

Bar Standards Board Public Access Survey

1. Introduction

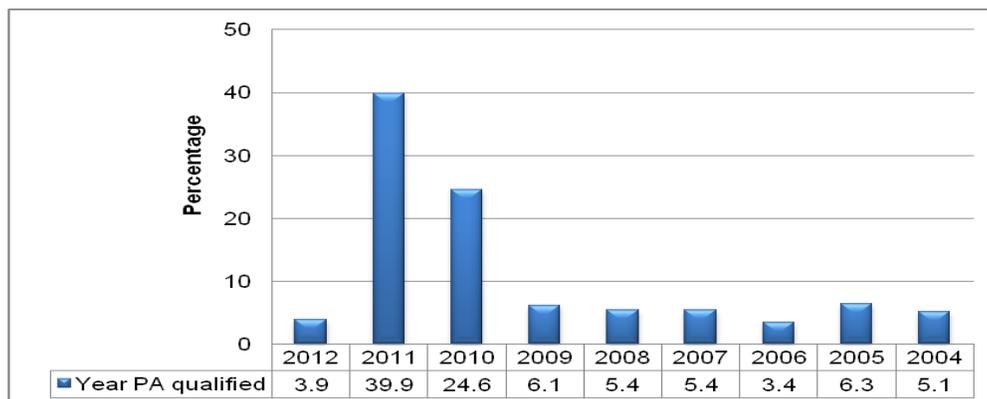
1.1 The aim of this survey was to identify why barristers qualify as public access (PA) barristers, how they find the training course and what their PA practice is like as well as finding out if barristers need more assistance in identifying and dealing with vulnerable clients. The results below outline barrister's responses to individual questions as well as considering these in conjunction to each other where appropriate. There were 414 respondents to this survey from a population of 4,108 PA barristers who are registered as such with the Bar Council, however this population was reduced to 3,685 after incorrect and duplicate email addresses were removed. A sample was not used and this survey was sent to all PA barristers who are registered as such with the Bar Council records department. The survey was open for three weeks and following an initial invitation to complete the survey, two more reminders were issued. The response rate was 11% and the confidence intervals for this survey are 0.9%- 4.5%. This means that when applying these results to the entire public access barrister population, the results are correct within this range. If 40% of respondents to the survey completed their training in 2011, then we can assume that 36.5% to 44.5% of all public access barristers did their training in 2011.

2. Training

2.1 Year PA Qualified

The most common year of becoming PA qualified was 2011, 39.9% of respondents became PA qualified in this year, 24.6% became PA qualified in 2010 and small proportions qualified in the other years that the PA course has been running. This is shown on Figure 1 below.

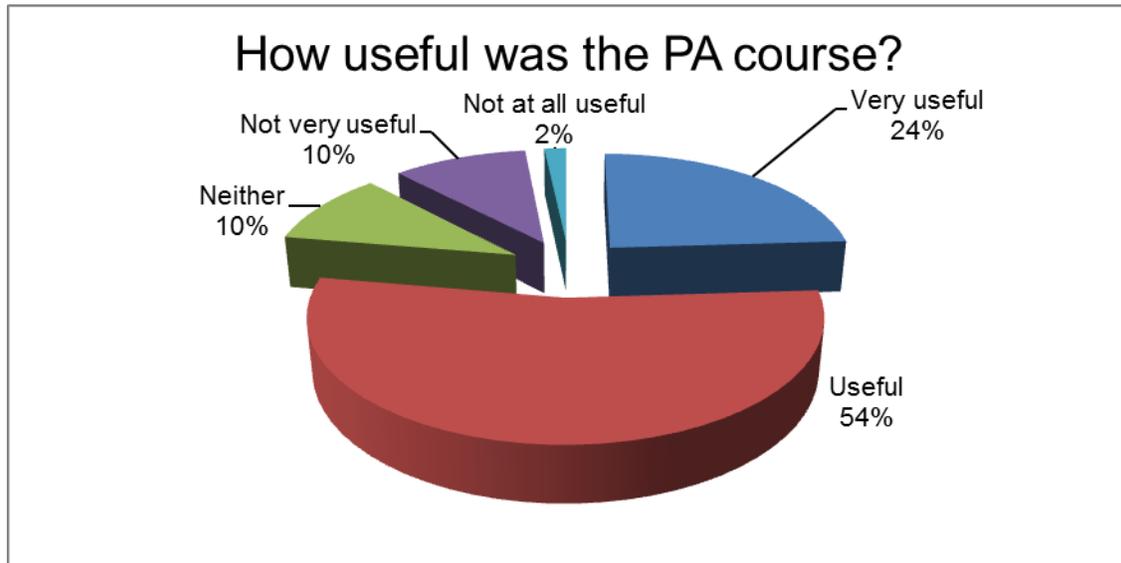
Figure 1



2.2 Quality of PA course

The majority of respondents found the course either useful or very useful as shown on Figure 2 below.

Figure 2



2.3 Quality of PA training provider

PA training is available at The Bar Council; 4 King's Bench Walk/ Barristers Direct; College of Law And Westgate Chambers. The majority of respondents gained their PA qualification at the College of Law; 228 (57%), there were 152 (38%) who gained their qualification at the Bar Council and 16 (4%) and 4 (1%) gained their qualification at 4 King's Bench Walk and Westgate Chambers respectively. How barristers rated the Bar Council and College of Law is shown on the graph below, those rating 4 King's Bench Walk and Westgate Chambers were excluded due to the small numbers of respondents who attended these providers. The majority of respondents rated both providers as either very good or good. This is shown on Figure 3 below.

Figure 3

	Bar Council	College of Law
Very good	29.6%	20.8%
Good	50.0%	52.2%
Neither	17.1%	20.4%
Bad	2.0%	5.8%
Very bad	1.3%	.9%

3. Competency after PA training

3.1 How course prepared PA barristers

Respondents were asked various questions on how the PA course equipped them to identify vulnerable clients, to identify when to instruct a solicitor, how competent they felt after the course and what could add value to the course. Responses for these are shown below and where comments were requested in relation to these responses, these are discussed in the following paragraphs.

- There were 324 (80%) respondents who reported that they felt the course had prepared them to identify when it was in the clients best interest to instruct a solicitor.
- There were 175 (43%) respondents who thought that the PA course should contain more information on how to identify when it was in the clients best interests to instruct a solicitor. The majority of those who thought there should be more information on how to identify when to instruct a solicitor also thought that they were not prepared to do this from the PA course.
- There were 283 (70%) respondents who responded that the course assisted them in identifying and dealing with vulnerable clients
- There were 220 (56%) respondents who thought the course should contain more information on identifying vulnerable clients.
- The majority of those who thought there should be more information on this did not think that the course had prepared them to identify and deal with vulnerable clients.
- Those who thought the course did not prepare them to identify vulnerable clients were also more likely to have thought that the course did not prepare them to identify when it was in the clients' best interests to instruct a solicitor.
- Amongst respondents 368 (93%) felt competent to undertake PA instructions after completion of the course.

3.2 Additional topics to add value to the PA course

Respondents were asked if they thought additional topics could add value to the PA course, 135 (35%) responded positively to this and gave suggestions.

3.2.1 Client care

Respondents commented that they would like more guidance on dealing with members of the public; this included identifying vexatious clients, dealing with clients who are going through personal problems and managing client's expectations of the barrister. One respondent commented

“... Guidance on how to protect myself from the stress of being the only emotional support for a client during a difficult time in their life.”

3.2.2 Administration

Many respondents commented that they would like to see more practical and administrative issues addressed in the PA course, this included issues such as record keeping and filing, correspondence and paper work. There were also some comments on providing additional guidance for clerks and PA within the chambers structure.

“I did not find that the course dealt with the practicality of how to do the administrative side of the work.”

3.2.3 Client care letter

Another issue relating to this was using the Client Care letter; respondents mentioned that it would be useful to have guidance on adapting the client care letter to suit their practice.

3.2.4 Fees and money laundering

Many comments were related to issues in handling client money, ensuring clients pay fees, how to cost ad hoc and administrative work and fees if a hearing does not take place, providing guidance for clerks on dealing with PA fees. Having more guidance on Money Laundering Regulations was also mentioned by many respondents who gave comments.

3.2.5 Practice area

There were also suggestions from some respondents to divide the course into practice areas and to provide more focus on issues for criminal practitioners.

3.2.6 Marketing

Additionally some respondents suggested that guidance on how to market a PA practice should be included in the course and general advice on getting PA clients.

3.3 How respondents learned to identify vulnerable clients

Respondents who reported that were able to identify vulnerable clients (283 (70%)) were asked how the PA course enabled them to do this, 80 respondents gave comments in response to this.

Many respondents stated that they learned this through discussion and information and/or case studies, examples and role play.

“The most useful part of the course in considering vulnerable clients was through role plays and group discussions where we could share experience and benefit from the insights of others.”

There were also respondents who considered that they were already equipped to do this. Some other respondents commented that they received written materials on this to take away after the course which they could refer to.

3.4 Why respondents did not feel competent to undertake PA instructions

Of the 28 (7%) respondents who felt incompetent to undertake PA instructions after the training course, 26 provided comments as to why this was.

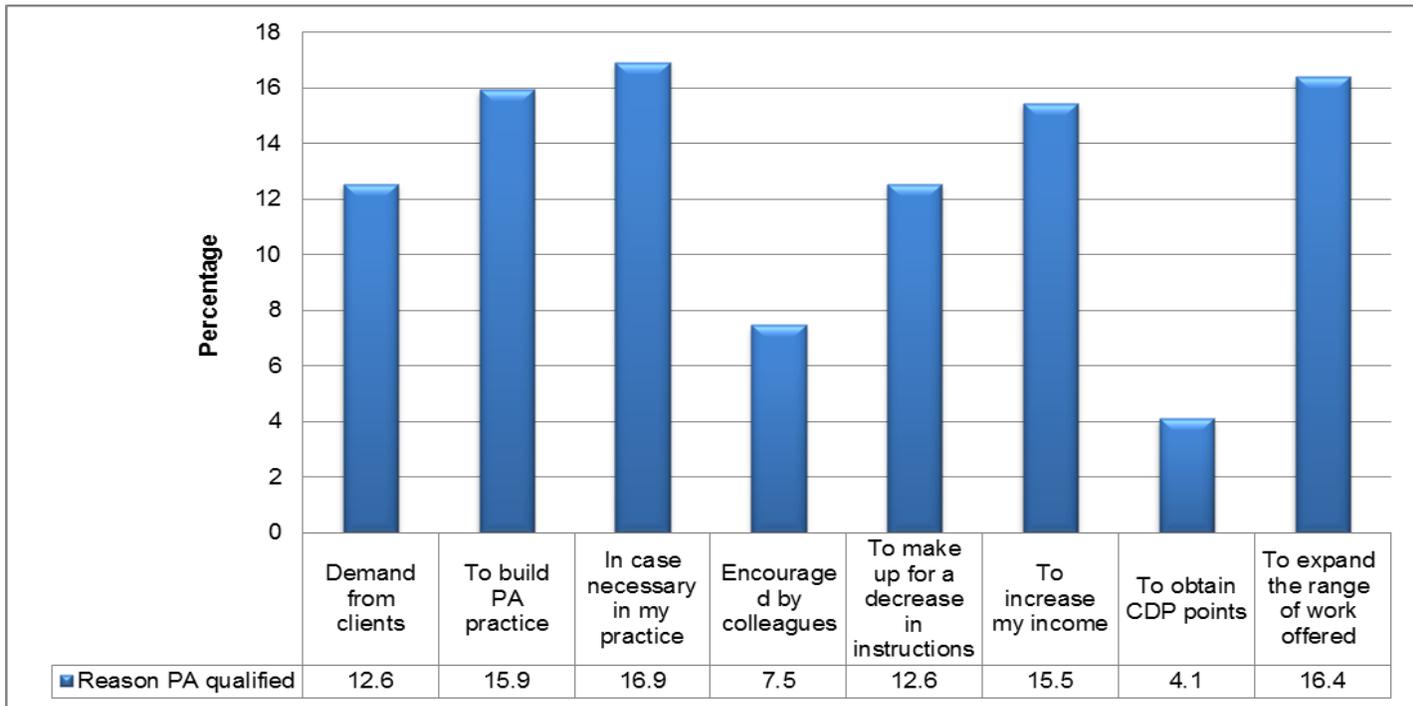
Many comments focused on not being equipped to deal with practical issues such as letters, administration, communication as well as regulations on money laundering.

Some commented that they felt they would have benefited from a PA course which specialised in their practice area (namely crime) due to issues surrounding legal aid eligibility and vulnerable clients.

4. Reasons for becoming PA qualified

Figure 4 below shows the reasons barristers selected for becoming PA qualified. Respondents could select as many response categories as they wished. The most common reason was ‘in case it became necessary in my practice’ which was selected by 70 (17%) respondents. Following this, a relatively large proportion of respondents, 66 (16%), selected ‘to build a PA practice’. Small proportions reported that they were encouraged by colleagues and to obtain CDP points.

Figure 4



When considering why respondents became PA qualified in relation to their practice area, some differences emerged. Practice areas were collapsed into civil; criminal; family; and mixed civil and criminal when considered in relation to other responses due to the small numbers selecting certain practice areas.

Barristers in criminal and mixed practice were most likely to have undertaken the course to make up for a decrease in instructions, in order to expand the range of work offered, to build a PA practice and to increase their income.

While many family and civil practice respondents responded similarly, they were more inclined than those in criminal and mixed practice to have done the PA course due to demand from clients.

5. PA Instructions

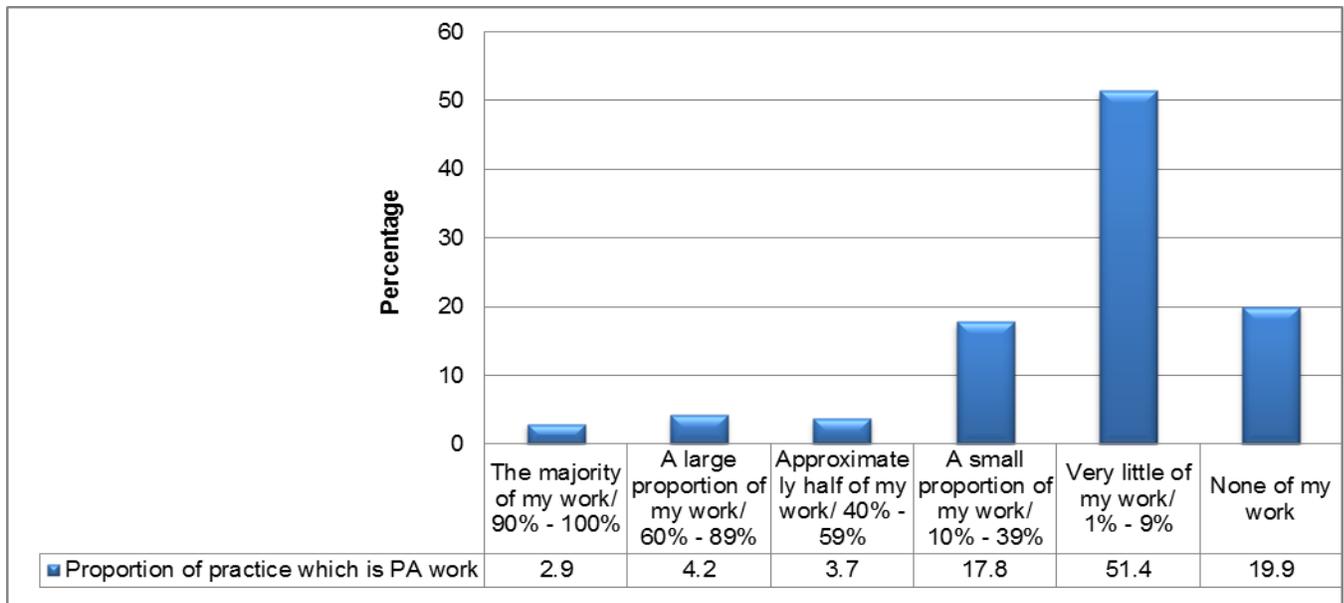
This section outlines the proportion of respondents' practice which is comprised of PA instructions, the type of PA instructions they undertake and the practice areas they undertake PA instructions in.

5.1 Proportion of practice which is comprised of PA instructions

Barristers were asked if their overall volume of instructions had increased after becoming PA qualified. The majority of barristers (273 (66%)) did not respond to this question, however of those who did respond, most reported that their instructions had increased a little or a lot, 27 and 55 respectively and 59 responded that instructions had not increased. It is possible that some did not respond to this question as no option was given for instructions decreasing or because they may have felt some sensitivity in discussing their volume of work.

Respondents were asked what proportion of their practice consisted of PA instructions, the majority, 196 (51.4%), responded that PA instructions accounted for 1 to 9% of their overall work. Approximately a fifth reported that it either accounted for none of their instructions or 10% to 39% of their instructions and small proportions selected each other response category.

Figure 5

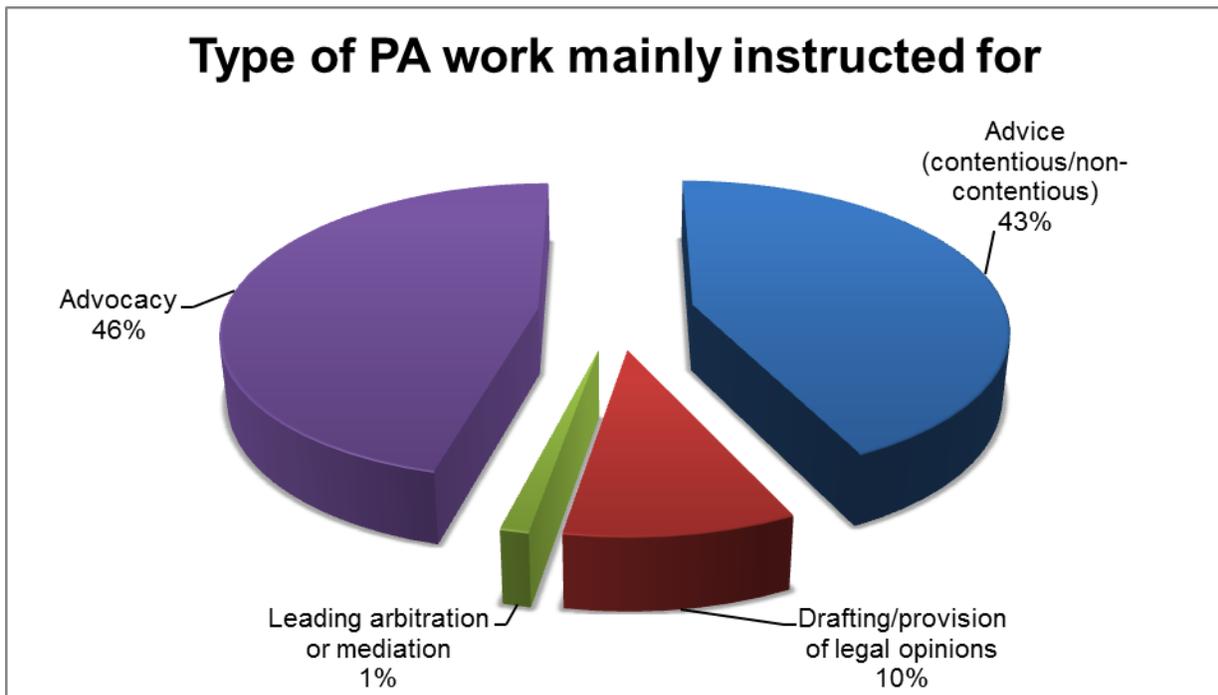


A larger proportion of criminal practitioners reported that PA instructions accounted for none of their work while those in civil practice were more inclined to report that PA instructions accounted for larger proportions of their practice and less likely to report that it accounted for none of their practice.

5.2 Type of PA instructions

There were 149 (46%) respondents who reported that advocacy was the main type of PA work they did and 139 (43%) reported their main type of work was advice. Small proportions reported that they mainly did drafting/legal opinions and arbitration / mediation; 32 (10%) and 4 (1%) respectively. This is shown on Figure 6 below. There was very little differentiation between the type of PA work done on the basis of practice area.

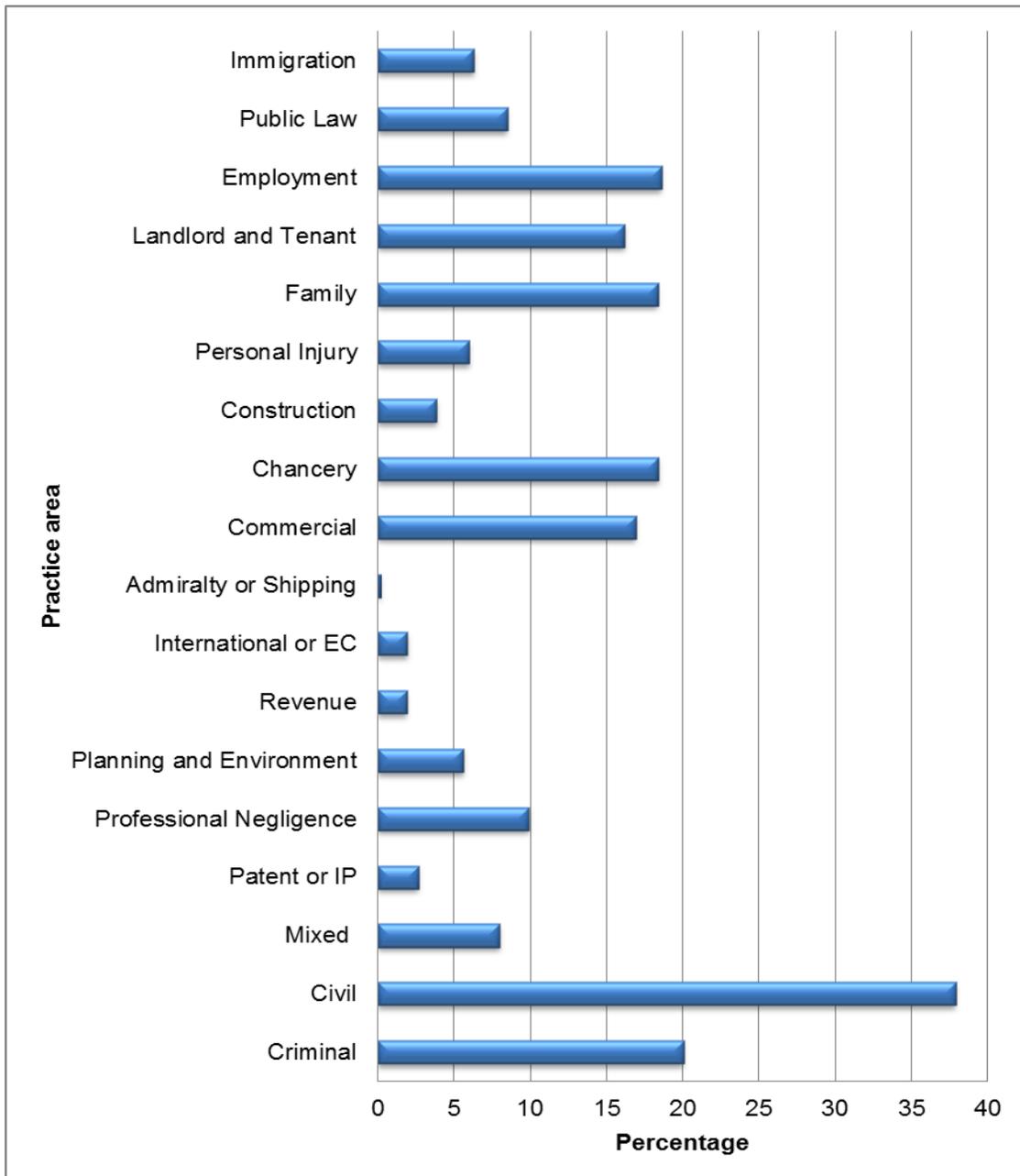
Figure 6



5.3 Practice area

Respondents were asked to select the three main areas in which they accept PA instructions. Civil was the most common area of practice where they accepted instructions, followed by criminal. The proportions of respondents accepting instructions in each practice area are shown on Figure below.

Figure 7

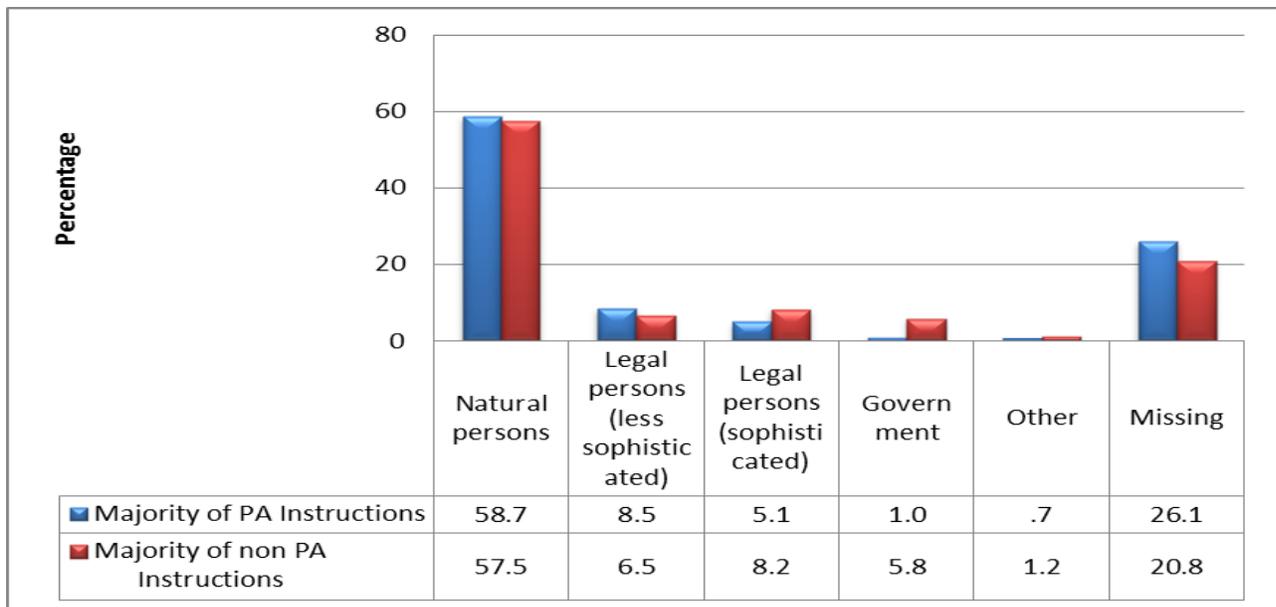


6. PA Clients

6.1 Types of PA clients

Respondents were asked to list client type in relation to the proportion of instructions they received in their PA and non PA practice, there was a high level of non responses to this query, most respondents only responded to report the client who accounted for the majority of their instructions¹. There was little differentiation between the types of clients who accounted for the majority of PA and non PA instructions; this was not compared for other proportions of instructions due to the high levels of non responses. This is shown on Figure 8 below.

Figure 8



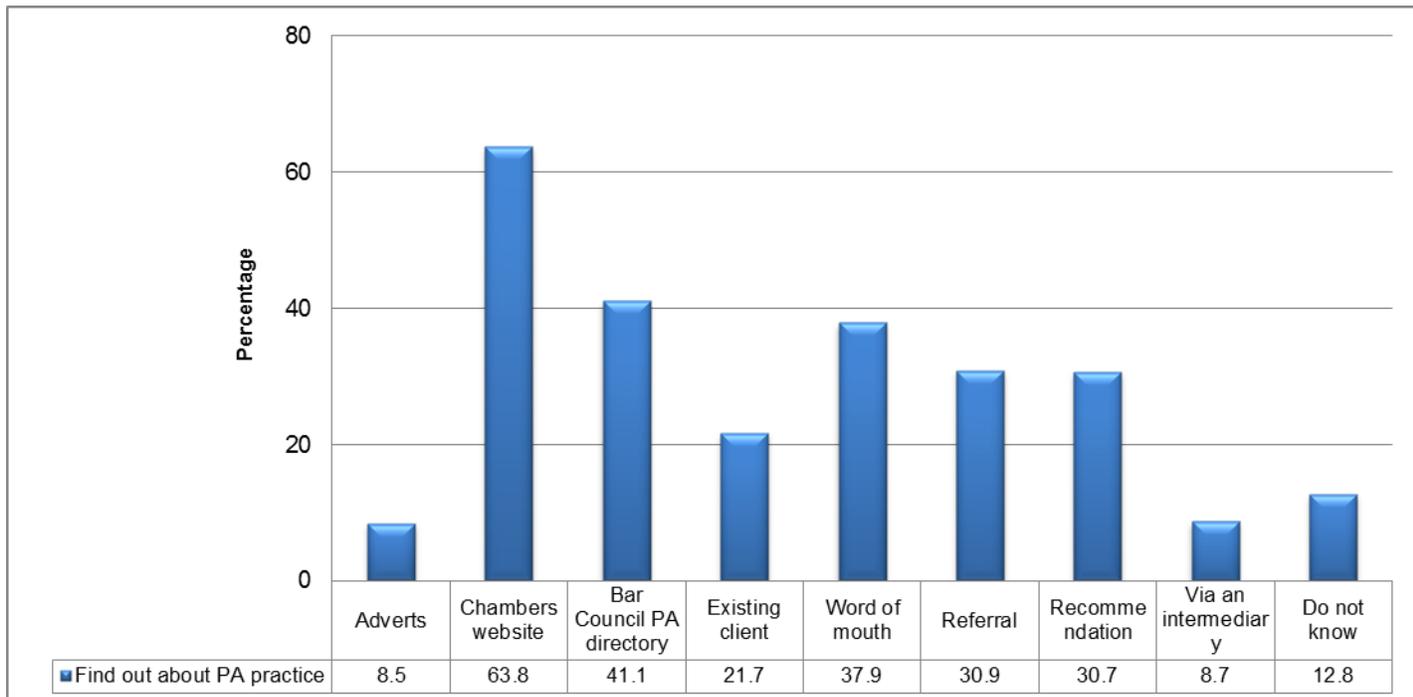
Respondents were also asked to select all types of clients who approach them with PA instructions; this broadly corresponded to the types of clients from which they accepted the majority of their instructions. The majority of respondents were approached by natural persons, followed in proportion by unsophisticated legal persons, sophisticated legal persons and government.

¹ The full definitions of types of client are as follows; natural persons (e.g. private clients); legal persons (unsophisticated; purchasers without in-house legal teams. This includes charities, corporate firms and government bodies purchasing legal services also purchased by corporate firms. SMEs are defined by 2003/361/EC as having staff of up to 250 and either turnover not exceeding €50m or balance sheet not exceeding €43m); legal persons (sophisticated; for example larger companies, sophisticated charities and purchasers with in-house legal teams); and Government.

6.2 How clients find out about PA practice

Respondents were asked how clients found out about their PA practice and were able to select all options that applied to them. The majority reported that clients found out through their Chambers website. Small proportions reported that clients found out through advertisements and via intermediaries. This is shown on Figure 9 below.

Figure 9

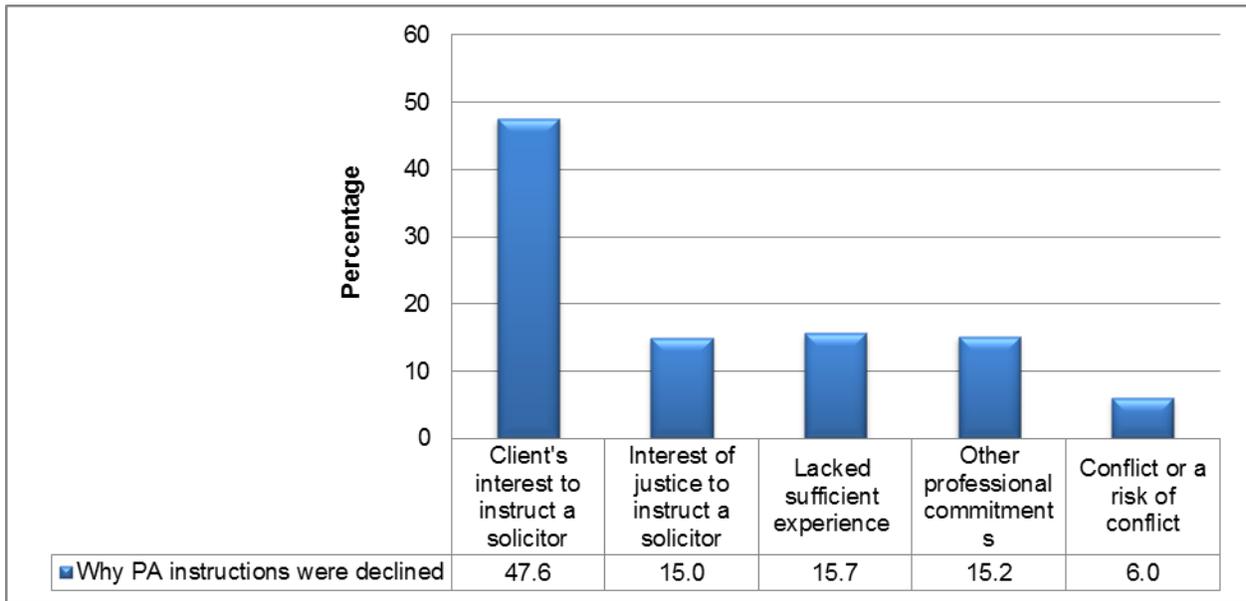


Respondents were asked to select the main way that clients found out about their non PA practice which is shown in comparison to how clients found out about their PA practice. The most common response to this was also chambers website, followed by recommendation and word of mouth.

6.3 Declining instructions

There were 253 (58%) respondents who reported that they had declined PA instructions, those who declined instructions were asked to report all the reasons for which they had declined PA instructions. The most common reason was due to it being in the client's interest to instruct a solicitor. This is shown on Figure 10 below.

Figure 10



6.4 Difficulties with PA clients

There were 100 (27%) respondents who reported that they had had difficulties with a PA client which did not result in a complaint against them.

Respondents were asked to describe the difficulties that they had and 94 respondents gave a description of these. These mainly related to fees, client care, difficulties if a solicitor was required after initially accepting instructions and clients being reluctant to accept advice.

Those who reported having difficulties with PA clients were inclined to practice in civil law and least inclined to practice in criminal law; this is most likely due to civil practitioners undertaking more PA instructions

6.4.1 Fees

In regards to fees, there appeared to be issues where clients misunderstood what they had to pay for such as additional contact or requests for advice in addition to the initial brief.

“Clients feel at liberty to contact you with additional instructions by email and phone...I ... set much clearer boundaries around such contact and the fee implications which arise from consideration of fresh material not included within the agreed brief fee”.

There were also cases of complete non-payment, disputes about fees after the case was complete and expectations of free advice.

6.4.2 Client Care

Many respondents mentioned issues regarding clients. This included managing client's expectations such as the client's expectations of what the barrister could do in regards to their case and their expectations in regards to the amount of contact they could expect from the barrister. Respondents also reported having difficulties working with clients where the client had difficulty understanding and fulfilling their role in assisting the barrister with their case, such as disclosure, providing papers and instructions.

“I have declined instructions because I was not confident of receiving proper instructions or disclosure from the clients”

There were a few comments about instances where a client did not want to accept an advice, refused to accept an advice and did not want to pay for an advice if it was not what they wanted.

6.4.3. Referral to solicitor

In some cases the needs of a client required the client being referred to a solicitor after instructions were initially accepted. This caused difficulties for some as the client did not want to be referred to a solicitor.

6.5 Complaints

A minority of respondents 35 (10%) reported that they received a complaint from a PA client. Due to the small numbers involved this section does not use percentages.

- Of those who received a complaint; 21 reported that they received one complaint and three reported receiving two complaints while 12 did not respond.
- The majority of these complaints were resolved without referral to the BSB or Legal Ombudsman;
- Of the 21 respondents who received one complaint, 15 of these were resolved without the BSB or Legal Ombudsman
- Of the three respondents who received two complaints, two of these were resolved without the BSB or Legal Ombudsman.
- Three respondents reported that there had been a claim for damages made against them in connection to their PA work, two of these were dismissed and one was ongoing.

The numbers who reported receiving a complaint were too small to allow for inferential analysis (the results of this cannot be applied to all PA barristers), however amongst those who received a complaint and completed this survey, there were some differences between them and respondents who did not receive a complaint.

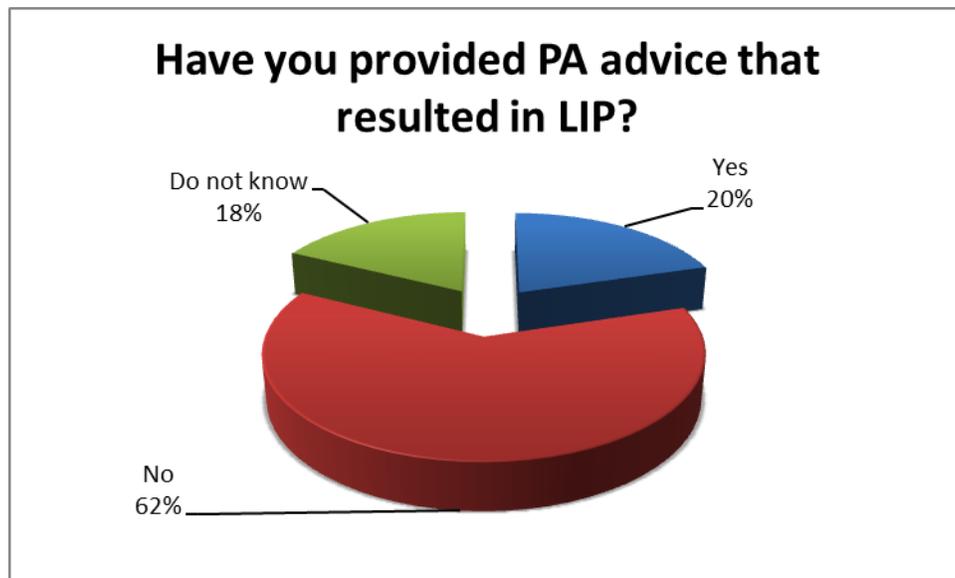
Respondents receiving complaints were mainly in civil practice and had mainly become PA qualified prior to 2010. There were a larger proportion of those who received a complaint reporting being unable to identify vulnerable clients after completing the PA course.

There was no differentiation between respondents who received complaints and those who had not on the basis of type of PA work undertaken; main type of PA client; use of the Client Care letter; or acceptance of instructions from vulnerable clients.

6.6 Litigants in person

There were 74 (20%) respondents who provided advice on a PA basis that resulted in a client representing themselves in court and 64 (18%) did not know if this had happened or not. This is shown on Figure 11 below.

Figure 11



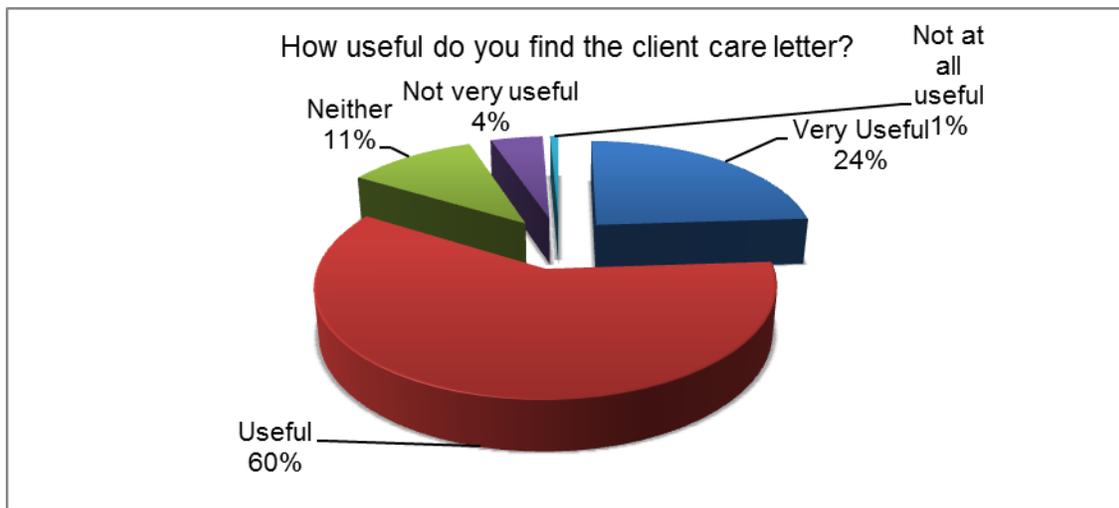
6.7 Client Care letter

There were 281 (78%) respondents who used the client care letter.

Those who did not use the client care letter were asked why they did not; all responses indicated that they tailored it for their own needs or else that they had not yet had a PA client and thus had no need to use it.

Those who did use the client care letter were asked how they found it and the majority reported that they found the letter either very useful or useful. This is shown on Figure 12 below.

Figure 12



Respondents were also asked if they would suggest any changes to the client care letter. This is attached verbatim and mainly relates the need to tailor it for different clients, information on fees, clearer instructions for clients as well as shortening the letter and changing the tone. The issue of the different needs in different practice areas also arose as well as each case and client being different.

7. About PA barristers

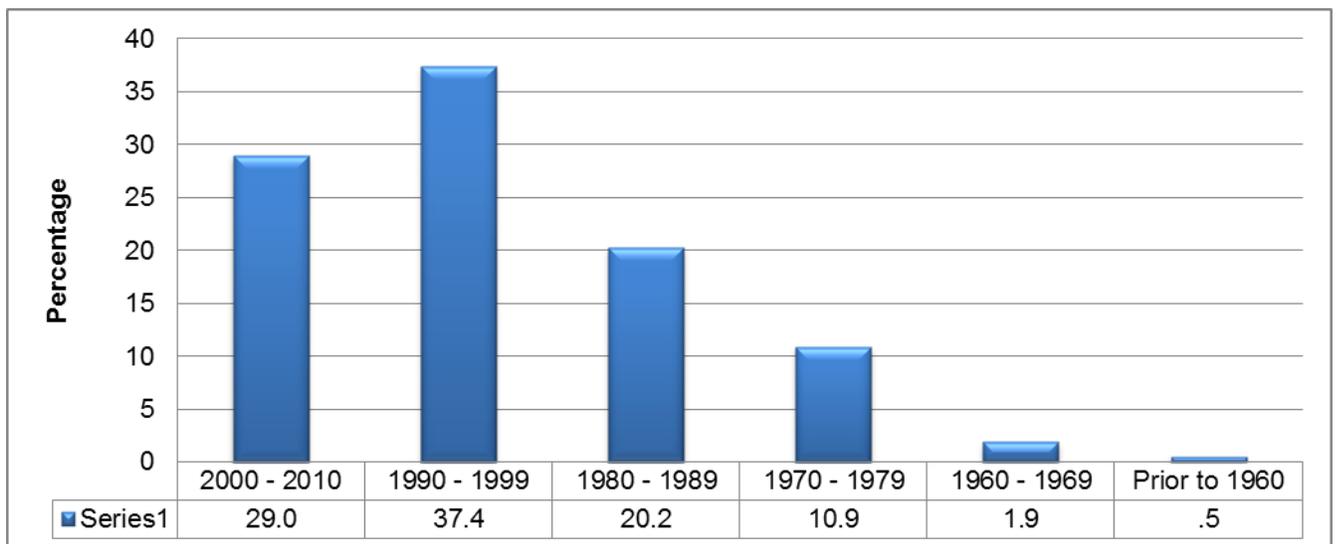
7.1 Conduct of practice

There were 328 (90%) respondents practising in self employed practice, 30 (8%) were sole practitioners and 5 (2%) practised in a dual capacity.

7.2 Year of Call

The most common period of Call for respondents was between 1990 -1999 or between 22 and 13 years Call, 137 (37%) respondents were Called during this time. There were 106 (29%) and 74 (20%) Called between 2000 – 2010 and 1980 – 1989 respectively. This is shown on the Figure below.

Figure 13



7.3 Demographics

There were 246 (68%) male respondents and 115 (32%) female respondents meaning that males were slightly overrepresented in comparison to the profile of the profession.

There were 92% white respondents and 8% BME respondents, white respondents were slightly overrepresented in comparison to the profession.

Also 4% of respondents reported having a disability, however there is no reliable data on disability available on the profession with which to compare this figure.

It should also be taken into account that there was a relatively high level of missing data in reporting upon demographic information.