specific background of the advocate e.g. an interest in defending women who have been victims of domestic abuse.”

3.6 Perceptions of advocate competency

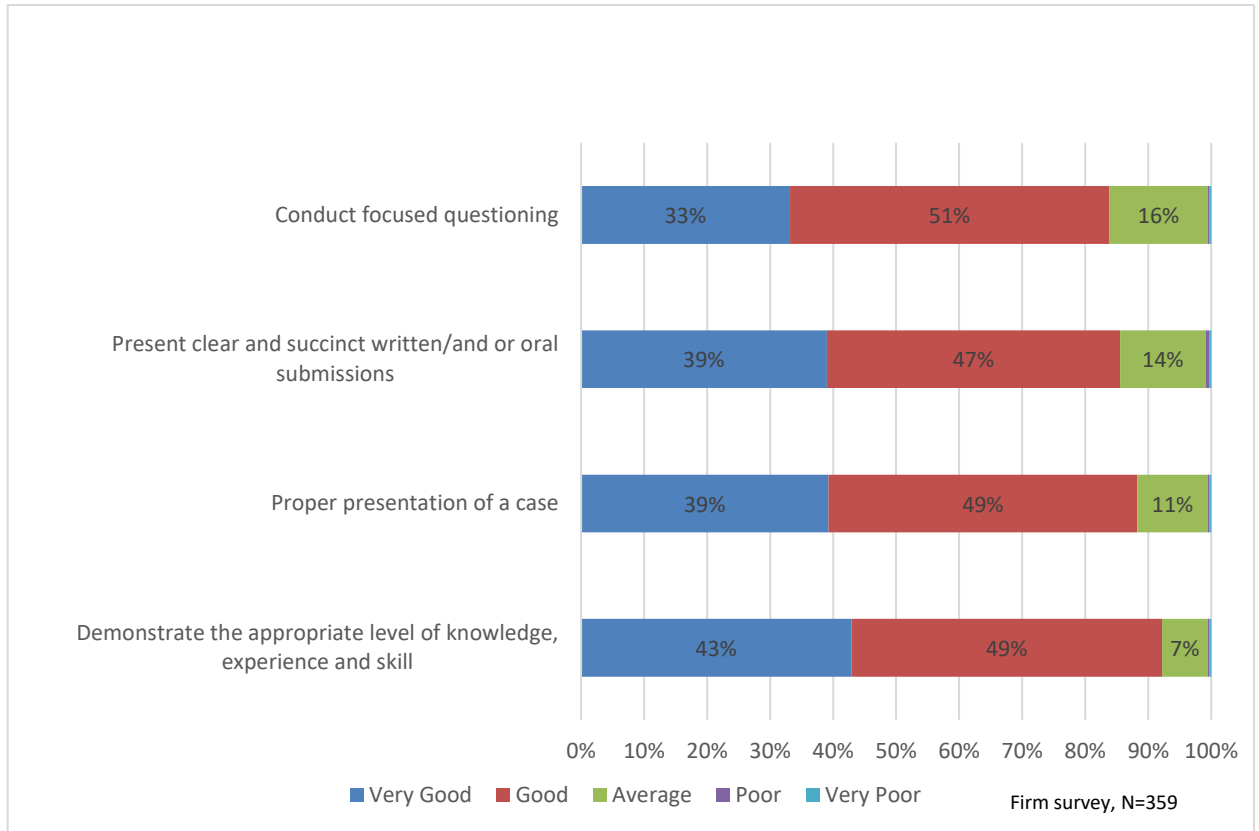
238. We have defined four core professional standards⁵⁰, which all advocates should meet:
- Demonstrate the appropriate level of knowledge, experience and skill.
 - Proper presentation of a case.
 - Present clear and succinct written/and or oral submissions.
 - Conduct focused questioning.

The survey asked respondents for their perceptions on the overall quality of advocates against these standards.

239. Overall, firms thought that quality of advocacy against these standards was good, with hardly any respondents giving these a “poor” or “very poor” rating. Demonstrating the appropriate level of knowledge, experience and skill had the most positive feedback (43% thought it was “good” or “very good”) and only 7% thought it was “average”. Conducting focused questioning was rated the lowest out of the standards with 16% perceiving this as “average” for advocates as shown in Figure 37.

⁵⁰ [Competence standards for solicitor advocates](#)

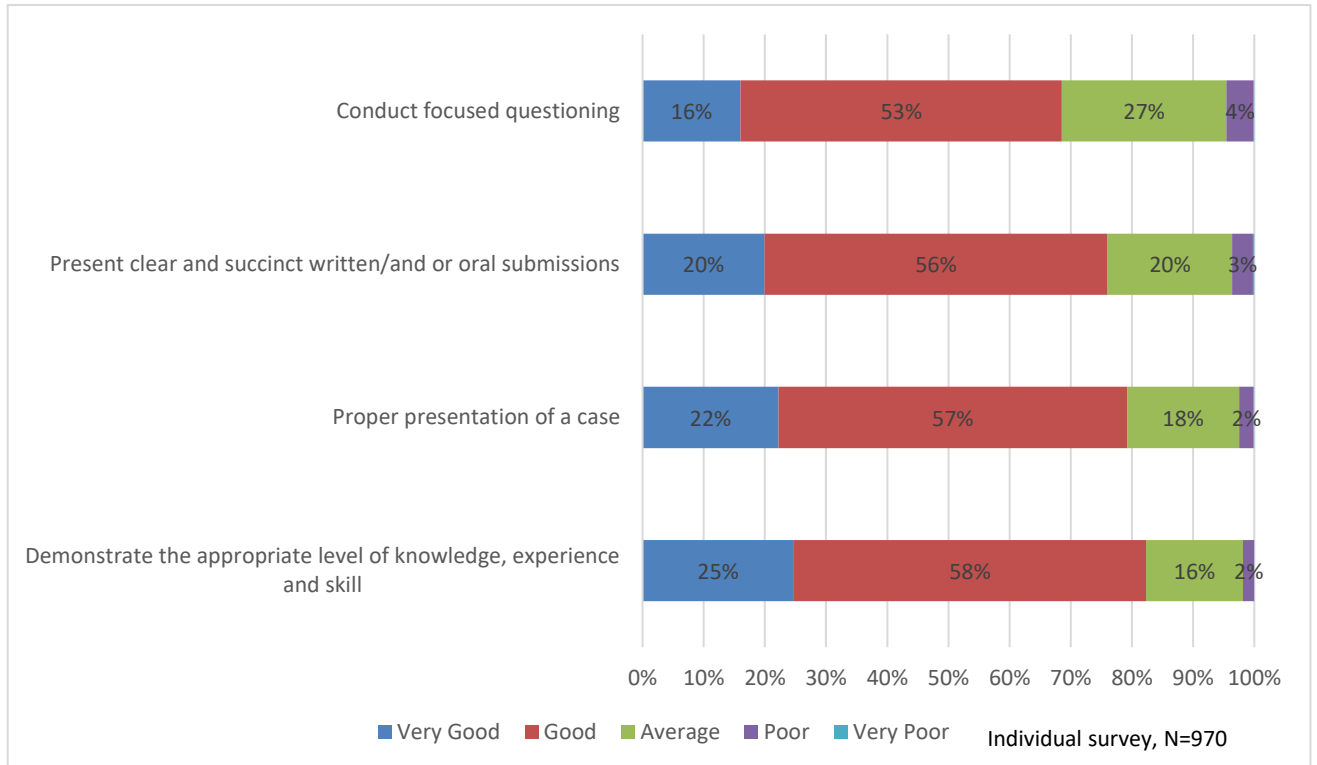
Figure 37: Firms - Rating of professional standards



240. For private practice solicitors, as shown in Figure 38, the ranking of the four standards aligned with the firms, where ability to conduct focused questioning is the least rated area, while demonstrating the appropriate level of knowledge, experience and skill is rated top. However, individual solicitors were more likely than firms to rate some of the standards as “average”. For example, they rated the ability to conduct focused questioning as “average” (27%) and 4% think it is “poor”.

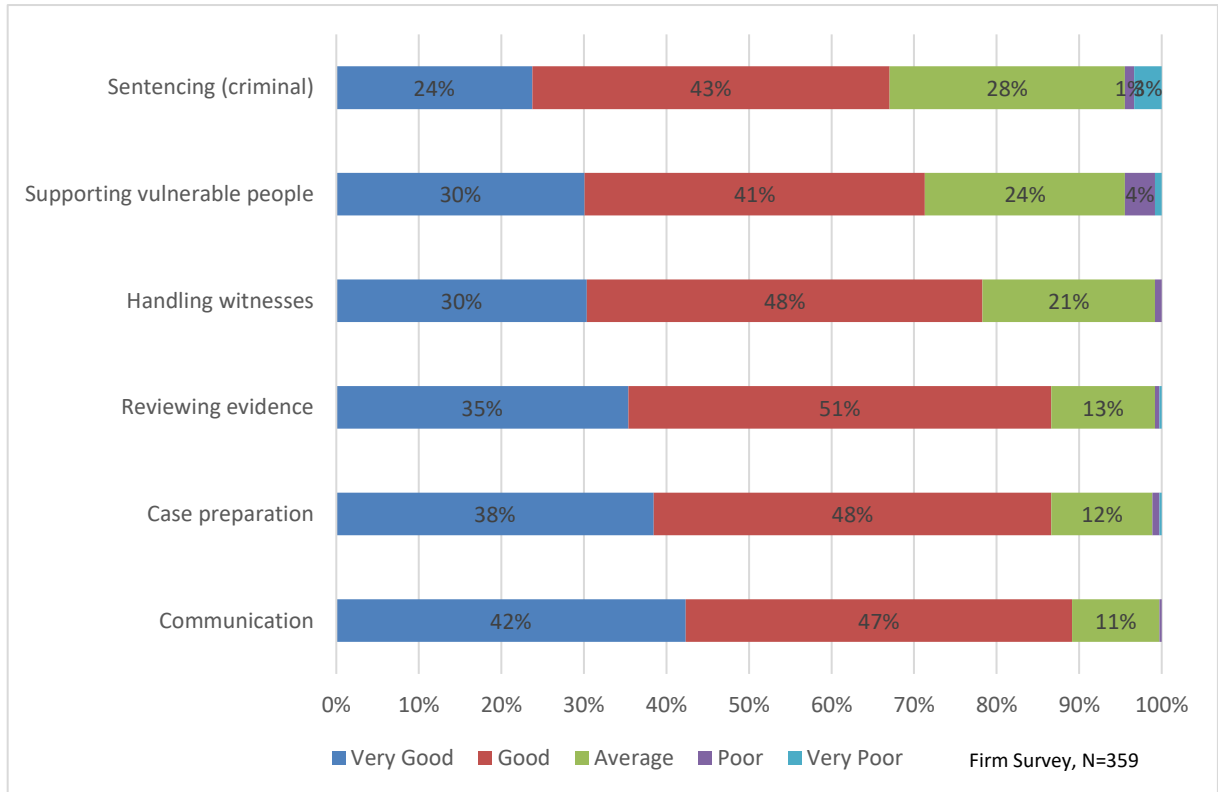
241. Again, for in-house solicitors, ranking of the four skills aligned with the firms and private practice solicitors. For conduct focused questioning, 33% thought it was “average”, 1% think it is “poor”.

Figure 38: Private practice solicitors - Rating of professional standards



242. Respondents were asked for their views on specific skills of criminal/civil advocates within the profession generally. Figure 39 shows the views of firms where for criminal advocates “sentencing” seems to be the area where majority of firms thought the quality of advocates was not as good as the other areas: 67% thought it was “very good” or “good”, 28% think it is “average” and 4% thought it was “poor” or “very poor”. In the area of supporting vulnerable people, 71% thought it was “very good” or “good”, 24% thought it was “average”, and 1% thought it was “poor”. Communication skills received more positive ratings, where 89% thought these were “very good” or “good”, and 11% thought they were “average”.

Figure 39: Firms - Rating of skills

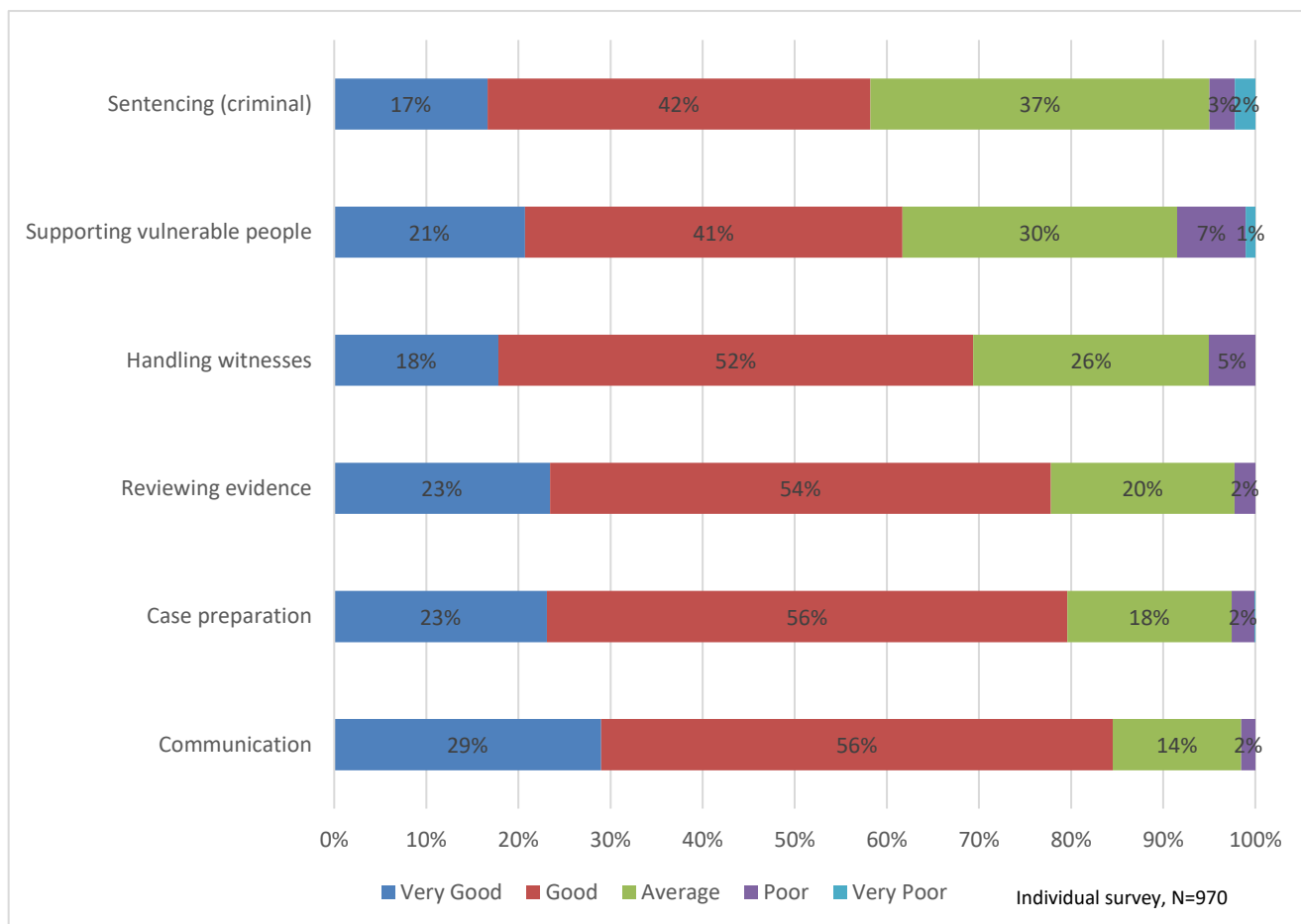


243. In terms of individual solicitors, they had a slightly more negative opinion of the skills of criminal /civil advocates. Figure 40 shows for private practice solicitors, sentencing (criminal) still seems to be the weakest area, where 37% of solicitors thought it was “average”, and 5% thought it was “poor” or “very poor”. For supporting vulnerable people, 30% thought it was “average”, and 8% thought it was “poor” or “very poor”. In-house solicitors responded in a similar way to private solicitors, where for example supporting vulnerable people, 34% thought it was “average”, and 5% thought it was “poor” or “very poor”.

244. One respondent commented that handling witnesses in relation to civil advocacy (although applies equally to criminal advocacy) was that witnesses ranged from people who have never been to court before to professional witnesses.

“Civil advocacy is very broad and very much depends on the case. For example, not all civil advocates have the experience of conducting a jury trial, as this is limited to certain claims. The skills you need to cross-examine witnesses will again depend on the case. Most civil advocates would cross-examine individuals who have never been to court before, others, will cross-examine professional witnesses who attend court all the time. So different approaches as needed depending on the type of witness and case.”

Figure 40: Private practice solicitors - Rating of skills



3.7 Quality assurance and monitoring

245. Organisations who provide advocacy have an important role to play in ensuring and maintaining the quality of advocacy provided by their solicitor advocates. Advocates should be competent and have the right knowledge and skills to represent their clients. Individual solicitors have an obligation to maintain their competence.

246. Various methods are used to monitor quality such as supervision of files, client feedback, reviewing complaints, appraisals, shadowing, auditing and observation of advocates in court.

247. Figure 41 shows how often firms monitor the quality of their solicitors' advocacy. 45% of firms said they monitor the quality of their solicitor's advocacy per case. 15% of firms said they monitor solicitors every month. It is a concern that 21% of firms stated that they do not formally monitor the quality of advocacy.⁵¹

⁵¹ Some of these could be sole practitioners.

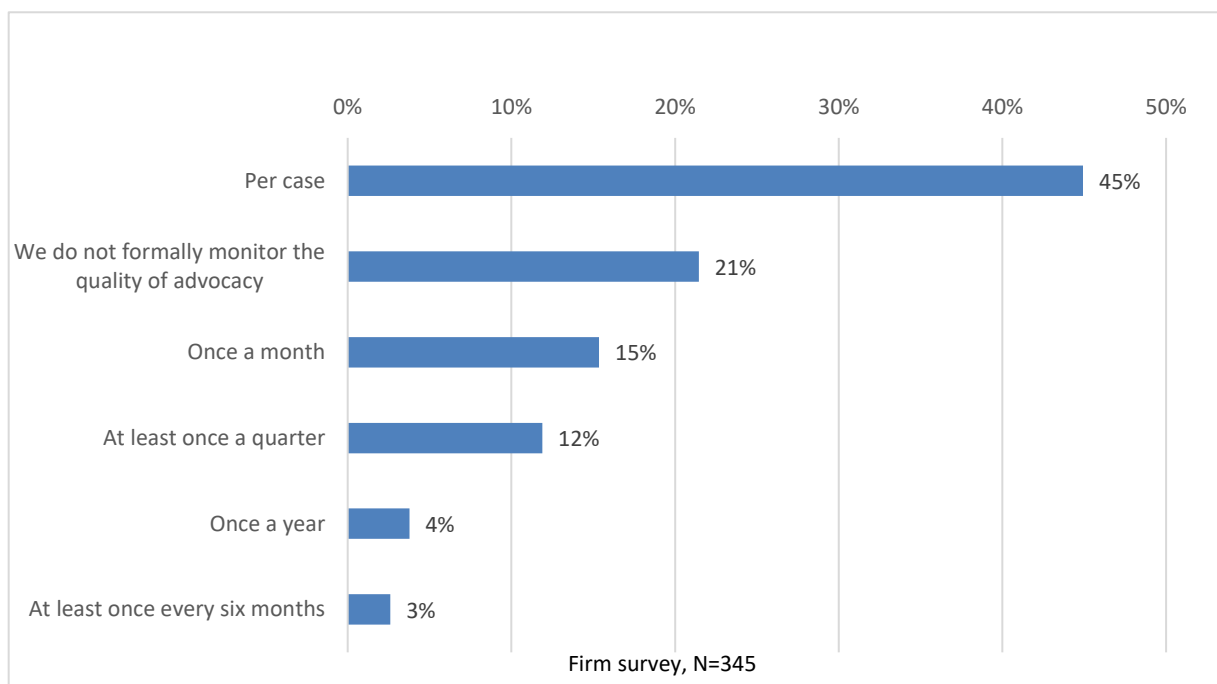
248. Firms commented on the methods they use to detect and deal with poor advocacy. These included feedback from other advocates and the judiciary as well as clients.

“Obtain feedback from other local advocates as well as local judiciary.”

“...internal mentoring between advocates if become aware of any difficulties.”

“Analyse client feedback and any complaints and implement any specific training needs and monitor performance.”

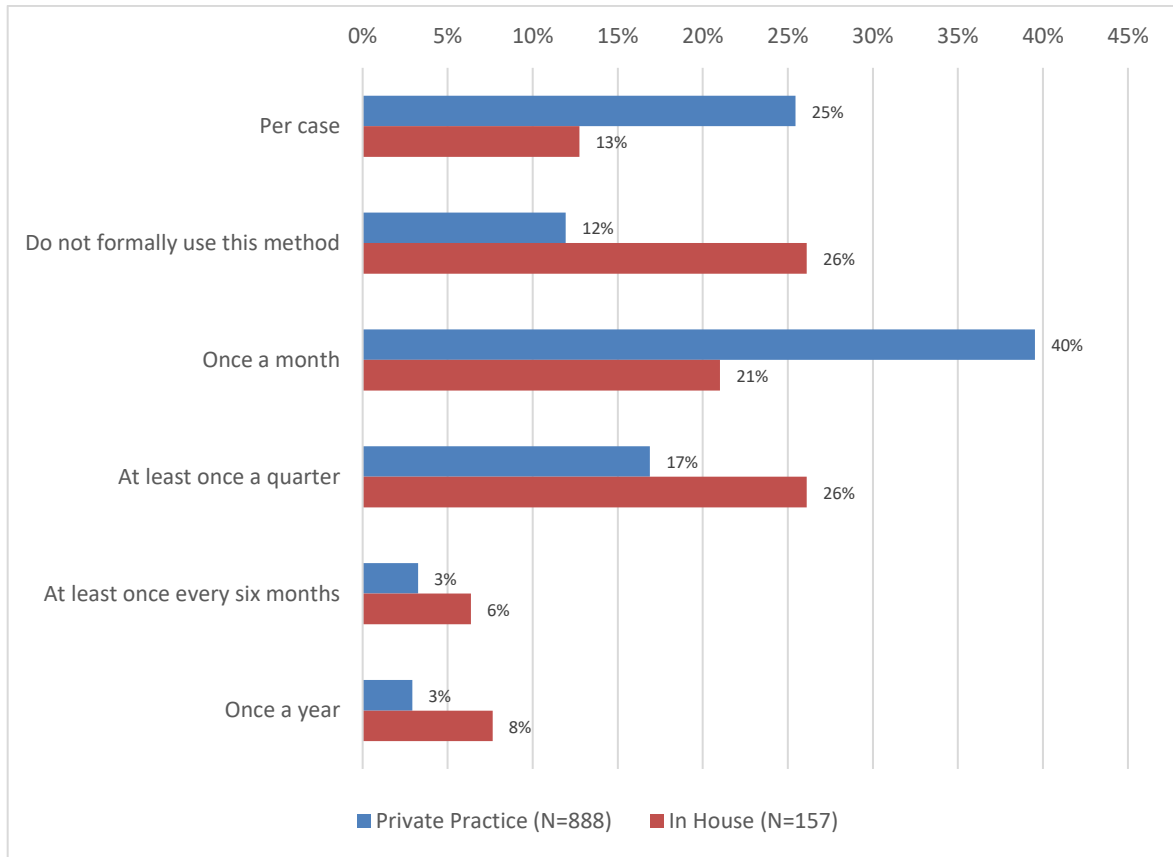
Figure 41: Firms - Monitoring quality



249. Solicitors working in private practice were not as positive in terms of how often their firm monitored the quality of their advocacy, as in Figure 42. For example, compared to firms where 45% stated they monitored advocacy per case, only 25% of solicitors stated this monitoring happened per case. This is even lower for in-house (13%). For private practice solicitors, the most common frequency for monitoring advocacy was “once a month” (40%). For in-house solicitors, it is either at least once a quarter (26%) or do not formally monitor quality (26%).

250. Respondents were also asked who (in terms of job role) usually monitors quality. This was usually carried out by partners, or for in-house, the head of the legal department.

Figure 42: Solicitors - Monitoring quality



251. It is expected that organisations will use a variety of supervision approaches such as court observation as well as client feedback to monitor their employees as in Figure 43. 70% of firms said they use client feedback per case to quality assure the work of advocates. 43% of firms said file reviews were used once a month. Court observations are not a common method and 41% of firms said they do not use this method.

252. Figure 44 shows that 63% of private practice solicitors said their firm uses client feedback per case to quality assure their work. 43% said their firm follows best practice guidelines per case. Only 16% of solicitors said their file was reviewed per case. Again, solicitors said they are not observed in court (72%).

253. Some sole practitioners commented on the methods they use to monitor their own quality such as client feedback.

“As sole practitioner I satisfy myself of my capabilities.”

“I am a sole practitioner. Therefore, I have to judge the quality of my work, myself. I have a system in place to do this. I send each client a questionnaire to fill up at the end of the matter. This covers each and every step of the matter, from the point of receiving instructions and to the end. I use my clients' comments to improve my work.”

“I also observe other advocates and find this gives me an insight to different methods and styles that I then consider and try myself.”

254. Only 35% of in-house solicitors said their organisation uses client feedback per case to quality assure work. A majority said file reviews (34%) and court observations (83%) are a common quality assurance method.

255. Some respondents commented on the type of methods used by organisations to monitor quality.

“Every month a random file of mine is peer reviewed.”

“Advocacy manager- reads all my reports re every case I do. Attends court to shadow me once per year. Undertake a test every year to assess up to date legal knowledge.”

Figure 43: Firms - Quality assurance procedures

Firms - Quality assurance procedures						
	Per case	Once a month	At least once a quarter	At least once every six months	Once a year	Do not use this method
Client feedback	70%	6%	9%	3%	3%	8%
Following best practice guidelines	45%	14%	10%	7%	5%	19%
File reviews	26%	43%	19%	5%	2%	6%
Court observations	25%	8%	13%	9%	4%	41%
Internal meetings	22%	34%	22%	6%	1%	15%
Development reviews	16%	18%	20%	14%	16%	16%
Firm Survey, N=345						

Figure 44: Private practice - Quality assurance procedures

Private practice - Quality assurance procedures						
	Per case	Once a month	At least once a quarter	At least once every six months	Once a year	Do not use this method
Client feedback	63%	7%	8%	4%	5%	13%
Following best practice guidelines	43%	12%	10%	6%	7%	24%
File reviews	16%	49%	21%	4%	2%	8%
Court observations	9%	4%	7%	5%	3%	72%
Internal meetings	14%	39%	21%	5%	4%	17%
Development reviews	6%	14%	20%	13%	29%	18%
Individual survey, N=884						

3.8 Training

256. Advocacy is a core skill assessed on the current Legal Practice Course (LPC). The Professional Skills Course (PSC) develops this further and students will have undertaken 18 hours of study on advocacy as part of their PSC. This will have included practice in chambers and trial advocacy, including practising examination of witnesses.⁵² The Period of Recognised Training further develops skills. Solicitors who wish to undertake advocacy in the Higher Courts must pass an additional HRA assessment.
257. The introduction of the Solicitors Qualifying Exam (SQE) will make sure individuals entering the profession have met the required standards through robust and consistent assessment.
258. Previous studies related to criminal advocacy such as the Jeffrey Review questioned the adequacy of the training and assessment of solicitor advocates, this review recommended developing a more consistent training and accreditation framework for advocacy. The Smedley Report also recommended a change in training arrangements for solicitor advocates.⁵³
259. Our thematic review found the provision of training was limited and our research with the judiciary highlighted their concerns that advocates had few opportunities to learn through shadowing and that some may take on cases beyond their experience.
260. In the firm survey, 50% of firms stated they provide advocacy training to their solicitors, and an equal number of firms said they did not. Of those firms that did provide advocacy 57% said it this was only provided by external providers. 30% of firms said this training was provided in-house and 13% said they provided training online. External providers were mainly used to provide training among private practice solicitors (60%) and in-house solicitors (68%) as shown in Figure 45.

One respondent commented on the use of online training.

“Advocacy training is not encouraged at firms if it is to take place in work hours at an external provider and costs money... Therefore online training is encouraged as an alternative. Little can be gained from multiple choice questionnaires and listening to podcasts in respect of advocacy training which should (in my opinion) be practical training.”

261. Firms had provided recent training on case preparation (71% this year⁵⁴, 22% last year), followed by training in Advocacy (67% this year, 23% last year). Firms tended not to provide any training on criminal law and procedure (45% said never) and sentencing (52% said never). A quarter of firms (24%) had never provided training on supporting vulnerable people as shown in Figure 46.

⁵² [Professional skills course, University of Law, 2016](#)

⁵³ [Law Gazette](#)

⁵⁴ This year being the date of the survey, 2017/8.

262. For private practice solicitors they had training in evidence (50% this year or last year), case preparation (46%) and civil law procedure (43%) as shown in Figure 47. Around one third had received training on supporting vulnerable people this year. In-house solicitors had received some training for advocacy, the recent focus has been mainly on contentious work (24% said they had training this year and 16% said they had training last year), civil law and procedure (22% this year and 19% last year) and transactional legal work (15% this year and 8% last year) as shown in Figure 48.
263. On comparing skills and training, for example, sentencing (criminal) seemed to be the weakest perceived area and this is also the skill with the least training.
264. Many respondents commented on the lack of available training courses and the high cost.

“In-house solicitors are strangled by the cost implications of training. Most have to make do with free seminars...and often do not even have access to online resources.”

“It is very difficult to find advocacy training and at a reasonable price. Our team gets barristers to deliver training in specific areas once or twice a year.”

“There is a lack of training available, particularly for newly qualified solicitors and lack of opportunities for shadowing.”

“More training should be given to solicitors. My firm uses external training, but it is few and far between as solicitor advocacy training is significantly lacking against Counsel's training.”

“I would observe that there are far more training courses available to barristers (both frequency and range of topics) at a far lower price.”

“Firms do not have the time or money to train properly.”

“Then there is a lack of legal resources. How do you develop your skills as an advocate if you do not have access to up to date legal resources?”

Figure 45: Firms - Method of training

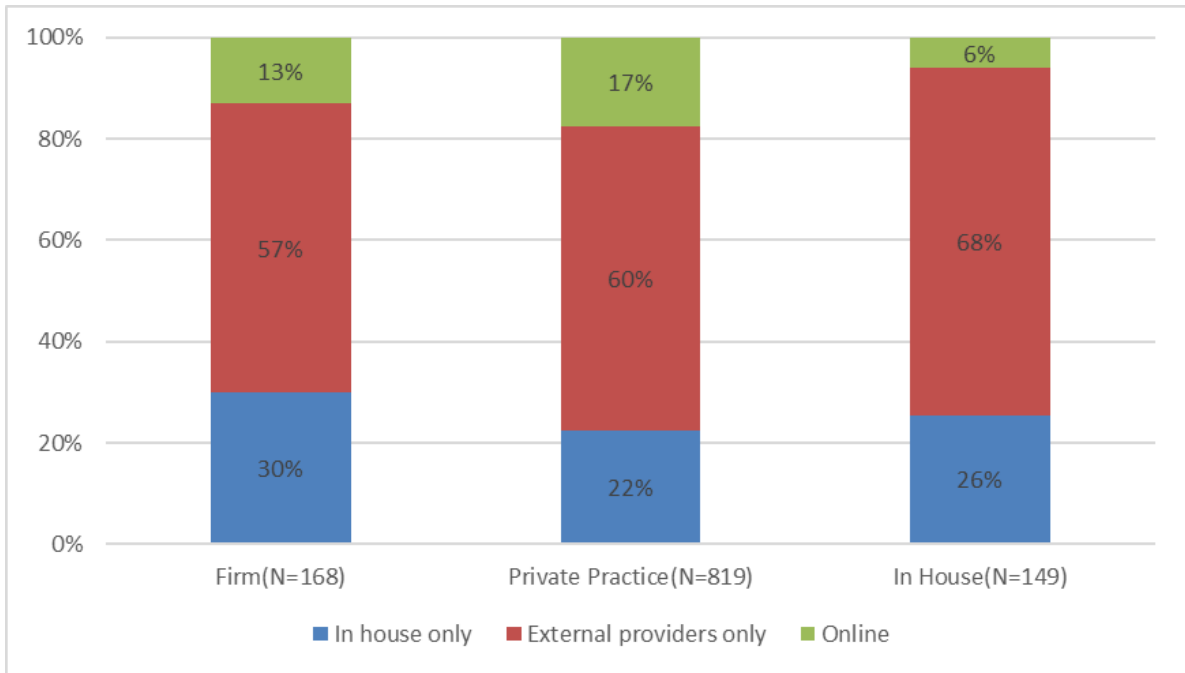


Figure 46: Firms - Type of training course and when delivered

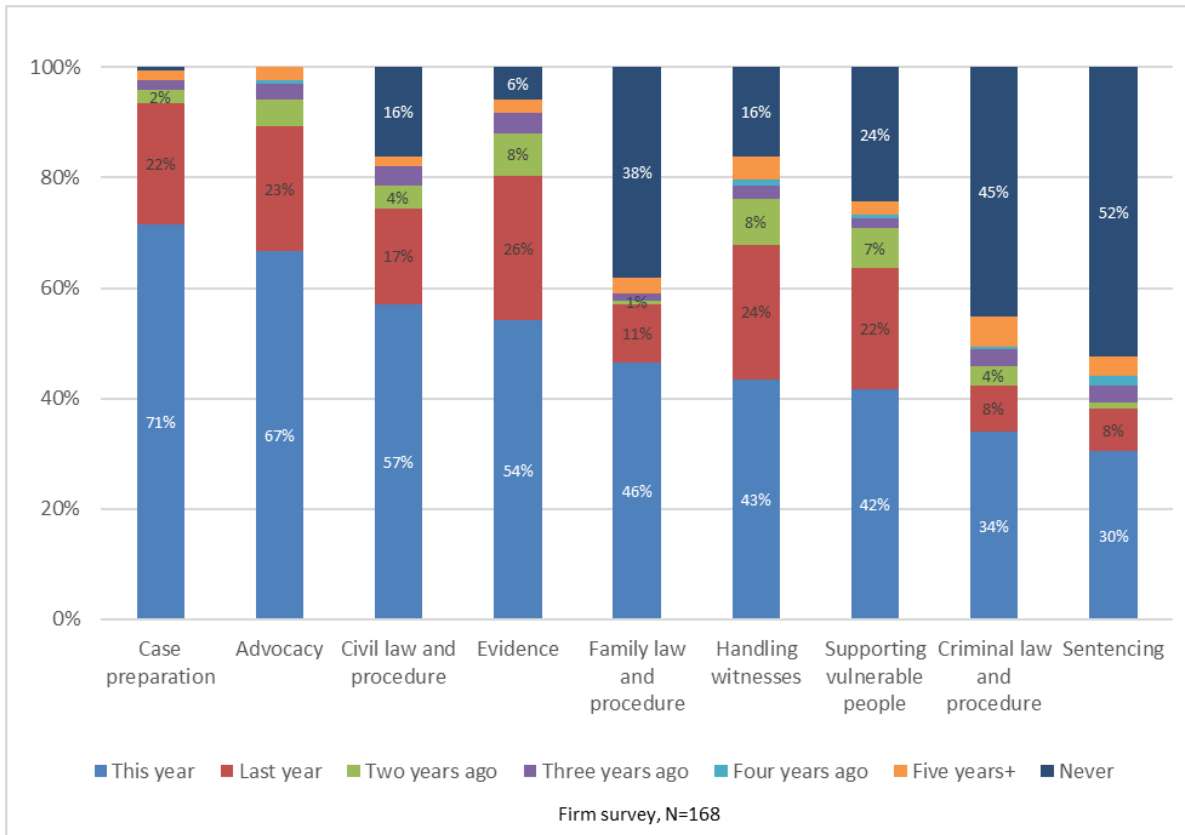


Figure 47: Private practice solicitors -Type of training course and when delivered

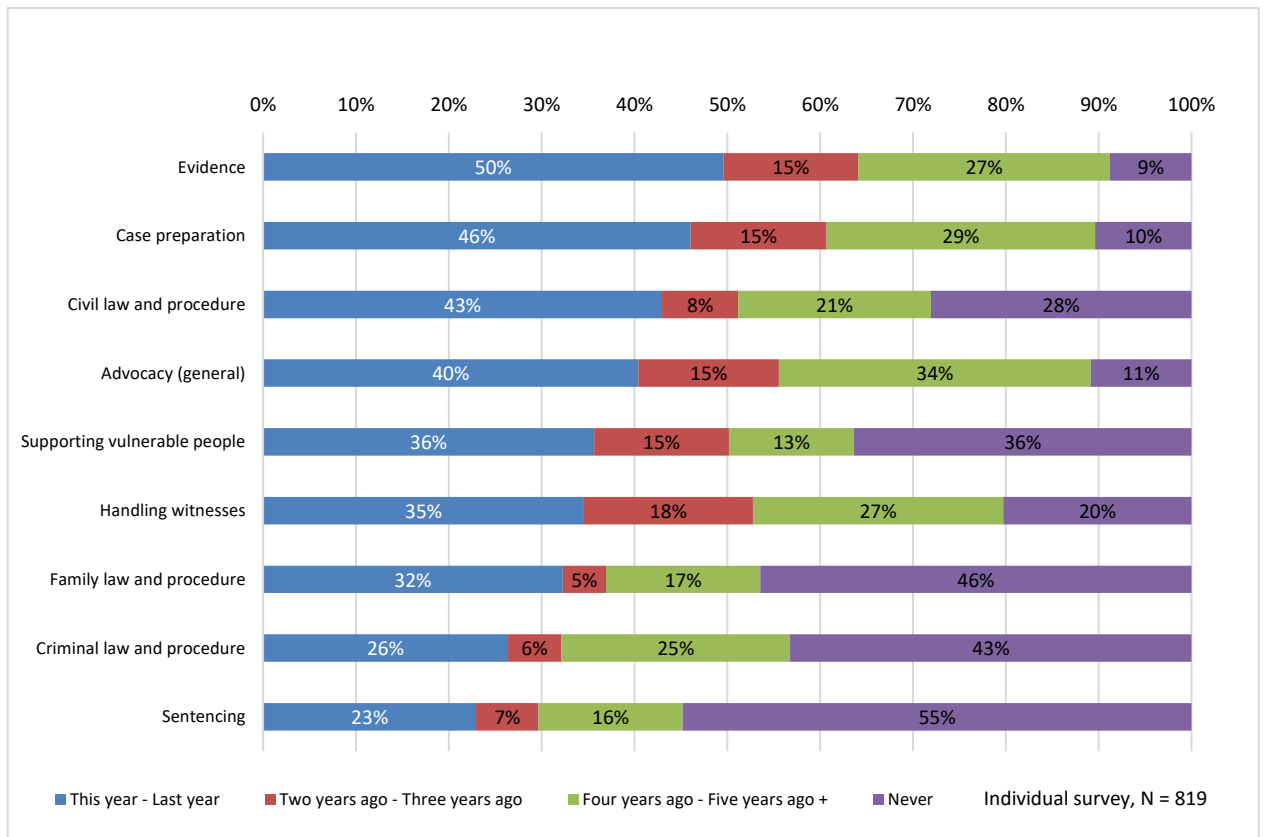
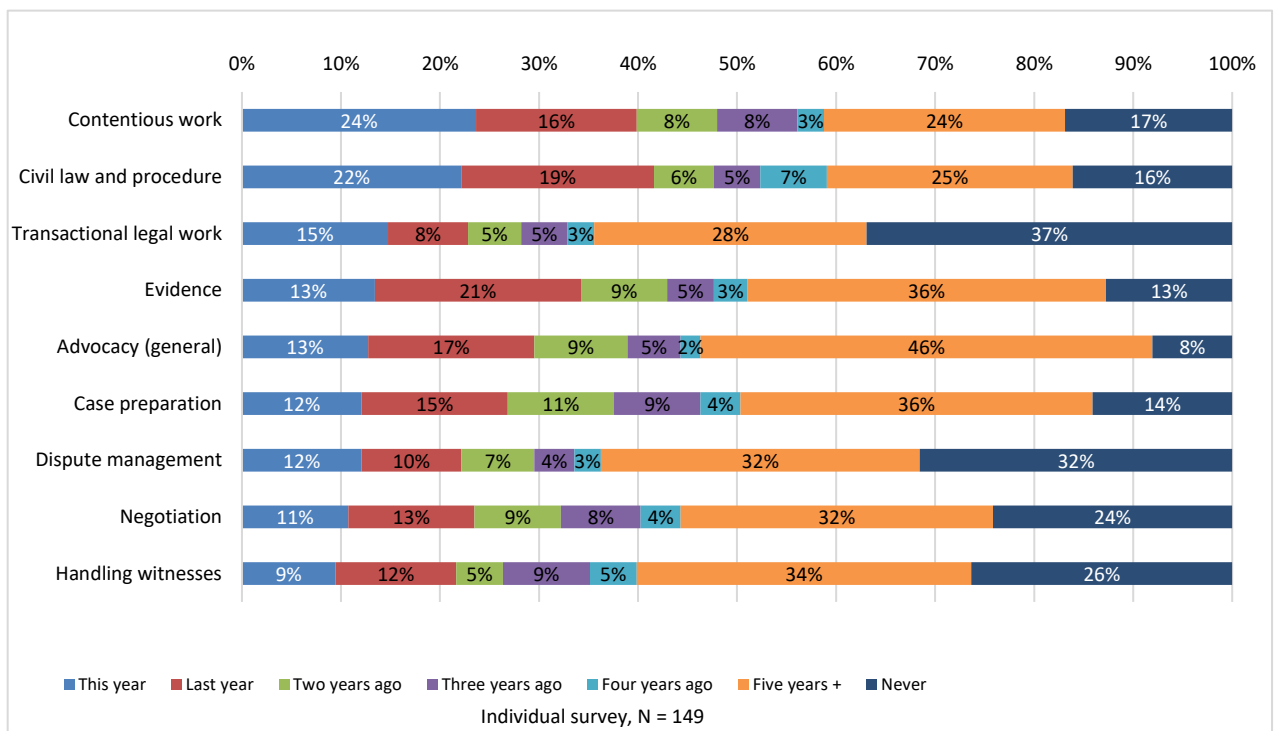


Figure 48: In-house solicitors -Type of training course and when delivered



265. In terms of identifying staff training needs, private practice solicitors said the most common one was the end of year performance and development review once a year (63% said their firms use that once a year) and employment assessments (32% said once a year). Court observation is rare (75% said their firm do not use that approach). 20% said their firm use measuring staff performance key competency indicators once a month. There was a similar trend for in-house solicitors.
266. We have developed a series of resources⁵⁵, for solicitors practising in the Youth Court to help them advise young people and children. It provides support and advice on a range of issues, from communicating with young people with learning difficulties to working effectively with Youth Offending Teams.

3.9 Reporting poor advocacy

267. We want to make it easier for stakeholders to report concerns to us. We want to include measures to simplify our online reporting structure and to remind solicitors of their regulatory obligation to report misconduct to us. These proposals include helping the public understand standards of competence and to make it easier for them to raise concerns with us.
268. The judiciary and court staff see advocates and their clients on a daily basis and are able to see the quality of advocacy provided. Our previous research with the judiciary found that there was some uncertainty among the judges about whether, or how, they should report poor advocacy to the regulators. Through further engagement work, we want to encourage judges to raise concerns regarding poor advocacy standards.
269. The survey results showed that only 1% of firms, 0.6% of private practice solicitors and 1% of in-house solicitors had ever reported poor advocacy to us.
270. The main barriers cited by firms are lack of clarity about how to report (22%), difficulty in drawing a line between poor advocacy and professional misconduct (22%) and lack of understanding on what poor advocacy looks like (19%). Although over half of firms (55%) saw no barriers to reporting poor advocacy as in Figure 49.
271. For private practice solicitors and in-house solicitors, the biggest barrier is lack of clarity about how to report (40% and 43% respectively), followed by lack of clarity about who to report to (SRA or the Legal Ombudsman) (33% and 34% respectively). In contrast to firms, only 34% of private practice solicitors and 27% of in-house solicitors think there are no barriers to reporting poor advocacy as in Figure 50.
272. Respondents seemed to be reluctant to report poor advocacy as they felt that it could be due to the circumstances of a case and some (particularly in the area of criminal practice) felt that as poor advocates would not be

⁵⁵ [Youth Court Advocacy](#)

instructed, they would no longer be providing advocacy. Some were concerned about proportionate regulation.

“The community in the criminal circles is close knit and so someone who is terrible at advocacy would not last very long in the profession. Too much regulation could be the final nail in the coffin for the ever rare duty solicitors.”

“Please do not over-regulate. I have been undertaking advocacy for over 30 years, poor advocates disappear by natural process.”

“Would be very reluctant to report poor advocacy in another solicitor especially a junior one as the only way to learn is by experience. Training courses can only go so far in this area.”

“In relation...to reporting poor advocacy, I have never done it because unless you are up against the same person regularly, it is often difficult to know if there is a genuine gap in understanding or skill or whether the advocate is managing a matter as best they can within their instructions...”

Figure 49: Firms - Barriers to reporting poor advocacy

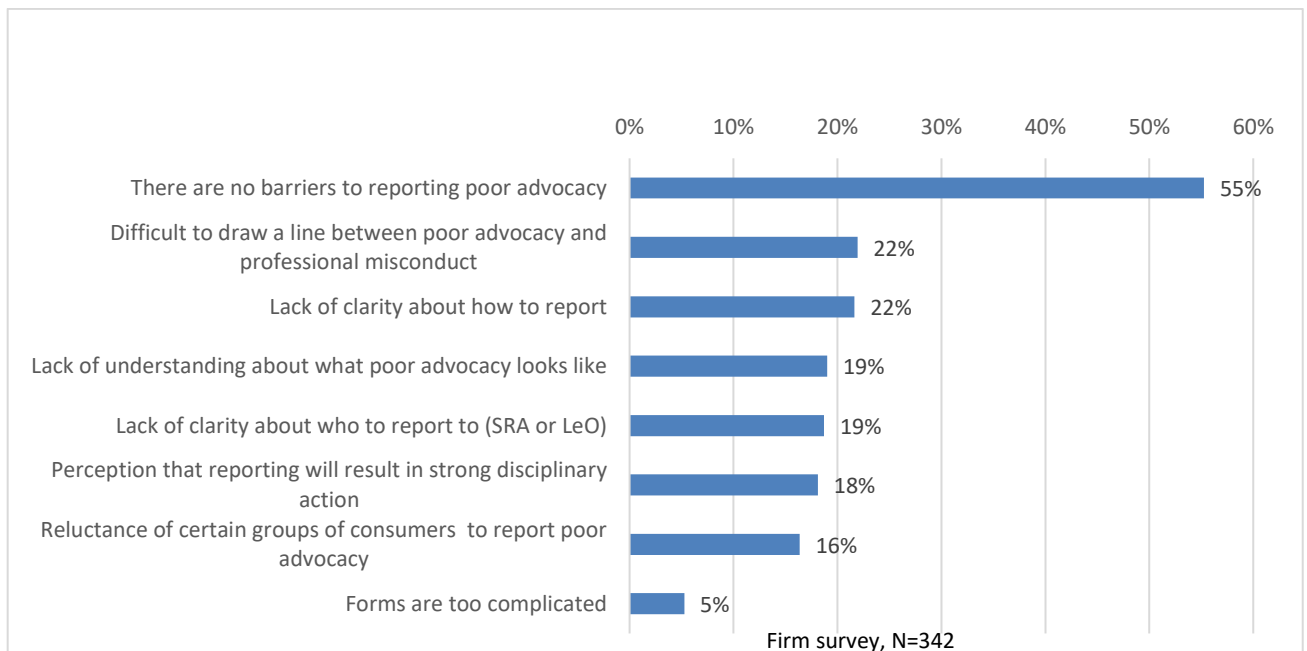
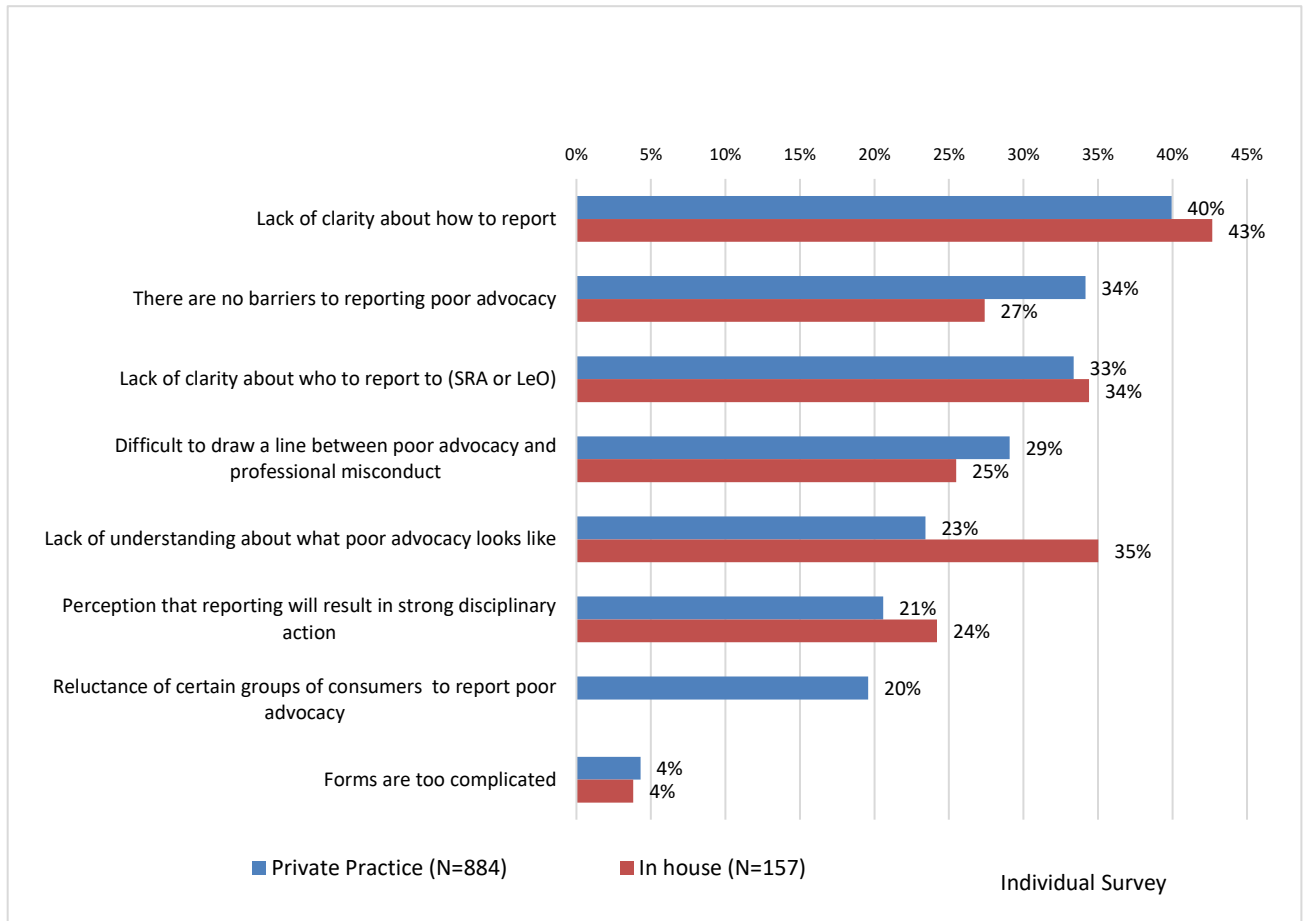


Figure 50: Solicitors - Barriers to reporting poor advocacy



3.10 Perceptions of advocacy

273. It is important to establish a benchmark of current perceptions against a set of standards in order to measure the effectiveness of any programme in improving the quality of advocacy.

274. Figure 51 provides an illustration of the perceptions of private practice respondents to various aspects of criminal advocacy. 85% of respondents think there is a problem in terms of solicitors leaving or retiring from criminal advocacy and not being replaced by younger solicitors. 74% think that criminal advocacy is losing skilled advocates to other sectors. 67% of respondents think there are very few opportunities for advocates to learn through shadowing.

275. Figure 52 provides an illustration of the perceptions of private practice respondents to various aspects of non-criminal advocacy. 40% of respondents agreed or strongly agreed that the implementation of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) in April 2013 resulted in a significant reduction in demand for advocates. 34% disagreed or strongly disagreed that an online court system for money claims up to £25,000 would benefit legal service users as this may lead to an explosion of claims without merit, based on no legal advice.

276. In comparing results for criminal and civil advocacy:

- 43% and 42% of respondents working in criminal advocacy and civil advocacy respectively strongly disagreed or disagreed, that advocates regularly take on cases beyond their skills and competence.
- 65% and 39% of respondents working in criminal advocacy and civil advocacy respectively strongly agreed or agreed, that solicitor advocates are increasingly dealing with more serious cases in the magistrates' court.
- 62% and 42% of respondents working in criminal advocacy and civil advocacy respectively strongly agreed or agreed that advocates skills in dealing with vulnerable witnesses has improved over the last few years.

277. The perceptions on issues related to advocacy are illuminated by the following comments from respondents.

Fewer opportunities for advocates to learn due to less time in court, the closed nature of some courts, less advocacy conducted in general, reluctance of firms to provide learning opportunities and tendency to instruct barristers.

“Opportunities for advocacy have diminished tremendously over the years since access to justice has been slashed following the virtual abolition of legal aid. There is more and more pressure to settle claims... As a young solicitor 20-30 years ago, I was in Court nearly every day of the week, now I'm hardly ever in Court and I fear I am losing my sharpness. It is much easier and cost-efficient to brief Counsel.”

“Shadowing would be very beneficial to those taking higher rights civil advocacy given that in the civil arena, advocates are not in court regularly.”

“There is very little opportunity to watch family cases before having to present them. As a criminal practitioner, you can watch hearings with ease due to their public nature...Although in larger firms it may be possible for a solicitor to shadow a more experienced advocate, this is impractical and unlikely to occur in high street firms...”

“Due to the loss of public funding for family work, there is less opportunity for newly qualified fee earners to attend court and build up knowledge and experience.”

“Solicitors seem to be doing less and less advocacy in general as it seems more cost effective to instruct barristers.”

“Some firms instruct counsel so readily that junior staff do not get the opportunity to shadow.”

“Agree shadowing experienced Crown Court advocates would be a significant advantage to those wishing to become HRAs.”

Unfortunately, firms can often not spare solicitors for this type of training.”

“The move to online courts is likely to reduce advocacy opportunities further.”

Advocates take on cases beyond their skills and expertise due to legal aid cuts, pressure from firms and because advocacy is conducted infrequently.

“LASPO has resulted in using in-house and sometime inexperienced advocates, as counsel will not get paid. Increase in small claims track limit again increases inexperienced cheap advocates attending complicated hearings.”

“There are many small firms which have sprung up over the last seven years, where they employ young inexperienced advocates fresh out of law school who have very little experience and do not present well in court, a lot of firms will pay these advocates basic salary and flood duty lists to obtain as many slots as they can. Their standard of advocacy is very poor.”

“The majority of civil and commercial litigation solicitors do not undertake advocacy at all in their daily roles or provide such services so infrequently that the standard of the advocacy, when required, is poor.”

Losing skilled advocates particularly in criminal practice to other more lucrative areas of practice.

“Skilled advocates are seeking other work and newly qualified solicitors are not choosing to enter this area [criminal practice] due to the difficulties in remaining financially viable. The cuts prevent an adequate amount of time being available to spend on each case, hindering the client's access to justice.”

“The decline in remuneration has gradually eroded the quality of the advocates employed in the criminal courts and the future for recruitment of talented young advocates looks bleak. Any aspiring law student with potential for becoming a good advocate now seems to be drawn to the prospects offered by sports law.”

“I see far fewer young solicitors conduct advocacy now and it is a concern that solicitor advocates appear to be diminishing with those areas in which they have traditionally worked i.e. crime and family legal aid work.”

Legal aid cuts were cited for poor standards and poor remuneration.

“If LAA were prepared to pay advocates properly, it would be far easier to improve standards.”

Litigants in Person (LIP) seems to be an increasing issue creating extra burden on advocates.

“The family court is struggling due to many litigants in person.”

“Being a civil advocate and having to deal with a litigant in person on the other side is extremely difficult and time consuming. In effect, your paying client is supplementing the LIP's case, as you spend a fair bit of time assisting the LIP...so that the court can understand the issues. It makes it very hard to progress; also, LIPs, in my experience, get far more leeway in terms of procedure which sometimes gives a represented party a disadvantage.”

“... in the family proceedings we deal with as a result of the high proportion of LIPs, there is an increasing burden on advocates to do the work of representing their own client whilst informing the other side of process and procedure...”

“The increase in Litigants in Person has led to an explosion in claims that are totally without merit or have very poor prospects of success because people are issuing court proceedings on claims that any solicitor would advise them not to do so if they were given an hour's advice.”

“Rights of audience needs to be reviewed and dealing with litigants in person.”

Simplifying legal processes seemed to be an issue particularly in relation to civil areas of law.

“The Civil Procedure rules are very complex and should be simplified.”

“...the public will be best served by simplifying many litigation processes.”

“Matters need to be simplified especially in employment cases which overwhelm the claimants.”

Judicial perceptions

Echoing some of the findings from our judicial perceptions research, a few respondents felt there was distinct bias in favour of barristers by judges.

“There is occasionally still a gap in the perception of Judges and clients between Solicitor-Advocates and Counsel.”

“Not enough is done to demonstrate that solicitor-advocates are genuine alternatives to counsel. it appears too many solicitor-advocate transfer to the Bar for that reason.”

Figure 51: Private practice solicitors - Perceptions of criminal advocacy

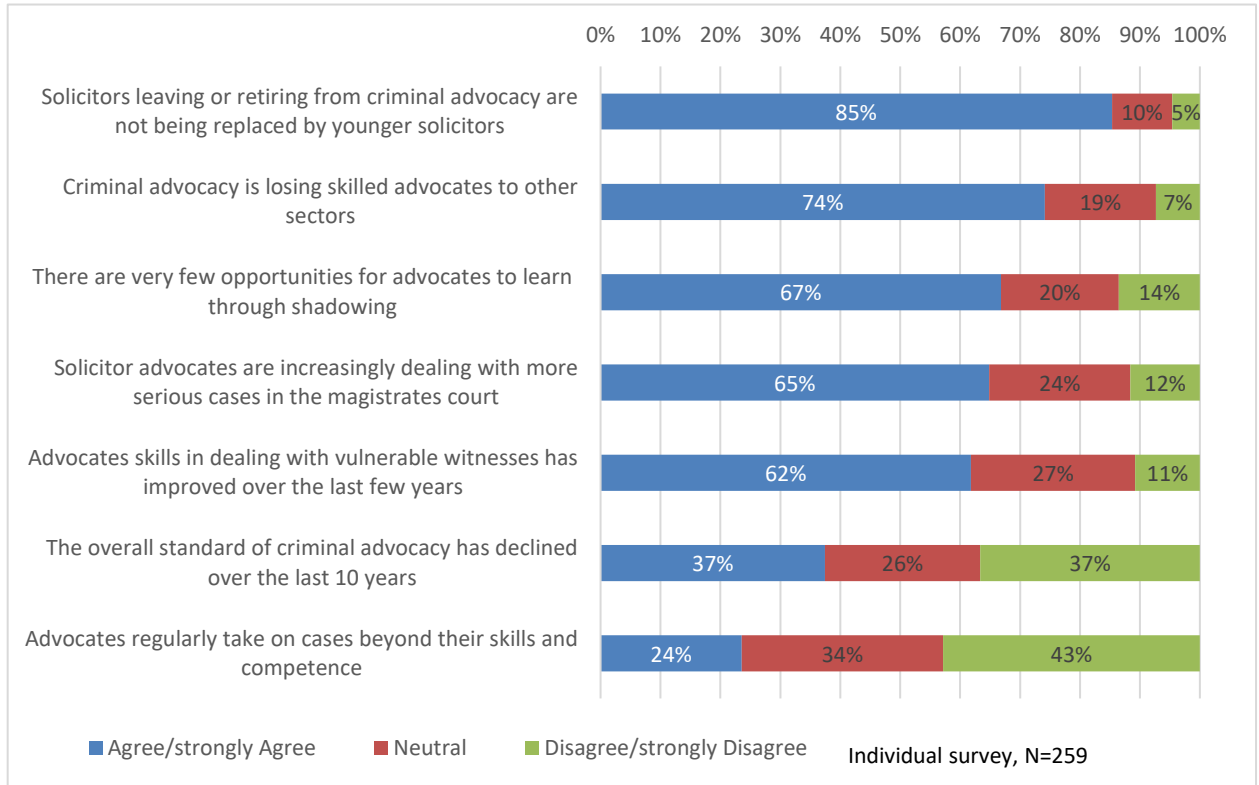
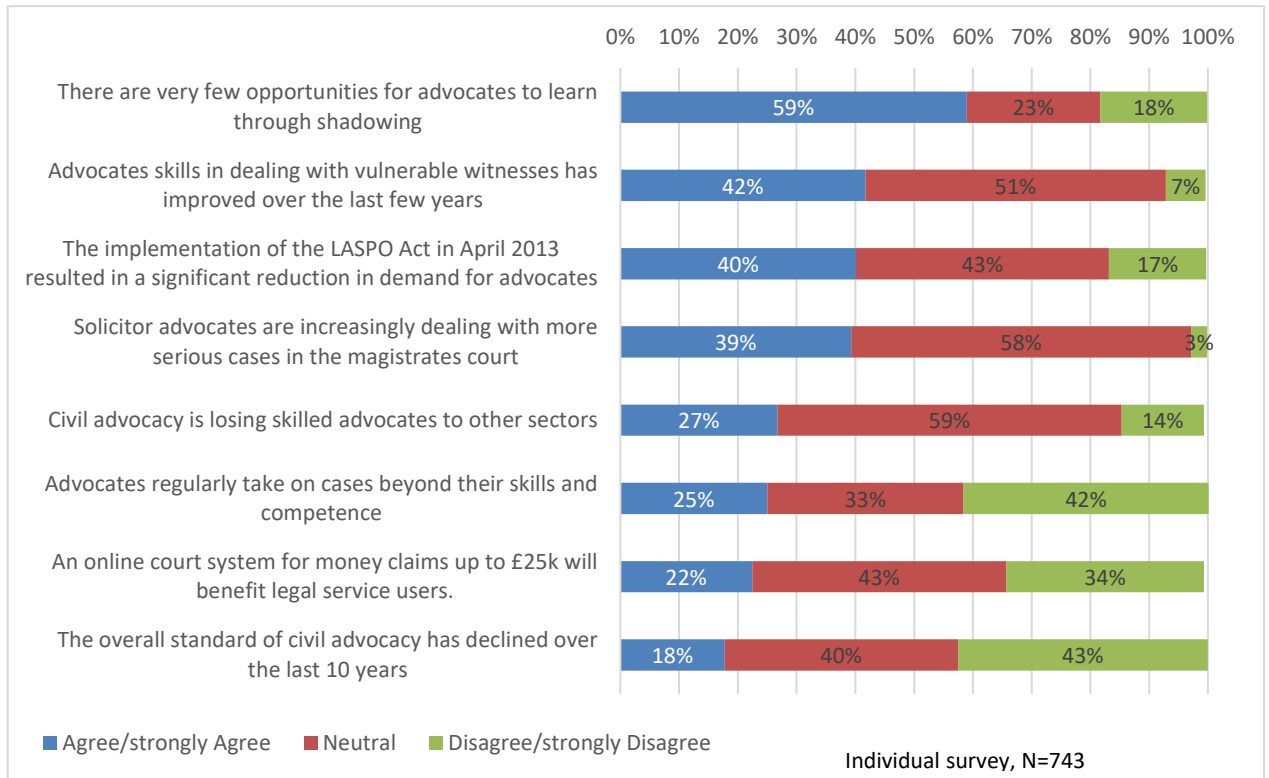


Figure 52: Private practice solicitors - Perceptions of civil advocacy



278. Respondents were asked their views on how they think the overall quality of advocacy has changed over the last 10 years (as shown in Figures 53 and 54 for firms and solicitors respectively). Amongst firms, 39% thought it had improved, 34% thought the quality had stayed the same, 17% thought it had declined and 9% did not know.

279. A slightly smaller proportion of solicitors think the quality of advocacy has improved (30% for private practice solicitors, 31% for in-house). One fifth of private solicitors (21%) thought that the overall quality of advocacy has declined.

Figure 53: Firms - Overall quality of advocacy

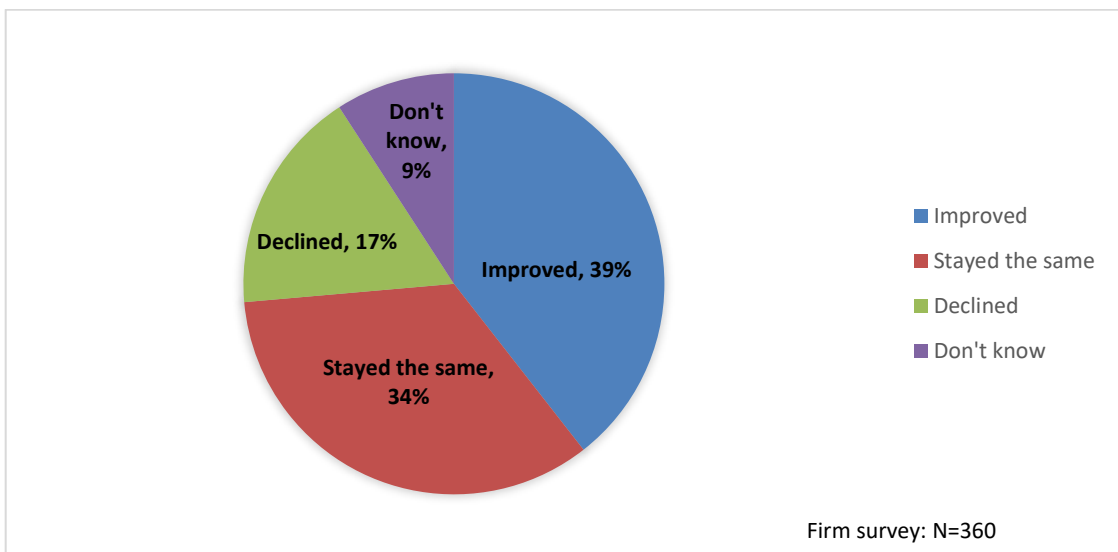
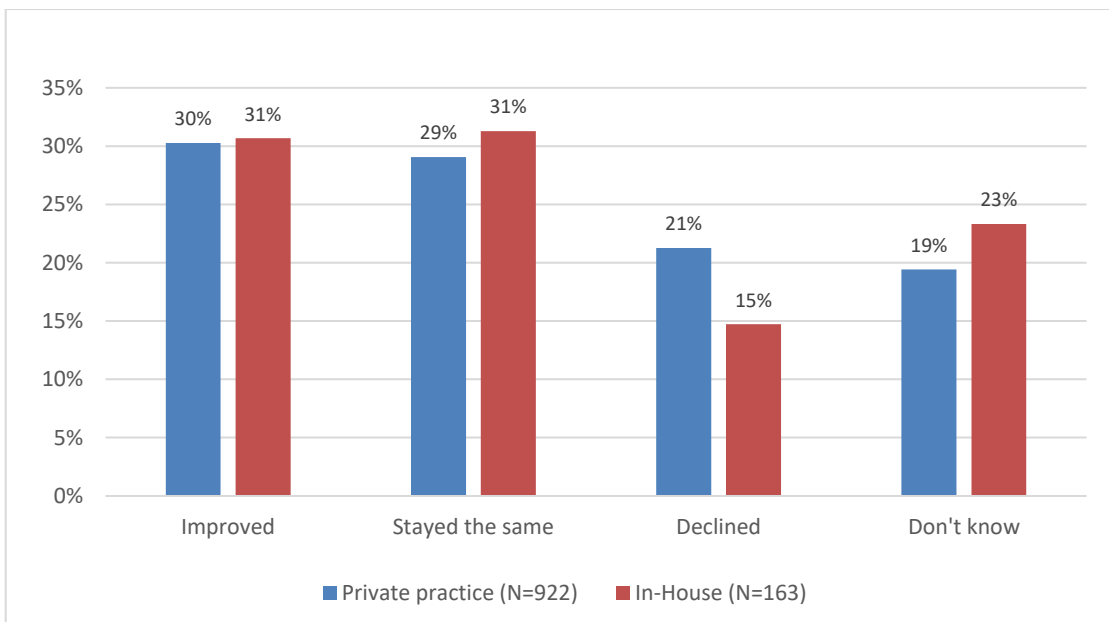


Figure 54: Solicitors - Overall quality of advocacy



4 Conclusion

280. This research covers new ground in terms of a study looking specifically at advocacy in the profession within the context of the different areas of law of advocacy (criminal, family, civil and tribunals) and was designed to cover a wide range of topics to provide information on evidence gaps.
281. The findings show that criminal advocacy is carried out mainly in-house by small practices. Most of the advocacy is carried out in the magistrates' courts and youth courts. For those that hold Criminal HRA, over one third obtained it at least 10 years after qualifying showing that those providing advocacy in complex cases in the higher courts are experienced solicitors. Furthermore, firms and solicitors stated they were more likely to instruct a barrister than conduct the advocacy themselves due to economic reasons, efficiency and to some extent due to confidence in their skills perhaps due to lack of opportunities to build up skills in court and lack of training.
282. Most criminal advocates will defend clients at sentencing and guilty plea hearings. This is borne out in the criminal statistics where there are now more guilty pleas entered prior to trial. Only a minority work regularly on full trials.
283. Civil (non family) is the largest area of law where the most advocacy is provided. Family law practitioners are least likely to hold HRA and some commented that the Civil HRA is not entirely suitable for them as they felt that family law requires a different skill base and the applicable law is fundamentally different. HRA are obtained and used in practice less frequently. A small proportion of solicitors need their HRA for the majority of the advocacy they provide.
284. The majority of tribunal cases were related to employment and most of these solicitors do not hold HRA.
285. Almost a quarter of private practice solicitors holding HRA have never used their HRA qualification in the higher courts.
286. People who have a legal issue that is heard before a court are likely to be vulnerable due to the distressing circumstances. Solicitors (with the exception of those working in-house) regularly provide advocacy services to people on low income, low literacy and with mental health issues, yet a quarter of firms stated they had never provided training on supporting vulnerable people. Despite this and as supported by the perceptions of the judiciary research, many solicitors were providing a range of reasonable adjustments to assist their clients and indeed solicitors felt that advocates skills in dealing with vulnerable people had improved in the last few years.
287. Organisations and solicitors also influence the quality of advocacy by the processes used for assigning cases to solicitor advocates, how they supervise and quality assure the work of solicitor advocates, and how they approach training to ensure continuing competence and professional development. Firms tended to view the frequency of their quality assurance

and monitoring processes in a much more positive light than solicitors. For example, almost half of firms said they monitored the quality of advocacy per case compared to only a quarter of private practice solicitors and much less for in-house solicitors. There was a consensus that court observations were hardly used to monitor quality.

288. It is important to establish a benchmark of the views of the profession and when asked about core skills related to advocacy such as knowledge, presentation of a case, clear submissions and focused questioning, most firms and solicitors thought these were very good or good. On looking at specific skills, sentencing (criminal) seemed to be the weakest area which is in line with findings related to training where almost half of private practice solicitors had never received training on sentencing.
289. Overall, the availability and high cost of appropriate training seems to be an issue particularly for in-house solicitors.
290. Over half of firms and a third of solicitors felt there were no barriers to reporting, however, there is a need to make it easier and clearer for stakeholders to report concerns to us. The main barrier to reporting was lack of clarity about how to report. Our research with the judiciary found similar findings and ultimately it is all the parties (including court staff and firms) involved in the case that are witness to incidents of poor advocacy and we must do more to encourage them to report to us.
291. The main issues as perceived by firms and solicitors are that there are very few opportunities for advocates to learn advocacy skills. Many did not think advocates took on cases beyond their skills and competence. Yet at the same time, criminal advocates did agree they were increasingly dealing with more serious cases in the magistrates' courts. Specifically, within criminal advocacy, the overwhelming majority felt that solicitors leaving or retiring from this area were not being replaced by younger solicitors and skilled advocates were being lost to other sectors. Within civil advocacy many felt that cuts in legal aid has resulted in a significant reduction in demand for advocates and conversely, they were dealing more with litigants in person which is creating an extra burden on them as they are having to assist these litigants.
292. Finally, the view from around approximately one third of firms and individual solicitors was that the overall quality of advocacy had improved over the last 10 years. An equal proportion thought it had stayed the same. Around one fifth of respondents thought quality had declined.
293. Our role is to make sure solicitors are competent and meet high professional standards. Advocacy is a high risk area, as poor advocacy carries serious consequences for the people involved, whether it is a criminal defendant facing loss of their liberty, a child at the centre of complex family proceedings, a person who faces losing their job at an employment tribunal or people involved in claims for personal injury or house repossessions.
294. The findings from the research can help us to develop better ways of assuring advocacy standards. The research provides information and

evidence to feed into the programme of work on advocacy standards focusing on:

- how we can assure the standard of criminal and civil advocacy more effectively
- reviewing the HRA standards⁵⁶
- initiatives to support solicitors to maintain standards.

295. Finally, the following comments illustrate some of the positive and negative views on advocacy in the profession:

“I sit as a Deputy District Judge (Magistrates’ Court) and have done for many years. I would say that the standard of advocacy is generally good, with some outstanding, and some poor. There doesn’t appear to me any real difference other than that people are a lot more aware of issues of diversity, mental and physical illness and general vulnerability than they ever were. The days of bullying witnesses (endemic when I started) are long gone, and professionalism is still high, despite the pressures and inadequate funding. I can say, however, that morale is low, and most people are putting up with the problems of over regulation by the LAA [Legal Aid Agency] out of dedication to the needs of client.”

“When I meet with young solicitors in larger firms now, the prospect of advocacy scares them to death. They always instruct counsel. I find it amazing because they could do it all but somewhere along the way there’s not been time to train them or maybe nobody can or nobody will pay for their learning. These days its tough down there at court but for different reasons. Everyone is under pressure like never before. The public funding is derisory for what is involved. I don’t know where the fresh advocates will come from but wherever it is, they won’t have much time to learn the skills like they used to.”

“The lack of reward for advocacy, in terms of the long hours and poor fees, do not make it an attractive option for many.”

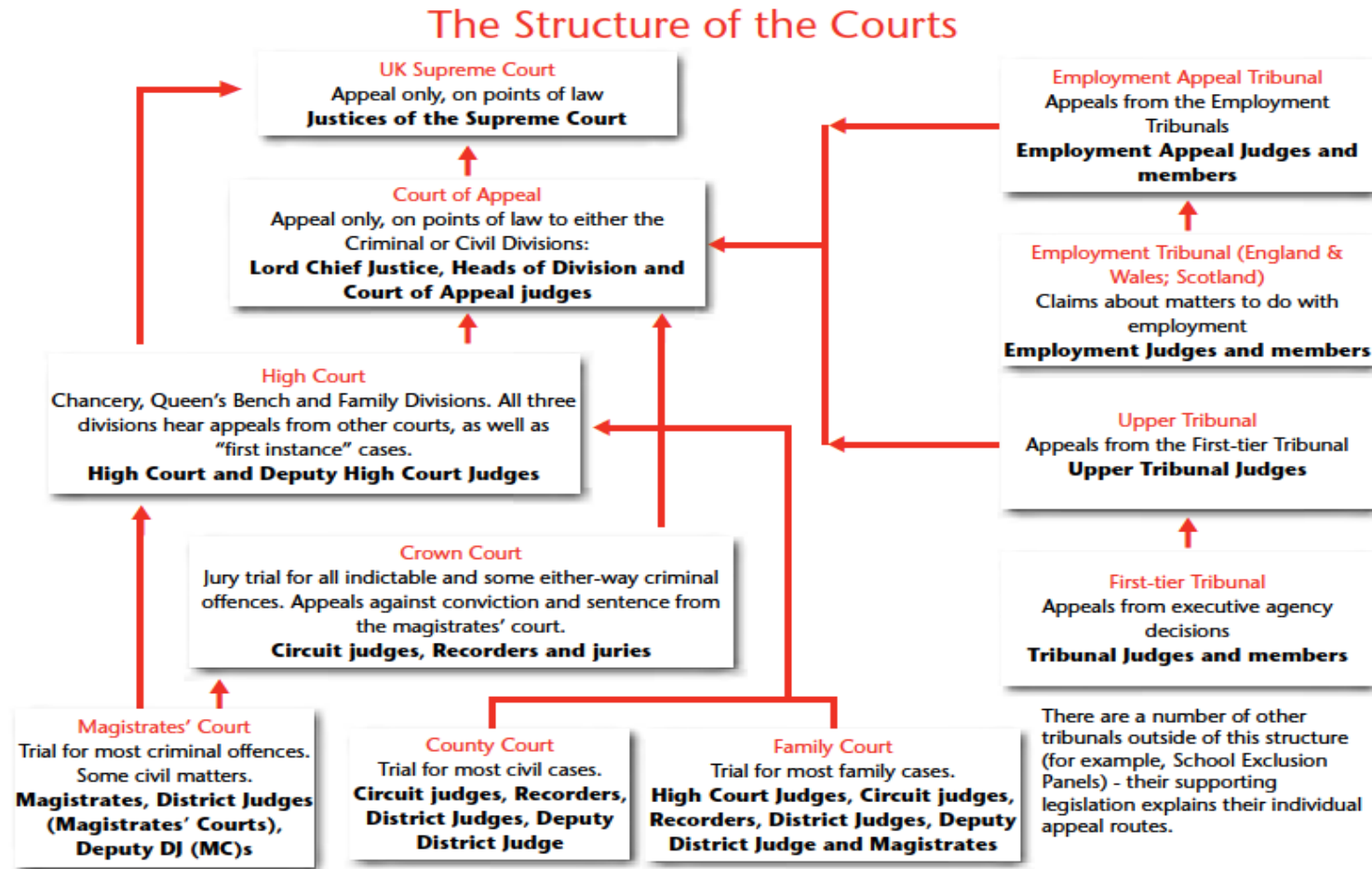
“There is great advantage for solicitor advocacy as client’s understand and enjoy the benefit of a litigation and advocacy expert taking on their case from A-Z.”

“Advocacy is the best part of the job, it is challenging but very rewarding.”

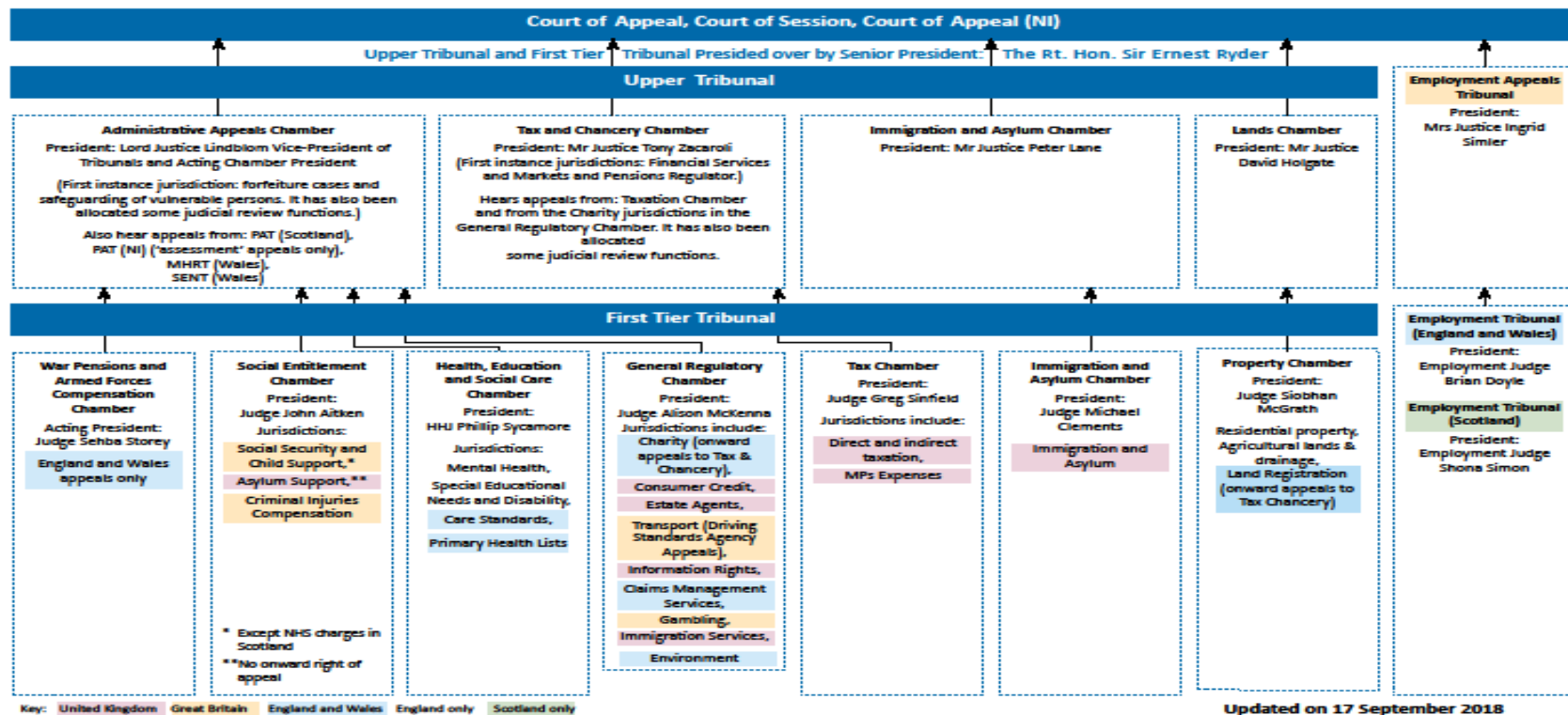
⁵⁶ In 2013, the [Wakeford Report](#) identified a lack of clarity over the performance and content standards for the Higher Rights qualification and a risk that the different organisations were assessing candidates against inconsistent standards.

Appendices

Appendix I: Structure of the courts

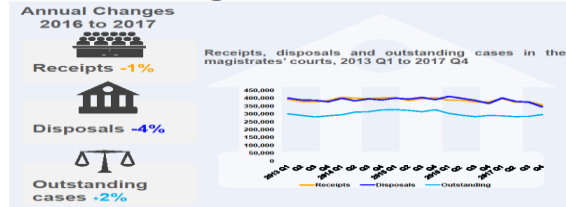


Appendix II: Structure of the tribunals



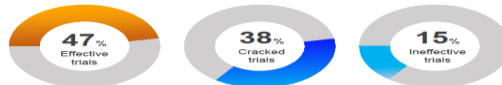
Appendix III: Criminal Court Statistics

Magistrates' courts

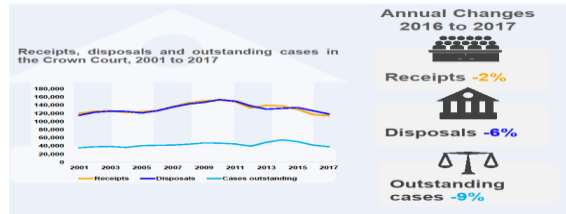


Effectiveness of magistrates' courts trials

The proportion of effective, cracked and ineffective trials remained unchanged from 2016.



Crown Court



Number of disposals by offence, 2017 and changes in disposals by offence, 2016 to 2017.



Effectiveness of Crown Court trials

The proportion of effective, cracked and ineffective trials remained unchanged from 2016.



Guilty plea rate

Changes in guilty plea rate for defendants in trial cases in the Crown Court:



Average hearing times

Average hearing times for all trial cases at the Crown Court from 2016 have changed by:



Timeliness

Average (mean) number of days from first listing in the magistrates' court to completion in the Crown Court for Crown Court criminal cases, selected offences:



Appendix IV: Questionnaire - Firms

ALL

1) Does your firm undertake any type of advocacy in courts or at tribunals? *

Yes

No

IF NO – End Survey page

IF YES

2) S1 - What types of advocacy do solicitors at your firm provide?*

Criminal

Family

Civil (excluding family)

Tribunals

Other - please state: _____

ALL

Firm profiling information

3) Approximately, how many practising solicitors are employed at your firm?*

1

2-4

5-10

11-25

26 -50

51-75

76 -99

100-499

500+

4) Approximately, how many partners are employed by your firm?*

- 1
- 2-4
- 5-10
- 11-25
- 26 -50
- 51-75
- 76 -99
- 100+

5) Is your firm an Alternative Business Structure (ABS)?*

An ABS is a regulated organisation which provides legal services and has some form of non-lawyer involvement. This involvement can either be at the management level, e.g. as a partner, director or member; or as an owner, e.g. an investor or shareholder.

- Yes
- No

6) What is your firm's annual turnover?*

- £0 - £99,999
- £100,000 - £199,999
- £200,000 - £499,999
- £500,000 - £999,999
- £1,000,000 - £2,999,999
- £3,000,000 - £9,999,999
- £10,000,000 - £29,999,999
- £30,000,000 - £69,999,999
- £70,000,000 - £149,999,999
- >£149,999,999

7) Does your firm have a contract with the Legal Aid Agency (LAA)*

- Yes
- No

If yes go to question below

8) Approximately what percentage of your work is funded by Legal Aid?*

- 1-10%
- 11-20%
- 21-30%
- 31-40%
- 41-50%
- 51-60%
- 61-70%
- 71-80%
- 81-90%
- 91-100%

9)S2 - In which areas of law does your firm provide services?*

- Arbitration and alternative dispute resolution
- Bankruptcy / Insolvency
- Children
- Commercial / Corporate Work for Listed Companies
- Commercial / Corporate Work for Non-Listed Companies
- Consumer
- Criminal
- Debt collection
- Discrimination / Civil Liberties / Human Rights
- Employment
- Family / Matrimonial
- Financial Advice and Services (Regulated by FCA)
- Financial Advice and Services (Regulated by SRA)
- Immigration

- Intellectual Property
 - Landlord and Tenant (Commercial and Domestic)
 - Litigation - Other
 - Mental Health
 - Non-Litigation - Other
 - Personal Injury
 - Planning
 - Probate and Estate Administration
 - Property - Commercial
 - Property - Residential
 - Social Welfare
 - Wills, Trusts and Tax Planning
 - Other - please state: _____
-

10)S3 - Please select the top 3 areas of law in which your firm provides the most advocacy*

Pre-populate from responses to areas of law at S2

11)Approximately, how many of your solicitors provide advocacy in this area/these areas?*

	1	2-4	5-10	11-25	26-50	51-75	76-99	10-499	500+
--	---	-----	------	-------	-------	-------	-------	--------	------

Pre-populate the areas of law from S3

For those that select criminal at S1

12)In which court circuit(s) do your solicitors provide criminal advocacy? (please select all that apply)*

- North Eastern Circuit
- Northern Circuit

- Midland Circuit
- Wales and Chester Circuit (also known as Wales and Cheshire)
- South Eastern Circuit
- Western Circuit

13) In which region(s) do your solicitors provide advocacy? (please select all that apply)*

- North East
 - North West
 - Yorkshire and Humberside
 - East Midlands
 - West Midlands
 - South West
 - East of England
 - Central London
 - Rest of Greater London
 - South East
 - Wales
 - Scotland
 - Northern Ireland
 - Overseas - EU
 - Overseas - non EU
-

14) Do any of your solicitors have Higher Rights of Audience (HRA)?

- Yes
- No

If no – move to next section on Casework

15) Do any of your solicitors have the following Higher Rights of Audience (HRA)?*

- Criminal HRA
- Civil HRA
- Both criminal HRA and civil HRA

16)How many of your solicitors have the following Higher Rights of Audience (HRA)?*

	1	2-4	5-10	11-25	26-50	51-75	76-99	100+
--	----------	------------	-------------	--------------	--------------	--------------	--------------	-------------

Pre-populate with the HRA selected

17)On average, how many years of Post Qualification Experience (PQE) do your solicitors with the following HRA have?*

	Less than one year	1-2 years	3-4 years	5-9 years	9+ years
--	---------------------------	------------------	------------------	------------------	-----------------

Pre-populate with the HRA selected

ALL

Casework

18)Approximately, how many matters did your firm work on in 2017?*

- 1-5
- 6-10
- 11-20
- 21-50
- 51-70
- 71-100
- 101 -500
- 501-1000
- 1001+

19) Approximately, how many of these matters required advocacy?

Complete for each of the following: *

0	1-5	6-10	11-20	21-50	51-70	71-100	101-500	501-1000	1001+
----------	------------	-------------	--------------	--------------	--------------	---------------	----------------	-----------------	--------------

Pre-populate with responses from S1

For those that select criminal at S1

20) What proportion of your firm's advocacy (if any) is provided in the following criminal courts?

Add up to 100%*

- _____ Magistrates Court
- _____ Crown Court
- _____ Youth Court
- _____ High Court
- _____ The Court of Appeal
- _____ Other criminal court
- _____ Elsewhere (arising from a criminal case)

For those that select tribunals at S1

21) What proportion of tribunal hearings requiring advocacy were completed in the following tribunals?

Add up to 100%*

- _____ Option 1
- _____ Option 2
- _____ Employment tribunal
- _____ First Tier Tribunal Immigration and Asylum Chamber
- _____ Social Security and Child Support tribunal
- _____ Other tribunal

For those that select family, Civil (excluding family), Other at S1

22)What proportion of your firm’s advocacy (if any) is provided in the following civil and other courts?

Add up to 100%*

- _____Magistrates Court
 - _____County Court
 - _____Family Court
 - _____Court of Protection
 - _____High Court
 - _____Commercial Court
 - _____Admiralty Court
 - _____Administrative Court
 - _____Companies Court
 - _____Patents Court
 - _____Bankruptcy Court
 - _____Technology and Construction Court
 - _____The Intellectual Property Enterprise Court
 - _____The Civil Division of the Court of Appeal
 - _____Supreme Court
 - _____The Privy Council
 - _____Other court dealing with civil matters
-

For those that select criminal at S1

23)Which of the following offences does your firm most commonly provide advocacy for?*

Select the top 5 offences you deal with.

- Appeals
- Arson
- Assault
- Bail applications
- Burglary

- Cases involving issues of national security
- Child abuse
- Committal for sentencing
- Deception
- Dishonesty and fraud
- Driving offences (involving death)
- Drug offences
- Minor sexual offences
- Murder
- Offences involving violence and damage
- Preliminary s51 hearings
- Road traffic offences
- Robbery
- Serious assault
- Serious organised crime
- Terrorism
- Theft
- Other - please state: _____

24) Who most commonly undertakes advocacy in relation to each of these offences?*

	HRA	Non-HRA	Both HRA and non HRA	Barristers	Other
--	------------	----------------	-----------------------------	-------------------	--------------

Pre-populate with responses from above – types of offences

For those that select tribunals at S1

25) Who most commonly deals with these types of tribunals?*

	HRA	Non HRA	Both HRA and non HRA	Barristers	Other
Employment	()	()	()	()	()
Asylum & Immigration	()	()	()	()	()
Social Security & Child Support	()	()	()	()	()
Other tribunal	()	()	()	()	()

For all unless selected criminal only at S1

26) Which types of case does your firm most commonly work on?*

Select the top 5 case types.

- Consumer
- Neighbours
- Employment
- Money
- Debt
- Rented housing
- Welfare benefits
- Personal injury
- Children
- Education
- Owned housing
- Clinical negligence

- Divorce
- Domestic violence
- Care proceedings
- Immigration
- Mental health
- Insolvency
- Return of goods
- Commercial
- Contract
- Wills
- Trusts
- Insolvency
- Tax
- Contractual disputes
- Industrial accidents
- Defamation cases
- Negligence claims
- Commercial disputes
- Construction and technology disputes
- Mortgage and Landlord Possession
- Judicial Review
- Privacy Injunctions
- Other - please state

27) Who most commonly deals with these types of cases?*

	HRA	Non HRA	Both HRA and non HRA	Barristers	Other
--	------------	----------------	-----------------------------	-------------------	--------------

Pre-populate with case types selected

ALL

28)Does your firm deal with money claims?*

- Yes
 - No
-

If No - move to next section

29)What type of claims does your firm deal with? *

- Small
 - Fast track
 - Multi
-

30)What proportion of total claims is within the following tracks? *

	0 %	1- 10 %	11 - 20 %	21 - 30 %	31 - 40 %	41 - 50 %	51 - 60 %	61 - 70 %	71 - 80 %	81 - 90 %	91- 100 %
--	----------------	------------------------	------------------------------	------------------------------	------------------------------	------------------------------	------------------------------	------------------------------	------------------------------	------------------------------	--------------------------

Pre-populate with types of claims selected

31)Who most commonly deals with these claims?*

	HRA	Non- HRA	Both HRA and non- HRA	Barristers	Other
--	------------	---------------------	--	-------------------	--------------

Pre-populate with types of claims selected

For those that select criminal at S1

32)How frequently do your solicitors provide advocacy in the following types of hearings?*

	Very frequently (at least one case a week)	Frequently (at least one case every month)	Occasionally (at least one case per quarter)	Rarely (at least one case per year)	Never
Bail applications	()	()	()	()	()
Pre-trial hearings/preliminary hearings	()	()	()	()	()
Plea and case management hearing	()	()	()	()	()
Guilty pleas	()	()	()	()	()
Cracked trials	()	()	()	()	()
Full trials	()	()	()	()	()
Newton hearings	()	()	()	()	()
Sentencing hearings	()	()	()	()	()
Appeals from Magistrates' Courts	()	()	()	()	()
Committals for sentence	()	()	()	()	()

ALL

33)How frequently does your firm provide advocacy to clients with the following personal characteristics?*

	Always	Very often	Sometimes	Rarely	Never	Don't know
Low income	()	()	()	()	()	()
Low literacy	()	()	()	()	()	()
Learning disabilities	()	()	()	()	()	()
Cultural barriers (e.g. prefer using a solicitor from own community)	()	()	()	()	()	()
Physical disabilities	()	()	()	()	()	()
Mental health issues	()	()	()	()	()	()
English as a second language	()	()	()	()	()	()
Health problems	()	()	()	()	()	()
Being a carer for another adult	()	()	()	()	()	()

34) Please describe the type of reasonable adjustments (if any) your firm makes when providing advocacy to clients with any of these personal characteristics.

ALL

Choosing an advocate

35) Approximately, what proportion of cases requiring some form of advocacy are completed in-house?*

- 1-10%
- 11-20%
- 21-30%
- 31-40%
- 41-50%
- 51-60%
- 61-70%
- 71-80%
- 81-90%
- 91-100%

36) Please rank all the following factors in order of importance, when choosing a solicitor advocate for a case:*

- _____ Type and severity of case
- _____ HRA required
- _____ Value of the claim
- _____ Advocates reputation
- _____ Advocate availability
- _____ Advocate specialism and experience

- _____ Advocate competence
- _____ Client choice
- _____ Client relations with firm or specific advocate
- _____ Continuity of representation

37) Are there any other factors that your firm takes into account when assigning cases to solicitors?

ALL

Advocate competence

38) For the profession generally, how would you rate the skills of criminal/civil advocates in the following areas?*

	Very Good	Good	Average	Poor	Very Poor
Communication	()	()	()	()	()
Case preparation	()	()	()	()	()
Reviewing evidence	()	()	()	()	()
Handling witnesses	()	()	()	()	()
Supporting vulnerable people	()	()	()	()	()
Sentencing (criminal)	()	()	()	()	()

39)The SRA have defined four core professional standards, which all advocates should meet. How would you rate the overall quality of advocates against these standards?*

	Very Good	Good	Average	Poor	Very Poor
Demonstrate the appropriate level of knowledge, experience and skill	()	()	()	()	()
Proper presentation of a case	()	()	()	()	()
Present clear and succinct written/and or oral submissions	()	()	()	()	()
Conduct focused questioning	()	()	()	()	()

40)Over the last 10 years, how do you think the overall quality of advocacy has changed?*

- () Improved
- () Declined
- () Stayed the same
- () Don't know

ALL

Quality assurance and monitoring

41)How frequently do you monitor the quality of your solicitors' advocacy?*

- Per case
- Once a month
- At least once a quarter
- At least once every six months
- Once a year
- We do not formally monitor the quality of advocacy

42)How frequently does your firm use the following procedures to quality assure the work of advocates?*

	Per case	Once a month	At least once a quarter	At least once every six months	Once a year	Do not use this method
Client feedback	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
File reviews	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internal meetings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Development reviews	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Court observations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Following best practice guidelines	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

43)What processes does your firm have in place to deal with any poor quality advocacy from your solicitors?

44)Have you ever reported any solicitors for poor advocacy to the SRA?*

- Yes
- No

**45)Do you think any of the following are potential barriers to reporting poor advocacy for your firm and for others?
Please select up to three.***

- Lack of clarity about who to report to (SRA or LeO)
- Lack of clarity about how to report
- Forms are too complicated
- Lack of understanding about what poor advocacy looks like
- Perception that reporting will result in strong disciplinary action
- Difficult to draw a line between poor advocacy and professional misconduct
- Reluctance of certain groups of consumers to report poor advocacy
- There are no barriers to reporting poor advocacy

ALL

Training

46)Does your firm provide advocacy training to its solicitors?*

- Yes
- No

If no - move to next section

47)How was the majority of the training generally delivered?*

- In-house only
- External provider only
- Online

48)When did you last provide or offer training in the following areas?*

	This year	Last year	Two years ago	Three years ago	Four years ago	Five years+	Never
Advocacy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Case preparation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Civil law and procedure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Criminal law and procedure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Evidence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Family law and procedure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Supporting vulnerable people	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Handling witnesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sentencing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Perceptions of advocacy

For those that select family, Civil (excluding family), Other at S1

49)Are there any specific issues in civil advocacy you would like to highlight?

ALL

50)Do you have any additional comments on any aspect of advocacy?

Thank You!

Appendix V: Questionnaire -Individual Solicitors

Private Practice, Crown Prosecution Service, In-House

1) Do you provide any type of advocacy in courts or at tribunals (e.g. criminal, civil, family, administrative courts, tribunals)?*

- Yes
 No

IF NO – End Survey page

2) S1 - What type of advocacy do you provide?*

- Criminal
 Family
 Civil (excluding family)
 Tribunals
 Other types of advocacy - please state: _____

3) S2 - What type of organisation do you work in?*

- Private practice
 Crown Prosecution Service (CPS)
 Commerce and industry
 Central or local Government
 Third Sector
 Other - please state: _____

- **If 'Private Practice' go to Private section**
- **If 'CPS' go to CPS section**
- **If 'Commerce and Industry', 'Central or local Government' or 'Third Sector', or 'Other' route to In-house section**

If S1=private practice

PRIVATE PRACTICE

4) Is your firm an Alternative Business Structure (ABS)?*

An ABS is a regulated organisation which provides legal services and has some form of non-lawyer involvement. This involvement can either be at the management level e.g. as a partner, director or member; or as an owner e.g. an investor or shareholder.

Yes

No

5) Approximately, how many practising solicitors are employed at your firm?*

1

2-4

5-10

11-25

26 -50

51-75

76 -99

100-499

500+

6) Approximately, how many partners are there in your firm?*

1

2-4

5-10

11-25

26 -50

51-75

76 -99

100+

7) What is your role in the firm?*

- Sole practitioner
- Fee Earner/employee
- Partner/director/member
- Other - please state: _____

8) Are you a police station representative?*

- Yes
 - No
-

9) S3 - In which areas of law does your firm provide services?*

- Arbitration and alternative dispute resolution
- Bankruptcy / Insolvency
- Children
- Commercial / Corporate Work for Listed Companies
- Commercial / Corporate Work for Non-Listed Companies
- Consumer
- Criminal
- Debt collection
- Discrimination / Civil Liberties / Human Rights
- Employment
- Family / Matrimonial
- Financial Advice and Services (Regulated by FCA)
- Financial Advice and Services (Regulated by SRA)
- Immigration
- Intellectual Property
- Landlord and Tenant (Commercial and Domestic)
- Litigation - Other
- Mental Health
- Non-Litigation - Other

- Personal Injury
 - Planning
 - Probate and Estate Administration
 - Property - Commercial
 - Property - Residential
 - Social Welfare
 - Wills, Trusts and Tax Planning
 - Other - please state: _____
-

10) S4 - In which of these areas of law do you provide advocacy?*

Pre-populate the areas of law from S3

**11) In 2017, approximately what proportion (%) of your total advocacy time was spent on these areas?
Add up to 100%***

Pre-populate the areas of law selected at S4 (above)

12) Do you undertake Legal Aid work?*

- Yes
- No

13) For each area of work, what proportion of your advocacy is legally aided?*

- _____ Criminal
- _____ Family
- _____ Civil (excluding family)
- _____ Tribunals
- _____ Other types of advocacy

Pre-populate from responses selected at S1

For those that select criminal at S1

14) In which court circuit(s) do you provide advocacy*

- North Eastern Circuit
- Northern Circuit
- Midland Circuit
- Wales and Chester Circuit (also known as Wales and Cheshire)
- South Eastern Circuit
- Western Circuit

For those that select family, civil (excluding family), tribunals and other at S1

15) In which region(s) do you provide advocacy?*

- North East
- North West
- Yorkshire and Humberside
- East Midlands
- West Midlands
- South West
- East of England
- Central London
- Rest of Greater London
- South East
- Wales
- Overseas
- Scotland
- Northern Ireland
- Overseas - EU

Casework

16) How many advocacy matters did you work on in 2017?*

	1- 5	6- 10	11- 20	21- 50	51- 70	71- 100	101+
--	---------	----------	-----------	-----------	-----------	------------	------

Pre-populate with responses from S1

For those that select criminal at S1

17) What proportion of your advocacy (if any) is provided in the following criminal courts?

Add up to 100%*

_____ Magistrates Court

_____ Crown Court

_____ Youth Court

_____ High Court

_____ The Court of Appeal

_____ Other criminal court

_____ Elsewhere (arising from a criminal case)

For those that select tribunal at S1

18) What proportion of your tribunal cases requiring advocacy were completed in the following tribunals?

Add up to 100%*

_____ Employment tribunal

_____ First Tier Tribunal Immigration and Asylum Chamber

_____ Social Security and Child Support tribunal

_____ Other tribunal

For those that select family, civil (excluding family) and other at S1

19) What proportion of your advocacy (if any) is provided in the following civil and other courts?

Add up to 100%*

- _____ Magistrates Court
 - _____ County Court
 - _____ Family Court
 - _____ Court of Protection
 - _____ High Court
 - _____ Commercial Court
 - _____ Admiralty Court
 - _____ Administrative Court
 - _____ Companies Court
 - _____ Patents Court
 - _____ Bankruptcy Court
 - _____ Technology and Construction Court
 - _____ The Intellectual Property Enterprise Court
 - _____ The Civil Division of the Court of Appeal
 - _____ Supreme Court
 - _____ The Privy Council
 - _____ Other court dealing with civil matters
-

For those that select family, civil (excluding family), tribunals and other at S1

20) Which types of case do you most commonly work on?*

Please select your top 5

- Care proceedings
- Children
- Clinical negligence
- Commercial
- Commercial disputes
- Construction and technology disputes

- Consumer
- Contract
- Contractual disputes
- Debt
- Defamation cases
- Divorce
- Domestic violence
- Education
- Employment
- Immigration
- Industrial accidents
- Insolvency
- Judicial review
- Mental health
- Money
- Mortgage and Landlord Possession
- Negligence claims
- Neighbours
- Owned housing
- Personal injury
- Rented housing
- Return of goods
- Tax
- Trusts
- Welfare benefits
- Wills
- Other

For those that select criminal at S1

21) For which of the following offences do you most commonly provide advocacy for?

Please select your top 5*

- Appeals
 - Arson
 - Assault
 - Bail applications
 - Burglary
 - Cases involving issues of national security
 - Child abuse
 - Committal for sentencing
 - Deception
 - Dishonesty and fraud
 - Driving offences (involving death)
 - Drug offences
 - Minor sexual offences
 - Murder
 - Offences involving violence and damage
 - Preliminary s51 hearings
 - Road traffic offences
 - Robbery
 - Serious assault
 - Serious organised crime
 - Terrorism
 - Theft
 - Other
-

22) Do you deal with money claims?

- Yes
- No

If yes go to next question

If no go to question on 'How frequently do you provide advocacy in the following types of hearings?' for those that select criminal at S1.

All others move to 'How frequently do you provide advocacy to clients with the following personal characteristics?'

23) What type of claims do you deal with?*

Small

Fast track

Multi

**24) What proportion (%) of your total claims are:
add up to 100%***

_____ Small

_____ Fast Track

_____ Multi

For those that select criminal at S1

25) How frequently do you provide advocacy in the following types of hearings?*

	Very frequently (at least one case per a week)	Frequently (at least one case a month)	Occasionally (at least one case a quarter)	Rarely (at least one case a year)	Never
Bail applications	()	()	()	()	()
Pre-trial hearings/preliminary hearings	()	()	()	()	()
Plea and case management hearing	()	()	()	()	()
Guilty pleas	()	()	()	()	()
Cracked trials	()	()	()	()	()
Full trials	()	()	()	()	()
Newton hearings	()	()	()	()	()
Sentencing hearings	()	()	()	()	()
Appeals from Magistrates' Courts	()	()	()	()	()
Committals for sentence	()	()	()	()	()

ALL

26) How frequently do you provide advocacy to clients with the following personal characteristics?*

	Always	Very often	Sometimes	Rarely	Never	Don't know
Low income	()	()	()	()	()	()
Low literacy	()	()	()	()	()	()
Learning disabilities	()	()	()	()	()	()
Cultural barriers (e.g. prefer using a solicitor from own community)	()	()	()	()	()	()
Physical disabilities	()	()	()	()	()	()
Mental health issues	()	()	()	()	()	()
English as a second language	()	()	()	()	()	()
Health problems	()	()	()	()	()	()
Being a carer for another adult	()	()	()	()	()	()

27) Please describe the type of reasonable adjustments (if any) you have made when providing advocacy to clients with any of these personal characteristics.

Higher Rights of Audience and levels of experience.

For those that select criminal at S1

28) How many years of post-qualification experience (PQE) did you have when you first started providing criminal advocacy?*

- Less than 1 year
- 1-2 years
- 3-4 years
- 5-9 years
- 9+ years

For those that select family, civil (excluding family), tribunals and other at S1

29) How many years of post-qualification experience (PQE) did you have when you first started providing any advocacy other than criminal?*

- Less than 1 year
- 1-2 years
- 3-4 years
- 5-9 years
- 9+ years

ALL

30) Do you have Higher Rights of Audience (HRA)?*

- Yes
- No

If yes move to next question

If no move to Perception of competence section

31) Which HRA qualification(s) do you hold?*

- Criminal HRA
- Civil HRA
- Both criminal HRA and civil HRA

If answer to “Which HRA qualification do you hold?” is Criminal HRA or Both criminal HRA and civil HRA

32) When did you obtain your HRA Criminal qualification?*

- I took the assessment before qualifying
- Less than 6 months after qualifying
- 6 months - up to 1 year after qualifying
- 1-2 years after qualifying
- 3-5 years after qualifying
- 6-10 years after qualifying
- 10+ years after qualifying

If answer to “Which HRA qualification do you hold?” is Civil HRA or Both criminal HRA and civil HRA

33) When did you obtain your HRA Civil qualification?*

- I took the assessment before qualifying
- Less than 6 months after qualifying
- 6 months - up to 1 year after qualifying
- 1-2 years after qualifying
- 3-5 years after qualifying
- 6-10 years after qualifying
- 10+ years after qualifying

34) How soon after obtaining your HRA qualification did you start using it to provide advocacy in the Higher Courts?*

- As soon as I obtained **Higher Rights**
- Less than 6 months
- 6 months - up to 1 year
- 1-2 years
- 3-5 years
- 6-10 years
- 10+ years
- Never used my HRA qualification

35) In 2017 approximately what proportion of your advocacy work required you to have HRA?*

- 0
- 1-10%
- 11-20%
- 21-30%
- 31-40%
- 41-50%
- 51-60%
- 61-70%
- 71-80%
- 81-90%
- 91-100%

Perceptions of competence

[ALL](#)

36) Please rank all the following factors in order of importance, of how, in your opinion, a case requiring advocacy is assigned to you?*

_____ Type and severity of case

_____ HRA required

- _____ Value of the claim
- _____ Advocates reputation
- _____ Advocate availability
- _____ Advocate specialism and experience
- _____ Advocate competence
- _____ Client choice
- _____ Client relations with firm or specific advocate
- _____ Continuity of representation

37) For the profession generally, how would you rate the skills of criminal / civil advocates in the following areas?*

	Very good	Good	Average	Poor	Very poor
Communication	()	()	()	()	()
Case preparation	()	()	()	()	()
Reviewing evidence	()	()	()	()	()
Handling witnesses	()	()	()	()	()
Supporting vulnerable people	()	()	()	()	()
Sentencing (criminal)	()	()	()	()	()
Demonstrate the appropriate level of knowledge, experience and skill	()	()	()	()	()
Proper presentation of a case	()	()	()	()	()
Present clear and succinct written/and or oral submissions	()	()	()	()	()
Conduct focused questioning	()	()	()	()	()

38) Over the last 10 years, how do you think the quality of advocacy has changed?*

- Improved
- Declined
- Stayed the same
- Don't know

For those that select criminal at S1

39) To what extent do you agree with the following statements (criminal advocacy)?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
The overall standard of criminal advocacy has declined over the last 10 years	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Advocates regularly take on cases beyond their skills and competence	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There are very few opportunities for advocates to learn through shadowing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Advocates skills in dealing with vulnerable witnesses has improved over the last few years	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Solicitor advocates are increasingly dealing with more serious cases in the magistrates court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Criminal advocacy is losing skilled advocates to other sectors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Solicitors leaving or retiring from criminal advocacy are not being replaced by younger solicitors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For those that select family, civil (excluding family), tribunals and other at S1. Those that select criminal and other options at S1 will answer both these statements questions.

40) To what extent do you agree with the following statements?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
The overall standard of civil advocacy has declined over the last 10 years	()	()	()	()	()
Advocates regularly take on cases beyond their skills and competence	()	()	()	()	()
There are very few opportunities for advocates to learn through shadowing	()	()	()	()	()
Advocates skills in dealing with vulnerable witnesses has improved over the last few years	()	()	()	()	()
Solicitor advocates are increasingly dealing with more serious cases in the magistrates court	()	()	()	()	()

Civil advocacy is losing skilled advocates to other sectors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
An online court system for money claims up to £25k will benefit legal service users.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The implementation of the LASPO Act in April 2013 resulted in a significant reduction in demand for advocates	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

[ALL](#)

Quality assurance and monitoring

41) How frequently does your firm monitor the quality of your work?*

- Per case
- Once a month
- At least once a quarter
- At least once every six months
- Once a year
- Do not formally use this method

42) Who (job role) in your firm monitors the quality of your work?

43) How frequently does your firm use the following procedures to quality assure your work?*

	Per case	Once a month	At least once a quarter	At least once every six months	Once a year	Do not use this method
Client feedback	()	()	()	()	()	()
File reviews	()	()	()	()	()	()
Internal meetings	()	()	()	()	()	()
Development reviews	()	()	()	()	()	()
Court observations	()	()	()	()	()	()
Following best practice guidelines	()	()	()	()	()	()

44) Have you ever reported poor advocacy to the SRA?*

() Yes

() No

45) Do you think any of the following are potential barriers to reporting poor advocacy for your firm and for others?

Please select up to 3*

- Lack of clarity about who to report to (SRA or LeO)
- Lack of clarity about how to report
- Forms are too complicated
- Lack of understanding about what poor advocacy looks like
- Perception that reporting will result in strong disciplinary action
- Difficult to draw a line between poor advocacy and professional misconduct
- Reluctance of certain groups of consumers to report poor advocacy
- There are no barriers to reporting poor advocacy

ALL

Training

46) How frequently does your firm use each of the following approaches for identifying staff training needs?*

	Once a month	At least once a quarter	At least once every six months	Once a year	Do not use this approach
Measuring staff performance against key competence indicators	()	()	()	()	()
Employee assessments	()	()	()	()	()
Mid-year performance and development review (PDR)	()	()	()	()	()

End-of-year performance and development review (PDR)	()	()	()	()	()
Court observation/observation of advocacy	()	()	()	()	()

47) When did you last have training in the following areas?*

	This year	Last year	Two years ago	Three years ago	Four years ago	Five years ago +	Never
Advocacy (general)	()	()	()	()	()	()	()
Case preparation	()	()	()	()	()	()	()
Evidence	()	()	()	()	()	()	()
Handling witnesses	()	()	()	()	()	()	()
Supporting vulnerable people	()	()	()	()	()	()	()
Sentencing	()	()	()	()	()	()	()
Criminal law and procedure	()	()	()	()	()	()	()
Civil law and procedure	()	()	()	()	()	()	()
Family law and procedure	()	()	()	()	()	()	()

48) How was the majority of the training generally delivered?*

- In house only
- External providers only
- Online

For those that select family, civil (excluding family), tribunals and other at S1. Those that select criminal and other options at S1 will answer this question too. This question is excluded if respondents select only Criminal at S1

Perceptions of advocacy

49) Are there any specific issues in civil advocacy you would like to highlight?

ALL

50) Do you have any additional comments on any aspect of advocacy?

ALL

About you

51) What is your gender?*

- Male
- Female
- Prefer not to say

52) What is your age?*

- 16 - 24
- 25 - 34
- 35 - 44
- 45 - 54
- 55 - 54
- 65 and over
- Prefer not to say

53) What is your ethnic group?*

- English / Welsh / Scottish / Northern Irish / British Irish
- Gypsy or Irish Traveller
- Any other White background, please describe:

-
- White and Black Caribbean
 - White and Black African
 - White and Asian
 - Any other Mixed / Multiple ethnic background, please describe:

-
- Indian
 - Pakistani
 - Bangladeshi

Chinese

Any other Asian background, please describe:

African

Caribbean

Any other Black / African / Caribbean background, please describe:

Arab

Any other ethnic group, please describe:

Prefer not to say

54) Do you consider yourself to have a disability according to the definition in the Equality Act 2010?

The Equality Act defines a disabled person as someone who has a mental or physical impairment that has a substantial and long-term adverse effect on the person's ability to carry out normal day-to-day activities.

If you have a condition which fits the Equality Act definition, please tick 'Yes' even if you are not limited by your condition.*

Yes

No

Prefer not to say

If S1=Crown Prosecution Service (CPS)

CROWN PROSECUTION SERVICE

56) What is your role in the CPS?*

- Chief Crown Prosecutor
- Principal Crown Advocate
- Senior Crown Advocate
- Crown Advocate
- Senior Crown Prosecutor
- Crown Prosecutor
- Associate Prosecutor
- Other - please state: _____

57) What level of advocate are you (Advocate Panel Scheme)?*

- Level 1
- Level 2
- Level 3
- Level 4

58) Approximately, how many practising solicitors are employed at your office?*

- 1
- 2-4
- 5-10
- 11-25
- 26 -50
- 51-75
- 76 -99
- 100-499
- 500+

59) In which of these regions did you provide advocacy in 2017?*

- Wales
 - South East
 - South West
 - East Midlands
 - Thames and Chiltern
 - East of England
 - Wessex
 - London North
 - London South
 - West Midlands
 - Mersey-Cheshire
 - North East
 - North West
 - Yorkshire and Humberside
-

Casework

60) How many advocacy matters did you work on in 2017?*

- 1-5
- 6-10
- 11-20
- 21-50
- 51-70
- 71-100
- 101+

61) What proportion of your advocacy (if any) is provided in the following criminal courts?

Add up to 100%*

- _____ Magistrates Court
- _____ Crown Court
- _____ Youth Court
- _____ High Court
- _____ The Court of Appeal
- _____ Other criminal court
- _____ Elsewhere (arising from a criminal case)

62) In which court circuit do you provide the majority of your advocacy?*

- North Eastern Circuit
- Northern Circuit
- Midland Circuit
- Wales and Chester Circuit (also known as Wales and Cheshire)
- South Eastern Circuit
- Western Circuit

63) Which of the following offences do you most commonly provide advocacy for?*

- Theft
- Deception
- Assault (ABH and Section 20 GBH)
- Serious assault
- Burglary (not aggravated)
- Complex robberies
- Possession of drugs
- Non-fatal road traffic offences
- Driving offences involving death
- Child abuse and trials involving child victims and witnesses
- Rape and indecency
- Multi-handed prosecutions

64) How frequently do you provide advocacy in the following types of hearings?*

	Very frequently (at least one case a week)	Frequently (at least one case a month)	Occasionally (a least one case a quarter)	Rarely (at least one case a year)	Never
Bail applications	()	()	()	()	()
Pre-trial hearings/preliminary hearings	()	()	()	()	()
Plea and case management hearing	()	()	()	()	()
Guilty pleas	()	()	()	()	()
Cracked trials	()	()	()	()	()
Full trials	()	()	()	()	()
Newton hearings	()	()	()	()	()
Sentencing hearings	()	()	()	()	()
Appeals from Magistrates' Courts	()	()	()	()	()
Committals for sentence	()	()	()	()	()

65) Do you provide advocacy in any other types of hearing? - if yes please detail:

66) How frequently do you provide advocacy to clients with the following personal characteristics?*

	Always	Very often	Sometimes	Rarely	Never	Don't know
Low income	()	()	()	()	()	()
Low literacy	()	()	()	()	()	()
Learning disabilities	()	()	()	()	()	()
Cultural barriers (e.g. prefer using a solicitor from own community)	()	()	()	()	()	()
Physical disabilities	()	()	()	()	()	()
Mental health issues	()	()	()	()	()	()
English as a second language	()	()	()	()	()	()
Health problems	()	()	()	()	()	()
Being a carer for another adult	()	()	()	()	()	()

67) Please describe the type of reasonable adjustments (if any) you have made when providing advocacy to clients with any of these personal characteristics.

Higher Rights of Audience and levels of experience

68) How many years of post-qualification experience (PQE) did you have when you started providing criminal advocacy?*

- Less than 1 year
- 1-2 years
- 3-4 years
- 5-9 years
- 9+ years

69) How soon after qualifying did you start working for the CPS?*

- 6 months - up to 1 year
- 1-2 years
- 3-5 years
- 6-10 years
- 10+ years

70) Do you have Higher Rights of Audience (HRA) Criminal?*

- Yes
- No

If yes move to next question

If no move to Perception of competence section

71) How soon after you started practising did you obtain your HRA?*

- 6 months - up to 1 year
- 1-2 years
- 3-5 years
- 6-10 years
- 10+ years

72) How soon after obtaining your HRA qualification did you start using it to provide advocacy in the Higher Courts?*

- As soon as I obtained Higher Rights
- Less than 6 months
- 6 months - up to 1 year
- 1-2 years
- 3-5 years
- 6-10 years
- 10+ years

73) What proportion of your advocacy work requires you to have HRA?*

- 1-10%
- 11-20%
- 21-30%
- 31-40%
- 41-50%
- 51-60%
- 61-70%
- 71-80%
- 81-90%
- 91-100%

Perceptions of competence

74) Please rank all the following factors in order of importance, of how, in your opinion, a case is assigned to you*

- _____ Type and severity of case
- _____ Advocate level (Advocate Panel Scheme)
- _____ Advocates reputation
- _____ Advocate availability
- _____ Advocate specialism and experience
- _____ Advocate skills and competence
- _____ Client choice
- _____ Continuity of representation

75) What other factors do the CPS consider when assigning a case?

76) In general, how would you rate the skills of criminal/civil advocates in the following areas?*

	Very Good	Good	Average	Poor	Very Poor
Communication	()	()	()	()	()
Case preparation	()	()	()	()	()
Reviewing evidence	()	()	()	()	()

Handling witnesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Supporting vulnerable people	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sentencing (criminal)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Demonstrate the appropriate level of knowledge, experience and skill	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Proper presentation of a case	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Present clear and succinct written/and or oral submissions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Conduct focused questioning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

77) Over the last 10 years, how do you think the quality of advocacy has changed?*

- Improved
- Declined
- Stayed the same
- Don't know

78) What specific skills and knowledge do you need to help decide which cases should be prosecuted?

79) What specific skills and knowledge do you need to help decide the appropriate charges in more complex and serious cases?

80) To what extent do you agree with the following statements?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
The overall standard of criminal advocacy has declined over the last 10 years	()	()	()	()	()
Advocates regularly take on cases beyond their skills and competence	()	()	()	()	()
There are very few opportunities for	()	()	()	()	()

advocates to learn through shadowing					
Advocates skills in dealing with vulnerable witnesses has improved over the last few years	()	()	()	()	()

Quality assurance and monitoring

81) How frequently does the CPS monitor/assess the quality of your advocacy?*

- Per case
- Once a month
- At least once a quarter
- At least once every six months
- Once a year
- No formal monitoring

82) Who (job role) monitors the quality of your work?*

83) Which of the following procedures does the CPS use to quality assure your work and how often are they used?*

	Once a month	At least once a quarter	At least once every six months	Once a year	Do not formally use this method
Client feedback	()	()	()	()	()
File reviews	()	()	()	()	()
Internal meetings	()	()	()	()	()
Development reviews	()	()	()	()	()
Court observations	()	()	()	()	()
Following best practice guidelines	()	()	()	()	()

84) What processes does the CPS have in place to deal with any poor quality advocacy from its advocates?

85) Have you ever reported poor advocacy to the SRA?*

- () Yes
- () No

86) Do you think any of the following are potential barriers to reporting poor advocacy for the CPS and for others?

Please select up to 3*

- Lack of clarity about who to report to (SRA or LeO)
- Lack of clarity about how to report
- Forms are too complicated
- Lack of understanding about what poor advocacy looks like
- Perception that reporting will result in strong disciplinary action
- Difficult to draw a line between poor advocacy and professional misconduct
- Reluctance of certain groups of consumers to report poor advocacy
- There are no barriers to reporting poor advocacy

Training

87) How frequently does the CPS use each of the following approaches for identifying staff training needs?*

	Once a month	At least once a quarter	At least once every six months	Once a year	Do not use this approach
Client feedback	()	()	()	()	()
File reviews	()	()	()	()	()
Internal meetings	()	()	()	()	()
Development reviews	()	()	()	()	()
Court observations	()	()	()	()	()
Following best practice guidelines	()	()	()	()	()

88) When did you last receive training in the following areas?*

	This year	Last year	Two years ago	Three years ago	Four years ago	Five years +	Never
Handling witnesses	()	()	()	()	()	()	()
Case preparation	()	()	()	()	()	()	()
Evidence	()	()	()	()	()	()	()
Supporting vulnerable people	()	()	()	()	()	()	()
Sentencing	()	()	()	()	()	()	()
Criminal law and procedure	()	()	()	()	()	()	()

89) How was the majority of the training generally delivered?*

- () In house only
- () External providers only
- () Online

90) Do you have any additional comments on any aspect of advocacy?*

About you

91) What is your gender?*

- Male
- Female
- Prefer not to say

92) What is your age?*

- 16 - 24
- 25 - 34
- 35 - 44
- 45 - 54
- 55 - 54
- 65 and over
- Prefer not to say

93) What is your ethnic group?*

- English / Welsh / Scottish / Northern Irish / British Irish
- Gypsy or Irish Traveller
- Any other White background, please describe:

-
- White and Black Caribbean
 - White and Black African
 - White and Asian
 - Any other Mixed / Multiple ethnic background, please describe:

-
- Indian
 - Pakistani
 - Bangladeshi
 - Chinese

Any other Asian background, please describe:

African

Caribbean

Any other Black / African / Caribbean background, please describe:

Arab

Any other ethnic group, please describe:

Prefer not to say

94) Do you consider yourself to have a disability according to the definition in the Equality Act 2010?

The Equality Act defines a disabled person as someone who has a mental or physical impairment that has a substantial and long-term adverse effect on the person's ability to carry out normal day-to-day activities.

If you have a condition which fits the Equality Act definition, please tick 'Yes' even if you are not limited by your condition.*

Yes

No

Prefer not to say

If S1= Commerce and Industry', 'Central or local Government' or 'Third Sector', or 'Other'

IN HOUSE

95) In which industry/sector does your organisation mainly operate? *

- Agriculture, forestry and fishing
- Mining and quarrying
- Manufacturing
- Utilities
- Construction
- Wholesale and retail
- Transportation and storage
- Accommodation and food services
- Financial services
- Real estate activities
- Professional, scientific and technical activities
- Administrative and support service activities
- Education
- Human health and social work activities
- Arts, entertainment and recreation
- Other service activities
- Other - please state: _____

96) Approximately, how many employees does your organisation have?*

- 1
- 2-4
- 5-10
- 11-25
- 26 -50
- 51-75
- 76 -99
- 100-499

500+

97) Approximately, how many practising solicitors are employed at your organisation?*

1

2-4

5-10

11-25

26 -50

51-75

76 -99

100-499

500+

98) What is your position within the organisation?*

Trainee

Junior legal adviser/counsel

Senior legal adviser/counsel

Head of legal department/legal director

Other - please state: _____

99) S5 - In which areas of law does your organisation provide services?*

Arbitration and alternative dispute resolution

Bankruptcy / Insolvency

Children

Commercial / Corporate Work for Listed Companies

Commercial / Corporate Work for Non-Listed Companies

Consumer

Criminal

Debt collection

- Discrimination / Civil Liberties / Human Rights
 - Employment
 - Family / Matrimonial
 - Financial Advice and Services (Regulated by FCA)
 - Financial Advice and Services (Regulated by SRA)
 - Immigration
 - Intellectual Property
 - Landlord and Tenant (Commercial and Domestic)
 - Litigation - Other
 - Mental Health
 - Non-Litigation - Other
 - Personal Injury
 - Planning
 - Probate and Estate Administration
 - Property - Commercial
 - Property - Residential
 - Social Welfare
 - Wills, Trusts and Tax Planning
 - Other - please state: _____
-

100) S6 - In which of these areas of law do you provide advocacy?*

Pre-populate the areas of law from S5

101) In 2017, approximately what proportion of your total advocacy time was spent on these areas?

(add up to 100%)*

Pre-populate the areas of law selected at S6 (above)

102) In which region(s) do you provide advocacy?*

- North East
- North West
- Yorkshire and Humberside
- East Midlands
- West Midlands
- South West
- East of England
- Central London
- Rest of Greater London
- South East
- Wales
- Overseas
- Scotland
- Northern Ireland
- Overseas - EU
- Overseas - non EU

Casework

103 How many legal matters requiring advocacy did you work on in 2017?*

- 1-5
- 6-10
- 11-20
- 21-50
- 51-70
- 71-100
- 101+

104) Approximately what proportion of your total working time was spent providing advocacy in 2017?*

- 1-10%
- 11-20%
- 21-30%
- 31-40%
- 41-50%
- 51-60%
- 61-70%
- 71-80%
- 81-90%
- 91-100%

[For those that select criminal at S1](#)

**105) What proportion of your total advocacy work was conducted in these courts?
Add up to 100%***

- _____ Magistrates Court
- _____ Crown Court
- _____ Youth Court
- _____ High Court
- _____ The Court of Appeal
- _____ Other criminal court
- _____ Elsewhere (arising from a criminal case)

[For those that select tribunal at S1](#)

**106) What proportion of your tribunal cases requiring advocacy were completed in the following tribunals?
Add up to 100%***

- _____ Employment tribunal
- _____ First Tier Tribunal Immigration and Asylum Chamber
- _____ Social Security and Child Support tribunal
- _____ Other tribunal

[For those that select family, civil \(excluding family\) and other at S1](#)

**107) What proportion of your total advocacy work was conducted in these courts?
Add up to 100%***

- _____ Magistrates Court
 - _____ County Court
 - _____ Family Court
 - _____ Court of Protection
 - _____ High Court
 - _____ Commercial Court
 - _____ Admiralty Court
 - _____ Administrative Court
 - _____ Companies Court
 - _____ Patents Court
 - _____ Bankruptcy Court
 - _____ Technology and Construction Court
 - _____ The Intellectual Property Enterprise Court
 - _____ The Civil Division of the Court of Appeal
 - _____ Supreme Court
 - _____ The Privy Council
 - _____ Other court dealing with civil matters
-

**108) S7 - Which of the following types of case did you provide advocacy for in
2017?***

- Consumer
- Neighbours
- Employment
- Money
- Debt
- Rented housing
- Welfare benefits
- Personal injury
- Children

- Education
 - Owned housing
 - Clinical negligence
 - Divorce
 - Domestic violence
 - Care proceedings
 - Immigration
 - Mental health
 - Insolvency
 - Return of goods
 - Commercial
 - Contract
 - Wills
 - Trusts
 - Insolvency
 - Tax
 - Contractual disputes
 - Industrial accidents
 - Defamation cases
 - Negligence claims
 - Commercial disputes
 - Construction and technology disputes
 - Judicial review
 - Mortgage and Landlord Possession
 - Privacy Injunctions
 - Other, please state: _____
-

109) What proportion of your total advocacy time did you spend on these cases in 2017?

Add up to 100%*

_____ Option 1

_____ Option 2

Pre-populate the types of cases selected at S7

110) How frequently do you provide advocacy to clients with the following personal characteristics?*

	Always	Very Often	Sometimes	Rarely	Never	Don't know
Low income	()	()	()	()	()	()
Low literacy	()	()	()	()	()	()
Learning disabilities	()	()	()	()	()	()
Cultural barriers (e.g. prefer using a solicitor from own community)	()	()	()	()	()	()
Physical disabilities	()	()	()	()	()	()
Mental health issues	()	()	()	()	()	()
English as a second language	()	()	()	()	()	()
Health problems	()	()	()	()	()	()
Being a carer for another adult	()	()	()	()	()	()

111) Please describe the type of reasonable adjustments (if any) you have made when providing advocacy to clients with any of these personal characteristics

Higher Rights of Audience and levels of experience

112) How many years of post-qualification experience (PQE) did you have when you first started providing advocacy?*

- Less than one year
- 1-2 years
- 3-4 years
- 5-9 years
- 9+ years

113) Do you have Higher Rights of Audience (HRA)?*

- Yes
- No

[If yes move to next question](#)

[If no move to Perception of competence section](#)

114) Which HRA qualification(s) do you hold?*

- Criminal HRA
- Civil HRA
- Both criminal HRA and civil HRA

[If answer to “Which HRA qualification do you hold?” is Criminal HRA or Both criminal HRA and civil HRA](#)

115) When did you obtain your HRA Criminal qualification?*

- I took the assessment before qualifying
- Less than 6 months after qualifying
- 6 months - up to 1 year after qualifying
- 1-2 years after qualifying
- 3-5 years after qualifying
- 6-10 years after qualifying
- 10+ years after qualifying

If answer to “Which HRA qualification do you hold?” is Civil HRA or Both criminal HRA and civil HRA

116) When did you obtain your HRA Civil qualification?*

- I took the assessment before qualifying
- Less than 6 months after qualifying
- 6 months - up to 1 year after qualifying
- 1-2 years after qualifying
- 3-5 years after qualifying
- 6-10 years after qualifying
- 10+ years after qualifying

117) How soon after obtaining your HRA qualification did you start providing advocacy using your HRA?*

- As soon as I obtained Higher Rights
- Less than 6 months
- 6 months - up to 1 year
- 1-2 years
- 3-5 years
- 6-10 years
- 10+ years
- Never used my HRA qualification

118) What proportion of your advocacy work requires you to have HRA?*

- 1-10%
- 11-20%
- 21-30%
- 31-40%
- 41-50%
- 51-60%
- 61-70%
- 71-80%
- 81-90%
- 91-100%

Perceptions of competence

119) Please rank all the following factors in order of importance, of how, in your opinion, a case requiring advocacy is assigned to you? *

- _____ Type and severity of case
- _____ HRA required
- _____ Value of the claim
- _____ Advocates reputation
- _____ Advocate availability
- _____ Advocate specialism and experience
- _____ Advocate competence
- _____ Client choice
- _____ Client relations with firm or specific advocate
- _____ Continuity of representation
- _____ Independence of the advice
- _____ Cost

120) For the profession generally, how would you rate the skills of criminal/civil advocates in the following areas?*

	Very Good	Good	Average	Poor	Very Poor
Communication	()	()	()	()	()
Case preparation	()	()	()	()	()
Reviewing evidence	()	()	()	()	()
Handling witnesses	()	()	()	()	()
Supporting vulnerable people	()	()	()	()	()
Sentencing (criminal)	()	()	()	()	()
Demonstrate the appropriate level of knowledge, experience and skill	()	()	()	()	()
Proper presentation of case	()	()	()	()	()
Present clear and succinct written/and or oral submissions	()	()	()	()	()
Conduct focused questioning	()	()	()	()	()

121) Over the last 10 years, how do you think the quality of advocacy has changed?*

- Improved
- Declined
- Stayed the same
- Don't know

122) To what extent do you agree with the following statements?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
The overall standard of advocacy has declined over the last 10 years	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Advocates regularly take on cases beyond their skills and competence	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There are very few opportunities for advocates to learn through shadowing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Advocates skills in dealing with vulnerable witnesses has improved over the last few years	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Quality assurance and monitoring

123) How frequently does your organisation monitor the quality of your work?*

- Per case
- Once a month
- At least once a quarter
- At least once every six months
- Once a year
- Do not formally use this method

124) Who (job role) in your organisation monitors the quality of your work?*

125) How frequently does your organisation use the following procedures to quality assure your work?*

	Per case	Once a month	At least once a quarter	At least once every six months	Once a year	Do not formally use this method
Client feedback	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
File reviews	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Internal meetings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Development reviews	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Court observations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Following best practice guidelines	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

126) Have you ever reported poor advocacy to the SRA?*

- Yes
- No

**127) Do you think any of the following are potential barriers to reporting poor advocacy for your organisation and for others?
Please select up to 3***

- Lack of clarity about who to report to (SRA or LeO)
- Lack of clarity about how to report
- Forms are too complicated
- Lack of understanding about what poor advocacy looks like
- Perception that reporting will result in strong disciplinary action
- Difficult to draw a line between poor advocacy and professional misconduct
- Reluctance of certain groups of consumers to report poor advocacy
- There are no barriers to reporting poor advocacy

Training

128) How frequently does your organisation use each of the following approaches for identifying staff training needs?*

	Once a month	At least once a quarter	At least once every six months	Once a year	Do not use this approach
Measuring staff performance against key competence indicators	()	()	()	()	()
Employee assessments	()	()	()	()	()
Mid-year performance and development review (PDR)	()	()	()	()	()
End-of-year performance and development review (PDR)	()	()	()	()	()
Court observation/observation of advocacy	()	()	()	()	()

129) When did you last receive training in the following areas?*

	This year	Last year	Two years ago	Three years ago	Four years ago	Five years +	Never
Advocacy (general)	()	()	()	()	()	()	()
Case preparation	()	()	()	()	()	()	()
Evidence	()	()	()	()	()	()	()
Handling witnesses	()	()	()	()	()	()	()
Civil law and procedure	()	()	()	()	()	()	()
Transactional legal work	()	()	()	()	()	()	()
Contentious work	()	()	()	()	()	()	()
Negotiation	()	()	()	()	()	()	()
Dispute management	()	()	()	()	()	()	()

130) How was the majority of the training generally delivered?*

- () In house only
- () External providers only
- () Online

131) Do you have any additional comments on any aspect of advocacy?

About you

132) What is your gender?*

- Male
- Female
- Prefer not to say

133) What is your age?*

- 16 - 24
- 25 - 34
- 35 - 44
- 45 - 54
- 55 - 64
- 65 and over
- Prefer not to say

134) What is your ethnic group?*

- English / Welsh / Scottish / Northern Irish / British Irish
- Gypsy or Irish Traveller
- Any other White background, please describe:

-
- White and Black Caribbean
 - White and Black African
 - White and Asian
 - Any other Mixed / Multiple ethnic background, please describe:

-
- Indian
 - Pakistani
 - Bangladeshi
 - Chinese

Any other Asian background, please describe:

African

Caribbean

Any other Black / African / Caribbean background, please describe:

Arab

Any other ethnic group, please describe:

Prefer not to say

135) Do you consider yourself to have a disability according to the definition in the Equality Act 2010?

The Equality Act defines a disabled person as someone who has a mental or physical impairment that has a substantial and long-term adverse effect on the person's ability to carry out normal day-to-day activities.

135) If you have a condition which fits the Equality Act definition, please tick 'Yes' even if you are not limited by your condition.*

Yes

No

Prefer not to say

Thank You!
