



L **Legal**
S **Services**
R **Research**
C **Centre**

Measures for the LCD/DCA
SR2000 PSA Targets 5 and 6
SR2002 PSA Target 6
SR2004 PSA Target 5

*Report to the Department of Constitutional Affairs and
Legal Services Commission, April 2005*

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Section I

Introduction and Definition of Indicative Target Measures

Introduction

1.1 In this paper we set out the following:

1. the methodology for deriving indicative measures for the LCD SR2000 PSA targets 5 and 6 / LCD SR2002 PSA target 6 / DCA 2004 PSA target 5 from the face-to-face English and Welsh Civil and Social Justice Survey (formerly the LSRC Periodic Survey of Justiciable Problems) and the LSRC Annual Telephone Survey of Civil Justice Problems;
2. measures for the target measures from both the 2001 and 2004 face-to-face surveys (provisional in the case of the 2004 survey) and from all of the telephone surveys (provisional in the case of the 2004 survey);
3. some context for the interpretation of the measures;
4. details of problems that have been encountered with the telephone survey and proposals for the future.

Construction of measures from the face-to-face survey

1.2 As was reported previously, reliability problems were encountered with the SR2000 court related measure from the 2001 face-to-face survey. The questionnaire for the 2004 survey was substantially revised to improve

comprehension and reliability. This included reworking court related questions and the transfer questions from the ‘main’ section of the questionnaire (detailed questions on one identified problem) to the ‘screen’ section (basic questions on each identified problem). While the 2001 screen questionnaire had one relevant question only, the 2004 screen questionnaire had five. Conversely, while the 2001 main questionnaire had 25 relevant questions, the 2004 main questionnaire had none. As a consequence direct comparison between survey measures is not possible.

- 1.3 Improvements were also made to the 2004 face-to-face survey to reflect developments in the delivery of advice services. These, for example, have allowed details of internet advice to be collected. These improvements will have had a very slight effect on ‘suitable assistance’ related PSA measures. Equivalent measures from the 2001 survey are provided where appropriate to allow enhanced measures to be set out.
- 1.4 The improvements made to the 2004 face-to-face survey have led to there no longer being any inconsistencies between screen and main questionnaire derived measures. Inconsistency was a particular problem in relation to court related measures drawn from the 2001 survey. However, it remains the case that care should be taken over understanding underlying survey questions.¹
- 1.5 Inconsistencies between the screen and main survey data in relation to court related measures led us to recommend in our 2002 report that the 2001 face-to-face main questionnaire derived measure be used as the indicative target measure until after the first follow up survey.

SR2000 PSA target 5

- 1.6 The SR2000 PSA target 5 was defined as being to:

¹ The fact that screen and main questions yielded different results demonstrates the sensitivity of surveys to form and context. It also illustrates why changes were made to the 2004 survey questionnaires to ensure data reliability and integrity.

reduce the proportion of disputes which are resolved by resort to the courts.

- 1.7 The indicative target measure used is the number of disputes resolved by resort to the courts divided by the number of disputes resolved. For this purpose ‘disputes’ are defined as arising when one individual or body has a potential legal remedy against another in a priority area of law and at least one of the parties is an individual. ‘Resolved’ is defined as concluded through a process to which all parties have subscribed. ‘Resort to the courts’ is defined as any issue of legal proceedings or, in family law, a substantive hearing or trial.
- 1.8 The target relates to disputes in priority areas of law, which are defined as consumer, debt, rented housing, owned housing, welfare benefits, children, divorce and the breakdown of relationships, domestic violence, discrimination, employment, homelessness, personal injury, immigration, mental health and unfair treatment by the police. Neighbour disputes are not included in this definition. So, although details of such disputes are collected through the face-to-face surveys, for the purposes of deriving PSA measures they are removed from calculations.
- 1.9 The time period covered by the SR2000 PSA target 5 measure is determined by the periods covered by the 2001 and 2004 face-to-face surveys. The 2001 survey covered justiciable problems ongoing at any time between January 1998 and the summer of 2001. The 2004 survey covered the period January 2001 and the autumn of 2004. The slight difference in reference period lengths will have minimal impact on comparability as:
1. the measure is set out in proportional terms; and,

2. there is a tendency, detailed in Appendix C of *Causes of Action*,² for more recent problems to be reported in greater numbers than less recent ones.

1.10 The formula used to derive the measure for PSA 5 is:

$$T = X/P$$

where

T = the proportion of disputes resolved by resort to the courts

X = the number of justiciable problems in priority areas of law which were perceived by respondents to be no longer ongoing at the time of interview, and which were resolved through a court process. This has been measured from the 2004 face-to-face survey data by counting all cases where the following were reported:

- i. the problem was not ongoing

and

- ii. the problem was in a priority area of law

and

- iii. the respondent or someone acting on her/his behalf attended court *or* (in the case of non-family problems) a date was set for a hearing or papers were sent to a court.

² Pleasence, P. et al. (2004) *Causes of Action: Civil Law and Social Justice*, Norwich: TSO

P = the number of justiciable problems in priority areas of law which were perceived by respondents to be no longer ongoing at the time of interview and which involved court process (as defined in **X**), mediation, conciliation, or any other process involving the provision of advice to the survey respondent or contact between the parties. This has been measured from the 2004 face-to-face survey by counting all cases where the following were reported:

i. the problem was not ongoing

and

ii. the problem was in a priority area of law

and

iii. the respondent or someone acting on her/his behalf attended a court or tribunal, a date was set for a hearing, papers were sent to a court or tribunal, or the respondent attended any mediation or conciliation meeting, contacted an ombudsman, talked or wrote to the other side about trying to solve the justiciable problem, or (in the case of the respondent only) obtained advice about how to deal with the problem or had expected the problem to resolve itself.

1.11 The definition of **P** set out above omits justiciable problems perceived by respondents to be no longer ongoing, but in relation to which the respondent *neither* entered into any process, *nor* obtained representation or help (other than information from a library or internet site), *nor* regarded the problem to have resolved itself. As we have indicated before, such problems would appear not to have been ‘resolved’ according to the definition set out in paragraph 1.6 above.

1.12 As indicated in paragraphs 1.2 to 1.5, the baseline measures from the 2001 face-to-face survey proved to be highly unreliable and were calculated in a different manner. Two measures were produced; one which was based on a single screen questionnaire question that did not distinguish between courts and tribunals and one that was based on four main questionnaire questions that are similar to those included in the 2004 survey screen questionnaire. The main measure was based on superior data, but data was only available for a relatively small number of problems that were not nationally representative.

SR2000 PSA target 6 / SR2002 PSA target 6 / SR 2004 PSA target 5

1.13 SR 2000 PSA target 6 is defined as being to:

increase the number of people who receive suitable assistance in priority areas of law, involving fundamental rights or social exclusion, by 5% by 2004.

The SR2002 version of the target was similarly framed, but the percentage requirement was removed and replaced by a bare increase (year on year) requirement.³ SR2004 PSA target 5 is defined as being to:

achieve a 5% increase in the proportion of justiciable problems in respect of which people receive suitable advice and assistance.

1.14 The indicative measure for these targets is the number of people receiving ‘suitable assistance’ (SR2000/SR2002) or ‘suitable advice and assistance’ (SR2004) in respect of ‘priority areas of law involving fundamental rights or social exclusion’ (SR2000/2002) or ‘justiciable problems’ (SR2004).

³ SR2002 PSA Target 6: Increase year on year the number of people who receive suitable assistance in priority areas of law involving fundamental rights or social exclusion.

- 1.15 'Number of people' is taken to be equivalent to number of disputes. The target relates to disputes in priority areas of law (which include those involving fundamental rights or social exclusion), which are defined above.
- 1.16 'Priority areas of law' are taken to be those set out in paragraph 1.8 above. 'Justiciable problems' are taken to be those set out in paragraph 1.8 above and also problems concerning anti-social neighbours.
- 1.17 For the SR2000 and SR2002 targets 'suitable assistance' amounts to advice from a solicitor or other lawyer, law centre, trade union or professional body, Citizen's Advice Bureau or similar organisation, local council or another public authority.⁴ For the SR2004 target 'suitable advice and assistance' also includes advice from an insurance company and information obtained from leaflets or the internet.
- 1.18 To allow for straightforward annualisation, only problems no longer ongoing are included in calculations for the SR2000/2 targets.⁵
- 1.19 The formula used to derive the measure for SR2000 PSA target 6 and SR2002 PSA target 6 is:

$$U_1 = 1000(Y_1/S_1)$$

where

U_1 = the number of priority problems per thousand where people receive suitable assistance

Y_1 = the number of priority area justiciable problems that were no longer ongoing and for which suitable assistance was received. This has

⁴ Other public authorities recorded in the follow-up survey include government departments, the police, regulators, Jobcentres and social services.

⁵ Alternative methods of annualisation have been set out in earlier reports.

been measured from the face-to-face survey data by counting all problems where the following were reported:

- i. the problem was not ongoing

and

- ii. the problem was in a priority area of law

and

- iii. the respondent successfully obtained advice or assistance from a solicitor or other lawyer, law centre, trade union or professional body, Citizen's Advice Bureau, other advice agency, local authority or other public authority.

S_1 = the number of respondents in the LSRC survey

1.20 The proportional SR2004 measure sees the multiplier changed from 1000 to 100 and the replacement of Y_1 with Y_2 where:

Y_2 = the number of priority area justiciable problems for which suitable advice and assistance was received. This has been measured from the 2004 face-to-face survey data by counting all problems where the following were reported:

- i. the problem was a justiciable one

and

- ii. the respondent successfully obtained advice or assistance from a solicitor or other lawyer, law centre, trade union or professional body, insurance company, Citizen's Advice Bureau, other advice agency, local authority or other public

authority, or successfully obtained information from the internet.⁶

1.21 The proportional SR2004 measure also sees the replacement of S_1 with S_2 where:

S_2 = the number of problems. This has been measured from the 2004 face-to-face survey data by counting all problems where the following were reported:

- i. the problem was a justiciable one.

Construction of measures from the telephone survey

1.22 The LSRC annual telephone survey of civil justice problems has been designed to constitute a short form of the larger face-to-face survey. Thus the questionnaire has been improved in line with the face-to-face survey. While the telephone survey is a short form of the face-to-face survey, telephone and face-to-face surveys are distinct methodologies and so results are not directly comparable.

1.23 The telephone survey has been run annually since autumn 2002, with the reference period rolling forward by one year in subsequent surveys. Thus, the 2002 survey covered justiciable problems ongoing at any time between January 2000 and November 2002. The reference period for the 2003 survey covered the period January 2001 to December 2003. The 2004 survey covered justiciable problems ongoing in the period January 2002 to February 2005. Thus, the reference period for the 2004 survey is slightly longer than in previous surveys, a result of the very high refusal rates which required the fieldwork period to be extended.

⁶ Alternatively, this could include information from the internet or books/leaflets.

SR2002 PSA target 6 / SR 2004 PSA target 5

1.24 SR 2002 PSA target 6 and SR2004 PSA target 5 are defined in paragraph 1.12 above.

1.25 The formula used to derive the telephone survey measure for SR2002 PSA target 6 is:

$$U_2 = 1000(Y_3/S_3)$$

where

U_2 = the number of priority problems per thousand where people receive suitable assistance

Y_3 = the number of priority area justiciable problems that were no longer ongoing and for which suitable assistance was received. This has been measured from the telephone survey data by counting all problems where the following were reported:

i. the problem was not ongoing

and

ii. the problem was in a priority area of law

and

iii. the respondent successfully obtained advice or assistance from a solicitor or other lawyer, law centre, trade union or professional body, Citizen's Advice Bureau, other advice agency, local authority or other public authority.

S_3 = the number of respondents in the LSRC survey

1.26 A proportional SR2002 measure (U_3) sees the replacement of Y_3 with Y_4 where:

Y_4 = the number of priority area justiciable problems that were no longer ongoing and for which suitable advice and assistance was received. This has been measured from the telephone survey data by counting all problems where the following were reported:

i. the problem was not ongoing

and

ii. the problem was a justiciable one

and

iii. the respondent successfully obtained advice or assistance from a solicitor or other lawyer, law centre, trade union or professional body, insurance company, Citizen's Advice Bureau, other advice agency, local authority or other public authority.

1.27 The proportional SR2000 measure also sees the replacement of S_3 with S_4 where:

S_4 = the number of problems that are not ongoing. This has been measured from the telephone survey data by counting all problems where the following were reported:

i. the problem was not ongoing

and

- ii. the problem was in a priority area of law

1.28 The proportional SR2004 measure (U_4) sees the replacement of Y_4 with Y_5 where:

Y_5 = the number of justiciable problems for which suitable advice and assistance was received. This has been measured from the 2004 telephone survey data by counting all problems where the following were reported:

- i. the problem was a justiciable one

and

- ii. the respondent successfully obtained advice or assistance from a solicitor or other lawyer, law centre, trade union or professional body, insurance company, Citizen's Advice Bureau, other advice agency, local authority or other public authority, a telephone helpline, an email advice source, or successfully obtained information from the internet.

1.29 The proportional SR2004 measure also sees the replacement of S_4 with S_5 where:

S_5 = the number of justiciable problems.

Section II

The Measures

Measures derived from the face-to-face surveys

SR2000 PSA target 5

- 2.1 The baseline indicative target measures for SR2000 PSA target 5, as reported from the 2001 face-to-face survey, were 9.0% (screen questionnaire data) and 13.8% (main questionnaire data). As noted in paragraph 1.2 above, the main questionnaire measure should be taken as the baseline target measure.
- 2.2 The provisional indicative target measure for SR2000 PSA target 5, as derived from the 2004 face-to-face survey, is 7.9%.⁷
- 2.3 Owing to substantial changes made to the 2004 face-to-face survey to improve reliability no direct comparison is possible between the figures in paragraphs 2.1 and 2.2. However, the difference between the main questionnaire figure in paragraph 2.1 and the figure in paragraph 2.2 – which are the most comparable – is substantial and significant.⁸ On the basis of face-to-face survey data, therefore, the target has been met. Nevertheless, questions remain about the reliability and validity of the baseline measures and the comparability of the figures; especially given reported caseloads through the civil courts.

SR2000 PSA target 6 / SR2002 PSA target 6 / SR 2004 PSA target 5

- 2.4 The baseline indicative target measure for SR2000 PSA target 6 and SR2002 PSA target 6, as reported from the 2001 face-to-face survey, was 110.3 per 1000.⁹ A proportional variant of this measure would have been 32.4%.
- 2.5 The measure for SR2000 PSA target 6 and SR2002 PSA target 6, as derived from the 2004 face-to-face survey is 104.29 per 1000.¹⁰ This is not a

⁷ $(100)((1114-13)/1274)$

⁸ $X_2 = 15.65, P < 0.001$

⁹ $(1000)(619/5611)$

¹⁰ $(1000)(523/5015)$

significant change.¹¹ On this basis the SR2000 PSA target 6 has not been met. A proportional variant of the measure would have been 36.0%. This is significantly higher than the 2001 survey percentage.¹² If the proportional variant had been used as the measure, then the target would have been met.

- 2.6 The baseline indicative target measure for SR2004 PSA target 5 is 44.6% (1208/2705), or 47.5% (1285/2705) if information from books/leaflets is included in addition to information from the internet. For information, the equivalent figure derived from the 2001 survey would have been 33.3%.¹³

Measures derived from the telephone surveys

- 2.7 The measures derived for the SR2002 PSA target 6, and the SR2004 PSA target 5, as derived from telephone survey data are shown in the table 1 below:

¹¹ $X_2 = 1.004$, $P = 0.32$

¹² $X_2 = 4.94$, $p < 0.05$

¹³ 35.2% if information from books/leaflets is included in addition to information from the internet.

Table 1: Measures from telephone survey

Measure	2002	2003	2004
$U_2= 1000(Y_3/S_3)$	25.0	35.1	33.7
$U_3= 100(Y_4/S_4)$	26.2	28.6	38.0
$U_4= 100(Y_5/S_5)$	n/a	n/a	46.9

Section III

Context

- 3.1 While the measures from the face-to-face survey indicate that SR2000 PSA target 6 has not been met, this is attributable to a general decrease in the incidence of problems. On a like-for-like basis the incidence rate has dropped from 36% to 33%. This is consistent with the drop in matter starts being reported by the Legal Services Commission.
- 3.2 As can be seen from Table 2 below, the incidence of problems has decreased across most problem types. Those problems with increased incidence are set out in bold.

Table 2: Incidence of problems

Problem Type	2001	2004
Consumer	13.3	10.0
Neighbours	8.4	6.6
Money/debt	8.3	5.6
Employment	6.1	5.2
Personal injury	3.9	4.9
Rented housing	3.8	2.7
Owned housing	2.4	2.4
Welfare benefits	2.3	1.9
Relationship breakdown	2.2	1.7
Divorce	2.2	2.1
Children	1.9	1.5
Clinical negligence	1.6	1.6
Domestic violence	1.6	0.8
Discrimination	1.4	2.2

Unfair treatment by the police	0.7	0.8
Homelessness	0.6	1.2
Mental health	0.5	0.2
Immigration	0.3	0.3

3.3 The proportional variant of the SR2000 PSA target 6 measure indicates that, while the overall volume of advice has decreased the proportion of people who obtain advice has increased – and to a significant extent. Furthermore, if internet advice is added to the equation (as for SR2004 PSA target 5), the increase is quite dramatic. An adjusted 2001 survey percentage would be 35.2% as against 46.3% now.

Section IV Future Surveys

The broad picture

4.1 As indicated in paragraph 1.1, a number of problems have been encountered in running the 2004 telephone survey. These have been of sufficient magnitude to lead us to recommend that the telephone survey be discontinued and a ‘continuous’ face-to-face survey be used in its place for SR2004 PSA target 6 purposes. Our proposal is that this would also replace the periodic face-to-face survey. Details of the problems with the telephone survey are set out below. In outline, the main benefits of the change would be:

- reliable measures for SR2004 PSA target 5;
- a move to quarterly rather than annual reporting;¹⁴
- SR2002 PSA target 6 could be closed out in 2005/6;
- continuous up-to-date strategic information would be available to feed into the civil justice policy development process;

¹⁴ This would be delayed in the first instance to allow the sample size to build up.

- additional information could be obtained as and when required at relatively low cost.

The change would be cost neutral over the periodic survey cycle on around a 1/3 sample size reduction from the current face-to-face survey. A detailed estimate of cost is being drawn up.

Problems with the telephone survey

4.2 Since its introduction on 2001, the ‘annual telephone survey of civil justice problems’ has suffered increasingly severe problems of participant refusal. Refusal rates have risen from 39% in 2001 to over 41.4% in 2003 to 65.6% in the current 2004 survey.¹⁵ Thus, just 34.4% of those people now called agree to answer any questions at all. The current refusal rate presents severe questions about the validity of the telephone survey, particularly in its ability to produce a representative sample of England and Wales. In contrast, the face-to-face survey has encountered no problems associated with response rate. The latest 2004 survey produced a response rate of 57% a 4% increase over the 2001 survey, and is broadly comparable to other major social surveys. Response rates in telephone surveys typically tend to be around 15% lower than face-to-face surveys, far smaller than the large discrepancy between the current telephone and face-to-face surveys. This was despite BMRB’s considerable expertise in RDD surveys (lack of expertise is a common source of low response/high refusal) and substantial additional cost¹⁶ to attain a final modest response rate of only 28%. Importantly, this response rate is also substantially less than recent major RDD surveys. For example, ‘The Welsh Assembly election study’ and ‘The London Mayoral Election Study’ both resulted in response rates around 40%, which themselves “would not be considered adequate by most public sector commissioners of social surveys”¹⁷.

¹⁵ 2004 figure is provisional

¹⁶ £166,115 for 5500 interviews

4.3 High refusal/low response rates will typically introduce non-response bias as a result of certain demographics refusing at higher rates to others. This is typically dealt with by providing weighting for non-response (e.g. by weighting age and sex to be in line with census data). In the case of the telephone survey, though, respondents seem to refuse far more often if they had no problem to report, creating an artificially high incidence rate that cannot easily be adjusted. The net result is an inability to distinguish real changes from survey methodology effects. Thus, whereas reported incidence in the 2002 and 2003 telephone surveys was similar, at 21.3% and 21.7%, it has increased to 51.5% in the 2004 survey. This is not a credible finding.

Potential causes of the increase in refusal

4.4 Research has indicated large increases in the proportion of ex-directory households, from 12% in 1985¹⁸ to 34% in 1998¹⁹. While this is discussed as a reason for telephone directories providing an inadequate sample frame, it is also likely to reflect an increase in unwanted calls (e.g. telemarketing). Such increases will invariably increase refusal rates, especially since the claim to be ‘conducting research’ is a common telemarketing tool.

Further disadvantages

4.5 Telephone surveys have a number of further problems, many of which are set out in Nicolaas and Lynn’s²⁰ thorough review of the viability of random digit dialling as a social survey methodology. Some additional disadvantages are described below;

- Crucial, in view of the link between social exclusion and the experience of civil justice problems²¹, is the issue of failure to sample

¹⁷ Nicolaas, G & Lynn, P. (2002) Random-digit dialling in the UK: viability revisited. *Journal of the Royal Statistical Society*, **165**, 297-316.

¹⁸ Collins, M & Sykes, W. (1987) The problems of non-coverage and unlisted numbers in telephone surveys in Britain. *J.R. Statist. Soc. A*, **150**, 241-253.

¹⁹ Beerten, R & Martin, J. (1999) Household ownership of telephones and other communication links: implications for telephone surveys. *Surv. Methodol. Bull.*, **44**, 1-7.

²⁰ *Supra* note 15

²¹ *Supra* note 2

households without a telephone. While such households account for a small proportion (around 4% by the end of 1998²²) they are typically small households of often young, single people, who are far more likely to be socially and economically deprived²³. Their omission excludes a group who are amongst the most likely to experience any problem, numerous problems and the most severe problems.

- Increases in the number of mobile phone only households would introduce a significant increase in coverage bias²⁴.
- Increase in the number of data lines or facsimile lines will decrease the efficiency of fieldwork²⁵
- Increased telemarketing could result in more answer machine screening, as is common in the United States²⁶.

Technical issues relating to change to a continuous face-to-face survey

4.6 Continuous surveys provide a number of clear advantages over their periodic counterparts. They allow, for example, for:

- continuous analysis and monitoring;
- seasonal analysis;
- continuous development;
- consistent reference period;
- choice of reporting period.

4.7 The main disadvantage of continuous surveys is that autobiographical memory effects associated with not having a memorable date bounding the reference period are increased.

²² Bridgwood et al., (2000) Living in Britain: Results from the 1998 General Household Survey. London: Stationary Office.

²³ Supra note 17

²⁴ Supra note 15

²⁵ Supra note 15

²⁶ Supra note 15

- 4.8 The relative benefits of the continuous survey have led a number of high profile social surveys to switch to this methodology in recent years. In the United Kingdom the best example of this is the British Crime Survey, which was run on an annual basis until 2000. However, since 2001 it has moved to a continuous survey methodology, albeit with annual reporting.
- 4.9 In the case of the proposed continuous face-to-face survey there is (potentially) an additional disadvantage of a reduced sample size to retain cost-neutrality over the current face-to-face sample period.
- 4.10 On the basis of current incidence, the reduced sample size indicated in paragraph 4.1 to ensure cost neutrality over the current face-to-face survey cycle would yield significant findings on a 5% increase as defined by the target.