

UNREGULATED PROVIDERS - GETTING TO KNOW THE COMPETITION



Unregulated legal services providers have long been a feature of our legal services market. However, until now, little was known about them, as Chris Nichols reports.

In May, the Legal Services Board (LSB) published two research reports into the unregulated side of the legal services market which, for the first time, start properly to fill this gap in knowledge (<https://research.legalservicesboard.org.uk/news/latest-research-13/>).

The LSB undertook this research because the Legal Services Act 2007 gives us the power to extend consumer protection to unregulated providers (s.163). Before deciding to do anything in this area, we needed to know more about the services offered, to make an informed decision on whether or not to exercise our power. We also felt that it was crucial to understand better the full range of choices that consumers have, to improve our effectiveness in promoting the regulatory objectives set out in the Act.

What does this research tell us? It tells us that in addition to doing work that could be done by regulated providers, unregulated providers are finding ways to tap into the huge pool of potential customers who might otherwise not get advice. Our research sheds light on how they are doing this. It is worth bearing in mind that our 2016 legal needs survey found that 64% of consumers do not seek advice when presented with a legal problem (<https://research.legalservicesboard.org.uk/reports/measuring-the-impacts-of-reform/prices-of-individual-consumer-legal-services/>).

Overall, we found that for profit unregulated providers handle approximately 5% of cases in which a consumer pays for advice. There is significant variation across different practice areas but the five areas where unregulated providers have the highest market share are divorce, property, wills, intellectual property and employment law.

Type of work	Indicative market share	Types of for profit unregulated providers
Family (divorce)	10-13% (23-30,000 clients per year)	Online divorce providers Fee-charging McKenzie Friends
Property, construction and planning	10-11%	Landlord advice services Tenant eviction services
Wills, trust and probate	7-9% (65,000 wills a year)	Wills and estate administration providers Specialist will writers DIY/automated providers
Intellectual Property	7-8%	Trademark and patent providers Invention promotion companies
Employment	4-5%	HR/business support services Fee-charging McKenzie Friends

The research shows that unregulated providers have secured their share of the market without being able to rely on title, regulatory status or passing trade (very few have offices). Three explanations for how they have achieved this stand out from our research.

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Price transparency

Unregulated providers are likely to advertise fees up front and offer certainty on price. For example, ten out of 11 unregulated divorce providers offer up front fixed fees on their websites. Similarly, unregulated will writers are far more likely to provide consumers with a menu of outline prices than solicitors (76% compared to 44%). We also found that 30% of consumers who did not use a solicitor to resolve a legal problem, did not do so because they *assumed* that it would cost too much.

Innovation and client acquisition

Unregulated providers devote significant time and resources to developing innovative services to attract clients. For example, the unregulated divorce market is concentrated in a small number of providers with comprehensive online marketing strategies, including buying adwords and investing in search engine optimisation. Clients who type “divorce” into a search engine will instantly be met with fixed price quotes for “quick” and “easy” divorces from providers with online platforms which allow consumers to get going immediately. At the other end of the spectrum, the majority of unregulated will writers offer home visits, minimising the effort required of consumers to make a will.

Consumer awareness of regulatory status

There is some lack of knowledge or ambivalence amongst consumers about regulatory status. We actually found that the majority of consumers who use unregulated providers did check whether they were regulated but a significant minority (35%) did not. Of those who didn't, the main reasons were: assuming that the provider was regulated (42%); not thinking regulation was important (26%); and not knowing how to check (12%).

What does this tell us? We are concerned that a minority of consumers are using unregulated providers without making an informed decision. More can be done to assist consumers to understand the different levels of consumer protection. However, we have concluded that there is not a compelling case for seeking to exercise the powers that the Act gives us in relation to unregulated providers. The research did not identify evidence of significant consumer detriment that would justify further action at this stage. We were also concerned about the feasibility of funding an LSB-sponsored voluntary arrangement under s.163, in the light of limited interest amongst providers and constraints on our power to recoup costs.

Beyond the LSB, we hope law firms can also learn from the findings of our research, which provides valuable insights into the approaches that unregulated providers are taking to building their businesses. •

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