



Law Society  
of Scotland

# Law Society of Scotland

Covid-19

Impact on the In-House Sector of the Scottish  
Solicitor Profession – Analysis of Research

June 2020



## Introduction

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The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

The ongoing coronavirus pandemic continues to extensively affect our daily lives. We continue to adapt both our working and personal lives in order to minimise its impact. Emergency legislation passed at both Westminster and Holyrood and health protection regulations made by Scottish Ministers have imposed stringent conditions on us all which often run counter to the normal freedoms which we take for granted.

This report follows on from initial research into the [financial impact of coronavirus on the private practice sector of the Scottish solicitor profession](#) which was undertaken and published in May 2020. That research showed that the vast majority of the private practice sector had been adversely affected by the economic downturn which has followed the pandemic.

It was considered necessary to follow up the initial research by undertaking a similar exercise with Heads of Service and General Counsel from the in-house community of the Scottish solicitor profession in order to have an overall sense of impact on the profession. Over a number of sectors, solicitors providing in-house legal services represent approximately 30% of our membership. While the impact on in-house legal services may differ from the impact on the private practice sector, there has clearly also been an effect on how in-house legal services are now having to operate.

The value of in-house legal services is being felt by Scottish businesses during the current crisis, as they turn to their specialist employees to provide advice on employment law and how to meet their statutory obligations

The research into the impact of Covid-19 on the in-house community of the Scottish solicitor profession working for 56 separate organisations, large and small and both in the public sector and private sector, demonstrated that workloads had increased for about 70% of those in-house legal teams surveyed.

It also disclosed that, for those in-house legal teams which had furloughed staff, twice as many non-solicitors than solicitors had been furloughed.

Those in-house legal teams working for organisations in the hospitality and retail sectors have, however, reported decreased workloads. Some in-house legal teams from organisations within these sectors also reported staff furlough, recruitment freezes and salary reductions.

Also, 60% of those in-house legal teams surveyed indicated that the Society's decision to reduce the Practising Certificate fee for 2020/21 was either a very welcome cost saving or a somewhat welcome cost saving.

This report, together with the initial private practice sector research will continue to inform discussions with our key stakeholders in order to provide an evidence base that can be considered in helping minimise the impact of the pandemic on the Scottish solicitor profession.

A wider piece of research is underway via an online survey for all in-house solicitors. The results of that piece of work will help the Society better understand the professional and personal concerns of members working in this sector and how the Society can best support them during this time. The survey closes on Friday 26<sup>th</sup> June 2020 and will be reported upon separately.

We would like to thank all the organisations contacted who took part in the telephone survey.

## Methodology

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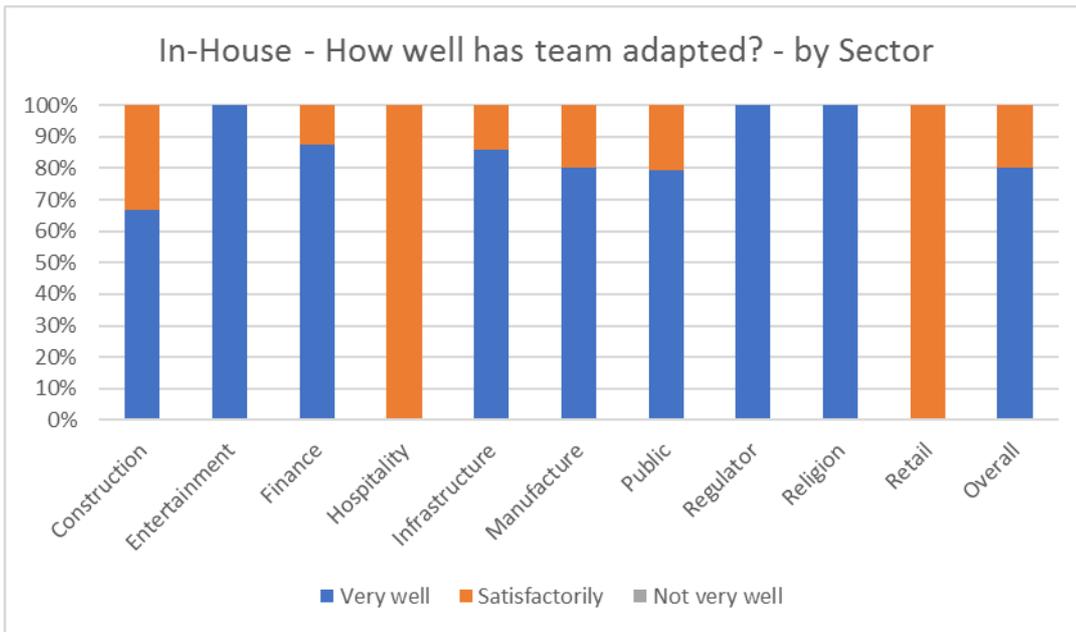
The telephone survey was carried out by senior Law Society of Scotland staff contacting 56 Heads of Legal Services/General Counsel in a wide cross section of in-house settings select to provide a representative profile

In selecting the sectors, we have provided more categories than normal. This was done to highlight areas such as hospitality and retail which have been particularly affected by the impact of Covid-19.

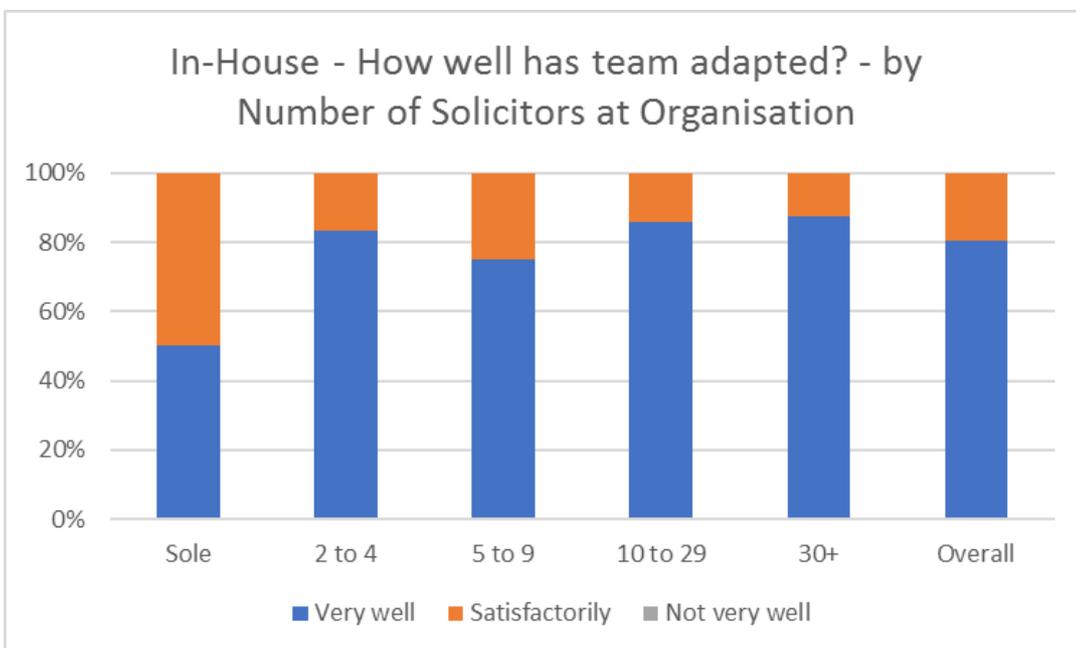
Calls were made between the 19th May 2020 and 29<sup>th</sup> May 2020

The full questionnaire can be found in Appendix 1

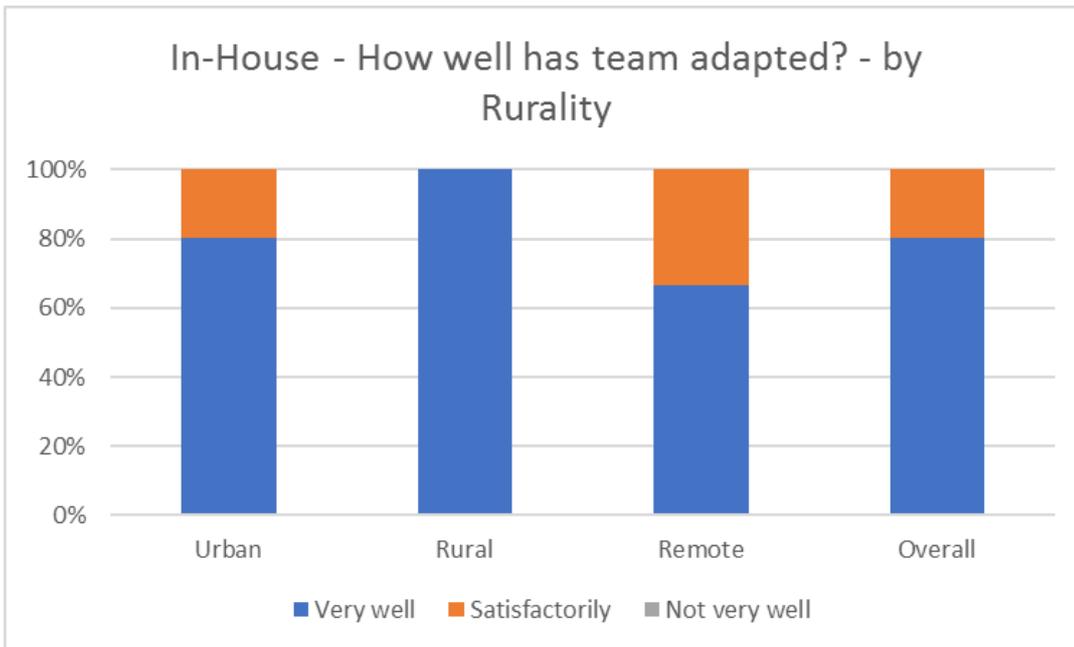
**Q1 How well has your in-house legal team adapted to the necessary change in working practices (e.g. working from home)?**



In considering the first question by sector, every respondent indicated that their in-house legal team had adapted to the necessary change in working practices either very well or satisfactorily, with only the hospitality and retail sectors indicating a satisfactory adaptation only. Over all sectors 80% had indicated very well and 20% had indicated satisfactorily.

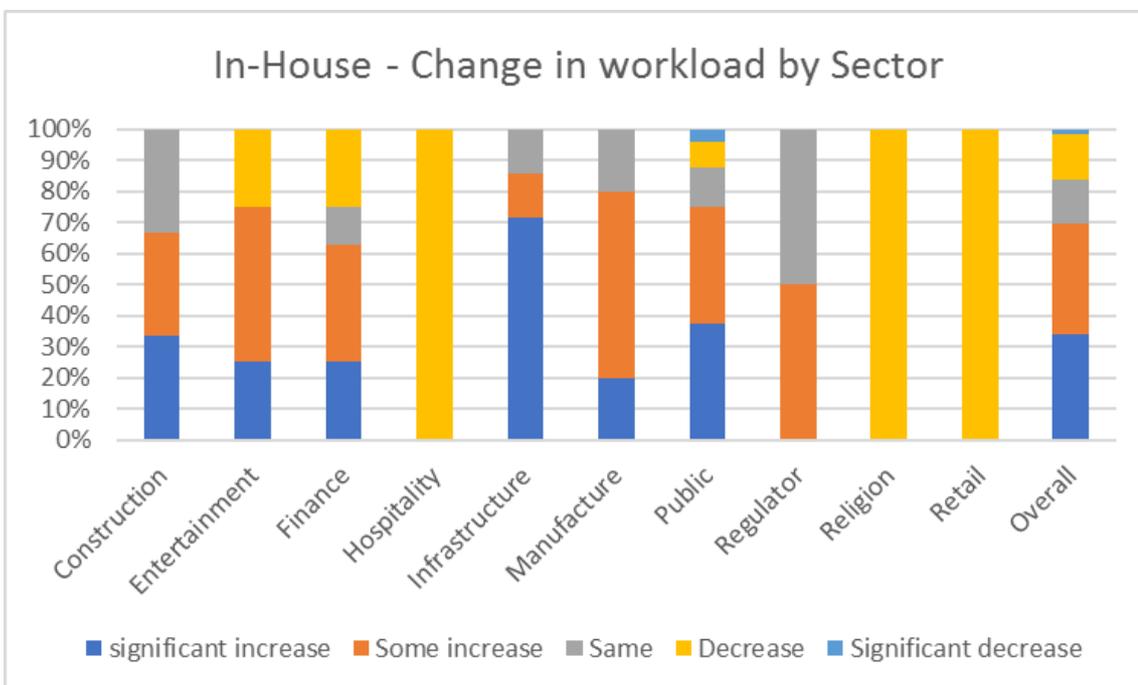


There was little difference in considering this question by the number of solicitors working for the organisation, although adapting to the necessary change has perhaps been slightly more challenging for some working as sole in-house counsel where only 45% adapted very well as opposed to approximately 80% of those organisations with more than one in-house solicitor.



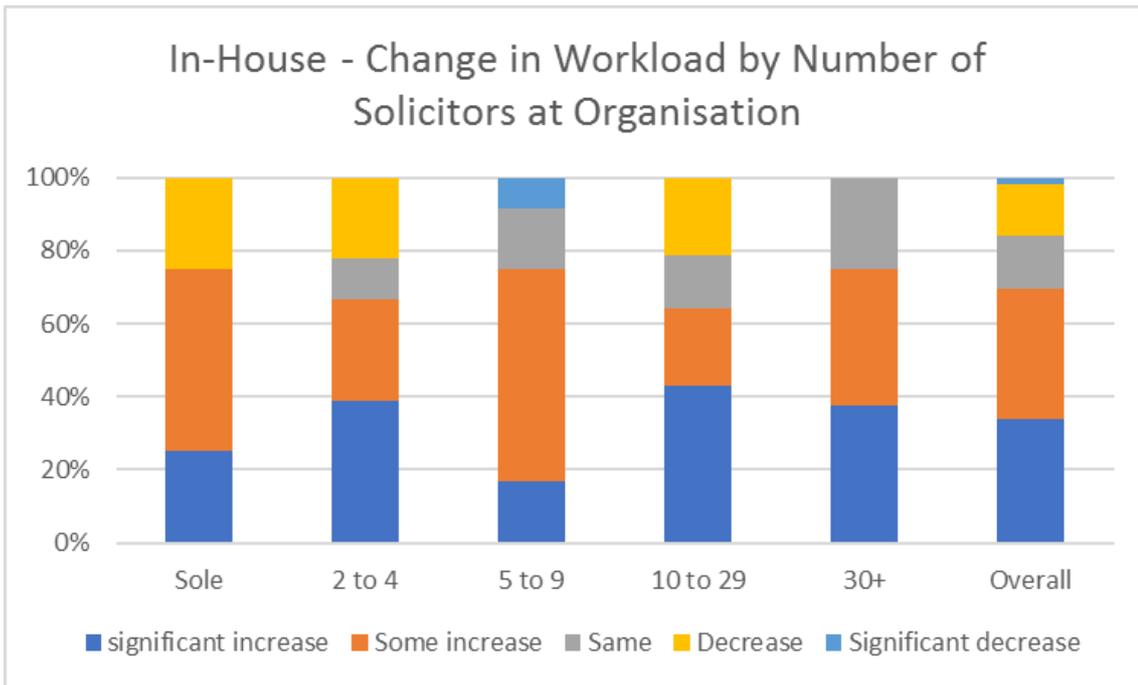
Again, this question by location demonstrated a fairly stable response, although 100% of those organisations in rural locations answered very well as opposed to only 62% of those organisations in remote locations. Overall, a figure of 80% very well and 20% satisfactorily was shown.

**Q2 What impact has Covid-19 had on the in-house legal team's workload?**

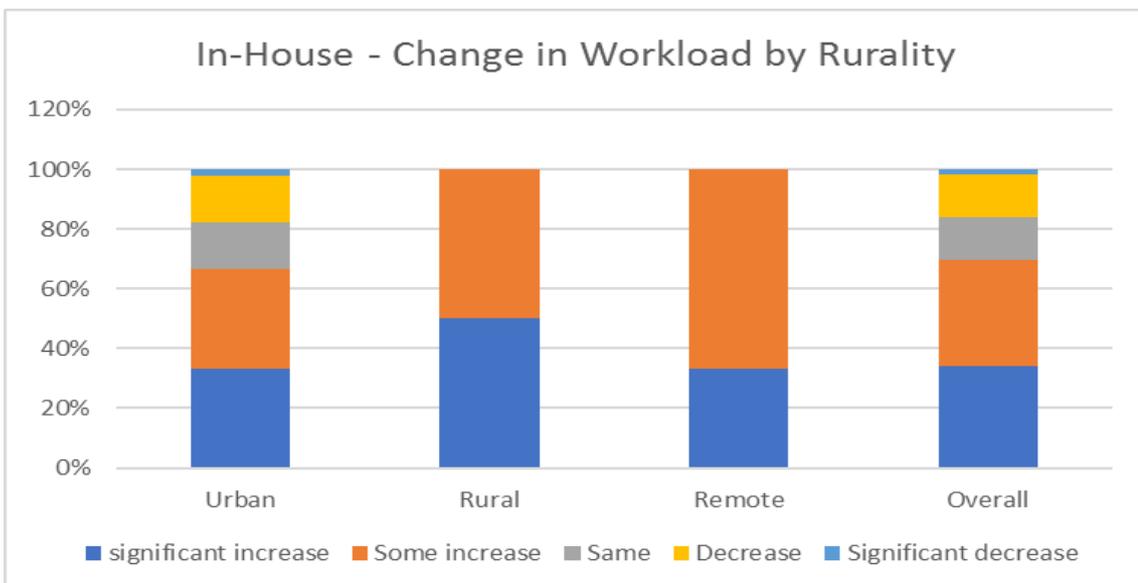


Question 2 by sector highlighted some marked variation in change of workload. In particular, 100% those working in hospitality, religion and retail had seen a decrease in workload, while between 50% and 80% of those in all other sectors had seen either a significant increase or an increase in workload. The decrease in workload, particularly for

hospitality and retail, is no doubt indicative of the economic downturn experienced by those particular sectors at present.

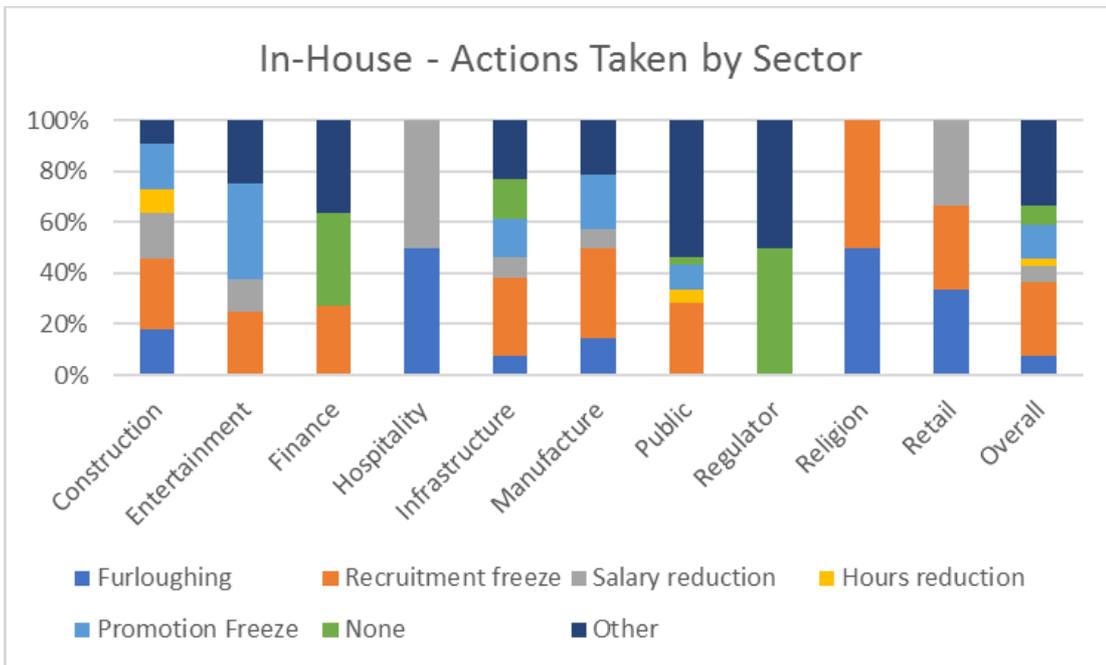


The variation in workload according to number of solicitors at the organisation was less apparent, with between 60% and 80% of organisations experiencing either significant increase or some increase in workload.



Again, in considering question 2 by location, there were no real differences with most organisations experiencing either a significant increase or an increase in workload. Interestingly, 100% of organisations in either rural or remote locations had experienced no decrease in workload, compared with 20% of organisations in urban locations who had experienced either a decrease or a significant decrease in workload.

**Q3 Which of the following have been introduced for the in-house legal team specifically in response to the current crisis?**



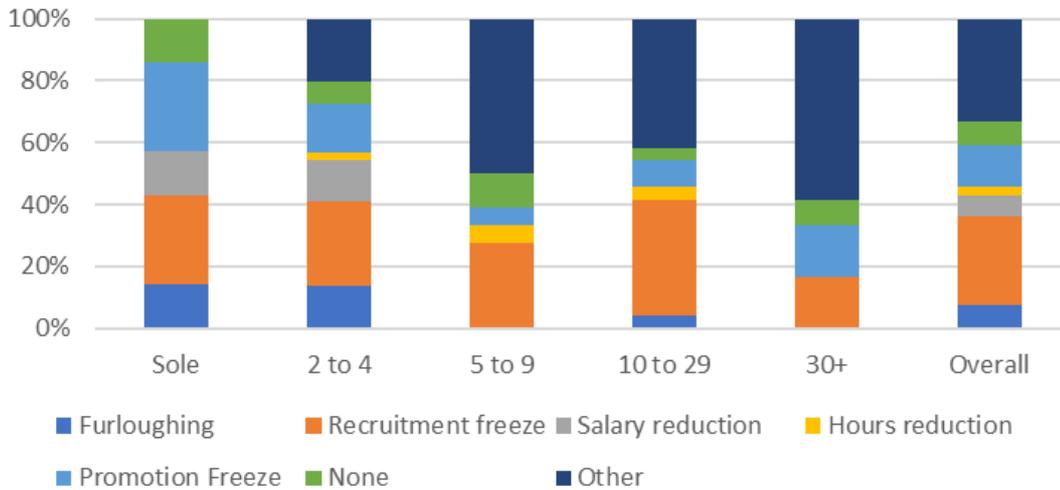
At question 3, respondents were entitled to answer more than one option, and also to provide an indication of any other measure introduced in response to the current crisis.

Responses varied significantly according to sector. In particular, furloughing of in-house legal services staff would be unlikely to apply to the public sector where minimal use has been made of furloughing in general. It is worth noting, however, that there were sectors, where there had been no furloughing of in-house legal services staff.

It appears that there has been a greater introduction of measures, in particular, furloughing and salary reduction in hospitality and retail. This would again appear to indicate a greater downturn in those particular sectors as their in-house legal teams have to make necessary economies.

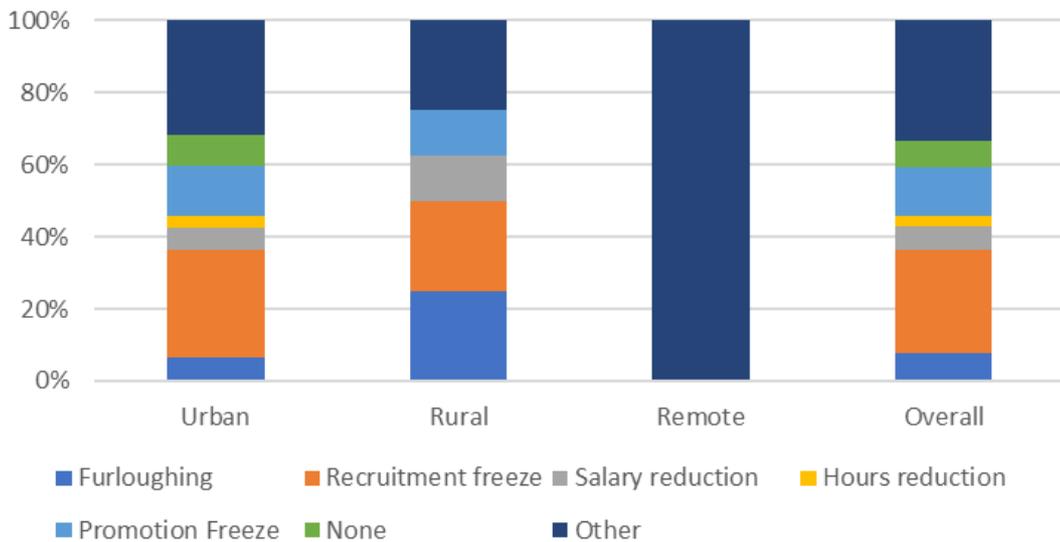
While most respondents across the various sectors had indicated home working as an action taken under “other”, some public sector respondents had also indicated the introduction of greater flexibility in working hours to accommodate childcare arrangements and other arrangements for those with caring responsibilities.

In-House - Actions Taken by Number of Solicitors at Organisation



There was no significant difference in actions taken by number of solicitors at the organisation, although both furloughing and salary reduction were actions taken in those organisations with sole counsel or between 2 and 4 solicitors. A very small percentage of those organisations with between 10 and 29 solicitors did, however, indicate that in-house legal services staff had been furloughed. Overall, this would tend to suggest a smaller economic impact at least on larger in-house legal teams.

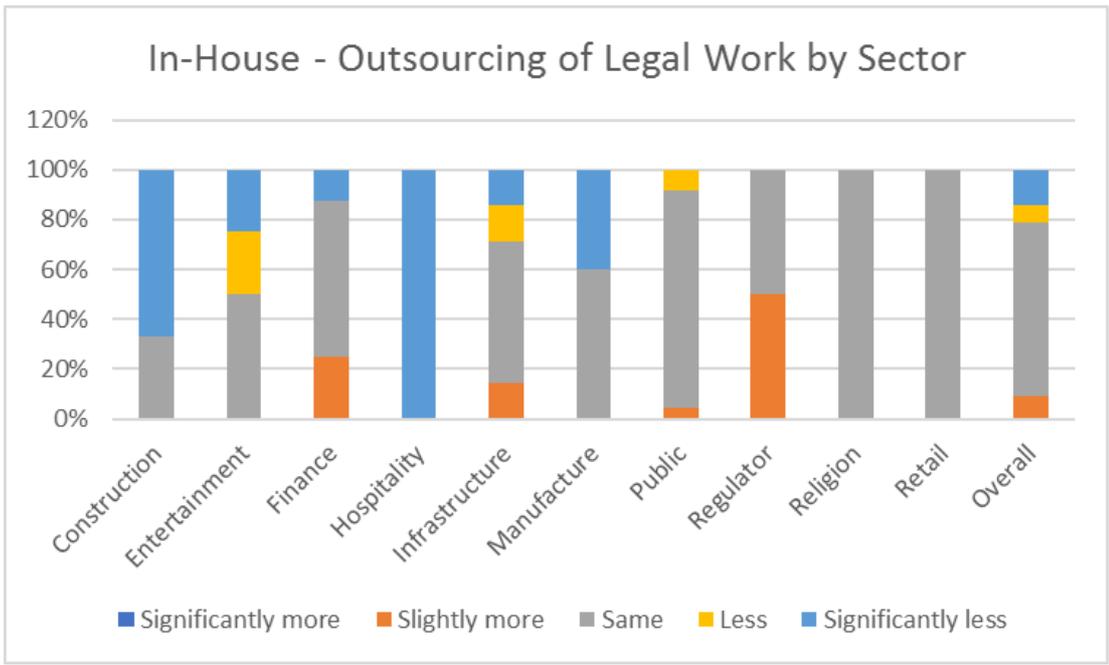
In-House - Actions Taken by Rurality



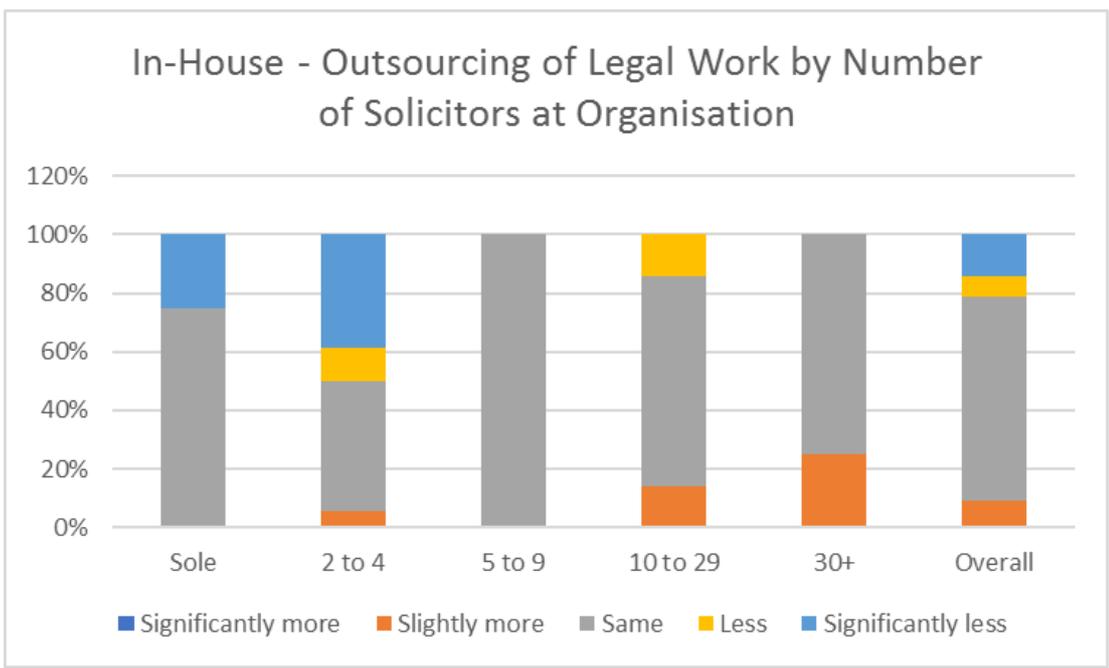
There is some difference between urban and rural in-house legal services in that there is a greater implementation of both furloughing and salary reduction in rural (approximately 22% and 7% respectively) than in urban areas (approximately 4% and 4% respectively).

In those interviewed from remote areas, they indicated under “other” that home working, flexible working and IT arrangements had been introduced.

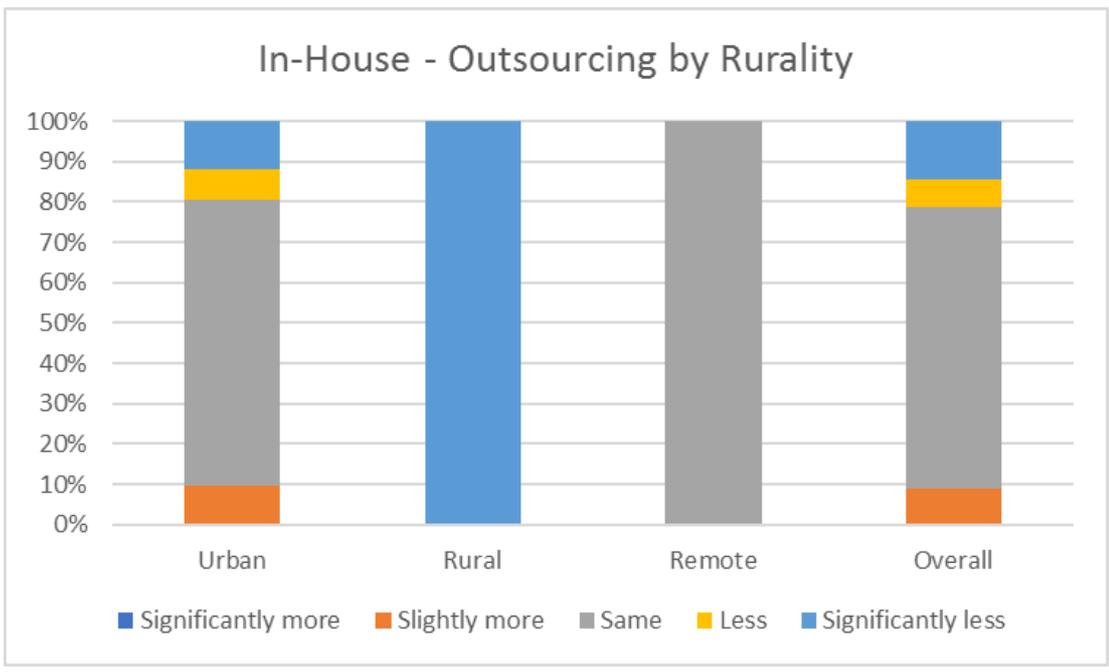
**Q4 What impact has Covid-19 had on the in-house legal team’s need to outsource legal work to law firms?**



The need to outsource legal work by sector varied somewhat according to sector. Only finance, public and regulator saw slightly more of an increase, to varying degrees. The most common overall response was that it remained the same. This took into account those in-house legal services which historically did not outsource legal work who noted that this hadn't changed as a result of Covid-19. While both construction and entertainment showed a marked decrease in outsourcing legal work, hospitality once more appeared to be the one sector most affected on the basis that outsourcing work and the consequent cost of this, was significantly less than it had been prior to the crisis.

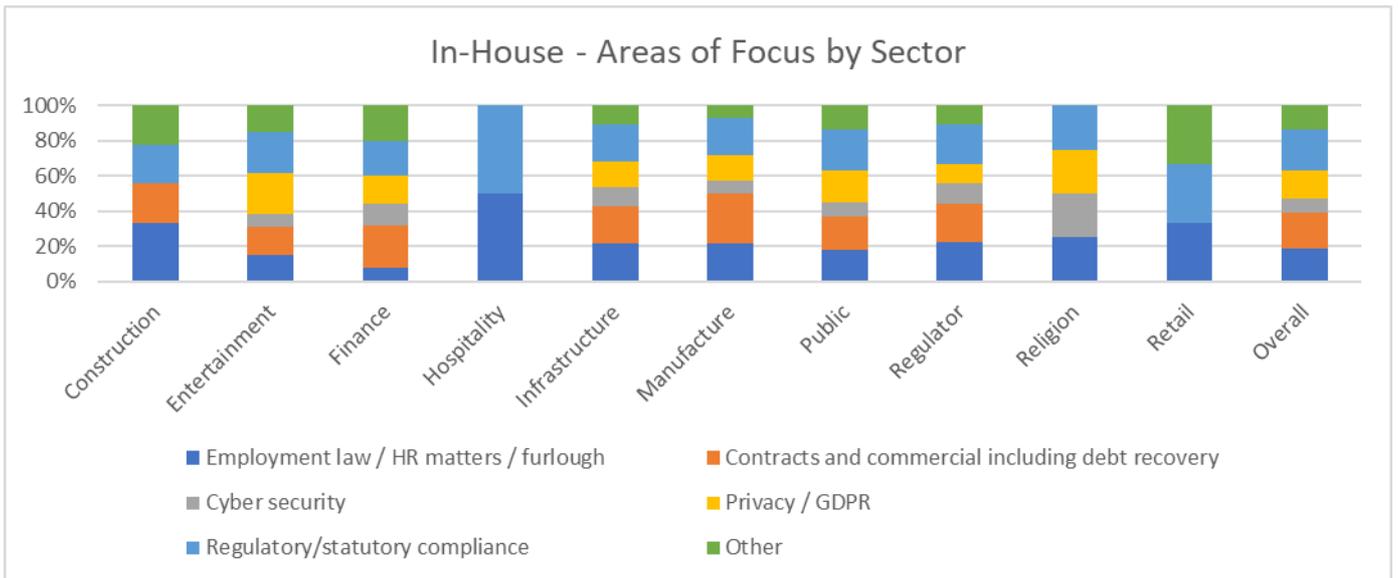


The question of outsourcing legal work appeared to remain more or less the same (including no legal work at all being outsourced as was the position prior to the crisis) regardless of the number of solicitors at the organisation. There does appear to be a slight correlation (with the exception of legal teams of 5 to 9 people) between an increased need to outsource legal work and the number of solicitors in the organisation, with the biggest in-house teams also being those who reported more use of outsourcing. This would tend to suggest that there is still the money available to support outsourcing in some businesses, possibly a sign that organisations with more in-house solicitors have not been as adversely affected by the crisis. However, it could also mean that the requirements of businesses with legal in-house teams have been for advice and support in specialist areas not within the normal range of experience of their employees.



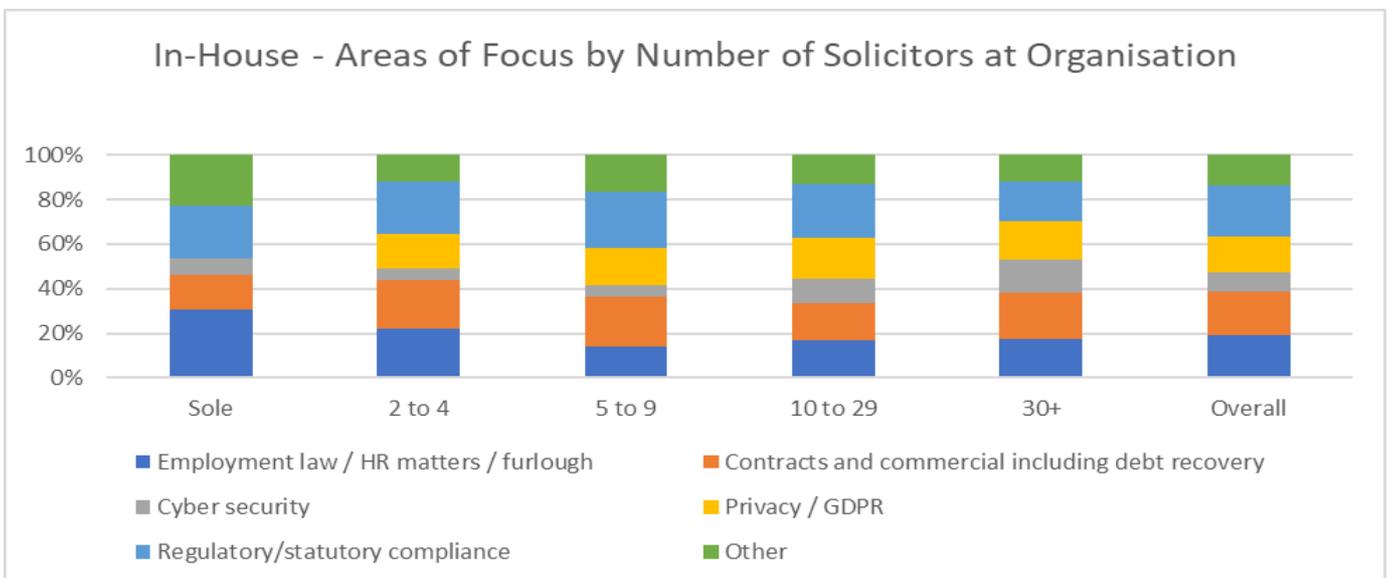
In terms of location, both urban (70%) and remote (100%) indicated that the need to outsource remains the same. Again, this takes into account the position where there was previously no outsourcing. Only 10% of urban showed a slight increase. This would correlate to bigger numbers of in-house solicitors working in urban settings, not surprisingly. 100% of organisations in rural settings showed a significant decrease in outsourcing. This may suggest a downturn if outsourcing work can be considered an economic indicator. As all rural respondents had previously indicated that workloads of their in-house team had increased to some extent, it may indicate that there is no fall in the work which needs done, just in the budget available to buy-in extra resource to do it.

**Q5 Which areas has the in-house legal team had to focus on more as a result of Covid-19?**

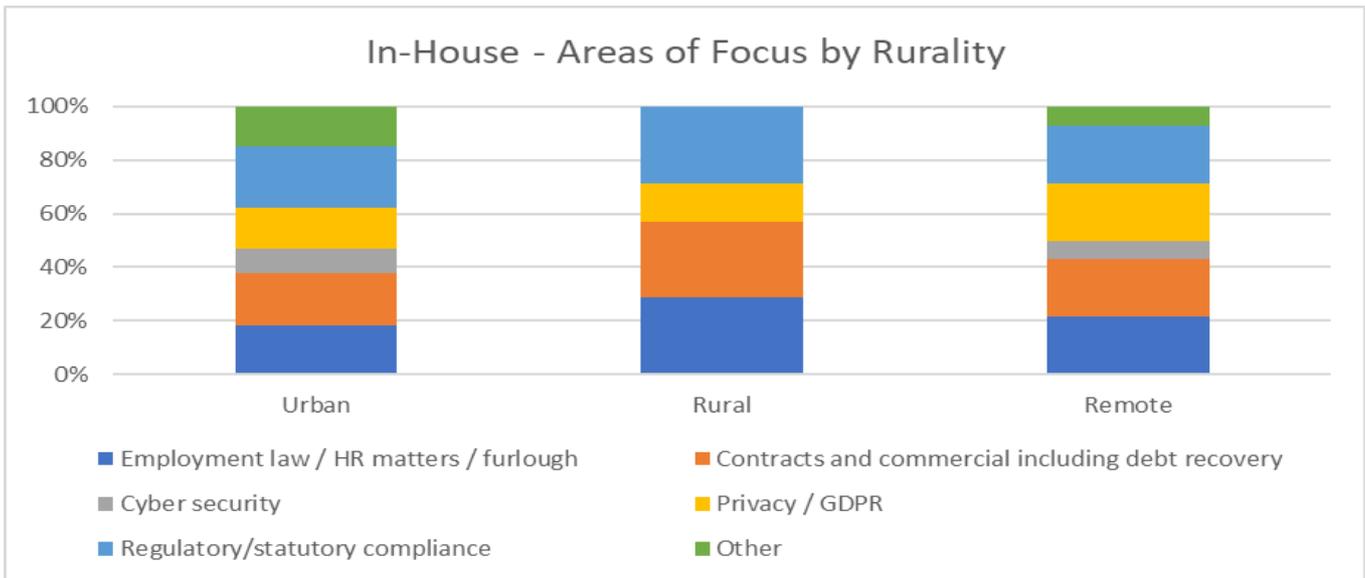


Question 5 allowed for multiple responses as listed in the diagram immediately above. There was some consistency in response to the various options across the sectors. Hospitality and retail were roughly divided in half between employment law etc. and regulatory/statutory compliance. This may suggest that these sectors have been more affected than others on the basis that such advice relates to changes required in personnel and operability.

In terms of other areas, a number of public sector organisations cited law reform in general and emergency legislation in particular as areas where advice to their employers needed an increased focus as a result of Covid-19.

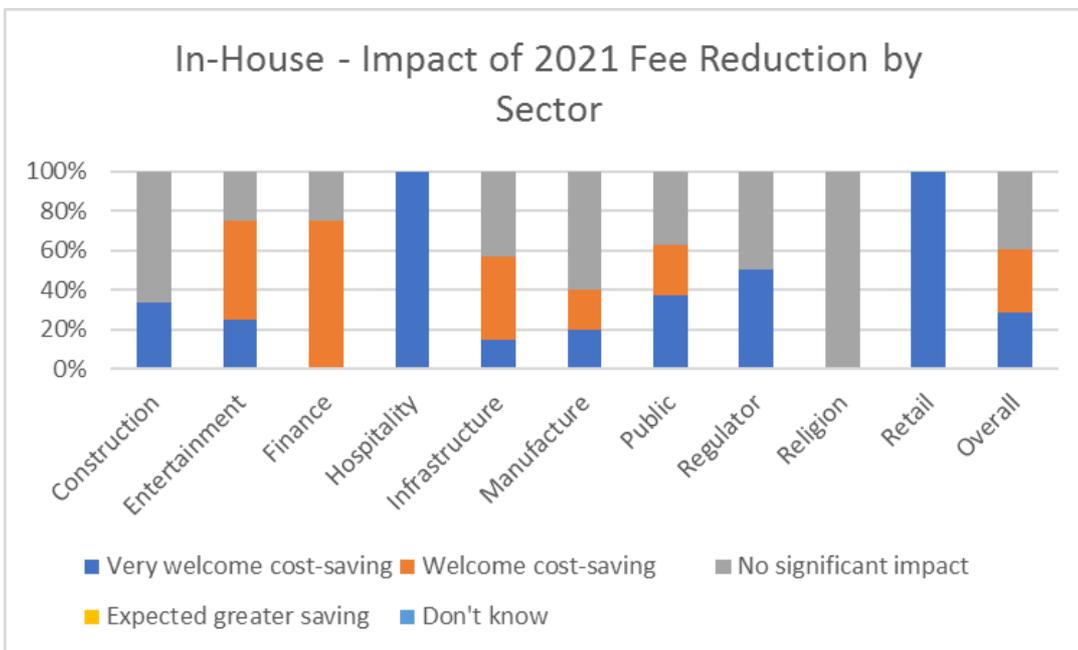


There appeared to be much less of a difference in consideration of the areas of increased focus by number of solicitors at the organisation. The only apparent anomaly here is that there had been no increased focus on privacy/GDPR in organisations with sole counsel.



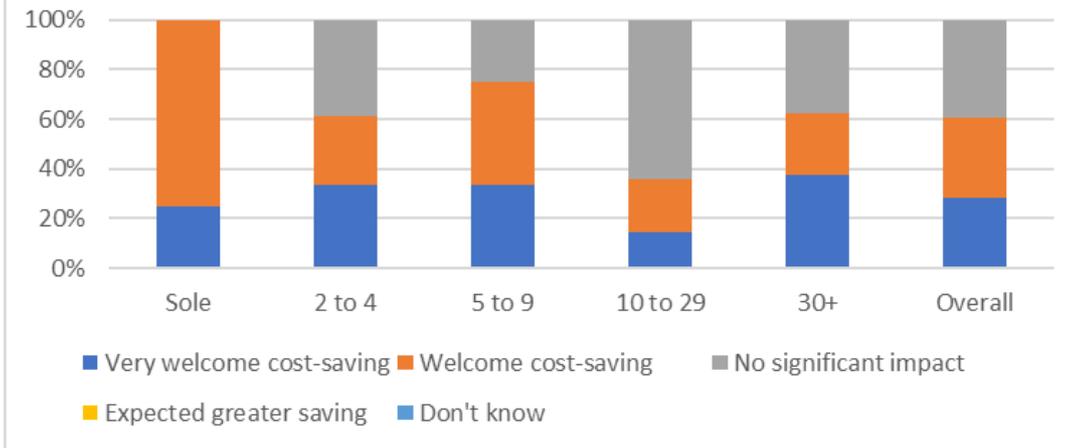
Again, when considering this question and the various answer options by location, there was no apparent difference other than there being no increased focus on cyber security in rural organisations.

**Q6 What impact will the Society’s recently announced 20% reduction in the PC fee for 2020/21 have on the budget for your in-house legal team?**



Question 6 by sector outlined that the Society’s announcement of a 20% reduction in the PC fee for 2020/21 was considered a very welcome cost saving (100%) in both retail and hospitality. This would correlate with those particular in-house sectors being most affected in terms of the downturn. Also, approximately 75% of those interviewed in both entertainment and finance considered this either a very welcome or a welcome cost saving. Overall, this figure is 60%.

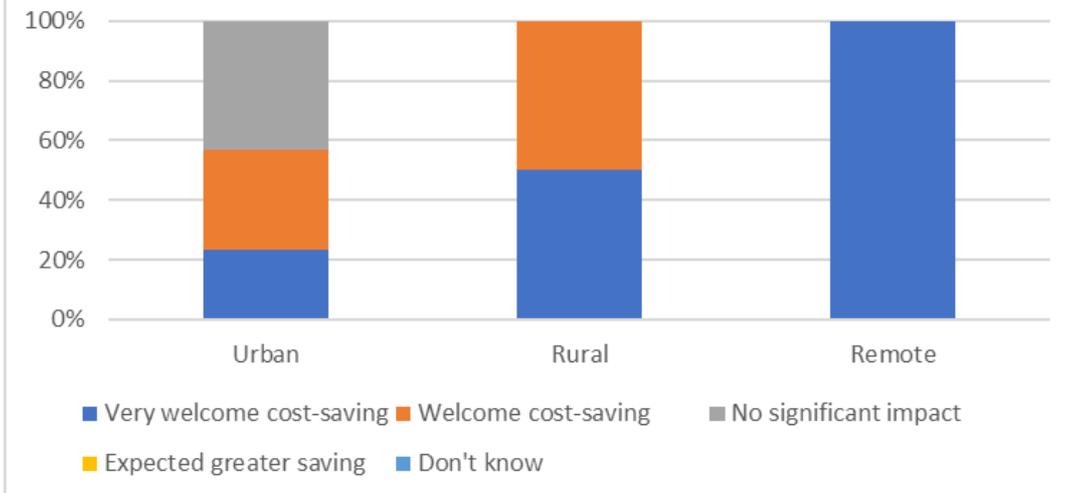
In-House - Impact of 2021 Fee Reduction by Number of Solicitors at Organisation



Question 6 by number of solicitors at the organisation is relatively consistent, although 100% of sole counsel interviewed stated that this was either a very welcome cost saving (22%) or a somewhat welcome cost saving (78%).

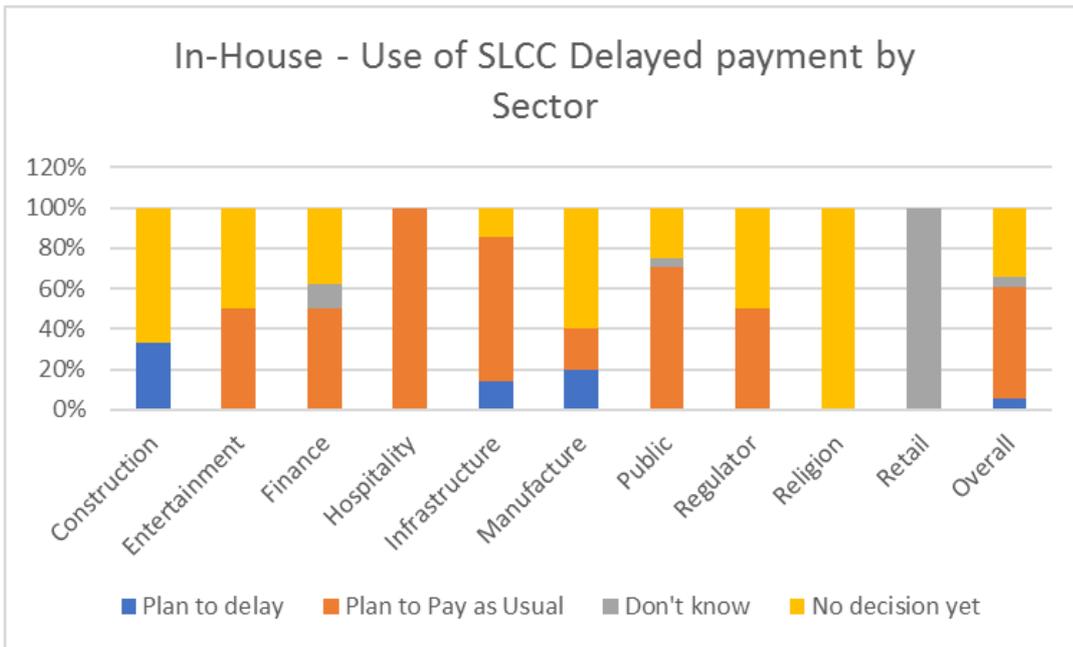
A large majority of those organisations which stated that there would be no significant impact, and in particular the organisations with larger in-house legal teams, did so on the basis that, while any saving is welcome, as an overall proportion of the in-house legal team’s expenditure this was not a significant amount of money.

In-House - Impact of 2021 Fee Reduction by Rurality



Question 6 by location shows that the more rural or remote the organisation, then the more welcome the cost saving. Again, a large majority of those in charge of in-house legal services in urban locations who stated “no significant impact” did so on the basis of the saving being a very small proportion of the service’s overall budget.

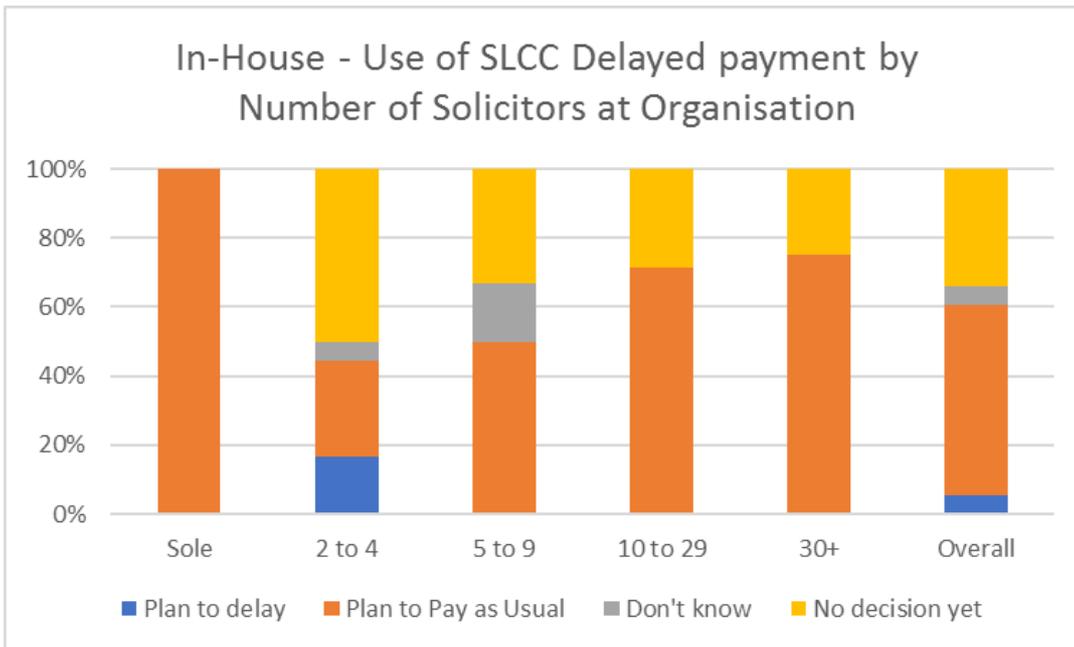
**Q7 Will your in-house legal team exercise the option to delay SLCC Levy payment? – see Appendix 1 for full question**



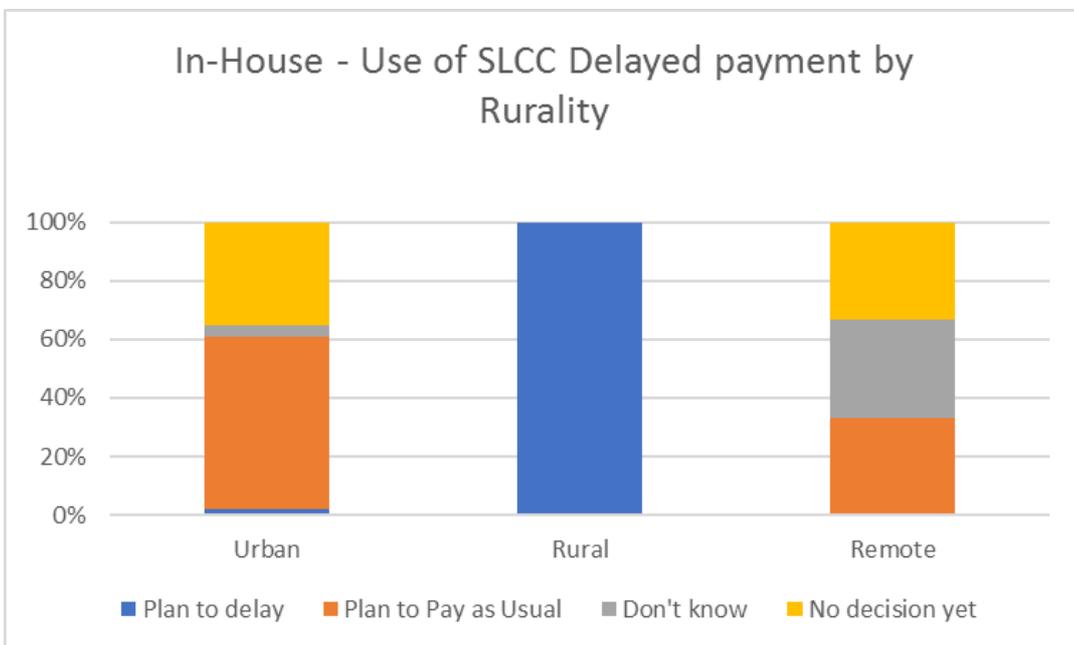
Question 7 by sector indicates that only construction (approximately 32%), infrastructure (approximately 10%) and manufacture (20%) of those interviewed stated that their in-house legal team would take advantage of deferring the SLCC levy payable on 30<sup>th</sup> June 2020 until 31<sup>st</sup> October 2020. Curiously, 100% of those heads interviewed from in-house legal teams serving hospitality businesses stated that they would not take advantage of this deferral and pay as usual.

Also, 100% from retail did not know if their organisation would take advantage of the option to defer payment.

This question has to be set against timing of interview. A number of those who planned to pay as usual stated that payment had already been made. A number who stated that no decision had yet been taken noted that the agreement to defer payment had only relatively recently been made and their organisation had had insufficient time to consider their position on it.

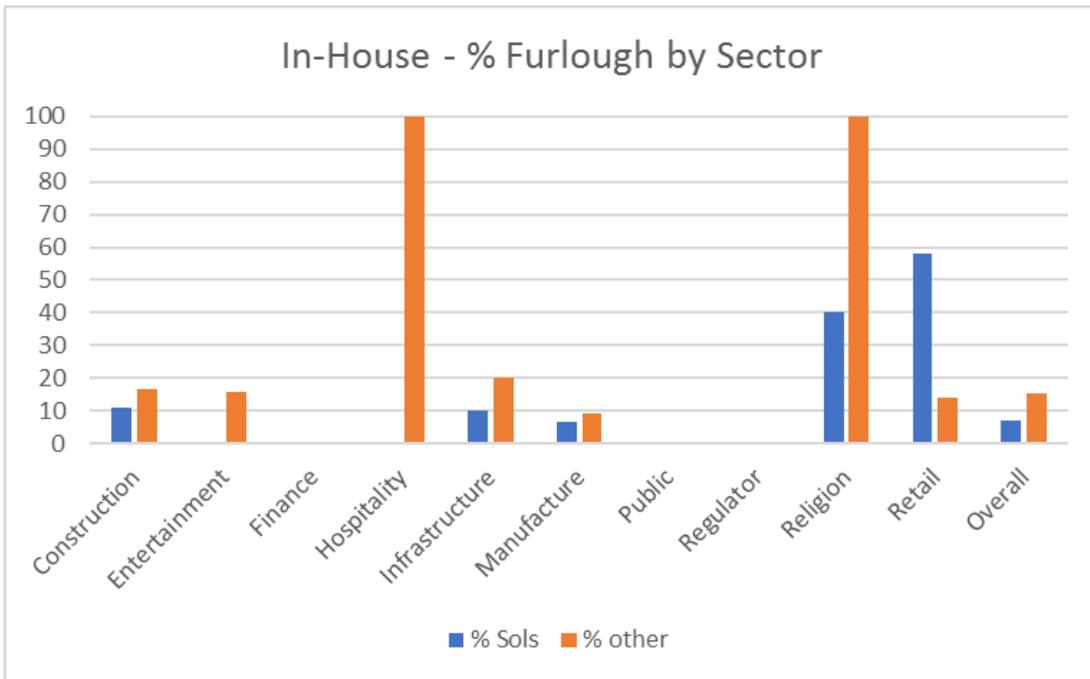


Question 7 by number of solicitors in organisation demonstrates that only the cohort 2-4 (approximately 18%) indicated that they would defer payment of the SLCC levy. 100% of sole counsel planned to pay as usual, presumably on the basis that the cost is insignificant in relation to their overall budgets in that it is for just one solicitor. Approximately 70% of the 10-29 cohort and 75% of the 30+ cohort also planned to pay as usual, some having stated that they already had paid or at least budgeted for paying the levy.



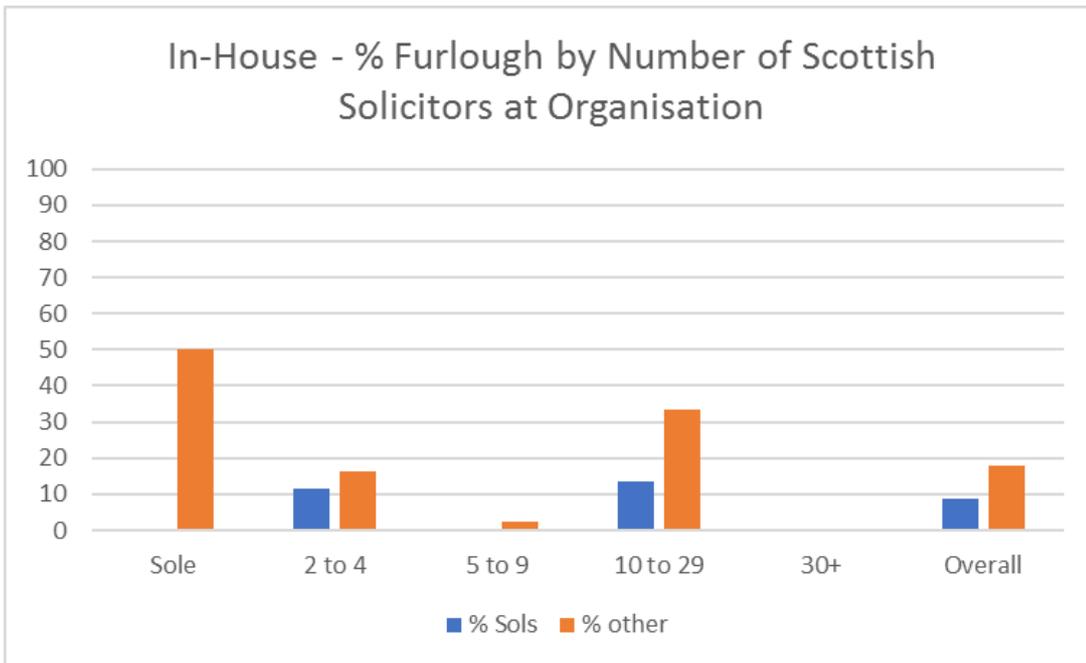
Question 7 by location indicates that rural is an outlier in that 100% of those heads interviewed indicated that they would take advantage of the option to defer.

**Q8 Approximately what percentage of (a) solicitor staff and (b) non-solicitor staff has your employer furloughed under the UK Government’s job retention scheme**



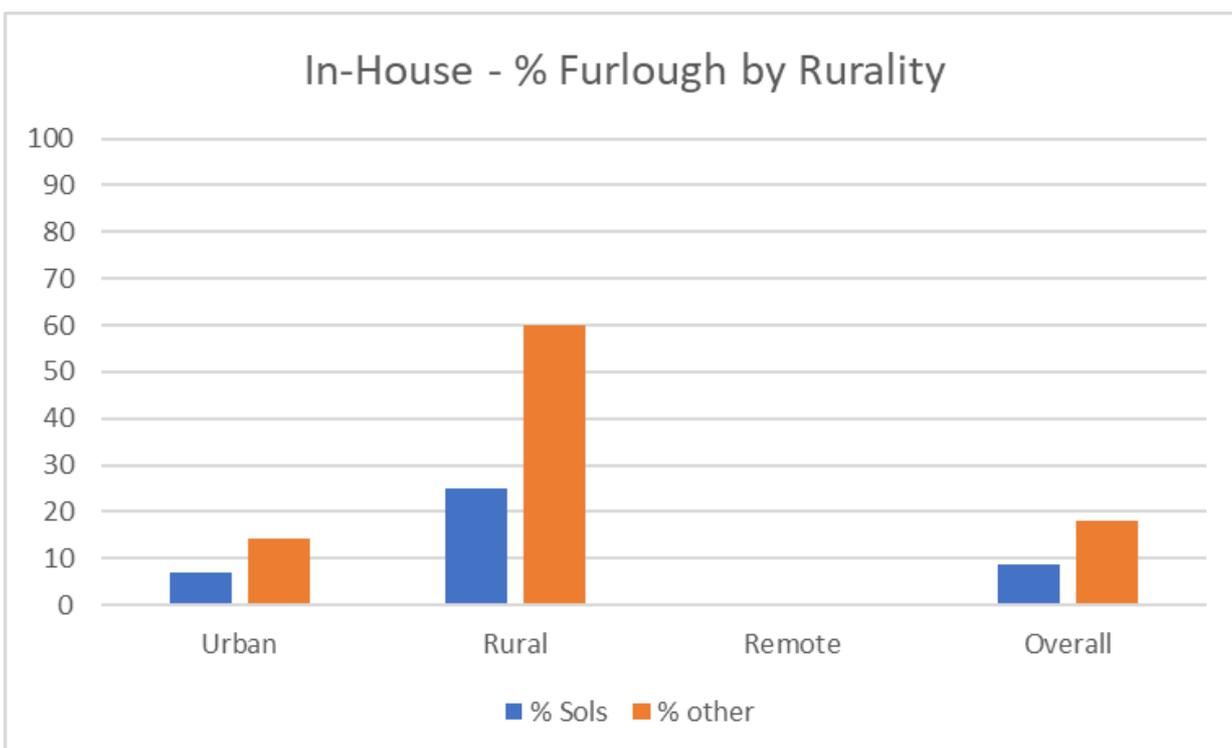
Question 8 by sector shows us that no public sector in-house solicitor or non-solicitor staff had been furloughed, this is not surprising as there has been minimal use of the scheme in this sector. This is, however, also the position with responses from the regulator sector. However, this is not indicative of the whole sector as while not a respondent to the survey the Society is a regulator and has made use of the furlough scheme for both solicitor and non-solicitor staff.

Overall it is interesting to note that, while furlough rates in other sectors are relatively low, this contrasts sharply with retail where almost 60% of solicitor staff have been furloughed and also hospitality and religion where 100% of non-solicitor staff have been furloughed. In terms of economic downturn by sector, this is another indicator of the sectoral effect, particularly so in retail.



Question 8 by number of solicitors at organisation shows that organisations with over 30 solicitors haven't furloughed any of their in-house legal teams. This may be explained by a large number of those organisations being public sector where the scheme has not generally been used.

Interestingly, half of organisations with sole counsel have furloughed non-solicitor staff from their in-house legal services. While relatively low approximately 10% of solicitors from the 2 to 4 and the 10-29 cohorts have been furloughed.



Question 8 by location suggests that in-house legal services in rural locations are more likely to have furloughed both solicitor and non-solicitor staff than those in urban locations.



**In-house Coronavirus Pandemic Survey**



Standard Introduction

“Good morning/afternoon/evening. My name is....calling from the Law Society of Scotland. We would like to ask you some questions on the impact on you and/or your in- house legal team that the coronavirus pandemic has had on your business- In particular, we would like to consider this information in negotiations with the Scottish Government and the SLCC around the annual levy paid to the Commission. This survey should take no longer than ten minutes of your time.

If you are happy to provide a response, I'd proceed to questions

Employer iMIS ID (from Call list)	
Employer Name (from Call list)	
Name of contact (from Call list)	

<b>1</b>	<b>How well has your in-house legal team adapted to the necessary change in working practices (e.g. working from home)?</b>	<b>Insert X</b>
(i)	Very well	
(ii)	Satisfactorily	
(iii)	Not very well	

<b>2</b>	<b>What impact has Covid-19 had on the in-house legal team's workload?</b>	<b>Insert X</b>
(i)	Significant increase	
(ii)	Some increase	
(iii)	Remained the same	
(iv)	Some decrease	
(v)	Significant decrease	

<b>3</b>	<b>Which of the following have been introduced for the in-house legal team specifically in response to the current crisis?</b>	<b>Insert X</b>
(i)	Furloughing	
(ii)	A recruitment freeze	
(iii)	A salary reduction	
(iv)	Hours reduction	
(v)	Promotion freeze	
(vi)	None	
(vii)	Other – please specify	

<b>4</b>	<b>What impact has Covid-19 had on the in-house legal team's need to outsource legal work to law firms?</b>	<b>Insert X</b>
(i)	Significantly more work being outsourced	
(ii)	A little more work being outsourced	
(iii)	The amount of work being outsourced remains the same	
(iv)	A little less work being outsourced	
(v)	Significantly less work being outsourced	

<b>5</b>	<b>Which areas has the in-house legal team had to focus on more as a result of Covid-19?</b>	<b>Insert X</b>
(i)	Employment law / HR matters / furlough	
(ii)	Contracts and commercial including debt recovery	
(iii)	Cyber security	

(iv)	Privacy / GDPR	
(v)	Your employer's regulatory / statutory compliance	
(vi)	Other – please specify	

<b>6</b>	<b>What impact will the Society's recently announced 20% reduction in the PC fee for 2020/21 have on the budget for your in-house legal team?</b>	<b>Insert X</b>
(i)	A very welcome cost-saving	
(ii)	A somewhat welcome cost-saving	
(iii)	No significant impact	
(iv)	I had expected a greater saving	
(v)	Don't know	

<b>7</b>	<b>The SLCC levy is payable on 30 June 2020. However, the Society and the SLCC have now reached an agreement whereby practitioners now have the option of deferring payment until 31<sup>st</sup> October 2020. This agreement has been reached in response to the significant impact of the coronavirus pandemic on the legal profession, clients and public. Will your in-house legal team exercise this option?</b>	<b>Insert X</b>
(i)	Yes	
(ii)	No	
(iii)	Don't know	
(iv)	No decision has been taken yet	

<b>8</b>	<b>Approximately what percentage of (a) solicitor staff and (b) non-solicitor staff has your employer furloughed under the UK Government's job retention scheme</b>	
(i)	Solicitor staff	%
(ii)	Non solicitor staff	%

(iii)	Not applicable	
(iv)	Don't know	

**For further information, please contact:**

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