

Value for Money and Policy Review

of the

Legal Aid Board

OCTOBER 2011

TABLE OF CONTENTS

Executive Summary		4
Chapter 1	Introduction	
	Background to the VFM Review	11
	Scope of the Review	
	Steering Group	
	Objective and Terms of Reference	
	Methodology	
Chapter 2	Overview of the Legal Aid Board	16
	Law centres	
	Delivery of Services	
	Private Practitioners	
	Legal advice and Legal aid	
	Matters excluded from the legal aid scheme	
	Procedures involved in the application for and delivery of services	
	Waiting Lists	
	Legal Aid Certificate	
	Appeals	
	Contributions from aided persons	
	Recovery of Costs	
	Conflict of Interest	
	Alternative Dispute Resolution	
Chapter 3	Objectives, Rationale and Outputs	24
	Aim and objectives of the Legal Aid Board	
	Rationale behind the provision of legal aid and advice	
	Define and quantify the outputs of the Legal Aid Board	
	- Cases Cleared	
	- Private Practitioner referrals	
	- Information	
Chapter 4	Effectiveness	39
	Effectiveness of the Legal Aid Board	
	What is meant by effectiveness in the context of the LAB	

	Timeliness of the service provided	
	Quality	
	Client Complaints	
	Provision of information	
	Summary / Conclusions	
Chapter 5	Efficiency	50
	Introduction, Measuring Input, Measuring Output	
	Overview analysis of Input-Output	
	Part 1 Internal comparisons of Law Centre output	
	- SubGroup 1 – Dublin offices	
	- SubGroup 2 – Non Dublin offices	
	- SubGroup 3 – Non Dublin and Dublin offices with Case Mix > 40%	
	- SubGroup 4 – Law Centres with a Case Mix of 40% or less	
	Part II Comparisons with the cost of Private Practitioner Services	
	- District court Equivalent	
	Part III Comparisons with other specialised Units	
	Part IV Factors outside of Law Centre control that impact on Efficiency	
	Summary / Conclusions	
Chapter 6	Options for an alternative approach	89
Chapter 7	Recommendations	96
Appendices	List of Legal Aid Board law centres	100

Value for Money and Policy Review – the Legal Aid Board

Executive Summary

Chapter 1 Introduction and Background

This Value for Money and Policy Review examines Exchequer expenditure on the Legal Aid Board, an agency operating under the aegis of the Department of Justice and Equality, which is the primary State provider of legal services in civil matters in Ireland. The annual Grant in Aid payment from the Exchequer is in the region of €24 million, which is approx 5-6% of the Department's overall budget allocation.

The Review had a number of purposes. It had to examine the aims, objectives and mandate of the Legal Aid Board, and determine if these remain relevant; to define and quantify the outputs associated with the organisation; to assess both the effectiveness and efficiency of the Legal Aid Board; to examine the scope for alternatives for achieving the Board's objectives on a more efficient and/or effective basis and to consider the scope for a more effective performance framework with associated indicators.

The Refugee Legal Service, also operated by the Legal Aid Board but funded from a separate subhead, was excluded from the scope of the Review, although it was examined for comparison purposes.

Chapter 2 Overview of the Legal Aid Board

The Legal Aid Board, in existence since 1979, was put on a statutory basis with the introduction of the Civil Legal Aid Act 1995, and provides legal aid and advice in civil cases to those of insufficient financial means, subject to the provisions of the Act. The Board's services are delivered primarily through its 30 full time Law Centres located around the country, including the specialised Medical Negligence Unit. As well as the use of salaried solicitors, it also engages Private Practitioners as a complementary service, subject to resources. To be eligible for the legal services of the Board, a person must satisfy an overarching principle test, a financial eligibility test and a merits test. An eligible person is generally put on a waiting list for an appointment with the solicitor of the Law Centre. The Board aims to provide a first consultation within a maximum period of 2-4 months. The Board, where feasible, attempts to promote a non court based resolution of issues and has established an integrated pilot mediation initiative in Dublin, the results of which will determine the scope for its further development.

Chapter 3 Objectives, Rationale and Outputs

The Board's aims and objectives are, as set out in the Civil Legal Aid Act 1995, to provide legal aid and advice in civil cases to persons who satisfy the requirements of the Act. Access to justice underpins the legal aid scheme. Costs should not be a barrier to accessing the courts or accessing justice. Certain international obligations also highlight the continued validity of the Board's objectives. Demand for the Board's services has increased significantly in recent years, a trend which is likely to continue given difficult economic circumstances and its knock on effect on domestic situations etc.

The primary output of the Legal aid Board, for the purposes of this Review, is the number of cases closed in a year. This particular output indicator experienced an increase for each of the years 2007-2009 but a slight decline in 2010 (i.e. on the previous year's achievement). It is acknowledged that various factors however impinge on the Board's capacity to process this output, including the variable nature of the administration of the courts in different regions. Data provided in this regard illustrates that the availability of solicitor resources does not always impact, as one might expect, on the level of output produced.

Referrals to Private Practitioners also constitutes output for the Legal Aid Board when these cases are closed and such referrals for District Court cases have increased significantly in recent years, reflecting the Board's efforts to keep the waiting period for an appointment with a solicitor as low as possible. The Board is also obliged, in accordance with the 1995 Act, to provide information to clients and potential clients and has developed a wide range of information leaflets in this regard. It also maintains a website which provides useful information on its services and has a consultative committee, consisting of all the main stakeholders, who meet 4-5 times a year.

Chapter 4 Effectiveness of the Legal Aid Board

For the purposes of this Review, consideration of effectiveness only takes account of those who actually present to the Board. Many factors impinge on a client's view as to whether their needs have been met. Following a 2004 High Court decision, the Board must aspire to provide a timely service, which is generally taken to mean within a maximum period of 2-4 months from the time the applicant applies for legal services to the Law Centre. Given the lack of a clear-cut international benchmark against which the Board could be measured in terms of its effectiveness, the main issue examined was the timeliness of the service provided (although not always crucial in a case, it is usually desirable). Whereas approx 40% of clients receive a near immediate service (either through its priority service for urgent cases or Private Practitioner referrals), the number of persons waiting for the Board's service and the waiting time itself has increased in recent years as a result of increased demand. An increasing number of Law Centres are finding it more difficult to meet the 2-4 month target and are therefore becoming less effective in this regard.

Other indicators of effectiveness include the quality of the service provided and a number of measures illustrate the Legal Aid Board's attempts to ensure that a robust system of quality assurance / management of performance is in place. These systems should be developed further, particularly in the case of Private Practitioners. It is expected that the introduction of a new IT system will also streamline current procedures and lead to the provision of an enhanced service overall.

Chapter 5 Efficiency Analysis

Analysing efficiency involves examining the ratio of inputs to outputs which in this case means looking at the quantity of cases cleared (output) and the financial and staff resources available to the Legal Aid Board. At a national level the volume of output produced in terms of cases cleared has increased by 10.6% between 2007 (5,643) and 2010 (6,241) which exceeded any increase in inputs as measured in terms of staff numbers or financial cost.

The main pieces of analysis used to try to determine if the Legal Aid Board is operating efficiently were:

- internal comparisons, comparing the efficiency of the different Law Centres
- comparisons with the cost of the Private Practitioner Service

The internal comparison divided the Law Centres into 4 sub-groups. These sub-groups were principally based on geography and the case mix in the individual Law Centres i.e. what percentage of cases were for the Circuit or Higher Courts. The four sub-groups examined were Dublin, non Dublin, Case mix > 40%, Case mix < 40%. Case mix was found to be a reliable guide to the difficulty of the caseload on hand in individual Law Centres.

Significant variations on the ratio of inputs to outputs were found within these sub-groups. For example, in the sub-group where the case mix was greater than 40%, the number of solicitor days per case cleared varied from 1.3 to 4.4. and the direct cost per case cleared from €1,800 to €3,950. These types of variations were replicated across the sub-groups. Some differences can be partially explained by more precise variations in case mix within their sub-group. The level of professional resources in individual offices was not found to be a reason for different input-output ratios but rather those Law Centres with the lower levels of professional resources per case on hand were found to produce the better efficiency figures.

It is acknowledged that there may well be circumstances not examined in this review that skew the results and the findings for individual offices. However it was concluded, based on the number of offices that were well above average and well below average, on an analysis of data over a four year period that efficiency improvements in some of the offices should be possible. A review of work practices in Law Centres with the highest and lowest levels of input per case cleared, including the use made of paralegal and support staff and a comparison between these groups is likely to identify measures that can be applied to improve case throughput and overall efficiency.

A significant proportion of the output of the Legal Aid Board is produced by Private Practitioners. An attempt was made in this review to compare the cost of the output produced by Private Practitioners with the output produced by the Law Centres. This was not a straightforward comparison as at present the time spent on individual cases or the time spent on District Court as against Higher Court cases is not recorded. The introduction of a new IT system will provide for this. To make a comparison all cases cleared by Law Centres were converted, using a multiplier, to District Court Equivalents (DCE). A cost (direct + indirect) per DCE was calculated and compared to the fees paid to Private Practitioners. This comparison found that 10 law Centres compare favourably with a weighted average Private Practitioner fee. Some caution has to be attached to these findings given the method that had to be used but it is nonetheless a useful benchmark.

Some of the factors examined that are outside the control of Law Centres include Rent, HQ costs and the Courts system. The key findings relating to these are:

- For 24 out of 29 Law Centres, rent accounts for less than 7.5% of the total inclusive cost per case cleared. For three offices, Dundalk, Cavan and Brunswick Street it exceeds 10% which is significant. The Board's policies on property management will have an impact on this overhead according as older and more expensive leases come to an end and are replaced over the next few years.
- HQ costs represent close to 11% of total costs and add approximately €500 to the cost per case cleared. HQ costs have approximately 2.5 times as much influence on overall cost as rent. It is noteworthy that there are costs attributed to HQ in the Board that could properly be regarded as part of service delivery. Discounting these costs has the effect of reducing the HQ overhead as a percentage of total costs from 10.7% to 8.8%.
- Delays in the Courts system and arrangements for listing and hearing of cases are contributing to inefficiencies and lost output. Circuit Court waiting times vary significantly across the country – from less than six months to 24 months. This adds to the effort required particularly in Law Centres with exceptionally long waiting periods. However when the Law Centres in the Court areas with the longest waiting lists were examined it was found that these Law Centres had an even spread of low, average and high cost per case cleared.

Chapter 6 Options

A number of initiatives and measures have been introduced by the Legal Aid Board in recent years to improve the efficiency and effectiveness of its operations. The Group examined four of these different options open to the Board in terms of doing things differently to see if they offer any further potential for the delivery of a more efficient and/or effective service.

i. Merge Law Centres

Possible closure / merger of Law Centres are suggested which would still maintain a good regional spread while creating a number of Law Centres of a larger scale which should, inter alia, allow flexibility for introducing new structures and practices. Analysis of the data used in this Review however indicates that increasing the scale of the Law Centres alone would not necessarily increase efficiencies unless the newly created centres adopt the work practices that generate the favourable indicators evident in the smaller Law Centres. Considerable issues around implementation arise, particularly for those centres outside of Dublin. The rationalizing / restructuring of services in Dublin however offers the most scope for potential savings and facilitation of change which could lead ultimately to increased output and hence should be given serious consideration by the Legal Aid Board.

ii. Adopt revised structures

It is proposed that if many of the operational practices evident in the RLS could be adopted within the general Law Centres, it may lead to increased efficiency, for example

- A greater emphasis on the use of paralegals to free up solicitor's time for concentrating on the more complex legal work;
- A revised approach to everyday work practices involving the better use of IT resources, including available databases;

- Possible further delegation of certain head office functions to the Law Centres.

iii. Increase use of Alternative dispute resolution

The Board is already committed to the promotion of alternative dispute resolution mechanisms in an attempt to give clients a more meaningful, and potentially more satisfactory, outcome than that offered by the adversarial and costly court option. The Board's pilot mediation service should be closely monitored and evaluated so as to determine the scope for further development within the Legal Aid Board. File reviews should be closely monitored to ascertain whether dispute resolution options are being actively promoted by each solicitor to the client.

iv. Private Practitioners

The notional District Court Equivalent (DCE) attempts to compare the cost of a case handled by a Law Centre with that of a Private Practitioner. A number of Law Centres compared favourably with the cost of Private Practitioners, whereas there is room for improvement for many of the other Law Centres. It is concluded that, based on this comparison, and current rates, there is no justification to recommend a shift in the direction of private sector provision. The DCE however only gives a rough indication of the comparative costs and is limited in its use. It is therefore recommended that when the new case management system is introduced, that a more exact comparison of the internal costs as against the Private Practitioner option be undertaken so as to decide whether there should be a shift in the direction of, or away from, Private Practitioner referrals. It is recognised that the usage of Private Practitioners may be constrained by available financial resources.

Chapter 7 Recommendations

Based on the findings of the Review, a number of recommendations are put forward:

Effectiveness related

- Review the current use and impact of the Advice Only service with a view to developing it further if considered effective. Consideration to be given to having front line staff / law clerks trained up so as to be able to provide services instead of the solicitor, in appropriate circumstances.
- Ongoing monitoring and review of how the Board prioritises certain cases for immediate service delivery.
- Need to capitalise on the potential the new legal case management system will offer, which should ultimately allow the more effective use of staff resources and enable solicitors to engage, to a greater extent than at present, in higher value legal work. Once this system is up and running, consideration should be given to putting arrangements in place for the monitoring, by all Law Centres, of time spent on cases.

- Need to continue to build on the Board's quality assurance procedures, particularly in respect of the Private Practitioners, given the numbers and cost of cases referred to Private Practitioners to provide services on the organisation's behalf.
- Need to focus more in the coming years on developing effective strategies for providing information about alternatives to court for resolving disputes. Closer cooperation and possible further co-location with the Courts Service and particularly the Family Mediation Service should be actively pursued by the Board in the light of the outcome of the review of the integrated mediation service located in Dolphin House, Dublin.
- The potential for co-location should be considered when decisions are being taken on replacement accommodation as and when the Board's existing leases come to an end.
- The Board should approach the Department of Justice and Equality and the Courts Service concerning the impact of current practices in relation to the listing of cases with a view to identifying and progressing measures designed to address the inefficiencies that the current practices cause for users of the Courts Service.
- The means test for eligibility for legal aid is based on capital and income. In the light of the reduced value of property in particular and reduced incomes in general the eligibility limits need to be reviewed.
- The following indicators should be added to the current set of performance indicators and monitored at appropriate intervals.
 - i. % of case files reviewed (Law Centres)
 - ii. % of case files reviewed (Private Practitioners)
 - iii. % of cases which are cleared as a result of the "advice only" service

Efficiency related

- Offices that have above average levels of solicitor days per caseload on hand should take more cases from their waiting lists. Some allowance should be made for the Law Centre's case mix percentage but the large difference between the ratio of cases on hand and solicitor resources should not continue. A review of work practices should be undertaken in Law Centres where the average number of solicitor days per case cleared (the SDCC) and the total direct cost per case cleared (the TDCCC), are at the higher end of the scale, so as to identify the factors giving rise to this and to enable appropriate corrective measures to be put in place.

- A system of ongoing monitoring of indicators of efficiency (Solicitor Days per Case Cleared (SDCC) and Total Direct Cost of Cases Cleared (TDCCC) should be introduced with indicators calculated on a six monthly basis.
- While reductions in HQ costs have been achieved, HQ costs as a proportion of overall cost need to be reviewed to see if further reductions are possible. It is noted in this regard that the Board's Croke Park Agreement Action Plan contains commitments to improved efficiency and effectiveness in the HQ functions. This is to be achieved by further streamlining of the HQ functions, including consideration of the scope for shared services and ongoing review of practices and procedures.
- The necessity for the current level of interaction between Law Centres and HQ should be reviewed. Efforts to reduce the cost of the dual location of the HQ function are required. This will include reducing rent costs in Dublin by consolidation and exiting contracts when opportunities arise.
- Steps to be taken, as soon as possible, to introduce the necessary legislative change, subject to Government approval, which will eliminate the need for the (approx) €0.25m annual payment to the Law Society in respect of practicing certificates for the Board's solicitors.
- The following indicators should be added to the current set of performance indicators and monitored at appropriate intervals.
 - i. Number of Solicitor Days per Case Cleared (SDCC)
 - ii. Total Direct Cost per Case Cleared (TDCCC)
 - iii. Case Mix of cases cleared
 - iv. Solicitor days per case on hand

Chapter 1 Introduction

- 1.1 This Section of the Report sets out the background to the Value for Money and Policy Review, the terms of reference for this particular review and the methodology followed, along with the membership of the Steering Group under whose aegis the review is undertaken.

Background to the VFM Review

- 1.2 This review forms part of a public service wide initiative aimed at promoting active monitoring of the effectiveness and efficiency of public expenditures. The Government's Value for Money and Policy Review replaced the former Expenditure Review¹ Initiative and is part of a framework introduced to secure improved value for money from public spending. The objectives of the Initiative are to analyse Exchequer spending in a systematic manner and to provide a basis on which more informed decisions on the deployment of resources can be made. All formal reviews of this nature are published and submitted to the Select Committees of the Oireachtas.
- 1.3 The Legal Aid Board, which operates under the aegis of the Department of Justice and Equality ("the Department"), provides legal aid and advice in civil matters to those of insufficient financial means. In 2010, as part of the overall Value for Money and Policy Review Initiative, the Department selected the Board's operations for review. The area was considered suitable for review by the Department given the passage of time since the last similar review reported in 2001 and the extent of the resources devoted to the Board's services, mainly through a Grant-in Aid from the Exchequer in the region of €24 million annually.
- 1.4 The Legal Aid Board is largely dependent on Exchequer finance for the provision of its services. Its activities are financed predominately through a Grant-in-Aid payment which is part of the overall Estimate for the Department (Vote 19). The provisional estimate in respect of the allocation of funding to the Legal Aid Board for 2011 is €24.125 million². To put this funding in context in terms of the Department's overall budget, details for the period 2006 to 2011 are outlined below.

¹ The Expenditure Review Initiative was introduced by the Government in 1997. Following certain improvements to the original initiative, the Value for Money and Policy Review was introduced in 2006.

² Funding for the Refugee Legal Service is provided separately - €7.967 million was the provisional outturn for 2010 and €6.445 the provisional estimate for 2011.

Year	2006 Outturn	2007 Outturn	2008 Outturn	2009 Outturn	2010 Outturn	2011 Estimate
	€,000	€,000	€,000	€,000	€,000	€,000
Grant in Aid	21, 913	24, 288	26, 988	26, 311	24,225	24,125
DJE Vote 19 (Gross Outturn)	367, 974	466, 973	506, 077	471,054	409,358	373,894
% of overall budget	5.96%	5.2%	5.33%	5.58%	5.91%	6.45%

1.5 This review takes place against a background of other relatively recent evaluations carried out internally by the Legal Aid Board - one being a review of service through its Law Centres and the other a structured review of Head Office functions and staffing levels (both in 2008). A comprehensive Risk Assessment was also carried out by external consultants in late 2008 for the purpose of identifying organisational risks from an objective and independent perspective. A key ongoing priority for the Legal Aid Board, since the completion of these reviews, has been the implementation of their recommendations on which considerable progress has been made.

Scope of the Review

1.6 All functions of the Legal Aid Board, with the exceptions set out below, were the subject of this Review. Data from the period 2006-2010 was analysed.

1.7 For the purpose of the review, it should be noted that the Refugee Legal Service (RLS) which is provided by the Legal Aid Board through three specialist centres³, is funded from a separate subhead

³ Due to a fall in demand for services from asylum seekers, the Board has been restructuring its services in locations where it has RLS offices (Dublin, Cork and Galway). This involves an integration of RLS services with the law centre services in those locations to make best use of available resources having regard also to the fact that demand in law centres is increasing rapidly. The integration of services in Cork and Galway has already taken place while some similar arrangements for making best use of resources in Dublin, involving a much larger RLS office, are being pursued under the Board's "Croke Park Agreement" Action Plan.

within the Department's Vote, and is excluded from the scope of the review. The Board also operates a specialised Refugee Documentation Centre (RDC) which provides an independent and professional research and library service for all the main bodies in the asylum process. Similarly, this Centre has not been included in this review. All other aspects of the Legal Aid Board and the services it provides through the remaining 29 full time and 12 part time Law Centres, as well as the specialised Medical Negligence Unit and the Private Practitioner Scheme, come within the scope of the Review.

- 1.8 FLAC, an independent and largely policy driven human rights organisation, offers free legal information and advice through a network of part-time advice centres nationwide, many of them operating in conjunction with the Citizen Information Centres. These centres are largely staffed by volunteers. The Equality Authority may in a small number of cases provide free legal assistance to those making certain complaints of discrimination under the Equal Status Act 2000 and the Employment Equality Act 1998. The Irish Human Rights Commission and voluntary organisations such as Pavee Point also offer advice and assistance in cases concerning the human rights of a person where the person cannot obtain assistance from the Legal Aid Board. However, the Legal Aid Board is the primary State provider of legal services in civil matters in Ireland.
- 1.9 Criminal legal aid is administered through the Department of Justice and Equality. In addition to the main scheme of criminal legal aid, there are a number of other publicly funded schemes that are significantly more limited in scope than the main scheme, include the Garda Station Legal Aid Scheme, the Attorney General Scheme, the Criminal Law Insanity Scheme and the Criminal Assets Bureau (CAB) Ad Hoc Scheme. The Legal Aid Board does not grant legal services in respect of criminal matters, with the exception of certain criminal cases involving prosecution for certain sexual offences. There is also a Mental Health Legal Aid Scheme which is a civil law scheme that is currently operated by the Mental Health Commission.
- 1.10 Notwithstanding the above, the heads of a Criminal Justice (Legal Aid) Bill were agreed by the Government towards the end of 2010. The Bill is currently being drafted and will, amongst other things, provide for the transfer of responsibility for the management and administration of existing criminal legal aid schemes from the Department to the Board. It is expected that the transfer will be effected in early 2012. The Board is also taking over responsibility for the management of the Mental Health Commission's legal aid scheme. Progress on this is more advanced and is anticipated to be finalized during 2011.

Steering Group

1.11 The Review is overseen by a Steering Group, comprising of an independent Chairman, officials from the Legal Aid Board, the Department of Public Expenditure and Reform, and the Department of Justice and Equality⁴. The Value for Money Reviewers are Mary Burke, Department of Justice and Equality and Nelius Lynch, Department of Public Expenditure and Reform. Full membership of the Steering Group, on which the Reviewers also serve, is listed below in alphabetical order:

Mary Burke, VFM Reviewer	Dept of Justice and Equality
Pat Fitzsimons	Legal Aid Board
Martin Lynch	Independent Chairperson
Nelius Lynch, VFM Reviewer	Dept of Public Expenditure and Reform
Tim Maverley	Dept of Justice and Equality
Dermot Quigley	Dept of Public Expenditure and Reform
Lar Quigley, Secretary	Dept of Justice and Equality
Moling Ryan	Legal Aid Board

Objective and Terms of Reference of this review

1.12 The overall objective of this review is to assess how effective the Legal Aid Board is, how efficient its operations are and to outline possible changes that would make the Legal Aid Board more efficient, more effective or both.

1.13 The specific terms of reference for the review are based on the standard template for all reviews with appropriate modifications specific to this particular subject matter. The terms of reference are as follows:

- i.** Review the aims, objectives and mandate of the Legal Aid Board (Chapter 3);
- ii.** Assess the current and continued validity and relevance of those aims, objectives and mandate (Chapter 3);
- iii.** Define and quantify the outputs associated with the Legal Aid Board (Chapter 3);
- iv.** Assess the effectiveness of the Legal Aid Board (Chapter 4);
- v.** Determine the efficiency of the Legal Aid Board (Chapter 5);
- vi.** Examine the scope for alternative policy or organisational approaches to achieving the Board's objectives on a more efficient and/or effective basis. In doing so, due regard will be

⁴ Following reconfiguration of Government Departments in March 2011, the relevant Departments are that of Justice and Equality and Public Expenditure and Reform (instead of Justice and Law Reform and Finance respectively, as it was prior to that.)

shown for the feasibility of any such options given the possible assignment of additional responsibilities to the Board⁵. (Chapter 6) and

- vii. Examine the current methods of evaluating the performance of the Legal Aid Board and consider the scope for a more effective performance framework with associated indicators (Chapter 7).

Methodology

1.14 The methodology adopted for the review includes the following elements:

- Visits to a selection of Law Centres, LAB Head Office, the Private Practitioner Unit, the Medical Negligence Unit and the Refugee Legal Service (RLS);
- Collation and analysis of data within the Legal Aid Board, including case throughput, expenditure and income for the period 2006 to 2010;
- A review of documentation such as Strategy Statements, Annual Reports, previous reviews, information leaflets, LAB web site, activity data and other general documentation and
- A review of systems used for monitoring performance in the achievement of key strategic objectives

The issue of seeking direct feedback from clients through a questionnaire was considered by the Steering Group, but it was felt that this would be unlikely to generate sufficient objective information for analysis that could make a meaningful contribution towards the review. The issues considered in reaching this conclusion included;

- the fact that clients perceptions of the value of the services they received could potentially be influenced primarily by the outcome of their case and would not therefore generate objective feedback;
- potential difficulties in getting sufficient responses to make up a meaningful sample of clients or former clients of the Board; and
- the timescale for the completion of the report.

⁵ As indicated in paragraph 1.10, the Government has decided to transfer responsibility for the management and administration of criminal legal aid to the Board. While this will have a significant impact on the organisation, it is beyond the scope of this review to assess this impact given that the transfer involved will not take effect until after the completion of this report. Accordingly, the review is confined to meeting the terms of reference set out above which excludes a review in respect of criminal legal aid.

Chapter Two Overview of the Legal Aid Board

This section of the report gives an overview of the Legal Aid Board including its history, organisational structure and delivery of services.

Background and History to the Legal Aid Board

- 2.1 The Legal Aid Board has been in existence since 1979, following the introduction of the Scheme of Civil Legal Aid and Advice in December of that year. The Scheme was introduced on an administrative basis following the decision of the European Court of Human Rights in the case of *Airey v Ireland* which found that the State had failed in its duty to Mrs. Airey by not providing her with the means of acquiring legal representation through a State funded process, given that she was unable to represent herself or to afford a lawyer. The Scheme's introduction in 1979 took account of the recommendations of the report of the Committee on Civil Legal Aid and Advice (the Pringle Committee) in December 1977 which proposed that a comprehensive scheme of civil legal aid be introduced in Ireland.
- 2.2 The Scheme was limited to civil matters subject to certain exclusions. The Legal Aid Board was established to administer the Scheme. The introduction of the Civil Legal Aid Act 1995 put the Scheme and the Legal Aid Board on a statutory basis from October 1996 and provides for a statutory right to legal aid and advice in civil cases to those of insufficient financial means, subject to the provisions set out in the Act. Whereas the 1995 Act and the Regulations made thereunder is the primary legislation underpinning the work of the Board, a whole range of legislation impacts directly on the role and operation of the Board, most notably in the area of family and asylum law, e.g. Family Law (Divorce) Act, 1996, the Domestic Violence Act 1996, the Refugee Act, 1996, the Immigration Act, 2003 and Illegal Immigrants (Trafficking) Act, 2000.
- 2.3 The Civil Legal Aid Act, 1995 provides the legislative framework within which the Legal Aid Board operates. It sets out the membership and terms of office of the Legal Aid Board which is comprised of a chairperson and 12 ordinary members, of whom two must be practising Barristers and two practising Solicitors. Under the Act, all Board members are appointed by the Minister for Justice and Equality. The day to day functions and operations are delegated by the Board to a Chief Executive Officer and senior management.

2.4 The Board's staff numbers at the end of 2010 totalled 356⁶ of which 110 were solicitors. This is comprised of 95 solicitors working in Law Centres (excluding the Refugee Legal Service), 35 paralegals, and 96 administrative staff, a total of 226⁷ staff in Law Centres. A further 43 staff are located in the Board's Head Office in Cahirciveen while 10 staff, including most members of the Board's senior management team and some support staff funded from the Board's grant-in-aid are located in Upper Mount Street in Dublin. The Chief Executive post, the Director of Legal Aid and an Assistant Director post in legal services are dual location positions between Kerry and Dublin. The administrative staff provide a range of corporate support for the delivery of the Board's core business, including

- Legal Services (in Cahirciveen and Dublin);
- Financial Management (in Cahirciveen);
- Human Resources (in Cahirciveen and Dublin);
- Corporate Support (in Cahirciveen) and
- Information and Communications Technology (in Cahirciveen and Dublin).

Law Centres

2.5 The civil legal aid and advice service itself is delivered primarily through a network of 30 full time (See Appendix 1 for details) and 12 part time Law Centres⁸ around the country - 6 of which (full time) are in the Dublin area. Each centre has a designated Managing Solicitor who is responsible for its management as well as managing a personal caseload. Given the expertise required for medical negligence cases, the Board established a unit specialising in these cases in 2006 which is one of the 30 Law Centres referred to above. It is the Minister for Justice and Equality who determines the location and establishment of the Law Centres in accordance with the 1995 Act.

2.6 Since the opening of the first Law Centre in 1980, the Board's network of Law Centres was expanded on a phased basis up to the mid-1990s. This was done by replicating the Law Centre model in various locations. The population of the catchment's areas covered by new Law Centres and the likely demand pressures were also factors that were taken into account in the selection of locations. As a result the Board now provides services nationwide. The relative efficiency of direct service provision in a large number of relatively small scale centres compared to possible alternative service delivery models was not a major consideration during this phase of the Board's development as the policy emphasis was primarily on providing geographically accessible services.

⁶ All figures quoted are in wholetime equivalents rounded to the nearest whole number.

⁷ This includes the District Court Service, the Model Law Centre and the Medical Negligence Unit.

⁸ Three additional Law Centres provide a Refugee Legal Service.

2.7 During 1998/1999 , a dedicated service for asylum seekers was established, the Refugee Legal Service (RLS) in three locations, Dublin, Cork and Galway, from which some limited outreach services were also provided for other locations on a part-time basis. The RLS model of service delivery differs significantly from the Law Centre model. It has a greater focus on the use of paralegal and support staff for managing caseloads and more extensive use of Private Practitioners. This was necessary to meet the requirements arising from the application of strict statutory deadlines in respect of services for asylum seekers.

Delivery of Services

2.8 As is common in many other jurisdictions, the Legal Aid Board operates a "*mixed delivery*" or "*mixed model*" system for the delivery of legal services. This model combines the use of salaried solicitors together with the "*judicare*" model of paying private solicitors and barristers where necessary, to deliver its service. The Civil Legal Aid Act, 1995 empowers the Board to engage Private Practitioners. The primary element of the Board's "*mixed model*" remains the salaried solicitor service but Private Practitioners are used as a complementary service where the capacity of the Board to deliver services from its salaried service in particular locations is constrained or where the use of Private Practitioners is considered more cost-effective (for example in district court cases). The use of Private Practitioners is also subject to the availability of resources. Although in practice the demand for the Board's services tends to be primarily in the area of family law, the Board's remit is broader than this and encompasses a wide range of civil proceedings in any Irish court of law, including medical and professional negligence, contract disputes, personal injury and so on.

Private Practitioners

2.9 Section 30 of the 1995 Act empowers the Board to establish and maintain panels of Private Practitioners, both solicitors and barristers who are "willing to provide legal aid and advice". This section of the Act also enables the Board to determine the terms and conditions applying to the panels subject to the consent of the Ministers for Justice and Equality and Finance. The services of Private Practitioners have been provided since 1993/1994 in respect of certain family law matters in the District Court including domestic violence, maintenance, custody, guardianship and access issues. Following a pilot in 2001/2002, a Private Practitioner panel has also been involved in providing services in divorce and separation cases in the Circuit Court since 2005. The level of usage of the Private Practitioner schemes is determined by the Board resources and having regard to the level of demand for services. Presently, the Circuit Court scheme in particular is used very

sparingly, given the substantially higher⁹ fees payable to the Private Practitioners concerned. For 2010 expenditure on the Private Practitioner service amounted to €2.920 million, with around €5 million accrued at the end of the year (i.e. incurred but not yet presented for payment).

2.10 In Dublin, in general, all District Court family law matters are referred to the Private Practitioners Scheme and this is administered by the Private Practitioner Unit in Dolphin House. This means that for issues such as maintenance, custody, domestic violence and access, the client will effectively automatically be referred to a Private Practitioner and will not use the services of a Law Centre. Outside of Dublin, Law Centres have the scope for either referring the cases or not to a Private Practitioner, depending on their own case assessment of the matter and their ability to deal effectively with the matter themselves. Consequently, usage of Private Practitioners outside of Dublin can vary quite a bit amongst Law Centres. In April 2011, due to budgetary constraints, the Board decided to introduce some restrictions on the use of the District Court Private Practitioners Scheme.

2.11 The services of barristers, where necessary, are provided in accordance with the terms of an agreement between the General Council of the Bar of Ireland and the Legal Aid Board. It is necessary, at times for Law Centres to seek the advice of counsel on particular matters and to provide advocacy services, particularly in the Higher Courts. Barristers are rarely used to represent clients in the District Court.

What is legal advice and legal aid?

2.12 Legal services provided by the Board take the form of either legal aid or legal advice. Legal advice is any oral or written advice given by a solicitor or barrister, including writing letters and negotiations. Legal aid is representation by a barrister or solicitor in court proceedings in the District, Circuit, High and Supreme Courts and before the Refugee Appeals Tribunal. A number of those who initially receive legal advice will subsequently be granted legal aid.

Matters excluded from the legal aid scheme

2.13 As is common in many jurisdictions, the scope of the Board's provision of services is limited by excluding certain types of legal problems. Section 28 (9)(a) of the Civil Legal Aid Act, 1995 provides for the exclusion of nine areas from the scope of the legal aid scheme. These "designated matters" are as follows:

⁹ Fees paid to private practitioners for Circuit Court cases are substantially higher than those for District Court cases due to the generally more complex nature of the cases involved.

- i. Defamation;
- ii. Disputes concerning rights and interests in or over land;
- iii. Civil matters within the jurisdiction of the Small Claims Court;
- iv. Licensing;
- v. Conveyancing (other than where it is connected to a matter in respect of which legal aid or advice has already been given);
- vi. Election petitions;
- vii. Claims made in a representative, fiduciary or official capacity;
- viii. Claims brought by a person on behalf of a group of persons to establish a precedent on a particular point of law and
- ix. Any other group or representative action.

Proceedings before tribunals such as the Personal Injuries Assessment Board and the Employment Appeals Tribunal are excluded from the provisions of civil legal aid, with the exception of representation of asylum applicants before the Refugee Appeal Tribunal (RAT). The RAT is the only tribunal that has been "prescribed" by the Minister in this regard. It is worth noting that the exclusions for legal advice differ from those applicable to legal aid and in general, legal advice may be provided even in the areas outlined above. Whereas the exclusion of certain areas of law from the scope of the Legal Aid Board is a bone of contention for many such as FLAC who believe it to be a "*manifest contravention of the right of access to justice*"¹⁰ this review is concerned with the operation of the Board, within the current scope of the Act only.

Procedures involved in the application for and delivery of services

2.14 Persons seeking legal services must apply at one of the Law Centres around the country¹¹. S/he must complete an application form, giving details of income and any capital resources and stating the subject matter on which legal advice and/or aid is sought. In the majority of EU Member States, it is common for legal aid to be granted only if certain conditions are met, such as those concerning the financial position of the applicant and the merits of the case¹². To be eligible for the legal services of the Board, a person must satisfy a number of criteria, including:

- **an overarching principle test** whereby a person will not be granted legal services if, in the opinion of the Board, a reasonably prudent person of modest means would be unlikely to decide

¹⁰ Access to Justice: a Right or a Privilege, 2005, FLAC publication, page 18

¹¹ Although a person is entitled to apply through any law centre irrespective of his or her place of residence, it is generally the case that most applicants reside in the area in which they seek the legal aid services.

¹² (CEPEJ) European Judicial Systems Council of Europe Publishing - European Council's Commission on the Efficiency of Justice (CEPEJ)

to seek such services in such circumstances at his/her own cost. As noted in the Legal Aid Taskforce publication¹³, this goes some way to ensuring that a person in receipt of legally aided services does not enjoy a better situation than someone who is just outside the legal aid financial limits who would have to defend, at his own expense, proceedings instituted by a legally aided person.

- **financial eligibility** - what has become known as the 'means test' effectively regulates whether a person is eligible for legal services or not and also determines how much a person has to pay as a contribution to the cost of the service they receive. The eligibility limits were last reviewed in 2006¹⁴. As a result of the review, the current regulations provide that a person is eligible for civil legal aid if his or her annual disposable income is less than €18,000. Certain expenses, in the form of allowances in respect of, for example, one's mortgage, childcare costs, dependents, etc are excluded from the calculation of gross income. Once these allowances have been deducted, the remainder constitutes disposable income. There is also a requirement that the value of an applicant's capital assets, apart from the applicant's family home, does not exceed a certain amount.
- **merits test** - where court proceedings are to be involved, a 'merits' tests is also carried out- i.e. the Board must be satisfied that it is reasonable for the person to take or defend proceedings having regard to the legal merits of the case, the likely outcome of the case and the probable cost to the Board measured against the likely benefit to the person.

Waiting Lists

2.15 Once the financial eligibility test is carried out by the Law Centre, an eligible person is generally put on a waiting list for an appointment with the solicitor of the Law Centre. Priority appointments are however given, for example, in cases of alleged domestic violence, cases involving applications by the State to take children into care and cases that have statutory time limits close to expiry. Whereas the waiting time can vary quite a bit from one centre to another, since 2004 when the O' Donoghue¹⁵ judgement was delivered, it has been Board policy to endeavour to provide an applicant with a first consultation within a maximum period of two to four months from the time a person applies to the Law Centre. This arises from what the Judge in question suggested in his judgement of the case as being a reasonable period within which services should be provided. He

¹³ Civil Legal Aid in Ireland, Law Society of Ireland's Legal Aid Taskforce, (2008)

¹⁴ Civil Legal Aid Regulations 2006

¹⁵ Decision of Kelly J. in O' Donoghue v The Legal Aid Board, the Minister for Justice, Equality and Law Reform and others (2004)

also acknowledged that the Legal Aid Board has to provide its services within its available resources and as noted in an earlier case¹⁶ arising out of delays on the Board's part in the provision of services "the Board had a method of dealing with cases in a certain order of priority and within that scheme the applicant was given equal treatment to all other applicants".

Legal Aid Certificate

2.16 If an applicant passes the 'merits test', s/he must firstly obtain a legal aid certificate before legal aid is actually granted. Depending on the nature of the case, certain procedures have to be followed before such a certificate, which specifies the legal services to be provided, is actually granted. Decisions on the issue or refusal of legal aid certificates are, in the main, made by the Legal Services Section of the Board's Head Office on foot of submission of the required information from the Law Centres. This would include an opinion from the relevant solicitor as to whether the certificate should be granted or not and the reasons why. Law Centres currently have delegated sanction to grant or refuse legal aid for District Court family law cases and the Board is considering extending the scope for further delegation of decision-making in this regard to Law Centres.

Appeals

2.17 If a person is refused legal aid, they have the right to receive reasons in writing for the refusal. S/he may also have that decision considered by an Appeals Committee of the Board. Applications for review or appeals must be lodged within one month of the original refusal.

Contributions from aided persons

2.18 Civil legal aid is not free. Except in cases of undue hardship, almost all Legal Aid Board clients are expected to pay a contribution towards the cost of the legal service being provided to them. Contributions are to be paid in advance of receiving the service and the amount to be paid is, for the most part, dependent on their "disposable income". Under the Civil Legal Aid Regulations 2006, the minimum contribution is €10 for legal advice and €50 for legal aid. In 2010, approx. €830,000 was received in contributions in the Law Centres and a further € 16,000 was paid in respect of RLS cases.

Recovery of costs

2.19 Costs may be recovered from a legal aided person, out of monies / property received by the person as a result of the provision of legal services. Costs can also be recovered from the other party to a dispute, either as a result of a court order or as part of an agreement to settle a dispute. In 2010,

¹⁶ Decision of Butler, P in *Kavanagh v The Legal Aid Board, the Minister for Justice, Equality and Law Reform and others* (2001)

approx. €660,000 was recovered in respect of cases dealt with in the Law Centres and a further €260,000 was recovered in respect of the RLS cases.

Conflict of interest

2.20 In general, it is the Board's policy that both parties to a dispute are not legally aided by the same centre. Conflict can however take many forms - and is not just confined to cases where both parties to a dispute apply to the same centre. Other examples can include an applicant seeking legal aid to take a professional negligence case against another solicitor in the Board.

Alternative Dispute Resolution

2.21 Solicitors are obliged¹⁷, in dealing with certain family law matters, to consider and advise clients on non court based options, as a way of resolving their disputes. The LAB is conscious of the potential adverse impact of clients being directed exclusively towards a court based resolution of problems. As is the case in other international jurisdictions, it is the Board's intention that a less adversarial dispute resolution culture in family law matters is promoted, especially given the detrimental impact the court process can have on the family dynamic. As noted by Frank Brady, Director of Legal Aid¹⁸,

"Recourse to the courts is a slow and expensive method of dealing with family problems. Members of the public are slowly becoming aware that the outcome of court proceedings, or of settlement negotiations conducted on the day of a court case, frequently produce results which satisfy neither party"

2.22 Most Legal Aid Board solicitors have therefore received training in what's known as collaborative practice and the Board is committed to the further development of alternative dispute resolution mechanisms, where feasible. The Board has also recently established an integrated pilot mediation initiative in the Dublin area also involving the Family Mediation Service and the Courts Service. It is intended that its impact will be closely monitored and evaluated during 2011 to determine the scope for further developing this particular approach to service provision.

2.23 Having outlined a general overview of how the Legal Aid Board actually delivers its services, the next Chapter will look at the overall aims and objectives of the Legal Aid Board and the rationale behind its mandate.

¹⁷ In accordance with the Law Society of Ireland's Family Law Code of Conduct

¹⁸ Address at Legal Aid Board'30th Anniversary conference , 15 September 2010.

Chapter 3 Objectives, Rationale and Outputs

3.1 This Section outlines the aims, objectives and mandate of the Legal Aid Board (TOR 1). It examines the rationale behind the provision of legal aid and advice to those who do not have the means to pay for it themselves and looks briefly at the demand for the Board's services over the years, thereby outlining the current and continued validity and relevance of the Board's objectives and mandate in today's environment (TOR2). The primary output of the Legal Aid Board is defined and quantified (TOR 3).

Aims and Objectives of the Legal Aid Board

3.2 The Board's function is to provide legal services in accordance with the provisions of the Civil Legal Aid Act, 1995 and the Regulations made by the Minister under it. Section 5 of the Act provides as follows:

"5.- (1) The principal function of the Board shall be, to provide, within the Board's resources and subject to the other provisions of this Act, legal aid and advice in civil cases to persons who satisfy the requirements of this Act.

(2) The Board shall, to such extent and in such manner as it considers appropriate, disseminate, for the benefit of those for whom its services are made available, information in relation to those services and their availability.

(3) The Board may perform any of its functions through any of its members or any member of its staff duly authorised by the Board in that behalf."

In line with the provisions of the Civil Legal Aid Act 1995, the Legal Aid Board, in its Corporate Plan 2009 – 2011, defines its organisational mission as follows:

"to provide a professional, efficient, cost effective and accessible legal aid and advice service".

Its vision is:

"to facilitate access to justice through the provision of a civil legal aid and advice service which compares favourably with best practice internationally"

The Department of Justice and Equality's Statement of Strategy contains a number of core values which guide the delivery of its functions, including that of ensuring access to justice.

Rationale behind the provision of legal aid and advice

Access to justice

3.3 Underpinning any legal aid scheme is the recognition of the fundamental right of access to justice¹⁹.

The right to civil legal aid is not however explicitly established by the Irish Constitution. Nor is it explicitly²⁰ provided for in the European Convention on Human Rights and Fundamental Freedoms (ECHR). Article 6(1) of the ECHR states that:

"In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law..."

The Convention has, together with case law of the European Court of Human Rights, and indeed the Irish courts, given guidance on the issue of access to justice over the years.

3.4 The *Airey vs Ireland* case highlighted that governments are obliged to provide legal aid in certain civil cases when it is deemed necessary to make the right to a fair trial an "*effective right*". The Court held that the mere possibility of appearing in person in the proceedings would not satisfy the requirements of the Convention if it cannot be reasonably expected that the person will be able to effectively represent her/himself. Johnsen²¹ notes that the decision obliges governments to provide sufficient funding for legal aid according to the following discretionary criteria:

- The importance of the case to the individual (applicant)
- The complexity of the case
- The individual's capacity to represent himself
- The costs and the individual's capacity to carry them

3.5 In the *Airey* case, it was argued successfully that Mrs. Airey's rights were violated as the prohibitive cost involved prevented her from accessing the required assistance. The *Airey* judgement does not

¹⁹ Access to Justice: a right or a Privilege? FLAC publication, 2005

²⁰ Article 6 (3) of the Convention however does explicitly provide for legal aid in criminal cases -although the right is not an absolute one.

²¹ "Human rights in the Development of Legal Aid in Europe", Professor Jon Johnsen

however establish a right to a free trial. The individual may carry part of the costs depending on his economic capacity to do so and indeed in certain instances, the possibility of appearing before a court even without a lawyer's assistance, will meet the requirements of Article 6. The State may also use other methods to ensure "positive action" on its part so that costs do not become a barrier to accessing the courts or justice.

" The institution of a legal aid scheme constitutes one of those means but there are others such as, for example, simplification of procedure".²²

3.6 The establishment of a legal aid scheme represents the normal approach adopted internationally in the achievement of the objectives outlined above. However, the aforementioned O' Donoghue Case, in which the plaintiff experienced long delays highlighted that *"it is not enough to set up a scheme for the provision of legal aid to necessitous persons and then to render it effectively meaningless for a long period of time"*²³. Increases in the demand for the services of the Legal Aid Board in a climate of scarce financial resources result in ongoing challenges for the Board in this regard.

3.7 The purpose of a legal aid scheme is therefore to provide legal services to citizens within the State who are in need of legal assistance (both advice and legal representation) and who might not otherwise be in a position to access such services through lack of financial means.

International Obligations

3.8 Certain international obligations imposed on the Board also serve to highlight the continued validity of its objectives. The most common one is the Board's obligation to provide legal aid where the Central Authority for Child Abduction or the Central Authority for Maintenance Recovery are under an obligation to provide assistance to a person²⁴. An example would be where a parent has taken a child to this country against the wishes or without the knowledge of the other parent and the parent from whom the child is taken wishes to have the child returned. An obligation to assist the non resident parent arises in this instance. Similar obligations arise where a parent living abroad with the child wishes to enforce a foreign maintenance order against the other parent who is living in Ireland.

²² Decision of the European Court of Human Rights, Airey v Ireland, Judgment of 9 Oct 1979.

²³ Kelly J. in O Donoghue v the Legal Aid Board, the Minister for Justice, Equality and Law Reform and Ors, 2004.

²⁴ The legislation in Ireland giving force to the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (the Luxembourg Convention) and the Convention on the Civil Aspects of International Child Abduction (the Hague Convention) provide for legal aid in child abduction cases, at least to the applicant parent.

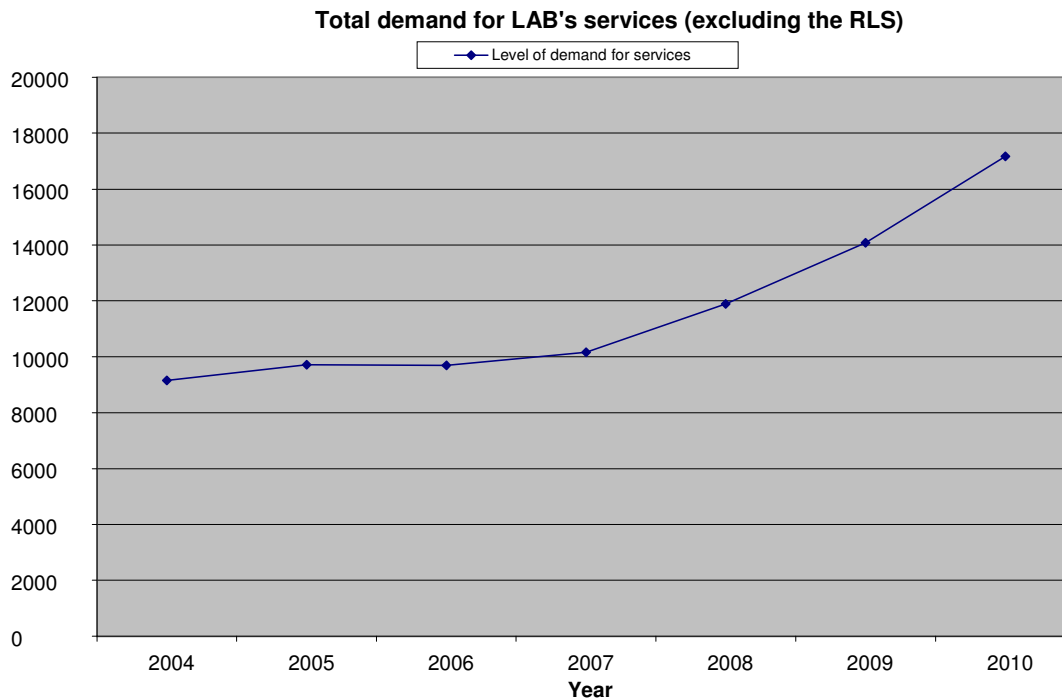
3.9 Council Directive 2002/8/EC also imposes certain obligations on Ireland relating to the provision of legal aid in cross border disputes. The Directive aims to bring about a common legal aid regime for such disputes, although it allowed for Member States to set their own income thresholds in this regard.

3.10 The Council of Europe has also addressed the issue of the right to legal aid and access to justice in a number of recommendations and agreements over the years so as to encourage governments to deliver legal aid. As an example, the 1977 European Agreement on the Transmission of Applications for Legal Aid regulates the transmission of applications for legal aid between European countries. The Legal Aid Board is the appointed central receiving authority in Ireland to receive and take action on applications for legal aid coming from another Member State.

Ongoing (and increasing) demand for services of the Legal Aid Board

3.11 The continued demand for the Board's services, which has been consistently high over the years, peaking in 1997 with the introduction of divorce, and rising considerably year on year since 2005, is perhaps the best indicator of the validity and relevance of the Board's objectives in today's environment. With the downturn in the economy, it is likely that, if anything, demand will continue to increase in the coming years as more people become eligible for the Board's services. Furthermore, as proven in other jurisdictions, difficult economic circumstances can lead to greater domestic pressures and a consequent increase in the need for legal assistance.

3.12 The level of demand for the Board's services over the years is illustrated below:



3.13 In summary, the continued validity of the Board's mandate and objectives is justified on the grounds of equal access to justice that has been clearly established as set out above. The following chapters will, *inter alia*, analyse and assess the effectiveness of the Legal Aid Board in actually meeting its objectives and whether the level of resources used to do so are being utilised to their maximum efficiency.

Define and quantify the outputs associated with the Legal Aid Board

3.14 The 3rd term of reference for this Review is to define and quantify the outputs associated with the Legal Aid Board. Although there can be various interpretations of what output is, the main output of the Legal Aid Board is:

- i. Legal advice provided to clients and
- ii. Legal aid provided to clients.

A further output²⁵, although one which is difficult to quantify, is that of

- iii. Information provided to clients and potential clients.

²⁵ Time is also, of course, spent processing applications, particularly in relation to financial assessments and on the initial administrative work required on cases referred to private practitioners.

With regard to (i) and (ii), there are a number of ways one can measure this output.

The number of cases handled²⁶ in a year is one output indicator; the number of cases closed / cleared²⁷ is another. The number of cases handled will be significantly higher than the latter – whereas some cases are dealt with relatively quickly, i.e. within weeks or months of getting an initial consultation, some cases may for a variety of reasons, take a number of years to conclude and, as a result, may be 'handled' a number of times. For the purposes of this review, the primary unit of output will be presented as:

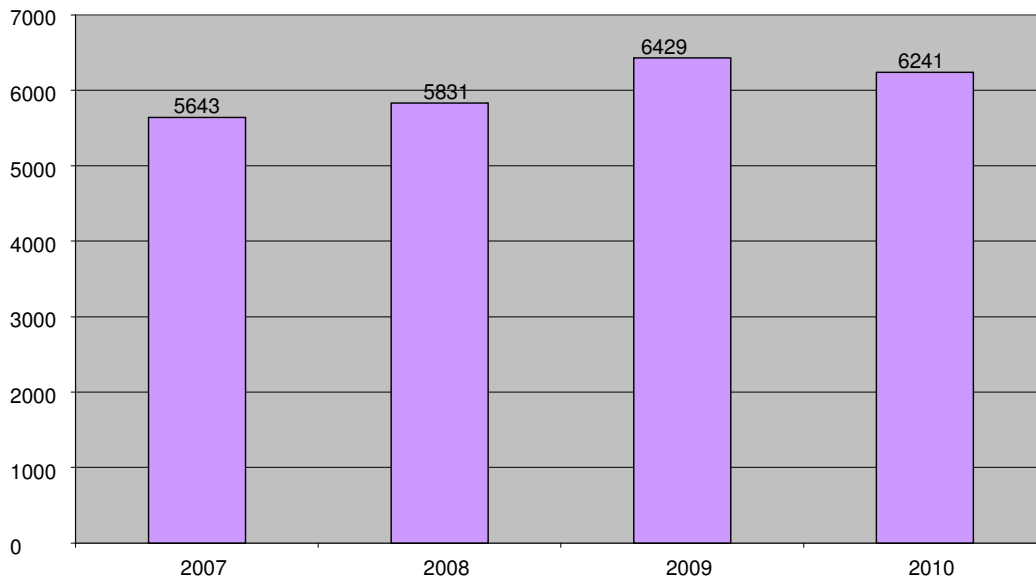
- (i) the number of *legal advice* cases **cleared** in a year and
- (ii) the number of *legal aid* cases **cleared** in a year

3.15 It is important to note that this approach has been adopted for analysis of what is a relatively complex working environment. It is acknowledged that there are a number of factors that impact both on the level of work undertaken by the Board, which is not reflected in the outputs, and the manner in which this output is processed. These factors are detailed in the notes below. Notwithstanding the impact of such factors, the outputs do provide a reasonably homogeneous basis for comparisons between Law Centres. In terms of individual units of output, as defined above, the Legal Aid Board as an organisation, therefore produces thousands of units of outputs in any given year. Details of the number of cases '*cleared*' by all centres between 2007 and 2010 are presented below:

²⁶ No. of cases handled in a year = No. of cases on hand at the beginning of the year + No. of new cases given an appointment

²⁷ No. of cases cleared in a year = Opening No. of cases on hand + No. of new cases given an appointment – Closing No. of cases on hand. The reasoning behind prioritizing cases *cleared* over cases *handled* as the primary output for the purposes of this Review is outlined in the Section entitled 'Measuring Output' in Chapter 5.

Total Cases Cleared



Note 1: All figures in this Chapter relate to the 29 full time Law Centre Offices (excl Dolphin House, George's Lane & Medical Negligence Unit).

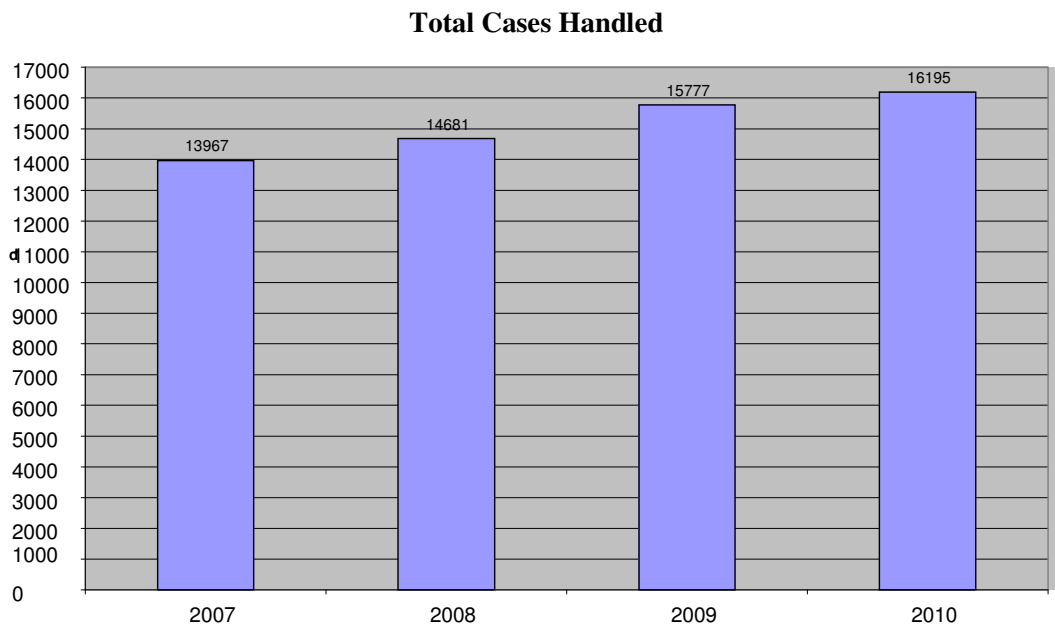
Note 2: With regards to quantifying both categories of output, whereas certain records are maintained in respect of both legal aid and legal advice cases, many of the legal advice cases go on to become legal aid cases in the end and so there is a large degree of overlap with any such figures produced – particularly in respect of the cases handled. The throughput data provided for this VFM exercise does not however differentiate between the two categories and hence the information presented below refers to the total of all cases (i.e. aid and advice).

3.16 As can be seen, the number of cases cleared increased by almost 15 % over the period 2007 to 2009, with the bulk of the increase taking place between 2008 and 2009. This achievement, against a background of increased demand and limited resources (i.e. recruitment moratorium etc.) is, in itself, to be seen as a significant and positive development for the LAB. The number of cases cleared by the Law Centres however did decline somewhat in 2010 (by less than 3% on the previous year), although the figure remained significantly higher than that of 2007 and 2008.

3.17 In assessing the primary unit of output, as outlined above, it is acknowledged that a number of factors impinge on the Board's capacity to process this output. These include the variable nature of the administration of the courts in different regions and the impact of cases referred to Private Practitioners (in terms of the initial administrative work undertaken in the Board prior to such referrals). The fact that more

routine district court matters are now referred to Private Practitioners has the effect of increasing the overall length of time within which these more complex cases remaining within the Board are processed. See Chapter 5 – Efficiency – for a more detailed analysis of the variation in output on a centre by centre basis.

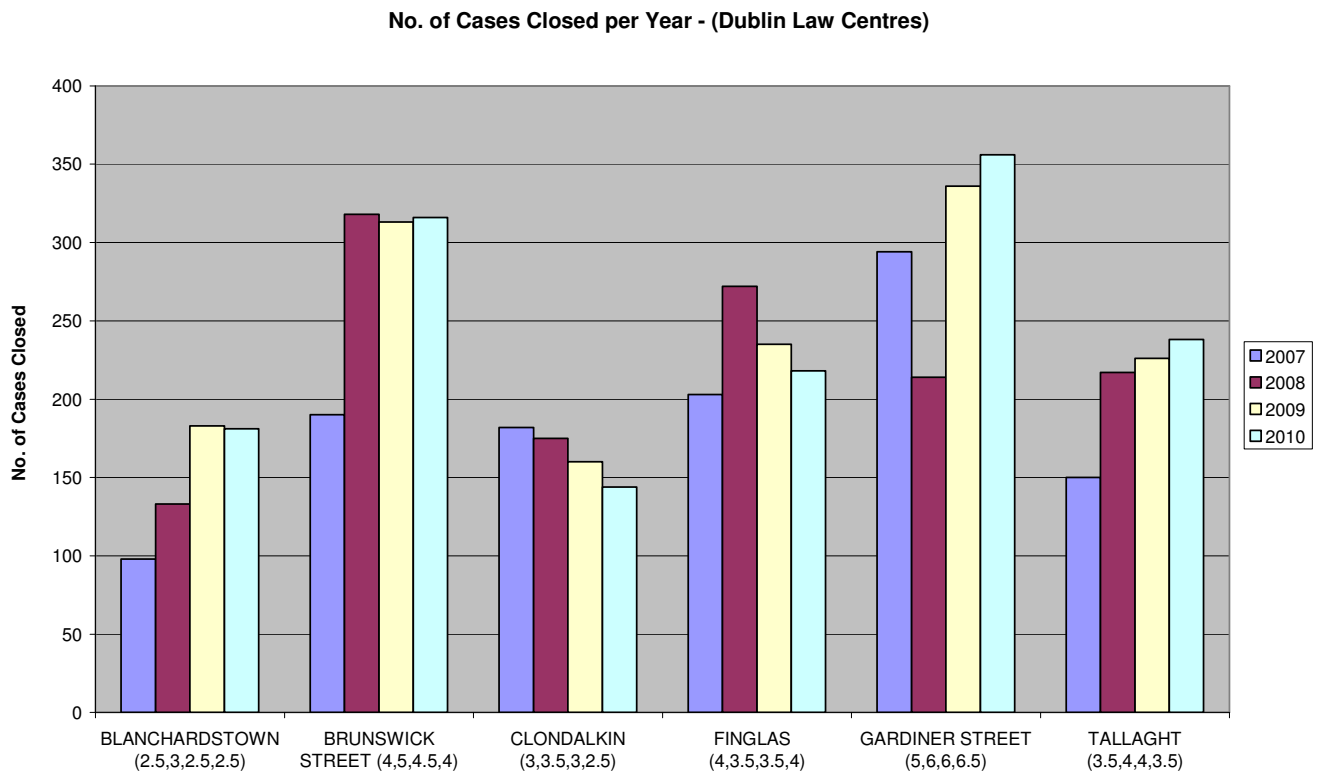
3.18 A similar trend is also apparent in the total cases *handled* for each of the years from 2007 to 2009, which also shows a steady increase. However, in contrast to the number of cases cleared, a further increase was again achieved in 2010. The relevant data is illustrated as follows:



Note: The majority of cases each year relate to Family law matters, such as judicial separation, childcare, maintenance, custody etc. In 2010, around 16% of cases handled concerned non family law matters.

The primary output, i.e. cases cleared, on a per centre basis broken down by Dublin and non Dublin offices, for the period 2007 – 2010, is also illustrated below.

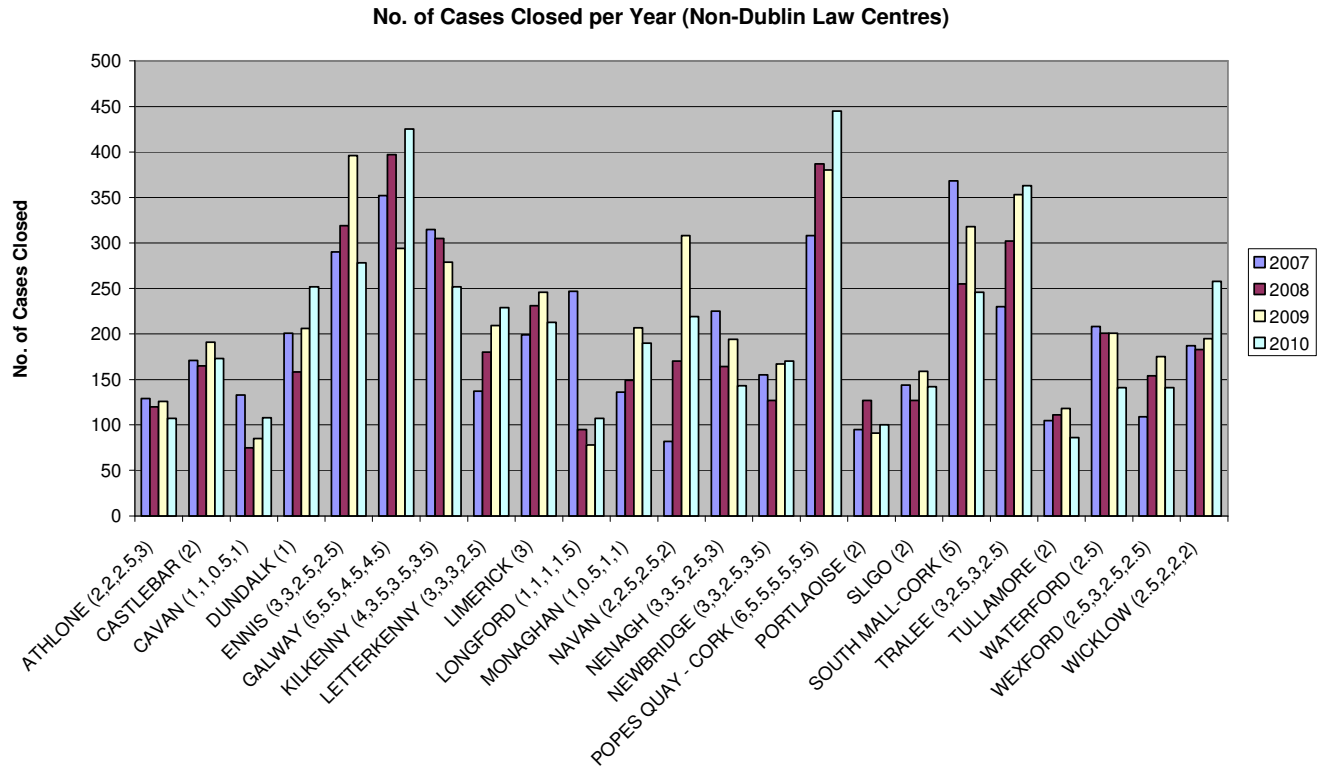
The number of Cases Cleared per year in the Dublin Centres
 (showing also the no. of solicitors available to each centre each year)



Note : that the numbers underneath the name of the Law Centre represents the number of solicitors available for work in each respective year. The figures are in whole-time equivalents and are based on the number of available solicitor days per year, net of absences such as maternity leave, sick leave, annual leave etc divided by 220 and **rounded to the nearest half.**

The number of Cases Cleared per year in the Non Dublin Centres

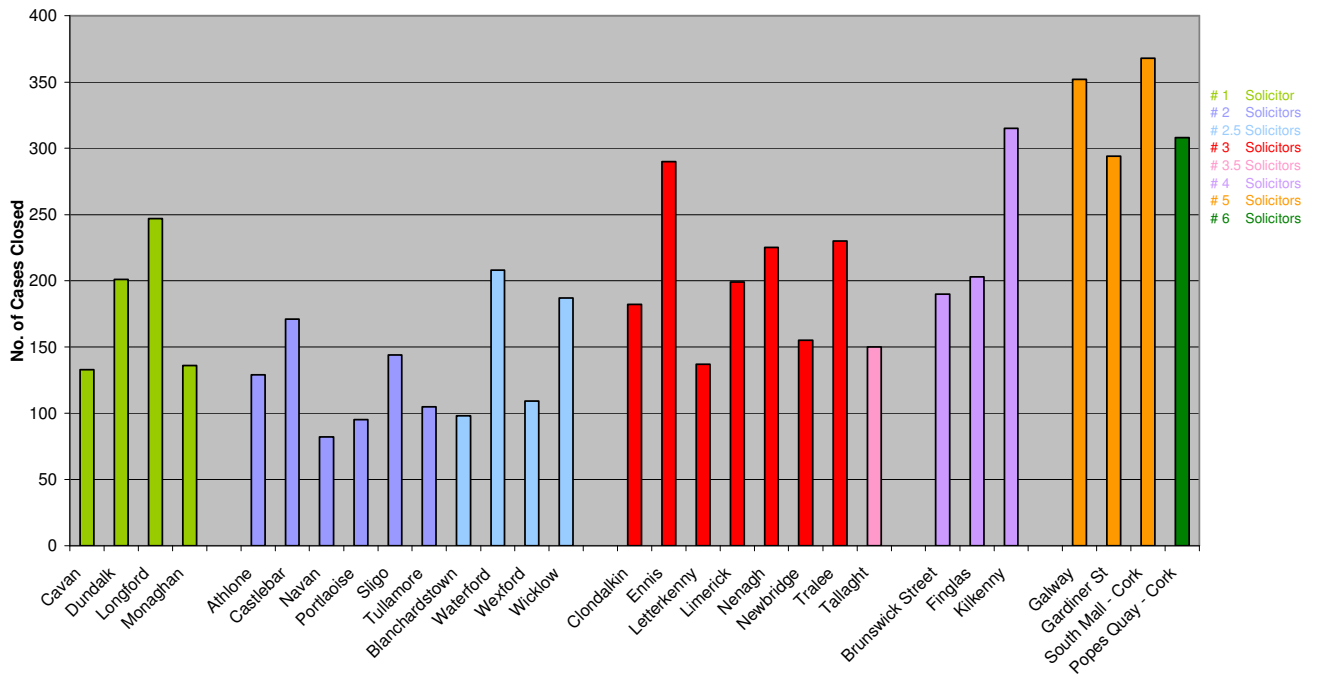
(showing also the no. of solicitors available to each centre each year)



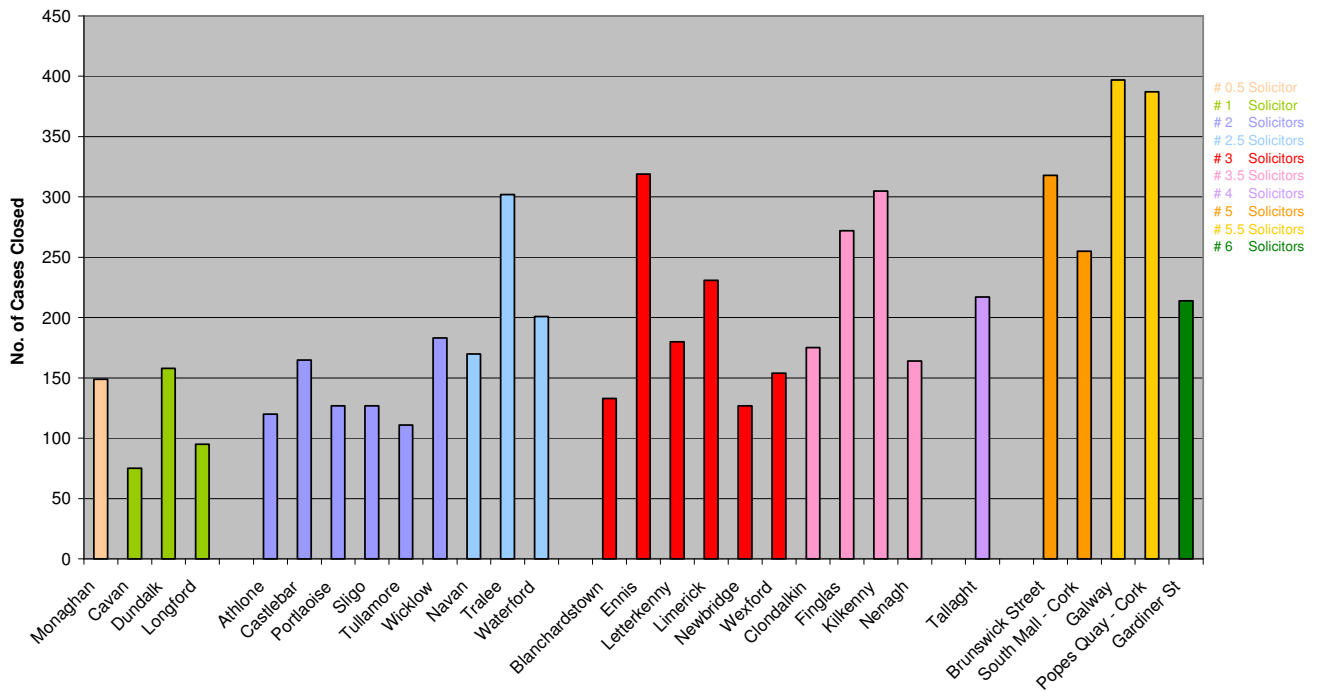
Note: An alternative and perhaps clearer way of illustrating the primary output for each of the Law Centres for the period in question is also presented below. In this case, the primary output, i.e. cases cleared, is presented on the basis of **the number of solicitors available for work** in each centre for each of the years. The figures below are given in whole-time equivalents and are based on the number of available solicitor days per year, net of absences such as maternity leave, sick leave, annual leave etc divided by 220 and rounded, as above, to the **nearest half**.

It is clear from these charts that, as one progresses up the scale (i.e. from left to right) in terms of available solicitor resources, one does not always get the corresponding increase in output that one might expect and similarly, whereas one would expect the lowest levels of overall output to be produced by the less well resourced offices, this is not necessarily the case.

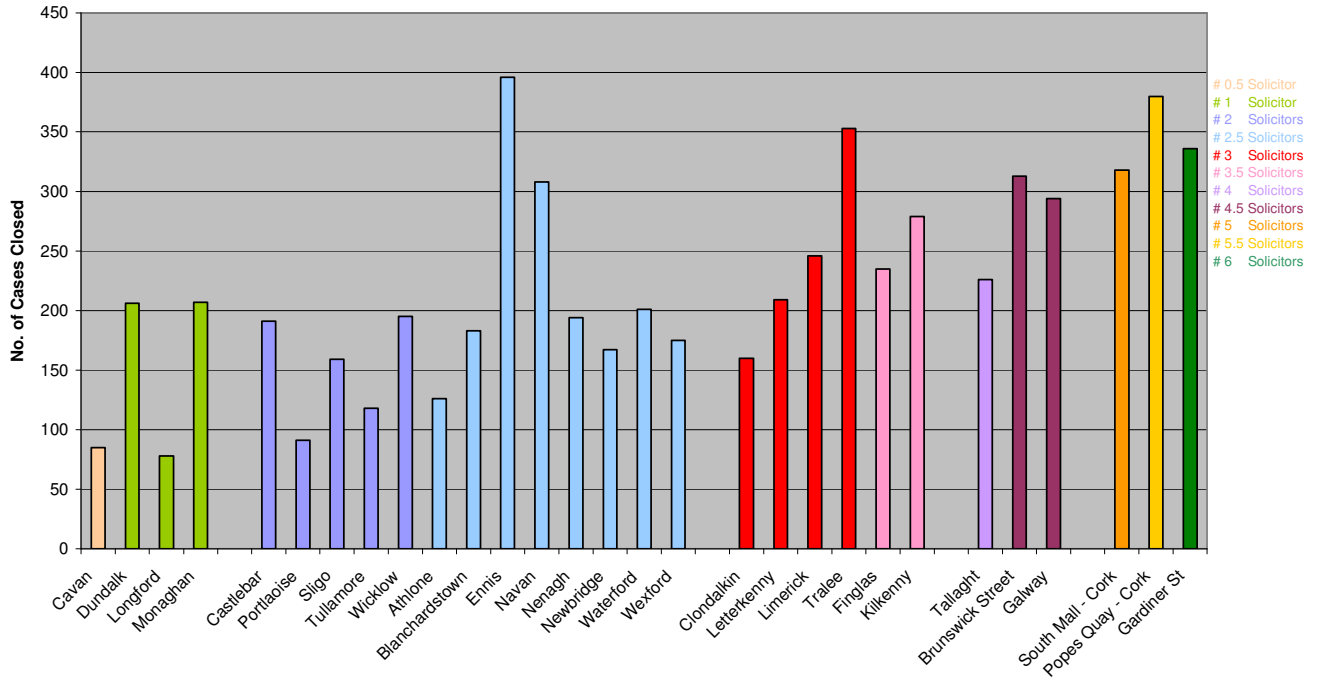
**Cases Closed based on solicitor resources available
2007**



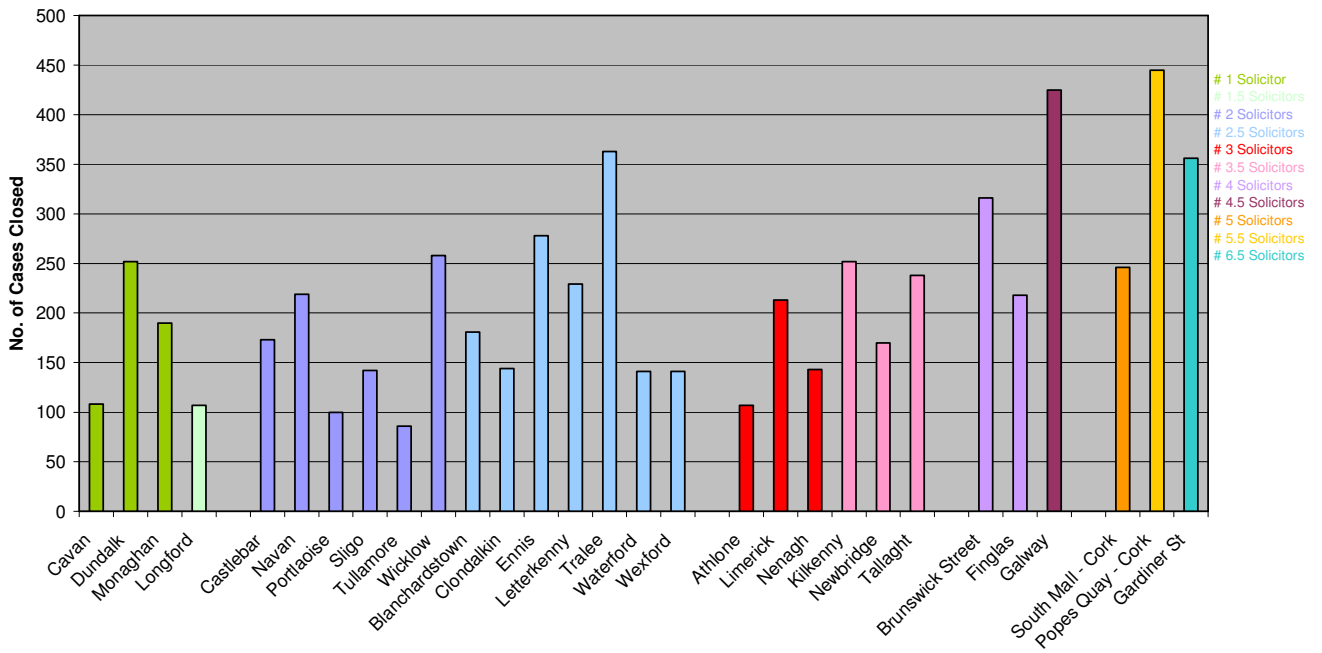
**Cases Closed based on solicitor resources available
2008**



**Cases Closed based on solicitor resources available
2009**

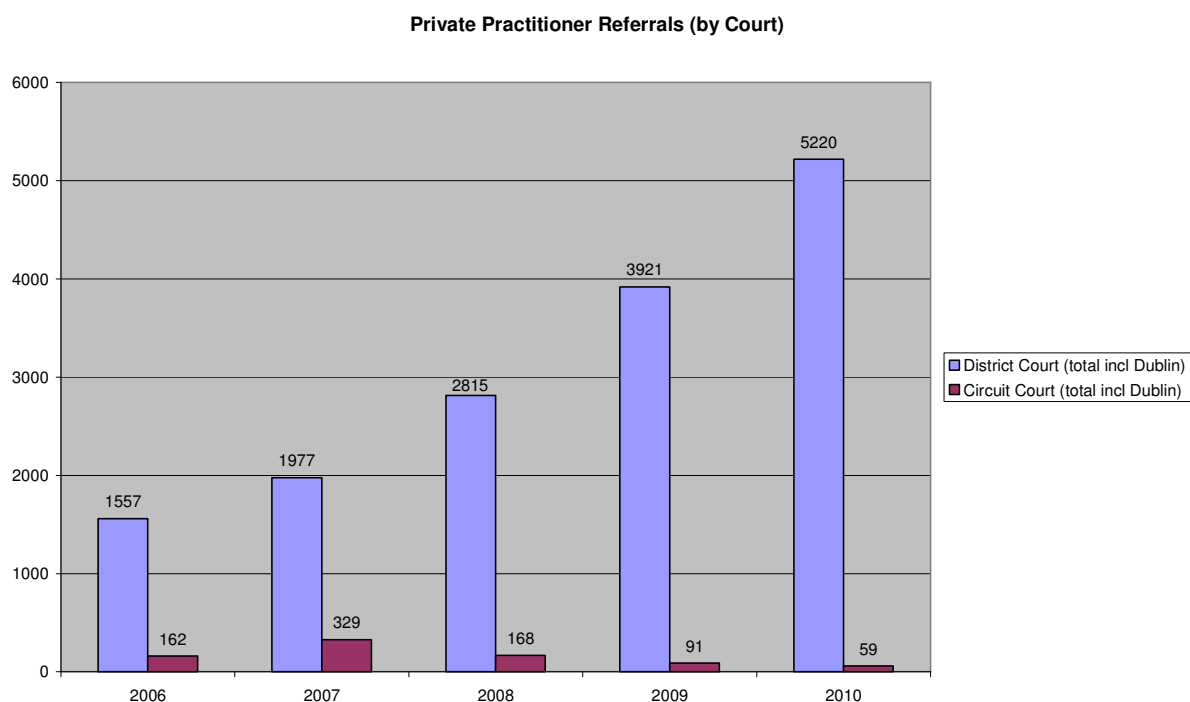


**Cases Closed based on solicitor resources available
2010**



Private Practitioner Referrals

3.19 In addition to the legal services provided through the Law Centres, there has been a substantial increase in the number of cases referred to Private Practitioners, particularly in relation to the District Court services. Such referrals also constitute output for the Legal Aid Board – however, once a case is referred to a private practitioner, no further data or information is available in relation to how that particular case progresses. Although it should be noted that prior to a case being referred to a Private Practitioner, an applicant is financially assessed and a legal aid certificate issued. At a later date, a file review might be undertaken by Board staff, while invoices for services provided also have to be processed in due course. The table below provides data for the total number of cases referred to Private Practitioners over the period 2006 to 2010 in respect of both the District and Circuit Court schemes.



3.20 It is clear that although the Circuit Court referrals increased during 2007, the numbers have since declined and are relatively small at any rate. This reflects the Board's efforts to keep Circuit Court referrals to a minimum, due to the higher costs involved, in light of current and anticipated future financial constraints facing the Board. As for the District Court referrals, the numbers referred have increased year on year, and have in fact more than tripled over the period in question. It should be noted that the fees paid to Private Practitioners for District Court cases are substantially lower than for Circuit Court cases and this increase in

District Court referrals reflects the efforts by the Board, during a period of increased demand, to keep the waiting period (i.e. for receiving an initial appointment) as low as possible.

3.21 The total number of referrals from the Law Centres to Private Practitioners in recent years is summarized in tabular format below. As can be seen, the number of referrals to Private Practitioners in respect of District Court cases increased by approx 33% between 2009 and 2010 alone and increased more than threefold between 2006 and 2010. As mentioned, the number of referrals in respect of Circuit court cases has however declined and, in 2010, was at quite a low level.

	2006	2007	2008	2009	2010
District Court (total, incl. Dublin)	1557	1997	2815	3921	5220
Circuit Court (total, incl. Dublin)	162	329	168	91	59
Total Private Practitioner Referrals	1719	2326	2983	4012	5279

Provision of Information – a further output

3.22 As stated at 4.2, information provided to LAB clients, and indeed potential clients is also an output of the LAB. Section 5(2) of the Civil Legal Aid Act, 1995, provides that:

“The Board shall, to such extent and in such manner as it considers appropriate, disseminate, for the benefit of those for whom its services are made available, information in relation to those services and their availability”.

Although important in its own right, especially given that research has shown that a lack of awareness of one’s rights and entitlements is seen as a fundamental barrier to accessing justice, the role is quite clearly secondary for the Board to the actual provision of legal aid and advice. Nevertheless, it is clearly an output of the LAB – although one which is impossible to quantify *per se*.

The Board has developed a wide range of information leaflets which are made available not just in Law Centres but also in Citizen Information Board offices, Garda Stations, Money and Advice Bureau offices etc. It also maintains a website which contains a considerable amount of information in respect of the

Board's services. It has a Consultative Committee which meets 4 out of 5 times a year and consists of all the main stakeholders with an interest in its operations: Law Society, Bar Council, AMEN, Women's Aid, Doras Luimni, HSE, FLAC, Immigrant Council of Ireland, MABS, AIM Family Services, Barnardo's, Courts Service, Family Mediation Service. The Board has also engaged in some very limited advertising but has been very conscious of its capacity to meet any extra demand.

- 3.23 Whereas the primary output associated with the Legal Aid Board has now been defined and quantified over the past number of years, Chapter 5 will analyze how efficiently the primary output is produced.

Chapter 4 Effectiveness of the Legal Aid Board

4.1 This Chapter addresses part (iv) of the terms of reference by assessing the effectiveness of the organisation in meeting its objectives. For the purposes of this Review, the objective of the Legal Aid Board has been given as:

" To provide a professional, efficient, cost-effective and accessible legal aid and advice service"

A secondary objective is to provide information in relation to the availability of its services for the benefit of who they are available.

What is meant by effectiveness in the context of the Legal Aid Board?

4.2 Effectiveness is concerned with ensuring the intended outcome is achieved, i.e. the extent to which the outputs lead to the attainment of the stated strategic objectives. Effectiveness is not just the production of outputs - the outputs produced must generate positive results. The intended result, in the case of the Legal Aid Board, is the clients, in the defined target population, whose legal needs, within the scope of the Act, have been met. The overall impact, in line with the Legal Aid Board's vision, is that of the facilitation of access to justice to people whose means would otherwise prevent them from attempting to defend or vindicate their rights.

4.3 To be 100% effective the Legal Aid Board would have to meet the legal needs (within the scope of the Act) of all of its target population. With the current increase in unemployment and the pressure on wages etc, LAB research suggests that some 50% of the population may now be eligible for civil legal aid. To satisfy the needs of all of this population is not however within its control for a number of reasons including:

- Parts of the target population may not be aware of the service in the first instance and their legal needs may therefore go unmet. Others may be aware of the service but may simply choose not to progress with the matter, for whatever reason (see 4.5 below).
- The Board is limited by the resources available to it. One of the features of the Civil Legal Aid Act 1995 is the provision that services are to be provided within the resources available to the Board. Insufficient capacity may mean that services are not delivered in reasonable time (*inefficient use of existing resources is also of course a potential reason for this*).

4.4 Most of the eligible population may never require legal services so the potentially eligible population is not necessarily a reliable indicator of actual demand, nor is it a reliable indicator of unmet legal needs. It should also be clarified that what is meant by 'met' here is that a client has received the legal service required by

them, in accordance with the Board's statutory obligations as opposed to having received a satisfactory outcome. There are many issues to be taken into consideration with regards the latter:

- Family Law cases – “no winners”; The nature of family law cases is such that clients will frequently measure success by the outcome of their case, which is rarely entirely to their satisfaction;
- Conflict cases – if a clear “winner” is balanced by a clear “loser”. As the Board will regularly represent both sides in “conflict” cases, one side represented by the Board may be less satisfied than the other with the outcome;
- Well argued cases and good representation in Court does not always translate into good/optimum legal outcomes in Court where judges have final say, notwithstanding strength of the case and/or the skill with which it is put before the court; no process exists to assess the quality of advocacy in court; or its impact on the eventual outcomes of cases;
- Unrealistically high client expectations against outcomes that are possible; The Board's clients may have high expectations which are often unrealistic and this can be reflected in their (dis)satisfaction with the service provided;
- Multiple client needs (Legal and Social), cannot all be addressed by the Board; Board's client's often have a range of needs in addition to their legal need which cannot be met by the Board, e.g. counselling, etc.;
- The extent to which the Board refers clients to other services (e.g., family mediation) that may provide a better outcome than litigation because parties have more control over the final outcome.

4.5 It should also be noted, that some applicants do not subsequently require services because they have either resolved the issues of concern to them by the time they receive notification of an appointment with a Board solicitor or have decided that they no longer wish to pursue matters they had originally raised when being assessed for eligibility. For the purposes of this Review, consideration of effectiveness will focus on the degree to which the LAB meets the legal needs of those that present to the organisation. Potential clients or those with unmet legal needs i.e. those who have a legal need and are financially eligible to apply but do not do so for a variety of reasons (be it lack of information, problems in securing help or advice or otherwise) are excluded. From the point of view of assessing the Board's effectiveness, an issue of some interest is the extent to which financially eligible persons, with a legal need that falls within the Board's remit, do not seek services and the reasons for this. It could be due, for example, to a perception that they will not obtain redress due to waiting times and/or a lack of faith in the perceived effectiveness of the service. However,

there is no readily available evidence on the extent to which such factors may discourage the use of the Board’s services and accordingly, no analysis on this subject has been undertaken in this report. It is acknowledged that an examination of the factors that might discourage use of the service, given the size of the population that is potentially eligible for the Board’s services would be a worthwhile exercise, in itself. However, given the timetable for the completion of this review, the availability of considerable amounts of other relevant data for analysis and evaluation, it is not considered that the time and effort required to generate usable data on this subject would be justified. It would, however, be useful for the Board to consider how this issue might be evaluated in the future.

4.6 Although there would appear to be no clear-cut benchmark which the LAB can be easily measured against in terms of its effectiveness, the main issue to be considered for the purposes of this Review will be that of the timeliness²⁸ of the service provided, given the increasing level of demand for services in recent years coupled with limited resources for the Board to address such demand.

Timeliness of the Service Provided

4.7 Section 3.12 illustrates the significant increase experienced each year by the Board since 2005 in relation to the demand for its services. The number of persons waiting for the Board’s services and the waiting time itself has increased in recent years as a result of this increased demand. Details of actual numbers on such waiting lists are presented below – as can be seen, the number of individuals on waiting lists has increased significantly each year from end December 2007 to end December 2010 – in fact there was well over double the number of individuals (almost 2.7 times) on waiting lists for an appointment at the end of December 2010 than there was four years prior to that date.

Year	End 2007	End 2008	End 2009	End 2010
Numbers Waiting	1174	1701	2228	3153

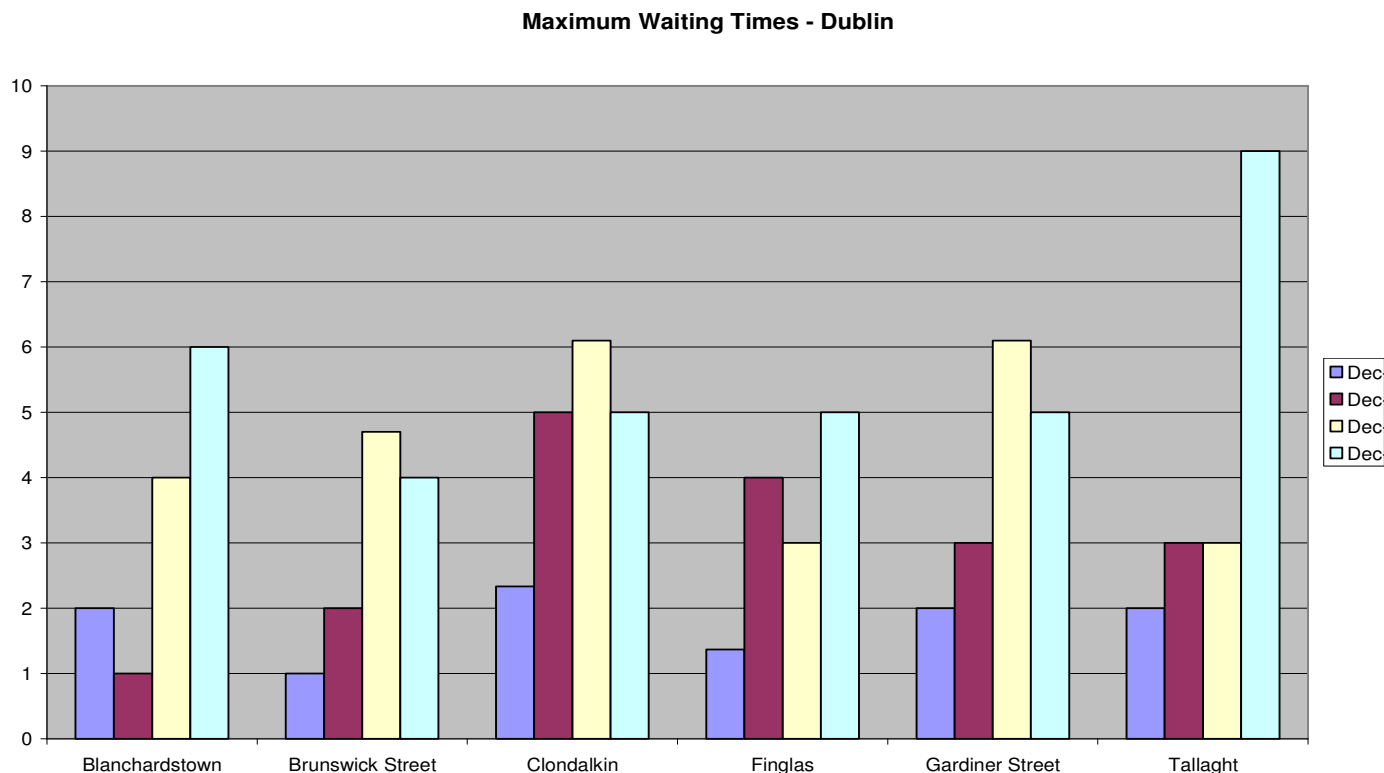
4.8 As mentioned in Section 2.15, following the decisions of the High Court in the O’ Donoghue judgment in 2004, the Board must aspire to provide a timely service, which is generally taken to mean within a maximum period of two to four months from the time the applicant applies for legal services to the Law Centre. It could be argued that having waiting lists for non priority cases allows for reflection on the part of clients and possible resolutions of issues other than through the legal route. Two to four months is considered

²⁸ It is acknowledged however that timeliness, in terms of speed of response, may not always be crucial in a case. However it is usually desirable.

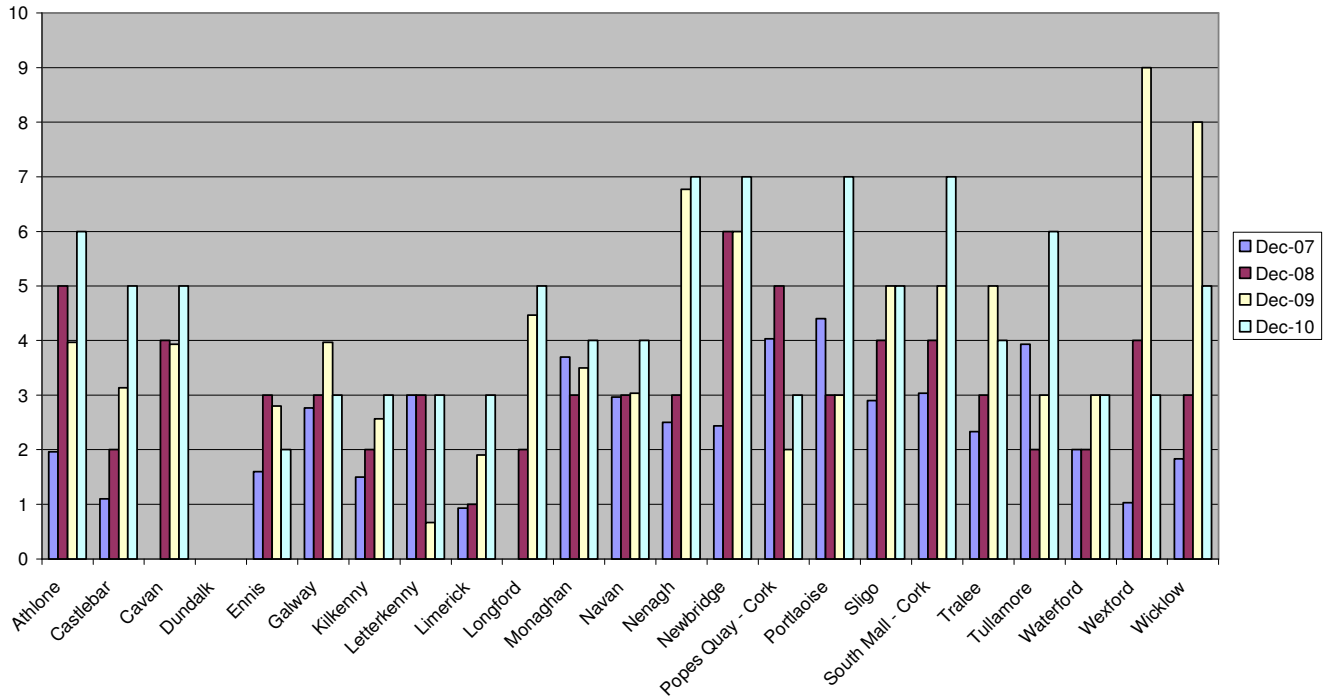
reasonable for this purpose. The Board has always operated a priority service. It is also however important to note that the earlier Kavanagh case implied that the Board’s resource limitations are permitted to inform the manner in which it provides legal aid and advice under the Act and so a priority service is given to those seeking certain legal services, for example in respect of domestic violence and cases where there are statutory time limits.

4.9 Following the 2004 judgment, waiting times in most Law Centres were reduced and decreased consistently in 2005 and 2006. This was because the Board received additional resources at the time that enabled it to fill vacancies and engage Private Practitioners to provide the services necessary to reduce waiting times below the four month ceiling referred to in the O Donoghue Judgment. However data obtained in relation to the maximum waiting times for each of the Law Centres over the period end 2007 to end 2010 indicate that there is increasing pressure on the Board to provide a timely service to its applicants. Waiting times have crept back up once more, and particularly so in the last year.

4.10 The maximum waiting time in months, as of end December, is set out for the various Law Centres below – broken down once more on a Dublin and non Dublin basis:



Maximum Waiting Times - Non Dublin Centres



Note: It should be borne in mind that the waiting times above represent a snapshot of waiting times at a particular point in time – i.e. at end of year - and do not illustrate the position over the year itself. The waiting time may vary depending on a centre’s capacity to take new clients at a particular time.

4.11 As outlined in the Table overleaf, whereas the LAB succeeded in ensuring that waiting times were no longer than 4 months in any of its Law Centres at the end of 2007, 4 centres failed to offer an appointment within the recommended timeframe (unless the matter fell within its categories of “priority”). At the end of 2008 (3 centres had waiting times of 5 months, and 1 centre had a waiting time of 6 months). In 2009 this figure increased to 10 centres failing to meet the 2-4 month deadline (with one centre having a maximum waiting period as long as 9 months). As of end December 2010, as many as 16 centres failed to offer clients an appointment within the 2-4 month timeframe – with the longest waiting period for any centre remaining at the 9 month timeframe (1 centre). It should perhaps be noted that the Dundalk Law Centre reported having no waiting list whatsoever for any of the years given. Other centres, including Limerick, Kilkenny, Letterkenny, Waterford and Ennis, have been consistent, over the four year period²⁹, in keeping the maximum waiting time within the 4 month timeframe.

²⁹ As above, it should be noted that this achievement is based on the data provided for a particular point in time of a given year – i.e. 31 December.

Table – No of centres grouped by maximum waiting periods – as at 31 Dec each year

Year (as at 31 Dec)	No. of centres with maximum waiting time between 0 and 1 month	No. of centres with maximum waiting time between 2 & 4 months	No. of centres with maximum waiting time greater than 4 months	Total
2007	8	21	N/A	29
2008	3	22	4 i. Athlone (5) ii. Clondalkin (5) iii. Popes Quay – Cork (5) iv. Newbridge (6)	29
2009	2	17	10 i. Brunswick St (5) ii. Sligo (5) iii. South Mall (Cork) iv. Tralee (5) v. Clondalkin (6) vi. Gardiner St (6) vii. Newbridge (6) viii. Nenagh (7) ix. Wicklow (8) x. Wexford (9)	29
2010	1	12	16 i. Athlone (6) ii. Blanchardstown (6) iii. Castlebar (5) iv. Cavan (5) v. Clondalkin (5) vi. Sth Mall - Cork (7) vii. Finglas (5) viii. Gardiner St (5) ix. Longford (5) x. Nenagh (7) xi. Newbridge (7) xii. Portlaoise (7) xiii. Sligo (5) xiv. Tallaght (9) xv. Tullamore (6) xvi. Wicklow (5)	29

- 4.12 It is perhaps important to note that the locations of the Board's services are relatively fixed, so if regional demand exceeds local service capacity, its scope for responding is currently limited largely by the availability of Private Practitioners locally and the resources available to engage them. The current moratorium means it is difficult to re-assign resources to locations where the need arises (outside of Dublin, Cork and Galway where the Board has more than one office). A limited exemption from the moratorium allows the Board to recruit a small number of front-line staff in response to acute service delivery difficulties in some locations. The Board's participation in a FAS work placement scheme has also enabled it to avail of the expertise of additional solicitors who gain work experience with the Board for up to a 9 month period.
- 4.13 The waiting times outlined in the previous sections only indicates part of the situation for the Board in terms of providing a service. Given the Board's limited resources, it is permitted to deal with cases in a certain order of priority and so it provides a priority service to persons seeking legal services where it considers that an immediate, or near immediate service is needed. This includes those cases which have statutory time limits close to expiry, cases involving applications by the State to take children into care, issues of domestic violence and child abduction. In 2010, the total number of priority appointments offered by Law Centres was 1862, which was 13% of all applications made to Law Centres.
- 4.14 Cases referred out to solicitors on the Board's Private Practitioners panels do not go on a waiting list either³⁰. In fact, the majority of such cases are referred either immediately or shortly after the person had applied for legal aid. Apart from the aforementioned information available such as receipt of invoices and follow on payment, as well as file reviews, there is no detailed information kept in relation to these cases.

"Advice only" service

- 4.15 Furthermore, in an effort to provide a more timely service, the Board introduced, in November 2009, an "advice only" service to provide preliminary legal advice sessions to applicants, even though many might need to wait another period before the Board is in a position to provide a legal aid service. The objective of this service is to ensure that every eligible applicant gets to see a solicitor within a four month period. It is envisaged that, as a result of this appointment, many applicants may be then able to deal with the problem without legal assistance or may at least be able to progress some matters whilst waiting for the full appointment. The impact of this relatively new service has however yet to be assessed. Information on the "advice only" service on the Board's current database is being extracted for analysis while the Board

³⁰ **Note:** that they now (i.e. 2011) go on the applications register with some immediately taken off because they need to be prioritized

is also collating feedback, on the quality of the service received, directly from clients. The latter information, in particular, will assist the Board in assessing the overall effectiveness of the service.

- 4.16 Accordingly, the waiting lists/times only apply to approximately 60% of applicants for the Board's Law Centres. It should be noted that apart from "prioritised" matters, cases referred to Private Practitioners do not necessarily result in an immediate or near immediate first appointment with a solicitor, although all referrals in Dublin were immediate up to the end of 2010. More recently, due to demand and resource issues, the practice in Dublin is now more in line with the rest of the country.

Other factors to be considered

Quality

- 4.17 Timeliness is one measure of effectiveness but to be effective, there must also be a high level of confidence that a quality service is being provided. The Legal Aid Board has procedures in place on quality assurance. In an effort to maintain and improve the quality of service offered, the Board developed, in 2007, a structured process for the review of case files. This involves a formal review of a number of case files for each solicitor each year against best practice guidelines, which were developed in consultation with the Board's solicitors. This file review process also extends to those cases dealt with by Private Practitioners. Although once criticized for being "independent republics"³¹, efforts have been made to ensure consistency in the service offered across all Law Centres.
- 4.18 Current best practice guidelines in relation to professional practice are incorporated into the Board's Circular on Legal Services. Risk management and reporting protocols have been introduced, following the commissioning of a risk assessment study of the Board's legal service delivery. Case status returns are increasingly being reviewed and analyzed by managers to ensure cases progress. A 'model' Law Centre was established in Dublin in 2009 to pilot new processes and procedures and incorporate those that are found to be effective in the general Law Centre network. Given the increasing demand for services facing the Board, the "Model" Law Centre deals with childcare cases in the Dublin area and has also assisted Law Centres in Dublin with high waiting lists by taking some cases off their waiting lists. The Board has also invested in an automated legal case management system (see 4.20 below) which will significantly streamline current operations when it becomes operative in 2012.
- 4.19 All these examples indicate that the Legal Aid Board has a structured system in place to monitor quality and ensure that standards are maintained and improved.

³¹ Risk Assessment Report, 2008.

New Legal Case Management System.

4.20 A major upgrade of the Board's databases involving considerable investment in a new legal case management system will, as well as improving the effectiveness and efficiency of the Board's direct service delivery operations, facilitate more robust interrogation of the available data for planning, policy development and accountability/risk management purposes. The new system called "EOS" is scheduled to be introduced across the organisation in mid-2012. It is a major project for the Board because of its potential to streamline operating procedures and allow for a much more effective use of ICT across the organisation. From the point of view of improving effectiveness and efficiency, this is a very welcome development and should continue to be prioritised by the Board.

Client complaints

4.21 The LAB receives a relatively small number of complaints each year. While such complaints may not be reflective of the average client, it gives an indication of the broad nature of issues of concern – the majority of which involved a breakdown of solicitor / client relationship. A small minority related to the case outcome or advice given, as did delays and lack of contact or information. However, given the limited pool of complaints received, it is not possible to draw any systemic conclusions about the services of the Legal Aid Board as a result. The fact that the number of complaints is as low as it is, is however reassuring.

Provision of information

4.22 Once more, it is very difficult to find a benchmark against which this particular objective can be assessed. It is clear however, from various initiatives outlined in Section 3.22, that the Board has given considerable effort to achieving its objective in this regard. Its main tool for communicating with its stakeholders is the Consultative Panel which has representatives from a range of organisations whose clients use the LAB's services. The extensive development of informative leaflets, a website, inputs into publications such as the Law Society Handbook on Legal Aid and its engagement with local Bar Associations and local groups also indicate attempts at ensuring that it is effective in getting the message across.

4.23 The Board is aware that there is likely to be a certain number – even a significant number - of people every year who encounter problems through lack of information and understanding of what services are available

to them. This absence of information and knowledge is likely to include the services offered by the Legal Aid Board. It is extremely difficult to quantify with any degree of accuracy the numbers involved. The Board has used, and continues to use, a range of means to address the information deficit. The most recent initiative notes an attempt to lead a co-ordinated and whole of government approach to the issue.

4.24 The Board is, however, also conscious of the limited resources available to meet a demand which continues to escalate.

Summary and conclusions

- For the purposes of this Review and for the reasons outlined, consideration of effectiveness focuses on the degree to which the LAB meets the legal need of those that present to it. The timeliness of the service provided is considered to be a key indicator in this regard.
- In terms of timeliness, there is no clear-cut international benchmark available. Although some jurisdictions may also have a 'mixed model' delivery systems of legal aid, none are directly comparable with that of the Legal Aid Board. This is due to factors such as a different range of civil legal aid matters covered in other "mixed model" jurisdictions, different eligibility criteria and quality assurance/risk management arrangements.
- Approx 40 % of clients (through priority service and Private Practitioner referrals) obtain a near immediate³² service each year from the Legal Aid Board. Once it continues to be possible for the Board to address such priority cases with a near immediate service, the issue of other clients waiting longer for resolution of their cases is not as acute, in that although it is desirable that waiting times are reasonable, it is not essential or possible, in a resource constrained environment to meet all legal needs on a priority basis. Therefore, if benchmarked against the timeliness criteria, the fact that clients with the most urgent legal needs get an immediate or near immediate service means that the Board's effectiveness in this regard is relatively high. However, it is essential that the Board continues to ensure that its risk management systems are subject to ongoing review so that they remain robust enough for the early identification of priority cases, and so as to avoid future litigation against the Board.
- The number of persons waiting for the Board's services and the waiting time itself has increased in recent years as a result of increased demand. Therefore, if the service provided to the remainder of its clients are benchmarked against the maximum 2-4 month target, it is clear that an increasing number of centres are finding it more difficult to meet it. Therefore, if using the waiting time as an indicator of effectiveness, the LAB is, in general, becoming less effective in this regard.

³² See paragraphs 4.13, 4.14 & 4.15 regarding the position concerning "priority" cases.

- The quality of the service provided is also an indicator of effectiveness. The Legal Aid Board has put in place a structured system for the management of risk/performance that also acts as a means of quality assurance. This system also now extends, to some extent, to the service offered by Private Practitioners. It is considered that a robust system of quality assurance/management of risk/performance should be further developed by the Board to be applied to Private Practitioners, given the volume of cases referred to such practitioners and their costs. Other efforts have also been made to ensure the delivery of a quality service. The introduction of the new IT system will also streamline current procedures and should lead to the provision of an enhanced service overall.
- Although the LAB continues to provide information on its services through various mechanisms, it is conscious of its limited resources to meet a growing demand.
- The Model of service delivery also has a potential impact on demand. While the Board's clients are required to pay minimum contributions for the services provided to them, private solicitors, engaged by clients who are ineligible for the Board's services, can better control the demand for their services. This is because they can charge a commercial rate for the work they undertake on a client's behalf and clients will constantly factor the costs to them into decisions they take on how their cases might be progressed. Clients of the Board, on the other hand, do not have the same appreciation of costs and hence can be more difficult to advise and in some cases less likely to forego more expensive remedies in favour of more cost effective approaches to resolving their problems. Managing client expectations and minimizing costs is a major ongoing challenge for the Board that is not as prevalent in the private sector.

Chapter 5 – Efficiency Analysis

5.1 Efficiency

Efficiency is achieved if the minimum amount of input is used to produce the outputs required or if the volume of output is maximised from a set quantity of input. Either way it is an analysis of the ratio of input to output but the latter view is more appropriate to the work of the Legal Aid Board, as demand for services exceeds supply. Efficiency can be measured by comparison with a recognised benchmark but in many cases there is no recognised benchmark or where a benchmark exists the data to do a valid comparison does not exist. In the absence of a recognised benchmark the methodology employed in this review for benchmarking the outputs of the Legal Aid Board, involves a series of comparisons between the Board's Law Centres. The centres are geographically spread and of varying sizes. Some of the differences in the outputs of Law Centres relate to particular factors, such as the case mix in certain locations and the differing manner in which courts services are organised locally. The analysis of efficiency, particularly in relation to the relative performance of Law Centres, takes account of such features which are largely outside the control of the Board, yet impact on relative efficiency between centres.

Measuring Input

For the Law Centres inputs or costs are made up of a combination of direct and indirect costs. The direct costs are predominantly staff (solicitors, paralegals and administrative staff) and legal or other professional services purchased for individual cases. In common with other organisations, the Board carries input costs for which no output is generated, for example where staff are on paid leave such as sick leave and maternity leave. During such absences no direct value is being accrued by the organisation. These absences are excluded when calculating the number of solicitor days described below, but the financial costs of the absent staff are included in the costs for each Law Centre. In drawing conclusions and making recommendations on foot of the analysis undertaken, account is taken of the latter costs where they occur. The Indirect Costs are made up of items such as rent and the apportionment of Head Office costs. Most of the analysis concentrates on the direct staff inputs but indirect costs are also introduced particularly for comparisons with the Private Practitioner Service.

Measuring Output

There are a number of potential ways of measuring output for Law Centres. As outlined in chapter 3, the two principle output indicators are (i) Number of cases handled in a year and (ii) Number of cases cleared in a year. Both are analysed in this chapter but the Number of cases cleared is the indicator given most weight.

The number of cases handled³³ does not include those on the Board's waiting list. A case only becomes part of the number handled once an appointment has been given i.e. on first consultation. Analysis of waiting time is considered in Chapter 4 dealing with effectiveness. While the number of cases handled best reflects the volume of work on hand it is not a good indicator to measure efficiency as it would give equal credit to a case that is now part of a backlog of cases as it does to a case that has been finalised. Cases handled have an element of double counting – same case is often handled for a number of years.

For this Review, the number of cases cleared is regarded as the best measure of output to use when considering efficiency. Approximately 40% of the cases on hand get cleared in any one calendar year. It could be argued that if only the number of cases cleared is used to measure efficiency that the full amount of input in a particular calendar year is set against the 40% of cases that are cleared in that year and that no credit is given for the other 60% which were also progressed. Costs are not accounted for on an individual case basis but on an annual basis by Law Centre. This potential argument was considered and it was concluded that the cases cleared also captures work that was done in previous years where the corresponding input is not being counted in the year in which the case was cleared. On balance it is a solid measurement to use as the same factors in relation to inputs for previous years apply across all Law Centres.

While it is also important to note that a considerable amount of administrative work is undertaken prior to an appointment for a first consultation, including a financial assessment, staff interactions with persons on waiting lists enquiring about the progress with their case and appointment scheduling, this work does not in itself constitute final output. Final outputs are produced when the case is cleared. A legal aid certificate is also issued in each case, but a considerable amount of the work involved in processing

³³ For the purposes of this Review the No. of Cases Handled is the number of cases where the legal service is provided by a Law Centre solicitor supported by the Law Centre staff. A case becomes part of the No. of Cases Handled when the first consultation takes place. It does not include those on the waiting list or those that benefitted from the new 'Advice Only' service or those that are sent to Private Practitioners. It is acknowledged that some internal administration work has to be done on cases that will never form part of the No. of Cases Handled.

applications for such certificates is currently carried out in the Board's Legal Services Section in Head Office.

It should also be noted that:

- (i) the mix of cases between different levels of courts in individual Law Centres
- (ii) the extent to which childcare cases are a feature of caseloads in individual Law Centres and
- (iii) the extent to which litigation is required to resolve a case

have an impact on the time required to process a case to conclusion and therefore on the percentage of cases on hand that are cleared. Where extensive use is made of the District Court Private Practitioners Scheme by particular Law Centres, it is likely that a higher proportion of the cases on hand will be appropriate to Higher Courts and will tend to be more complex and time intensive. District Court cases with the exception of childcare cases tend to be resolved relatively quickly. There is also a distinction between Dublin Law Centres (limited District Court cases dealt with in Dublin Law Centres) and Law Centres outside of Dublin where a greater level of District Court work is dealt with "in-house". All of these factors have an impact on both the type of cases on hand and the number of cases cleared in a particular year.

While it may also be argued that cases cleared is a somewhat crude measure of outputs, as some cases are simple and others quite complex and lengthy the data being analysed covers the years 2007-2010, a four year period. It is therefore reasonable to infer that the spread of relatively straightforward, short, complex and lengthy cases will be more even over a four year view and should show a genuine trend. The case mix³⁴ factors referred to above have been analysed for each location and are taken into account in any findings or conclusions on efficiency.

³⁴ Case Mix in this chapter is the percentage of all cases on hand that are either in the Circuit Court, High Court or Supreme Court. The Case Mix is the sum of Circuit, High Court and Supreme Court cases in each Law Centre as a percentage of all cases in each Law Centre over the four year period 2007-2010. All cases include cases classified as Non-Court or Legal Advice only.

5.2 Overview Analysis of Input-Output

5.2.1 Caseload

The annual caseload - (opening number + new cases given appointment³⁵) is rising. The number of cases cleared per annum, with the exception of 2010, is also rising but the number of new cases given an appointment is rising at a faster pace. Year on year the number of new cases given appointment exceeds the number cleared which is causing the opening number on hand and the caseload handled each year to rise. The caseload handled in 2010 (16,190) is 2,223 cases greater than in 2007.

Table 5.1 – Caseload pattern 2007-2010

Year	Opening No.	New Cases offered appointment	No. Cleared	Increase in Opening Caseload = New Cases less Cleared	Caseload handled in the Year
2007	8,213	5,754	5,643	111	13,967
2008	8,324	6,357	5,831	526	14,681
2009	8,850	6,927	6,429	498	15,777
2010	9,348	6,842	6,241	601	16,190

Note 1: These figures relate to the 29 Law Centre Offices (excl. Dolphin House, George's Lane and Medical Negligence) for the years 2007-2010.

Note 2: This increase in the caseload does not take account of the increased numbers on waiting lists. The numbers above only relate to cases that have had at least one appointment. Numbers on waiting lists are analysed separately.

³⁵ The Board also introduced an 'advice only scheme' in late 2009. Clients that receive an appointment under this scheme normally go back on the waiting list. A proportion of such cases do not require a further service. While this scheme impacts on the number of cases dealt with it is not sufficiently significant to have a distorting effect on the data.

5.2.2 Increase in Inputs in Law Centres³⁶

Direct staff inputs have also risen from 2007-2010. The number of administrative and para-legal staff rose by over 7%. The number of solicitor days fluctuated in that period, rising in 2008, but falling in 2009 and rising in 2010 to a level that remained below 2007 and 2008, but was 3.6% above the lowest point of 2009. In money terms, staff costs in Law Centres rose by 10.6% from €10.4m to €11.5m between 2007 and 2009 before falling back to 2007 levels in 2010. Changes to wage levels have had a significant influence as the movements in the staff numbers have not been as great as the movement in cost. The overall no. of staff³⁷ is up from 199 to 208³⁸ an increase of 4.5%. The overall increase in numbers occurred between 2007 and 2008 and since then the numbers have been very steady. The increased staff has been spread across administrative and para-legal grades. The small reduction in the numbers of solicitor days over the period is more than offset by an increase in paralegal and administrative support staff which is attributable to the establishment of the "Model Law Centre".

The increase in the number of cases cleared per annum from 2007-2010 was 598 or 10.6%. This compares favourably with the number of staff employed and with the staff costs profile over the four year period.

5.2.3 % Cases Cleared and Patterns of Clearance

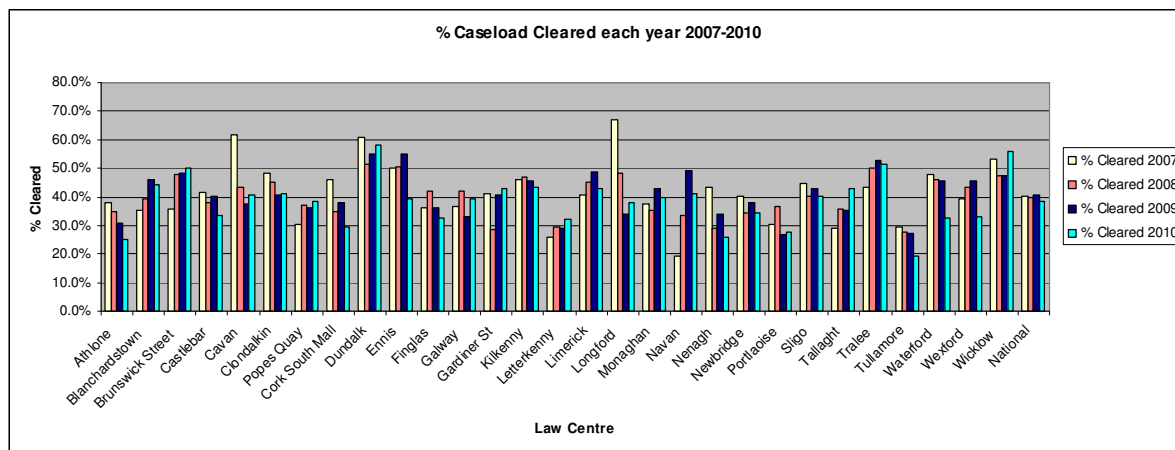
The graph below shows the percentage of each Law Centre's caseload that was cleared in each of the four years 2007-2010. There is a significant variation from offices that clear less than 30% to offices that clear more than 50%. The national average is approx 40%. These percentages do not take account of the level of resources available or the relative magnitude of the caseload. These factors are introduced in the analysis below.

³⁶ These inputs refer to 29 Law Centres and exclude the Medical Negligence Unit, the Private Practitioner Service, the RLS and HQ staff

³⁷ For the 29 Law Centres, excluding MNU, PPS, RLS and HQ

³⁸This figure includes solicitor numbers which are obtained by dividing solicitor days by 220.

Figure 5.1 – Percentage of caseload cleared in each year 2007-2010



5.2.4 Clearance Patterns by Age of Case

The national average shows that 31-33% of cases cleared were cases that were cleared in the same year that they were received. The highest percentage of cases cleared, 35%-38%, were cases that were cleared in their second year. The remainder 31-32% were cleared after being on file for two years or more. This pattern of clearance will be examined as a factor in better clearance figures for some offices.

5.3 Efficiency Analysis

As stated above efficiency is often analysed, and sometimes can only be analysed, using a series of comparisons. For the Legal Aid Board there are a number of comparisons available:

- internal comparisons, comparing the efficiency of the different Law Centres
- comparisons with the costs of the Private Practitioner Service
- comparisons with the specialist offices, RLS, MNU

These comparisons are not always ideal as arguments can be made that one is not comparing 'like with like'. In the analysis below every effort is made to ensure that factors which could cause apparent differences in efficiency are identified and highlighted.

In addition to these comparisons factors outside the control of Law Centres will be examined.

Findings not to be interpreted as necessarily Law Centre specific

The analysis below is based on throughput and other data from each Law Centre. It does not reflect the specific challenges faced by each Law Centre at any point in time which may not be apparent from the data analysed. While individual Law Centres are named in the comparisons below, it is acknowledged that individually there may be valid reasons, beyond the data analysed, why they find themselves performing well or not so well, in relation to other Law Centres. However given that four years of data has been analysed, the conclusions that will be drawn will be based on numbers of Law Centres, comparing positively or negatively with other groupings of Law Centres. This is regarded as a reasonable evaluation position to adopt given that data for a four year period is used and that the client population for each Law Centre is similar.

PART 1 – Internal Comparisons of Law Centre output

The first phase of the efficiency analysis looks at the throughput data for all Law Centres for 2007-2010 and calculates and compares some performance indicators.

Two key indicators will be used:

- Number of Solicitor Days per Case Cleared (SDCC) and
- Total Direct Cost per Case Cleared ³⁹(TDCCC)

³⁹ The Total Direct Cost per Case Cleared (TDCCC) is the sum of Solicitor, Para-Legal and Administrative Staff Costs + other Direct Costs, Counsel Fees, Professional Fees and Legal fees for a calendar year divided by the No. of Cases cleared in that calendar year.

Law Centre sub-groups

As stated above different Law Centres will at different times have caseloads that are more time-consuming than others. This is reflected in part at least by the case mix of files on hand. Initial analysis of the case mix suggests that Dublin Law Centres and non-Dublin Law Centres should be treated as separate groupings as Dublin offices have a greater proportion of their cases for the Circuit and Higher Courts. This was to be expected given that a significant proportion of private law District Court cases in Dublin⁴⁰ are handled by the Private Practitioner Service. The percentage of cases for the Circuit & High Courts combined, for Dublin Offices ranges from 40-62% (Average 52%), whereas the range for non-Dublin offices is 24-48% (Average 37%). As can be seen from these ranges of case mix percentages, there is an overlap between Dublin offices and non-Dublin offices and so, sub-groups of Law Centres that include some Dublin and non-Dublin Law Centres are also examined. The comparisons made in this section look at four sub-groupings of Law Centres:

- Dublin
- Non-Dublin
- Law Centres with a case mix of > 40%
- Law Centres with a case mix of < 40%

The four sub-groups described above are analysed separately and reasons for discrepancies between the performance levels of different Law Centres are sought. Before examining the sub-groups the graphs 5.2 and 5.3 below firstly show the number of solicitor days per case cleared and the total direct cost per case cleared for all Law Centres for 2007-2010.

⁴⁰ Dublin Law Centres would, like other Law Centres handle Childcare cases in the District Court. These cases can remain open for a long period of time and can be very time consuming.

Figure 5.2 - No. of Solicitor Days

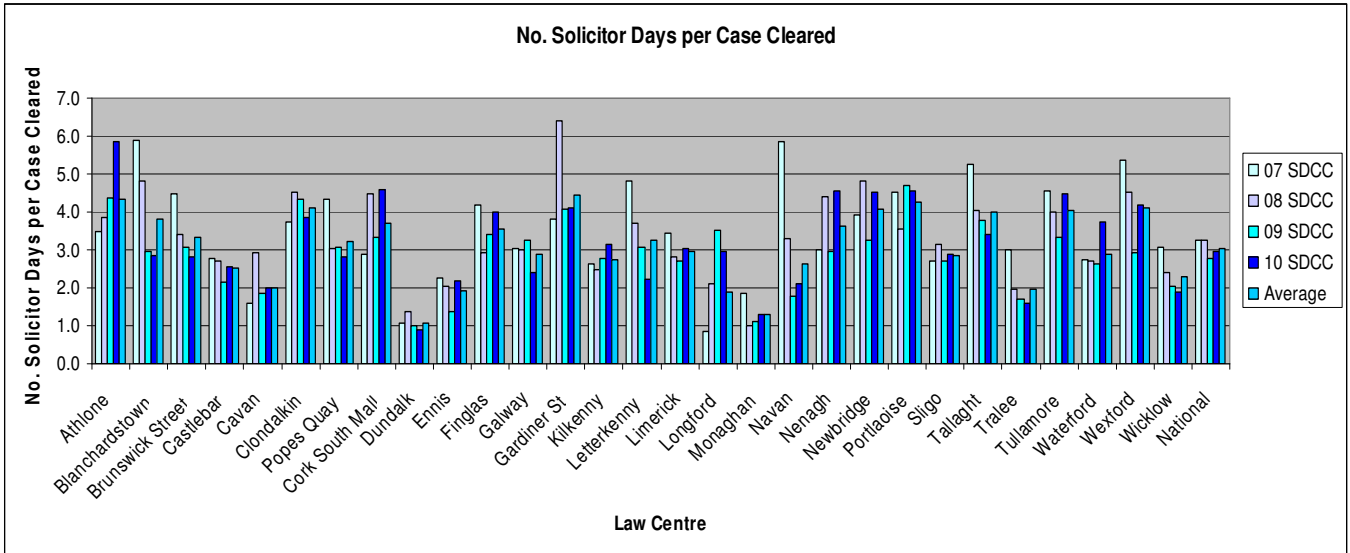
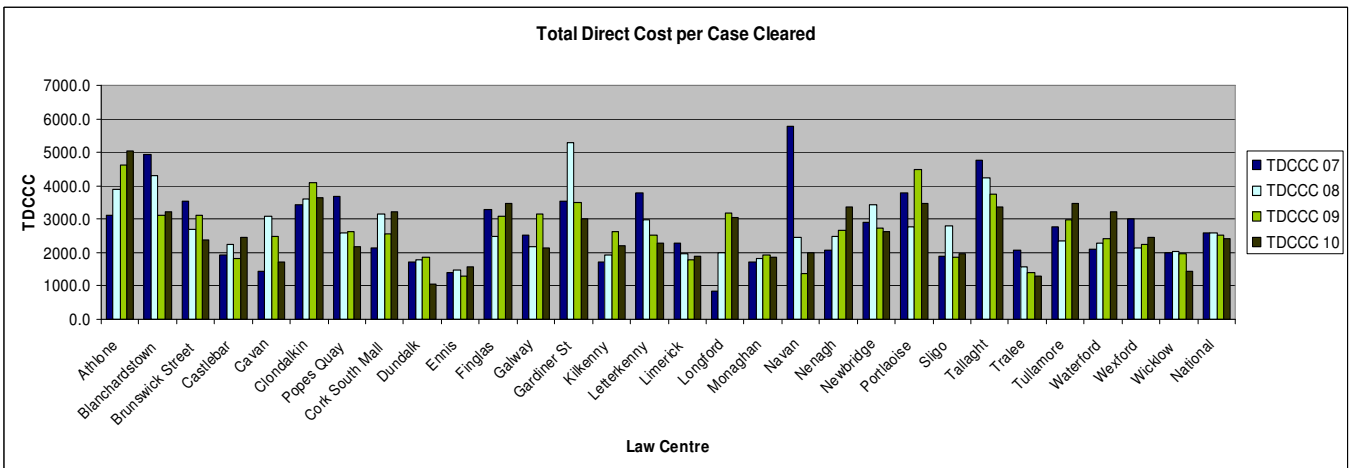


Figure 5.3 – Total Direct Cost per Case Cleared



Sub-Group 1- Dublin Offices:

The six Dublin Law Centres had a four year average **Solicitor Days per Case Cleared** (SDCC) that ranged from 3.3 to 4.4 for 2007-2010. Finglas and Brunswick Street are consistently at the lower end of this range averaging 3.3 and 3.6 SDCC. Four of the six Law Centres show a declining SDCC year on year, and the average for the group has come down by 0.5 days over a four year period or 11%. The difference between the highest and the lowest is significant with Gardiner St. using 33% more SDCC than Finglas.

Figure 5.4 – No. of Solicitor Days per Case Cleared Sub-group 1 – Dublin Law Centres

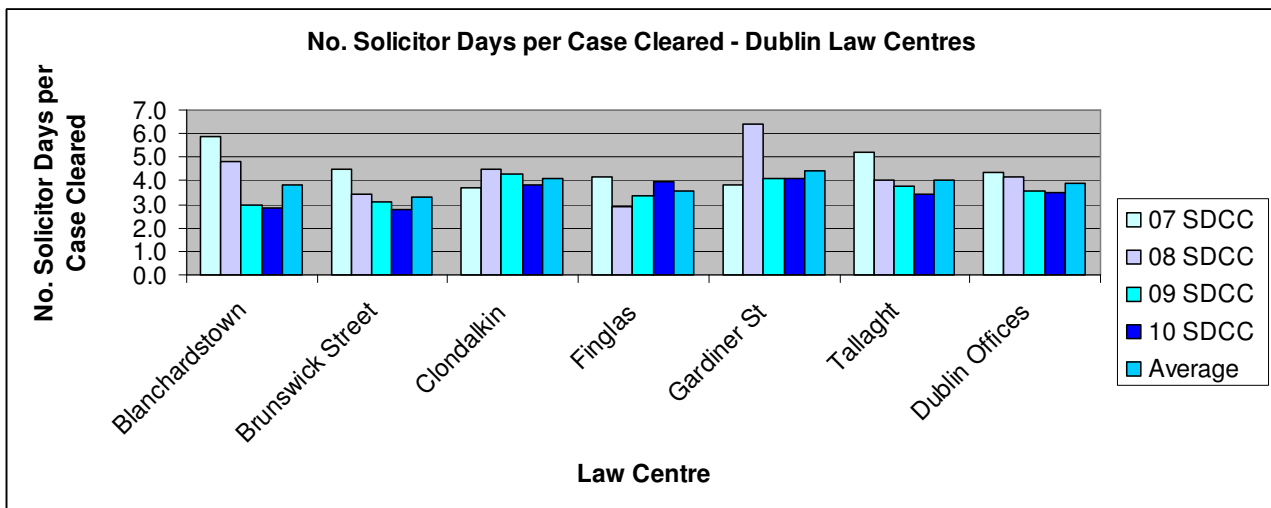
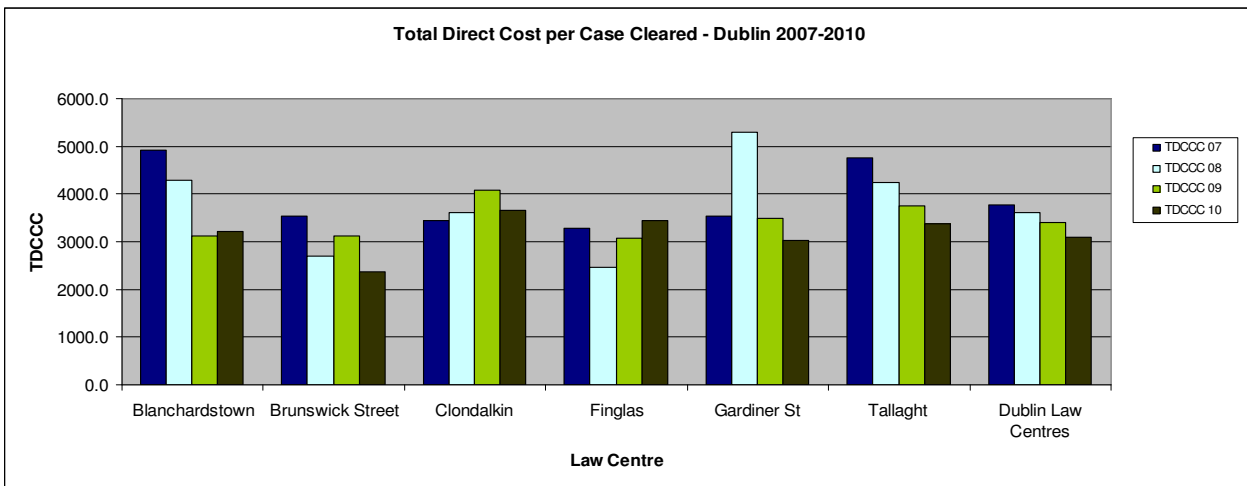


Figure 5.5 Total Direct Cost per Case Cleared Sub-group1 – Dublin Law Centres



The **Total Direct Cost per Case Cleared** (TDCCC) shows a similar pattern. The TDCCC has fallen for the group from €3,764 to €3,087 or 18% between 2007 and 2010. Four Law Centres show a general decline in cost per case whereas the TDCCC for Clondalkin and Finglas are generally rising. Tallaght has the highest average TDCCC over the four year period at €3,953. Blanchardstown is next at €3,704 followed by Clondalkin and Gardiner St which are both close to €3,700. Brunswick Street and Finglas are the lowest at €2,860 and €3,030 respectively per case cleared. The difference between the highest and lowest in cost terms is 38% which is more than the difference in SDCC above. The order of Law Centres on TDCCC closely matches the case mix order. Tallaght (62.5%) and Blanchardstown (58.9%) have the highest case mix percentages followed by Gardiner St. (51.7%) and Clondalkin (51.3%). Brunswick Street has a lower cost per case than Finglas but has a higher case mix percentage (47% as against 39.6%). The near mirroring of the order between cost per case and case mix percentage suggests that case mix is a significant factor.

When one looks at individual years the position is not as clear. Blanchardstown has gone from having the highest TDCCC in 2007 to one of the lowest in 2009 and 2010. It has nearly doubled the number of cases cleared from 98 in 2007 to 181 in 2010 when direct costs rose by 18%. Its percentage of 'Caseload Cleared' has gone from 35% to 44% and its caseload on hand is rising slowly at a time when it has doubled the number of new cases taken off the waiting list.

Four of the six Law Centres have a lower TDCCC in 2010 than in 2007, Clondalkin and Finglas have higher figures. Spikes in individual years are skewing some of the averages. Blanchardstown, Gardiner Street and Tallaght had individual years where the TDCCC exceeded €4,500 and reached €5,286 for Gardiner Street in 2008. The years 2009 and 2010 have seen a convergence in the cost per case figures. The gap between the highest and lowest in 2009/10 is approximately €1000/€1300 as compared to €1700/€2800 for 2007/8.

As regards resourcing of offices the number of solicitor days per case on hand was examined. This ranged from 1.3 for Finglas to 1.8 for Clondalkin. Finglas Law Centre with the second lowest cost per case cleared had the lowest level of professional resources, in relative terms. If one is looking for an indicator that correlates with good performance, it would appear the Law Centres that clear a high proportion of their new cases (cases received in the same calendar year) perform best. Higher proportions of cases cleared in the Finglas and Brunswick Street Law Centres were new cases. It is also worth stating again that these two Law Centres had the two lowest percentages of cases for the Circuit Court and Higher Court.

Conclusion:

There appears to be significant differences between and within Law Centres in terms of cost per case and number of solicitor days per case cleared and higher case mix percentages appear to justify some but not all of these differences. In addition while one would normally expect to be able to use four year average data, the single year data for individual centres can contradict conclusions that might be drawn from the four year average. The good news is that the aggregate numbers of cases cleared is rising, the TDCCC is falling for four of the six offices and there has been a convergence over the four years in the figures for cost per case cleared. Positive progress is being made but it was not achieved in all Law Centres in the four year period examined and further efficiency gains should be possible particularly through increasing the output of Law Centres where the average number of solicitor days per case is highest. This can be achieved by further examination by the Board of the work practices in those centres to identify the factors giving rise to the above average number of solicitor days per case and taking appropriate corrective measures.

Sub-Group 2 - Non-Dublin Offices:

Figure 5.6 Solicitor Days per Case Cleared Sub-group 2 – Non Dublin Law Centres

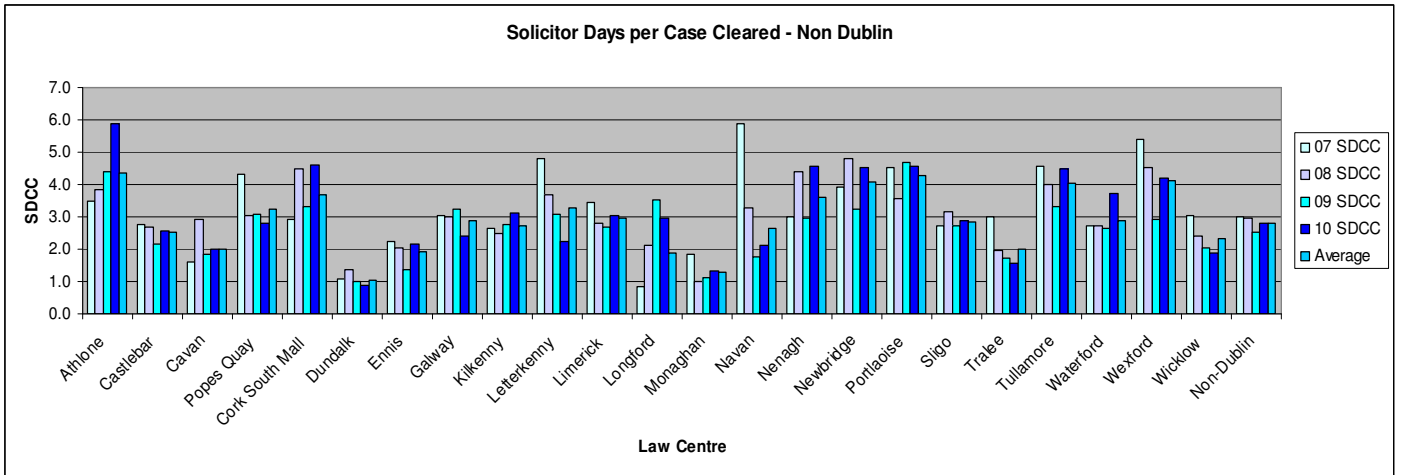
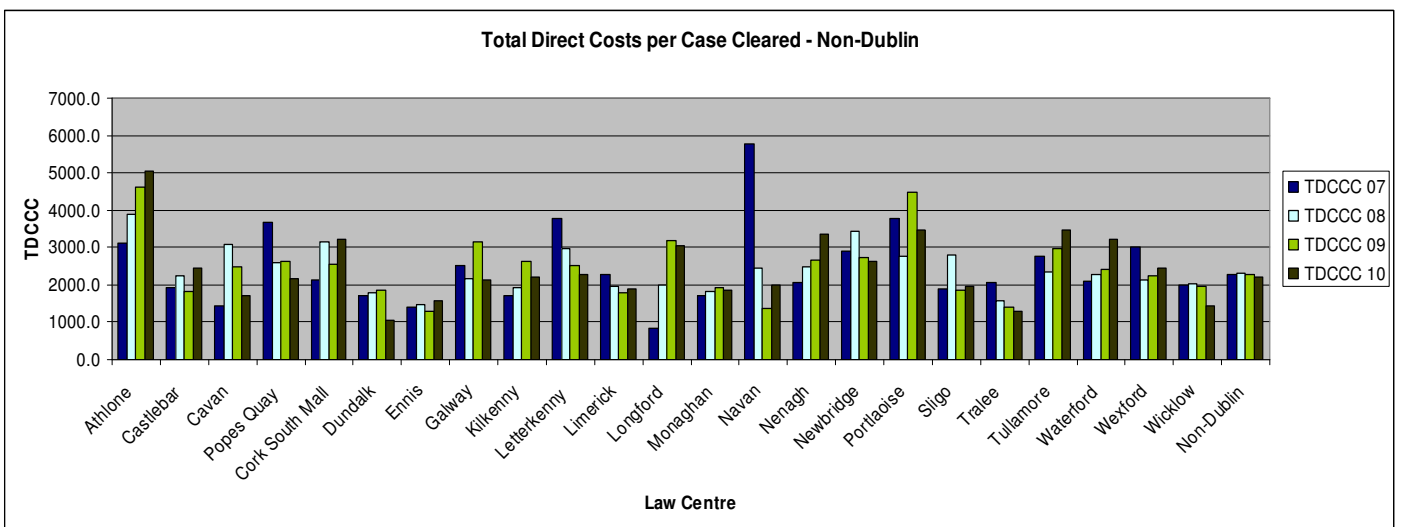


Figure 5.7 Total Direct Cost per Case Cleared Sub-group 2 – Non Dublin Law Centres



The twenty-three Non-Dublin Law Centres had an average **Solicitor Days per Case Cleared** (SDCC) that ranged from 1.1 to 4.3 for 2007-2010. These break down as follows:

4	from	1.1 – 1.9
9	from	2.0 – 2.9
5	from	3.0 – 3.9
5	from	4.0 – 4.3

Even if the four lowest and the four highest are excluded, some offices are using twice as many solicitor days to clear a case than others. Including all Law Centres, some offices use nearly four times as many solicitor days to clear a case.

The **Total Direct Cost per Case Cleared** (TDCCC) shows a similar pattern. Seven Law Centres have a four year average TDCCC of less than €2,000 and eight exceed €2,500. Table 5.2 shows the TDCCC and SDCC for the seven with a low TDCCC and the eight with a high TDCCC.

Table 5.2 Lowest and highest TDCCC for non-Dublin Law Centres

Law Centres with TDCCC < €2,000 (4 yr average SDCC)	4 year average TDCCC	Law Centres with TDCCC > €2,500 (4 yr average SDCC)	4 year average TDCCC
Ennis (1.9)	€1,427	Nenagh (3.6)	€2,562
Tralee (2.0)	€1,532	South Mall (3.7)	€2,688
Dundalk (1.1)	€1,550	Pope's Quay (3.2)	€2,689
Wicklow (2.3)	€1,817	Letterkenny (3.3)	€2,777
Longford (1.9)	€1,843	Tullamore (4.0)	€2,858
Monaghan (1.3)	€1,847	Newbridge (4.1)	€2,892
Limerick (3.0)	€1,968	Portlaoise (4.3)	€3,551
		Athlone (4.3)	€4,120

There is as expected a close correlation between Law Centres that have a high number of solicitor days per case cleared and a high average TDCCC but the order varies a little. Ennis (1.9) has a higher number of solicitor days per case cleared than Dundalk (1.1) but its direct cost per case cleared is lower. On the other end Portlaoise has the same SDCC as Athlone but the TDCCC for Athlone is nearly €600 higher. This is partly explained in this latter case by higher amounts of counsel fees.

Offices with low figures show a consistency across the individual years. A couple of the Law Centres with high figures are more erratic. Portlaoise's annual figures have gone from €3.8k (2007) to €2.8k (2008) to €4.5k (2009) and back down to €3.5k (2010). Letterkenny's figures while on the high end of the spectrum have declined steadily in each of the four years; €3.8k, €3.0k, €2.5k and €2.3k – a reduction of close to €1,500 per case between 2007 and 2010.

The percentage of Circuit Court and High Court cases tends to be higher for the Law Centres that have the higher costs and solicitor days per case cleared. However, four of the offices with the higher costs have a case mix that is similar to that of the lower cost offices. Two of the lowest cost offices, Wicklow and Monaghan, have over 41% and 48% of cases for the Circuit or High Court. The Case Mix figures partly explain the discrepancy in costs for some of the Law Centres listed in the table below.

Table 5.3 Case Mix for Law Centres with lowest and highest TDCCC

Law Centres	Case Mix [HC + CC]%	Law Centres	Case Mix [HC + CC]%
Ennis (1.9)	32%	Nenagh (3.6)	45%
Tralee (2.0)	32%	South Mall (3.7)	44%
Dundalk (1.1)	27%	Pope's Quay (3.2)	44%
Wicklow (2.3)	48%	Letterkenny (3.3)	37%
Longford (1.9)	34%	Tullamore (4.0)	34%
Monaghan (1.3)	41%	Newbridge (4.1)	39%
Limerick (3.0)	38%	Portlaoise (4.3)	44%
		Athlone (4.3)	34%

With increasing caseloads and number of solicitor days worked falling back to 2007 levels, the volume of cases that have to be handled by each solicitor has risen. This was examined to see if there was an even distribution of solicitor resources across all Law Centres and to see if high caseloads were contributing to apparent different levels of performance in terms of cases cleared. Law Centres do have some limited control over the caseload they take on. Apart from priority cases Law Centre management decide, based on their current workload and capacity, when to take new clients from the waiting list and give them appointments. The overall four year average for number of solicitor days per case on hand, is 1.2. This varies from 0.5 in Monaghan to 1.7 in Wexford. This is a wide range but most offices have close to the average of 1.2. There is no correlation between offices that have relatively high levels of resources, in proportion to their caseload and relatively good SDCC and TDCCC indicators. In fact the opposite is the case. The seven offices that have low figures for SDCC & TDCCC indicators have solicitor resources, relative to their caseload, that are at or below the average and for five of the seven well below average. This suggests that the solicitor resource in these offices is being more effectively utilised. The work practices in such offices should therefore be examined more closely by the Board, including the manner in which paralegal and support staff fulfil their roles, with a view to identifying measures that might be implemented in Law Centres with high SDCCs.

Possibly one feature of the Law Centres with lower costs per case is that as a rule they tend to clear a larger proportion of new cases i.e. in the same year that they were given an appointment. This is particularly true for Dundalk and Ennis where between 46% and 53% of cases cleared were cases that were received that year. Having cases on one's book for as short a time as possible is obviously an advantage.

Conclusion:

There are a larger number of Non-Dublin offices to analyse and as can be seen from Table 5.3 above there is a significant variance in the case mix among this large sub-group of 23 Law Centres. While it is clear that some offices are operating more efficiently than others, a further sub-division of this group of 23 is required to find sub-groupings that are more comparable in terms of the type of caseload they have on hand. It is worth noting however, that the Law Centres that are performing best seem to do so with relatively less resources. The wide disparity in the two principal indicators – SDCC and TDCCC gives a firm indication that efficiency improvements in some of the Law Centres should be possible. A review of work practices in the Law Centres with the highest and lowest levels of SDCC, including the use made of paralegal and support staff and a comparison between the two groups is likely to identify measures that can be applied to improve case throughput and overall efficiency in the former group.

Sub-Group 3 - non-Dublin & Dublin with case mix >40%

The Dublin and Non-Dublin Law Centres were treated above as two separate groupings for the purpose of comparison as Dublin offices are expected to have a higher proportion of cases for the Circuit and High Court. This is because most District Court Cases in the Dublin area are handled by the Private Practitioner Service. There are however a number of non-Dublin Law Centres that have a similar case-mix to Dublin Law Centres and a more precise sub-grouping of Law Centres is required.

This sub-group is made up of 13 Law Centres that have a case mix percentage greater than 40%. Five are in Dublin and 8 outside Dublin. The SDCC and TDCCC for this sub-group are in shown in figures 5.8 and 5.9 below

Figure 5.8 No. Solicitor Days per Case Cleared Sub-Group 3 – Case Mix > 40%

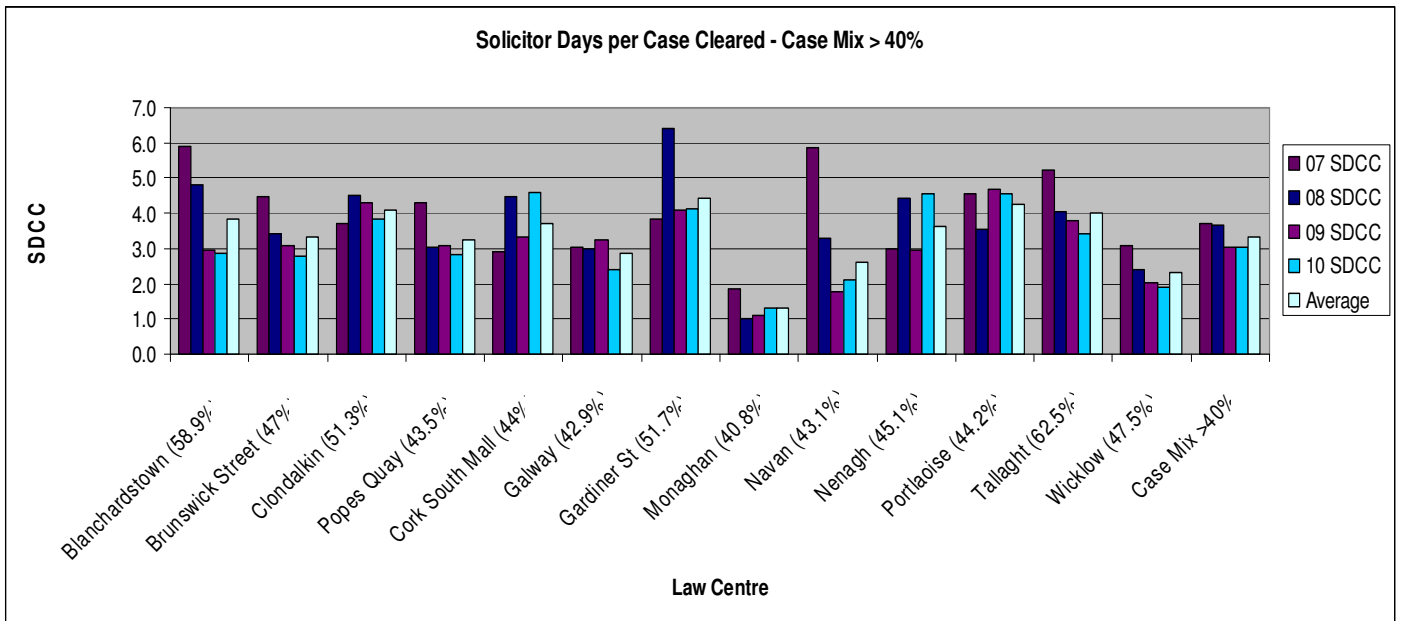
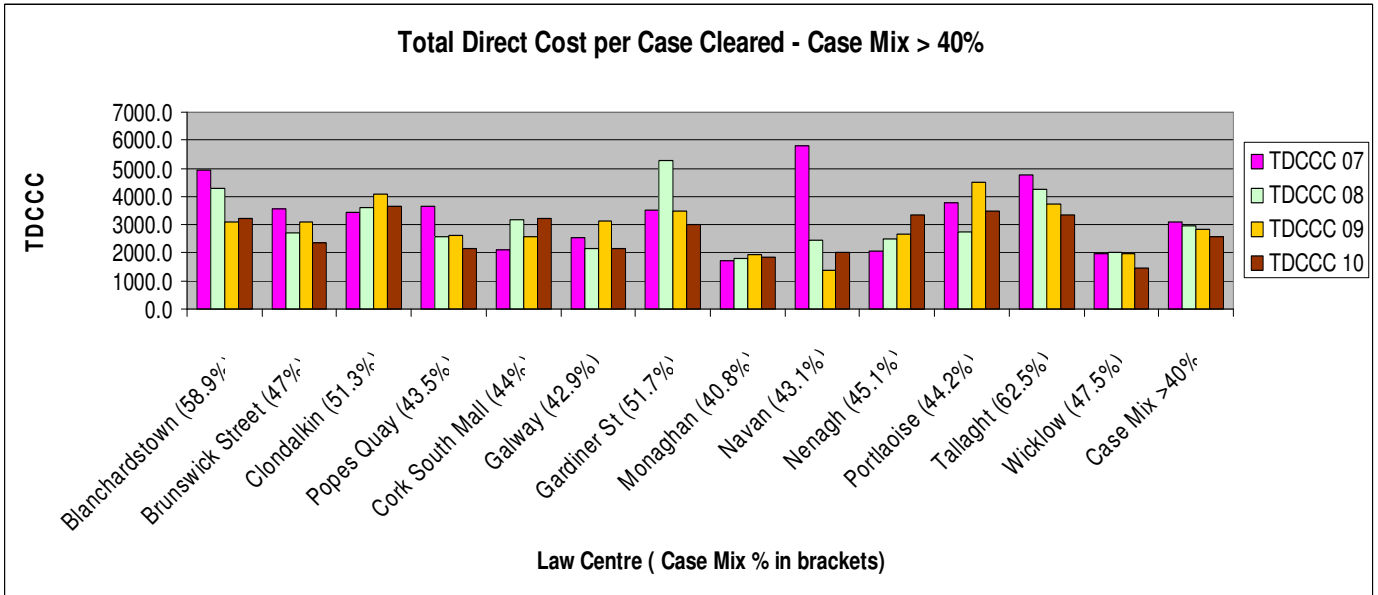


Figure 5.9 Total Direct Cost per Case Cleared Sub-Group 3 – Case Mix > 40%



Key indicators for these Law Centres are summarised in Table 5.4 below:

Table 5.4 Key Indicators for Sub-Group 3

Law Centre	TDCCC 4yr average	Case Mix %	SDCC 4yr average	Solicitor Days per Case on Hand
Wicklow	€1816.5	47.5%	2.3	1.2
Monaghan	€1846.5	40.8%	1.3	0.5
Navan	€2246.9	43.1%	2.6	1.0
Galway	€2439.4	42.9%	2.9	1.1
Nenagh	€2561.7	45.1%	3.6	1.2
Cork South Mall	€2687.8	44.0%	3.7	1.4
Popes Quay	€2688.5	43.5%	3.2	1.2
Brunswick Street	€2863.1	47.0%	3.3	1.5
Portlaoise	€3550.8	44.2%	4.3	1.3
Gardiner Street	€3681.5	51.7%	4.4	1.7
Clondalkin	€3689.2	51.3%	4.1	1.8
Blanchardstown	€3704.5	58.9%	3.8	1.6
Tallaght	€3953.3	62.5%	4.0	1.4
Case Mix >40%	€2852.3		3.3	1.3

While this sub-group are a more unified sub-group than the non-Dublin Group the figures still show a fair degree of variance. The SDCC varies from 1.3 to 4.4, a factor of more than 3, but 8 out of 13 are in the range 2.3 - 3.8. The TDCCC ranges from €1,816 to €3,953 with 6 out of 13 between €2,200 and €2,900.

This group can be broken into a further four sub-groups:

- three that are below €2,250
- five between €2,400 and €2,900
- three between €3,500 and €3,700 and
- two over €3,700

Leaving out the two over €3,700 as they have very high case mix percentages the difference in cost per case over a four year period for the remainder is substantial. Portlaoise, Gardiner Street and Clondalkin have a cost per case that is approximately twice that of Wicklow or Monaghan. There is a difference in the case mix percentage but this is unlikely to be enough on its own to account for this difference. These figures indicate that there is room for greater efficiency in some Law Centres. Higher levels of professional resources per case on hand, for this sub-group, like other sub-groups, is a pointer to higher costs per case cleared. The Law Centres with the relatively low levels of solicitor days per case on hand produce better indicators of efficiency.

Conclusion:

While the analysis for sub-group 2 pointed to the potential for improvements in efficiency, the characteristics of that group were too varied to make definitive conclusions. Sub-Group 3 is a tighter group in terms of the key characteristic of case mix. While the variances in the efficiency indicators are not as great they are sufficiently large to conclude that some offices are more efficient than others and that there is potential within this sub-group for improvement. The review of work practices suggested in respect of other groups earlier in this chapter also applies here.

Sub-Group 4 – Law Centres with a Case Mix of 40% or less

The fourth sub-group are the 16 Law Centres that have a Case Mix of less than 40%. All except one are outside Dublin. The graphs below shows the solicitor days per case cleared and the TDCCC for these offices.

Figure 5.10 No. Solicitor Days per Case Cleared Sub-Group 4 – Case Mix < 40%

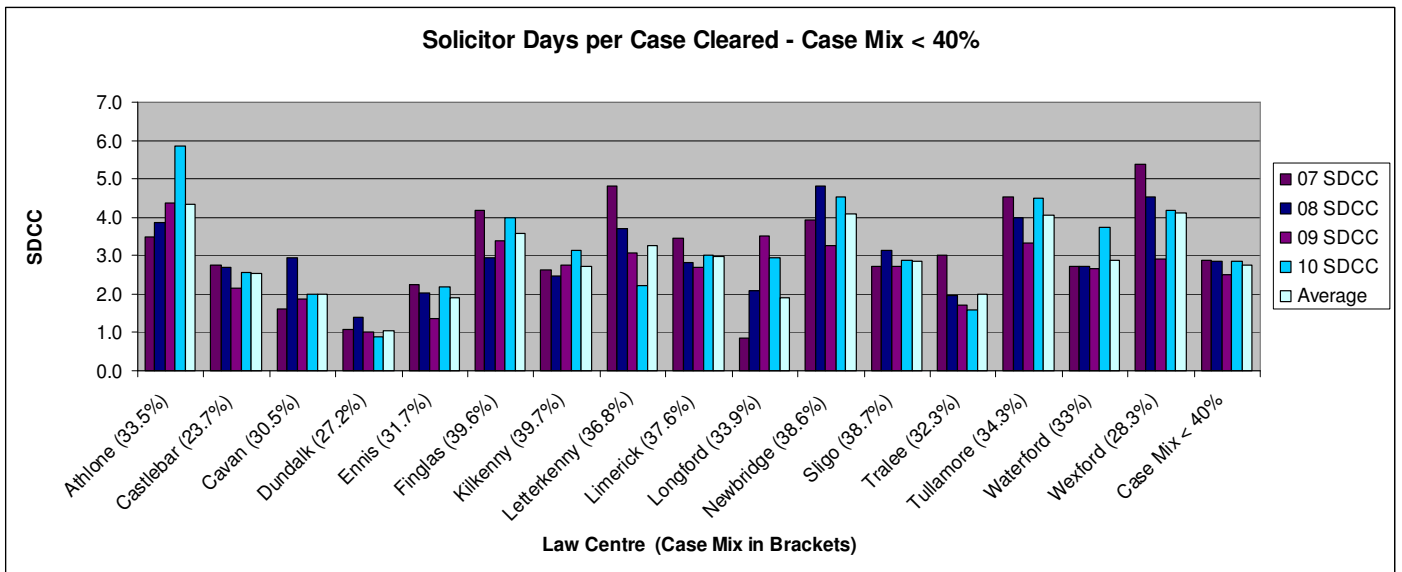
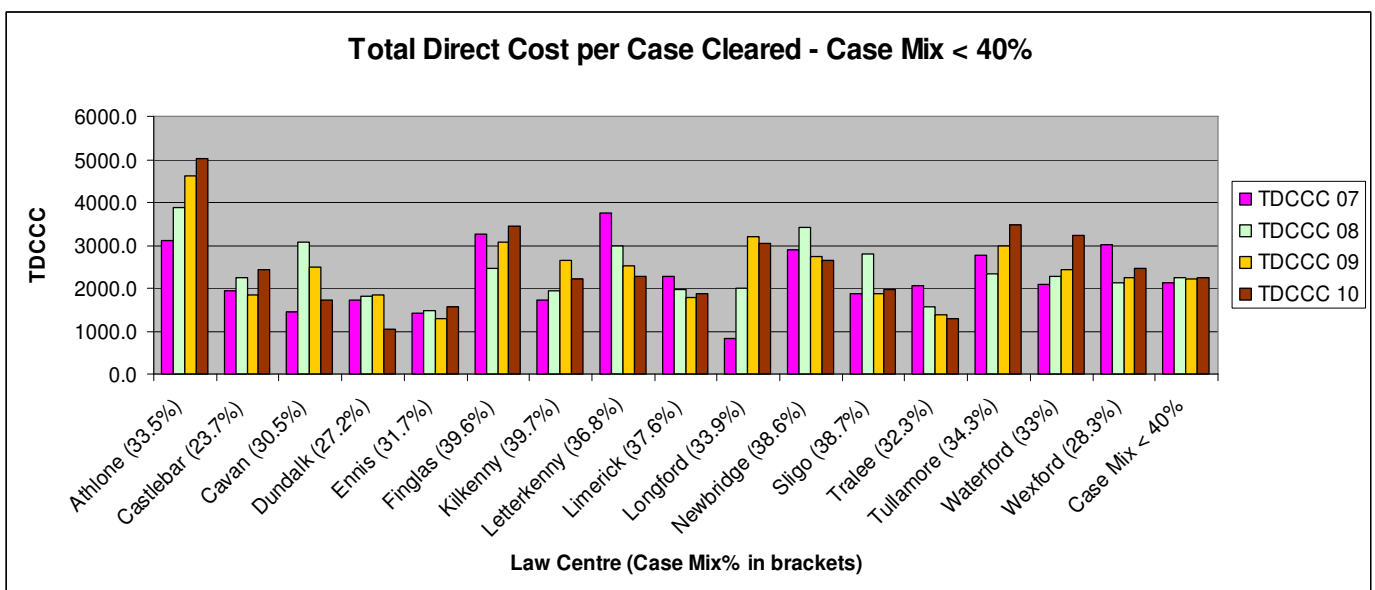


Figure 5.11 Total Direct Cost per Case Cleared Sub-Group 4 – Case Mix < 40%



Key indicators for these Law Centres are summarised in Table 5.5 below:

Table 5.5 - Key Indicators for Sub-Group 3

Law Centre	TDCCC 4yr average	Case Mix %	SDCC 4yr average	Sol Days per Case on Hand
Ennis	€1426.5	31.7%	1.9	0.9
Tralee	€1532.2	32.3%	2.0	1.0
Dundalk	€1550.8	27.2%	1.1	0.6
Longford	€1843.0	33.9%	1.9	0.9
Limerick	€1967.6	37.6%	3.0	1.3
Cavan	€2041.5	30.5%	2.0	0.9
Kilkenny	€2100.0	39.7%	2.7	1.2
Sligo	€2100.6	38.7%	2.9	1.2
Castlebar	€2102.6	23.7%	2.5	1.0
Wexford	€2407.4	28.3%	4.1	1.7
Waterford	€2445.0	33.0%	2.9	1.2
Letterkenny	€2777.4	36.8%	3.3	1.0
Tullamore	€2857.7	34.3%	4.0	1.0
Newbridge	€2891.6	38.6%	4.1	1.5
Finglas	€3030.8	39.6%	3.6	1.3
Athlone	€4119.8	33.5%	4.3	1.4
Case Mix < 40%	€2207.1		2.8	1.1

Excluding Athlone which is an outlier in this group the highest TDCCC is about twice the lowest. As with Sub-Group 3 above this group breaks into a further five sub-groups:

- three are between €1,400 and €1,600
- six are between €1,800 and €2,100
- two are between €2,400 and €2,500
- three between €2,750 and €2,900
- two over €3,000

There are also significant variations in the number of solicitor days per case cleared. Four offices have 4 or more days per case cleared while another four have 2 or less. While the case mix has been highlighted as a key factor in explaining differences it does not explain the degree of variation that exists within this group. As with other sub-groups, the number of solicitor days per case on hand is not a factor. The four Law Centres with the least professional resources relative to their caseload have the four lowest TDCCC.

In terms of trends this group is very mixed. Six Law Centres show a general reduction year on year in TDCCC while seven show a general increase. Taken as a group these balance out and the average has been very steady over the last three years.

Conclusion:

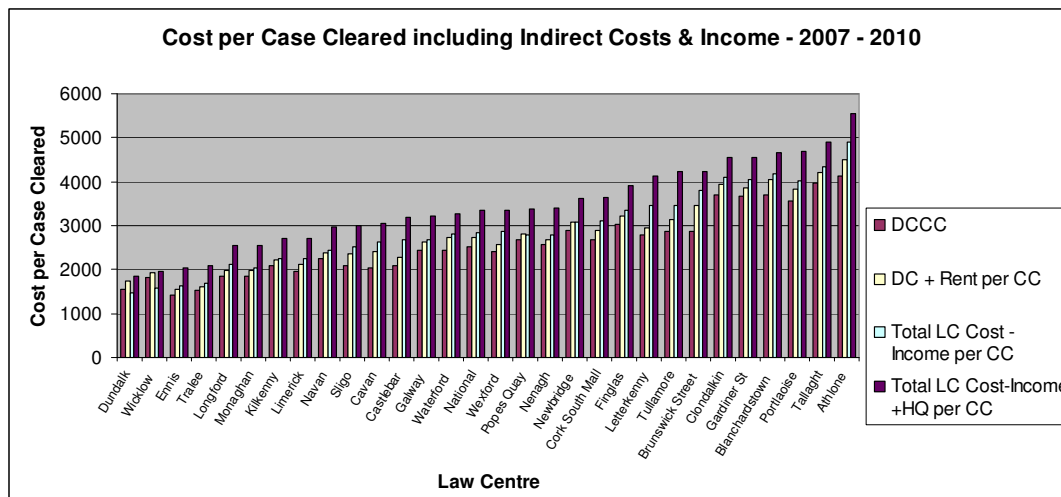
The efficiency indicators for this sub-group again points to the potential in some offices to achieve more, in terms of cases cleared, with the resources that they have available. The review of work practices suggested in respect of other groups earlier in this chapter also applies here.

PART II – Comparisons with the cost of Private Practitioner Services

Introducing other Costs – Rent, Maintenance, Apportioned HQ Costs

The analysis above has used only staff costs and other direct costs such as legal fees and counsel fees in the 29 Law Centres analysed. The chart below shows the effect of introducing other indirect costs such as, Rent, HQ Costs, etc. on the cost per case cleared.

Figure 5.12 Including indirect costs to the Cost of Case Cleared



Note: DCCC-Staff is only the Direct Cost per Case Cleared

DC + rent adds rent to the first indicator (DCCC)

Total LC Cost less income per CC includes direct costs, rent and other Operating expenses less income received (fees charged + costs awarded)

Total LC Cost less Income + HQ per CC apportions an additional amount for HQ costs. 75% of HQ costs are apportioned using cases on hand as the means of apportionment

Rent adds on average €204 to the cost of a case cleared. This varies between €88 (Tralee) and €603 (Brunswick Street). Including all costs⁴¹ that can be attributed to an individual Law Centre Costs (less Law Centre income) adds on average an additional €114. Apportioning 75%⁴² of HQ costs on the basis of Law Centre caseload adds another €505 on average to the cost of a case cleared. An estimated all-inclusive cost of a case cleared averages €3,351. The Dublin offices range from Finglas €3,902 to Tallaght €4,890. The non-Dublin offices range from Dundalk €1,837 to Athlone €5,531.

When rent, other expenses, income and apportioned HQ costs are included, the order on a cost per case basis changes but not significantly. The six Law Centres with the lowest direct cost per case remain the six lowest when all costs are included. The same applies to the six with the highest cost per case centres.

Comparisons with Private Practitioner Costs

A comparison between the cost of clearing a case within a Law Centre as opposed to sending it out to a Private Practitioner is the second comparison identified above in this attempt to assess the efficiency of the services provided by the Legal Aid Board.

As seen from Chapter 4, there has been a significant increase in the number of cases that have been referred to Private Practitioners. This is due to the increase in demand for services and the fixed or declining resources that the Legal Aid Board has internally. Most cases referred to Private Practitioners are for the District Court. In 2009 only 2% of cases referred were for the Circuit Court and only 1% in 2010.

The fees paid for District Court cases referred, range from €410-€615 (incl. VAT) and the fee for judicial separation and divorce cases heard in the Circuit Court is €4,097. The Circuit Court cases referred to Private Practitioners are either judicial separation or divorce but some may not proceed to court and lower fees apply. These fees are all inclusive and the Private Practitioner takes on some risk but it is

⁴¹ All Law Centre Costs includes the Direct Costs + Rent and other running costs. Income received in the form of charges or costs recovered is netted off against this figure.

⁴² 75% of HQ costs was used as HQ also provides services to the Medical Negligence Unit, the Private Practitioner Service and the Refugee Legal Services. On staff Nos. the RLS has approximately 25% of staff but would not be expected to absorb 25% of HQ costs as it is a centralised office. It was considered that 25% of HQ costs would be a fair estimate for the RLS, the MNU and the Private Practitioner Service combined.

expected that easy and difficult cases will balance out over time. The fees paid do not capture the full cost of referred cases. There are internal administration costs for referred cases which are made up of:

- the costs of the Private Practitioner Office in Dolphin House
- the costs of administering PP cases in each (non-Dublin) Law Centre
- the HQ administrative costs

A fairly crude estimate of the administration costs for the PP scheme for 2009 is €710,000. This is based on administration costs in Dolphin House of €80,000 + 7.5%⁴³ of HQ costs + Law Centre Costs of €400,000 (based on €100 per case processed in 2009). These administration costs would add approximately €175 to the cost of each case referred. No distinction is made between the administration costs for District and Circuit Court cases.

Making a comparison between the costs of cases referred and the costs of cases handled by the Law Centres is quite difficult. The Law Centres do not record time or costs against individual cases⁴⁴. The average cost per case cleared above is an average for all types of cases whether they are in the District, Circuit, High or even Supreme Court.

To make any type of comparison an attempt is made here to convert all cases to a common unit which for this purpose is called the "District Court Equivalent (DCE)", to then calculate the cost of a DCE and compare that to the fee + administration cost of a District Court case referred to a Private Practitioner. This process it is acknowledged is somewhat speculative and its findings would have to be treated with caution.

⁴³ Basis of apportionment of 7.5% of HQ costs – 25% was the estimate for RLS, MNU and PP combined. On the basis of staff numbers the RLS would take the major portion of that 25%. The estimated split of the 25% is 15% RLS, 7.5% PP and 2.5% MNU.

⁴⁴ The Medical Negligence Unit does record time and costs per case and when the new IT system is implemented all Law Centres are expected to record time and cost per case.

Estimating the No. of District Court Equivalents:

As stated above it is not possible to calculate the cost for each individual case cleared. It is also not possible to split costs between District Court and Higher Court cases in order to get an average cost for a District Court or other court case. The Case Mix of the caseload on hand is known for each office (approximately 40% of cases are for the Circuit or Higher Courts). The fees paid to Private Practitioners suggest that Circuit Court cases require 6.6 - 10 times more effort than a District Court case. If it is assumed that many of the more difficult cases are dealt with in-house the extra effort required for the internal Circuit and Higher Court cases is likely to be on the higher end of the factor of 6.6 – 10, suggested by the scale of fees paid.

Given the somewhat speculative nature of this calculation three multipliers (8, 10 & 12) were used to convert Circuit and Higher Court cases to District Court Equivalents. The extent to which more complex cases are dealt with "in-house" as opposed to being referred to Private Practitioners is reflected in the range of three multipliers used. The higher multiplier would imply a greater level of "in-house" processing of more complex and time consuming cases. The number of District Court Equivalents is calculated by taking the number of cases cleared and apportioning it into District Court and Higher Court cases using the Case Mix percentage. The number of District Court cases count as 1 and the number of Higher Court cases are multiplied by 8, 10 or 12 to calculate the number of DCEs for each office over the three year period 2007-2009.

Having the output of each office expressed as a common unit, the number of District Court Equivalents, allows for the calculation of an all-inclusive cost of a DCE. Comparisons can then be made with the fees paid to a Private Practitioner for a District Court case.

Comparison with Private Practitioner referrals:

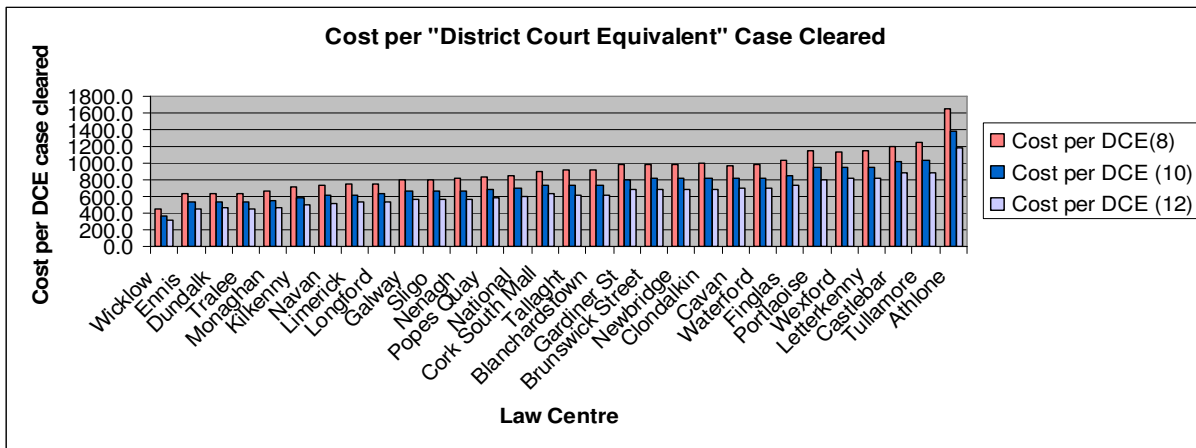
The fee paid to Private Practitioners for District Court cases is between €410 and €615(incl. VAT). When the administration cost (as calculated above) of €175 is added the cost ranges from €585 to €790.

Calculating DCE with 12 as the means of converting Circuit and Higher Court cases, results in 13 Law Centres having a cost per DCE of less than €585 and another 10 with a cost per DCE of less than €790. The remaining 6 Law Centres have a cost per DCE ranging from €800 to €1,180.

Calculating DCE with 8 as the means of converting Circuit and Higher Court cases, results in only one Law Centre having a cost per DCE of less than €585 and another 8 with a cost per DCE of less than €790. The remaining 20 Law Centres have a cost per DCE ranging from €800 to €1,654.

Using 10 to calculate the DCE splits the Law Centres into 16 with a cost per DCE cleared of less than €790 and 13 greater than €790. It also puts the five of the six Dublin offices in a cluster in positions 15-19 in terms of ranking of cost per DCE. Despite the series of assumptions made in the calculation of DCEs, it would appear, when using the most appropriate multiplier, that as a method it has some validity for comparing the costs of cases processed by the Law Centres with the costs of cases referred to Private Practitioners.

Figure 5.13 Cost per "District Court Equivalent" case cleared



This method of comparison (using a multiplier of 10) points to 5 Law Centres that compare favourably with the minimum referral fee (€585) and a further 11 Law Centres with a cost per case that compares favourably with the max referral fee. 13 Law Centres have a cost per DCE of more than €800 and up to €1,378 and it is concluded that those above €800 are less cost efficient than external referrals. Fees paid to Private Practitioners vary depending on the number of issues i.e. a single issue Maintenance or Domestic Violence on their own are paid at €410, two issues means a fee of €512 and three or more €615. Figures show that approx 70% of PP referrals cover only one issue and the weighted average fee paid would therefore be a conservative €472. Adding the amount for administration this becomes €647.

Using the multiplier of 10 to calculate the DCEs, 10 Law Centres compare favourably with this weighted average fee.

This method sees some slight reordering of Law Centres in terms of cost per case but generally they maintain their relative positions. There is a possible further complication in this comparison. In some instances the counting of cases that are dealt with internally may differ from how those that are sent out to PPs i.e. if there are two consecutive parts to a case referred to a PP, it may be counted as two separate referrals whereas internally this may be counted as one. This is only expected to have occurred in a small minority of cases. The manner in which PP costs are controlled is currently under review. It is also important to acknowledge, as indicated earlier in this report, that the costs of processing cases in Law Centres include the costs incurred on initial work on cases that are referred out under the Board's Private Practitioner schemes. While, there is no reliable estimate readily available of the extent of such work, a cost of €100 per case processed has been assumed for the analysis undertaken.

Part III - Comparisons with other internal specialised Units

Refugee Legal Service - RLS

The RLS is the largest specialised unit operating under the Legal Aid Board. It was set up to respond to the demand for representation for immigrants seeking asylum. It primarily represents asylum seekers before the Refugee Appeals Tribunal. It is a very centralised unit in comparison to the geographically dispersed Law Centres. The RLS has its main office in Dublin. It had an office in Cork and Galway but these have now been integrated with the local Law Centre. In terms of staff numbers the RLS is a significant component having approximately one quarter of the total Legal Aid Board staff complement.

The RLS has dealt with a large caseload of over 11,000 cases in each of the three years 2007-2009. This caseload has reduced in 2010 through a combination of an increase in the number of cases cleared in 2009 and a reduced number of new cases received. It is also noteworthy that during the 2007 – 2009 period the RLS made significant efforts to close old cases. As a result a considerable number of "backlog files" are included as "cases cleared" during those years even though, in practice, most of the work required on the cases concerned would already have been completed in earlier years.

The staffing structures and operational arrangements for the RLS were designed to ensure rapid processing of cases to comply with statutory deadlines in respect of the provision of asylum services. This

was possible because of the more routine nature of the cases involved compared to cases arising in the Board's wider Law Centre network. It is also acknowledged that the value of the RLS as a comparator for the Law Centres is extremely limited for a number of reasons:

- the client base and type of case is different and therefore not comparable
- the RLS is very centralised where as the Law Centres are very dispersed
- the RLS essentially has its own Court, the Refugee Appeals Tribunal (RAT) which has a different system to the Courts Service, for scheduling cases.

For all of the above reasons, the RLS is simply not directly comparable to the Law Centre network generally, so no conclusions or inferences about the relative efficiency of the RLS compared to the Law Centres can be made.

Medical Negligence Unit

The Medical Negligence Unit is a specialised unit that handles all cases of medical negligence from people that are eligible for legal aid. It was set-up in 2006 when existing medical negligence cases were transferred from individual Law Centres to the MNU and from 2008 all new medical negligence cases were also handled by this unit. Medical Negligence is a specialised area and it was unreasonable to expect that the requisite expertise could be provided in every Law Centre. These cases generally carry a greater risk than others for the Legal Aid Board – for example, if claims are not lodged within a set time period then they are inadmissible and the client has lost the opportunity for compensation. Significant expense will be incurred if a case is to proceed so a detailed assessment of the merits of a case is required. The Medical Negligence Unit was established in order to manage and minimise the risk associated with these cases.

The Unit handles a lesser number of cases than a typical or even small Law Centre. A lower percentage of cases go to court. These cases are expensive to pursue and significant effort goes into assessing whether a case should proceed to court or not. A large percentage of cases are determined in the first year and most of these would not proceed to court. A feature of the Medical Negligence Unit is that fewer cases reach year 2 or 3 than in a typical Law Centre. The number of new cases received in a year is usually greater than the number on hand at the beginning of the year demonstrating again the high pre-court attrition rate for these types of case.

These characteristics make the Medical Negligence Unit unique in the group of Legal Aid Board Offices. The solicitor days per case cleared and total direct cost per case cleared are high, when compared to Law Centres, but fell substantially from its first to second year of operation. Given that the MNU performs a specialised function, and the fact that the period under examination included the set-up period when cases were being transferred from Law Centres to the MNU, means that the MNU is not a good comparator for other Law Centres.

The MNU was visited as part of this evaluation. From the information gathered on that visit it appears to be tightly managed with its own in-house systems for case tracking and meeting key case deadlines. Time worked and costs are assigned to individual cases. The impressions from the visit to the office is that it is run in an efficient manner, but given that the office was only recently established, the fact that there are no suitable comparators and that only data for 2008 and 2009 was examined, it is not possible to make more definitive statements on the efficiency of the MNU.

Part IV - Factors outside of Law Centre control that impact on Efficiency

There are a number of factors which contribute to the costs of a Law Centre which are outside the control of the individual Law Centre. These include rental costs, the size of the Law Centre, HQ costs and the general efficiency of the courts system. Some of these factors are interlinked

Rent

The location of a Law Centre has a significant impact on the amount of rent paid. The size of the office is also a factor but higher amounts of rent paid for larger numbers of staff should be matched by higher output so should not impact unduly on costs per unit.

Ten offices pay up to €30k per annum on rent, another thirteen pay between €30k and €50k, five pay between €50k and €75k and one pays €170k⁴⁵. Three of the six that pay over €50k are in Dublin and the other three are in the cities of Cork, Galway and Waterford. For 24 out of 29 Law Centres rent contributes less than 7.5% to the total inclusive cost per case cleared. For three offices, Dundalk, Cavan and Brunswick Street, it exceeds 10% which is significant. While rental cost is not insignificant, with the exception of three Law Centres, rent does not have a major influence on the cost per case cleared. The Board currently has a number of leases with upward only rent reviews and without break clauses.

⁴⁵ This is an apportionment of the total rent for Brunswick Street between the RLS (75%) and the Law Centre (25%)

Following a comprehensive review of its property portfolio, the Board has in place a strategy to actively seek better terms and/or alternative accommodation more suited to organisational needs according as existing leases come to an end.

HQ Costs

HQ costs have fallen by 18% between 2008 and 2010 through a combination of staff reductions and the effect of pay cuts. HQ costs represent approximately 10.7%⁴⁶ of the total costs (excl. pension) of the Legal Aid Board. In the calculations above 75% of HQ costs were apportioned to Law Centres and this resulted in adding approximately €500 to the costs per case cleared. If this apportionment is correct then HQ costs add 2.5 times as much to the cost per case cleared than rent. However, it is acknowledged that HQ costs in the Legal Aid Board are not directly comparable with those typically associated with, for example, other government agencies and Departments where Corporate Services tend to cover HR, IT, financial services, payroll and property and facilities management only. The Board's Legal Services Unit, located in HQ-Cahiriveen, also carries out functions related to support for front-line service delivery that has no parallels in HQ functions elsewhere in the public service, for example the grant and refusal of legal aid. If the cost of the Legal Services Unit is excluded from HQ costs then HQ costs as percentage of total costs, in 2009, falls to 8.8%.

There are a number of elements that make up the high level of HQ costs and these include:

- (i) the high level of interaction between Law Centres and HQ on the clearance of Legal Aid Certificates and
- (ii) the dual location of HQ

The level of costs apportioned to HQ adds €500 to the cost of each case cleared. The number of cases cleared is obviously an important part of this calculation. HQ costs arise due to the provision of support for service delivery, including all corporate support functions of HR, IT, facilities management, financial and legal services. The costs of the statutory Board and the senior management team, who provide leadership on overall policy and operational matters, are also covered in HQ costs. These costs are largely fixed and the HQ functions form a part of the accountability and governance framework for the organisation. These resources are not generally available for re-deployment to front-line services and are required for the effective management, support and control of the overall service.

⁴⁶ Based on 2009 when HQ costs were €3.95m and total expenditure for LAB (excl pension costs) was €37m. Pension costs excluded as they would be in respect of ex-staff from both HQ and Law Centres.

Current practice dictates that legal aid certificates are approved by HQ. Practices are changing and not every category of case needs HQ approval but the practice does involve sending material on a large number of cases from Law Centres to HQ in Cahirciveen to get approval for the issue of legal aid certificates. The Legal Services Unit in Cahirciveen does this work at the HQ end and in 2010 had 14 FTEs costing €630k. This is down from 20 in 2007 at a cost of €724k. This practice gives HQ an element of control over cost and also ensures a consistency across all the Law Centres.

It is essential that these functions and how they operate generally and interact with the rest of the organisation in particular, are kept under ongoing review to ensure that their contribution to the goals of the organisation is optimized. It is noted in this regard that the Board's Croke Park Agreement Action Plan contains commitments to improved efficiency and effectiveness in the HQ functions. This is to be achieved by further streamlining of the HQ functions, including consideration of the scope for shared services and ongoing review of practices and procedures.

It is also noteworthy that HQ costs are influenced by the need to maintain two HQ locations, one in Cahirciveen and one in Dublin. The dual location of HQ came about as part of the Decentralisation programme and is effectively outside of the control of the Legal Aid Board but it does contribute to higher costs. Rental costs for the HQ Office in Mount Street alone exceed €200,000 per year which is close to 6% of the total HQ cost for the year although it is acknowledged that this is a "legacy issue" arising from a 35 year lease taken out in 1980 on the Board's establishment which will have run its course by 2015. In addition the HR and IT functions are split across these two locations which is not ideal.

Law Society Payment

A related item is the annual payment of €0.25m to the Law Society in respect of practising certificates for the solicitors employed by the Legal Aid Board. There is no clear benefit accruing to the Legal Aid Board or to its solicitors. No equivalent payment is made to the Law Society in respect of the solicitors in the Chief State Solicitors Office. A legislative change would be required to give the solicitors employed in the Law Centres similar status in this respect to those in the Chief State Solicitors Office. The "McCarthy Report" recommended that the Board's non-pay overheads be reduced by 10% and it is considered that the abolition of this payment would go a considerable way towards achieving that goal without any adverse implications for service delivery.

Courts System

The efficiency of the Courts system has a bearing on all its stakeholders be they clients, solicitors or others. Two specific ways in which the Courts system can impact on the efficiency of the Legal Aid Board are – (i) time spent on the day of the court hearing itself waiting for the case to be heard and (ii) the period of time waiting for case to come before the court.

The time spent waiting, on the day of the court hearing itself is a random amount but it can mean that a LAB solicitor spends the whole day in court waiting for his/her case to be called. The analysis of SDCC above shows that one solicitor day is a significant proportion of the input that goes to clearing each case so time spent waiting clearly translates into lost output. Improvements in the way the Courts system operates, while outside the scope of this review, would have beneficial effects for all the Courts' stakeholders including the Legal Aid Board.

Waiting times for the District Court vary but according to the Courts Service Annual Report 2009 the maximum waiting time for a Family Law⁴⁷ case in the District Court is 12 weeks. Seven of the 39 District Courts had a Family Law waiting time of 8 weeks or more and 26 had a waiting period of 4 weeks or less. While shorter court waiting times would be an advantage it does not appear as if waiting times for the District Court is a significant issue.

Circuit Court waiting times are significantly greater. Non-contested Family Law cases are taken within 3 months or at the next sitting which is usually also within 3 months. In three areas, Clonmel, Naas and Trim, the waiting time is up to 6 months. The waiting period for contested Family Law cases is much longer. A waiting time of under 4 months is possible in four counties. A total of fourteen counties have a waiting time of up to six months but for nine counties the waiting time is 12 months or more. Clonmel's waiting time is 18-24 months, Naas is 20 months and Wexford is 18-20 months. The longer waiting times have an impact on both the efficiency and effectiveness of the Law Centre in that court area. Longer court waiting times mean that cases are handled for a longer period which will lead to more solicitor and administrative effort. While it is not within the control of the Law Centre the client receives a less timely and therefore less effective service. It is difficult to say to what extent waiting times contribute to costs as it is only one element. If one looks at the Law Centres that correspond to the Circuit Court areas with the longest waiting list one finds that these Law Centres are spread across the

⁴⁷ The waiting times for Family Law cases are used as Family Law cases make up the over 80% of Legal Aid Board cases.

cost per case range. Some have lower than average (3), some average (2) and some above average (4). While an important factor it does not appear to be the significant driver of cost differential.

The listing of cases for hearing is also a factor that impacts on the use of solicitors time, particularly in Dublin where discretion as to when a case listed might actually be heard is largely vested in individual judges. Thus cases listed for a particular court sitting may not be heard until later in the day but solicitors have to be available in court from the beginning of a court sitting as there is no certainty around the time that a case will be called. This factor is outside the control of the Board and is a matter that should be pursued with the Courts Service with a view to introducing greater certainty around the timetabling of cases for hearing.

Size of Law Centre

There are potential economies of scale to be gained from larger Law Centres. One simple example relates to the situation mentioned above in relation to time spent waiting in court for a case to be called. In an office with a number of solicitors the time lost can be minimised if one solicitor from a Law Centre takes all the routine type cases on that day. Single-solicitor Law Centres have little scope for managing these and other situations. However, while the question of increasing the scale of Law Centres through consolidation of existing centres has been considered, the evidence emerging from the analysis undertaken suggests that smaller scale Law Centres are more efficient on the basis of the SDCC and TDCCC indicators. Given this evidence, currently there appears to be no compelling case for consolidation of Law Centres. However, larger scale Law Centres, if operated differently than is currently the case, might be a worthwhile option to be pursued in the future.

The Board has committed itself to reviewing the provision of services in the Dublin area where a number of its larger centres are currently located. The reviews of work practices recommended in this chapter is expected to provide the Board with practical steps that can be taken to improve efficiency in Law Centres with higher SDCCs. When this process has been completed, it is considered that the question of consolidation of services should be revisited, particularly in the Dublin area where the scope for synergies would appear to be greatest.

Summary of Efficiency Findings

This chapter, in its consideration of efficiency i.e. the ratio of inputs to outputs, used the number of cases cleared per year as its measure of output. Financial and staff resources used per year were the inputs used in the production of these outputs.

Four sub-groups of Law Centres were analysed and the findings relating to those four sub-groups are summarised. The sub-groups were based on the case mix percentage as this was found to be a key indicator of the difficulty of a Law Centres caseload. This is followed by a summary of findings on how Law Centres compare with Private Practitioner referrals and then findings on factors outside the control of Law Centres that influence their costs.

Comparing performance of Law Centres – Sub-Group 1 - Dublin

- The aggregate numbers of cases cleared for the Dublin group is rising, the TDCCC is falling for four of the six offices and the significant divergence, in the figures for cost per case cleared has nearly halved reducing from €1700/€2800 for 2007/8 to €1000/€1300 for 2009/10.
- Comparisons of SDCC and TDCC for the six Dublin Offices revealed that there are significant differences in these indicators which can only be partially explained by higher case mix percentages and further efficiency gains should be possible.

Comparing performance of Law Centres – Sub-Group 2 – non-Dublin

- The largest variances in the indicators examined are for this sub-group. SDCC varied from 1.1 to 4.3 and TDCCC from €1,427 to €4,120. The widest variances are to be expected for this sub-group as the sub-group has 23 offices with different characteristics including case mix. For this reason more attention is paid to what the figures show for the remaining two sub-groups which have a more similar case mix.

Comparing performance of Law Centres – Sub-Group 3 – Law Centres with case mix > 40%

- This sub-group of 13 (8 outside Dublin) Law Centres shows that Law Centres with a broadly similar case mix form a more cohesive group in terms of SDCC and TDCCC. Excluding Tallaght and Blanchardstown the case mix % ranges from 41% to 51%.

- The variances in terms of cost per case and solicitor days are not as great as for sub-group 2, the larger non-Dublin group, but remain significant. Excluding the two highest and two lowest figures there are still variances of up to 58% on SDCC and 64% on TDCC.
- Allowing for different case mix percentages, and given that this analysis is based on figures for a four year period, the degree of variance which may be for special reasons in some cases, is too great and leads to the conclusion that some Law Centres are more efficient than others.

Comparing performance of Law Centres – Sub-Group 4 – Law Centres with case mix < 40%

- There are significant differences in the SDCC and TDCCC indicators for this sub-group. The SDCC varies from 1.1 to 4.3 and the TDCCC from €1427 to €4,120. Even when these extremes are excluded the differences are significant.
- Case mix can explain some of the differences and it is accepted that there may be exceptional reasons in individual Law Centres. However the conclusion based on the analysis of this sub-group is similar to the conclusion for Sub-Group 3. The variation is too great over a four year period to avoid a conclusion that some Law Centres are operating more efficiently than others.

Comparing the sub-groups

- Taking the median or mid-point (equal no. of Law Centres with a higher and lower figure) of the TDCCC for each of the sub-groups shows that the order of the sub-groups is as follows:
 - Sub-Group 1 (Dublin) has the highest median TDCCC of €3,700
 - Sub-Group 3 (Case Mix > 40%) next @ €2,690
 - Sub-Group 2 (all non-Dublin - varying case mix) @ €2,250
 - Sub-Group 4 (Case Mix < 40%) @ €2,100
- This order is as expected and further supports the importance of case mix in the sub-grouping of Law Centres.
- These cost figures do not take rent into account. While Dublin offices have a higher case mix than all other sub-groups it is difficult to say whether a TDCCC that is 37.5% higher than the next sub-group is a good figure or not. However when the cost per DCE calculation is used five of the six Dublin Law Centres are grouped in positions 17-22. This calculation gives credit for their high case mix and possibly points to this group as being near the upper end of the cost range but not the most expensive.

Comparison with Private Practitioner Referrals

- As Law Centres do not currently record the costs of individual cases an attempt was made to convert all Law Centre output to a common unit, the District Court Equivalent, which could be compared with the cost of District Court PP referrals. While a number of assumptions have to be made in this calculation it points to 10 lower cost Law Centres comparing favourably with the weighted average fee for PP referrals.

Comparisons with Legal Aid Board specialist units

- Neither the RLS or the MNU offer realistic comparators for the Law Centres and accordingly, no firm conclusions can be drawn from the analysis undertaken on these areas of the Board.

Factors outside the control of Law Centres that impact on efficiency

- For 24 out of 29 Law Centres rent accounts for less than 7.5% of the total inclusive cost per case cleared. For three offices, Dundalk, Cavan and Brunswick Street it exceeds 10% which is significant. The Board's policies on property management will have an impact on this overhead according as older and more expensive leases come to an end and are replaced over the next few years.
- HQ costs represent close to 11% of total costs and add approximately €500 to the cost per case cleared. HQ costs have approximately 2.5 times as much influence on overall cost as rent. HQ costs are high when compared to administrative costs for England and Wales. As mentioned above, there are costs attributed to HQ in the Board that could properly be regarded as part of service delivery which has the effect of reducing the HQ overhead as a percentage of total costs from 10.7% to 8.8%. The dual location of HQ staff, while outside of the Board's control contributes to higher HQ costs.
- Delays in the Courts system and arrangements for listing and hearing of cases are contributing to inefficiencies and lost output.
- Circuit Court waiting times vary significantly across the country – from less than six months to 24 months. This adds to the effort required particularly in Law Centres with exceptionally long waiting periods. However when the Law Centres in the Court areas with the longest waiting lists were examined it was found that these Law Centres had an even spread of low, average and high cost per case cleared figures.

Overall Findings and Conclusions relating to Efficiency

- The Law Centres have had to process a higher volume of cases, in response to a higher demand, since 2007 and while they are clearing more cases, this is outweighed by the volume of new cases given appointments each year.
- On average Law Centres manage to clear about 40% of their caseload each year but this can vary from less than 30% to over 50%.
- Higher proportions of cases cleared in the year in which they were received is usually matched with higher overall clearance rates and lower costs.
- The ratio of solicitor resources to caseload did not correlate with good performance in terms of SDCC or TDCCC. In fact many of the offices with relatively low levels of solicitor resources produced some of the best figures.
- Law Centres that had high cost levels at the beginning of the period analysed, have demonstrated that significant continuous improvement is possible, if coming from an above average starting point.
- As stated previously, in individual Law Centres there may have been circumstances which could not be captured by the data analysed for this Review, that caused their cost figures to rise well above the average. However the general conclusion, based on the degree of difference, and the number of Law Centres that are well below or above the average, is that many Law Centres are not operating as efficiently as others and therefore that there is an efficiency gain to be realised.
- Costs attributed to HQ as a proportion of overall costs appear high but reduce when account is taken of HQ functions that are an integral part of service delivery. For a service where qualified staff is the key input, indirect costs (>40%⁴⁸) make up a large part of the total. The provision of a geographically dispersed nationwide infrastructure is a significant factor.
- While the fee for a case referred to a Private Practitioner may appear very reasonable the calculation above based on District Court Equivalents shows that the more efficient Law Centre is able to compete favourably with that rate.

⁴⁸ In 2010 Direct Costs for the 29 Law Centres were c. €10.5m and Indirect Costs (75% HQ, Rent and Other) were over €7m

Chapter 6 Options

This Chapter considers some of the options that are open to the Legal Aid Board. These options are examined to see if they offer any potential for efficiency improvements or if they offer opportunities for the delivery of a more effective service. Where options show the potential to improve efficiency or effectiveness some practical considerations around their implementation are considered. In carrying out this review, it was acknowledged that the Board has already done much commendable work in recent years to improve the efficiency and effectiveness of its operations. A number of earlier internal reviews, covering all aspects of the Board's operations, Head Office, Law Centres and the Refugee Legal Service and two risk management reviews carried out by external consultants has enabled the Board to identify measures to improve efficiency and effectiveness and better manage risk and performance.

As a result, there has already been streamlining of head office functions, integration of RLS and Law Centre services in Cork and Galway and new risk management procedures introduced while a major project to develop a new legal case management system is also well advanced. Specific service delivery initiatives include an advice only service, the development of a "model law centre" and the recent commencement of an integrated mediation initiative by the Board in partnership with the family mediation service and the Courts Service. These initiatives are to be welcomed from an efficiency and effectiveness point of view. All of the Board's efforts in this regard have to be managed against the backdrop of a 70% increase in demand for services in the Law Centre network over the last three years at a time when resources are constrained and a moratorium on the filling of positions in the public service applies.

Given the extent to which ongoing initiatives to improve efficiency and effectiveness are already in place, the options and recommendations in this report are largely designed to assist the Board in progressing existing initiatives. The reviewers fully endorse these ongoing measures and suggest further options that will be of assistance to the Board in improving the value the taxpayer gets for the resources employed on civil legal aid.

The following options were examined (these options are not mutually exclusive):

1. Merge Law Centres
2. Adopt Revised Structures
3. Increase use of Alternative Dispute Resolution
4. Private Practitioners

Option 1 – Merge Law Centres

There is a Law Centre in every county except for Carlow, Leitrim and Roscommon. Dublin has six Law Centres and Cork has two. The Legal Aid Board also meets potential clients in a number of part-time centres. In spite of the nationwide network of Law Centres one could easily be more than 30 miles from the nearest Law Centre and in some cases over 60 miles away. Given that close geographical proximity to the client population is not possible throughout the country it raises a general question about the number of Law Centres and a particular question on why there are six Law Centres in Dublin (seven counting the relatively new Model Law Centre). One reason for having multiple Law Centres is the need for separate representation where the LAB is representing or advising both sides - "conflict cases".

In evaluating any relatively small scale geographically dispersed service, the question of rationalization and the potential for economy of scale presents itself as an option worthy of serious consideration. The efficiencies that might be expected to arise for the Board from a reduction in the number of centres include

- Reduction in the number of buildings that are leased
- Reduction in other costs (less on administration, IT)
- Larger Law Centres allow potential to radically change structures and practices locating Dublin Law Centres close to Courts would reduce time lost travelling
- Allows for a reduction in the need for all solicitors to attend Court if cover can be provided by a colleague
- Allows greater opportunity to move to situation where solicitor in Dublin office presents a case (e.g. child abduction) in Dublin court for solicitor located outside Dublin

Possible Mergers:

- The six Dublin offices could be merged into two, both within a reasonable distance of the city centre courts
- The two Law Centres in Cork could be merged
- Each of the following five groups could see a closure of one Law Centre and a merger of its resources to create one larger Law Centre in each of these areas:
 - o Ennis, Limerick, Nenagh, Tralee
 - o Longford, Portlaoise, Athlone, Tullamore
 - o Cavan, Monaghan, Navan, Dundalk
 - o Galway, Castlebar, Sligo, Letterkenny
 - o Waterford, Wexford, Kilkenny, Wicklow, Newbridge

This would bring about a reduction of 10 in the number of Law Centres while still maintaining a good regional spread and creating a number of Law Centres of larger scale that would give the flexibility for introducing new structures and practices. However, the analysis undertaken using the SDCC and TDCCC indicators does not generally support the creation of larger Law Centres, particularly in relation to centres outside of Dublin. This is a crucial factor in any consideration of proposals to rationalise the number of Law Centres as is accessibility of the service. The smaller Law Centres generally scored better than larger ones on the basis of the SDCC and TDCCC indicators. This would suggest that increasing the scale of Law Centres would not necessarily increase efficiencies, and ultimately productivity, unless any newly created larger centres adopted work practices that generated the favourable indicators evident in the smaller Law Centres. The recommendations in Chapter 5 of this report, that the work practices in Law Centres with the best SDCC be reviewed to determine practical measures that might be applied to other Law Centres, would need to be undertaken and implemented before decisions on potential rationalization outside of Dublin is considered.

Possible issues regarding the implementation of Option 1:

The current portfolio of properties, their state of repair and compliance with disability requirements and their lease terms offer a mixture of barriers and incentives to consider rationalization of the Law Centre network. For example three of the Dublin Law Centres have end-lease dates or break clauses in 2013 and a fourth in 2015. In addition the LAB has unoccupied space in Ormond Quay. These combined circumstances offer an opportunity to move to a smaller number of Dublin offices in the next two years.

Outside Dublin many of the end-lease dates extend to 2016 and beyond and a decision to reduce the number of Law Centres should not be based on lease dates alone. An assessment of the cost of leasing unoccupied premises would form part of the decision to reduce the number of Law Centres, while policy considerations about accessibility of local services and the evidence in this review concerning the SDCC and TDCCC indicators would also be critical issues for consideration.

Reducing and merging Law Centres will cause disruption to some staff working in the locations that would close. There would also likely to be local opposition to the closure of local Law Centres. Introducing more part-time Law Centre offices in Citizen Information Centres or similar bodies would go some way towards reducing local opposition to closures.

Conclusion – Option 1:

This option has considerable issues around implementation, and has policy implications relating to ease of access to the service outside of Dublin. Distance from services is not a major factor in Dublin, while there is also potential scope to mitigate the difficulties identified with the listing of cases which is not generally available elsewhere in the country unless the Courts Service are in a position to address this matter. Given these issues and the results of the analysis undertaken relating to the relative efficiency of smaller scale Law Centres, it is considered that rationalization/restructuring of services in Dublin offers the most scope for potential for savings and the facilitation of changes to structures and practices which could lead to increased output, Restructuring of services in Dublin should therefore be given serious consideration by the Legal Aid Board. It is noted that the Board is already committed under its Croke Park Agreement Action Plan to review services in the Dublin area and it is considered that this review should be pursued as a matter of urgency by the Board..

Option 2 Adopt Revised Structures

It is acknowledged that the client base and the nature of the cases of the RLS are not at all comparable with that of the general Law Centres (furthermore, the RLS has essentially its own Court – the Refugee Appeals Tribunal - and does not operate a waiting list system as all clients of the RLS have to receive an immediate service due to the legal requirements of this particular process). However, there are a

number of operational practices in the RLS which might assist the Law Centres in improving efficiency if they were adopted. These include:

- A greater emphasis on the use of paralegals. Within the Law Centres, there still appears to be quite a bit of variation in the type of work undertaken by the paralegal staff, with some doing some of the more standard legal work for the solicitor but there may be paralegals in other Law Centres who are not challenged in this way. The review of work practices in Law Centres suggested in this report should address this matter, in particular as it is considered that the continued development of the paralegal role in the Law Centre network offers some potential for increased efficiency. Where solicitors make better use of the paralegal's expertise, they can free up their time to concentrate on the more complex legal work involved in cases.
- A revised approach to everyday work practices involving better use of IT resources, including available databases. The implementation of the new legal case management system will enable staff generally, including solicitors, to avail of standard letters and documents with efficiency gains expected to accrue to the organisation from having all staff actively using the Board's IT packages.
- Strict approach to file management – seen to be a two way relationship – if the client does not make contact over time, then the file is closed.
- RLS issue their own Legal Aid Certificates – Examine the scope for further delegation of this function from head office to Law Centres

Other alternative options for service delivery include that of non court based dispute resolution methods (see option 3 below).

Option 3 – Increase use of Alternative Dispute Resolution

Family law matters constitute a significant majority of LAB's cases. As outlined in Chapter 2, the Board is committed to the promotion of alternative dispute resolution mechanisms in an attempt to give clients a more meaningful, and potentially more satisfactory, outcome than that offered by the adversarial and costly court option. Such methods can help in resolving disputes with the minimum amount of long term

damage with outcomes that are of benefit to both parties and indeed to any children concerned. Most LAB solicitors have therefore been trained in what's known as collaborative practice.

Research in England and Wales estimates that the cost of certain legal aid cases is reduced by about one third, and that the time taken to finalise cases can be reduced by three quarters if their clients use mediation. Although not examined in any depth as part of this Review, feedback from visits to Law Centres suggests that some solicitors are more proactive than others in outlining means other than court-based ones to resolve appropriate cases.

The Board's pilot mediation service should therefore be closely monitored and evaluated so as to determine the scope for further developing this particular approach, or indeed other methods, to service provision. The Board should also actively engage with the Family Mediation Service⁴⁹ and Courts Service in relation to the potential longer-term possibilities for cooperation, including further co-location of services according as leases on existing properties run out and decisions about the future location of services are being taken.

The Board should continue to actively promote alternatives to court proceedings. The opportunities for exploring alternative dispute resolution mechanisms should be proactively exploited on an ongoing basis by the Board's solicitors, particularly in suitable cases where the Board is representing both parties to a dispute.

File reviews should be closely monitored to ascertain whether dispute resolution options are currently being actively promoted to the client.

Option 4 - Private Practitioner Option

There are different models for providing civil legal aid. Many countries administer a system where they pay private legal professionals to deliver the service. This is referred to as a "judicare system". Others employ their own legal staff to provide the service. Ireland operates a mixed system where most cases are dealt with by permanent Legal Aid Board staff but an increasing number are handled by Private Practitioners for a set fee. Radically increasing or reducing the proportion of cases that are dealt with by Private Practitioners is an obvious option to consider.

⁴⁹ Note that on 12th July 2011 there was a Government Decision (Ref S180/20/10/1314) to transfer the Family Mediation Service (FMS) to the Legal Aid Board.

In Chapter 5 a comparison was made of the cost of a case handled by a Law Centre or a Private Practitioner. This comparison used notional "District Court Equivalents" to make this comparison. While this was regarded as the best means of comparison, given the available data, it can only be used to give a rough indication of the comparative costs. It was found that a number of Law Centres compared favourably with the cost of Private Practitioners. Chapter 5 also concluded, based on the performance that can be achieved, that there is room for improvement for many of the other Law Centres. Most Law Centres should be capable of a favourable comparison with the Private Practitioner fee. It is concluded therefore based on this comparison, and current rates, that there is no justification to recommend a shift in the direction of private sector provision. The increasing level of Private Practitioner referrals is based on increasing demand and the requirement to provide a timely service.

It is recommended that when the new case management system is introduced that a more exact comparison of the internal cost as against the Private Practitioner cost be undertaken. This will offer a better basis for deciding whether there should be a shift in the direction of, or away from, Private Practitioner referrals.

Chapter 7 Recommendations

Recommendations (effectiveness related)

- Review the current use and impact of the Advice Only service – for centres who have waiting times in excess of 3-4 months – with a view to developing it further if considered effective. Consideration to be given to having front line staff / law clerks trained up so as to be able to provide services instead of the solicitor, in appropriate circumstances. (i.e. for the more standard issues eg relating to debt)
- Ongoing monitoring and review of how the Board prioritises certain cases for immediate service delivery.
- The new legal case management system has the capacity to enhance the throughput of cases, to provide ongoing and immediate management information and to ensure consistency of practice throughout the country. The LAB needs to capitalise on the potential the new system will offer, which should ultimately allow the more effective use of staff resources and enable solicitors to engage, to a greater extent than at present, in higher value legal work.
- Once the new legal case management system is up and running, consideration should be given to putting arrangements in place for the monitoring, by all Law Centres, of time spent on cases. When such a time recording system is up and running, appropriate arrangements should then be put in place for the monitoring, by senior management, of the actual time spent on cases. This should ultimately lead to improvements in the provision of a timely service.
- The issue of quality requires ongoing consideration and action. The service provided by the Law Centres needs to continue to be responsive to the changing needs of society. LAB needs to continue to build on its quality assurance procedures, particularly in respect of the Private Practitioners, given the numbers and cost of cases referred to Private Practitioners to provide services on the Board's behalf.
- The Board will need to focus more in the coming years on developing effective strategies for providing information about alternatives to court for resolving disputes. Closer cooperation and possible further co-location with the Courts Service and particularly the Family Mediation

Service⁵⁰ should be actively pursued by the Board in the light of the outcome of the review of the integrated mediation service located in Dolphin House, Dublin. The potential for co-location should be considered when decisions are being taken on replacement accommodation according as the Board's existing leases are coming to an end.

- The Board should approach the Department of Justice and Equality and the Courts Service concerning the impact of current practices in relation to the listing of cases with a view to identifying and progressing measures designed to address the inefficiencies that the current practices cause for users of the Courts Service.
- The means test for eligibility for legal aid is based on capital and income. In the light of the reduced value of property in particular and reduced incomes in general the eligibility limits need to be reviewed.

Recommendations (Efficiency related)

- Offices that have above average levels of solicitor days per caseload on hand should take more cases from their waiting lists. Some allowance should be made for the Law Centre's case mix percentage but the large difference between the ratio of cases on hand and solicitor resources should not continue. A review of work practices in Law Centres where the average number of solicitor days per case, the SDCC and the TDCCC are at the higher end of the scale should be undertaken to identify the factors giving rise to this and appropriate corrective measures can then be put in place.
- A system of ongoing monitoring of indicators of efficiency (SDCC and TDCCC) should be introduced with indicators calculated on a six monthly basis. Each Law Centre should aim to improve, with those above the average expected to make more sizeable and rapid improvement. (When the new IT system is introduced an alternative and more accurate set of efficiency indicators can be introduced).
- While reductions in HQ costs have been achieved, HQ costs as a proportion of overall cost need to be reviewed to see if further reductions are possible. It is noted in this regard that the Board's

⁵⁰ Note Government Decision of July 2011 - as referenced on page 94 of this Report

Croke Park Agreement Action Plan contains commitments to improved efficiency and effectiveness in the HQ functions. This is to be achieved by further streamlining of the HQ functions, including consideration of the scope for shared services and ongoing review of practices and procedures.

- It is also noteworthy that HQ costs are influenced by the need to maintain two HQ locations, one in Cahirciveen and one in Dublin. The dual location of HQ came about as part of the Decentralisation programme and is effectively outside of the control of the Legal Aid Board but it does contribute to higher costs.
 - o The necessity for the current level of interaction between Law Centres and HQ should be reviewed.
 - o Efforts to reduce the cost of the dual location of the HQ function are required. This will include reducing rent costs in Dublin by consolidation and exiting contracts when opportunities arise.

- Steps to be taken, as soon as possible, to introduce the necessary legislative change, subject to Government approval, which will eliminate the need for the (approx) €0.25m annual payment to the Law Society in respect of practising certificates for the solicitors of the Legal Aid Board.

Recommendations about improving the performance indicator framework

It would be expected that the deployment of the new IT legal case management system will greatly enhance the LAB's ability to develop further its performance indicators framework. In the interim, the following indicators should be added to the current set of performance indicators and monitored at appropriate intervals.

Efficiency

- v. Number of Solicitor Days per Case Cleared (SDCC)
- vi. Total Direct Cost per Case Cleared (TDCCC)
- vii. Case Mix of cases cleared
- viii. Solicitor days per case on hand

Apportionment of HQ costs in this review was based on the number of cases on hand. Consideration should be given to the basis used for the apportionment of costs on an ongoing basis. Apportionment based on the number of staff is one alternative.

Effectiveness

- ix. % of case files reviewed (Law Centres)
- x. % of case files reviewed (Private Practitioners)
- xi. % of cases which are cleared as a result of the "advice only" service

Appendix 1

List of Legal Aid Board Law Centres (full time)

DUBLIN

Gardiner Street Law Centre:

45 Lower Gardiner Street, Dublin 1

Brunswick Street Law Centre:

48-49 North Brunswick Street, George's Lane, Smithfield, Dublin 7

Finglas Law Centre:

St. Canice's Precinct, 44/49 Main Street, Finglas, Dublin 11

Blanchardstown Law Centre:

Unit 6-8, Business Centre, Clonsilla Road, Blanchardstown, Dublin 15

Clondalkin Law Centre:

Tower Centre, Clondalkin Village, Dublin 22

Tallaght Law Centre:

Village Green, Tallaght, Dublin 24

Medical Negligence Unit:

Montague Court, 7/11 Montague Street, Dublin 2

ALSO:

George's Lane Law Centre:

48-49 North Brunswick St, Georges Lane, Smithfield, Dublin 7.

Private Practitioner Unit,

Dolphin House, East Essex Street, Dublin 2

Outside Dublin

Athlone:

Paynes Lane, Irishtown, Athlone, Co. Westmeath.

Castlebar:

Humbert Mall, Main Street, Castlebar, Co. Mayo.

Cavan:

Newcourt Shopping Centre, Church Street, Co. Cavan

Cork:

North Quay House, Popes Quay, Cork

Cork:

5th Floor, Irish Life Building, 1A South Mall, Cork

Dundalk:

Condil House, Roden Place, Dundalk, Co. Louth.

Ennis:

6A Merchant's Square, Ennis, Co. Clare.

Galway:

9 Francis Street, Galway

Kerry:

1 Day Place, Tralee, Co. Kerry

Kilkenny:

87 Maudlin Street, Kilkenny

Portlaoise:

Unit 6A, Bridge Street, Portlaoise, Co. Laois

Letterkenny:

Unit 9B, Letterkenny Town Centre, Justice Walsh Road, Letterkenny, Co. Donegal

Limerick:

Unit F, Lock Quay, Limerick

Longford:

Credit Union Courtyard, 50A Main Street, Longford,

Monaghan:

Alma House, The Diamond, Monaghan

Navan:

Kennedy Road, Navan, Co. Meath.

Nenagh:

Friarscourt, Abbey Street, Nenagh, Co. Tipperary.

Newbridge:

Canning Place, Newbridge, Co. Kildare.

Sligo:

Bridgewater House, Rockwood Parade, Thomas Street, Sligo

Tullamore:

Harbour Street, Tullamore, Co. Offaly.

Waterford:

Canada House, Canada Street, Waterford

Wexford:

Unit 8, Redmond Square, Wexford

Wicklow:

Bridge Street, Wicklow