Evaluation: Changes in the legal services market 2006/07 - 2014/15 – Main report

An analysis of market outcomes associated with the delivery of the regulatory objectives

July 2016
Acknowledgements

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Changes in the legal services market 2006/07 - 2014/15

Contents

1. Approach to this analysis ................................................................................................................. 1

2. Environmental context and drivers for change ............................................................................... 3
   Summary ........................................................................................................................................ 3
   Why this is of interest ...................................................................................................................... 4
   Economic factors ............................................................................................................................. 4
   Technological factors ....................................................................................................................... 9
   Government reforms to the legal sector ......................................................................................... 10
   Changes to regulation ..................................................................................................................... 12

3. The evaluation framework: perspectives and outcomes ............................................................... 16

A. The market perspective ..................................................................................................................... 17

   Desired outcome A.1. The market for legal services is more competitive .................................. 18
      Summary ....................................................................................................................................... 18
      Why this is of interest .................................................................................................................... 19
      Solicitors ..................................................................................................................................... 21
      SRA regulated new Business Structures ................................................................................... 26
      Barristers ..................................................................................................................................... 32
      Chartered Legal Executives .......................................................................................................... 35
      Licensed Conveyancers ............................................................................................................... 36
      Patent Attorneys and Trademark Attorneys .............................................................................. 37
      Costs Lawyers ............................................................................................................................... 37
      Notaries ....................................................................................................................................... 38
      Accountants ................................................................................................................................. 38
      Unregulated legal service providers ......................................................................................... 38
      Changes in the nature of competition in different market segments ........................................... 41

   Desired outcome A.2. More consumers are able to get legal services at an affordable cost .......... 43
      Summary ....................................................................................................................................... 43
      Why this is of interest .................................................................................................................... 44
      Changes in the types of funding for legal services ..................................................................... 45
      Changes in charging methods for individual consumers ......................................................... 46
      Prices quoted for individual consumers .................................................................................... 49
      How individual consumers paid for legal services .................................................................... 50
      Changes in business to business prices over time ...................................................................... 51
      Changes in guideline hourly rates ............................................................................................... 51
      Changes in the cost of enforcing contracts ................................................................................. 53

   Desired outcome A.3. There is a greater plurality of, and innovation in, legal services offered .... 54
      Summary ....................................................................................................................................... 54
      Why this is of interest .................................................................................................................... 55
      Benefits of innovation in legal services .................................................................................... 55
      Levels of innovation .................................................................................................................... 57
      Changes since 2009 ...................................................................................................................... 57
      Drivers of innovation .................................................................................................................... 57
      Barriers to innovation .................................................................................................................. 58
      Innovation in different market segments .................................................................................... 60

B. The consumer perspective .................................................................................................................. 64

   Desired outcome B.1. A higher proportion of the public are able to access justice. ....................... 65
      Summary ....................................................................................................................................... 65
      Why this is of interest .................................................................................................................... 66
Measuring access to justice .................................................................................................................. 66
Changes in the incidence of legal problems ...................................................................................... 68
Changes in how consumers respond to legal problems ...................................................................... 70
Changes in supply of legal services .................................................................................................... 81
Trends in the use of formal dispute resolution .................................................................................... 85
Changes in outcomes achieved........................................................................................................... 87

Desired outcome B.2. Consumers have confidence in the regulation of legal services .................. 89
Why this is of interest ............................................................................................................................. 90
Perception of legal professionals ......................................................................................................... 90
Consumer awareness of regulation and complaints ........................................................................... 90
Confidence that rights are protected .................................................................................................. 92

Desired outcome B.3. Consumers are confident and empowered in their dealings with legal services .... 95
Why this is of interest ............................................................................................................................. 96
How consumers choose providers ....................................................................................................... 97
Levels of shopping around .................................................................................................................. 101

C. The provider perspective .................................................................................................................... 103

Desired outcome C.1. Diversity of the legal professions shows greater similarity to the client population... 104
Summary ................................................................................................................................................ 104
Why this is of interest ............................................................................................................................. 105
Gender .................................................................................................................................................. 106
Ethnicity ............................................................................................................................................... 110
Disability ............................................................................................................................................. 114
Educational background ....................................................................................................................... 115
Sexual orientation ................................................................................................................................ 117

Desired outcome C.2. Quality of legal services is improved overall compared to 2009 ..................... 119
Summary ................................................................................................................................................ 119
Why this is of interest ............................................................................................................................. 120
How we measure changes in quality .................................................................................................... 120
Measures of service quality: consumer satisfaction ............................................................................ 121
Measures of service quality: first tier complaints .............................................................................. 123
Measures of service quality: second tier complaints ......................................................................... 126
Measures of service quality: Professional negligence claims ............................................................. 131
Measures of professional conduct ....................................................................................................... 132
Measures of technical competence: quality mark schemes ................................................................. 137
Measures of technical competence: rejection rates for processes ....................................................... 138
Measures of technical competence: insurance claims ......................................................................... 139
Measures of technical competence: studies of the quality of advice .................................................. 140

Desired outcome C.3. The profession and judiciary maintain confidence in the independence and reputation of the legal sector ................................................................. 141
Summary ................................................................................................................................................ 141
Why this is of interest ............................................................................................................................. 142
The independence of the wider legal system from the state ................................................................. 142
The independence of lawyers from owners’ interests ......................................................................... 143
Independence of regulation from representation ............................................................................... 143

D. The public perspective ...................................................................................................................... 145

Desired outcome D.1. Wide confidence in the law and the legal sector ............................................. 146
Summary ................................................................................................................................................ 146
Why this is of interest ............................................................................................................................. 147
Public perceptions of the justice system ............................................................................................. 147
Public perceptions of lawyers and judges...........................................................................................................149

Desired outcome D.2. An efficient legal system delivering quality legal services at a reasonable cost ....... 152
Summary.........................................................................................................................................................152
Why this is of interest ........................................................................................................................................153
Trial length over time.......................................................................................................................................153
International demand for UK legal services .................................................................................................154

E. The investor perspective ......................................................................................................................................156

Desired outcome E.1. A legal market which is attractive to all sources of finance including external
investors ..........................................................................................................................................................157
Summary.........................................................................................................................................................157
Why this is of interest .........................................................................................................................................158
Trends in investment over time ........................................................................................................................158

Desired outcome E.2. Proportionate regulation allowing an inflow of capital ..............................................160
Summary.........................................................................................................................................................160
Why this is of interest ..........................................................................................................................................161
Historic issues with SRA ABS licensing ........................................................................................................161
The cost of regulation .......................................................................................................................................163

List of knowledge gaps identified ....................................................................................................................166

References .........................................................................................................................................................170
Changes in the legal services market 2006/07 - 2014/15

List of figures

Figure 1. Changes in UK legal sector turnover ................................................................. 5
Figure 2. UK Legal sector compared to other services - 2015 prices ................................ 5
Figure 3. Proxy indicators of demand: Probate, Residential Conveyancing, and Family .......... 7
Figure 4. Proxy indicators of demand: Personal Injury and Crime ..................................... 7
Figure 5. Proxy indicators of demand: Employment, Immigration, Civil proceedings, and IP .... 8
Figure 6. Proxy indicators of demand: business consumers transactions ............................... 8
Figure 7. Proxy indicators of demand: business related disputes ....................................... 9
Figure 8. Evolution of legal services regulation – major changes in scope .............................. 12
Figure 9. Intended impacts of changes to regulation .......................................................... 14
Figure 10. 2015 Evaluation Framework .............................................................................. 16
Figure 11. UK wide legal sector market share breakdown by turnover ................................. 20
Figure 12. Market share for individual consumers legal market – by use of providers ............ 21
Figure 13. Solicitors firms market concentration summary .................................................. 22
Figure 14. Market segments proportion of value, and change over time ............................... 23
Figure 15. SRA regulated entities - falling rates of opening .................................................. 24
Figure 16. New entrants by market segment ..................................................................... 25
Figure 17. New entrants market share by market segment .................................................. 25
Figure 18. Proportion of ABS, LDPs and other firms 2010/11-2014/15 ............................... 27
Figure 19. Number of ABS new entrants, converts and exits 2010/11-2014/15 ....................... 28
Figure 20. Market share for SRA regulated ABS, LDPs and other firms 2014/15 ................. 28
Figure 21. Market share for SRA regulated ABS: new, converts and existing ...................... 29
Figure 22. Number of converts: other LDPs, ABS and others ............................................ 30
Figure 23. LDPs market share 2010/11 – 2014/15 ............................................................... 30
Figure 24. Turnover per fee earner2010/11-2014/15 ............................................................ 32
Figure 25. Barristers over time ......................................................................................... 33
Figure 26. Self-employed barristers main area of work ...................................................... 34
Figure 27. CILEx Fellows specialisms by market segment .................................................. 35
Figure 28. CILEx additional practising rights compared to specialism ................................. 36
Figure 29. Overview of licensed conveyancers ................................................................... 36
Changes in the legal services market 2006/07 - 2014/15

Figure 30. Number of Patent and Trademark Attorneys .................................................................37
Figure 31. Number of Costs Lawyers ..........................................................................................37
Figure 32. Number of Notaries ....................................................................................................38
Figure 33. Claims Management Companies turnover from injury work ....................................41
Figure 34. Nature of competition – location of competitors .........................................................42
Figure 35. How individual legal services are funded over time ..................................................45
Figure 36. Use of paid advice services by different market segments ........................................46
Figure 37. How services were charged for over time .................................................................47
Figure 38 Comparison of average prices quoted by market segment ........................................48
Figure 39. Reported changes in prices in the past 12 months ....................................................49
Figure 40. How individuals funded legal services overtime .......................................................50
Figure 41. Changes in B2B legal services over time ..................................................................51
Figure 42. Guideline Hourly Rates over time ..............................................................................52
Figure 43. The cost of enforcing business to business contract disputes over time, UK ...............53
Figure 44. The benefits of innovation from the perspective of innovators .................................56
Figure 45. Types of innovation by provider groups .................................................................56
Figure 46. Drivers of innovation ...............................................................................................58
Figure 47. Main barriers to legal services innovation ..............................................................59
Figure 48. Perceived regulatory and legislative effects on innovation (net positive-negative score) ...60
Figure 49 Levels of innovative activity by market segment 2012/13-2014/15 ............................61
Figure 50. Perceived significant barriers to innovation by market segment .............................62
Figure 51. Perceived negative impacts on service development by market segment ...............63
Figure 52. Measuring changes in access to justice from a variety of perspectives ....................68
Figure 53. Incidence of legal problems for small business consumers ........................................69
Figure 54. Changes in responses to legal problems over time – date case ended ......................70
Figure 55. Changes in response to legal problems by severity of problems ...............................71
Figure 56. Proportion of individuals seeking advice over time – by date case ended ...............72
Figure 57. Small businesses advice seeking behaviour, and use of courts .................................72
Figure 58. How individuals and small businesses characterise legal problems ..........................74
Figure 59. Employment: Use of lawyers in Employment tribunals over time .............................78
Changes in the legal services market 2006/07 - 2014/15

Figure 60. Trends in family court representation where both parties are represented .................... 78
Figure 61. Trends in representation in Mortgage and landlord possession defences ...................... 80
Figure 62. Wills, trusts, and probate: Use of solicitors in probate over time ................................ 81
Figure 63. Trends in the number of businesses in the legal sector ................................................. 82
Figure 64. Methods of delivery for individual consumers .......................................................... 84
Figure 65. Changes in the main method of delivery for individual consumers ............................. 85
Figure 66. Services provided by advisors 2012-2015 ................................................................. 86
Figure 67. How legal problems conclude for small businesses ................................................... 87
Figure 68. The TLS remains the most well-known ................................................................. 92
Figure 69. Percentage of public that are confident their rights are protected ................................ 93
Figure 70. Percentage of public that are confident about making a complaint ........................... 93
Figure 71. How individual consumers choose providers .......................................................... 98
Figure 72. How small business consumers choose providers .................................................... 101
Figure 73. Levels of shopping around in different market segments ........................................ 102
Figure 74. Bar – Gender Proportion of Pupils in First Six Months of Pupillage ............................ 107
Figure 75. Gender of Barristers in Practice ................................................................................. 107
Figure 76. Gender of self-employed barristers and QCs .......................................................... 108
Figure 77. Solicitors and Partners of Firms Identifying as Female ............................................. 109
Figure 78. Judiciary – Gender (% female) .................................................................................... 110
Figure 79. Bar - Pupils in the First Six Months of Pupillage – Ethnicity ...................................... 111
Figure 80. Bar– Gender (% female) ............................................................................................ 110
Figure 81. Ethnicity of Barristers in Practice .............................................................................. 111
Figure 82. Ethnicity of QCs ......................................................................................................... 112
Figure 83. Ethnicity of Solicitors ............................................................................................... 113
Figure 84. Ethnicity of Solicitors ............................................................................................... 113
Figure 85. Judiciary – Ethnicity (% BAME) .............................................................................. 114
Figure 86. Disability at the Bar, 2010-2014 (% with disability) ................................................. 115
Figure 87. Barristers – Types of Schools Attended, 2015 ......................................................... 116
Figure 88. Barristers – First Generation to Attend University, 2015 .......................................... 116
Figure 89. Barristers – Sexual Orientation, 2015 ................................................................. 118
Figure 90. Approach to measuring changes in quality ........................................................... 121
Figure 91. Trends in complaints reported by SRA regulated entities ........................................ 124
Changes in the legal services market 2006/07 - 2014/15

Figure 92. Turnover per complaint received and referred to LEO (SRA authorised firms) .......... 125
Figure 93. Services complaints against notaries ............................................................................. 126
Figure 94. Numbers of complaints at second tier - Legal Ombudsman contacts ...................... 127
Figure 95. Proportion of complaints by profession ........................................................................ 127
Figure 96. Breakdown of complaints accepted by the Legal Ombudsman ................................. 128
Figure 97. Annual percentage changes in the ratio of transactions per complaint .................. 129
Figure 98. Trends in the proportion of complaints that required LEO to make a remedy .......... 130
Figure 99. Chancery Division Professional Negligence Claims by Professions ....................... 131
Figure 100. Trends in allegations of misconduct for solicitors .................................................... 133
Figure 101. Severity of misconduct over time for solicitors ......................................................... 133
Figure 102. Changes in the types of orders made by the SDT ...................................................... 134
Figure 103. Trends in complaints about the misconduct of barristers ........................................ 136
Figure 104. Changes in conduct complaints and court proceedings – Family and Crime segments. 136
Figure 105. Proportion of solicitors firms experiencing insurance claims ................................ 139
Figure 106. Change in UK world rankings against Rule of Law index measures ..................... 143
Figure 107. Percentage of the public who are confident that the Criminal Justice System (CJS) is fair and effective ............................................................................................................ 147
Figure 108. Percentage of the public who trust different professions to tell the truth (LSCP Consumer Tracker) ............................................................................................................. 148
Figure 109. Percentage of the public who trust different professions to tell the truth (Ipsos Mori Veracity index) ............................................................................................................. 148
Figure 110. Percentage of the public who have used lawyers who trust different lawyers to tell the truth (LSCP Tracker) ............................................................................................. 150
Figure 111. Words used to describe legal professionals ................................................................. 150
Figure 112. Trends in the length of civil and family cases ............................................................ 153
Figure 113. Trends in the length of criminal cases ....................................................................... 155
Figure 114. Entities views of compliance costs and fees paid ...................................................... 163
Figure 115. Individuals’ views of compliance costs and fees paid ............................................... 164
1. **Approach to this analysis**

1.1 This report seeks to assess whether the desired market outcomes associated with the regulatory objectives in the Legal Services Act 2007 (LSA) are being achieved over the longer term, and where more progress needs to be made. This information can be used to determine where more work needs to be done by us and the approved regulators.

1.2 The LSB has a long standing commitment to evaluate the delivery of the desirable market outcomes associated with the LSA as set out in the 2011 evaluation framework.¹ Using that framework, this report builds on the analysis in previous evaluation reports², in particular the baseline report published in October 2012.³

1.3 While activity such as the LSB’s regulatory standards work looks at the performance of the approved regulators, the evaluation analysis set out in this document seeks to assess how the legal services market is changing. This work considers questions such as:

- Has competition increased?
- How has consumers confidence in the regulation of legal services changed?
- Does the diversity of the professions match the diversity of society?
- What impacts have the regulatory reforms had on access to justice?

The set of questions is broad which necessitates the use of a wide range of measures.

1.4 As was the case in 2012, it is very challenging to isolate the specific impacts of regulation on the market from the impacts of wider economic factors and changes in government policy. This challenge is exacerbated by a lack of robust consistent data across the legal services market that would allow us to apply more sophisticated techniques to understand the impacts of reform.⁴

1.5 As in the 2012 report, we highlight continuing and new gaps in knowledge about the legal sector. Prior to the LSA, regulatory activity for lawyers largely focused on maintaining a list of members of each of the individual professions, coupled with a complaint driven reactive approach. As a result of this history, there was no embedded culture of information collection and analysis in legal services from a regulatory perspective. This is despite the significant level of turnover of the sector. - £32bn in 2015.

1.6 Since 2012 the frontline regulators have undertaken activities to increase their knowledge of those they regulate and the environment they operate in. This is detailed in the LSBs Regulatory Standards reports, published in May 2016.⁵ The LSB has published a large body of research over time, both the Solicitors Regulation Authority (SRA) and the Bar Standards Board (BSB) now undertake more frequent research than they did in 2012, and in the past two years, the Council for Licensed Conveyancers (CLC) has published analysis of those they regulate. Further, all regulators now publish a list of members of their regulated community.
Approach to this analysis

1.7 Even so the level of information on the legal services market remains far from perfect. That inhibits any analysis of direct cause and effect in the majority of areas. In this context our approach remains to identify as many of the indicators of change as possible and to describe the extent to which these indicators demonstrate changes in the legal markets that lead us to consider whether or not the regulatory objectives are being met. This analysis thus represents the best assessment possible within the confines of the existing evidence base. We welcome discussions on how to improve the evidence base going forward.

1.8 To deliver this assessment there were four main activities:

(i) In house literature review of 155 research reports mainly published between 2012 and April 2016 (i.e. since the baseline study) by the approved regulators, representative bodies, government and academia, as well as a review of the LSB commissioned research findings over the past four years;
(ii) Commissioning of independent external research on the legal needs of individuals and small businesses, prices, public access barristers, and an economic opinion on the impacts of changes to legal services regulation;
(iii) In house collation and analysis of a wide set of government statistics, survey datasets, and regulatory data to allow for analysis of changes over time;
(iv) Assessment of what available evidence shows, and identification of proxy indicators of change where necessary, and gaps in collective knowledge.

1.9 This assessment pulls together data shared with us by some of the approved regulators, LSB analysis of survey data, published official data on trends in the justice system, and the findings of our in house literature review. Caution must be exercised in comparing the findings of different surveys over time, and different sources of data. To manage this risk we compare survey findings to other sources of information wherever possible and form a view using a variety of sources. To allow for the effects of inflation over time, we make use of Treasury statistics to present real and not nominal figures unless otherwise stated.

1.10 This is therefore an empirical analysis reporting on areas where we can observe change. In circumstances where the available evidence is incomplete, we develop an hypothesis about what might be driving the observed changes. Others may have different views about the drivers of change and we value such dialogue.

1.11 Further, recognising that the legal services market is not one market but a series of markets we make frequent use of the market segmentation model first developed in 2011. We continue to encourage others to make use of this framework so that it will help them to understand how the environment is changing around them. This model is interlinked with the evaluation framework.

1.12 The next part of this report presents the main drivers of change affecting the legal sector over the 2006/07-2014/15 period, providing the contextual information for the analysis of market outcomes in Part 3. A summary report is available on the LSB website - https://research.legalservicesboard.org.uk/.
2. Environmental context and drivers for change

Summary

Over the 2007-2015 period wider drivers for change have affected the legal sector in a variety of ways:

- The legal sector as a whole has experienced a contraction in turnover in the early years of the period covered but has since recovered and is now larger than ever before;
- The legal sector has grown overall, despite legal aid funding reductions, including rises in net exports;
- There have been significant changes in underlying volumes of demand in different segments, both up and down, which will affect provider behaviour;
- Technology is being used in a variety of ways to promote and deliver legal services, with government led process reforms driving part of this;
- For those on low incomes, changes to legal aid funding have removed a major source of free-at-the-point-of-delivery advice and representation, in a range of market segments;
- It is not yet clear what the full impacts of government reforms to court and tribunal fees have been on the use of these services, but overall volumes of proceedings have fallen over time;
- Legal services regulation has adapted to allow for greater variety in the provision of reserved legal activities, providing more flexibility for businesses working within legal services regulation;
- The cumulative effect of all the regulatory changes over the past five years can be seen as broadly pro-competitive in design;
- However, except where regulators only cover one market segment, changes to regulation over the past five years have tended to apply across the regulated sector, rather than being targeted at different market segments;
- Further these changes have concentrated on supply side reforms, and rarely related to consumer engagement or empowerment.
Why this is of interest

2.1 In order to assess whether the market outcomes associated with successful delivery of the regulatory objectives are being achieved, we first need to understand the wider changes and drivers for change within the legal services market. Since legal services are an integral part of society, that means considering the wider economic and societal changes across England and Wales during the relevant period.

2.2 This section of the report provides a summary of what we believe are the key drivers of change within the legal sector. These are:

- economic factors
- technological factors
- government reform
- changes to regulation.

2.3 We look at these areas to provide context for the outcomes assessment presented in Part 3. Some of these drivers of change are mutually reinforcing, while some potentially counteract each other. They all demonstrate the interconnectedness of the legal services market.

Economic factors

2.4 In the 2008-09 period the UK economy experienced a significant recession with UK Gross Domestic Product only returning to the pre-crisis level in June 2014. The UK experienced eight quarters of negative growth between 2008 and 2012, shrinking by 7.2% over 2008-2009. At the same time general prices have risen by 24% and the service sector output as a whole by 13%. Accounting for inflation, Office for National Statistics (ONS) data shows that the turnover of the UK wide legal sector saw a fall from a pre-recession high of £29.4bn in 2007, to a low of £26.9bn in 2009 – an 8% contraction. However turnover in the sector has since recovered to an all-time high of £32bn in 2015. This is despite reductions in legal aid expenditure from 2013. ONS data shows that the proportion of turnover accounted for by England and Wales has risen from 92.9% in 2008 to 93.5% in 2013.

2.5 While exports of legal services have grown they do not account for the overall level of growth seen in the sector. This suggests that the majority of the growth in turnover has come from domestic markets. The longer term picture is one of significant growth in total sector turnover – doubling in value in real terms over the past twenty years. However, looking at the past five years, the growth in comparable service sectors shows that legal services hasn’t grown as fast as some other sectors. (see Figure 2). The accounting, bookkeeping and auditing sector hasn’t grown in real terms over the same period, but others have grown faster. The 2010 ONS Services Turnover survey estimates UK turnover in legal services to be split 69% for businesses and 31% for individuals.

2.6 The links between changes in the legal sector’s turnover and changes in the wider economy have been demonstrated by the Law Society (TLS) research in 2012. This identified the main economic drivers of change as households’ disposable income, business activity in the economy as a whole, housing transactions, financial sector output, unemployment rate and net exports of legal services. For example the number of housing transactions has risen by 37% over the past five years.
Environmental context and drivers for change

Figure 1. Changes in UK legal sector turnover\textsuperscript{13}

Figure 2. UK Legal sector compared to other services - 2015 prices\textsuperscript{14}
2.7 Further, changes to the economy will impact on the types of legal problems people experience. For example a recent Citizens Advice analysis of their service users, points to job seeking issues falling but problems at work increasing over the past 4 years.\(^\text{15}\)

2.8 In order to understand the different impacts on the different legal market segments, we look at the longer term trends in demand for legal services with reference to a set of proxy indicators. Recognising that the legal services market is comprised of a number of different markets, we have analysed 25 proxy indicators measuring trends in the volume of demand during the 2006/07-2014/15 period. These are set out in the Figures 3 to 7 below.

2.9 These indicators provide a broad coverage across all of the different segments of the legal services market, and are arranged by the main consumer groups, as set out in the market segmentation framework.\(^\text{16}\) They represent a mix of measures of wider economic activity that drives incidence of legal need, and actual measures of demand for legal services. These are indicators covering a range of different points in the legal issue resolution process. They are all drawn from regularly published data, provided by government agencies and departments. However they remain\(^\text{17}\) proxy indicators of demand as they do not capture three key areas:

- **Changes in how consumers respond to legal problems:** A consumer faced with a legal issue can choose to handle that issue alone, for example through litigating without representation, as opposed to seeking legal advice (see B.1);

- **Changes in the level of cases that settle before court proceedings are issued:** Behind each court related measure, it is recognised that there will be a proportion of incidences where legal advisers are used but these disputes never come to court, and this ratio may also be changing over time;

- **Changes in the use of advice for risk management:** It is recognised that a significant part of the work of legal advisers will be to support their customers in avoiding legal issues, providing information, complying with new laws, and managing legal risks (see B.1). For example recent research found that around a quarter of small and medium enterprises (SMEs) who were aware of the Bribery Act had sought professional advice, with half of those using a lawyer to ensure compliance with new legal duties.\(^\text{18}\) This type of change is not captured here.

Therefore, these are partial indicators of demand, showing trends in an element of each of the main legal services market segments, and must be interpreted alongside other information.

2.10 Comparing the situation in 2006/07 to 2014/15 these indicators broadly show:

- A greater than 20% reduction in the volume of probate grants, residential conveyancing transactions, re-mortgages, divorces started, and falling volumes of family court proceedings;

- Falls in police station (legal aid crime lower) and magistrate court volumes, but an increase in Crown Court volumes;

- A greater than 40% growth in volume indicators for personal injury;

- A large fall in the volume of employment tribunals, and smaller declines in the volume indicators for immigration, civil court proceedings, and intellectual property;

- Falls in the volume of merger and acquisition activity, and commercial property transactions;
Environmental context and drivers for change

- Volume indicators for business disputes returning to 2006/07 levels in 2014/15 following large increases following the recession.

Figure 3. Proxy indicators of demand: Probate, Residential Conveyancing, and Family

Figure 4. Proxy indicators of demand: Personal Injury and Crime
Figure 5. Proxy indicators of demand: Employment, Immigration, Civil proceedings, and IP

Figure 6. Proxy indicators of demand: business consumers transactions
Environmental context and drivers for change

Figure 7. Proxy indicators of demand: business related disputes

2.11 For each indicator, there are fluctuations over the nine year period, demonstrating the dynamic nature of demand for legal services. These changes vary by different market segment, and will have had different underlying impacts on the different desired outcomes.

2.12 For businesses they can substitute demand for legal services by undertaking work in house. An SRA commissioned report in 2014 suggested that in recent years, “financial concerns have contributed to the growth of in-house legal teams. Faced with rising legal costs, general counsel has gained an important role in controlling external legal spend. Many companies have brought in-house much of the work typically done by law firms, resulting in the termination of sometimes long-standing relationships with external law firms”[9]. A 2014 study of in house counsel – significant buyers of legal services – found that in response to the recession in 2008, in house counsel in the UK were making greater use of non traditional legal services. Four in ten were planning to decrease spending with traditional law firms. In 2014, 70% were using contract lawyers and 37% document review services.[20]

Technological factors

2.13 In terms of the use of technology, 2015 research looking at innovation across the whole legal service sector points to increased use of IT at various stages of the value chain, when compared with research in 2005.[21] The most notable finding was in relation to the rise of social media, with the research finding 44% of businesses delivering legal services make use of social media[22] mainly in the context of marketing and sales. Of organisations that had developed new services or new ways of delivering services, 30% reported that developments in technology in the preceding three years had led them to innovate.[23]
Environmental context and drivers for change

Whether technology has driven or enabled innovation is not known. Moving down the value chain to actual service delivery, many participants reported greater use of electronic communication as a way of improving client access. Further, some participants in the research also reported using the web to deliver legal services, for form filling, providing status updates, and allowing clients to sign documents online. The TLS’s annual firms survey, published in 2016, showed a third of firms increasing IT budgets in the previous 12 months, and the priority for IT was improving effectiveness of business processes.

2.14 Looking more narrowly at SRA regulated legal service providers, the 2013 LSB survey of Alternative Business Structures (ABS) indicated that they made greater use of technology to deliver services than other firms did. In all, 91% of survey respondents indicated having a website that they used to deliver information and other services to their customers. This included basic information, online case tracking and feedback systems. This compares to just 54% of other solicitors’ firms that had a website they used for advertising and 6% that used legal networks websites in a 2012 survey. SRA research in 2014 found that over 60% of ABS had invested in technology. Among CLC-regulated practices, CLC analysis shows that ABSs are three times more likely than recognised bodies to offer online services for clients wishing to access their services. This should be contrasted with the lack of change in the prominence of provider websites in individual consumers’ choice of provider.

2.15 These findings suggest a wide variety of levels of take up of technology among suppliers of services in the legal sector suggesting a wider diversity of service provision. These changes must also be seen in the context of government driven changes to IT use both within the courts, at registration agencies, and at other justice bodies with which suppliers of legal services interact. One example is Money Claim Online – Her Majesty’s Courts and Tribunal internet based service for the resolution of disputes relating to money. This started in 2001, was reported to have 100,000 users in 2006 and grew to 133,546 in 2010/11 – making it the largest county court by volume. By way of a more recent example, the Land Registry reported that 99% of the applications it received in 2014/15 were submitted electronically. The Office of the Public Guardian has also reported an increase in online applications since it launched it service in 2013. Future government reforms of the justice system are only likely to drive greater use of technology among suppliers of legal services operating in that system. For example, the recent Civil Courts Structure Review interim report concluded that “There is a clear and pressing need to create an Online Court for claims up to £25,000 designed for the first time to give litigants effective access to justice without having to incur the disproportionate cost of using lawyers.”

Government reforms to the legal sector

2.16 Over the 2007-2015 period government reforms have mainly concentrated on reducing public expenditure in line with wider government policy. Based on Figure 1 above, we calculate that total UK real legal aid expenditure fell from £2.6bn in 2006/07 to £2bn in 2013/14 – a fall of 22%. Partly because of the growth in sector turnover and partly because of funding reductions, UK wide legal aid funding equated to 7% of total sector turnover in 2014/15, compared to 9% in 2006/07.

2.17 In England and Wales, these reforms changed who is eligible for legal aid and the types of legal problems that are covered by the legal aid scheme. They were introduced in the
LSB commissioned research looking at how people respond to legal problems suggests a strong relationship between income, legal aid eligibility, and lawyer use in most types of problems but not in the injury market segment where other funding mechanisms are available. Official statistics report that, “The removal of legal aid for many private law cases has resulted in a change in the pattern of legal representation….. Around the time that the LASPO reforms were implemented there was a marked increase in the number and proportion of cases where neither party are represented, with an equivalent drop in the proportion of those cases where both parties were represented.” The number of legally aided mediation assessments have also fallen overtime (see Outcome B.1 below).

However, as we have previously stated, across the world legal aid schemes have always been means tested, and focused on priority problem areas, rather than being universal. As in many areas, government makes a decision on the best allocation of finite resources: “Access to justice through legal aid is not an unlimited free good. Legal services procured through legal aid are delivered with finite resources which need to be managed within the government’s three year spending regime and judged alongside other priority areas, such as health and education. The challenge is to ensure access to justice within available resources, and to make the best possible use of the budget so that it supports the aims of the justice system.”

Laspo has also significantly changed the funding of civil litigation in England and Wales with a ban on referral fees between introducers and solicitors for personal injury work, reversing the decision to introduce them in 2004. It also introduced fixed fees and changed recoverability of costs from the losing party. Since 2000, there have been increases in the level of court fees payable, most recently in relation to specified money claims in civil court proceedings. The primary aim of this policy is to help fund the courts through charging users, thereby reducing the cost to the taxpayer. Ministry of Justice (MoJ) analysis indicates that minor fee changes introduced since 2000 have had minimal impact on volumes, over and above the variation explained by other economic drivers. The MoJ also cite research that indicates that litigation in such proceedings is usually seen as a last resort, meaning court fees are a second or third order influence. Respondents to the 2016 legal need survey who handled their legal need alone cited cost of court fees as a reason in 3% of issues, and for those who did nothing 2% cited the cost of court fees as a reason.

Reforms that took effect from July 2013 tightened access to employment tribunals, and introduced upfront fees payable by claimants. Further reforms introduced in April 2014 were designed to reduce the number of tribunal claims, through mandatory notification to the
Environmental context and drivers for change

Advisory Conciliation and Arbitration Service. While the TLS has stated that the combined effect of these reforms was to drive the significant falls in overall employment tribunal numbers\(^6\), official research suggests that the two events are coincidental.\(^7\) The MOJ started a post implementation review in June 2015\(^8\). There have also been reforms to the scope of judicial reviews implemented in 2013 and 2015.\(^9\)

Changes to regulation

2.22 In terms of regulation, the different elements of the current regulatory framework came into effect at different stages. The Legal Services Bill received Royal Assent in 2007, and the LSB came into being in 2010. The LSA introduced major changes to regulatory structures for legal services in England and Wales.\(^5\) In summary the main elements of reform have delivered:

- a separation between the representation of providers’ interests and the regulation of providers (set up from 2007 onwards),
- an independent complaints handling process in the form of the Legal Ombudsman (LEO) (established in 2010) and a formal signposting process (2010 onwards),
- new regulations allowed solicitors, for the first time, to co-own and manage solicitors’ firms with other legal professionals and with up to 25% non-lawyer ownership. These new entities are known as Legal Disciplinary Practices (LDPs) and were similar to the allowable entities already regulated by the CLC known as recognised bodies (March 2009 onwards),
- new regulations to allow complete non-lawyer ownership of firms providing reserved legal services in ABS (October 2011 onwards).

Figure 8. Evolution of legal services regulation – major changes in scope

<table>
<thead>
<tr>
<th>Reserved Activities by Profession</th>
<th>Market segments</th>
<th>All</th>
<th>All</th>
<th>All</th>
<th>Conveyancing, Probate</th>
<th>Intellectual Property</th>
<th>Other (Costs litigation)</th>
<th>Conveyancing, other (Notarial), Probate</th>
<th>Probate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Right to conduct litigation</td>
<td>Solicitors</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>2. Right of audience in the courts</td>
<td>Baristers</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>3. Probate services</td>
<td>Legal Executives</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>4. Reserved Instrument Activities</td>
<td>Solicitors</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>5. Notarial services</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>6. Acting as a commissioner for oaths</td>
<td></td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

Nature of regulation

| Individual regulation | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Entity regulation     | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| ABS licensing         | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
2.23 Since 2010, regulatory reform has continued apace. Over the past five years from 2011 to 2016, the scope and nature of legal services regulation has changed significantly.\(^{51}\) The major changes in the scope of regulation are captured in Figure 8 above. Changes to regulators’ (i) designation to regulate reserved legal activities and (ii) types of regulation (i.e. individuals, entities, ABS) over the October 2011 to October 2015 period are shown in the shaded areas.

2.24 Among the three largest regulators (SRA, BSB, and CILEx Regulation) the changes have meant they all now regulate the same groups of reserved activities across all market segments breaking down traditional distinctions between professional groups. As a result there is greater scope for competition within the regulated legal sector between the different legal professions. This is in line with previous legislation aimed at reducing monopolies between the different regulated professions. For example in relation to advocacy, the Courts and Legal Services Act 1990 made it possible for solicitors to gain higher rights of audience, removing the monopoly for barristers. In 2014, the Institute of Chartered Accountants in England and Wales (ICAEW) became the first new legal services regulator since the LSA, regulating probate.

2.25 At the same time the move to entity regulation and ABS licensing means that there is a wider variety of business models permitted within regulation, giving more scope for providers to better structure their businesses to meet the needs of their customers – which was reported as a key reason for converting to an ABS in the 2013 LSB survey.\(^ {52}\) Another major change is that accountants are now permitted to deliver probate services.\(^ {53}\) This variety of business models within regulation is a significant development compared to the homogeneity of services described by the 2004 Clementi Review\(^ {54}\) and a potentially substantial enabler of change in the legal services market.

2.26 Further, over the past five years the LSB has issued statutory guidance to regulators on five separate occasions. These cover licensing rules for ABS, referral fees, the gathering of evidence about diversity, and regulatory arrangements for education and training.\(^ {55}\) However the LSB has no powers to call in a set of regulations for review, and can only refuse applications by the approved regulators to alter or add new regulatory arrangements if it is satisfied that one or more of the six refusal criteria set out in the LSA are met.\(^ {56}\)

2.27 Over the 2010-2015 period the approved regulators have made a significant number of changes to regulation. These involved changes directly related to the LSA, and to wider government reforms, for example changes to regulation required to implement new money laundering regulations. As part of this evaluation exercise the LSB commissioned economic advice on the likely impact of the 195 applications to change regulation between 2010 and 2015. The full report was published alongside this analysis\(^ {57}\) and builds on LSB assessments of the intended impacts of changes to regulation. This approach was taken in the absence of any published post implementation impact assessments by the approved regulators.

Knowledge Gap 1 – Impacts of regulatory changes made by the approved regulators

2.28 An LSB review of all these changes to regulation\(^ {58}\) shows that for regulators who cover all the market segments, their changes to regulation tend to apply to all market segments.
Environmental context and drivers for change

For instance of the 75 applications to alter regulation received from the SRA between 2010 and 2015, 65 (87%) applied to all market segments. For the BSB, this was true for 92% of their 38 applications made, and for CILEx Regulation this was true for 68% of their 22 applications. A potential consequence of such general rather than targeted regulation is, “firms face a common regulatory cost base unrelated to the risk they present, a cross-subsidy of bad firms by good. That leads to unnecessary costs for law firms, but also costs to UK plc through reduced competition, innovation and consumer choice.”

As a result of the different scope of each regulator, the market segments most affected by changes to regulation under the LSA were wills, trusts, and probate.

2.29 The LSB commissioned economic advice graded the different regulatory changes in terms of the scale of likely market impacts, with a grading of 3 being the highest. The report concluded that, “The more important the measures under consideration, the more procompetitive their intended impacts and therefore…. their likely cumulative impacts.”

This is shown in Figure 9. Of all changes made to regulation over the past five years, the most important ones were mainly focused on enabling new business models (as set out above), in line with the LSA reforms. However around a third of the most important changes were designed to remove existing regulations, and a quarter of changes were designed to increase professional standards in some way. Very few of the most important changes, and very few of all the changes made, were directly designed to reduce costs or improve consumer empowerment. This is in direct contrast to activity in the financial services, water, and energy sectors over the same period.

Consumer empowerment activity in the legal sector to date has mainly focused on the release of professional membership data by ARs and the development of a consumer website - www.legalchoices.org.uk. These changes do not involve changes to regulation that require approval by the LSB.

Figure 9. Intended impacts of changes to regulation

![Intended impacts of changes to regulation](image-url)
Environmental context and drivers for change

2.30 Of the changes to regulation graded as most important in market impact terms, 87% were approved over the 2010-2013 period, as were 67% of all changes made to regulation. Given the timescales involved it is reasonable to expect to see the impacts of these changes to regulation coming into effect in our assessment of market outcomes that affect suppliers, but not yet consumers. This is because the different transmission effects – implementation by the regulator post approval by the LSB, changes to behaviour by market participants – will take time to work through the system to allow us to observe tangible changes in consumer behaviour.

2.31 The next part of this report looks at the changes over the 2006/07-2014/15 period in each of the outcomes associated with the successful delivery of the regulatory objectives.
### 3. The evaluation framework: perspectives and outcomes

3.1 The LSB evaluation framework is set out in Figure 10 below. This covers 13 outcomes associated with the successful delivery of the regulatory objectives, considered from five different perspectives. The regulatory objectives set out the framework for regulation, the evaluation framework articulates how these objectives translate into a market that would demonstrate success. There have been some minor revisions to the framework since it was first published in 2011.\(^\text{63}\)

**Figure 10. 2015 Evaluation Framework**

<table>
<thead>
<tr>
<th>Perspective</th>
<th>No.</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. The market</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>The market for legal services is more competitive.</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>More consumers are able to get legal services at an affordable cost.</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>There is a greater plurality of, and innovation in legal services offered.</td>
</tr>
<tr>
<td><strong>B. The consumer</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>A higher proportion of the public are able to access justice.</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Consumers have confidence in the regulation of legal services.</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Consumers are confident and empowered in their dealings with legal services.</td>
</tr>
<tr>
<td><strong>C. The provider</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>Diversity of the legal sector shows greater similarity to the client population.</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Quality of legal services is improved overall compared to 2009.</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>The profession and judiciary maintain confidence in the independence and reputation of the legal sector.</td>
</tr>
<tr>
<td><strong>D. The public</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>Wide confidence in the law and the legal sector.</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>An efficient legal system delivering quality legal services at a reasonable cost.</td>
</tr>
<tr>
<td><strong>E. The investor</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>A legal market which is attractive to all sources of finance including external investors.</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Proportionate regulation allowing an in-flow of capital.</td>
</tr>
</tbody>
</table>

3.2 A detailed analysis of each of the indicators relating to outcomes, by perspective, is presented below, with a summary of findings at the beginning of each section. This summary is based on a synthesis of what the available indicators show. Over the past four years we have taken steps to address some of the missing indicators and removed those indicators that were considered to be less informative. However continued gaps in knowledge are highlighted throughout this assessment to encourage future activity to close these gaps. These knowledge gaps are summarised at the end of this report.
A. The market perspective

Are the regulatory objectives being delivered?

- A. Market
  - 1. More competitive
  - 2. Affordable legal services
  - 3. Plurality of services

- B. Consumer
  - 1. Higher access to justice
  - 2. Confidence in legal services regulation
  - 3. Empowered in dealings with legal services

- C. Provider
  - 1. Diversity better matching client population
  - 2. Quality has improved
  - 3. Profession and judiciary have confidence in the legal sector

- D. Public
  - 1. Confidence in legal sector
  - 2. Efficient legal system

- E. Investor
  - 1. Market attractive to all sources of finance
  - 2. Proportionate regulation

Evaluation: Changes in the legal services market 2006/07-2014/15 – Full report
Desired outcome A.1. The market for legal services is more competitive

Summary

- In this section we look at aspects of competition, to understand change over time. Measures of competition looking at access, prices, quality, and innovation are addressed in other outcomes. Here we look at:
  - Changes in market share;
  - Levels of entry and exit over time;
  - Changes in the types of business models; and
  - Changes in how businesses get customers.

- ONS data shows UK wide legal sector market shares fluctuating over time, but legal needs data for individuals suggest little change in demand over time.

- Looking at the different regulated professions, the analysis shows a supply side responding to changes in regulation and legal aid funding, although there is little evidence of change in market outcomes – price, quality, and access – associated with changes in competition. In summary:
  - There have been new entrants into SRA regulated market segments, and while small in absolute number, they operate in all market segments.
  - New business models have established significant market share in a number of segments most notably, Injury (39%), Welfare and benefits (20%), Civil Liberties (12%) and Employment (11%). However levels of entry continue to fall over time, and our analysis suggests just 25% of ABS regulated by the SRA are new to market new entrants.
  - While overall levels of productivity are unchanged in real terms, LDPs and ABS are still associated with higher level of productivity, though this may be driven by the areas of work.
  - Chartered Legal Executives have fallen in overall numbers, and only 1.4% have taken advantage of additional practising rights which have been introduced in phases over the past 4 years.

- Information on the other regulated professions is limited, but suggest a growth in the overall number of professionals. In addition, a fast pace of entry by Accountants in the past two years.

- Lack of information on the unregulated sector limits the analysis that can be done.

- For those areas subject to non-LSA regulation there has been a growth in supply in the immigration segment, but falls in the injury segment.
A. The market perspective: Desired outcome 1. The market for legal services is more competitive

Why this is of interest

A.1.1 The LSA gives each regulator, the Office for Legal Complaints (OLC), and the LSB an objective of ‘promoting competition in the provision of services’ where those services are provided by authorised persons under the LSA.

A.1.2 If competition has increased, there should be some observable changes in the market as a whole and the individual market segments within it. In 2013, the Competition Commission said: “Competition is a process of rivalry as firms seek to win customers’ business. It creates incentives for firms to meet the existing and future needs of customers as effectively and efficiently as possible—by cutting prices, increasing output, improving quality or variety, or introducing new and better products, often through innovation; supplying the products customers want rewards firms with a greater share of sales. Beneficial effects may also come from expansion by efficient firms and the entry into the market of new firms with innovative products, processes and business models, and the exit of less successful ones”. That means that in order to assess whether the legal services market is more competitive over time, we need to look at:

- Changes in how legal needs are being met;
- Changes in prices;
- Changes in quality;
- Changes in the services being offered;
- Changes in market share;
- Levels of entry and exit over time;
- Changes in the types of business models;
- Changes in how businesses get customers.

A.1.3 In this section we mainly focus on the last four of these eight areas. This is because changes in prices, quality and innovation are specifically considered in other parts of the evaluation framework. A focus on how the supply side of legal services provision has changed also allows for the limited time that has passed since significant parts of the LSA reforms were implemented (as set out in Part 2). Suppliers will respond more quickly to reforms than consumers, especially where consumers can be infrequent purchasers of legal services, meaning we can expect to observe the impacts more quickly by looking at suppliers.

A.1.4 This is similar to the approach taken in the 2013 evaluation report – which looked in depth at changes in competition. As was the case in that analysis, our approach is to draw inferences from changes in competition measures over time, not to comment on the level of competition itself. The regulatory objective is to promote competition in the provision of services, not to get the market to a specific level of competition.

A.1.5 We look at each set of regulated providers in turn and summarise the findings at the end of this section, in consideration with the other measures of competition analysed in depth in the assessments undertaken for other outcomes. However, how much of this change is driven by competition with the unregulated sector is unknown.
A. The market perspective: Desired outcome 1. The market for legal services is more competitive

A.1.6 There is limited information on the supply of unregulated legal services over time. UK wide ONS figures for the market share in the legal sector suggests annual fluctuations in total turnover since 2006. This is shown in figure 11. However the other legal activities group includes regulated providers who are not barristers or solicitors. This covers all areas of work across the UK, including that conducted in Scotland and Northern Ireland. It also includes work undertaken for all types of consumer – individuals, SME’s, large business, government, and international clients.

Figure 11. UK wide legal sector market share breakdown by turnover

<table>
<thead>
<tr>
<th>Year</th>
<th>Solicitors</th>
<th>Barristers</th>
<th>IP activities</th>
<th>Other Legal Activities</th>
<th>Other legal activities including IP</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>35%</td>
<td>4%</td>
<td>2%</td>
<td>5%</td>
<td>9%</td>
</tr>
<tr>
<td>2004</td>
<td>36%</td>
<td>3%</td>
<td>4%</td>
<td>5%</td>
<td>6%</td>
</tr>
<tr>
<td>2005</td>
<td>33%</td>
<td>2%</td>
<td>4%</td>
<td>5%</td>
<td>9%</td>
</tr>
<tr>
<td>2006</td>
<td>30%</td>
<td>2%</td>
<td>6%</td>
<td>5%</td>
<td>7%</td>
</tr>
<tr>
<td>2007</td>
<td>30%</td>
<td>2%</td>
<td>8%</td>
<td>6%</td>
<td>10%</td>
</tr>
<tr>
<td>2008</td>
<td>36%</td>
<td>4%</td>
<td>6%</td>
<td>5%</td>
<td>10%</td>
</tr>
<tr>
<td>2009</td>
<td>38%</td>
<td>3%</td>
<td>10%</td>
<td>5%</td>
<td>7%</td>
</tr>
<tr>
<td>2010</td>
<td>35%</td>
<td>3%</td>
<td>10%</td>
<td>5%</td>
<td>7%</td>
</tr>
<tr>
<td>2011</td>
<td>32%</td>
<td>2%</td>
<td>10%</td>
<td>5%</td>
<td>7%</td>
</tr>
<tr>
<td>2012</td>
<td>34%</td>
<td>2%</td>
<td>7%</td>
<td>5%</td>
<td>7%</td>
</tr>
<tr>
<td>2013</td>
<td>35%</td>
<td>2%</td>
<td>7%</td>
<td>5%</td>
<td>6%</td>
</tr>
<tr>
<td>2014</td>
<td>40%</td>
<td>2%</td>
<td>6%</td>
<td>4%</td>
<td>9%</td>
</tr>
<tr>
<td>2015</td>
<td>32%</td>
<td>2%</td>
<td>9%</td>
<td>4%</td>
<td>6%</td>
</tr>
</tbody>
</table>

Knowledge Gap 2 – Trends in size of unregulated legal sector in England and Wales

A.1.7 Looking at the respondents to the 2016 legal needs survey, LSB analysis based on the date the legal problem ended for those that took advice, shows that the unreserved advice sector plays a large role in the individual consumer legal services market, when share is measured by the number of individuals seeking advice from the different types of provider.

A.1.8 Looking at different market segments, there has been a significant increase in the use of solicitors between 2012 and 2015 in the conveyancing market segment only (from 46% in 2012 to 66% in 2015). It would require further analysis to explain what has driven these differences, but it is potential evidence of solicitors gaining a greater share of a growing conveyancing market (see Part 2 and Figure 15 below).

Changes between 2012 and 2015 in use of solicitors in other segments are not significant, and nor are changes overall. Whilst there have been fluctuations in the
A. The market perspective: Desired outcome 1. The market for legal services is more competitive

proportion of individuals using the different types of provider from 2012 to 2015 overall and within each segment – these changes are not statistically significant.

Figure 12. Market share for individual consumers legal market – by use of providers

Solicitors

A.1.9 Because of the significant level of data collected by the SRA, shared anonymously with LSB, we can undertake an analysis of changes in the supply side regulated by the SRA. The overall picture is of overall growth and market consolidation mostly affecting smaller firms.

A.1.10 Figure 13 below provides some summary measures of change for SRA regulated entities overall, based on LSB analysis. It should be noted that this data relates to the previous financial year. Over this period, turnover has risen by 6% in real terms, while the number of regulated entities has fallen by 9% (6% if registrations are used as the measure). Measures of market share concentration changed marginally over the past five years, although the market share of the top 100 firms by turnover has grown by 2% - £0.8bn – in the past three years.

A.1.11 Of those entities who reported turnover in 2010/11 continuously through to 2014/15, 58% had seen a real terms increase in their level of turnover. This compares to a recent survey which suggested that 47% of firms had seen an increase in gross fee income over the 2012-2015 period.68

A.1.12 In 2010/11 the average firm’s turnover was £2m. By 2014/15 this had risen to £2.4m – a 16% increase in real terms. This is a consequence of market consolidation
A. The market perspective: Desired outcome 1. The market for legal services is more competitive and continuing overall growth. Looking at the distributions of firm turnover each year, our analysis suggests the smallest firms being affected most by consolidation. There has been a 3% drop in firms with less than £150k turnover, and a 2% increase in firms reporting turnover of more than £1m over the five year period.

Figure 13. Solicitors firms market concentration summary

<table>
<thead>
<tr>
<th>All Market segments</th>
<th>2010/11</th>
<th>2011/12</th>
<th>2012/13</th>
<th>2013/14</th>
<th>2014/15</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total solicitors entities real turnover (£bn)</td>
<td>£20.19</td>
<td>£20.98</td>
<td>£20.72</td>
<td>£21.05</td>
<td>£21.56</td>
</tr>
<tr>
<td>Total solicitors entities reporting turnover split by segment (Total registered solicitors entities)</td>
<td>9,958 (11,037)</td>
<td>10,163 (11,293)</td>
<td>9,777 (10,938)</td>
<td>9,433 (10,557)</td>
<td>9,075 (10,367)</td>
</tr>
<tr>
<td>10 firm ratio market share: %age (£):</td>
<td>18.0%</td>
<td>17.0%</td>
<td>16.5%</td>
<td>17.0%</td>
<td>17.0%</td>
</tr>
<tr>
<td>100 firm ratio market share: %age (£):</td>
<td>50.8%</td>
<td>50.3%</td>
<td>50.6%</td>
<td>51.8%</td>
<td>52.6%</td>
</tr>
<tr>
<td>Entry: % of entities (% of market share in year of entry):</td>
<td>11% (6%)</td>
<td>6% (5%)</td>
<td>7% (3%)</td>
<td>4% (2%)</td>
<td></td>
</tr>
<tr>
<td>Exit: % of entities (% of market share in year of exit):</td>
<td>9% (6%)</td>
<td>10% (6%)</td>
<td>10% (6%)</td>
<td>8% (4%)</td>
<td></td>
</tr>
</tbody>
</table>

Proportion of entities change in real turnover 2010/11 to 2014/15:

- Increase of more than 10%: 47%
- Increase of 0.1% to 10%: 11%
- Decrease of 0.1% to 10%: 12%
- Decrease of more than 10%: 31%

A.1.13 Figure 14 below shows the value of each segment in terms of the whole market, and the change in real terms comparing 2010/11 to 2014/15. Turnover has fallen in some areas – most notably in the crime, employment, other business affairs, and welfare and benefits segments. Three of these are areas where the legal aid and court reforms highlighted in Part 2 are likely to have had the most prominent impacts. The major areas of growth are in residential conveyancing, corporate structuring and finance, injury, and other market segments.
### Figure 14. Market segments proportion of value, and change over time

<table>
<thead>
<tr>
<th>Turnover</th>
<th>2010/11</th>
<th>2011/12</th>
<th>2012/13</th>
<th>2013/14</th>
<th>2014/15</th>
<th>Change in real value 2010/11 to 2014/15 (£m)</th>
<th>Real value change as a % of 2010/11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil liberties</td>
<td>0.2%</td>
<td>0.1%</td>
<td>0.1%</td>
<td>0.1%</td>
<td>0.1%</td>
<td>-£0.5</td>
<td>-2.2%</td>
</tr>
<tr>
<td>Consumer problems</td>
<td>0.0%</td>
<td>0.1%</td>
<td>0.1%</td>
<td>0.1%</td>
<td>0.1%</td>
<td>£7.0</td>
<td>41.9%</td>
</tr>
<tr>
<td>Conveyancing - residential</td>
<td>5.3%</td>
<td>5.3%</td>
<td>5.3%</td>
<td>5.4%</td>
<td>6.2%</td>
<td>£252.7</td>
<td>23.7%</td>
</tr>
<tr>
<td>Conveyancing - Commercial</td>
<td>7.5%</td>
<td>7.4%</td>
<td>7.4%</td>
<td>7.4%</td>
<td>7.6%</td>
<td>£118.7</td>
<td>7.8%</td>
</tr>
<tr>
<td>Corporate structuring and finance</td>
<td>24.8%</td>
<td>24.5%</td>
<td>23.6%</td>
<td>24.0%</td>
<td>24.7%</td>
<td>£309.9</td>
<td>6.2%</td>
</tr>
<tr>
<td>Crime - prosecution &amp; Crime - defence</td>
<td>4.3%</td>
<td>4.6%</td>
<td>4.1%</td>
<td>3.8%</td>
<td>3.5%</td>
<td>-£107.1</td>
<td>-12.5%</td>
</tr>
<tr>
<td>Employment</td>
<td>4.7%</td>
<td>4.5%</td>
<td>4.4%</td>
<td>4.3%</td>
<td>4.2%</td>
<td>-£51.1</td>
<td>-5.4%</td>
</tr>
<tr>
<td>Family</td>
<td>5.1%</td>
<td>5.0%</td>
<td>5.0%</td>
<td>4.8%</td>
<td>4.8%</td>
<td>-£15.0</td>
<td>-1.5%</td>
</tr>
<tr>
<td>Immigration and nationality</td>
<td>0.8%</td>
<td>0.9%</td>
<td>0.8%</td>
<td>0.9%</td>
<td>0.9%</td>
<td>£32.7</td>
<td>20.6%</td>
</tr>
<tr>
<td>Injury</td>
<td>10.7%</td>
<td>11.8%</td>
<td>12.8%</td>
<td>12.7%</td>
<td>11.9%</td>
<td>£392.5</td>
<td>18.1%</td>
</tr>
<tr>
<td>Intellectual property rights</td>
<td>1.9%</td>
<td>2.0%</td>
<td>2.0%</td>
<td>2.0%</td>
<td>1.9%</td>
<td>£20.2</td>
<td>5.2%</td>
</tr>
<tr>
<td>Other</td>
<td>23.6%</td>
<td>23.5%</td>
<td>23.9%</td>
<td>24.5%</td>
<td>24.3%</td>
<td>£440.9</td>
<td>9.3%</td>
</tr>
<tr>
<td>Other business affairs</td>
<td>2.0%</td>
<td>1.8%</td>
<td>1.7%</td>
<td>1.7%</td>
<td>1.6%</td>
<td>-£55.4</td>
<td>-13.7%</td>
</tr>
<tr>
<td>Property, construction and planning</td>
<td>2.5%</td>
<td>2.4%</td>
<td>2.4%</td>
<td>2.3%</td>
<td>2.2%</td>
<td>-£24.4</td>
<td>-4.9%</td>
</tr>
<tr>
<td>Welfare and benefits</td>
<td>0.6%</td>
<td>0.4%</td>
<td>0.3%</td>
<td>0.3%</td>
<td>0.3%</td>
<td>-£53.7</td>
<td>-47.4%</td>
</tr>
<tr>
<td>Wills, trusts and probate</td>
<td>6.0%</td>
<td>5.7%</td>
<td>6.0%</td>
<td>5.6%</td>
<td>5.7%</td>
<td>£17.0</td>
<td>1.4%</td>
</tr>
</tbody>
</table>

### Levels of entry and exit

**A.1.14** Levels of entry and exit suggest falling overall rates of entry since 2011/12. In 2009/10, 2.3 firms opened for every one that closed compared to a ratio of 1:1 in 2015/16. Concentrating on more recent years, the overall number of brand new entrants and their market share has fallen between 2012/13 and 2014/15.

**A.1.15** Looking at other sectors, ONS data shows the number of new businesses in 2013 was 14% across the whole UK economy, and 17% in the comparable Industry group. However, published SRA statistics suggest that 7% of entities in 2014/15 were new entrants - 3 percentage points higher than in the data set provided to us.
A. The market perspective: Desired outcome 1. The market for legal services is more competitive

In the past three years, an increasing proportion of firms closing actually ceased practising – 39% in 2013 compared to 47% in 2015. A falling proportion of closures were a result of mergers and amalgamations – 38% in 2013 compared to 22% in 2015.

Figure 15. SRA regulated entities - falling rates of opening

<table>
<thead>
<tr>
<th>Year</th>
<th>Opening</th>
<th>Closing</th>
<th>How many firms opened for every one that closed</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009/10</td>
<td>1,214</td>
<td>534</td>
<td>2.3</td>
</tr>
<tr>
<td>2010/11</td>
<td>1,148</td>
<td>577</td>
<td>2.0</td>
</tr>
<tr>
<td>2011/12</td>
<td>1,078</td>
<td>469</td>
<td>2.3</td>
</tr>
<tr>
<td>2012/13</td>
<td>878</td>
<td>338</td>
<td>2.6</td>
</tr>
<tr>
<td>2013/14</td>
<td>899</td>
<td>913</td>
<td>0.99</td>
</tr>
<tr>
<td>2014/15</td>
<td>835</td>
<td>1,011</td>
<td>0.8</td>
</tr>
<tr>
<td>2015/16</td>
<td>754</td>
<td>745</td>
<td>1.01</td>
</tr>
</tbody>
</table>

A.1.16 Turning to market entry, our analysis of SRA data suggests that over the whole five years there were, 2,853 ‘new’ SRA regulated entities. Of these just 10% closed within the first three years, which compares to a national all-industry rate for new businesses born in 2010 of 43%. The remaining 90% were still open in 2014/15. New entrants in 2011/12 – before the introduction of ABS licensing – are on average smaller than those in following years. The average turnover for new entrants in 2011/12 was £1.1m in 2014/15, and 0.5% of them were in the top 100 of all firms by size. For new entrants in 2012/13 average turnover in 2014/15 was £1.8m, and 1.5% of them were in the top 100 of all firms by size. The figures for new entrants in 2013/14 are £1.5m, with none of them in the top 100 firms by turnover.

A.1.17 LSB analysis of SRA data suggests that there have been no major changes in the number of segments in which entities operate with around 20% of SRA regulated entities reporting turnover in just one segment, compared to 40% reporting turnover in more than five different market segments. Looking segment by segment these new entities were in competition with existing entities switching into different market segments. Figure 16 below shows the proportion of new firms each year by segment and combines those who are new to the market and new to the segment. Figure 17 shows the market share of both types of new entrants in each market segment.

A.1.18 Comparing the 2011/12 to 2014/15 shows a falling number of new entrants in each market except for the welfare and benefits market segment. Breaking this down for new-to-segment entry only the intellectual property rights segment saw an increase in these types of new entrants, comparing 2011/12 to 2014/15. For new-to-market entry, only, the intellectual property segment saw an increase in new entrants over the 2011/12 to 2014/15 period. High entry and market share in the civil liberties and consumer market segments is in part driven by the small value of these segments.
A. The market perspective: Desired outcome 1. The market for legal services is more competitive

Figure 16. New entrants by market segment

Figure 17. New entrants market share by market segment
A.1.19 In terms of market share, comparing 2011/12 to 2014/15 shows a falling market share for new entrants in each segment except for the civil liberties, consumer problems, welfare and benefits and wills, trusts, and probate market segments. Breaking this down for new-to-segment entry only the civil liberties market segment saw an increase in market share for these types of new entrants, comparing 2011/12 to 2014/15. For new-to-market entry, only the civil liberties and welfare and benefits market segments saw an increase in the market share of new entrants in their year of entry, over the 2011/12 to 2014/15 period.

A.1.20 As a way of gaining competitive advantage over other firms, getting access to customers is key. The 2012 solicitors’ firms survey found that 64% of firms engaged in media advertising to attract customers.\textsuperscript{81} We do not know how this has changed over time.

**Knowledge Gap 3 – trends in the use of advertising by SRA regulated entities**

A.1.21 As ways of establishing market share, using introducers to access a pool of customers is one strategy a firm can adopt. In a previous analysis, we reported that between 2008/09 and 2010/11 the proportion of solicitors’ firms with referral arrangements changed only slightly from 20% to 22%.\textsuperscript{82} This fell to 20% in 2011/12, but grew to one in four firms – 25% - in 2012/13. This was prior to the implementation of the personal injury referral fee ban in April 2013. Based on LSB analysis of SRA data, in 2014/15 18% of firms reported having referral arrangements. SRA data does not record in which market segments these arrangements operate.

A.1.22 In the injury segment, it was reported in 2015 that law firms and claims management companies spent £27m on advertising in 2010, a figure which increased to £76m in 2014. Average spend per business rose from £128,117 in 2010 to £315,810 last year, but 85% of total marketing spend was accounted for by the ten organisations with largest expenditure.\textsuperscript{83} This would amount to approximately 2.6% of total reported turnover from claims management companies and SRA regulated entities.

A.1.23 In the wills trusts and probate segment, LSB commissioned research in 2012\textsuperscript{84} showed that among non-solicitors, probate and/or estate administration work was acquired through different routes. For certain business types, typically Trust Corporations, Financial Advisers, Accountants and Banks/ Building Societies, which tended to have ongoing, often long-term, relationships with their clients, offering probate and/or estate administration services was an extension of their general client offer. The expectation is that referrals are common in conveyancing but we have found no published evidence on this.

**Knowledge Gap 4 – Use of referral arrangements and introducers by market segment over time**

**SRA regulated new Business Structures**

A.1.24 One of the major reforms introduced by the LSA was the introduction of new types of business structures. These were LDPs and ABS. While other regulators have been designated as ABS licensing authorities, only the SRA has the ability to
grant ABS licenses for organisations to operate in all market segments to provide five of the six reserved activities – all excluding notarial services.\(^\text{85}\) In terms of chronology, the CLC started issuing licenses for ABS from October 2011. The SRA started accepting applications for ABS licences in January 2012, and approved the first three licences in March 2012. ICAEW started accepting applications for ABS licences in September 2014 and Intellectual Property Regulation Board (IPREG) started accepting applications in January 2015. We focus here on the SRA regulated ABS because of data availability.

A.1.25 Looking at trends in the past three years – in terms of those organisations that have been through the application process and are licensed to be ABS - LSB analysis of the anonymous SRA dataset shows 3% of organisations listed as ABS licence holders in 2014/15 – see Figure 18 below. Of these, 24 organisations were new in 2014/15, classified as new entrants, and 51 were existing SRA regulated entities, which converted to ABS status in 2014/15 – see Figure 19 below. This gives a split of 8% new entrants, 16% existing firms transferring, 2% existing and 75% existing ABS. The SRA believe that the number of firms with non lawyer managers are greater than this.

A.1.26 As a group, the SRA regulated ABS licence holders had a total real turnover of £2.29bn in 2014/15 (11% of the total market). Based on turnover, 43% of ABS licence holders operated in the injury market segment in 2014/15, accounting for 39% of turnover in this segment – see Figure 20 below.

Figure 18. Proportion of ABS, LDPs and other firms 2010/11-2014/15
A. The market perspective: Desired outcome 1. The market for legal services is more competitive

Figure 19. Number of ABS new entrants, converts and exits 2010/11-2014/15

<table>
<thead>
<tr>
<th>Year</th>
<th>New Entrants</th>
<th>Converts</th>
<th>Exits</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012/13</td>
<td>15</td>
<td>56</td>
<td>9</td>
<td>71</td>
</tr>
<tr>
<td>2013/14</td>
<td>22</td>
<td>56</td>
<td>9</td>
<td>87</td>
</tr>
<tr>
<td>2014/15</td>
<td>24</td>
<td>51</td>
<td>5</td>
<td>80</td>
</tr>
<tr>
<td></td>
<td>21%</td>
<td>64%</td>
<td>6%</td>
<td>100%</td>
</tr>
</tbody>
</table>

A.1.27 Based on reported turnover, 18% of the ABS licence holders who were new entrants in 2014/15 operate in residential conveyancing, 17% operate in wills, trusts and probate and 15% in injury. This compares with 2% in residential conveyancing, 2% in wills, trusts and probate and 53% in injury in 2012/13.

A.1.28 Again based on the turnover of SRA regulated entities, 28% of LDPs and other law practices who converted to ABS status in 2014/15 worked in the ‘other’ segment, 17% worked in injury and 10% worked in residential conveyancing. In 2012/13 this was 9%, 62% and 3% for other, injury and residential conveyancing work, respectively. For new ABS, ABS converts and existing ABS there is a far greater spread across the market segments in 2014/15 than there was in 2012/13 with less turnover from injury work over time in all of these groups – see Figure 20 below.

Figure 20. Market share for SRA regulated ABS, LDPs and other firms 2014/15
A. The market perspective:
Desired outcome 1. The market for legal services is more competitive

A.1.29 Our hypothesis is that the concentration on the injury segment is a direct response to the referral fee ban introduced in April 2013, but there is no clear evidence from the 2013 ABS survey responses or since to support this. The 2012 solicitors’ firms survey found that firms doing 50% or more personal injury work were more productive than other firms, more likely to specialise in just this category, and most likely to report competition as a problem. These factors may also have driven the significant number of firms in this area to become an ABS.

Figure 21. Market share for SRA regulated ABS: new, converts and existing.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil liberties</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Consumer problems</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Conveyancing - residential</td>
<td>2%</td>
<td>6%</td>
<td>18%</td>
<td>3%</td>
<td>3%</td>
<td>10%</td>
<td>-</td>
<td>2%</td>
<td>3%</td>
<td>2%</td>
<td>3%</td>
<td>5%</td>
</tr>
<tr>
<td>Conveyancing - Commercial</td>
<td>2%</td>
<td>1%</td>
<td>3%</td>
<td>3%</td>
<td>7%</td>
<td>8%</td>
<td>-</td>
<td>4%</td>
<td>5%</td>
<td>3%</td>
<td>4%</td>
<td>5%</td>
</tr>
<tr>
<td>Corporate structuring and finance</td>
<td>3%</td>
<td>2%</td>
<td>12%</td>
<td>3%</td>
<td>16%</td>
<td>9%</td>
<td>-</td>
<td>4%</td>
<td>7%</td>
<td>3%</td>
<td>7%</td>
<td>8%</td>
</tr>
<tr>
<td>Crime - prosecution &amp; Crime - defence</td>
<td>1%</td>
<td>1%</td>
<td>4%</td>
<td>2%</td>
<td>1%</td>
<td>2%</td>
<td>-</td>
<td>1%</td>
<td>1%</td>
<td>2%</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>Employment</td>
<td>2%</td>
<td>1%</td>
<td>4%</td>
<td>6%</td>
<td>5%</td>
<td>6%</td>
<td>-</td>
<td>4%</td>
<td>4%</td>
<td>4%</td>
<td>4%</td>
<td>4%</td>
</tr>
<tr>
<td>Family</td>
<td>1%</td>
<td>3%</td>
<td>11%</td>
<td>4%</td>
<td>3%</td>
<td>5%</td>
<td>-</td>
<td>3%</td>
<td>3%</td>
<td>2%</td>
<td>3%</td>
<td>4%</td>
</tr>
<tr>
<td>Immigration and nationality</td>
<td>0%</td>
<td>1%</td>
<td>1%</td>
<td>0%</td>
<td>2%</td>
<td>1%</td>
<td>-</td>
<td>0%</td>
<td>1%</td>
<td>0%</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>Injury</td>
<td>53%</td>
<td>54%</td>
<td>15%</td>
<td>62%</td>
<td>41%</td>
<td>17%</td>
<td>-</td>
<td>57%</td>
<td>51%</td>
<td>57%</td>
<td>52%</td>
<td>43%</td>
</tr>
<tr>
<td>Intellectual property rights</td>
<td>4%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>1%</td>
<td>2%</td>
<td>-</td>
<td>2%</td>
<td>1%</td>
<td>2%</td>
<td>2%</td>
<td>1%</td>
</tr>
<tr>
<td>Other</td>
<td>28%</td>
<td>26%</td>
<td>11%</td>
<td>9%</td>
<td>16%</td>
<td>28%</td>
<td>-</td>
<td>19%</td>
<td>18%</td>
<td>20%</td>
<td>19%</td>
<td>20%</td>
</tr>
<tr>
<td>Other business affairs</td>
<td>0%</td>
<td>2%</td>
<td>0%</td>
<td>0%</td>
<td>1%</td>
<td>1%</td>
<td>-</td>
<td>0%</td>
<td>1%</td>
<td>0%</td>
<td>0%</td>
<td>1%</td>
</tr>
</tbody>
</table>
A. The market perspective:
Desired outcome 1. The market for legal services is more competitive

| Property, construction and planning | 1% | 1% | 1% | 1% | 2% | 3% | - | 1% | 1% | 1% | 1% | 2% |
| Welfare and benefits                | 0% | 0% | 2% | 0% | 0% | 0% | - | 1% | 1% | 0% | 1% | 1% |

A.1.30 LDPs have been permitted since March 2009. Under transitional arrangements, all LDPs will have to convert to ABS status eventually. From 2012/13 to 2014/15 a total of 59 LDPs have converted to ABS status.

Figure 22. Number of converts: other LDPs, ABS and others

![Figure 22](image)

Figure 23. LDPs market share 2010/11 – 2014/15

<table>
<thead>
<tr>
<th></th>
<th>2010/11</th>
<th>2011/12</th>
<th>2012/13</th>
<th>2013/14</th>
<th>2014/15</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil liberties</td>
<td>8%</td>
<td>17%</td>
<td>20%</td>
<td>15%</td>
<td>7%</td>
</tr>
<tr>
<td>Consumer problems</td>
<td>0%</td>
<td>5%</td>
<td>4%</td>
<td>17%</td>
<td>58%</td>
</tr>
<tr>
<td>Conveyancing - residential</td>
<td>11%</td>
<td>14%</td>
<td>13%</td>
<td>16%</td>
<td>15%</td>
</tr>
<tr>
<td>Conveyancing - Commercial</td>
<td>14%</td>
<td>24%</td>
<td>21%</td>
<td>32%</td>
<td>32%</td>
</tr>
</tbody>
</table>
A. The market perspective: Desired outcome 1. The market for legal services is more competitive

| Corporate structuring and finance | 9% | 13% | 12% | 19% | 19% |
| Crime - prosecution & Crime - defence | 8% | 9% | 9% | 12% | 11% |
| Employment | 17% | 22% | 19% | 27% | 25% |
| Family | 10% | 13% | 12% | 14% | 13% |
| Immigration and nationality | 12% | 12% | 14% | 10% | 9% |
| Injury | 18% | 28% | 17% | 16% | 14% |
| Intellectual property rights | 16% | 15% | 18% | 24% | 32% |
| Other | 15% | 25% | 20% | 27% | 28% |
| Other business affairs | 9% | 16% | 15% | 24% | 31% |
| Property, construction and planning | 12% | 18% | 19% | 24% | 27% |
| Welfare and benefits | 15% | 16% | 17% | 19% | 19% |

A.1.31 While LDPs have never represented more than 5% of all firms, they accounted for 21% of reported turnover in 2014/15. Looking at the market segments in which these firms operate shows that this group of firms are proportionally over represented in each of the market segments – having greater market share than their numbers would suggest. This group of firms has over half of the market share for consumer problems and almost a third of the market share for commercial conveyancing, intellectual property rights and other business affairs. LDPs share of the consumer problems market has grown dramatically from 0% in 2010/11 to 58% in 2014/15 – see Figure 23.

Productivity

A.1.32 Productivity – as measured by turnover per fee earner - doesn't appear to be changing over time. Levels of median productivity are broadly static at £91k in 2014/15. The mean average was £109k in 2014/15, and is similarly static over time. The range of productivity – shown in figure 24 below - is also broadly static. However LSB analysis of SRA data suggests that in 2014/15, 44% of ABS had turnover per fee earner over the upper quartile, as did 44% of LDPs. This continues the trend identified in the 2013 evaluation report86 ie that new business structures are typically more productive.
A. The market perspective: Desired outcome 1. The market for legal services is more competitive

A.1.33 Over the past three years Natwest has published an annual financial benchmarking report, which provides a median hourly rate for law firms from across England, Wales and Scotland. The 2013 report found a median recovered rate per hour (which takes account of underutilised time) of £136. This figure was £140 in the 2014 survey and rose to £150 in the 2015 survey. The 2013 report also reported the median annual chargeable hours achieved was 1,000. The reports stated that “The figures were very consistent for small and large firms, and also across the regions. The total median figure of 1,000 hours per year equates to about 4.5 chargeable hours per day. This figure has featured in surveys quite consistently over the last 20 years, so it would be easy to conclude that this is normal." This was also 1,000 hours in the 2014 and 2015 survey. The small rises in recovered rate and static median hours billed per year, might suggest rising prices (see Outcome A.2). However the LSB analysis of the SRA data shows productivity remaining broadly static in real terms suggesting that any price rises match inflation.

Figure 24. Turnover per fee earner 2010/11-2014/15

Barristers

A.1.34 The overall number of barristers has changed very little over time, growing by 3% between 2007 and 2015. Similarly the proportion of barristers who are self-employed has grown by just 2%. This is shown in figure 25 below. In 2014 there were 211 dual registered barristers — those who are both employed and self-employed — accounting for 1.4% of all barristers. This is up from 0.13% in 2010. In considering market changes, the distinction between employed and self-employed barristers is important from the perspective of demand side substitution, as it is a possible indicator of organisations bringing work in house.
A. The market perspective:
Desired outcome 1. The market for legal services is more competitive

A.1.35 As a proxy for entry and exit, based on two published surveys\(^{92}\), there appears to have been little change in main areas of work\(^{93}\) for self-employed barristers between 2011 and 2013. This is shown in figure 26 below. Falls in crime\(^{94}\), and rises in commercial\(^{95}\) are both statistically significant. We can hypothesise that these are the same barristers switching from crime to commercial areas of practice, although, whether in response to legal aid changes or reductions in criminal work being referred to self-employed barristers is unclear. However it could equally be down to the churn of new barristers entering the profession and others leaving. It is however evidence of change in the supply of legal services by barristers.

**Figure 25. Barristers over time**

A.1.36 Time spent and changes in workload are key variables. Comparing the 2011 and 2013 surveys, the mean number of hours worked per week by self-employed barristers, fell slightly from 53 hours per week to 51. In the 2013 survey, 38% of self-employed barristers whose main area of work was crime reported doing less work in the past two years, compared to 32% who reported doing more.\(^ {96} \) The changes in workload for commercial and chancery work are similar at 23% less and 21% more.

A.1.37 In relation to changes in barristers’ share of the market, how overall earnings for barristers have changed is not clear. ONS data suggests falling total turnover for all barristers in the UK – down by one third in real terms between 2010 and 2015.\(^ {97} \) The 2013 survey reported that 34% of self-employed barristers had seen an increase in earnings in the previous two years, compared to 39% reporting a decrease.\(^ {98} \) In the 2011 survey this was 39% and 30% respectively.\(^ {99} \)
A.1.38 In relation to changes in business models, a major regulatory change over the past five years has been the development of direct access work. This also relates to how barristers source work. We have found no published evidence on how barristers source work in other areas.

A.1.39 However this type of service offering remains low. The 2013 survey shows that over the preceding year, public access work was undertaken by 23% of self-employed barristers. However this only accounted for less than 5% of gross fees for 9% of all self-employed barristers, with 14% of all barristers receiving more than 5% of their gross fees from this type of work. The same survey suggests that this was most prominent in civil and family practice areas, and among younger self employed barristers.

**Figure 26. Self-employed barristers main area of work**

![Bar chart showing self-employed barristers main area of work]

A.1.40 While this is a relatively small proportion, there is evidence that it is growing in importance. The jointly commissioned LSB and BSB research into the public access scheme found that public access work had increased over the past 3 years. Nearly 70% of respondents indicated that their public access caseload had increased by a lot or by a little. However, just over half of the barristers registered on the public access scheme surveyed had undertaken five cases or fewer in the past year. Fees have also risen over the same time period. Around 43% of respondents have increased fees for public access work by a lot or by a little. This rises to nearly 50% among respondents that have been undertaking public access work for more than 6 years. However just over half of all respondents also stated that their fees have remained at the same level.
A. The market perspective:
Desired outcome 1. The market for legal services is more competitive

Chartered Legal Executives

A.1.41 Since 2010, the Chartered Institute for Legal Executives (CILEx) has shared data with the LSB to allow us to understand change over time. Our analysis of this data shows that the overall supply measured by the number of Chartered Legal Executives Fellows has fallen each year, from 7,552 in 2012, to 6,645 in 2015 – a fall of 12%. At the same time there has been a 7% fall in the number businesses where fellows are employed.

A.1.42 In terms of entry and exit over time, the proportion of fellows working in more than one market segment has grown each year, rising from 23% in 2012 to 28% in 2015. The proportion of fellows providing services in the conveyancing, injury, other, and other business affairs segment has grown over the past four years. This is shown in Figure 27. The combined effect of these changes is that the number of CILEx fellows in corporate structuring and finance; employment, injury, other, and other business affairs has grown over the past four years. It should be noted that some Fellows work in more than one category so the number of Fellows across work categories is greater than the total number of Fellows.

Figure 27. CILEx Fellows specialisms by market segment

A.1.43 As a proxy measure for changes in the types of business models, CILEx Regulation has introduced additional practising rights for Chartered Legal Executives over the past five years. These mean that the range of activities that fellows can undertake has increased – regulatory barriers have been removed. However each additional right requires additional qualifications to some degree. Figure 28 shows
A. The market perspective:
Desired outcome 1. The market for legal services is more competitive

the proportion of fellows with additional rights compared to areas of specialism, and the change over time.

A.1.44 From the beginning of 2015 CILEx Regulation began to authorise entities.

**Figure 28. CILEx additional practising rights compared to specialism**

<table>
<thead>
<tr>
<th></th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family advocacy</td>
<td>3.0%</td>
<td>3.2%</td>
<td>4.1%</td>
<td>3.9%</td>
</tr>
<tr>
<td>Criminal advocacy</td>
<td>11.6%</td>
<td>11.1%</td>
<td>13.7%</td>
<td>13.5%</td>
</tr>
<tr>
<td>Civil advocacy</td>
<td>0.6%</td>
<td>0.3%</td>
<td>0.3%</td>
<td>0.3%</td>
</tr>
<tr>
<td>Probate - from</td>
<td></td>
<td></td>
<td></td>
<td>0.2%</td>
</tr>
<tr>
<td>November 2014</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conveyancing - from</td>
<td></td>
<td></td>
<td></td>
<td>0.3%</td>
</tr>
<tr>
<td>November 2014</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Any additional right</td>
<td>1.1%</td>
<td>1.1%</td>
<td>1.4%</td>
<td>1.4%</td>
</tr>
</tbody>
</table>

**Licensed Conveyancers**

A.1.45 The number of CLC regulated entities has stayed broadly static over time, as shown in Figure 29 below. The CLC data from 2013 shows that the top 10 licensed conveyancing firms have nearly 60% of the market share for all conveyancing (residential and commercial) undertaken by CLC entities.102

A.1.46 In 2013, while the number of entities was small when compared to SRA regulated entities – the main demand side substitute - these firms accounted for a higher proportion of the total conveyancing market share, representing less than 4% of all regulated entities who provide conveyancing services but accounting for 5% of all conveyancing market share. Further, a range of research suggests they account for around 5%-10% of the residential conveyancing market.103 CLC analysis of Land Registry transaction data from September 2015 shows that despite making up just 4.4% of account customers, CLC-licensed practices carried out 10.3% of transactions for value.

**Figure 29. Overview of licensed conveyancers**

<table>
<thead>
<tr>
<th></th>
<th>2010/11</th>
<th>2011/12</th>
<th>2012/13</th>
<th>2013/14</th>
<th>2014/15</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of licensed conveyancers</td>
<td>1,115</td>
<td>1,071</td>
<td>1,177</td>
<td>1,222</td>
<td>1,262</td>
</tr>
<tr>
<td>Total licensed conveyancer entities</td>
<td>215 (July 2011)</td>
<td>212 (July 2012)</td>
<td>216 (July 2013)</td>
<td>217 (September 2014)</td>
<td>214 (September 2015)</td>
</tr>
<tr>
<td>Number of ABS</td>
<td>-</td>
<td>-</td>
<td>38</td>
<td>-</td>
<td>49</td>
</tr>
<tr>
<td>Market Share - 10 firm ratio</td>
<td>58%</td>
<td>59%</td>
<td>60%</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Entry – number of firms</td>
<td>16 (7%)</td>
<td>10 (5%)</td>
<td>10 (5%)</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>
A. The market perspective: Desired outcome 1. The market for legal services is more competitive

<table>
<thead>
<tr>
<th>Exit – number of firms</th>
<th>12</th>
<th>8</th>
<th>10</th>
<th>-</th>
<th>-</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(6%)</td>
<td>(4%)</td>
<td>(5%)</td>
<td></td>
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</table>

A.1.47 Recent analysis published by the CLC shows that the typical workload of a CLC entity breaks down as 88% residential conveyancing, 5% commercial conveyancing, 7% will trusts and probate, and 0.4% from non-reserved legal activities.  

A.1.48 In December 2015, there were 49 CLC regulated ABS, compared to 38 in June 2013. Of these, 69% are licenced to deliver conveyancing services only, 4% probate services only, and 17% for both types of services. The comparatively high rate of ABS among CLC regulated entities compared to SRA entities – 23% compared to 3.5% - is believed to be mainly driven by regulatory requirements and pre-existing business structures.

**Patent Attorneys and Trademark Attorneys**

A.1.49 Over the past seven years, the number of UK registered Patent Attorneys has risen by 10%, while the number of Trademark Attorneys has fallen by 8% over the same period. In 2015/16, 291 individuals were dual registered as both patent and trademark attorneys, up from 249 in 2014/15.

A.1.50 LSB analysis of the attorneys register from 2010 shows that 1,707 attorneys on the register were employed at 432 different organisations. Of these, 64% only employed one attorney, and 16% of organisations employed more than five attorneys. Analysis of the register of only those organisations that offer services to the public as of May 2015 showed that 58% employed one attorney, compared to 17% of organisations who employed more than five attorneys.

**Figure 30. Number of Patent and Trademark Attorneys**

<table>
<thead>
<tr>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Patent Attorneys</td>
<td>1,742</td>
<td>1,798</td>
<td>1,687</td>
<td>1,745</td>
<td>1,980</td>
<td>1,909</td>
<td>1,914</td>
</tr>
<tr>
<td>Trademark Attorneys</td>
<td>794</td>
<td>772</td>
<td>620</td>
<td>639</td>
<td>829</td>
<td>670</td>
<td>727</td>
</tr>
</tbody>
</table>

**Costs Lawyers**

A.1.51 As of April 2015 there were 598 costs lawyers. Over the 2010-2012 period regulations were changed removing ‘fellows’ meaning they reverted to trainee status or became full costs lawyers. This explains the significant increase in numbers over the past seven years.

**Figure 31. Number of Costs Lawyers**

<table>
<thead>
<tr>
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<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Costs Lawyers</td>
<td>246</td>
<td>270</td>
<td>411</td>
<td>565</td>
<td>563</td>
<td>562</td>
<td>598</td>
</tr>
</tbody>
</table>
A. The market perspective:
Desired outcome 1. The market for legal services is more competitive

A.1.52 LSB analysis of the Cost Lawyers Standard Board (CLSB) costs lawyer register as at November 2013, suggests that 568 costs lawyers were employed at 311 different organisations, with 71% of organisations employing just one costs lawyer, and 6% employing more than five. In 2013, 35% of costs lawyers were employed at solicitors firms, and 57% at legal costs businesses. Comparing this with LSB analysis of the CLSB costs lawyer register as at January 2016, suggests marginal change over the past three years. As at January 2016, there were 619 costs lawyers employed at 323 organisations with 75% of organisations employing just one costs lawyer and 4% employing more than five.

Notaries

A.1.53 The total number of notaries and scrivener notaries has fallen from a high of 870 in 2010/11 to 794 in 2015/16. Most notaries will also be qualified as a solicitor (and therefore regulated by the SRA). The majority of notaries only undertake notarial activities. Non reserved legal activities accounted for 1.3% of income for notaries in 2015/16.

Figure 32. Number of Notaries

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<tr>
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<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Notaries</td>
<td>827</td>
<td>870</td>
<td>845</td>
<td>858</td>
<td>812</td>
<td>792</td>
<td>794</td>
</tr>
<tr>
<td>Activity</td>
<td>Notarial only</td>
<td>96%</td>
<td>-</td>
<td>95%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Notarial and Probate</td>
<td>2%</td>
<td>-</td>
<td>2%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Notarial and Conveyancing</td>
<td>1%</td>
<td>-</td>
<td>0.4%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Types of client</td>
<td>Commercial</td>
<td>36%</td>
<td>-</td>
<td>36%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Private</td>
<td>64%</td>
<td>-</td>
<td>64%</td>
<td></td>
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</tr>
</tbody>
</table>

Accountants

A.1.54 In August 2014 ICAEW was approved as a regulator of (non-contentious) probate services and as a licensing authority for ABS. This means that existing members can apply to be authorised or licensed by ICAEW as a probate practitioner. ICAEW was reported to have 144,167 members as of June 2015. Of these, 22,001 were students, 61,415 worked in industry and commerce, and 43,290 worked in public practice.

A.1.55 As at August 2015, there were 122 probate practitioners on the ICAEW register, with 77 ABS entities. The number of ABS had risen to 100 as of October 2015. This is a significant rate of entry into this market segment. ICAEW have reported that there are a further 50 authorised firms that focus on probate services.

Unregulated legal service providers

A.1.56 As set out above, there is limited information on the supply of unregulated legal services, which makes assessment of change over time difficult. While the six reserved activities set out in the LSA cover highly visible legal services – court proceedings and transfers of property, among others – a large number of legal
activities are not reserved. Unreserved activities will include for example the provision of information and assistance for individuals - a major part of the legal services market. Service providers choose whether they wish to undertake reserved legal activities – if so, they must become regulated to do so, with the corresponding cost of regulation. As the Regulatory Policy Institute observe, “… the sheer volume of information that has to be absorbed by new entrants if they are to understand regulatory requirements and hence understand the risks to which they might be exposed. This is a barrier to entry in its own right, and its proportionate effect on unit costs is higher the smaller is the firm”. The potential cost of regulation and the scale of unreserved legal activities means it is important to consider unregulated legal service providers.

A.1.57 The recent LSB commissioned study looking at the unregulated sector concluded that the unregulated sector provided two key benefits – lower prices and service differentiation. This was countered by risks including lack of redress mechanisms for consumers – who may also be unaware of their regulatory status.

A.1.58 In the family segment, and looking specifically at divorce, this research identified five active online divorce providers. They offer assistance to individuals petitioning for divorce under amicable terms. This varies between ‘DIY’ packages, where the client is provided with the forms that they are then responsible for completing and filing, to ‘managed’ packages, where the provider is responsible for completing and filing all forms. Some unregulated providers offer ‘solicitor managed’ packages, where the work is outsourced to a regulated firm. This could be seen as more of a referral arrangement. Client acquisition is heavily dependent on search engine results. The investigation found no evidence of offline unregulated divorce providers.

A.1.59 In the intellectual property segment, the research identified two types of unregulated providers of IP services:

- Trademark and patent firms typically provide their services through online channels i.e. websites, automated processes, email and live chat.
- Invention promotion companies typically provide a suite of IP services, such as trademarks, patents, designs, advice, commercialisation and administration.

A.1.60 Unregulated providers advise on about 7-8% of patent and trademark registrations. Unregulated IP providers predominately acquire customers through word of mouth and repeat customers, whilst there is some use of Google Adwords. In addition to this, the cross selling of services is fundamental to business with 64% of providers indicating customers often buy more than one service.

A.1.61 In the wills, trusts, and probate segment there are around 80 DIY providers, 600 specialist will writers, and 1,000 wills and estate administration providers. A proportion of these were financial advisers switching into legal services. These providers are small when compared to SRA regulated entities, with 50% of providers having less than £100k annual turnover, and 80% having less than 5 employees. For
customer acquisition, they tend to rely on word of mouth and referrals from other professionals. Further, 53% actively advertised – compared to 64% of solicitors firms.

A.1.62 The study suggest that for profit unregulated providers make up a small proportion of the legal services market, but the market differs significantly by market segment. The market segments which attract the highest level of unregulated provision are family, property, welfare and benefits, consumer problems, wills and intellectual property. LSB analysis of the 2016 individual legal needs survey\textsuperscript{118} suggests that for profit unregulated providers represented 2.9% of those who sought advice or assistance in dealing with their legal problem (including paid and unpaid services). This share climbs to 5.5% of cases in which consumers paid for advice/representation. In contrast, not for profit providers, most of whom will be unregulated, accounted for 37% of all legal problems where advice was sought.

A.1.63 A recent study\textsuperscript{119} identified 1,462 Not for Profit advice sector organisations that deliver ‘legal advice’. In this study legal advice was defined as “Any advice which involves interpreting how the law applies to a client’s particular problem or set of circumstances”.\textsuperscript{120} A 2007 study reported that there were 3,000 Not for Profit organisations offering legal advice in England and Wales, although this used a broader definition of advice.\textsuperscript{121} This makes comparisons over time difficult.

A.1.64 It is not clear how many of these would be classed as ‘Special Bodies’ \textsuperscript{122}, although 94% had professional indemnity insurance\textsuperscript{123}, which has been used as a measure of a business focus on legal services in other studies. Additionally, 84% of respondents provided casework\textsuperscript{124} and 49% provided representation\textsuperscript{125} - comparable with reserved activities of litigation and rights of audience.

A.1.65 The 2015 study found that most organisations had been providing legal advice for more than ten years. Just over half had made changes to how they had delivered services following legal aid changes since April 2013. Overall, 61% had invested in new technology, and 8% had introduced fee charging for some type of problems. While 8% had reduced the geographic reach of the services provided, 28% had expanded the geographical services provided.

Non-LSA legal service regulation

A.1.66 There are some segments where specific types of providers are subject to regulation but not by any of the approved regulators under the LSA.

A.1.67 The Office of the Immigration Services Commissioner (OISC) regulates the majority of providers of immigration and asylum advice in the UK, although authorised persons are exempt from OISC regulation. OISC annual reports show that the number of organisations providing advice in this sector UK-wide has increased over time from 600 in 2005/06 to 1,061 in 2014/15 – an increase of around 75%. The total number of regulated advisers was 3,667.\textsuperscript{126} At the same time the number of SRA regulated entities in the immigration segment was broadly static growing by 5%, with turnover growing by 20%.\textsuperscript{127} The number of barristers and Chartered Legal Executives reporting work in this segment has remained static over the same period.
A. The market perspective:
Desired outcome 1. The market for legal services is more competitive

A.1.68 The Claims Management Regulator (CMR) regulates all claims management companies (CMCs) - those offering services for people hoping to claim compensation in the Injury, Employment, and Welfare and Benefits segments. CMR reports show the Injury segment growing up until 2011/12 and contracting sharply thereafter. In 2014/15 it represented 40% of all CMC turnover compared to 67% in 2009/10. This is summarised in figure 33 below. CMR reports that the increase in turnover is a result of the largest CMCs increasing their market share and smaller CMCs returning to the market with new models to comply with LASPO. This can be contrasted with what has happened to SRA regulated firms who increased their turnover by 18% in real terms between 2010/11 and 2014/15, despite a contraction in the number of suppliers of around 12%.

Figure 33. Claims Management Companies turnover from injury work

Changes in the nature of competition in different market segments

A.1.69 The 2012 solicitors’ firms survey found that solicitors firms perceptions of who their main competitors were varied by area of law. So for example in the immigration market segment local solicitors firms (25%), and non-solicitor providers (21%), were identified as the main source of competition. In the conveyancing market segment, regional and national firms were seen as a similar source of competition to local solicitors seen as (14% and 15%). The biggest contrasts were in the crime market segment where local solicitors were seen as the main source of competition (22%), and the injury market segment where regional and national solicitors were seen as the biggest source of competition (37%). Local firms were perceived as the main
source of solicitor competition in the family segment, and regional and national firms as the main source of solicitor competition in the other market segment.\textsuperscript{131}

A.1.70 TLS research from 2014 compared survey results in 2012 and 2013 and reported that a smaller proportion of solicitor firms report problems with competition – 15\% in 2013 compared to 23\% in 2012. This research also found that “Firms in 2013 were significantly less likely than those in 2012 to consider competition for business a ‘fairly’ or ‘very significant problem’.”\textsuperscript{132}

**Figure 34. Nature of competition – location of competitors**\textsuperscript{133}

![Figure 34: Nature of competition – location of competitors](image)

A.1.71 The 2015 Innovation survey asked participants to describe the type of competition they faced, as well as the main areas of work undertaken. Looking at responses in different market segments suggests a significant difference between the level of national competition in the injury segment and the rest of the market, which is more localised.\textsuperscript{134} This is shown in Figure 34.

A.1.72 The 2015 analysis shows that for CLC regulated entities, 50\% of entities felt that their main competition was local, 21\% regional, and 29\% national. Further 73\% of entities felt that SRA entities were their main competitors compared to just 23\% who felt other CLC regulated entities were their main competitors.\textsuperscript{135}

A.1.73 The 2016 prices research found that 52\% of firms in the conveyancing segment provided services remotely. This was between 29\% and 34\% of firms in the family segment, and between 15\%-25\% in the wills, trusts, and probate segment.
Desired outcome A.2. More consumers are able to get legal services at an affordable cost

Summary

- Generally there is lack of clear information on prices and affordability in the legal sector.

- Positive signs of change over time include a growth in the use of fixed fees for individual consumers. These grew from 38% in 2012 to 46% in 2015. Fixed fees provide the consumer with a degree of certainty as to the cost of the service, and are also associated with lower prices for individual consumers.

- LSB commissioned research shows that firms that advertise their prices are far more likely to offer cheaper services than those that do not. However only 17% of firms advertise prices online.

- The available evidence suggests that the proportion of individual consumers paying for the services themselves has increased, with fewer accessing services for free. This is over a period where changes to legal aid have removed free at the point of delivery services for some consumers (see Part 2).

- The most frequent way of paying for legal services is from individual savings, and this shows little evidence of change over time.

- Using guideline hourly rates as a proxy for the hourly rate charged in litigation, individual weekly earnings suggest that private litigation proceedings are relatively unaffordable for the average adult living in England & Wales. One hour of litigation from a solicitor with eight or more years’ experience is equivalent to close to half of the average weekly earnings of all UK adults.

- For business to business legal services, available measures of prices suggest that over time prices have risen at least as fast as general inflation. ONS figures show that business to business prices have steadily increased by a total of 15.5% between 2010 and 2016.

- The cost of enforcing a contract dispute through the courts is also reported to have risen over time – but the increases here are driven by increases in court fees and not lawyers’ fees.
A. The market perspective:
Desired outcome 2. More consumers are able to get legal services at an affordable cost

Why this is of interest

A.2.1 The affordability of legal services has been a long-term concern, but changes in the scope of legal aid funding outlined in Part 2 above, have increased the emphasis on the role of market solutions in meeting demand. Assessing affordability is challenging due to the absence of a sector wide definition of what affordable means in the context of legal services. In this analysis, we look at changes in prices over time and seek to compare these changes to UK wide measures of changes in income over time. In terms of scope, as highlighted in Outcome B.2, perception of prices and uncertainty as to final price, as much as actual prices, deters some people from seeking advice, however the focus in this outcome is on changes in prices themselves.

A.2.2 What prices are charged and how they are changing over time is key to understanding how the level of competition in a market is changing (see Outcome A.1). However, there remains very limited time series data for prices paid for legal services. This is due to a number of factors including a lack of research into the economics of the legal services market prior to the LSA, the historical dominance of charging by hourly rates as opposed to fixed prices, and a reported reluctance of some providers to advertise prices – as a way of preventing price competition.

A.2.3 To seek to close this gap the LSB commissioned a survey to gather information on prices quoted for a set of specific scenarios. The survey also collected information from participants on whether or not they advertise prices. This survey is used extensively in the analysis below, but it’s worth noting here that just 17% of respondents to the survey advertised prices online, and 4% didn’t have a website at all. Firms based in rural locations were more likely to advertise prices online than those based in urban locations, but there were no differences by size of firm, ABS and non-ABS, or between solicitors and licensed conveyancers.

Knowledge Gap 5 – Trends in actual prices paid for legal services over time for different consumer groups

A.2.4 In the absence of actual price data we rely on a number of partial indicators to form a view on whether or not prices are becoming more affordable. These are partial in that none of them cover the whole spectrum of services offered in the market. These partial indicators are:

- Changes in the types of funding for legal services;
- Changes in charging methods;
- Prices quoted for individual consumers in conveyancing; divorce, wills, probate and power of attorney;
- How individual consumers paid for legal services;
- Changes in the business to business legal services prices index;
- Changes in the guideline hourly rates used for cost assessments in litigations;
- Changes in the cost of enforcing a contract.
A.2.5 As set out in Part 2, MoJ analysis suggests that court fees are a second or third order influence on a decision to proceed with litigation or not. However, in the 2016 individual legal need survey\textsuperscript{140}, 28% of those who handled a problem alone because they thought costs were too high mentioned court fees. This compares to 52% who were concerned about the costs of advisors fees. For those who did nothing about the problem, 5% mentioned costs as the main reason. Just over half of these (57%) respondents said that they thought the cost of the advisor's service would be too much, while in 45% of cases they said the cost of court fees was prohibitive.

Changes in the types of funding for legal services

A.2.6 For individual consumers, the LSCP tracker survey\textsuperscript{141} collects information on how the legal services used in the previous two years were paid for. As set out in Figure 35 below, the majority of legal services used are paid for privately, and the increase between 2012 and 2015 - from 56% to 64% - is statistically significant. At the same time the proportion of individuals receiving services for free has reduced significantly.

Figure 35. How individual legal services are funded over time

A.2.7 Different types of funding are prevalent in different market segments. Figure 36 below shows higher levels of paid for advice\textsuperscript{142} in the wills, trusts and probate, immigration, and residential conveyancing segments. Most likely reflecting the availability of legal aid prior to April 2013, there are substantial levels of free advice in the welfare and benefits, civil liberties, and crime segments. High levels of free advice in the injury segment most likely reflect the use of a no win no fee
A. The market perspective:
Desired outcome 2. More consumers are able to get legal services at an affordable cost

arrangement, and in consumer problems the use of trading standards advice services.

A.2.8 Within the 2016 legal needs survey\textsuperscript{143}, based on the date the legal problem ended, LSB analysis suggests there has been a significant increase in the proportion of individuals paying for all or part of the service in conveyancing and residential market segment (from 63% in 2012 to 75% in 2015) and the welfare and benefits segment (from 0% in 2012 to 12% in 2015). In the wills, trusts and probate market segment there has been a significant decrease in the proportion of individuals paying for all or part of the service – from 80% in 2012 to 64% in 2015. In all other segments, differences between 2012 and 2015 are not statistically significant.

Figure 36. Use of paid advice services by different market segments

Changes in charging methods for individual consumers

A.2.9 The LSCP survey also provides information on charging methods over time. Comparing 2012 to 2015, the use of fixed fees has increased significantly from 38% to 46%, with associated significant decreases in the use of hourly rates.

A.2.10 The benefit of fixed fees is the certainty they provide to consumers at the point of purchase, compared to the traditional approach of input based pricing (eg per hour) where the provider determines the number of inputs/hours. This shifts the price variation risk from the consumer to the provider which is likely to increase the consumer’s confidence in using a legal service, but requires a change in the historical approach to giving employees annual billable hours targets.\textsuperscript{144} As one
A. The market perspective:
Desired outcome 2. More consumers are able to get legal services at an affordable cost

analysis noted, “Managing fixed fees may pose significant challenges to smaller businesses less able to bear the risks associated with fixed pricing; although were (say) fixed fees and network advertising to lead to greater volumes of business these risks might be mitigated. It may also signal a tipping point when more consumers of legal services begin to shop around for legal services than is currently the case.”

The prices research indicates fixed fees are associated with lower prices – see Figure 38 below.

Figure 37. How services were charged for over time

A.2.11 The LSB commissioned prices research found clear differences depending on the charging approach adopted by the firm. In the residential conveyancing and family market segments, firms charging a fixed fee quote consistently offer lower prices across all of the scenarios than those estimating a total cost. In the wills, trusts, and probate market segment the differences were not statistically significant.

A.2.12 For family services the research found the use of fixed fees diminishing as the divorce scenarios became more complex – 74% of firms used fixed fees for the most simple scenario compared to 36% for the most complex. There were similar variations in the wills, trusts, and probate market segment, where fixed fees were quoted by firms for 92% of standard wills, but just 59% for grants of probate. In the residential conveyancing market segment, prices did vary depending on whether firms offered ‘no completion, no fee’ (offered by 27% of firms), or with other conditions (25% of firms).
A. The market perspective:
Desired outcome 2. More consumers are able to get legal services at an affordable cost

<table>
<thead>
<tr>
<th>Conveyancing - residential</th>
<th>Scenarios 156</th>
<th>Median price</th>
<th>Inter-quartile range</th>
<th>No. of weeks average earnings</th>
<th>Factors associated with lower prices</th>
<th>Factors associated with higher prices</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sale – Freehold</td>
<td></td>
<td>£603</td>
<td>£200</td>
<td>1.3</td>
<td></td>
<td>Firm located in a deprived area 151</td>
</tr>
<tr>
<td>Sale - Leasehold</td>
<td></td>
<td>£700</td>
<td>£320</td>
<td>1.5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchase – Freehold</td>
<td></td>
<td>£650</td>
<td>£250</td>
<td>1.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchase - Leasehold</td>
<td></td>
<td>£750</td>
<td>£275</td>
<td>1.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sale &amp; Purchase (Freehold)</td>
<td></td>
<td>£1,250</td>
<td>£510</td>
<td>2.7</td>
<td></td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Family - divorce</th>
<th>Scenarios 156</th>
<th>Median price</th>
<th>Inter-quartile range</th>
<th>No. of weeks average earnings</th>
<th>Factors associated with lower prices</th>
<th>Factors associated with higher prices</th>
</tr>
</thead>
<tbody>
<tr>
<td>Uncontested – petitioner</td>
<td></td>
<td>£600</td>
<td>£302</td>
<td>1.3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Uncontested – respondent</td>
<td></td>
<td>£350</td>
<td>£250</td>
<td>0.8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Uncontested with children – petitioner</td>
<td></td>
<td>£750</td>
<td>£517</td>
<td>1.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contested with children – petitioner</td>
<td></td>
<td>£1,200</td>
<td>£1,150</td>
<td>2.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contested with assets – petitioner</td>
<td></td>
<td>£2,000</td>
<td>£1,740</td>
<td>4.4</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Wills, trusts and probate</th>
<th>Scenarios 156</th>
<th>Median price</th>
<th>Inter-quartile range</th>
<th>No. of weeks average earnings</th>
<th>Factors associated with lower prices</th>
<th>Factors associated with higher prices</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual will – standard</td>
<td></td>
<td>£150</td>
<td>£90</td>
<td>0.3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Individual will – complex</td>
<td></td>
<td>£163</td>
<td>£130</td>
<td>0.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lasting power of attorney</td>
<td></td>
<td>£380</td>
<td>£195</td>
<td>0.8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assistance for obtaining a Grant of Probate</td>
<td></td>
<td>£650</td>
<td>£450</td>
<td>1.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assistance with Estate Admin.</td>
<td></td>
<td>£1,500</td>
<td>£1,625</td>
<td>3.3</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Figure 38 Comparison of average prices quoted by market segment**
A. The market perspective:
Desired outcome 2. More consumers are able to get legal services at an affordable cost

Figure 39. Reported changes in prices in the past 12 months

Prices quoted for individual consumers

A.2.13 In 2016 the LSB commissioned research to gather data on the prices for a set of legal services.\textsuperscript{152} These are shown in Figure 38 above. Factors associated with lower prices were: fixed fees, firms located outside of the South East, and firms located in more deprived areas. Median prices of even the simplest services still represent in excess of one week’s average earnings, except for wills, lasting power of attorney, and responding to an uncontested divorce.

Knowledge Gap 6 – Prices paid for legal services compared to other services.

A.2.14 In all areas there is wide spread of prices, but how this spread of prices compares to other professional service sectors is unknown. In a competitive market where consumers find it easy to search and compare different providers the range of prices might be explained by higher and lower quality services – or variation in non price features.\textsuperscript{153} The LSCP tracker survey shows that over 2011-2015 between 20-25% of individual consumers shopped around, while 4%-6% wanted to but didn’t. There has also been a sharp fall in consumers reporting difficulties in comparing providers from 28% in 2011 to 12% in 2015. In other research consumers were very sceptical about claims made that higher fees are an indicator of quality: “The higher fees were not expected to be accompanied by a better product. Notably, when it was put to consumers that the higher fees might actually imply better legal advice, they often questioned how the company would be able prove such a case (referring back to the discussion around consumers’ inability to tell whether they were getting ‘better’ legal advice).”\textsuperscript{154}
A. The market perspective:
Desired outcome 2. More consumers are able to get legal services at an affordable cost

A.2.15 The 2012 survey of solicitor firms found that 28% of firms reporting a decrease in turnover over the past three years had responded by simply increasing fee levels. In the 2015 survey of prices, the majority of firms have kept prices the same but 29% of respondents reported increasing prices in the previous 12 months. This could be evidence of a non-competitive response, especially alongside the finding in the 2015 innovation research around the intensity of competition (see A.3 below) and the changing perceptions of competition (see A.1 above).

A.2.16 Further the recent study into Barristers providing public access reported that “Although 43% respondents reported an increase in the profitability of their practice as a result of public access, in a separate question only 4% of respondents reported they had reduced their fees for public access work in the last 12 months. Furthermore most respondents do not appear to have a clear sense of market prices for public access work, and do not give a great deal of consideration to pricing their services competitively.”

Figure 40. How individuals funded legal services overtime

<table>
<thead>
<tr>
<th></th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>Overall</th>
</tr>
</thead>
<tbody>
<tr>
<td>From savings</td>
<td>55%</td>
<td>55%</td>
<td>56%</td>
<td>60%</td>
<td>57%</td>
</tr>
<tr>
<td>From my regular income/salary</td>
<td>38%</td>
<td>40%</td>
<td>38%</td>
<td>33%</td>
<td>36%</td>
</tr>
<tr>
<td>I took out a loan</td>
<td>3%</td>
<td>2%</td>
<td>3%</td>
<td>2%</td>
<td>3%</td>
</tr>
<tr>
<td>I borrowed the money from family/friends</td>
<td>4%</td>
<td>3%</td>
<td>5%</td>
<td>6%</td>
<td>5%</td>
</tr>
<tr>
<td>A charge was put on my property</td>
<td>6%</td>
<td>4%</td>
<td>3%</td>
<td>3%</td>
<td>4%</td>
</tr>
<tr>
<td>It was paid for by family or friends</td>
<td>2%</td>
<td>3%</td>
<td>2%</td>
<td>1%</td>
<td>2%</td>
</tr>
<tr>
<td>Deducted from payout / settlement</td>
<td>1%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>insurance / union membership / covered</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>1%</td>
<td>0%</td>
</tr>
<tr>
<td>Monthly / weekly payments</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Other</td>
<td>0%</td>
<td>1%</td>
<td>0%</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>n</td>
<td>172</td>
<td>373</td>
<td>609</td>
<td>817</td>
<td>1,971</td>
</tr>
</tbody>
</table>

How individual consumers paid for legal services

A.2.17 The jointly commissioned 2016 legal needs survey collected information on how individual consumers paid for legal services. It found that:

- 57% of consumers paid for their legal service using savings;
- 36% from their regular income;
- 5% borrowed from family and friends;
- 3% took out a loan;
- 3% had a charge put on their property
- 2% had the service paid for by friends or family
A. The market perspective:
Desired outcome 2. More consumers are able to get legal services at an affordable cost

- 0.4% of consumers had their service paid for by insurance.

A.2.18 LSB analysis of this data shows that the way in which legal services were paid for has remained relatively static over the past four years – with no statistically significant differences between 2012 and 2015.

Changes in business to business prices over time

A.2.19 The ONS publishes quarterly updates to its Service Producers Prices Index. This tracks changes in prices charged for legal services provided to businesses.\(^{159}\) This shows that business to business prices index has steadily increased to 15.5% between 2010 and 2016. This is above the annual inflation rate but is comparable to changes in prices for accountants. This is shown in Figure 41.

Figure 41. Changes in B2B legal services over time

Changes in guideline hourly rates

A.2.20 Guideline Hourly Rates (GHR) are designed to assist judges in making cost assessments at the end of cases, indicating the recoverable hourly rates for different fee earners, and providing a reference point for costs budgeting.\(^{160}\) The GHR are currently applicable to contentious litigation in all civil cases (excluding family cases) that have been heard in a fast-track or (less frequently) multi-track case for which a judge is making a summary assessment of costs. This means they are applied at the Judge's discretion as to what a winning party can recover from the losing party. They are not relevant to cases being heard in the small claims court or that are subject to a fixed costs regime.
A. The market perspective:
Desired outcome 2. More consumers are able to get legal services at an affordable cost

A.2.21 While these rates are designed for work in relation to litigation, they are thought to have a wider influence in the setting of prices generally. As one judge stated, “.GHRs influence, but do not necessarily govern, what solicitors and other legal fee earners are paid by the losing side in civil litigation for the work they have done in the case. Because that is so, GHRs can have an impact on what lawyers can charge their clients”.

A.2.22 Figure 42 shows the changes in guideline hourly rates over time. This shows 2014 prices – to take account of inflation – calculated using the HMT Gross Domestic Product deflators. The rates shown are the national averages of the six different geographical bandings. While administratively set, these bandings are designed to account for different accommodation and salary costs.

Figure 42. Guideline Hourly Rates over time

A.2.23 The current rates have not been updated since 2010, except for some changes to scope in 2014. A potential review to assess whether a Civil Justice Council recommendation to reduce the rates in litigation by around 5% was credible, was reportedly shelved in 2015 because of a lack of funding for research. Because the GHRs haven’t been updated, they have fallen in real terms since 2010. However one hour of litigation (based on the GHRs) from a solicitor with eight or more years’ experience is still equivalent to close to half of the average weekly earnings of all UK adults.
A. The market perspective:
Desired outcome 2. More consumers are able to get legal services at an affordable cost

Figure 43. The cost of enforcing business to business contract disputes over time, UK

Changes in the cost of enforcing contracts

A.2.24 Each year the World Bank publishes an assessment of the ease of doing business in different countries, which includes information on the cost of enforcing a contract dispute through the courts.\textsuperscript{166} This suggests that both the overall costs and time have risen in the past eleven years in the UK, with a 14\% rise in cost. However, between 2013 and 2014 all the rise is attributable to increases in court fees – with lawyers’ fees staying a steady 35\% of the of the claim value. However this is still significantly higher than other common law countries. In 2014, lawyers’ fees as a percentage value of the claim were 18.5\% in Australia, 22\% in New Zealand, and 15\% in Canada, although different fee arrangements will be in place in each of these countries.
Desired outcome A.3. There is a greater plurality of, and innovation in, legal services offered

Summary

- Overall the level of innovation is broadly unchanged since before the LSA reforms were introduced. However, the new regulatory arrangements in the form of permitting ABS and direct access services for barristers are associated with greater levels of innovation and can be seen as a potential catalyst for improving innovation over time.

- This is reinforced by the level of innovative activity reported by the respondents to the innovation survey being significantly higher for those who mainly operated in the injury segment – where SRA regulated ABS feature most prominently.

- Legislation and regulation relating to legal services was reported as both the main driver of and barrier to innovation. The positive and negative effects of legislation and regulation vary both among different provider groups and within different market segments. Given that changes to regulation generally apply across all market segments, this is not necessarily a surprising finding.

- While the economic assessment of the cumulative effects of the changes to regulation (See Part 2) suggests that there has been a largely pro-competitive effect, the findings of the innovation study suggest there is scope for improvement in terms of market outcomes.

- In future levels of innovation will be affected by how successful the regulatory community is in addressing the regulatory barriers to innovation. The magnitude of change we expect to see in the future may be tempered by some of the cultural barriers to innovation identified in the research. However, we believe the pace of change needs to quicken or in the long term consumers will go to other providers or adopt other problem resolution strategies.
Why this is of interest

A.3.1 The LSB’s 2013 evaluation report highlighted the continued lack of evidence on the levels and types of innovation within the legal sector.\(^\text{167}\) Since then the SRA and LSB have jointly funded a large scale study to look at these issues across the whole sector, and close this gap in collective knowledge. This was undertaken by the Enterprise Research Centre at Warwick University.\(^\text{168}\) This part of the evaluation uses that research to look at how levels of innovation have changed over time and what the drivers of and barriers to innovation are reported to be.

A.3.2 To avoid the issues of subjectivity associated with the term innovation, the study looked at more specific and descriptive terms such as ‘process change’, ‘new services’ etc. The approach involves: “(a) identifying a range of concrete actions which may be regarded as innovative; (b) exploring organisations’ engagement with this set of practices, the drivers of this engagement and any barriers to involvement; and, (c) exploring the consequences of engagement with innovative practices.”\(^\text{169}\) This is the same approach adopted in the only other quantitative study to look at innovation in a range of services, including legal services.\(^\text{170}\) This approach allows a more systematic assessment of innovation in legal services than say a focus on publicised levels of innovation. The study uses the findings of a survey of 1,500 participants, covering the 2011/12-2014/15 period.

Benefits of innovation in legal services

A.3.3 Variety and innovation in legal services are likely to have positive impacts on access to justice (see B.1) and affordability (A.2). This is also directly linked to competition (see A.1). This is because, “the dynamics of competition create incentives for suppliers to increase productivity through innovation, which lowers costs and hence prices through time.”\(^\text{171}\)

A.3.4 The 2015 study showed the major effects of innovations on innovating organisations were to extend the range of services offered, attract new customers, and improve quality. In line with the assessment presented in A.2, reducing the cost of delivery is a benefit for less than half of all innovating organisations – despite two thirds of barristers’ chambers reporting this as a key benefit. The results are summarised in Figure 44 below.\(^\text{172}\)

A.3.5 As can be seen, over the past three years the innovations introduced in the legal sector were more likely to be of benefit in service development and quality improvement, rather than in delivering lower cost services. These positive benefits for innovators are closely intertwined with a range of other positive outcomes considered from the consumer’s perspective.
A. The market perspective:
Desired outcome 3. There is a greater plurality of, and innovation in, legal services offered

Figure 44. The benefits of innovation from the perspective of innovators

Figure 45. Types of innovation by provider groups
A. The market perspective:
Desired outcome 3. There is a greater plurality of, and innovation in, legal services offered

Levels of innovation

A.3.6 The survey found that in the 2011/12 - 2014/2015 period, one quarter of respondents had introduced a new or improved service. This was highest for unregulated legal service providers at 36% and lowest for solicitors and barristers chambers at 25%. Innovation in the delivery of services was claimed by 26% of respondents, a percentage which was lower among barristers’ chambers. The introduction of a ‘radical’ innovation i.e. one introduced before competitors, is much less common, indicated by less than 8% of respondents. These levels do however compare favourably with the UK Innovation Survey findings covering all business sectors.173

A.3.7 In terms of the types of innovations being undertaken these varied across the different provider groups, but marketing innovation – for example a move to media advertising or commercial partnerships – was the most frequent for each of the groups and overall. As shown in Figure 45, the unregulated sector is most innovative in marketing, service, and organisation activities. SRA regulated firms are most innovative in management and strategic activities.

Changes since 2009

A.3.8 The study reported that in looking across the range of innovative activities and making comparisons with the 2009 study, “the picture here is one of stability rather than significant change…. with the majority of indicators in each element of the value chain taking similar values in 2015 as to those which were observed in 2009. Where marked differences do exist these seem likely to reflect sampling issues rather than substantive changes.”174

A.3.9 However, looking at factors associated with higher levels of innovation for those regulated by the SRA, the research highlighted that larger organisations were more likely to undertake innovation in both services and delivery.175

A.3.10 The study also reported that among solicitors’ firms, ABS were significantly more likely to undertake each type of innovation than non-ABS organisations. They had higher levels of investment, staff engagement and external involvement when compared to non-ABS organisations – all indicators of higher levels of innovation. They were also spending twice as much of their turnover on branding and reputation, and were more likely to be using intellectual property protection. “This is similar to the findings of the 2013 LSB survey of ABS where organisations reported a key barrier to innovation was the traditional partnership model.”177

Drivers of innovation

A.3.11 The innovation study found a wide range of drivers of innovation in legal services. As set out in Figure 46 below, the drivers with the biggest impacts in the past three years are legislation and regulation. Technology, demand, and competition are less frequent drivers.
A. The market perspective:
Desired outcome 3. There is a greater plurality of, and innovation in, legal services offered

Barriers to innovation

A.3.12 As with the assessment of drivers of innovation, the study asked all respondents to consider whether any of a set of factors was a significant constraint on innovation. These are summarised in Figure 47 below. The most commonly cited factors were regulatory and legislative issues. However, “this also implies that around 75-80 per cent of respondents did not consider regulation or legislation to be a major constraint on innovation. It is also of interest that [other legal services providers] operating in activities which are unregulated under the Legal Services Act (LSA) 2007 cite regulatory barriers to innovation as often as organisations which are regulated by the LSA. One possibility is that the main regulatory barriers to innovation are not therefore specific to the LSA itself but relate to the impact of the wider business environment”. What makes some factors a barrier to innovation for some and not for others is unknown, but the 2015 study highlights that regulatory and legislative issues are highlighted more frequently by legal services providers than businesses in other sectors.178

A.3.13 As can be seen, some of these factors are not directly influenced by regulation – limited market opportunities for example. At the same time, changes to regulation to allow new business models should enable a wider variety of investments in services and address to some extent the lack of necessary finance factor. For example, if the BSB were able to licence ABS, barristers would have an additional route to securing investment, above and beyond normal entities (which have only been permitted since January 2015 and so are not captured in the
The market perspective: Desired outcome 3. There is a greater plurality of, and innovation in, legal services offered

innovation research). The innovation research found a lack of necessary finance to be a significant issue for barristers’ chambers. However, that a lack of collaborators, attitudes within the business, and attitudes to change among the profession are comparatively so infrequently reported reinforces a picture of innovation being restricted by areas within the influence of regulation.

Figure 47. Main barriers to legal services innovation

A.3.14 Turning to the specific elements of regulation as shown in Figure 48 below, generally speaking the insurance arrangements for barristers chambers stands out as being perceived by the largest proportion of respondents as having negative effects on innovation. For solicitors, “if they are asked whether regulation and legislation is a barrier to innovation, a minority will say it is: but if they are asked to judge whether individual aspects of regulation or legislation have a positive or negative effect, a somewhat more positive view of regulation generally emerges. This reflects some findings in the research literature which have emphasised the potential for regulation and regulatory change to stimulate rather than hinder innovation activity”. On this basis changes in regulation that might have the biggest impact on innovation for SRA regulated entities, would relate to dealing with client money and complaints handling.

A.3.15 As can be seen, the net perceptions of regulatory and legislative barriers to innovation are all negative for unregulated legal service providers, with the exception of changes to legislation. We can hypothesise that this may be driven by a perception of regulation as a barrier to entry for these types of providers although the study does not explore this further, beyond citing uncertainty in the regulatory environment as a problem.
A. The market perspective:
Desired outcome 3. There is a greater plurality of, and innovation in, legal services offered

A.3.16 We can use the survey to look at whether responses differed by main category of work undertaken. While this is not directly applicable to the whole legal sector¹⁸⁴ significant differences between survey respondents who are mainly working in different segments¹⁸⁵ are of interest in the absence of any other data. The differences are shown in Figure 49 below for market segments with the largest sample sizes.

A.3.17 Looking at levels of innovative activities, testing for significant differences shows that when compared to the rest of the survey respondents, we can see the following differences for firms whose main areas of work were:

- **Conveyancing – residential** - significantly less likely to have introduced new services, used advanced management techniques, or changed marketing channels. They are also less likely to have spent money on branding, use IP, or social media.

- **Corporate structuring and finance** - more likely to use IP protections.

- **Crime** - less likely to get new ideas from outside the organisation, or use IP.

- **Injury** - more likely to have introduced new services in the past three years; to have changed the delivery of services; developed a new corporate strategy; changed marketing channels; and obtained ideas from outside the organisation. They were also more likely to have spent money on branding, worked with other organisations for marketing, or used social media.
The market perspective:

Desired outcome 3. There is a greater plurality of, and innovation in, legal services offered

- **Other** – more likely to have introduced new services, or obtained ideas from outside the organisation.
- **Wills, trusts, and probate** – less likely to involve clients in service evaluation.

![Figure. 49 Levels of innovative activity by market segment 2012/13-2014/15](image)

### Levels of innovation over the last three years

<table>
<thead>
<tr>
<th>Area</th>
<th>Convey. (n=267)</th>
<th>Corporate Etc (n=91)</th>
<th>Crime— (n=140)</th>
<th>Family (n=127)</th>
<th>Injury (n=111)</th>
<th>Other (n=227)</th>
<th>Wills, etc (n=129)</th>
<th>Unknown (n=152)</th>
<th>All (n=1,500)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduced new or significantly improved services</td>
<td>24%</td>
<td>29%</td>
<td>26%</td>
<td>31%</td>
<td>46%</td>
<td>45%</td>
<td>35%</td>
<td>36%</td>
<td>33%</td>
</tr>
<tr>
<td>Introduced new or significantly improved services - new to market</td>
<td>6%</td>
<td>11%</td>
<td>6%</td>
<td>13%</td>
<td>10%</td>
<td>11%</td>
<td>9%</td>
<td>12%</td>
<td>10%</td>
</tr>
<tr>
<td>Changed delivery of services</td>
<td>32%</td>
<td>24%</td>
<td>29%</td>
<td>28%</td>
<td>39%</td>
<td>29%</td>
<td>36%</td>
<td>28%</td>
<td>29%</td>
</tr>
<tr>
<td>New corporate strategy</td>
<td>18%</td>
<td>13%</td>
<td>19%</td>
<td>22%</td>
<td>31%</td>
<td>17%</td>
<td>15%</td>
<td>26%</td>
<td>21%</td>
</tr>
<tr>
<td>Advanced mgmt. techniques</td>
<td>15%</td>
<td>21%</td>
<td>28%</td>
<td>23%</td>
<td>23%</td>
<td>22%</td>
<td>16%</td>
<td>26%</td>
<td>21%</td>
</tr>
<tr>
<td>Changed organisational structure</td>
<td>30%</td>
<td>26%</td>
<td>30%</td>
<td>28%</td>
<td>34%</td>
<td>24%</td>
<td>22%</td>
<td>28%</td>
<td>27%</td>
</tr>
<tr>
<td>Changed marketing channels</td>
<td>35%</td>
<td>41%</td>
<td>40%</td>
<td>49%</td>
<td>67%</td>
<td>44%</td>
<td>42%</td>
<td>41%</td>
<td>43%</td>
</tr>
<tr>
<td>Offering services online</td>
<td>16%</td>
<td>19%</td>
<td>19%</td>
<td>20%</td>
<td>23%</td>
<td>17%</td>
<td>19%</td>
<td>20%</td>
<td>19%</td>
</tr>
<tr>
<td>Get new ideas from outside the organisation</td>
<td>27%</td>
<td>26%</td>
<td>21%</td>
<td>32%</td>
<td>42%</td>
<td>38%</td>
<td>34%</td>
<td>30%</td>
<td>30%</td>
</tr>
<tr>
<td>Active involvement of people outside the organisation</td>
<td>15%</td>
<td>11%</td>
<td>14%</td>
<td>17%</td>
<td>21%</td>
<td>18%</td>
<td>22%</td>
<td>17%</td>
<td>30%</td>
</tr>
<tr>
<td>Involve clients in service evaluation</td>
<td>69%</td>
<td>74%</td>
<td>74%</td>
<td>72%</td>
<td>77%</td>
<td>67%</td>
<td>60%</td>
<td>68%</td>
<td>69%</td>
</tr>
<tr>
<td>Spent money on branding</td>
<td>49%</td>
<td>63%</td>
<td>51%</td>
<td>60%</td>
<td>74%</td>
<td>52%</td>
<td>54%</td>
<td>56%</td>
<td>56%</td>
</tr>
<tr>
<td>Work with other organisations for marketing</td>
<td>17%</td>
<td>14%</td>
<td>15%</td>
<td>22%</td>
<td>32%</td>
<td>18%</td>
<td>18%</td>
<td>18%</td>
<td>18%</td>
</tr>
<tr>
<td>Use of social media</td>
<td>38%</td>
<td>55%</td>
<td>44%</td>
<td>56%</td>
<td>71%</td>
<td>52%</td>
<td>49%</td>
<td>55%</td>
<td>52%</td>
</tr>
</tbody>
</table>

A.3.18 Figure 50 sets out the perceived barriers to innovation as reported by respondents to the survey. As the chart shows, respondents whose main area of work was in the corporate structuring and finance market segment tended to report lower levels of barriers to innovation. Testing for significant differences shows that when compared to the rest of survey respondents, we can see the following differences for firms whose main areas of work were:

- **Crime** - significantly more likely to see lack of finance, market opportunities, and legislative factors as having been significant barriers.
- **Family** – significantly more likely to see lack of finance as having been a significant barrier.
A. The market perspective:
Desired outcome 3. There is a greater plurality of, and innovation in, legal services offered

- **Injury** - significantly more likely to see legislative factors as a significant barrier to the development of new services in the past three years.

**Figure 50. Perceived significant barriers to innovation by market segment**

A.3.19 Looking at views on negative impacts on service development over the past three years, testing for significant differences shows that when compared to the rest of the survey respondents, there are the following differences for firms whose main areas of work were:

- **Conveyancing – residential** – more likely to see all areas except legislative changes as having a negative impact on their ability to develop services.
- **Crime** - less likely to see client confidentiality and data protection (DPA) requirements and professional indemnity insurance requirements as having a negative impact on their ability to develop services over the past 3 years. However they are significantly more likely to view legislative changes and new business structures as having a negative impact.
- **Family** – more likely to see client confidentiality and DPA requirements as having a negative impact on service development.
- **Injury** - less likely to see money laundering regulations and new business ownership as having a negative impact on service development. However they are significantly more likely to view legislative changes as having a negative impact.
- **Wills, trusts, and probate** - less likely to see managing client money, legislative changes, and new business structures and ownership as having a negative impact.
These differences between the segments will be driven in part by the different make up of providers in each market segment – as set out in A.1 above. We see this as possible evidence of regulations having different impacts in different market segments despite in the main regulation being designed to apply across all market segments.

Figure 51. Perceived negative impacts on service development by market segment
B. The consumer perspective

Are the regulatory objectives being delivered?

A. Market
1. More competitive
2. Affordable legal services
3. Plurality of services

B. Consumer
1. Higher access to justice
2. Confidence in legal services regulation
3. Empowered in dealings with legal services

C. Provider
1. Diversity better matching client population
2. Quality has improved
3. Profession and judiciary have confidence in the legal sector

D. Public
1. Confidence in legal sector
2. Efficient legal system
3. Profession and judiciary have confidence in the legal sector

E. Investor
1. Market attractive to all sources of finance
2. Proportionate regulation

Evaluation: Changes in the legal services market 2006/07-2014/15 – Full report
B. The consumer perspective:
Desired outcome 1. A higher proportion of the public are able to access justice

Summary

- Our analysis suggests a fall in the incidences of legal problems for small businesses when comparing 2013 to 2015, and looking across all market segments. Accurate comparisons over time for individual legal needs are not possible because of different question framings, but the levels of problem incidence appear to be broadly similar.

- While responses to legal problems for small business have stayed broadly the same over the two different surveys, the trend for respondents to the 2016 individual legal needs surveys appears to show increasing levels of problem handling without advice over time. This trend is matched in some market segments where official data on self representation is available.

- Looking at changes within the period covered by the 2016 survey shows a fall in the proportion of individual consumers seeking advice for the least severe problems, but not for the most severe.

- For individual consumers the three main factors that drive responses to legal problems – problem characterisation, the type of problems faced, and perceptions of costs – show little evidence of change over time.

- Official statistics suggest a decreasing use of legal representation in family court proceedings, a long term trend that appears to have increased in domestic violence and private law children proceedings since legal aid reforms were introduced.

- In terms of methods of delivery the use of face to face methods is still prominent with 40% of legal services for individual consumers being mainly delivered face to face. For small businesses telephone and email were the main method of delivery in over 50% of cases.

- The trends for court proceedings is falling numbers of trials over time with time taken for cases to conclude staying broadly static – though reducing significantly in a number of areas.

- For small businesses there has been little change in the outcomes achieved comparing the 2013 and 2015 surveys. There is no evidence on the validity and fairness of outcomes achieved over time for either small businesses or individuals.
B. The consumer perspective:

Desired outcome 1. A higher proportion of the public are able to access justice

**Why this is of interest**

B.1.1 The LSA sets out a clear regulatory objective for all the regulators of improving access to justice. The key element, for us, is the relationship between regulation and access to justice. While regulators can contribute to improving access to justice, clearly there are other levers beyond regulation that have substantial effects on this objective. Regulators key role is facilitating a market that best promotes access to justice along with the other regulatory objectives.

B.1.2 In practical terms this is closely linked to the other regulatory objectives. The example of a dismissed employee who doesn’t pursue a claim because they perceive services to be expensive – perhaps because they don’t have the information they need to make an accurate decision - can be said to have been denied access to justice (they haven’t pursued a valid case to the tribunal). This can also be considered an incidence of the rule of law being undermined (a lack of equality of arms has led to the rights of one party not being enforced) and having negative impacts on both consumers and the wider public interests. As the BSB have stated in the past “helping to uphold the rule of law which is done most readily by increasing access to justice. The simpler, cheaper and easier it is to access a lawyer, the easier it is for the ordinary private citizen to assert their rights to ensure that the law applies to them as equally as it does to corporate and wealthy clients.”

B.1.3 In recognising and responding to a legal issue a consumer will make a judgement on whether to use a legal service or not, which type of service to use, and how far to pursue an issue. This will be based to some extent on a perception of the legal services on offer. Accessible legal services are a key part of improving access to justice, whether or not the service is in relation to a dispute. As the Lord Chief Justice’s office has stated: “Access to justice goes wider than access to the justice system and would include for instance access to ADR, access to legal advice which did not lead to nor was intended to lead to litigation”.

**Measuring access to justice**

B.1.4 While the LSA provides the objective, it does not define it. Recognising the lack of agreement on what access to justice means in practical terms, in 2012 the LSB published a discussion paper putting forward a set of indictors we were proposing to measure in order to understand how access to justice has improved since the LSA.

B.1.5 As the discussion paper showed no widely adopted definition has been put forward through decades of case law, acts of Parliament, and consideration by generations of highly qualified and experienced professionals and researchers. The LSB developed a definition as part of its 2010 consultation on what the regulatory objectives mean. We define access to justice as the acting out of the rule of law in particular or individual circumstances. The tools to achieve that outcome range from informing the public about their rights, routine transactional legal services and personalised advice, through to action before tribunals and courts. The agents of
B. The consumer perspective:
Desired outcome 1. A higher proportion of the public are able to access justice
delivery are wide and, of course, legal professionals are at the heart of this along with many other actors in legal services and the wider justice sector.

B.1.6 For the LSB, justice is more than the resolution of disputes: it includes just relationships underpinned by law. Those rights that in a minority of circumstances might end up being upheld in court cannot be separated out from other legal rights, responsibilities and relationships. The escalation of a relationship (contractual, private or with the state) through disagreement to legal dispute and to legal action and court resolution all takes place in a legal framework of justice. Justice is underpinned by legal knowledge, legislative frameworks, dispute resolution and the infrastructure of the legal services market and the court system as well as by the outcomes that consumers secure. Access to justice is the securing of these just outcomes not just the process of dispute resolution.

B.1.7 Access to justice encompasses services delivered through any channel including face-to-face, telephone or internet. If legal advice is to become more accessible and, by implication, more affordable, then legal services must engage more constructively with alternative forms of distribution beyond the traditional. These services can also be ones not tailored to the individual such as information services on the web, in leaflets or any other form. Access to justice encompasses services both individually tailored and those tailored to groups or provided to potential consumers. That means access is provided by authorised persons and the wider legal services industry, related professions and related advice bodies in the public, commercial and third sectors.

B.1.8 The nature of what we are trying to measure over time with this outcome requires a range of indicators, which are set out in Figure 52 above. The range of indicators attempts to capture many aspects of access to justice from the consumer’s perspective. It is recognised that the impact of regulation is limited in some areas as regulation is not responsible for all the different levers within the justice system. However, regulation is developed and takes effect within a wider environment making understanding of this environment very important. We consider each of these indicators in turn below.

B.1.9 We mainly focus on changes in access to justice for individual and small business consumers because we have found no published information on how these issues directly relate to the other consumer group – large businesses. Our working assumption is that because of the different nature of market power between a legal service provider and a large corporation when compared to an individual consumer, access to justice issues are less of a concern for other consumer groups. However, recent research commissioned by the SRA reported that: “The seeking by clients to restrict, via contract, who a firm can and cannot act for has reshaped the market for financial services litigation. This goes to access to representation issues, in that some litigants are no longer able to secure their lawyers of choice. Whether this is also an access to justice issue is unclear, and we accept that there is no absolute right to a lawyer, or law firm, of first choice.”194
B. B. The consumer perspective:
Desired outcome 1. A higher proportion of the public are able to access justice

Knowledge Gap 7. Changes in access to justice for large businesses

Figure 52. Measuring changes in access to justice from a variety of perspectives

Changes in the incidence of legal problems

Changes in how people respond to legal problems

Trends in supply of legal services

Changes in use of formal dispute resolution

Changes in outcomes achieved

Proxy indicators of demand
Incidence of legal needs
Responses to legal need
Perception of legal services
Use of legal services
Number of providers
Type of services provided
Methods of service delivery
Volumes of trials
Length of proceedings
Satisfaction with outcomes achieved
Quality of outcomes achieved

Changes in the incidence of legal problems

B.1.10 Use of formal legal mechanisms are relatively rare for most consumers. For example:

- MoJ analysis found that less than 1% of adults in England and Wales were involved in family court cases in the two years up to surveys conducted in 2011/12 and 2012/13 and less than half were even aware of the family justice system.\(^{195}\)
- There was one grant of probate for every 232 individuals living in England and Wales in 2014/15.

B.1.11 However recent research shows that 62% of adults have used a law firm or a solicitor at some point in their lifetime.\(^{196}\) Further, the frequency of legal problems is higher among different groups of consumers.\(^{197}\) This is important in terms of both how the different legal services markets currently function and the time horizons over which we can reasonably expect to see changes to market outcomes. How this incidence does change over time can be understood by trends in official statistics and the findings of a range of legal need surveys.
B. The consumer perspective: Desired outcome 1. A higher proportion of the public are able to access justice

B.1.12 As set out in Part 2 above, the trend over the 2006/07-2014/15 period is for falling volumes of available measures of demand, over the long term or post-recession, except for a significant growth in the proxy volume indicators for clinical negligence and personal injury.

B.1.13 Respondents to an LSB commissioned survey into individual consumers legal needs reported an incidence rate of at least one legal problem in the 2009-2011 period (the 2012 survey) of 49%. In a jointly commissioned 2016 legal need survey 54% of those entering the survey indicated that they had experienced at least one issue in the past three years. The surveys use different framing of questions. The 2012 survey explicitly uses the phrase ‘legal problem’ where as the 2016 survey refers to issues. As a consequence the group of people who have a problem that are likely to be included in the 2016 survey is broader than those in the 2012 survey and as such this might lead to a higher rate of people stating they have experienced problems.

Figure 53. Incidence of legal problems for small business consumers

B.1.14 With that bias in mind, making cautious broad comparisons between the responses in the two surveys suggests a lower incidence of individuals having a consumer problem, making a will, getting into debt and or money problems, getting divorced, and mental health issues in the 2012 legal need survey compared to the 2016. At the same time there was a higher incidence of problems with disputes with neighbours, problems getting the right welfare benefits, problems with landlords, problems following a relationship breakdown, discrimination, domestic violence, other personal injury, and clinical negligence. A decrease in divorces and an increase in personal injury is shown in the proxy indicators in Part 2.
B. The consumer perspective:
Desired outcome 1. A higher proportion of the public are able to access justice

B.1.15 Recent LSB commissioned surveys also show a significant fall in the underlying incidence of legal problems for small businesses in the 2015 small business legal need survey, when compared to 2013. As well as the comparisons between two snapshots, a panel of small businesses surveyed about their experience of legal problems in the 2013 and 2015 surveys showed a 6% fall in any problems reported from 35% to 29%. This was true for all problem types except for small rises in problems relating to regulation (relating to mandatory licensing, product safety, data protection and advertising standards) and debt/finance problems. The research suggests that this is likely to be a result of an improving economy.

Changes in how consumers respond to legal problems

B.1.16 How people actually respond to the incidence of a legal problem is also captured in legal need surveys. These provide snapshots at specific points in time, but represent the best available information on how people respond to legal issues. A legal needs survey of individuals published in 2004 found that 52% of people obtained advice when experiencing a legal problem. This was 49% in a survey of legal needs in 2006-09. In the 2012 the legal need survey commissioned by the LSB was 43%, although the definition of legal problem used was narrower and the range of problem types included was broader than previous surveys.

Figure 54. Changes in responses to legal problems over time – date case ended

B.1.17 LSB analysis of the 2016 legal need survey, looking at date case ended, suggests a growing proportion of individuals handling their problems alone, with decreases in the proportion seeking advice, as shown in Figure 54 - the proportion of problems being handled alone rose significantly from 46% of cases ended in 2012
B. The consumer perspective:
Desired outcome 1. A higher proportion of the public are able to access justice

compared to 54% in 2015. Looking at the reasons for handling alone over this period there has been a significant increase in the proportion of people making an active choice to handle their problem from 55% in 2012 to 64% in 2015.

B.1.18 Given the approach of looking at problems by date case ended this could potentially be a result of changes in the nature of problems themselves, and the fact that respondents were only reporting problems experienced in the previous three years. For example, LSB commissioned analysis of the Civil and Social Justice Panel survey – covering the period prior to legal aid reform - found that shorter duration problems were more likely to be handled alone without recourse to independent advice. That analysis found that as problem duration increases, the likelihood of ‘handling alone/using informal advice’ decreases substantially, while the likelihood of inaction and advice seeking increase.204 However looking at problem severity – as rated by the individual experiencing the problem - LSB analysis suggests a similar breakdown of problem severity over time. Further analysis would be required to look at the profile of individual’s experiencing problems over time.

Figure 55. Changes in response to legal problems by severity of problems

B.1.19 Response to issues varied significantly across the different market segments. 2016 survey respondents with a consumer problem were most likely to handle this alone (73%). Advice was most frequently sought for legal needs in the wills, trusts, and probate market segment (49%). Taking no action this was highest in the civil liberties market segment (34%). LSB analysis of date case ended suggests that over the past four years the proportion of people seeking advice has grown in the residential conveyancing segment but has fallen in all other segments.
B. The consumer perspective:
Desired outcome 1. A higher proportion of the public are able to access justice

Figure 56. Proportion of individuals seeking advice over time – by date case ended

Figure 57. Small businesses advice seeking behaviour, and use of courts

<table>
<thead>
<tr>
<th>Category</th>
<th>2014/15 (n=2999)</th>
<th>2015/16 (n=3500)</th>
<th>2012/13 (n=264)</th>
<th>2013/14 (n=272)</th>
</tr>
</thead>
<tbody>
<tr>
<td>AI</td>
<td>9%</td>
<td>52%</td>
<td>8%</td>
<td>53%</td>
</tr>
<tr>
<td>Property, construction &amp; planning</td>
<td>11%</td>
<td>37%</td>
<td>8%</td>
<td>44%</td>
</tr>
<tr>
<td>Other business affairs</td>
<td>9%</td>
<td>56%</td>
<td>9%</td>
<td>62%</td>
</tr>
<tr>
<td>Residential property rights</td>
<td>10%</td>
<td>40%</td>
<td>12%</td>
<td>38%</td>
</tr>
<tr>
<td>Employment</td>
<td>8%</td>
<td>46%</td>
<td>7%</td>
<td>43%</td>
</tr>
<tr>
<td>Corporate advising and finance</td>
<td>9%</td>
<td>41%</td>
<td>9%</td>
<td>42%</td>
</tr>
<tr>
<td>Consumer</td>
<td>7%</td>
<td>67%</td>
<td>6%</td>
<td>60%</td>
</tr>
</tbody>
</table>
B. The consumer perspective:
Desired outcome 1. A higher proportion of the public are able to access justice

B.1.20 For small business consumers, the picture painted by the two LSB commissioned surveys is of no significant changes in the way they respond to legal problems. However the fall in seeking advice in the consumer market segment is significant as is the increase in any involvement of court proceedings. It is not known what might drive these differences.

B.1.21 Looking segment-by-segment, the legal need surveys show almost no significant differences in the reasons why individuals chose to handle alone - despite a much larger proportion of individuals handling their problems alone as set out above. However, there were significant increases in the proportion of respondents in the 2016 survey who actively chose to handle their problem alone in both the Conveyancing and Wills, trusts, and probate market segments.

B.1.22 The small business legal need surveys did not highlight any significant differences in the proportion of small businesses with a qualified lawyer or a person trained in handling legal issues in house – 6% in 2013 and 5% in 2015.205

B.1.23 Below we consider what other research suggests about reasons why people respond in the way they do and what that means in the context of changes over the past three to five years.

B.1.24 Analysis of the Civil and Social Justice Panel Survey (CSJPS) described the response of taking no action as painting a “picture of both rational cost-benefit analysis and uncertainty or fatalism. A significant minority reported they hadn’t known what could have been done or thought action would have made no difference”. 206 The same research found very high levels of misunderstanding of legal rights – with levels of accurate response to a series of scenarios often below those expected from pure guesswork,207

B.1.25 A recent qualitative study commissioned by the MOJ 208 looked at the factors that impact advice seeking behaviour for individual consumers. This found that generally barriers for choosing how to respond to a legal problem relate to knowledge and skills – contextual and procedural knowledge, and the skills to find, review, and understand information.209 This impacted on behaviour in a variety of ways. For example in a situation where an individual had a limited understanding of options when faced with a debt problem, the option of taking out further loans was seen as a credible resolution pathway.

B.1.26 Looking at specific segments the same research found a common need for more information but at different points in the process – at the point of understanding options of responding to the problem and at deciding how to proceed. Other factors varied. So for example in the injury market segment, participants’ responses were simpler and ultimately determined by the availability of a no win no fee solicitor. As a result they were highly influential in the response to the legal problem. Solicitors tended to be found via online searches.210 For money claims, participants used a range of methods, for example speaking to solicitors directly and looking online at government websites in determining how to respond. Those who went to solicitors directly made the assumption that there were no alternatives in resolving their
B. The consumer perspective: Desired outcome 1. A higher proportion of the public are able to access justice

problem. Courts were a valuable source of information and participants weighed up the costs and time implications of using different approaches.\(^{211}\)

B.1.27 MoJ commissioned research to look at litigants in person in family court proceedings also highlighted the need for more information and self-help resources from a single authoritative official website – so that individuals would trust the information available.\(^{212}\)

B.1.28 LSB commissioned analysis of the CSJPS\(^{213}\) confirms that the three dominant factors in the type of action taken in response to a legal problem were:

- Problem characterisation – if a problem is perceived to have a legal element – as opposed to bad luck - individuals are more likely to seek legal advice. However characterising problems as legal was rare;
- Problem type – linked to how problems are characterised, formal advice is more likely to be sought for divorce, relationship breakdown, and owned housing, and less likely to be sought for consumer, education, and benefits problems. This isn’t solely related to the existing supply of legal services, but more about individuals pre-existing beliefs about lawyers and the justice system.
- Costs – This analysis found that 57% of participants who used an not for profit organisation rather than a lawyer did so because of the perceived or actual costs of a lawyer. As a consequence of perceptions around costs, the analysis found that individual consumers on lower incomes were less likely to take action or seek legal advice.

The authors go on to state “Our findings do not suggest any broad crisis of access to justice, with market rationing operating to channel more severe problems towards advice and formal process and some inaction appearing entirely rational. However, the legal services market and civil justice system do not ensure fair and equal access to justice”.\(^{214}\) It is important that the concept of ‘rational inaction’ is not lost in any assessment of changes in access to justice.

B.1.29 While small business consumers are less researched than individual consumers there are some clear similarities. Patterns of problem characterisation are shown below with small businesses more frequently seeing problems as private, and individuals more frequently seeing problems as bad luck. Neither group’s characterisations has changed significantly in the different surveys. In the 2016 legal needs survey 27% of respondents to the individual legal need survey classified the problem as legal.\(^{215}\)

Figure 58. How individuals and small businesses characterise legal problems

<table>
<thead>
<tr>
<th></th>
<th>Individuals(^{216})</th>
<th>Small Businesses(^{217})</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>CSJPS wave 1 2010</td>
<td>CSJPS wave 2 2012</td>
</tr>
<tr>
<td>Bad luck/part of life</td>
<td>43% 45%</td>
<td>14% 16%</td>
</tr>
<tr>
<td>Moral</td>
<td>11% 16%</td>
<td>14% 16%</td>
</tr>
<tr>
<td>Private</td>
<td>6% 7%</td>
<td>29% 29%</td>
</tr>
<tr>
<td>Criminal</td>
<td>6% 7%</td>
<td>5% 5%</td>
</tr>
</tbody>
</table>

74 Evaluation: Changes in the legal services market 2006/07-2014/15 – Full report
B. The consumer perspective:
Desired outcome 1. A higher proportion of the public are able to access justice

<table>
<thead>
<tr>
<th></th>
<th>2006/07</th>
<th>2007/08</th>
<th>2008/09</th>
<th>2014/15</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal</td>
<td>10%</td>
<td>11%</td>
<td>14%</td>
<td>14%</td>
</tr>
<tr>
<td>Social</td>
<td>11%</td>
<td>12%</td>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td>Bureaucratic</td>
<td>17%</td>
<td>18%</td>
<td>22%</td>
<td>21%</td>
</tr>
<tr>
<td>Family/community</td>
<td>5%</td>
<td>7%</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

The role of information

B.1.30 The 2015 small business survey found that only 13% of small businesses thought lawyers provided a cost effective means to resolve legal issues – compared to 12% in 2013. In half of incidences they only used them as a last resort, and only 25% found it easy to find a provider when they did decide to use one. A key recommendation of this research was to improve the provision of information on the clarity of the services on offer to this group of consumers. The researchers found “the micro-segment of the small business population to be very reluctant to take up legal advice in its current form. Other business segmentation approaches by legal service providers may include targeted services for business start-ups, firms with owners of differing ethnic minority origin and those run by owners with a disability, or specific sector offerings where these are relevant.”

B.1.31 This body of research highlights the importance of information – both on rights and legal procedures but also on the range and costs of services on offer - in driving people’s responses to legal problems, and its potential for improving access to justice. This is against apparently static problem characterisation among both individuals and small businesses. LSB commissioned research presented an evaluation of different ways of providing information which highlighted the effectiveness of just in time information as opposed to just in case information.

B.1.32 While it is hard to quantify how the effective provision of information has changed over time there is no evidence of significantly increased marketing activity by regulated firms - the private sector form of public legal education – over the past ten years. While there are some high profile examples of television advertising by networks and a handful of ABS firms, this doesn’t give insight to wider industry trends. The 2012 survey of solicitors firms jointly commissioned with the TLS and MoJ, found that just 64% of firms engaged in media advertising despite the commercial incentives (media advertising was associated with an increase in turnover of 10%). The more recent 2015 survey into innovation found that 43% of solicitors firms used social media – mainly for advertising services. Barristers reported increased marketing of direct access services – a consequence of this work not coming through traditional referrals. The LSB commissioned research into prices found that just 17% of firms advertised prices.

B.1.33 The provision of information by intermediaries such as comparison sites advertising the use of legal services is limited in the legal sector, as the LSCP have highlighted in the past. LSB commissioned research has identified a desire from consumers for a single official website to provide information on legal processes and services, with the recent MoJ study highlighting the challenge faced by individuals in finding authoritative online information.
B. The consumer perspective: Desired outcome 1. A higher proportion of the public are able to access justice

B.1.34 More positively, however, one 2013 investigation of methods of delivery of legal advice provides a range of examples of traditional firms and advice agencies using technology to provide information and advice. The study observes that in relation to technology "in both the private and public sector, there is simply a lot of experiment without direct commercial motivation. Many individuals, agencies and organisations just want, or feel the need, to develop a web presence or some other way of increasing their accessibility through such mechanisms as hotlines, email advice provision or otherwise." Building on this work at the end of 2014 the Legal Education Foundation published a report on digital delivery of legal services to people on low incomes. The author saw the current pattern of digital legal services as being a combination of the following:

- for-profit legal services providers looking to access the latent legal market
- online communities that are free for users
- government provided free information sites
- not-for-profit legal portals and triaging websites
- standalone not-for-profit information websites
- assisting litigants in person with free support
- online dispute resolution and determination
- websites linking legal assistance to the development of skills
- websites that provide textbook level information on a shareable basis

The study reported that these experiments are being led by a range of organisations – charitable, government agencies, as well as regulated legal businesses. However, the impacts of this experimentation are likely to take some years to lead to observable changes in how individuals and small businesses respond to legal problems.

The role of cost

B.1.35 Research commissioned by the LSB in 2013 to explore the reasons why people choose not to use lawyers highlighted the importance of perception of cost and the lack of transparency of costs as a key barrier: "Consumers believe that lawyers are expensive per se……there is also a widespread view that costings are not transparent, bills can escalate following initial indicative costs, and that some lawyers will carry out additional work or spend additional time on the case purely to increase the final bill. This perceived lack of transparency can lead to a breakdown of trust in individual lawyers and, in particular, word of mouth can lead to a wider mistrust in the legal profession." The effect of this is likely to reduce the overall size of the potential legal market according to economic theory, in particular where use of legal services is discretionary. Perceptions of high costs were cited as key reasons why people self-represented or chose to use unbundled legal services.

B.1.36 The 2016 legal need survey reported that for those who had a legal problem over the 2012-2015 period and considered but did not use a solicitor, 28% made the assumption they would be too expensive. This was 35% for more severe issues, and 24% for less severe issues. A further 11% did not think the solicitor would offer value for money. In 20% of issues respondents saw no need to consider
B. The consumer perspective:
Desired outcome 1. A higher proportion of the public are able to access justice

using a solicitor because they felt the issues were not important enough. This was
more often the case for issues of lower severity, (27% compared to 11% for higher
severity cases) and for issues where respondents experienced only one issue
compared to those experiencing five or more (26% versus 13%). Cost was also more
often cited as a factor for issues where respondents did not characterise the issue as
a legal one, 23% versus 11% of those who did.

B.1.37 Looking just at rights related legal needs – excluding transactional legal
needs – the LSB commissioned analysis of the CSJPS highlights the impact of
severity of the problem and responses. Increase severity is associated with greater
use of formal advice – including both the Not for Profit sector and regulated
providers. However the proportion of people who just put up with their problem does
not change when the severity of the problem is considered.234 LSB analysis of the
2016 legal need survey data shows increasing advice seeking as severity increases.

Use of legal services

B.1.38 Moving along the ‘response path’ we can use official statistics to look at
changes in the use of legal services within some market segments. Official data
provides insight into changes in the use of legal services over time in the context of
these most severe problems – ones being resolved through a formal dispute
resolution process or requiring official registration. Analysis of legal needs data
shows that while 13% of the more severe problems result in a court, tribunal or third
party dispute resolution, this is true for only 7% of the less severe problems.235 The
segments where we have data to allow analysis of trends over time are:

- Employment - employment tribunals and use of lawyers;
- Family – representation in family proceedings;
- Welfare and benefits; Property, construction and planning; Other business
  affairs – representation in civil proceedings;
- Wills, trusts, and probate - Grants of probate and use of solicitors.

We look at each of these segments in turn below.

B.1.39 Looking at employment tribunals, the trend over the past ten years is for
increased lawyer use against a background of falls in total volume of tribunals over
the long term. This is in the context of the changes to tribunal fees outlined in Part 2
above.

B.1.40 A highly visible indicator of changes in use of legal services is court hearings
where participants don’t use legal services236 – they represent themselves. A
National Audit Office report in 2014 looking at the legal aid reforms introduced from
1st April 2013 concluded that: “Since the reforms, there has been an increase in the
number of litigants in person in family courts. The reforms are also likely to have had
an impact on the number of litigants in person in civil law courts, but this is more
difficult to determine from the available data.”237
B. The consumer perspective:

Desired outcome 1. A higher proportion of the public are able to access justice

Figure 59. Employment: Use of lawyers in Employment tribunals over time

Figure 60. Trends in family court representation where both parties are represented

78
Evaluation: Changes in the legal services market 2006/07-2014/15 – Full report
B. The consumer perspective: Desired outcome 1. A higher proportion of the public are able to access justice

B.1.41 Data published since that report suggests this trend has continued as is shown below. This shows that there has been a very large fall in the proportion of cases in family private law proceedings where both parties are represented - 22% in Q2 2015 compared to 50% in Q1 2011 – with larger falls occurring post the implementation of the LASPOootnote{LASPO) reforms and associated with increases in neither party being represented. This is against a backdrop of falls in the overall number of proceedings for divorce and annulment cases involving financial remedies (down 29% between 2011 and 2014) and private law family cases (down 16% between 2011 and 2014). The volume of disposals in other areas is broadly static, though the number of disposals in domestic violence proceedings has grown by 15%.

B.1.42 However because of the way in which this data is collected, some of these trends will be driven by changes in the proportion of cases that are contested. As the recent publication by the MoJ states, “parties recorded as without legal representation are not necessarily self-representing litigants in person - for example, [Figures] suggests that for half of the divorce cases not involving financial remedies disposed, neither party had legal representation. However, further analysis shows that these were uncontested cases and about 98 to 99% of them did not have a single hearing.”

B.1.43 A substantial study of litigants in person in private family proceedings – conducted before the LASPO reforms were introduced - found that the major reason for self-representation was cost and a view that a lawyer was not necessary. For those who self-represented because of costs, this was because either people just could not afford a lawyer at all, had already spent available funds on lawyers at an earlier stages in the case, or had made a cost benefit calculation and decided they could not justify the cost of representation.

B.1.44 Further, the immediate reduction in representation at court proceedings may be a result of change in solicitor behaviours as much as individual consumers – who we assume are less well aware of legal aid reforms given the general level of inaccuracy of expectations of legal aid funding, and high levels of uncertainty. As the Organisation for Economic Co-operation and Development state “One implication of the asymmetric information between lawyers and clients that characterises the market for legal services is that the decision of whether to file a case in court or not is often effectively taken by the lawyer. In taking this decision lawyers respond to their incentives as shaped by the joint effect of the fee regulation – including rules on pricing transparency – and the organisation of the supply of legal services.”

B.1.45 For civil court cases the trend in the proportion of disposals where both parties were represented has remained broadly constant over the 2013-2015 period. For unspecified money claims, both parties were represented in 97% of disposals in Q2 2015 and for specified money claims this was 29% compared to 28% in Q1 2013.

B.1.46 For mortgage and landlord possession claims there has been little change over time. In these types of cases claimants will be mortgage lenders or landlords,
B. The consumer perspective: Desired outcome 1. A higher proportion of the public are able to access justice and defendant will be the individual living in the property subject to the possession order. Published MoJ statistics show the overall volume of mortgage lender claims has fallen by two thirds between Q1 2013 and Q2 2015, continuing a longer term trend. At the same time landlord possession actions also fell by 14% while social landlords continued to make up four fifths of claims where the type of landlord was known.

Figure 61. Trends in representation in Mortgage and landlord possession defences

B.1.47 Participants in a large scale survey of civil court users of claims started in May and June 2014 stated they would have ideally avoided going to court, and had sought advice on whether or not to make a claim before they did so.

B.1.48 MoJ statistics suggest a falling rate of solicitor use, as well as falling total grants of probate, over the past fifteen years – down from a high of 73% in 2006/07 to 64% in 2014/15. The ‘other’ group will include reserved providers (for example licensed conveyancers and more recently accountants), unregulated providers offering support services with individual consumers applying for the grant of probate themselves (assisted self-help), and individual consumers applying for probate completely on their own. This may reflect the entry of new regulated and unregulated providers into this segment. Further analysis of the data shows that for the 2012-2014 period personal applications were far more likely when the principal registry was used compared to the district registries – 89% compared to 33%. It is not clear why that might be and possibly reflects different local practices at the 11 district registries and 18 sub-registries, which are not related to legal services regulation. Over this period the principle registry accounts for a steady 4-6% of all grants of probate annually.
B.1.49 LSB analysis of the 2016 individual legal need survey data suggests greater handling alone over time and we can see falls in representation at court or in transactions.\textsuperscript{253} Taken together these suggest a general trend of a fall in the use of legal advice which may not be related to any specific reform. While it is likely that this has been driven by legal aid changes affecting the family segment as official statistics suggest (see Part 2 above), the more incremental changes in probate are driven by the interplay of other factors.

B.1.50 Our conclusion is that perceptions of likely cost and value are still key factors in not accessing services from lawyers. In addition, transparency about costs, which might alleviate those perceptions, does not seem to be improving.

**Figure 62. Wills, trusts, and probate: Use of solicitors in probate over time\textsuperscript{254}**

**Changes in supply of legal services**

B.1.51 Volume and capacity constraints on access to justice are best captured through changes in supply. As set out in Outcome A.1 the number of authorised persons has grown over time from a total of 143k in 2009/10 to 162k in 2015/16\textsuperscript{255} – a rise of 13%. There are now 364 individuals in England and Wales per authorised person, down from 387 in 2009/10, meaning that there has been comparatively slower population growth compared to the growth of authorised persons. Where it can be measured productivity remains static (see A.1).
B. The consumer perspective:
Desired outcome 1. A higher proportion of the public are able to access justice

B.1.52 UK wide legal sector data published by the ONS shows a broadly static number of people per legal sector employee – 196 in 2009/10 and 203 in 2013/14. One analysis in 2014 stated that “Only six countries in the world have more lawyers relative to their population, and only three significantly more” \(^{256}\). LSB analysis of SRA data suggests an increase in the number of fee earners working at SRA regulated entities – up from 121k in 2011/12 to 131k in 2014/15 – or 8%. However LSB analysis suggests that non authorised persons now make up a greater proportion of the SRA regulated workforce – up from 25% in 2011/12 to 30% in 2013/14.

B.1.53 While the number of entities and authorised persons has grown over time, as set out in A.1 there has been very limited changes in the number of market segments in which SRA regulated firms reported any turnover and limited changes for Chartered Legal Executives in spite of changes to regulation permitting new rights (see Part 2). Barristers appear to have switched away from crime to commercial areas of practice (see A.1).

Figure 63. Trends in the number of businesses in the legal sector

B.1.54 Aside from these wider trends in the supply of legal services, a main part of the LSA reforms was the introduction of non-lawyer ownership to allow new business models – ABS. The LSBs 2013 survey of ABS\(^{257}\) suggested they were making greater use of technology, and taking a more customer focused approach to business. However, only the minority had made any change to the way they were marketing services, the groups of consumers they provide services to, or the areas of law in which they provided services. Two years on and a survey found “ABS organisations are also generating a higher proportion of turnover from new services than non-ABS organisations and are innovating across more aspects of their activities than non-ABS organisations. Finally, ABS organisations are on average
B. The consumer perspective: Desired outcome 1. A higher proportion of the public are able to access justice

spending more than twice as much of their turnover on reputation and branding (3.1 per cent) than non-ABS organisations (1.4 per cent) and are nearly three times as likely to be using some form of intellectual property protection.\textsuperscript{258}

B.1.55 Types of improved access that additional capital might enable were summarised in a recent Australian report as “additional funds as a result of external ownership can better enable law firms to acquire existing offices and open new offices in areas where the demand for legal services is being unmet;….. develop online services; and provide pro bono and other non-legal services clients often require.”\textsuperscript{259} However as the SRA noted in their 2014 survey, “Further research will be required to investigate whether the areas of investment in ABS (technology, marketing, and changes to the way legal services are delivered) are indicative of a trend that may improve the accessibility of legal services to consumers”.\textsuperscript{260}

B.1.56 There is some evidence of the nature of the services supplied by providers changing over time. Provider participants in a qualitative study commissioned by the LSB and LSCP reported that the provision of unbundled services was relatively recent, in response to a greater demand for low cost legal services following changes to legal aid, and a more competitive market.\textsuperscript{261} The 2015 LSCP tracker survey suggested around one in five transactions involved some form of unbundled service.\textsuperscript{262}

B.1.57 An in-depth study into litigants in person in family cases from 2014 highlighted the use of partial or unbundled services for representation in court proceedings. It found that almost half of the LIPs in the sample had evidence of legal assistance or representation at some stage during their current proceedings (not including one-off free legal advice sessions), and some also or alternatively had been represented in previous family law proceedings. The study found similar levels of partial representation in Children Act and financial remedy proceedings and between applicants and respondents. For financial settlements only 41% of those acting in person in cases that went to First Directions Appointment or beyond, acted in person throughout the case.\textsuperscript{263} This study also observed that while there was evidence of these services as far back as 2002, law firms appeared to be increasingly offering fixed-price packages and other forms of unbundled services.

B.1.58 The geographic location of suppliers is one element of discussions about access to justice. However the development of technology potentially enabled services to be delivered at lower cost and to a wider range of consumers, though not all consumers will have access to such technology. For legal services this may be limited by the lack of information available to compare different offerings, as noted in the LSB 2013 Evaluation report.\textsuperscript{264}

B.1.59 The LSB commissioned small business legal needs surveys show that face-to-face meetings are the most frequent way of receiving legal services from all providers except patent attorneys and legal helplines – 29%. Email and telephone delivery methods were also important for contact with solicitors, and overall accounted for the main method of delivery in 50% of cases. Contact with barristers
and licensed conveyancers also involved the internet and texting. Although new forms of delivery were important, conventional forms endured.

B.1.60 LSB analysis of the 2016 individual legal need survey shows that the main method of service delivery was face to face or in person – the main method for 40% of problems across all market segments. However this varies substantially across the different market segments, being highest in crime probably driven by advice being frequently delivered at a police station. It was lowest in the injury segment perhaps a result of the substantial entry of ABS (see A.1) with capital to invest in technology in this market segment.

Figure. 64 Methods of delivery for individual consumers

B.1.61 While different methods of service delivery will work better for different types of consumers and situations, there is no simple relationship between vulnerability and method of delivery. A recent review of the Civil Legal Advice gateway – introduced in April 2013 for those eligible for civil legal aid - noted that “Users were sometimes disappointed about being unable to see someone in person, though many were appeased once specialists were able to explain how the service worked and what it could offer. There was an overall sense that those seeking face-to-face advice often did so out of preference as opposed to need.” This would suggest that services can be delivered remotely even though some consumers prefer more traditional modes of delivery.

B.1.62 The recent prices survey commissioned by the LSB, collected information on legal services providers’ ability to offer services remotely – to clients who do not live locally. In the residential conveyancing market segment, 52% of survey respondents...
B. The consumer perspective:
Desired outcome 1. A higher proportion of the public are able to access justice

were able to provide services remotely – 48% only offered services locally. In the family segment this varied by the different types of cases, but only 29%-35% of firms offered services remotely. In the wills, trusts, and probate market segment, an even smaller proportion of firms provided services remotely – between 15%-25% depending on the different types of cases.  

**Figure 65. Changes in the main method of delivery for individual consumers**

![Figure 65](image_url)

B.1.63 LSB analysis of survey data from the 2016 legal needs survey, looking at date case ended, shows that the most common services provided to individuals were providing them with information about their legal position and about procedures or next steps (58% for both) and providing information about options (46%) – see Figure 66 below. Between 2012 and 2015 there has been a significant increase in the proportion of individuals whose main provider has suggested where to get further help (from 16% in 2012 to 21% in 2015) and a significant decrease in the proportion of individuals whose providers have provided practical support (from 43% in 2012 to 37% in 2015), accompanied them to a court or tribunal (7% to 4%) or represented them in a court or tribunal (7% to 5%).

**Trends in the use of formal dispute resolution**

B.1.64 The final form of formal dispute resolution is court proceedings. Part 2 above sets out the trends in the volumes of court proceedings. This shows falls in family court proceedings of 16% and for civil proceedings 24% - comparing 2014/15 to 2006/07. The volume of criminal trials at the Crown Court has risen by 8% and the volume of criminal trials at the Magistrates courts has fallen in recent years by 10%.
The changes in specialist courts such as the Commercial Court are more varied but as noted in Part 2 the general trend is for fewer court hearings over time when looking at the 2006/07 to 2014/15 period. At the same time, the length of trials for family and civil proceedings has remained broadly constant over time, as shown in D.2 below. In summary the trends for court proceedings is falling numbers of trials with time taken for cases to conclude staying broadly static – though reducing significantly in a number of areas.

**Figure 66. Services provided by advisors 2012-2015**

<table>
<thead>
<tr>
<th>Service provided</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>Overall</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provided moral support</td>
<td>24%</td>
<td>25%</td>
<td>26%</td>
<td>26%</td>
<td>25%</td>
</tr>
<tr>
<td>Suggested where to get further help</td>
<td>16%</td>
<td>15%</td>
<td>20%</td>
<td>21%</td>
<td>19%</td>
</tr>
<tr>
<td>Provided information about legal position</td>
<td>55%</td>
<td>63%</td>
<td>61%</td>
<td>55%</td>
<td>58%</td>
</tr>
<tr>
<td>Provided information about procedures or next steps</td>
<td>57%</td>
<td>59%</td>
<td>59%</td>
<td>58%</td>
<td>58%</td>
</tr>
<tr>
<td>Provided information about my options</td>
<td>41%</td>
<td>47%</td>
<td>48%</td>
<td>45%</td>
<td>46%</td>
</tr>
<tr>
<td>Provided practical support (e.g. writing letters, drawing up legal documents)</td>
<td>43%</td>
<td>47%</td>
<td>42%</td>
<td>37%</td>
<td>41%</td>
</tr>
<tr>
<td>Provided assistance with mediation</td>
<td>11%</td>
<td>8%</td>
<td>9%</td>
<td>8%</td>
<td>9%</td>
</tr>
<tr>
<td>Negotiated on my behalf</td>
<td>26%</td>
<td>25%</td>
<td>27%</td>
<td>27%</td>
<td>26%</td>
</tr>
<tr>
<td>Accompanied me to court or tribunal</td>
<td>7%</td>
<td>5%</td>
<td>5%</td>
<td>4%</td>
<td>5%</td>
</tr>
<tr>
<td>Represented me in court or tribunal</td>
<td>7%</td>
<td>7%</td>
<td>6%</td>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td>Don’t know</td>
<td>5%</td>
<td>2%</td>
<td>3%</td>
<td>4%</td>
<td>3%</td>
</tr>
<tr>
<td>n</td>
<td>415</td>
<td>800</td>
<td>1,343</td>
<td>2,042</td>
<td>4,600</td>
</tr>
</tbody>
</table>

**B.1.65** Mediation is an alternative approach to resolving a dispute without recourse to courts. For family cases, mediation “involves an independent and impartial professionally accredited mediator discussing problems with a divorcing or separating couple. The process is cheaper and quicker than using the courts and it also allows for a more flexible approach.” The volume of mediation assessments has fallen sharply following the introduction of the LASPO reforms. The number of legally aided assessments rose by 38% between 2006/07 and 2011/12, but was down by over 50% in 2014/15 compared to 2011/12. Post-recession there have been large falls in the volumes of commercial arbitrations (as shown in Part 2 above).

**B.1.66** We have found no information on trends in the use of online dispute resolution services other than the finding of legal need surveys. As set out in figure 67 below, for small businesses, only 11% of problems concluded with any formal third party mechanisms – with online dispute resolution accounting for the largest share, more than twice that of courts and tribunals. How the Civil Courts Struture Review is implemented in the years ahead will affect this.
B. The consumer perspective:
Desired outcome 1. A higher proportion of the public are able to access justice

Knowledge Gap 8. – Trends in the use of alternative dispute resolution mechanisms over time

Figure 67. How legal problems conclude for small businesses

Changes in outcomes achieved

B.1.67 Frequently court proceedings are uncontested. MoJ court statistics show a small but steady growth in the proportion of contested family finance proceedings over time – 6% in 2006 up to 9% in 2014 – with a steady growth across all types of cases. However the vast majority of cases continue to remain uncontested. Levels of contested probate cases remain static over time at just 0.1% of all grants of probate.

B.1.68 The small business legal need surveys show no statistically significant changes in the ways problems concluded between 2012 and 2014 – with agreement being reached in nearly two fifths of problems. In both surveys three quarter of respondents felt the problem had been resolved in their favour, although there was a significant fall in those who felt the problem was resolved completely in their favour. The short term picture is one of little change in the outcomes achieved by small businesses, despite the longer term trends of less court hearings over time.
B. The consumer perspective:
Desired outcome 1. A higher proportion of the public are able to access justice

B.1.69 Across all types of consumers we have found no information about whether the outcomes achieved are fair and just, and this remains a knowledge gap for the regulatory community as a whole.

Knowledge Gap. 9 changes in the outcomes achieved by consumers in terms of fairness.
Desired outcome B.2. Consumers have confidence in the regulation of legal services

- Longstanding perceptions of the legal profession have appeared to change little over the past five years, among individual and small business consumers.

- There is continued confusion among individual consumers about who is regulated, with a broad assumption that all legal service providers are regulated.

- Individual consumers’ awareness of regulatory bodies has grown over the past four years, with significant increases in awareness of the SRA and CLC. Further reported levels of satisfaction of those who contacted the regulators was high for the SRA and BSB. However, consumer engagement by the regulators has remained low.

- There has been no significant change in the level of the wider public who are confident that their rights are protected, although lawyers are among the highest of the eight groups covered by the research.

- There has also been no significant change in the public’s confidence about making a complaint against lawyers, with levels repeatedly lower than confidence in making complaints about banks and mobile phone companies.

- There has been a downward trend in the proportion of consumers who complained to LEO and felt that the process was fair, but this may be related to the outcomes achieved.
B. The consumer perspective: Desired outcome 2. Consumers have confidence in the regulation of legal services

Why this is of interest

B.2.1 The prevention of consumer detriment is a key purpose of legal services regulation. It is achieved by setting and monitoring standards of competence, developing codes of practice, overseeing providers’ professional conduct and sanctioning individuals who fail to meet the required technical or ethical standards of service.

B.2.2 Economic theory suggests that effective regulation is a demand expanding factor at a firm and market level. Markets where consumers don’t feel that their rights are protected will be smaller as a result, and may depress prices that can be achieved by high quality suppliers. Of the respondents to the 2016 individual legal needs survey, 4% reported not using a solicitor because they did not trust them. While this is a small proportion overall this will affect discretionary use of legal services. Further, lack of trust was mentioned more often in relation to issues of unfair treatment by the police (8% versus 4% overall) and was also cited by more respondents who were Black or Black British or had ‘other’ ethnicity (9% and 10% respectively) compared to 4% of issues where respondents were White. Therefore consumer confidence in regulation should be of interest to the regulators and providers of legal services whether to seek to maximise income, promote the public interest, or support the rule of law.

B.2.3 Qualitative research into consumers use of legal services commissioned by the LSB suggests that regulation of the legal services profession is not working as well as it might do to promote trust in the legal sector. This is important where the use of legal services providers is non-discretionary. The research suggests that this is driven by three underlying themes/issues: a perception that legal professionals are a law unto themselves, low levels of awareness/visibility of the regulatory/complaints bodies, and scepticism about the chances of making a successful complaint. Both of these last two reasons are longstanding issues in the legal sector and were highlighted by the 2004 Review of the Regulatory Framework as drivers for reform. We look at each of these in turn below and assess how these might have changed over time.

Perception of legal professionals

B.2.4 The wider public perception of legal professionals and the justice system is addressed in D.1. For actual consumers of legal services levels of satisfaction with services provided and outcome achieved are assessed in C.2.

Consumer awareness of regulation and complaints

B.2.5 SRA research from 2010 and 2011 found that consumers were generally surprised and concerned to learn that some legal services were not regulated. They were not aware of how to tell the difference between an unregulated and regulated provider. In addition, there appears to be a general assumption among consumers that all providers employ appropriately qualified staff, and employ solicitors to some extent. Furthermore, although consumers know less about other types of legal professionals apart from solicitors, they do feel that they are all qualified to do their jobs. Given these findings it is perhaps not surprising then that consumers do not
B. The consumer perspective:
Desired outcome 2. Consumers have confidence in the regulation of legal services

...Generally find it easy to decide which providers of legal services have the required experience and qualifications. Company names with ‘solicitor’ or ‘lawyer’ in the title tended to be considered better qualified and more trustworthy. However not all trusted titles are regulated.

B.2.6 The jointly commissioned 2016 legal need survey found that 48% of respondents checked if their main advisor was regulated. Respondents who did not check whether their main advisor was regulated were asked why. More than half (52%) assumed that they would be regulated and therefore did not check. A fifth (19%) said they didn’t think regulation was important, a tenth (11%) did not know what regulation meant, and 8% did not know how to find information about regulation.

B.2.7 Among those who did check that their provider was regulated, 36% said that it was obvious based on the provider’s website or correspondence, for example logos made their status clear. A third (32%) checked the regulators website. A fifth (19%) said that their provider told them that they were regulated.

B.2.8 In that survey, 9% of those that got advice approached one of the legal services regulators. Of these 9%, 4% contacted the SRA, 2% contacted the CLC, and 1% contacted the Costs Lawyer Standards Board (CLSB), CILEx Regulation, the BSB, the Intellectual Property Regulation Board (IPReG) or the Master of the Faculties. The highest level of satisfaction was with the SRA (84%), followed by the BSB (77%) and ICAEW (70%). Levels of satisfaction were lower amongst those who contacted CLSB (59%), IPReG (58%) and CILEx Regulation (54%). However sample sizes are small so caution should be applied when comparing consumers experience of different regulators.

B.2.9 A 2012 report commissioned by the LSB found that consumers see professional regulation protection as essential to ensure that legal advisers are held accountable for their actions. However, respondents were less likely to be willing to pay for professional regulation protection than for education and training protection.

B.2.10 Looking at specific organisations, the 2015 Consumer Panel Tracker Survey shows high levels of awareness of The TLS, the Legal Ombudsman and The Bar Council, and lower levels of awareness of the LSB and approved regulators - see Figure 68 below.

B.2.11 Levels of awareness are higher amongst individuals who have used a legal service in the past two years than those who have not. Differences between 2012 and 2015 are significant for the SRA, LSB and the CLC. There has been a significant increase in awareness of the SRA, the CLC and the LSB, between 2012 and 2015 amongst respondents who have used a legal service. Differences between 2012 and 2015 for the other organisations in the regulatory community are not significant.
B. The consumer perspective: Desired outcome 2. Consumers have confidence in the regulation of legal services

Figure 68. The TLS remains the most well-known

![Chart showing the percentage of consumers who have used legal services and their confidence in the regulation of legal services by various regulatory bodies from 2012 to 2015.]

B.2.12 2010 research commissioned by the LSCP reported a general assumption among individual consumers that nearly all solicitors were ‘competent’ based on the common standard for qualifying, and consumers’ respect for the ‘professions’, rather than any knowledge of active regulation.286

B.2.13 Consumer engagement by the regulators remained low in 2015. As the LSCP stated in their 2014 Consumer Impact Report287 "The investment in research by the LSB and Legal Ombudsman has strengthened the evidence base, but activity by the approved regulators remains minimal… In total there have been only five published reports since the first edition of the Consumer Impact Report in 2011. A review of regulator websites found no consultations or active engagement with consumers, asides from the SRA’s research work with the LSCP."

Confidence that rights are protected

B.2.14 Information on consumer complaints and levels of satisfaction with legal services can be found in section C.2. The 2015 Consumer Panel Tracker Survey shows that 50% of individual consumers are either very or fairly confident in the protection of their rights when dealing with lawyers, and 48% are very or fairly confident in their ability to complain if something goes wrong. This is as good as or better than all other sectors surveyed, but short of the levels achieved in relation to supermarkets – see Figures 69 and 70 below. The differences over time from 2011 to 2015 are not significant pointing to no change in confidence rights are protected. Further analysis will seek to understand how confidence in rights being protected and use of legal services have changed over time.
B. The consumer perspective:
Desired outcome 2. Consumers have confidence in the regulation of legal services

Figure 69. Percentage of public that are confident their rights are protected

Figure 70. Percentage of public that are confident about making a complaint
B. The consumer perspective:
Desired outcome 2. Consumers have confidence in the regulation of legal services

B.2.15 The process that most individual consumers go through in purchasing legal services is analysed in B.3 below. This suggests that possibly because consumers are over confident in the scope of regulation – they assume all legal services are regulated – or because of the difficulties in comparing providers, services are most often chosen based on a recommendation by a friend or a family member. For large business and government consumers of legal services, the development of panels of providers, with entry-level quality standards could be interpreted as an indicator of lower levels of confidence in the ability of regulation to ensure the quality of services. Some industry media coverage suggests these types of panels are on the increase. To what extent these panels are used to ensure quality of service, as opposed to trying to achieve economies of scale and manage financial risks, is unclear.

B.2.16 The 2014 Legal Ombudsman Stakeholder Survey reports that ‘Stakeholders (including regulators, Ombudsman and complaint handling bodies, professional associations, government and the judiciary) continue to hold the belief that the Legal Ombudsman needs to raise its public awareness. Their perception is that consumers only find out that the Legal Ombudsman exists when they are in the midst of an issue. Other regulators are perceived to have much higher awareness in the public eye, for example the financial ombudsman or the housing ombudsman.’ This report also states that a variety of stakeholders continue to cite the importance of building awareness of the Legal Ombudsman and as part of this, stakeholders consistently mentioned the need for greater publication of complaint outcomes to raise the profile of the organisation, reassure consumers and lawyers that decisions are fair and alleviate the number of second tier complaint cases. As set out in C.2 over the past two years, while the number of complaints received has risen, the number of complaints referred to LEO has fallen as has the proportion of complaints where a remedy was required.

B.2.17 The Legal Ombudsman Consumer Satisfaction Survey 2013-14 found that 45% of complainants felt that the process in relation to their complaint was fair, compared to just over half (52%) who felt the process was unfair. This marks a slight decline from the 2012-13 (47%), continuing the downward trend observed since 2011-12 (56%). In comparison, 62% of lawyers felt that the process in relation to the complaint was fair, with most of them feeling it was very fair (39%). However, this may well be affected by the favourability of outcomes achieved.
B. The consumer perspective:
Desired outcome 3. Consumers are confident and empowered in their dealings with legal services

Desired outcome B.3. Consumers are confident and empowered in their dealings with legal services

- For individual consumers, the majority of providers are chosen on the basis of referral or recommendation.
- The proportion of individual consumers who actively choose their providers varies by individual consumer characteristics and the types of providers chosen.
- Levels of shopping around have increased marginally overall between 2011 and 2015, but this varies substantially by market segment.
- Further there have been small improvements in how easy individual consumers find it to compare providers.
- As set out in C.2, overall complaints levels have fallen overall, but surveys suggest increases in incidences of consumers having a problem but not complaining.
B. The consumer perspective: 
Outcome 3. Consumers are confident and empowered in their dealings with legal services

Why this is of interest

B.3.1 Empowering consumers291 is a means of improving outcomes for individuals, including those in vulnerable positions, and also contributes to supporting economic growth through stimulating competitive forces. To be able to do this “customers need to be both willing and able to: access information about the various offers available in the market; assess these offers to identify the good or service that provides the best value for them; and act on this assessment by switching to purchasing the good or service from their preferred supplier.”292

B.3.2 The structure of the Evaluation framework means only certain aspects of empowerment are considered in this outcome. Identifying legal needs is considered in B.1. and complaints are considered in C.2.

B.3.3 We assume that consumers’ frequency of use of legal services is key to understanding levels of confidence and empowerment and we will monitor how these change over time. Our assumption is that because the private consumer uses legal services less frequently than other groups, having greater search costs and switching costs, they are therefore less empowered at present. This is supported by research findings showing for private consumers “there was a poor understanding of what is involved in the provision of legal services, and the expertise required. This meant that participants found it difficult to make any valid comparison between two alternative services providers, as a) they did not know what skills/experience to look for in a legal services provider and b) they did not know how to go about finding out what their skills and experience were.”293 This is further supported by the prevalence of personal recommendations in individual consumer’s choice of providers, set out below.

B.3.4 At the other end of the scale, larger businesses can be seen as expert buyers of legal services, with their own in-house solicitors and other legal professionals frequently involved in the procurement process and often using buying power to negotiate down prices.294 This is supported by a range of reports that show them frequently negotiating down fees, and using alternatives to traditional legal services such as Legal Process Outsourcing (LPO).

B.3.5 In this analysis we mainly focus on individual consumers. This is because we have found no published information on how small businesses choose their legal service providers beyond the LSB commissioned small business legal need surveys.

How we measure changes in consumer empowerment

B.3.6 To understand how empowerment might be changing over time we look at changes in how consumers choose providers. Individual consumers’ confidence in the legal sector and the protection of their rights is set out in B.2 above. B.1. looks at
B. The consumer perspective:
Outcome 3. Consumers are confident and empowered in their dealings with legal services

changes in the strategies used by individual in responding to a legal problem – including reason why they choose to handle these problems alone.

B.3.7 Having decided to address a legal issue, changes in how consumers go about choosing a provider allows us to understand changes in confidence and empowerment over time. However changes in how consumers choose providers will be affected by other factors.

How consumers choose providers

B.3.8 Research shows that a significant proportion of individual consumers had a provider allocated to them, most likely because of the funding method used, or a particular referral network. LSB analysis of SRA data suggest that while 18% of SRA entities reported having referral arrangements, there is very limited information on the nature and extent of these networks across the legal sector. This compares to 13% of individuals stating that they found their provider by referral.

Knowledge Gap 11– The range and extent of referral networks for all consumer groups

B.3.9 For those consumers who chose their provider, in the 2009-2011 period, previously knowing the provider or having a friend or relative recommend a provider dominated how consumers chose a provider. In conveyancing, for example, only 18% of consumers undertook any kind of search activity – via the internet or using an advertisement – with previous use and friends or family recommendations accounting for 70% of all purchases. For businesses, recommendations can be powerful as they increase the chance of being able to charge a premium without customers looking elsewhere. Recommendations from friends or family can serve as vicarious experience for consumers – they rely on the feelings of another. This builds a reputation with positive effect for the provider: “Once a reputation is established, a higher quality provider will be able to charge a higher price for service, and still expect to attract customers. On the other hand, customers will not be willing to buy from low quality providers, or from those lacking a reputation one way or the other, at the higher price; a process that has been called direct exclusion.” Other research shows that many consumers put a trusted relationship – built by previous positive experience or recommendation from a friend or family member – above specialist experience or qualifications.

B.3.10 LSB commissioned research applying behavioural economics to legal services suggests that the context in which the consumer is making a choice between different providers will affect the decision made in three ways:

- Complexity – Having too many suppliers to choose from increases the likelihood that a person defers the decision to someone else, and will reduce satisfaction and confidence in their choice.
- Similarity – Having to choose between two different providers, one higher cost and with a better reputation than the other, gives rise to a cost/value trade off incentivising the consumer to search for more options.
B. The consumer perspective:
Outcome 3. Consumers are confident and empowered in their dealings with legal services

- Compromise – Finding a third provider with a higher cost and better reputation, is likely to result in the mid placed provider being chosen.

B.3.11 The complexity of comparing one solicitors firm with another – driven by limited price advertising (only 17% of law firms advertise prices\(^{301}\)), ‘solicitor’ rather than firm branding, allocation of scarce consumer time, and the potentially altered emotional position of the consumer in a stressful situation - is likely to drive the prevalence of ‘deferred’ choice across the market segments.

B.3.12 The LSCP tracker surveys also suggests that over time, the number of consumers relying on the same lawyer is falling but very slowly. In 2015, nearly 80% of consumers are relying on the same lawyer, and 75% are not shopping around at all.\(^{302}\)

B.3.13 The Consumer Panel Tracker Survey shows that a variety of factors are important in choosing a legal services provider – see Figure 71 above. Results from this survey suggest that reputation is the most important factor in choosing a provider – with 75% of respondents reporting that it was very or fairly important in 2015. Consumers who shopped around generally felt they had more choice (86% against 67%), and where consumers felt they had a choice they tended to be more satisfied (86% satisfied they had a choice against 64%).

Figure 71. How individual consumers choose providers
B. The consumer perspective:
Outcome 3. Consumers are confident and empowered in their dealings with legal services

**Actively choosing providers**

B.3.14 The LSB’s 2013 evaluation report\textsuperscript{303} looked at the differences between consumers who actively searched - defined as searching for providers via the internet, advertisements or leaflets, or ‘walking in off the street’ - for a solicitor provider and those who defaulted to previous use and recommendations from friends on which solicitor to use.\textsuperscript{304}

B.3.15 Replicating this analysis using the 2016 legal needs survey\textsuperscript{305} the LSB found varying levels of active searching across the different types of providers. As shown in figure 72, 30% of consumers who used solicitor services actively searched for their provider. Looking across all market segments, and only at statistically significant differences between those who actively searched for a solicitor compared to those who did not, shows that for solicitors, active searchers were:

- more likely to rent (16% compared to 9%)
- more likely to use the internet to make contact (7% compared to 1%)
- more likely to be using a no win no fee agreement to fund the legal services (24% compared to 8%)
- more likely to be seeking compensation (7% compared to 3%)
- less likely to have the service covered by the estate (2% compared to 8%).

**Figure 72. Levels of active searching by different provider types**

B.3.16 The importance consumers place on different factors varies by the type of providers used. Looking across the different groups of providers, there are
significant differences in the most important reasons for choosing a different provider. Compared to all other respondents, those using a solicitor were significantly more likely to choose them on the basis of specialism, or having used them previously, and significantly less likely to choose them on the basis of location in terms of distance and convenience and the anticipated speed of delivery.

Consumers using other reserved providers were significantly more likely to choose on the basis of the provider offering the right language skills. Consumers using Citizens Advice Bureaux (CAB) were significantly more likely to have chosen them on the basis of distance from where they live and the cost of advice (its normally free), and significantly less likely to have chosen them on the basis of the specialism in the required area of law.

**Figure 73. How individual consumer choose between providers – top ten main reasons**

B.3.17 The other ten reasons for choice of provider collected in the 2016 research show the low levels of importance respondents placed on the right to complain if things go wrong, having indemnity insurance, the gender of the provider, and the ethnicity of the provider - all 1% each overall. Further, only 1% of respondents indicated they didn’t have a choice because of the provider being chosen by the insurer, the police, a trade union, their employer or others.

B.3.18 For small business consumers, LSB commissioned research shows that the most important factor choosing a provider was their reputation, similar to individuals. Specialism and previous use were also important. The survey also indicated that small business consumers are unlikely to have trouble finding a provider when they need one, although this is more of an issue for businesses that have actually experienced a legal problem in the preceeding twelve months.
B. The consumer perspective:
Outcome 3. Consumers are confident and empowered in their dealings with legal services

Figure 74. How small business consumers choose providers

B.3.19 Recent LSB commissioned research shows that price information on legal services is limited (see A.2). Historically, prices would normally be quoted by the hour and excluding the costs of additional services or disbursements, meaning overall costs would remain unknown to the consumer at the point of deciding whether to use a legal service. This means that comparing prices can potentially be very difficult and time consuming. The growth in the use of fixed fees for individual consumers is a positive development.

B.3.20 The 2015 LSCP tracker survey showed that 50% of survey respondents who had used a legal service in the past two years responded that a quality mark was a very or fairly important factor in choosing a provider, although only 9% used one to help them choose. Quality marks are largely identifiers of technical competence, most relevant for expert buyers of legal services or funders of public legal advice. How this changes over time is likely to be affected by the potential for brand names to act as quality marks in terms of reputation and service.

Levels of shopping around

B.3.21 The 2015 LSCP Consumer Panel Tracker Survey\(^{307}\) shows 1 in 4 individual consumers shopping around, and 4-6% wanting to shop around and not knowing how to. This hasn’t changed significantly over the past four years. Looking at different segments, suggests lower levels of shopping around in the injury and wills trusts and probate segments when compared to the residential conveyancing and family market segments. This is shown in figure 75, although sample sizes are too small for changes over time to be significant. Looking overall, the LSCP tracker
**B. The consumer perspective:**

Outcome 3. Consumers are confident and empowered in their dealings with legal services

shows improvements over time in how easy it was to shop around – with falls in the proportion of consumers who found it difficult to compare providers.

B.3.22 The LSB commissioned research into prices highlights the range of prices charged by different providers – see A.2 – demonstrating the tangible benefits of shopping around.308

**Figure 75. Levels of shopping around in different market segments**
C. The provider perspective

Desired outcome 1. Diversity of the legal professions shows greater similarity to the client population
C. The provider perspective
Desired outcome 1. Diversity of the legal professions shows greater similarity to the client population

Summary

- Comparing the diversity of the different regulated professions to the population of England and Wales shows that entry to the professions was broadly comparable, but progression within the professions was not. Where data was available, it suggests only minimal changes over time. If the current trends continue it will be decades before parity will be achieved.

- Whilst there have been significant increases in the proportion of women entering the legal profession and small increases in the proportion of women in the profession overall, the profession still remains disproportionately male compared to the UK population as a whole, particularly at senior levels.

- In 2013/14, 34% of Legal Practice Course students and 16% of pupils in the first six months of their pupillage were from black, Asian or minority ethnic groups (BAME). However, the proportion of practising BAME individuals was still below that of the UK population (again, particularly at senior levels), and there have only been small increases over the past 10 years.

- Throughout the regulated professions, the proportion of individuals with a disability was very low (1-2%), compared to the ONS 2011 UK estimate of 16%. It should be noted that some professions experienced very low disclosure rates for disabilities.

- Individuals who have attended independent or public schools are over-represented in the legal profession compared to the school age population.
C. The provider perspective

**Desired outcome 1. Diversity of the legal professions shows greater similarity to the client population**

### Why this is of interest

C.1.1 The LSA provides all the legal services regulators with the statutory objective of encouraging an independent, strong, diverse and effective legal profession. A diverse legal profession is one that reflects and is representative of the full spectrum of the population it serves so as to harness the broadest possible range of talent in the meeting of the regulatory objectives. We consider that for public interest reasons and good business sense, as much as for meeting this regulatory objective, the legal industry should reflect the population it serves. From the consumer perspective, this is even more relevant in the context of black, Asian or minority ethnic (BAME) owned small business being significantly more likely to experience legal problems. However, looking at main factors for the choice of provider for small businesses, the gender of adviser was cited only infrequently.

C.1.2 Investigations commissioned by the UK Government in 2009 and 2012 looked across the professions and found that they had become more socially exclusive over time, with potential negative consequences for the UK. They also found that individuals who go on to become lawyers and doctors were from substantially richer families than those who went on to become engineers. One study suggested that, “Some of the top professions are increasingly being filled by individuals that look less different to the average in terms of ability and more different to the average in terms of family income.” However we have not found any information to allow for direct comparison over time with other professions to help contextualise changes in diversity in the different legal professions.

### Knowledge Gap 12. How diversity has changed in other professions

C.1.3 In July 2011, the LSB published guidance to approved regulators on collection and publication of data on the demographic of the regulated legal services workforce. The LSB reviewed regulators’ work in response to that guidance in 2013 and March 2015. All of the approved regulators have now collected and published some form of information relating to the diversity of their respective workforces, though to differing degrees of performance and development beyond strictly collecting data. As set out in the LSBs 2015 report regulators have delivered a good level of performance in relation to response rates, and considerable effort has been made by a number of regulators to improve these rates. The BSB and IPReg, for example, have undertaken actions to ensure practitioners using their online regulatory account management systems are directed to the survey. The CLC, CILEx Regulation and the SRA have tracked survey responses from firms to ensure nil returns are followed up and maximise response rates. However there remain challenges in some areas, for instance there is a very high non-disclosure rate for disability at the Bar.

C.1.4 The LSB has used this data to assess how the diversity of the profession has changed over the 2006/07-2014/15 period, where data permits. We use ONS population statistics as a comparison over the longer term. Future analysis using legal needs survey data will enable more direct comparisons between client population and professions. However, LSB commissioned analysis of surveys of...
individual legal needs has shown that the respondent ethnicity and gender have little or no impact on problem resolution strategy.\textsuperscript{318}

**Knowledge Gap 13. Diversity of clients for different regulated professions**

C.1.5 Using published data we look at five areas of diversity in turn below. Where possible, we look at statistics on entry to the profession and progression within them. We do this in the absence of any longitudinal studies on progression of individuals within the professions. We have also found no published data or analysis of combined characteristics.

**Knowledge Gap 14. Individuals’ progressions within professions over the long term**

**Knowledge Gap 15. Analysis of combined diversity characteristics of the professions**

C.1.6 What is not clear from available data is how new business models may have impacted on the diversity of ownership and employees. This was one of the purported benefits of permitting new business structures to deliver reserved legal activities\textsuperscript{319}, as a way of lowering barriers to diversity inherent in the culture of the legal professions.\textsuperscript{320} This will be assessed as part of future analysis.

**Gender**

C.1.7 For barristers, the proportion of female pupils in the first six months of pupillage has been relatively proportional to the UK population from 2010/11 to 2013/14 – see Figure 76 below.

C.1.8 The number of female barristers has increased from 4,970 in 2006 to 5,660 in 2015. During the same period, the number of male barristers increased from 9,920 to 10,239. The ratio of women to men regulated by the BSB has remained relatively static and disproportionately male over this period, with 36% of the profession identifying as female with 64% male in 2015, compared with 33% and 67% respectively in 2006 – see Figure 77 below.

C.1.9 Amongst self-employed barristers, the number of female barristers was 4,270 (33%) in 2015, while the number of male barristers was 8,487 (67%). Since 2006 the proportion of women in this category has increased slightly (from 30% in 2006 to 33% in 2015), while the proportion of men has decreased slightly (from 70% in 2006 to 67% in 2015). The proportion of female sole practitioners at the Bar has decreased over the past six years; from 70% in 2010 to 63% in 2015. At the employed Bar, the proportion of women to men has also remained static since 2006. From 2006 to 2015, women have accounted for 46% of the employed bar and men have accounted for 54%. Compared to the self-employed Bar and sole practitioners, this ratio is closer to representing the gender demographics of the UK as a whole.
C. The provider perspective

Desired outcome 1. Diversity of the legal professions shows greater similarity to the client population

Figure 76. Bar – Gender Proportion of Pupils in First Six Months of Pupillage

Figure 77. Gender of Barristers in Practice
C.1.10 The status of “Queen’s Counsel” represents a degree of seniority in the profession and can represent an indicator of progress throughout an individual’s career. While the proportion of men to women at the Bar as a whole, in 2015, was 64% male and 36% female, at QC level this inequality was even more pronounced: in 2015, 87% of self-employed QCs (self-employed QCs account for 98% for all QCs, and this is the measure used here as more historical data is available) were male while just 13% of self-employed QCs were female. Additionally, the proportion of self-employed female QCs has remained relatively static over the past 10 years; increasing marginally from 10% in 2006 to 13% in 2015.

C.1.11 Data is available for all QCs (employed and self-employed) from 2010 to 2015. Over this period the total proportion of female QCs had decreased slightly from 14% to 13%.

Figure 78. Gender of self-employed barristers and QCs

C.1.12 In relation to solicitors, in 2013/14, 63% of Legal Practice Course students were female and 37% were male.

C.1.13 Of the 136,081 solicitors regulated by the SRA in 2013, 47% were female while 53% were male. The proportion of female solicitors has increased by 5% from 42% in 2006 to 47% in 2013 as shown in Figure 79 below. The SRA regulated population was significantly more male at partner level; 73% male and 27% female in 2013. The proportion of women at partner level has increased by 4% in the 8 years up to 2013.
C. The provider perspective
Desired outcome 1. Diversity of the legal professions shows greater similarity to the client population

C.1.14 Research by the TLS on information from experienced women who have been in the legal profession for between 10 and 30 years, published in 2010, highlighted the barriers to progression as culture, infrastructure and the measurement criteria employed, as well as failure to embrace flexible working, and the perceptions of women. C.1.14

Figure 79. Solicitors and Partners of Firms Identifying as Female

C.1.15 CLC data from 2013 shows that women made up the majority of the workforce (69%) compared to men (27%), but this proportion is reversed in the context of ownership of businesses, with only 7% of women declaring a share of ownership compared to 19% of men. C.1.15 In 2014, CLC report that 79% of those working in CLC-regulated practices are women. Although men are over-represented in managerial roles, compared to their proportion in the workforce as a whole (41% of managers, compared to just 21% of the total workforce), women still make up the majority of managers, 59%. C.1.15

C.1.16 Looking across all members of CILEx 74% were female in the survey conducted in January 2015, compared with 26% were male. This proportion was the same as in 2013 and 2014. C.1.16

C.1.17 In 2013, in total 63% of the authorised persons regulated by IPREg were male, 34% were female and 3% preferred not to say. C.1.17

C.1.18 In 2014, 64% of costs lawyers were male and 36% were female. Over the past three years this proportion has remained broadly the same. C.1.18 CLSB report that there is a higher proportion of female trainee cost lawyers.
C. The provider perspective

Desired outcome 1. Diversity of the legal professions shows greater similarity to the client population

C.1.19 The Master of the Faculties regulated profession was predominantly male (74% male to 26% female in 2014). There has been a 1% increase in women in the profession from 2011 to 2014.\(^{331}\)

C.1.20 There has been an overall increase in the proportion of women in all parts of the judiciary from 2005 to 2015. The proportion of women in the judiciary was still below the proportion of women in the UK population, particularly in more senior positions. However we do recognise that the diversification of the judiciary will take longer to develop as it is a form of career progression and the speed of the process is hindered by the natural lag of career progression – see Figure 80 below.

**Figure 80. Judiciary – Gender (% female)**\(^{332}\)

![Graph showing the percentage of women in the judiciary from 2005 to 2015](image)

**Ethnicity**

C.1.21 For barristers, the proportion of BAME pupils in the first six months of pupillage at the Bar has remained fairly constant from 2009/10 to 2013/14 – between 14% and 16% - just above the estimated ONS 2011 population figure of 14% - see figure 81 below.

C.1.22 From 2006 to 2015, the practising Bar has seen an increase in the number of people who were BAME, from 1,432 to 1,891. BAME individuals accounted for 13% of the total workforce in 2015, an increase of 2% from 2006 – see Figure 82 below. This was close to matching the 14% of the estimated BAME population in England and Wales according to the 2011 census.
C. The provider perspective
Desired outcome 1. Diversity of the legal professions shows greater similarity to the client population

**Figure 81. Bar - Pupils in the First Six Months of Pupillage – Ethnicity**

<table>
<thead>
<tr>
<th>Year</th>
<th>BAME (%)</th>
<th>White (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009/10</td>
<td>15%</td>
<td>85%</td>
</tr>
<tr>
<td>2010/11</td>
<td>16%</td>
<td>84%</td>
</tr>
<tr>
<td>2011/12</td>
<td>15%</td>
<td>85%</td>
</tr>
<tr>
<td>2012/13</td>
<td>14%</td>
<td>86%</td>
</tr>
<tr>
<td>2013/14</td>
<td>16%</td>
<td>84%</td>
</tr>
</tbody>
</table>

**Figure 82. Ethnicity of Barristers in Practice**

<table>
<thead>
<tr>
<th>Year</th>
<th>Total % White</th>
<th>Total Workforce - BAME</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>89%</td>
<td>11%</td>
</tr>
<tr>
<td>2007</td>
<td>89%</td>
<td>11%</td>
</tr>
<tr>
<td>2008</td>
<td>85%</td>
<td>15%</td>
</tr>
<tr>
<td>2009</td>
<td>88%</td>
<td>12%</td>
</tr>
<tr>
<td>2010</td>
<td>88%</td>
<td>12%</td>
</tr>
<tr>
<td>2011</td>
<td>88%</td>
<td>12%</td>
</tr>
<tr>
<td>2012</td>
<td>87%</td>
<td>13%</td>
</tr>
<tr>
<td>2013</td>
<td>87%</td>
<td>13%</td>
</tr>
<tr>
<td>2014</td>
<td>87%</td>
<td>13%</td>
</tr>
<tr>
<td>2015</td>
<td>87%</td>
<td>13%</td>
</tr>
</tbody>
</table>
C. The provider perspective
Desired outcome 1. Diversity of the legal professions shows greater similarity to the client population

C.1.23 There is a similar proportion of BAME individuals at the self-employed bar; 12% in 2015 – a 2% increase from 2006. The proportion of BAME individuals at the employed bar is higher; 16% in 2015, a 1% increase from 2006.

C.1.24 Statistics for barristers who are sole practitioners indicate a greater proportion of practitioners who identify as BAME with figures in 2015 standing at 30% BAME and 69% white (excluding those who did not provide data). The proportion of barristers who identify as BAME in this area of the Bar has decreased marginally from 32% in 2010.

C.1.25 The proportion of BAME self-employed QCs in 2015 was 7%, up from 4% from 2006. At this rate of increase it would take 27 years to match the 2011 ONS ethnicity profile of the UK – all other things being equal. This is set out in Figure 83 below.

C.1.26 In 2013/14, 34% of Legal Practice Course students were BAME and 66% were white. In 2013 there were a proportionate number of BAME individuals in the workforce regulated by the SRA – matching the ONS 2011 levels of 14%. This was up from 5% in 1998. Whilst the proportion of BAME solicitors at partner level was lower, 11%, this has risen by 8% from 2006 – see Figure 84 below.

Figure 83. Ethnicity of QCs

![Figure 83. Ethnicity of QCs](image-url)
C. The provider perspective
Desired outcome 1. Diversity of the legal professions shows greater similarity to the client population

Figure 84. Ethnicity of Solicitors

C.1.27 In 2013, 16% of the CLC regulated workforce and 11% of those who declared a share of ownership, were as BAME.

C.1.28 In 2015, 17% of all CILEx Regulation members identified as BAME, up from 16% in 2013, and higher than the 2011 ONS levels of 14%. Additionally, in 2015, 31% of CILEx students were BAME – a decline from 34% in 2013.

C.1.29 In 2013, 61% of IPREG regulated individuals were White British, 14% were white other, 5% were BAME and 21% preferred not to say.

C.1.30 In 2014, 88% of Notaries were white and 12% BAME – the same proportion as 2011.

C.1.31 There has been an overall increase in the proportion of BAME individuals in most parts of the judiciary from 2005 to 2015. However, the proportion of BAME individuals was still below the proportion in the UK population, particularly in more senior positions, with no BAME heads of division or lord justices of appeal in the past decade - see Figure 85 below.

C.1.32 The Judicial Appointments Commission (JAC) 2013 research into barriers to application to judicial appointment shows that, compared to white respondents, those from a BAME background have a more negative perception of the selection process. BAME respondents were more likely to believe that ethnicity, class background and
C. The provider perspective

Desired outcome 1. Diversity of the legal professions shows greater similarity to the client population

educational background impacted on the likelihood of successful application. There was also a much higher concern about prejudice in the system and the fairness of the process and judicial culture.

Figure 85. Judiciary – Ethnicity (% BAME)\(^{338}\)

![Figure 85](image)

**Disability**

C.1.33 Figure 86 below sets out the disability status of barristers. There was a very high non-disclosure rate for disability at the Bar (76% non-disclosure rate in 2014, an improvement on the figure of 85% in 2013).\(^{339}\) The proportion of the total workforce who had chosen to disclose a disability in 2014 was 1.3%, an increase from 0.6% in 2010. This proportion was far lower than the ONS 2011 population estimate of 16%.

C.1.34 From 2010 to 2013, only 1% of the SRA regulated population declared a disability. In 2013, 2% of CLC regulated individuals declared a disability, 93% declared that they had no disability and 5% said that they preferred not to say. Similarly, in 2015, 2% of CILEx Regulation regulated individuals declared a disability, 93% declared that they had no disability and 4% said that they preferred not to say. The proportion of individuals declaring a disability in 2015 was the same as in 2013. In 2013, less than 1% of the IPReg regulated population declared a disability.

C.1.35 The 2013 JAC research into barriers to application to the judiciary found a number of issues that disabled legal providers perceived as obstacles to judicial appointment. The work shows that respondents with a disability, compared to non-disabled respondents, were more likely to apply in future if there were more diverse role models. They were also more likely to suggest that the JAC or their professional body should increase diversity by ensuring a level playing field and equal opportunities in order to encourage them to apply. Disabled respondents were more
likely to disagree that the selection process is fair or that judges are selected on the basis of merit only. There they were also more likely to feel it is more difficult for certain types of people to apply successfully for judicial office or that there is prejudice within the judicial selection process. They were more likely to think that having a disability is a strong negative influence on likely successful application.

Figure 8.6. Disability at the Bar, 2010-2014 (% with disability)

Educational background

C.1.36 In 2014, solicitors who attended independent or public schools (27%) were over-represented compared to school age population (7%). In 2014, half of solicitors in the practising certificate (PC) holders’ survey were in the first generation of their family to go to university.

C.1.37 For barristers, of those who provided data in 2015, individuals who had attended state schools accounted for 53% of pupils, 56% of the practising bar and 35% of QCs. This is compared to 35%, 34% and 55% who had attended fee paying schools, respectively – see Figure 8.7 below. The spread of these statistics remains largely unchanged from 2014. By way of nearest possible comparison, 7% of all students in education in the UK attended independent schools in 2015 – unchanged since 2003.

C.1.38 Of those who provided data in 2015, individuals who were the first generation of their family to attend university accounted for 31% of pupils, 46% of the practising Bar and 47% of QCs, compared to 68%, 49% and 43%, respectively, who did not.
The spread of statistics remains largely similar to 2014, but the percentage of practitioners stating that they were part of the first generation of their family to attend university has increased from 2014 to 2015.

Figure 87. Barristers – Types of Schools Attended, 2015

Figure 88. Barristers – First Generation to Attend University, 2015
C. The provider perspective

Desired outcome 1. Diversity of the legal professions shows greater similarity to the client population

C.1.39 The CLC’s 2013 research found that 42% of its regulated population had not attended a university and 27% were the first generation of their family to have attended university and that 20% were not the first generation to attend a university. A further 11% said that they preferred not to say.

C.1.40 In 2014, of those who provided data, 53% of the Master of the Faculties regulated profession reported that they were the first generation of their family to attend university, 35% were not and 11% did not attend university. The proportion of individuals who were the first generation of their family to attend university has increased by 4% from 49% in 2011. Over the same period the proportion of individuals who did not attend university has fallen by 5% from 16% in 2011. 53% of the Master of the Faculties regulated profession in 2014 had attended a UK state school, 38% a UK independent school and 8% had attended school outside the UK – compared to 54%, 40% and 6% in 2011, respectively.

C.1.41 Sutton Trust research in 2016 into the educational backgrounds of UK top professionals by profession shows that a disproportionately high proportion of top professionals in the judiciary, barristers and solicitors attended an independent school when compared to the UK population; 74%, 71% and 51% respectively, compared to 7% of the UK population. This proportion was also higher than in other professions; 61% medicine, 51% journalism, 50% politics and 34% business. Additionally, a high proportion of the judiciary, barristers and solicitors attended an Oxbridge university; 78%, 74% and 55% compared with less than 1% of the UK population. This was higher than in any other profession.

C.1.42 This research shows that, of High Court and Appeals Court judges, 76% went to private schools in 1989, 75% in 2004 and 74% in 2015; for 25 years, the proportion of judges who have attended fee-paying schools has remained static. In comparison, 70% of the chief executives of the FTSE 100 companies in 1987 (who were educated in the UK) went to independent schools, compared to 54% in 2007 and 34% in 2015. However, there has been a greater decrease in the proportion of judges who attended Oxbridge, 88% in 1989, 81% in 2004 and 74% in 2015; an indication that the traditional dominance of Oxbridge is slowly decreasing.

Sexual orientation

C.1.43 In 2015, 81% of pupils, 87% of the practising Bar and 90% of QCs were heterosexual, 5%, 4% and 3%, respectively, were gay, lesbian bisexual or other (with 14%, 7% and 7%, respectively, responding 'prefer not to say'. The statistics remain largely similar to 2014, with the largest change being for practitioners who identify as ‘Heterosexual/Straight’, an increase of 5.2% since 2014.

C.1.44 According to the TLS 2014 PC Holder Survey, 92% of SRA regulated PC holders were heterosexual/straight, 2% were gay, lesbian or bisexual and 6% preferred not to reveal this information.
C. The provider perspective
Desired outcome 1. Diversity of the legal professions shows greater similarity to the client population

C.1.45 In 2013, 87% of the CLC regulated population were heterosexual, 4% identified as gay, lesbian bisexual or other, and 10% responded that they ‘prefer not to say’.

**Figure 89. Barristers - Sexual Orientation, 2015**

<table>
<thead>
<tr>
<th></th>
<th>Pupils</th>
<th>Practising Bar</th>
<th>QC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bisexual</td>
<td>1%</td>
<td>1%</td>
<td>0%</td>
</tr>
<tr>
<td>Gay Man</td>
<td>2%</td>
<td>3%</td>
<td>2%</td>
</tr>
<tr>
<td>Gay Woman / Lesbian</td>
<td>2%</td>
<td>1%</td>
<td>0%</td>
</tr>
<tr>
<td>Heterosexual / Straight</td>
<td>81%</td>
<td>87%</td>
<td>90%</td>
</tr>
<tr>
<td>Other</td>
<td>0%</td>
<td>0%</td>
<td>1%</td>
</tr>
<tr>
<td>Prefer not to say</td>
<td>14%</td>
<td>7%</td>
<td>7%</td>
</tr>
<tr>
<td>N</td>
<td>406</td>
<td>3,829</td>
<td>307</td>
</tr>
</tbody>
</table>

C.1.46 In 2014, of those who provided data, 97% of individuals regulated by the Master of Faculties were heterosexual, with 2% identifying as gay, lesbian bisexual or other. These numbers were largely consistent with 2011 suggesting little change over this period.

C.1.47 The JAC’s published research into barriers to application to the judiciary in 2013. This showed that, compared to heterosexual respondents, lesbian, gay, bisexual and transgender respondents (LGBT) were less likely to believe judges were selected on the basis of merit only. It also found that LGBT legal professionals are less likely to apply because of a belief that their sexual orientation will affect their chance of being selected and are more likely to believe that being from a BME background, having a disability, being LGBT or a working class background has a negative impact on their application.
C. The provider perspective

Desired outcome 2. Quality of legal services is improved overall compared to 2009

Summary

- The evidence on changes in the quality of legal services is largely positive with improvements in most areas, countered by concerns in some market segments.

Service quality
- Over the past seven years data suggests that satisfaction rates with service and outcome have remained above 2009 levels, against a wider backdrop of falling customer satisfaction across the UK economy. Further the levels of satisfaction with all legal service providers compare favourably with other sectors.

- Looking at service complaints, the volume of complaints about SRA regulated entities has increased. However they are resolving a greater proportion of service complaints at the first tier – an increase of 12% between 2013/14 and 2014/15. This is a highly positive outcome and has been driven in part by SRA regulated new business models – LDPs and ABS – who have better complaint resolution ratios. The volume of complaints about Chartered Legal Executives has also fallen. For all other areas, limited data on first tier complaints point to continued, very low levels of complaints.

- At the more visible second tier, LEO data shows large falls in the volumes of complaints received, down by 10% between 2011/12 and 2014/15. Over time the proportion of complaints requiring a remedy has fallen with broadly static levels of compensation.

- Comparing these trends to measures of transactions over time suggest lower levels of service satisfaction in conveyancing and injury segments in 2014/15 compared to 2011/12. This contrasts with fewer complaints compared to transactions in crime, family, immigration and nationality, and wills, trusts and probate market segments.

Professional conduct
- Allegations of misconduct about solicitors have also fallen over time. However the seriousness of those complaints as measured by different types of disciplinary rulings and entity compensation fund pay-outs - appears to be increasing. For barristers available data suggests fewer conduct complaints overall. However there appear to have been increases in the number of complaints per Crown court trial, and falls in complaints compared to family proceedings. There are continued low numbers of conduct complaints for other regulated providers.

Technical competence
- The limited measures of technical competence do not allow an assessment of changes in technical quality over time. However for SRA regulated entities, the proportion of firms with professional indemnity insurance claims has fallen over time, and claims against the Bar Mutual Indemnity Fund fluctuate annually, but are broadly static over the longer term.
Why this is of interest

C.2.1 Understanding how the quality of legal services may have changed is vital in identifying any market problems, and whether regulation designed to provide quality assurance is actually delivering the best outcomes. However while few are likely to disagree that quality is important, there is limited consensus on what the appropriate level of quality looks like in a specific legal service, nor on who is best placed to assess the quality of that service – consumers, professionals, or other parties. There is also limited data on which to undertake a rigorous analysis. This makes measurement of change over time extremely challenging.

C.2.2 Broadly speaking quality assurance provides one of the key rationales for certain types of regulation: consumers lack the information to assess quality until committed to the purchase (and may in some cases never be fully able to assess quality) and regulation signals that show a provider is of “good enough” quality. If regulation goes beyond ensuring ‘good enough’ quality, it introduces unnecessary barriers to the provision of services, which can adversely affect competition, innovation, and growth. The Regulatory Policy Institute suggests relying on training as a measure of changes in quality over time will be erroneous as the professional incentives are for very high entry standards, rather than the right quality in a given transaction or case.

C.2.3 From an economic perspective legal services can vary between credence goods, experience goods, and search goods depending on the nature of the services on offer and the type of consumer. Even within similar areas of legal training, the nature of the service can change significantly. Consider the difference, for example, between an individual consumer buying conveyancing for their first home, and a medium-sized business with an in-house legal department, looking to purchase new property to expand its business premises. The Regulatory Policy Institute summarises the effect of this as follows: “For those consumers for whom the relevant legal service is a credence good, there may be no strong appreciation that they have been badly served, and hence no reputational message to communicate to others. The relatively limited number of consumers expressing dissatisfaction may, therefore, be read by others as a signal that performance standards are somewhat higher than they actually are. Ironically perhaps, this effect could actually be greater in a culture where dissatisfied consumers have a higher general propensity to complain about service, since, in consequence of the credence issues, legal services complaints might then appear particularly modest in their numbers”. The level of asymmetric information – where the provider of the services knows the level of quality required but the consumer doesn’t - in this example will also vary significantly.

How we measure changes in quality

C.2.4 Any measures of quality must be sufficiently broad in scope to capture the variety of legal services and the changing nature of these services. They must also make use of existing data rather than impose costly methods of data collection – a trade off with development of perfect conceptual measures. As the Regulatory Policy Institute states when the quality of legal services is discussed, the term should...
be used in “a broad sense to mean all aspects of what it is that a purchaser of legal services gets for her or his money”.\textsuperscript{354}

C.2.5 A flexible approach to ensuring quality of legal services got broad support in the responses to the LSB’s 2012 ‘Approaches to Quality’ consultation.\textsuperscript{355} We therefore split this analysis into three aspects:

i. Measures of service quality;
ii. Measures of professional conduct;
iii. Measures of technical competence.

Figure 90. Approach to measuring changes in quality

Measures of service quality: consumer satisfaction

C.2.6 Of the three aspects of quality, service quality is comparatively simple to measure. This is because consumers’ perceptions of service and their responses to poor service has been captured in a range of surveys since 2009 and trends in complaints provide a broad proxy for changes in service quality.

C.2.7 The LSCP tracker survey captures individual consumers’ satisfaction with legal services they have used in the past two years. Overall it shows static levels of satisfaction with service received (ranging 78-80%) and outcome achieved (ranging 82-84%) over the 2011-2015 period for all types of providers. This level of satisfaction is broadly consistent with a 2009 survey by the LSB which showed that 76% of individuals who had used a legal service in the past five years were satisfied with the advice they received.
C. The provider perspective
Desired outcome 2. Quality of legal services is improved overall compared to 2009

C.2.8 Further, LSB analysis of the 2016 legal needs survey data suggest that 80% of respondents who used a legal service provider were satisfied with the service they received. These levels compare favourably with other service sectors in 2012\textsuperscript{356}, and sector wide analysis by the UK Customer Services Institute in 2016. That analysis showed an average of 77% customer satisfaction for service sectors, broadly static for the past three years.\textsuperscript{357}

**Measures of service quality: complaints**

C.2.9 The other main measure of service quality is complaints. Here we examine first tier and second tier complaints separately. Where quality falls below a certain threshold, this may result in consumer action for which data is generally available.\textsuperscript{358} As in the LSB’s 2012 market report, consumer complaints remain a key indicator for us of markets failing to deliver against consumers’ expectations, a view shared by other institutions.\textsuperscript{359} The validity of such a measure is, however, largely dependent on the effectiveness of the complaints procedures in place and wider barriers to complaining.

**Awareness of complaints processes**

C.2.10 In the legal sector the context for interpreting levels of complaints includes an understanding of potential reluctance to complain and a lack of knowledge on how to complain.\textsuperscript{360} The available evidence shows a mixed picture on the effectiveness of the complaints process over the 2010/11-2014/15 period and is considered below.

C.2.11 A key driver for the LSA was the perception of poor complaints handling by the legal profession and suspicions from the public about the fairness of a process owned by the professions.\textsuperscript{361} The different complaints procedures before 2010 make analysis of trends difficult both because of lack of published data and different processes of complaints handling among the different regulators. The LSA established the LEO which began accepting complaints from October 2010. At the same time the LSB set out guidance for the Approved Regulators to put in place requirements that compelled service providers to give individual consumers sufficient information to allow them to identify and/or contact LEO. This must be done in writing. Under the Act, LEO has responsibility for investigating complaints about service that are not resolved at the first tier – through the firm’s own in house complaints procedure. The approved regulators have responsibility for complaints relating to professional conduct.\textsuperscript{362}

C.2.12 Research\textsuperscript{363} in 2011 found that 62% of consumers who were dissatisfied had to ask for information on the in-house complaints procedure and only 8% recalled being told about LEO. The 2012 individual legal needs survey also showed relatively low proportions of providers informing clients about the complaints procedures – both in-house and the LEO, although the survey period straddled the introduction of the guidance.\textsuperscript{364} Respondents to the 2016 survey of legal needs\textsuperscript{365} reported similar levels of being informed about LEO – varying from 8-10% each year over the 2012-2015 period. More recent LEO customer satisfaction survey data shows an improving trend in the percentage of those that hear about the Ombudsman through their
C. The provider perspective

Desired outcome 2. Quality of legal services is improved overall compared to 2009

lawyer up from 17% in 2011/12 to 23% in 2013/14. However, the sample is complainants as opposed to all consumers – this factor is likely to explain the difference in signposting recall rates.

C.2.13 What drives these actions will be determined by a number of different factors. The LSCP tracker survey suggests that over the 2011-2015 period there has been a statistically significant increase in the number of individuals who have used a legal service in the previous two years who know how to complain, rising from 44% in 2011 to 50% in 2015. However, the proportion of respondents that suggested they would raise the issue with the firm first – as the procedure says they should – fell significantly from 61% in 2012 to 56% in 2015. This would suggest the growing confidence in knowing how to complain might be misplaced.

C.2.14 In the context of assessing whether quality has changed over time, the important point is that trends in complaints will be affected by these factors. For example a successful initiative to better inform consumers of their right to complain could result in a higher volume of complaints. This would be a positive signal of consumer empowerment. Our assumption is that if consumers are unaware of how to complain they are less likely to do so. Research suggests awareness of LEO has changed over time. It is notable that the LSCP reported that in 2014 “59% of the general public have heard of the Legal Ombudsman, which has decreased from 64% since 2012”. This had risen back to 63% in 2015. LEO research suggests that among those who had used legal services in the two years prior to 2014/2015, 77% had heard of LEO compared to 78% in 2012/13. For the general public LEO research found that 63% had heard of LEO in 2015, down from 66% in 2014 but up from 60% in 2012. It is not clear if these differences are significant.

Measures of service quality: first tier complaints

C.2.15 Below we consider complaints data by regulator. Most time is devoted to solicitors since the SRA data allows us to investigate the relationship between first and second tiers, and provide breakdowns by business type.

Solicitors

C.2.16 Looking at measures of first tier complaints, LSB analysis undertaken in 2013 suggested that among SRA regulated entities, the overall level of complaints had fallen between 2011/12 and 2012/13. The self-reported number of complaints received by solicitors firms fell by 2%, and the self-reported number of complaints referred to the Legal Ombudsman fell by 15% - from 4,653 to 3,975. This compared to published figures of complaints received about SRA regulated firms of 7,130 in 2011/12 and 7,268 in 2012/13. This also indicated higher complaints resolution ratios between first and second tier among new business models.

C.2.17 Looking over the past four years, LSB analysis of SRA data suggests a more nuanced picture. As Figure 91 below shows, the overall volume of complaints received has increased by 5% between 2011/2012 and 2014/15 with the increase coming between 2013/14 and 2014/15. However, the annual volume of complaints resolved at the first tier has increased by 12% over that period, and the volume of
complaints referred to LEO has fallen by 10%. This would suggest improvements in first-tier complaints handling for SRA regulated entities as a whole.

**Figure 91. Trends in complaints reported by SRA regulated entities**

![Graph showing trends in complaints reported by SRA regulated entities.]

C.2.18 The apparent differences in performance on complaints handling across business models has continued since the benchmarking report. LDPs generated the highest levels of turnover per complaint – and therefore received the lowest number of complaints when their size is taken into account. The turnover per complaint referred to LEO ratios for ABS and other entities are comparable to each other. However, ABS received more complaints than other business models when their turnover is taken into account. Looking at the complaints resolution ratios, ABS resolved 9.8 complaints for every one referred to LEO, compared to 5.1 for LDPs, and for all other entities. Again, this is comparable to previous years.

C.2.19 It would require further analysis to look at how this related to different market segments. We do not have information on first tier complaints levels for new business models regulated by other licensing authorities.

**Knowledge Gap 16. First tier complaints breakdown by market segments for new business models regulated by the SRA**

**Knowledge Gap 17. First tier complaints levels for new business models regulated by other approved regulators**
C. The provider perspective  
Desired outcome 2. Quality of legal services is improved overall compared to 2009

Figure 92. Turnover per complaint received and referred to LEO (SRA authorised firms)

Other legal professionals

C.2.20 We have found no published information on first tier complaints for individual barristers. In a recent report looking at the activities of 170 chambers in 2014, “89% of chambers reported a complaint rate of 0.5% or less [as a percentage of total cases]. Of the remaining chambers (18), a number had rounded the rate up to 1% on the return and said that their complaint rate was well below that level in practice.”

The report also highlighted issues with consumers not being informed of how to complain, and other activities undertaken by chambers in seeking feedback from consumers.

Knowledge Gap 18. First tier complaints against individual barristers over time

C.2.21 Since 2012, CILEx Regulation has run an annual survey to collect information on first tier complaints. The survey is targeted at CILEx members of all grades, who declare they had been the subject of a complaint, in the annual renewal process. This survey shows that complaints against Fellows have fallen by 7% this year when compared with 2014 and by 8% when compared with earlier years. In terms of who the complaints are against, the proportion of individuals with more than one complaint against them fluctuated between 18%-26% over the four year period. The CILEx Regulation survey shows that between 7%-15% of complaints annually were referred to LEO.
C. The provider perspective

Desired outcome 2. Quality of legal services is improved overall compared to 2009

C.2.22 The recently published analysis by the CLC shows that 1,895 complaints were received directly from clients – 82% of which were resolved at the first tier and 9% were referred to the LEO.\(^{376}\) Analysis published in 2013 showed that the larger firms received the greatest volume of complaints (in line with their greater volume of transactions) but larger firms were proportionately better at achieving in-house resolution than firms that receive fewer complaints overall.\(^{379}\) The 2015 analysis identified an increase in the level of complaints per one thousand clients as turnover increases,\(^{380}\) however larger firms were also more likely to undertake customer satisfaction surveys.

C.2.23 IPReg's annual report for 2014\(^ {381}\) shows that there were 137 first tier complaints in 2014. LEO accepted 3 complaints for investigation, up from 2 in 2013\(^ {382}\), but down from 10 in 2012\(^ {383}\) and 16 in 2011.\(^ {384}\)

C.2.24 Published information is limited, but in response to a request for information CLSB indicated that in 2012 there were 5 first tier complaints across 4 costs lawyers. Information was not collected in 2011, 2013 and 2014, though this information has been collected as part of the 2016 PC applications.\(^ {385}\)

C.2.25 We have found no published information on the level of first tier complaints received by notaries. However, in response to an information request the Master of Faculties indicated that there had been 19 first tier complaints in 2011, compared to just 8 in 2015, suggesting improvement over time. The annual figures are shown in the table below.\(^ {386}\)

**Figure 93. Services complaints against notaries**

<table>
<thead>
<tr>
<th>Annual service complaints at the first tier</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>19</td>
<td>11</td>
<td>16</td>
<td>10</td>
<td>8</td>
</tr>
</tbody>
</table>

C.2.26 While there is no published information on complaints received, in response to a request for information, ICAEW indicated that no complaints had been received about accountants authorised to provide probate services, since 30\(^{\text{th}}\) September 2014.\(^ {387}\)

**Measures of service quality: second tier complaints**

C.2.27 Looking at second tier complaints over the 2011/12-2014/15 period, LEO data shows a largely static picture until 2014/15. In 2011/12 8,420 complaints were accepted compared to 8,323 in 2013/14. This fell to 7,631 in 2014/15. The number of contacts has fallen by 8%, but proportionally more complaints are accepted. These falls are in contrast to reported rises over the same period in complaints in other ombudsman schemes.\(^ {388}\)

C.2.28 The scope of the LEO scheme only covers complaints from individuals, charities, and micro businesses in relation to services provided by approved persons. From January 2015, complaints about services provided by Claims Management...
C. The provider perspective

**Desired outcome 2. Quality of legal services is improved overall compared to 2009**

Companies are also covered[^389], although these organisations continue to be regulated by the Claims Management Regulator and so are not included in our analysis of trends in complaints.

**Figure 94. Numbers of complaints at second tier - Legal Ombudsman contacts**

<table>
<thead>
<tr>
<th>Year</th>
<th>Contacts</th>
<th>Complaints Accepted</th>
<th>Complaints Resolved</th>
<th>Proportion of complaints accepted out of all contacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010/11</td>
<td>38,155</td>
<td>3,768</td>
<td>1,450</td>
<td>10%</td>
</tr>
<tr>
<td>2011/12</td>
<td>75,420</td>
<td>8,420</td>
<td>7,455</td>
<td>11%</td>
</tr>
<tr>
<td>2012/13</td>
<td>71,195</td>
<td>8,430</td>
<td>7,630</td>
<td>12%</td>
</tr>
<tr>
<td>2013/14</td>
<td>69,500</td>
<td>8,323</td>
<td>8,055</td>
<td>12%</td>
</tr>
<tr>
<td>2014/15</td>
<td>64,583</td>
<td>7,631</td>
<td>7,368</td>
<td>12%</td>
</tr>
</tbody>
</table>

C.2.29 In 2014/15, 98% of complaints accepted were from individual consumers, and 2% from consumers who were SMEs or Charities[^390]. That means the volume of complaints received by the different professions will in part reflect the range of work they undertake for the different consumer types and the proportion of those who work in house. This explains the over representation of licensed conveyancers and solicitors and under representation of notaries and intellectual property lawyers in the breakdown of complaints accepted by the LEO compared to the breakdown of the different approved regulators shown in Figure 95 below.

**Figure 95. Proportion of complaints by profession[^391]**

[^389]: Footnote text
[^390]: Footnote text
[^391]: Footnote text
C. The provider perspective
Desired outcome 2. Quality of legal services is improved overall compared to 2009

C.2.30 Historically the LEO doesn’t report data on Chartered Legal Executives on the basis that they mainly work in solicitors’ firms. However CILEx Regulation research suggests that around 1-2% of firms where Chartered Legal Executives worked didn’t inform clients about the LEO at all, while 84%-86% informed clients at initial instruction, in line with the requirements of regulation.\textsuperscript{392} CILEx research indicates that around 89% of complaints come from individual consumers, changing little over the past three years.\textsuperscript{393}

C.2.31 Comparing the complaints received by LEO to the number of authorised persons, suggest a rise in the proportion relating to self-employed barristers, countered by a fall for those in relation to solicitors. There remain very low – or none – volumes of complaints for other approved regulators. As shown in Figure 95 below, solicitors account for 92% of complaints but only around 80% of all authorised persons.

C.2.32 Looking at the different market segments suggests a more nuanced picture over time. Some market segments have seen limited changes in the proportion of complaints – for example the injury and immigration and nationality segments have stayed constant. Conversely there have been large fluctuations in the proportion of complaints in other segments including residential conveyancing and employment. This shown in Figure 96 below.

\textbf{Figure 96. Breakdown of complaints accepted by the Legal Ombudsman}

<table>
<thead>
<tr>
<th></th>
<th>2010/11 (6 months)</th>
<th>2011/12</th>
<th>2012/13</th>
<th>2013/14</th>
<th>2014/15</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil liberties</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Consumer problems</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Conveyancing - residential</td>
<td>20%</td>
<td>15%</td>
<td>15%</td>
<td>20%</td>
<td>23%</td>
</tr>
<tr>
<td>Conveyancing – Commercial</td>
<td>-</td>
<td>2%</td>
<td>2%</td>
<td>2%</td>
<td>2%</td>
</tr>
<tr>
<td>Corporate structuring and finance</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>Crime - prosecution &amp; Crime - defence</td>
<td>6%</td>
<td>7%</td>
<td>9%</td>
<td>6%</td>
<td>7%</td>
</tr>
<tr>
<td>Employment</td>
<td>7%</td>
<td>8%</td>
<td>6%</td>
<td>5%</td>
<td>4%</td>
</tr>
<tr>
<td>Family</td>
<td>19%</td>
<td>18%</td>
<td>18%</td>
<td>17%</td>
<td>14%</td>
</tr>
<tr>
<td>Immigration and nationality</td>
<td>4%</td>
<td>4%</td>
<td>4%</td>
<td>4%</td>
<td>5%</td>
</tr>
<tr>
<td>Injury</td>
<td>10%</td>
<td>10%</td>
<td>9%</td>
<td>10%</td>
<td>12%</td>
</tr>
<tr>
<td>Intellectual property rights</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Other</td>
<td>16%</td>
<td>17%</td>
<td>16%</td>
<td>12%</td>
<td>12%</td>
</tr>
<tr>
<td>Other business affairs</td>
<td>-</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>Property, construction and planning</td>
<td>5%</td>
<td>3%</td>
<td>5%</td>
<td>4%</td>
<td>4%</td>
</tr>
<tr>
<td>Welfare and benefits</td>
<td>-</td>
<td>3%</td>
<td>4%</td>
<td>4%</td>
<td>3%</td>
</tr>
<tr>
<td>Wills, trusts and probate</td>
<td>13%</td>
<td>12%</td>
<td>12%</td>
<td>13%</td>
<td>12%</td>
</tr>
</tbody>
</table>
C. The provider perspective

Desired outcome 2. Quality of legal services is improved overall compared to 2009

Figure 97. Annual percentage changes in the ratio of transactions per complaint

C.2.33 In segments where we have data on volume of transactions over time we can explore numbers of transactions per complaint received by the Legal Ombudsman over the past three years. On this measure there has been a fall in service standards in the residential conveyancing, injury, immigration and nationality market segments from 2011/12 to 2014/15. Service standards have remained constant in the family segment improving sharply in 2014/15, whilst they have improved in the criminal defence and wills, trusts and probate segments, following falls in 2012/13. Further, in light of the observations above about a fall in the general awareness of the LEO and fewer contacts, it is reasonable to expect complaint incidences to be further depressed, meaning that this measure might underestimate real levels of change.

C.2.34 Without more detailed measures of market size such as the number of transactions we do not have sufficient information to assess how service quality is changing in other market segments.

Knowledge Gap 19 – Changes in complaints compared to changes in market volumes over time in different market segments.

C.2.35 LEO outcomes data is published for the 2012-2015 period. LSB analysis shows a falling trend in the proportion of complaints where a LEO remedy was required – 45% in quarter 2 in 2012, and 40% in quarter 2 in 2015. However this varies between different market segments. The largest fall in the proportion of
complaints requiring a remedy was in the family market segment – down 19% when comparing quarter 2 in 2012 to quarter 2 in 2015. The next largest fall was in employment at 18%. Over the same period there were substantial increases in the proportion of complaints that required a remedy in the immigration market segment – 16% higher in quarter 2 2015 compared to quarter 2 in 2012. However this is most likely related to a small group of providers. The next highest increase was in the injury segment at 5%.

C.2.36 Looking at each quarter, the amount of remedy awarded has remained broadly static over time. With the exception of two quarters, between 37-47% of remedies amounted to between £1-£299, and 22-34% between £300-£749.

C.2.37 As noted above the LEO scheme covers small business consumers as well as individuals. While they accounted for only 2% of complaints in 2014/15, they are included in the analysis of LEO complaints above. The perception of legal services by small businesses is explored further in the analysis in B.3. Favourability of outcomes achieved is explored in section B.1.

**Figure 98. Trends in the proportion of complaints that required LEO to make a remedy**

Knowledge Gap 20. Levels of satisfaction and responses to dissatisfaction by SME consumers.
Measures of service quality: Professional negligence claims

C.2.38 There is very limited data on service quality for other types of consumers. To some extent this is about a rational prioritisation – redress procedures have been focused on those most likely to be in need so as to minimise the costs to the industry of funding these procedures. As an LSB commissioned investigation in 2011 noted, larger organisations are more likely to be more sophisticated and “One of the implications of having sophisticated clients which is of particular relevance to regulators is that such clients are likely to be in a strong position to ensure that competitive dynamics deliver high quality services at competitive prices from their legal providers rather than requiring as much regulatory protection as less sophisticated clients.” The same investigation noted the use of panels by purchasers, and reputation as measured by legal directory entries by competing firms. In such a situation, the expectation is that failures in the quality of service would be resolved between the legal service provider and the consumer in order to protect the reputation of the legal service provider, and secure access to future work.

Figure 99. Chancery Division Professional Negligence Claims by Professions

C.2.39 As a broad proxy for such disputes, the number of professional negligence claims in the High Court suggest significant falls since 2009, though from a very low base. Some of these claims will have been brought by individual and small businesses, but the LSBs expectation is that most will be driven by larger businesses. Some of this will be driven by changes in data recording, and potentially the improving economic conditions identified in Part 2 above.
Knowledge Gap 21. Levels of satisfaction and responses to dissatisfaction by large businesses and government.

Measures of professional conduct

C.2.40 Generally speaking, lawyers are in a position to exploit their superior knowledge compared to clients which risks leading to unethical behaviour.\textsuperscript{398} For example they could act in their own financial interests when referring work rather than acting in the best interests of their client. A recent study commissioned by the SRA looked specifically at the relationship between corporate lawyers and their customers, and lawyer participants suggested that the increased use of panel procurement since the financial crisis and increased competition for work was putting increased pressure on their independence. However the study found that law firms who pushed back on onerous terms of engagement were still getting work. The study suggests that lawyers may be conflicted from acting for other parties – restricting choice – and highlights examples of where commercial clients have sought to put pressure on the way in which legal opinions are drafted and to influence the behaviour of advisers to other parties on a transaction.\textsuperscript{399}

C.2.41 As the LSB previously stated, a prospective client “should be confident that his/her lawyer will advise and act without fear that the state will penalise through regulation. Similarly, a client should be confident that his/her lawyer will advise and act without being prejudiced by other factors or interests other than the overriding professional responsibility to the Court – their advice should be independent of inappropriate influence”\textsuperscript{400}. This supports the regulatory objective of encouraging an independent, strong, diverse and effective legal profession.

C.2.42 Under the LSA the approved regulators retain responsibility for complaints relating to professional misconduct. Each of the regulators has different approaches to dealing with allegations of professional misconduct and different mechanisms for compensating consumers.\textsuperscript{401} That means we consider each profession in turn. Also for some of the regulators, the statistics prior to 2010/11 capture second tier service complaints now covered by the LEO.

Solicitors

C.2.43 Changes in solicitors professional conduct – or breaches of SRA requirements\textsuperscript{402} - over time can be measured using data presented in reports from the SRA and the SDT. Here we mainly look at data from 2009 onwards due to changes in reporting between the 2007-2008 period and from 2009 onwards we use calendar years as this is how the data is reported by the SRA.

C.2.44 Figure 100 plots the changes in the number of allegations\textsuperscript{403} received from consumers and other stakeholders. This shows a growth in the number of allegations made, but a fall in the number of allegations upheld. Looking at the outcome of allegations that are upheld suggests a greater use of letters of advice - a letter advising the firm or regulated person that they have breached a rule. It is used where there has been a minor breach and where there is a low likelihood of it being repeated. Further the trend in the proportion of allegations being referred to the SDT
C. The provider perspective
Desired outcome 2. Quality of legal services is improved overall compared to 2009

was falling from 2009 to 2013. However, this trend was sharply reversed in 2014 and continued to rise in 2015, as shown in Figure 101.

Figure 100. Trends in allegations of misconduct for solicitors

Figure 101. Severity of misconduct over time for solicitors
C. The provider perspective
Desired outcome 2. Quality of legal services is improved overall compared to 2009

C.2.45 The falling trend in allegations upheld predates the introduction of Outcomes Focused Regulation, but that might contribute to the changes post 2011.\textsuperscript{406} From that point onwards the SRA had new powers to fine solicitors without recourse to the SDT.\textsuperscript{407} Further changes in misconduct allegations isn’t obviously linked to changes in the legal profession since 2009, with an 8% fall in the number of SRA regulated firms over the past eight years compared to a 6% rise in the numbers of solicitors in private practice. The major driver of change here is likely to be the change in SRA approach: “In 2014 as compared to 2013 more matters were closed as “low risk” on receipt which has led to an overall reduction in the numbers of outcomes shown here…. However, over the whole year in 2014 while we saw less allegations upheld, more cases resulted in referrals to the SDT.”\textsuperscript{408}

**Figure 102. Changes in the types of orders made by the SDT**

C.2.46 The number of orders made by the SDT is also falling over time. However looking at the types of orders made, there has been an increase in the proportion of individuals being struck off between 2012 and 2014, with a fall in the proportion of fines. If changes in SRA risk based activity are designed to ensure that only the most severe cases are referred to the SDT this might suggest that this is delivering the desired outcome. However, in 10% of cases in 2014 no order was granted – the highest in the past eight years.

C.2.47 Looking at other SRA activity suggests post-recession falls in the number of forensic investigations\textsuperscript{409} commissioned by the SRA, and the number of interventions made into regulated entities. The number of claims made to the compensation fund – which are largely driven by intervention activity – has fallen since a sharp peak in
C. The provider perspective

Desired outcome 2. Quality of legal services is improved overall compared to 2009

2010. The SRA reported that on average 1.1% of regulated firms had findings against them for matters relating to the misuse and misappropriation of client money, between 2007 and 2012.\textsuperscript{410}

C.2.48 However the value of payments from the compensation fund has grown since 2011 in spite of the fall in the number of claims. Some of this will be as a result of changes to the scope of the compensation fund from October 2012\textsuperscript{411}, although in 2014 this accounted for just 3% of all new claims made.\textsuperscript{412} Changes in the types of claims made to the solicitors compensation fund over time are in all probability driven by the myriad effects of the sharp contraction in the economy and an increase in the financial pressure faced by some firms.\textsuperscript{413} There will inevitably be a lag in claims being made to the fund and pay-outs being assessed which isn’t accounted for in this analysis. However as a simple comparison over time, the amount paid out per SRA regulated entity in 2007 was £972 in 2014 prices. In 2014 this was £2,587 – a rise of 166%. This would suggest more severe impacts of a failure in the quality of services being provided.

Knowledge Gap 22. Level of funds at issue in compensation claims made over time.

C.2.49 Analysis commissioned by the SRA in 2014\textsuperscript{414} found that sole practitioners are more likely to have claims to the compensation fund paid against them, though the level of payment is lower than other firms, as are firms operating in the most deprived local areas.

C.2.50 Probate and conveyancing are the two areas of law that appear to give rise to a significant volume of individual complaints – 57% of all claims. The main reason for the claim was the theft of client money.

Barristers

C.2.51 The Professional Conduct Department at BSB publishes annual statistics of the number of complaints received.\textsuperscript{415} These different measures are plotted in Figure 103 below. This measures the number of complaints and not the changes in outcomes over time.

C.2.52 Looking at external complaints there has been a large fall over the past nine years, with levels from 2010/11 onwards being half the level of 2006/07. External complaints can be received from both clients of barristers and non-clients such as opposing litigants, solicitors and witnesses. However, 2010/11 is the point at which LEO became fully operable, and since then the volume of external complaints is largely static. The number of internal complaints (i.e. those raised by the BSB) is far more variable, fluctuating each year and showing no clear trend. While there is no clear relationship between the number of complaints and the number of barristers, in 2009/10 there was one new complaint per 27 barristers and in 2014/15 this was one per 35 barristers.\textsuperscript{416} In terms of the measures of the seriousness of the complaints, the proportion of complaints referred for further action has fallen significantly from 44% in 2009/10 to 16% in 2014/15.
C. The provider perspective

Desired outcome 2. Quality of legal services is improved overall compared to 2009

Figure 103. Trends in complaints about the misconduct of barristers

Figure 104. Changes in conduct complaints and court proceedings – Family and Crime segments

136
Evaluation: Changes in the legal services market 2006/07-2014/15 – Full report
C.2.53 Figure 104 compares trends in complaints against the proxy indicators of demand for Crown Court trials and Family proceedings. Since 2011/12 while the overall number of Crown Court proceedings has fallen, the number of complaints against barristers has increased. This is against a background of relatively stable levels of representation at the Crown Court and falls in the proportion of defendants represented by a solicitor advocate. The underlying numbers of complaints are small so look larger when considered in percentage terms. The changes here could be driven by shifts in the number of trials undertaken by barristers as opposed to solicitor advocates and Chartered Legal Executives with advocacy rights. Over the same period the number of new complaints in family proceedings has fallen while the overall number of proceedings has remained largely constant until 2014/15.

Other legal professions

C.2.54 As set out in the 2012 Evaluation report over the 2006/07-2010/11 period complaints about the conduct of Chartered Legal Executives fluctuated marginally. The 2014 Annual report shows that CILEx Regulation received 15 misconduct cases – none of which came from clients and 10 came from third parties. The report also shows that the disciplinary tribunal heard charges against 9 members in 2014 – the same as in 2010 but down from peak of 20 in 2013.

C.2.55 As set out in the 2012 Evaluation report over the 2006/07-2010/11 period complaints about licensed conveyancers fell over time by a larger proportion than the fall in total numbers of conveyancers. The 2015 LSB regulatory standards assessment reports the CLC using LEO complaints data to undertake risk assessments of regulated entities. We have found no published data for conduct complaints for the 2011/12-2014/15 period.

C.2.56 IPReg’s annual report shows that there were no disciplinary cases in 2014, down from 2 in 2013 and 2 in 2012, and 1 in 2011.

C.2.57 The CLSB published records of all conduct complaints on its website over the 2011-2015 period. Three complaints have been received and resolved over that period – all initiated by the CLSB with none from consumers or third parties.

C.2.58 The Master of the Faculties reported that their had been three disciplinary proceedings in the past 18 months. There have been a total of 7 conduct complaints in the past five years.

C.2.59 While there is no published information on complaints received, in response to a request for information, ICAEW indicated that no conduct complaints had been received about accountants authorised to provide probate services, since 30th September 2014.

Measures of technical competence: quality mark schemes

C.2.60 The 2012 baseline report highlighted the lack of measures of technical quality, and this continued absence was highlighted in the 2014 LSCP consumer
C. The provider perspective

Desired outcome 2. Quality of legal services is improved overall compared to 2009

impact report. This frustrates any attempts to directly assess changes in the level of technical quality over time.

Knowledge Gap 23. Changes in technical competence over time

C.2.61 As proxy measures for understanding how technical quality might be changing over time we look at changes in the levels of membership of different quality mark schemes, rejection rates in legal processes and changes in professional indemnity insurance claims.

C.2.62 There are a number of different accreditation schemes in operation across the legal services market. These are in the majority developed and managed by the TLS. Our 2013 analysis suggested that rates of membership vary considerably between the different schemes. In 2012/13 while 89% of firms reporting turnover in crime have at least one member of staff who was a member of the criminal litigation scheme, only 30% of firms reporting turnover in family did, and 12% of firms reporting any turnover in immigration and asylum. We have found no up to date published data on the coverage of these schemes.

Knowledge Gap 24. Coverage of quality mark and accreditation schemes over time

C.2.63 A survey in 2013/14 found that 35% of SRA regulated entities held the Conveyancing Quality Scheme quality mark, which was stable at 34% in 2014/15. The same research found that 16% held the LEXCEL standard in 2013/14, which was 19% in 2014/15. This difference is not statistically significant.

C.2.64 For barristers the proportion achieving the rank of Queen’s Counsel has remained a constant 11-12% of all barristers.

C.2.65 The LSB’s 2012 market evaluation highlighted that the majority of solicitors’ firms with a legal aid contract that had undergone the peer review process were classed as providing ‘threshold competent’ advice but this had fallen slightly between 2005-09 and 2009-11. Legal aid peer reviews were scaled back from 2013.

Measures of technical competence: rejection rates for processes

C.2.66 A potential set of proxy measures suggested in the LSB commissioned market segmentation models are collected as part of official judicial statistics – the most readily observable area of the legal services market. In a recent example in the family segment, it was reported that 40% of divorce petitions are returned due to errors including errors in drafting or procedure, for example failure to enclose issue fees, lack of signature or missing/incorrect details. The Land Registry doesn’t record the number of applications it rejects due to incorrect form completion or subsequent request to amend incorrect details.

C. The provider perspective
Desired outcome 2. Quality of legal services is improved overall compared to 2009

C.2.67 More positively, in the Crime market segment changes in the proportion of ineffective criminal trials show that defence and prosecution not being ready to proceed account for a small and static proportions of ineffective trials each year. In 2014, in the Magistrates court, 5% of all trials were ineffective because of court administration compared to 3% because of the defence not being ready or available.

Figure 105. Proportion of solicitors firms experiencing insurance claims

<table>
<thead>
<tr>
<th></th>
<th>%age of firms notified insurers of potential claims in the last 12 months</th>
<th>%age of firms with an insurance claim against them in the last 12 months</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010/11</td>
<td>31%</td>
<td>19%</td>
</tr>
<tr>
<td>2011/12</td>
<td>30%</td>
<td>20%</td>
</tr>
<tr>
<td>2012/13</td>
<td>40%</td>
<td>22%</td>
</tr>
<tr>
<td>2013/14</td>
<td>31%</td>
<td>17%</td>
</tr>
<tr>
<td>2014/15</td>
<td>26%</td>
<td>14%</td>
</tr>
<tr>
<td>2015/16</td>
<td>23%</td>
<td>16%</td>
</tr>
</tbody>
</table>

Measures of technical competence: insurance claims

C.2.68 One proxy measure for failures in technical competence is changes in insurance claims over time. Annual professional indemnity insurance surveys conducted for the TLS give an indication of changes in the proportion of firms making claims on their insurance. Once margins of error are taken into account, these paint a broadly static picture in terms of the proportion of firms with potential and actual insurance claims, although the fall from 2012/13 to 2014/15 is significant.

C.2.69 A series of TLS research reports identify the risk factors that affect the level of Professional Indemnity Insurance premiums paid. Aside from previous claims history, and specific partner or staff member risks, these include:
   a. Legal Ombudsman complaints findings;
   b. Increase in the number of fee earners;
   c. Decrease in the number of fee earners;
   d. An increase in the amount of conveyancing work (2014-15 survey only).

C.2.70 As a proxy for changes in the quality of legal services, looking at the risk factors identified in the TLS insurance research, LSB analysis of SRA entity data shows that just under one third of SRA regulated firms increased the number of fee earners between each year. The proportion of firms decreasing the number of fee earners has been static in the last three years. This suggests a stable picture of quality and risk over this period. Between 2013/14 and 2014/15, 72% of firms who undertook any conveyancing work increased their turnover. Our analysis also suggests that 20% of SRA regulated firms had at least one complaint referred to LEO in 2014/15, up from 16% the year before.

C.2.71 For barristers Figure 103 above plots the value of claims to the Bar Mutual Indemnity Fund. Over the past nine years the value of gross claims paid through barristers professional indemnity insurance has varied between 80-120% of 2006/07 levels – accounting for inflation. Looking at the annual charges for areas of work
shows a largely static picture, with 27 out of the 32 different rating areas staying the same each year between 2011/12 and 2015/16. However, the rates charged for those doing work in crime, professional discipline, planning, and non-contentious revenue work for business and individuals have risen marginally although this might reflect other issues.\(^{442}\)

C.2.72 Apart from barristers and solicitors, we do not have access to any summary data on insurance claims made over time, as a further proxy for changes in the quality of advice provided over time.

Knowledge Gap 26. Changes in the volume and value of professional indemnity insurance claims over time

Measures of technical competence: studies of the quality of advice

C.2.73 Aside from these measures there are a small number of one off studies which looked at quality in specific areas - criminal advocacy, wills, and asylum legal services.

C.2.74 The two studies into criminal advocacy are based on very small sample sizes but suggest varied levels of quality within different types of advocates, and a decline in the quality of some areas of Crown Prosecution Service advocacy.\(^{443}\) In dismissing a challenge to the Quality Assurance Scheme for Advocates (QASA) approved by the LSB, the Court of Appeal noted that concerns have been expressed over a long period about the standards of criminal advocacy.\(^{444}\)

C.2.75 The LSB’s will writing investigation found issues with the quality of wills being provided by solicitors as well as those being provided by unregulated will writing companies.\(^{445}\)

C.2.76 A recent study looking specifically at the quality of legal advice for asylum seekers, commissioned by the SRA and LEO, found incidences of both good and poor practices among solicitors and advisers in a review of 45 case files. Poor practices included solicitors and advisers with insufficient interviewing skills for handling asylum clients, poor legal and case knowledge for the range of areas relevant to advising asylum seekers, failure to request additional evidence such as medical assessments to support the case, and limited experience leading to poorly constructed and evidence appeals.\(^{446}\)
Desired outcome C.3. The profession and judiciary maintain confidence in the independence and reputation of the legal sector

Summary

- Reviewing the available sources of information gives a mixed picture of changes in perceptions of independence and reputation of the wider legal sector, though there is limited direct evidence. Overall confidence appears to have been at least maintained if not improved.

- On international measures confidence and reputation have improved over the past three years. The UK is 12th in the world in terms of the effectiveness of the rule of law.

- Our conclusion is that the LSA has not impacted on confidence in the independence and reputation of the sector, though we recognise the limitations of the evidence base.
C. The provider perspective: Outcome 3. The profession and judiciary maintain confidence in the independence and reputation of the legal sector

Why this is of interest

C.3.1 One of the challenges to the LSA reforms was the potential undermining of perceptions of independence of the legal sector, and lawyers duty to act with independence and in the interests of justice. This is why the statutory objective for regulators is to encourage an independent, strong, diverse and effective legal profession. This has three dimensions:

i. The independence of the wider legal system from the state;
ii. The independence of lawyers from owners’ interests so they continue to act in their client’s best interest;
iii. The independence of regulation from representation.

We consider each of these in turn below. We look at both actual measures of change over time and perceptions among the different legal professions and the judiciary.

The independence of the wider legal system from the state

C.3.2 For the LSB, the wider legal system encompasses a much bigger sphere than just those regulated under the LSA. It includes the judiciary and the courts, whose independence from external pressure is vital “so that those who appear before them and the wider public can have confidence that their cases will be decided fairly and in accordance with the law”.

C.3.3 Measuring changes – perceived or actual - in the independence of the legal system from the state is quite challenging. In the absence of other information we rely upon the World Justice Projects (WJP) Rule of Law Index. This ranked the UK 12th in the world in terms of the effectiveness of the rule of law in 2015, up from 13th in 2014. As is shown in Figure 106 below this index includes a number of measures relating to the independence of the government and the judiciary. Overall these suggest no changes over time. However the selected measures show an improving world ranking for the UK in most areas, such as civil justice being free from corruption and undue influence. However there are falls in rankings relating to government powers being constrained by effective auditing and review, and civil justice being free from discrimination. These might reflect the WJPs assessment of changes to judicial reviews and legal aid as set out in Part 2.

C.3.4 The 2014 Judicial Attitude Survey (JAS), reported that 65% of judges identified the loss of judicial independence as a future challenge. Judges were also asked what factors they felt prompted changes that are imposed on the judiciary, as opposed to being led by the judiciary themselves. Almost all judges (91%) see government policy initiatives as the primary driver of change in the judiciary and just under two-thirds (62%) see change coming about as a result of new legislation. However, over half of all judges also see media representation of judges (56%) and public misunderstanding of the judiciary (59%) as driving change. The survey also reported that 70% of judges agreed with the statement ‘some change is needed in the judiciary’.
C. The provider perspective: Outcome 3. The profession and judiciary maintain confidence in the independence and reputation of the legal sector

The independence of lawyers from owners’ interests

C.3.5 The historic debates around allowing non lawyers to own law firms focuses on the additional conflicts of interests that lawyers might face in acting in the best interests of their clients due to shareholder pressure. Although, of course, lawyers faced financial incentives prior to the removal of restriction on law firm ownership. There is limited empirical evidence of this changing over time. In fact, as set out in C.2 above there have been falls in the frequency of misconduct issues being upheld against solicitors over the same period as ABS have been permitted.

C.3.6 In 2012, solicitors reported that regulation is seen as positively reflecting the ethics of the profession, making compliance with regulation an important part of professional ethics. In an SRA survey “3 out of 4 firms (150 out of 200) scored 5 or 6 when asked if they thought the regulatory requirements positively reflected the ethics of the profession (on a scale of 1=wholly negative to 6=wholly positive)”.\textsuperscript{451}

Knowledge Gap 27. Changes in the types and frequency of conflict of interests faced by lawyers

Independence of regulation from representation

C.3.7 The historic development of self-regulation can be seen as a collective attempt among suppliers to maintain certain reputational standards of conduct and performance\textsuperscript{452} and thus maintain confidence in the legal sector. As set out in Part 2 above, the LSA introduced separation between regulation and representation of the different legal professions. A review of future legislative options for regulation

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Figure 106. Change in UK world rankings against Rule of Law index measures
C. The provider perspective: Outcome 3. The profession and judiciary maintain confidence in the independence and reputation of the legal sector

in legal services – published jointly by all the regulators – highlighted issues relating to a lack of regulatory independence within the current regulatory structures.\textsuperscript{453} From the provider perspective, the Clementi review highlighted the problems with an organisation that combines the representation and regulatory functions giving insufficient attention to the needs of its professional members.\textsuperscript{454} A Ministry of Justice consultation on reforming the structure of legal services regulation to provide independence is expected shortly.\textsuperscript{455} Ideally we would look at changes over the past nine years, using the findings of published information on how the profession views regulation, however we have found no such information.

Knowledge Gap 28. The professions confidence in the independence and reputation of the legal sector
D. The public perspective

Are the regulatory objectives being delivered?

A. Market
1. More competitive
2. Affordable legal services
3. Plurality of services

B. Consumer
1. Higher access to justice
2. Confidence in legal services regulation
3. Empowered in dealings with legal services

C. Provider
1. Diversity better matching client population
2. Quality has improved
3. Profession and judiciary have confidence in the legal sector

D. Public
1. Confidence in legal sector
2. Efficient legal system
3. Profession and judiciary have confidence in the legal sector

E. Investor
1. Market attractive to all sources of finance
2. Proportionate regulation
D. The public perspective: Desired outcome 1. Wide confidence in the law and the legal sector

Summary

- Because public confidence in the legal sector encompasses both regulated professionals and the wider justice system and the behaviour of the former can affect the latter, this outcome looks at the sector as a whole.
- Available evidence over the long term points to improvements in the perception of the criminal justice system – both in terms of fairness and effectiveness.
- Trust in the judiciary is largely constant at around 75-80% over the past 15 years.
- However the picture in relation to the legal profession is more mixed, with less than half the public trusting lawyers to tell the truth, although this is consistently higher for those who have actually used a legal service.
- Research suggests that a lack of trust does not stop people seeking advice – just 1% of survey respondents who handled their problem alone did not seek legal advice due to this reason over the 2009-2011 period.
D. The public perspective: Desired outcome 1. Wide confidence in the law and the legal sector

Why this is of interest

D.1.1 Public perception of the law and the legal sector can affect whether people with a legal need choose to use a legal service. As set out in B4 above, we define access to justice as the acting out of the rule of law in particular or individual circumstances. The tools to achieve that outcome range from informing the public about their rights, routine transactional legal services and personalised advice, through to action before tribunals and courts. The agents of delivery are wide and, of course, legal professionals are at the heart of this along with many other actors in legal services and the wider justice sector. Confidence in the law, the professions, the quality of advice and the ability to complain could potentially influence the decision to use a lawyer when the choice is seen as discretionary. Clearly behaviour of the regulated community who are key actors in the legal system, which we do have some influence over, can shape confidence in the wider system.

Public perceptions of the justice system

D.1.2 Research on public perceptions of standards in public life in the UK and Europe shows that less than a quarter of respondents have ever indicated that they believe corruption to be widespread in the judicial services in the UK from 2007-2011\textsuperscript{456}. The European Values Survey\textsuperscript{457} found that levels of confidence in the British legal system have fallen from a high of 65% in 1981-84 to 50% in the 2008-10. The Eurobarometer - a survey of public opinion in the EU\textsuperscript{458} found that 65% of UK respondents tend to trust justice/the national legal system in 2015, compared with an overall 52% for all Europeans surveyed. This is an increase from 43% in 2003 and 50% in 2010.

Figure 107. Percentage of the public who are confident that the Criminal Justice System (CJS) is fair and effective\textsuperscript{459}
D. The public perspective: Desired outcome 1. Wide confidence in the law and the legal sector

Figure 108. Percentage of the public who trust different professions to tell the truth (LSCP Consumer Tracker)

Figure 109. Percentage of the public who trust different professions to tell the truth (Ipsos Mori Veracity index)

D.1.3 The 2013/14 Crime Survey for England and Wales (CSEW)\(^{460}\) reports that levels of confidence in the fairness and effectiveness of the criminal justice system have
D. The public perspective: Desired outcome 1. Wide confidence in the law and the legal sector

increased slightly between 2012/13 and 2013/14, continuing the longer-term trends of significant increases in both measures from 2007/08 to 2013/14. In 2013/14, 64% of respondents said they were very or fairly confident that the criminal justice system was fair and 48% said they were very or fairly confident it was effective.

D.1.4 The 2012/13 CSEW also examined public attitudes and experiences of the family justice system and mediation. Although the public’s direct experience of the family justice system was limited, those who had been involved reported positively on their experiences. Around half of adults were aware of the family justice system and mediation as an alternative to court. Overall, the majority of adults were confident in the family justice system. With respect to child contact/residence cases, 71% of adults felt that the courts would come to a decision that was in the best interests of the child and 72% felt they would take into account the views of both parents. Reported levels of confidence were slightly lower with respect to care cases; 67% felt the court would come to a decision in the best interests of the child and 65% felt the court would take the views of parents into account.

Public perceptions of lawyers and judges

D.1.5 Looking at perceptions of lawyers – covering regulated and unregulated - the general public have mixed levels of confidence in their trustworthiness. LSCP research shows that 47% of the public trusted solicitors to tell the truth in 2015; the same proportion as in 2011 - see Figure 108. This research shows that members of the general public who have used any type of legal service in the past two years are more likely to trust lawyers to tell the truth that those who haven’t used a legal service (50% compared with 45% in 2015) – see Figure 109. To what extent this is driven by wider trends in public confidence is unknown.

D.1.6 The Ipsos MORI Veracity Index\textsuperscript{461} shows continued high levels of trust in the judiciary; 80% in 2014 – see Figure 109. However, this research shows far higher levels of confidence in the trustworthiness of ‘the ordinary man or woman in the street’ (62% compared to 37% in 2014). The general public’s high levels of trust in the judiciary contrasts with over half of people experiencing a legal issue saying that judges are out of touch with ordinary people (CSJS 2006-09)\textsuperscript{462}, even where they had experienced a legal problem but had not been to court.

D.1.7 It would be concerning if consumers do not engage with legal services at all, as a result of lack of trust in lawyers. A survey by the LSB in 2009 found that only 3% of private consumers surveyed had experienced a legal problem but had not sought legal advice because of a bad experience in the past, or a lack of trust in lawyers. However a 2012 survey found that only 1% of consumers who decided to handle their problem alone, stated a lack of trust in lawyers as their main reason for doing so. In the 2016 survey of individual legal needs\textsuperscript{463} this was 4%. Lack of trust was mentioned in relation to 4% of all issues but was more likely to be mentioned in relation to issues of unfair treatment by the police (8%) and issues to do with discrimination (8%). It was also cited more often for issues where respondents were Black or Black British (9%), had ‘other’ ethnicity (10%), were mixed race (7%) or were Asian or Asian British (6%). Trust was also a factor more often for issues where the respondent was male compared to female (6% v. 3%).
D. The public perspective: Desired outcome 1. Wide confidence in the law and the legal sector

Figure 110. Percentage of the public who have used lawyers who trust different lawyers to tell the truth (LSCP Tracker)

Figure 111. Words used to describe legal professionals

D.1.8 The LSCP tracker results shown in Figure 110 suggest that perception and experience are different with those who have actually used a legal service and more
likely to trust different lawyers to tell the truth. The 2016 survey of legal needs also reports that trust in solicitors was an important factor in their use for 15% of issues where respondents used or considered using a solicitor. This proportion was much higher for debt and money issues (26%) and for repossession and eviction issues (24%) and for issues concerning squatters (28%). Asian respondents were more likely to mention trust as an important factor in respect of their issues than White respondents (29% compared with 14% of issues). Trust was also identified for issues by respondents with a long-term limiting health condition as a reason for solicitor use, 17% versus 14% of issues for those without a condition. A word cloud based on the research is shown in Figure 111.

D.1.9 LSB commissioned 2013 qualitative research into consumer use of legal services\textsuperscript{465} shows that perceptions of lawyers are mixed - on one hand there is a large amount of respect among consumers for the professional training lawyers have completed, and the level of knowledge they must have to be qualified in what is broadly perceived to be a respected profession. However, on the other hand, there are many negative perceptions of lawyers which tend to focus on the way in which the service is provided; lack of emotion, lack of transparency and dishonesty.
D. The public perspective: Desired outcome 2. An efficient legal system delivering quality legal services at a reasonable cost

Summary

- As in the 2012 market evaluation exercise, there remains highly limited information on which to assess efficiency, quality, and cost generally, and to isolate the role of the regulated community in contributing to that system.
- We believe that the behaviour of the regulated community contributes to the efficiency of the legal system as a whole, although a series of external factors are also relevant. To assess the contribution of the regulated community we use measures related to trial length and appeal rates (predictability of outcomes).
- In civil proceedings trial length fell or remained static between 2010 and 2014.
- Criminal trials have increased in length over the past three years, while the conviction ratio has increased from 78.1% to 83.6%.
- Legal services in England and Wales continue to be in high demand internationally – as measured by increasing exports and the use of UK based courts by international parties.
- As set out in C.2. the quality of legal services shows signs of improvement in terms of service, but the limited studies of technical quality do not suggest high levels of quality.
- As set out in A.2 available information points to rises in the cost of legal services over time, and some of the rise in cost is attributable to rises in court fees. We have found no information on the cost per trial.
D. The public perspective: Desired outcome 2. An efficient legal system delivering quality legal services at a reasonable cost

Why this is of interest

D.2.1 While legal services regulation is focused on authorised persons, licenced bodies, and regulated entities, these individuals and businesses operate within the wider justice system. Their work contributes to the efficiency of the justice system, alongside a series of external factors, which is why we look at these issues here. From the public perspective, our assumption is that the distinction between the boundaries of regulation is not something that will be factored into their perception of the wider justice system.

D.2.2 Changes in the quality of legal services over time is assessed in A.2 above and cost of legal services overtime in D.9, so here we focus on available measures of efficiency in the legal system. As in the 2012 market evaluation report we do not have access to data on trends in how long cases take to progress and so use published data on the length of court trials over time. Here we look at trial length as a proxy measure for efficiency. We do not comment on wider issues relating to the efficiency of the justice system, such as courts modernisation, since this falls outside the ambit of regulation.

Knowledge Gap 29. Information on trends in the length of cases and arbitrations over time

Trial length over time

Figure 112. Trends in the length of civil and family cases

![Graph showing trends in trial length over time for different categories including Domestic violence, Private Law, Public Law, Divorce (to Decree Absolute), Civil - Small claim trials, Civil - Fast and Multi Track trials, and Judicial Review - case lodged to final hearing decision measured in days for the years 2006 to 2014.](image)
D.2.3 Looking at justice systems across the world, the OECD found that trial length is consistently negatively correlated with confidence in the judicial system at the individual level. The estimates suggest that a 10% increase in the length of trials is associated with around 2% decrease in the probability to have confidence in the justice system.\textsuperscript{467}

D.2.4 In England and Wales, the length of trials for family and civil proceedings has remained broadly constant over time, as shown in Figure 112 above. While the length of cases in care and supervision proceedings has fallen significantly, this is due to the impacts of specific legislation\textsuperscript{468} and the fall in the length of judicial reviews is down to changes in case mix due to other legislative reforms.\textsuperscript{469}

D.2.5 Published MoJ statistics for crime also show the average length of time between offence and completion has risen consistently since the first quarter of 2014, having fallen in 2011. As shown in Figure 113, falls in the length in cases at the Crown court have been offset by increases in those at the magistrate’s court. MoJ statistics also show the conviction ratio rising for all types of offences except for fraud and criminal damage and arson. In 2005, 78.1% of hearings led to a conviction, compared to 83.6% in 2015.\textsuperscript{470} A 2015 analysis by Victim Support raises concerns about the impact of increasing length of criminal proceedings on the victims of crime.\textsuperscript{471} A 2011 report suggested that this may also be affected by the different judges used at the magistrates court, with the analysis suggesting district judges transacted cases more quickly than magistrates.\textsuperscript{472}

D.2.6 As set out in Part 2, the trends for court proceedings is falling numbers of trials over time with time taken for cases to conclude staying broadly static – though reducing significantly in a number of areas. For civil justice this might drive the increases in trust and confidence in the legal system identified in D.1. The WJP Rule of Law Index 2015\textsuperscript{473} ranks the UK 10\textsuperscript{th} in the world in terms of civil justice not being subject to delays – up from 16\textsuperscript{th} in 2012/13.

**International demand for UK legal services**

D.2.7 An additional proxy indicator of the perception of efficiency and quality among business consumers, is the international demand for legal services provided by firms based in the UK.

D.2.8 The City UK recently reported that in 2013, 80% of claims issued in the Commercial Court, involved at least one party whose address was outside England and Wales. They also estimate that around 40% of governing law in all global corporate arbitrations is English law. They state that “\textit{English law is credited for its impartiality when adjudicating commercial disputes. The success of England and Wales as the jurisdiction of choice for the resolution of disputes arising all over the world is partly a result of the emergence of the Eurobond market since the 1960s and the success of the London as a global finance hub. English common law is the most widely used legal system in the world, covering 27% of the world’s 320 legal jurisdictions}”. Further, the UK accounts for 7% of the global legal services fee revenue, and a fifth of European fee revenue.\textsuperscript{474}
D. The public perspective:
Desired outcome 2. An efficient legal system delivering quality legal services at a reasonable cost

D.2.9 As set out in Part 2, there has been a significant growth in net exports of legal services, according to the ONS. For the UK as a whole, net exports have grown by £980m in real terms since 2007.\textsuperscript{475}

Figure 113. Trends in the length of criminal cases\textsuperscript{476}
E. The investor perspective

Are the regulatory objectives being delivered?

A. Market
1. More competitive
2. Affordable legal services
3. Plurality of services

B. Consumer
1. Higher access to justice
2. Confidence in legal services regulation
3. Empowered in dealings with legal services

C. Provider
1. Diversity better matching client population
2. Quality has improved
3. Profession and judiciary have confidence in the legal sector

D. Public
1. Confidence in legal sector
2. Efficient legal system

E. Investor
1. Market attractive to all sources of finance
2. Proportionate regulation
E. The investor perspective: Desired outcome 1. A legal market which is attractive to all sources of finance including external investors

Summary

- There is limited information on investment activity in the legal sector. Available information suggests that around 20%-35% of ABS regulated by the SRA and CLC have used external investments.
- Analysis of investment activity shows £1.6bn of investments in the legal sector from external investors and corporate investors.
- For the sector as a whole, surveys by financial organisations suggest continued use of bank borrowing among law firms, with increased overdraft capacity and continued ease of access to short term financing facilities.
- Available information suggests access to investment is becoming easier for the SRA regulated law firms.
E. The investor perspective:
Desired outcome: 1. A legal market which is attractive to all sources of finance including external investors

Why this is of interest

E.1.1 A major aim of the permitting of ABS was to allow new forms of capital into regulated law firms. Prior to 2009, non-lawyer partnerships were prohibited, although some forms of non-lawyer ownership were permitted under CLC regulations. The reasons for this aspect of the LSA reforms was the expectation that the admission of new capital would increase competition and reduce the cost of legal services, to the benefit of the objective of access to justice. External investment in law firms means less reliance on personal debt, firm overdrafts, and more access to funds to invest. Further it was thought that new investors might bring not just investment but new ideas about how legal services might be provided in consumer friendly ways. The analysis of changes in competition is set out in D.9 and access to justice is set out in B.4 above.

Trends in investment over time

E.1.2 There is limited information on the types of investments made in law firm’s over time. The LSB will undertake research in 2016/17 to close this gap in knowledge. The analysis presented below represents a summary of available information but there is no information with which to contextualise these observations. We focus this analysis on SRA regulated ABS because there is more information available on these types of entities than those regulated by other regulators.

Knowledge Gap 30. Range of current sources of investment and investor community perceptions of the legal services market.

E.1.3 Since the implementation of the ABS framework from October 2011 there have been a number of high profile press reports about new forms of financing in legal services. This includes examples of:

- Entry by established retail brands
- Legal brand networks of traditional firms
- Focus on online service delivery
- Local authority ABS licences delivering savings on legal spend
- Accountancy firms entering the market regulated by SRA
- Private equity investment and stock market flotation
- In-house teams turning into freestanding practices
- Law firm and a charity combining to form an ABS
- Trade unions combining to create an ABS
- Foreign firms setting up as ABS

E.1.4 The 2013 LSB ABS survey, which covers SRA and CLC regulated organisations, found that the main motivations for seeking an ABS licence were to promote non-lawyers to management of the business (23%), or to comply with regulations (22%). However a range of other reasons were also mentioned as being relevant including boosting market profile (36%), accessing external investment (34%), and succession planning (28%). Respondents to the survey were predominantly pre-existing firms converting with 77% of respondents already regulated by the SRA or the CLC. In the survey, 9% of respondents already provided
legal services not regulated by the CLC or SRA. A further 14% were brand new to the provision of legal services. Isolating just those firms regulated by the SRA gives a split of 28% new entrants and 71% existing firms converting. SRA research published in May 2014 suggests that 32% of ABS were brand new to SRA regulation.

E.1.5 An analysis published in early 2016\textsuperscript{482} identified £510m of external investment in the legal sector. This investment had been made in the residential conveyancing, corporate structuring and finance, injury, and other market segments. The authors note that “Despite the introduction of ABS the ability to accept and incentivise external or internal investment remains missing in a large number of traditional law firms with partners having no incentive to accept external investment or to invest themselves for fear of losing long held annuity streams without adequate compensation. However, as external investment continues to flow into the legal sector the pressure to reform and make investment will only increase as partner income without investment begins to decline for all but the elite.”\textsuperscript{483} The same analysis identifies £1.1m of corporate investment in the legal sector in 2015. For context the total UK sector turnover in 2015 was £32bn (see Part 2 above).

E.1.6 For the larger solicitor entities, annual surveys by PWC\textsuperscript{484} suggest that the proportion of external financing remains constant over the 2009-2010 period representing between a quarter and a third of corporate solicitor firms’ funding. While we have found no data for the 2010-2015 period, the 2014 and 2015 PWC surveys suggest that these firms have easy access to external financing in the form of debt facilities.\textsuperscript{485} This would suggest little demand for external investment from this largest part of the regulated legal services market.

E.1.7 Looking at a wider group of UK law firms, the Natwest Law firms surveys\textsuperscript{486} provide information on sources of capital used by law firms. These surveys show law firms have increased overdraft facilities to a median 11% of fee income in 2015, up from 9% in 2013. Partner capital as a percentage of fees was 27% in 2013, 25% in 2014, and 27% in 2015. Total bank borrowing (including borrowed partner capital) as a percentage of partner capital was 35% in 2013, 41% in 2014, and 36% in 2015. This demonstrates that bank borrowing still represents a significant part of law firms’ finances.

E.1.8 In the 2012 Solicitors Firms Survey\textsuperscript{487}, 21% of respondents reported problems concerning finance - 16% in the case of availability of finance and 10% in the case of obtaining investment. In their 2014/15 annual law firms survey the TLS reported that 10% of all firms had issues with the availability of bank finance, and 8% of obtaining equity investment from existing and new partners.\textsuperscript{488} This would suggest that access to investment is becoming easier over time.

E.1.9 The 2015 Innovation research highlighted the link between finance and service development. For all types of providers, 15% saw the availability of finance for development as an enabler of innovation. Further 18% of all types of providers (17% of solicitors firms) said a lack of necessary finance was a barrier to innovation.\textsuperscript{489}
E. The investor perspective:
Desired outcome 2. Proportionate regulation allowing an inflow of capital

Summary

- There is very limited information on the level of capital inflows into the sector over time.
- However changes to regulation made over the past five years have been largely procompetitive. A third of the most important changes made to regulation over the past five years were designed to remove existing regulations. This is important because a more liberalised market is attractive to investors.
- The Competition and Markets Authority (CMA) has noted concerns about the complexity of the current regulatory framework and with specific regulatory rules aimed at provider conduct and market entry that might be dampening competition.
- Historic issues with SRA ABS licensing appear to have been addressed, but the wider cost of legal services regulation remains an issue.
- The regulatory costs of the SRA, TLS permitted purposes, LSB and LEO levies, amounted to 0.2% of the regulated entity turnover in 2014. This would suggest that the cost of complying with regulation – such as time spent or the cost associated with insurance – is more of a burden than the fees paid to regulators. This might hinder the inflow of capital to the sector.
E. The investor perspective:
Desired outcome 2. Proportionate regulation allowing an inflow of capital

Why this is of interest

E.2.1 As set out in E.1 above, a key part of the LSA reforms was to allow new forms of investment into the regulated legal sector. The way regulation is structured and applied can affect the types of capital and the ease with which it can be invested in the sector. Regulation has to comply with the better regulation principles, demonstrating proportionality, accountability, consistency, transparency, and targeted regulation. This is of benefit to the legal sector and the wider economy. Further as noted in E.1 there is limited published information on the types of investment and inflow of capital into the sector.

Knowledge Gap 31. Level of capital flows into the legal sector over time.

E.2.2 As set out in Part 2 above, a third of the most important changes made to regulation over the past five years were designed to remove existing regulations for incumbents. Further, the changes to regulation were largely procompetitive and as such our view is that they can be seen as increasingly proportionate. This is despite the limitations of the current regulatory framework.

E.2.3 Looking at potential barriers to capital inflows, we look at regulation and ABS – the main vehicle for external investment – in order to take a wider view on the proportionality of legal services regulation. These are two areas where there is information to understand changes over time.

E.2.4 The CMA’s market study is to consider whether regulations and the regulatory framework go beyond what is necessary to protect consumers and weaken or distort competition for the supply of legal services. Its statement of scope document noted concerns about the complexity of the current regulatory framework and with specific regulatory rules aimed at provider conduct and market entry that might be dampening competition. These specific regulatory rules include regulations that may be slowing down the entry of ABSs and statutory and regulatory restrictions on who may provide certain legal services to consumers, including the current reserved activities. An MoJ consultation on proposals for removing barriers to entry for ABS is due to be published in due course.

Historic issues with SRA ABS licensing

E.2.5 Previous research by the Office of Fair Trading (OFT) in 2013 specifically considered the issue of whether the SRA ABS licensing process created a barrier to entry. They estimated that the cost of gaining an ABS licence from the SRA was between £27,000 and £160,000, including staff time. This varied by size of firm because the SRA charged application fees based on size and salary costs, which at larger firms are higher. However, the OFT expected these costs to fall over the medium term – reflecting the start-up phase of the process. The OFT concluded that the "introduction of ABS has removed a key barrier to market entry but the policy is still in the early stages of development. The application process both at the licensing body and the individual ABS level can be lengthy and time consuming for senior staff but we have not identified any clear barriers to entry for ABS. There is no evidence at this stage that additional compliance costs have affected either the range
E. The investor perspective: Desired outcome 2. Proportionate regulation allowing an inflow of capital

of services being offered or the prices being charged to consumers. It is an open question whether the time and cost of applications is acting as a deterrent.\textsuperscript{493}

E.2.6 In early 2013, the LSB engaged with the SRA on its approach and performance in licensing ABS, following past concerns about time taken to determine applications.\textsuperscript{494} The SRA announced a revised process for assessing applications, which was implemented in July of that year. The LSB’s oversight included monitoring the SRA’s performance between January 2013 and April 2015. By the end of this period the SRA had addressed many of the original concerns, including speeding up authorisation decisions, and was expected to continue making improvements.\textsuperscript{495} The SRA has also said publicly that it was working towards a position where most applications are determined within three months of receipt of a complete application, and introduced new guidance for applicants.\textsuperscript{496}

E.2.7 In the LSBs 2013 survey of SRA and CLC regulated ABS organisations,\textsuperscript{497} the length of time it took respondents to become an ABS varied significantly. For 8% setting up their business or converting to an ABS took just three months, while for 18% the process took over a year. Setting up the ABS involved a range of activities in most cases; however 90% of respondents identified the licence application process as the main factor. The next most common factor identified as having a major impact on the timescale was the need to reorganise legal structure and governance, mentioned by 25% of respondents. Looking specifically at the ABS licence application process, suggested similar variation in length. For 5% of respondents this took less than 3 months, but for 10% of respondents this took over 12 months. For 48% of respondents this had no impact on their business as they were already regulated by the SRA. However one in five respondents reported waiting for their licence before undertaking any other activity. It is acknowledged that these surveys are old, but we are not aware of more recent surveys that provide a more up-to-date picture of the application process.

E.2.8 It remains unknown whether a wider negative perception of costs and time taken might have contributed in some way to the falling rate of all new entrants generally and ABS in particular, and for providers to operate outside of regulation altogether. However, available information suggests it has made little impact on existing SRA entities converting. In the 2012 solicitor firms’ survey\textsuperscript{498} - conducted shortly after ABS licencing began - 6% of all existing firms indicated that they intended to seek external investment from non-solicitor professionals or companies following the introduction of ABSs, although only 1.5% of firms had undertaken any specific actions to take this forward. This was highest among firms undertaking 50% or more of their work in immigration or injury, and those who outsourced elements of their work, or undertook media advertising. That would suggest around 150 existing SRA providers were planning to become an ABS, whereas LSB analysis presented in A.1 shows the actual total figure for the last three years is 163. Clearly comparisons here are only approximates but they are not too divergent.
The cost of regulation

E.2.9  In terms of the proportionality of legal services regulation, the LSB investigated the cost of regulation in 2015, building on the 2013 assessment. This investigation found that providers conceptualise costs based on regulation as a whole and not just regulations specific to the legal sector. Further they do not distinguish between discretionary costs, such as professional accreditation membership fees, and regulations specific to the legal sector regulation.

E.2.10  In terms of entity regulators – the only regulators licensing ABS at the time of the survey - 45% of SRA-regulated entities felt the annual fees paid to the regulator were poor value for money and 47% thought that compliance costs represented poor value for money. For CLC entities, 46% felt the annual fees paid to the regulator were high but not excessive. 38% of these providers thought the compliance costs were high but not excessive. For those regulated as individuals, barristers were equally concerned about the level of fees paid and the compliance costs. Costs lawyers were the most likely to think the fees paid and cost of compliance was reasonable or low. Overall a higher percentage of notaries felt that the fees paid were high but not excessive or poor value for money, than felt this way about compliance costs (62% compared to 53%). The same was true for those regulated by IPReg (64% compared to 52%).

E.2.11  As set out in Figures 114 and 115, with the exception of costs lawyers, the most frequent response was that the cost of complying with regulation and the costs of fees were of concern and should be looked at together.

Figure 114. Entities views of compliance costs and fees paid
E. The investor perspective:
Desired outcome 2. Proportionate regulation allowing an inflow of capital

E.2.12 To what extent these costs are proportionate is unclear. However by way of context the combined costs of all England and Wales legal services regulators in 2013 – the most recent year for which full data is available - were around £69m. This represents 0.2% of the £29bn UK wide sector turnover in 2013, but that figure includes unregulated legal services providers and the UK as a whole. Our best guess is that this is likely to represent around 0.4-0.5% of total regulated legal sector turnover in England & Wales. By way of example, the SRAs 2013 £52.4m income – which includes permitted purposes income for the TLS and funding levies for the LSB and LEO – can be put into the context of reported turnover by SRA regulated entities of £21bn set out in D.9 above. That means fees for regulation amounted to 0.2% of total turnover for the largest of the approved regulators. This doesn’t reflect the costs of complying with regulation, such as the total cost of professional indemnity insurance for example. TLS research shows that the average premium for solicitors firms in 2014/15 was £29,817.\(^{501}\)

E.2.13 The only published investigation into compliance costs in legal services, commissioned by the LSB in 2015\(^{502}\), found that for entities the total cost of regulation as a proportion of total practice costs was between 15% and 23%. Participants in the research reported that they saw legal regulatory costs primarily as a burden and would only undertake a small proportion of those activities for other regulatory or commercial reasons. The incremental cost – that incurred only to comply with regulation - of professional indemnity insurance regulations was reported as being nearly double that of the next highest incremental cost.
E.2.14 For those regulated as individuals, the total cost of regulation as a proportion of total practice costs associated with reserved activities was between 8% and 17%. Responses from participants indicate that nearly all costs associated with ongoing supervision by the regulator were reported as incremental costs – this is consistent with the study finding few examples of regulatory or commercial overlap associated with those regulatory costs. This was similar for professional development costs. Participants reported low incremental costs for the remaining categories of regulatory costs; professional indemnity insurance requirements, consumer information disclosure, separate client account requirements, keeping up to date with regulations and file retention requirements. This finding suggests that the regulatory burden associated with these types of costs was low.
Knowledge gaps

List of knowledge gaps identified

1. Impacts of regulatory changes made by the approved regulators
2. Trends in size of unregulated legal sector in England and Wales
3. Trends in the use of advertising by SRA regulated entities
4. Use of referral arrangements and introducers by market segment over time
5. Trends in actual prices paid for legal services over time for different consumer groups
6. Prices paid for legal services compared to other professional services.
7. Changes in access to justice for large businesses.
8. Trends in the use of alternative dispute resolution mechanisms over time
9. Changes in the outcomes achieved by consumers in terms of fairness.
10. Trends in how small business and other consumers choose legal services.
11. The range and extent of referral networks for all consumer groups.
12. How diversity has changed in other professions
13. Diversity of clients for different regulated professions
14. Individuals’ progressions within professions over the long term
15. Analysis of combined diversity characteristics
16. First tier complaints breakdown by market segments for new business models regulated by the SRA
17. First tier complaints levels for new business models regulated by other approved regulators
18. First tier complaints against individual barristers over time
19. Changes in complaints compared to changes in market volumes over time in different market segments.
20. Levels of satisfaction and responses to dissatisfaction by SME consumers.
21. Levels of satisfaction and responses to dissatisfaction by large business and government.
22. Level of funds at issue in compensation claims made over time.
23. Changes in technical competence over time.
24. Coverage of quality mark and accreditation schemes over time.
26. Changes in the volume and value of professional indemnity insurance claims over time.
27. Changes in the types and frequency of conflict of interests faced by lawyers.
28. The professions confidence in the independence and reputation of the legal sector.
29. Information on trends in the length of cases and arbitrations over time.
30. Range of current sources of investment and investor community perceptions of the legal services market.
31. Level of capital flows into the legal sector over time.

As in the 2012 market evaluation, there remain issues with a lack of consistent terminology and consistency of data collection over time. While there are positive examples, such as the annual professional indemnity insurance surveys by TLS, or the LSCP annual tracker surveys of consumers views and experiences, these are few and far between. We will continue to encourage all stakeholders to promote a better understanding of the legal services market and address the regulatory knowledge gaps identified in this analysis.
<table>
<thead>
<tr>
<th>Term</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABS</td>
<td>An Alterantaive Business Strcuture is one that is allowed to be completely owned by non-lawyers and provide reserved legal services.</td>
</tr>
<tr>
<td>AR or approved regulator</td>
<td>A body which is designated as an approved regulator by Parts 1 or 2 of schedule 4, and whose regulatory arrangements are approved for the purposes of the LSA and which may authorise persons to carry on any activity which is a reserved legal activity in respect of which it is a relevant AR.</td>
</tr>
<tr>
<td>Asymmetric information Authorised Person</td>
<td>A situation in which one party in a transaction has more or better information compared to another.</td>
</tr>
<tr>
<td>BSB</td>
<td>Bar Standards Board – the independent regulatory arm of the Bar Council.</td>
</tr>
<tr>
<td>CLC</td>
<td>Council for Licensed Conveyancers – the regulator of Licensed Conveyancers.</td>
</tr>
<tr>
<td>Cash turnover Concentration ratio</td>
<td>The amount of cash turnover reported in a given time period.</td>
</tr>
<tr>
<td>Concentration ratio</td>
<td>The concentration ratio measures the combined market share of the largest firms in a market. For example, the ‘five firm’ concentration ratio is simply the sum of the market shares of the five largest firms in the market. It does not provide any information on the relative size of the firms nor on the number, or size, of the smaller firms. As this percentage changes over time we can infer that competition has increased or decreased, more still if the make up of the 10 firm ratio change over time as well.</td>
</tr>
<tr>
<td>Credence goods</td>
<td>A service for which a consumer may never know if they are obtaining a quality product or not, because quality is difficult to assess before and after delivery.</td>
</tr>
<tr>
<td>Demand side substitution</td>
<td>The types of legal service and supplier that consumers can choose between. For the purchase of a house they can substitute their demand for advice from a solicitor for a licensed conveyancer, for example.</td>
</tr>
<tr>
<td>Experience goods</td>
<td>A product or service where product characteristics, such as quality or price, are difficult to observe in advance, but these characteristics can be ascertained upon consumption.</td>
</tr>
<tr>
<td>Law practice</td>
<td>The term used by the SRA to describe a solicitors firm offering legal service to the public. In 2012/13 these accounted for 68% of places where solicitors with an active practicing certificate work. The remainder work providing services in house within commerce and industry (28%), educational establishments (1%) and a range of other organisation (7%). The focus of this study is on law practices.</td>
</tr>
<tr>
<td>LA or Licensing Authority</td>
<td>An approved regulator which is designated as a licensing authority to license firms as ABS.</td>
</tr>
<tr>
<td>LSA</td>
<td>Legal Services Act 2007</td>
</tr>
<tr>
<td>LEO</td>
<td>Legal Ombudsman - The single organisation for all consumer legal complaints</td>
</tr>
<tr>
<td>LDPs</td>
<td>Legal Disciplinary Practices (LDPs) permitted from 2009, new regulations allowed solicitors, for the first time, to co-own and manage solicitors' firms with other legal professionals and with up to 25% non-lawyer ownership.</td>
</tr>
<tr>
<td>Legal need</td>
<td>Problems that – whether or not they are and whether or not those concerned appreciate this – could potentially be resolved through a legal process – ‘justiciable’</td>
</tr>
<tr>
<td>LSB</td>
<td>Legal Services Board – the independent body responsible for overseeing the regulation of lawyers in England and Wales</td>
</tr>
<tr>
<td><strong>Glossary</strong></td>
<td></td>
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<tr>
<td>----------------</td>
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</tr>
<tr>
<td><strong>LSCP</strong></td>
<td>Legal Services Consumer Panel – the panel of persons established and maintained by the Board in accordance with Section 8 of the LSA (2007) to provide independent advice to the Legal Services Board about the interests of users of legal services.</td>
</tr>
<tr>
<td><strong>Market concentration</strong></td>
<td>Extent or degree to which a relatively small number of firms account for a relatively large percentage of the market. The degree of concentration in a market may be measured in different ways, depending on the nature of competition and availability of data.</td>
</tr>
<tr>
<td><strong>Market segment</strong></td>
<td>An identifiable group of individuals, families, businesses, or organizations, sharing one or more characteristics or needs in an otherwise homogeneous market. The market segments in this analysis are defined by demand side substitution using type of problem and type of consumer.</td>
</tr>
<tr>
<td><strong>Market share</strong></td>
<td>The percentage of a market accounted for by a business or group of businesses. In this analysis this is measured by turnover.</td>
</tr>
<tr>
<td><strong>Non legally qualified fee earners</strong></td>
<td>An employee of the firm who generates fees from customers but is not an authorised person.</td>
</tr>
<tr>
<td><strong>ONS</strong></td>
<td>The UK’s largest independent producer of official statistics and the recognised national statistical institute of the UK.</td>
</tr>
<tr>
<td><strong>OLC</strong></td>
<td>Office for Legal Complaints. NPDB established by the Legal Services Act to establish an independent Legal Ombudsman Service (see LEO).</td>
</tr>
<tr>
<td><strong>Price-costs margin</strong></td>
<td>A market concentration measures that looks at profit margins for individual providers and compares them to the industry as a whole. The rationale is that where one is more efficient than the other, the more efficient firm will have higher profits than the less efficient firm. As the industry becomes more competitive, for given efficiency levels of the firms, the profits of the more efficient firm go up relative to the profits of the less efficient firm. This can happen because the profits of the more efficient firm actually increase, or if the more efficient firm's profits fall, then the profits of the less efficient firm fall by more.</td>
</tr>
<tr>
<td><strong>Principles of Better Regulation</strong></td>
<td>The five principles of better regulation; being proportional, accountable, consistent, transparent and targeted.</td>
</tr>
<tr>
<td><strong>Productivity</strong></td>
<td>The rate at which goods or services are produced especially output per unit of labour. In this analysis we define productivity as turnover per fee earner.</td>
</tr>
<tr>
<td><strong>Real turnover</strong></td>
<td>The amount of turnover reported in a given time period adjusted to take account of inflation. All cash figures have been converted to 2014/15 prices using the HM Treasury GDP deflator to exclude the impacts of inflation unless otherwise stated.</td>
</tr>
<tr>
<td><strong>Regulatory Objectives</strong></td>
<td>There are eight regulatory objectives set out in the Legal Services Act (2007): 1 protecting and promoting the public interest 2 supporting the constitutional principle of the rule of law 3 improving access to justice 4 protecting and promoting the interests of consumers 5 promoting competition in the provision of services in the legal sector 6 encouraging an independent, strong, diverse and effective legal profession 7 increasing public understanding of citizens legal rights and duties 8 promoting and maintaining adherence to the professional principles of independence and integrity; proper standards of work; observing the best interests of the client and the duty to the court; and maintaining client confidentiality.</td>
</tr>
</tbody>
</table>
**Glossary**

<table>
<thead>
<tr>
<th>Reserved</th>
<th>Search goods</th>
<th>SRA</th>
<th>Turnover</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Activity</td>
<td>Consumers are able to make an assessment of quality prior to purchase</td>
<td>Solicitors Regulation Authority - regulatory body of the Law Society</td>
<td>Turnover figure means a firm's total gross fees arising from work undertaken from offices in England and Wales. Gross fees includes: all professional fees of the firm including remuneration, retained commission, and income of any sort whatsoever of the firm (including notarial fees). Work in Progress (WIP) should be included. Gross fees does not include: interest, reimbursement of disbursements, VAT, remuneration from a non-private practice source, dividends, rents, and investment profit.</td>
</tr>
</tbody>
</table>

Legal services within the scope of regulation by the Approved Regulators.
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5. 2015/16 Regulatory Standards Reports, LSB, 2016, http://www.legalservicesboard.org.uk/Projects/developing_regulatory_standards/index.htm#Regulatory_Stands
6. A list is provided in Annex 1.
dordersintheproductionandservicesindustriesdataset; ABS – Section M ABS released November 15 and ANNUAL BUSINESS INQUIRY Section K - Real estate, renting and business activities 1995-2007 Release Date 16/06/2009

170
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20 Unbundling a market - The appetite for new legal services models - Global survey results - May 2014 Allen & Overy, Page 4, http://www.allenover.com/SiteCollectionDocuments/Unbundling_a_market.PDF
22 See Table 3.12 https://research.legalservicesboard.org.uk/wp-content/media/Innovation-Report.pdf
23 Ibid. Table 3.2
24 Ibid. section 3.5
28 Figure 2.13, http://www.sra.org.uk/sra/how-we-work/reports/research-ABS-executive-report.page#2
34 For example see https://gds.blog.gov.uk/2015/08/18/mapping-new-ideas-for-the-digital-justice-system-2/
36 For a summary of changes to legal aid see - http://www.lawsociety.org.uk/support-services/advice/articles/legal-aid-changes-key-information-and-advice/
38 Figure 1.2, How People Resolve Legal Problems, Pleasence et al, 2014, https://research.legalservicesboard.org.uk/wp-content/media/How-People-Resolve-Legal-Problems.pdf
43 For a summary of these changes see page 8, Access to Justice: Learning from the long term experiences in the personal injury legal services market, London Economics, 2014 https://research.legalservicesboard.org.uk/wp-content/media/Access-to-Justice-Learning-from-Pl.pdf
171 Evaluation: Changes in the legal services market 2006/07-2014/15
These minor changes involved: From the provider perspective, removing an outcome on education and training as this was felt to be input (qualifications) based rather than outcomes based. The desired outcome is captured in C.2; Outcome C.3. has been revised to focus just on the profession and judiciary, so public confidence is assessed in Outcome D.1; The outcome of ‘Consumers have confidence in the legal sector’ has been merged into Outcome D.1. - wide confidence in the law and the legal sector; The outcome of ‘wide confidence in the standards and ethics of the legal profession’ has been merged into Outcome C.2.- quality of legal services is improved overall compared to 2009; Outcome B.2. consumers have confidence in the regulation of legal services; and Outcome D.1. - wide confidence in the law and the legal sector; Removing an outcome on risk based supervision in relation to the investor perspective, because of no clear evidence that risk based supervision is the only way to secure investment. We have also reordered the structure of the framework.

References

45 See chapter 6, Online survey of individuals’ handling of legal issues in England and Wales, Ipsos Mori, Law Society and LSB, 2016 https://research.legalservicesboard.org.uk/wp-content/media/Online-survey-of-individuals-legal-issues-REPORT.pdf
47 See House of Commons Briefing Paper Number 7081, 15 September 2015 Employment Tribunals Fees
49 For a review of the reforms please see http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06616
50 For more information see the LSB website - http://www.legalservicesboard.org.uk/about_us/history_reforms/index.htm
51 Under the processes outlined in the LSA 2007, the LSB must consider applications for all changes to regulatory arrangements and ensure rules are only changed in line with regulatory objectives and better regulation principles.
52 See slide 26, How Alternative are ABS? https://research.legalservicesboard.org.uk/wp-content/media/SLSA_LSB_presentation_ABS.pdf
53 ICAEW have recently launched a consultation on extending the range of reserved activities - http://www.icaew.com/about-icaew/act-in-the-public-interest/policy/consultations-and-representations/proposed-icaew-reserved-legal-services-application
55 For more information see http://www.legalservicesboard.org.uk/what_we_do/regulation/reg_pol.htm
58 All changes are available here http://www.legalservicesboard.org.uk/Projects/statutory_decision_making/alterations_to_regulatory_arrangements.htm
63 These minor changes involved: From the provider perspective, removing an outcome on education and training as this was felt to be input (qualifications) based rather than outcomes based. The desired outcome is captured in C.2; Outcome C.3. has been revised to focus just on the profession and judiciary, so public confidence is assessed in Outcome D.1; The outcome of ‘Consumers have confidence in the legal sector’ has been merged into Outcome D.1. - wide confidence in the law and the legal sector; The outcome of ‘wide confidence in the standards and ethics of the legal profession’ has been merged into Outcome C.2.- quality of legal services is improved overall compared to 2009; Outcome B.2. consumers have confidence in the regulation of legal services; and Outcome D.1. - wide confidence in the law and the legal sector; Removing an outcome on risk based supervision in relation to the investor perspective, because of no clear evidence that risk based supervision is the only way to secure investment. We have also reordered the structure of the framework.
References

92 Barristers working lives 2011 and 2013, Employment Research Ltd and Institute for Employment Studies

93 Using published research rather than underlying data means having to use areas of practice and not market segments in this part of the analysis.

94 The Z-Score is -2.2257. The p-value is 0.02574. The result is significant at p <0.05.

95 The Z-Score is 2.6441. The p-value is 0.0083. The result is significant at p <0.05.

96 Substantially less and somewhat less combined. Somewhat more and substantially more combined. See Table 4.4, ibid 134


98 Para 5.1, Barristers working lives 2013, Employment Research Ltd and Institute for Employment Studies

99 Para 4.6, Barristers working lives 2011, Employment Research Ltd and Institute for Employment Studies

100 Research into the public access scheme, Pye Tait Consulting, LSB and BSB, 2016

101 Please see Annex 2 for an explanation of how this is calculated.


105 Figure 1.6

106 http://www.conveyancer.org.uk/CLC-Consumers/ABS-Register.aspx

107 LSB analysis of CLC ABS register December 2015 – 10% unknown.


109 Figures provided to the LSB for levy calculations.

110 Figures provided to the LSB for levy calculations.

111 See FAQ Q: Do I need a Notary, http://www.facultyoffice.org.uk/notary/faqs-for-potential-and-existing-clients/

112 Response to an information request by the Clerk to the Registrars 23-02-2016

113 Figures provided to the LSB for levy calculations.


117 Unregulated legal service providers, Economic Insight, LSB 2016, https://research.legalservicesboard.org.uk/


121 The definition used was: “Advice and information provided to members of the public about their rights, entitlements and responsibilities under the law; The advice provision is independent, i.e. the advice is in the best interests of the client.”
and is not influenced in any way by the interests or views of anyone other than the client.” Findings from the Legal Advice Sector Workforce Surveys, Legal Services Research Centre, 2007 http://webarchive.nationalarchives.gov.uk/20110206195825/http://lsrc.org.uk/publications/workforce.pdf

122 “Special bodies”, such as not for profit bodies, community interest companies and independent trade unions are allowed to conduct reserved legal activities without authorisation by an approved regulator by virtue of transitional protections in the LSA. In this sense they are unregulated within the framework of the LSA (see s13, and s23 LSA 207).


124 Defined in the study as: ‘Casework includes all the elements of advice but the service takes action on behalf of the client to move the case on e.g negotiating with third parties, advocating on the client's behalf.

125 Defined in the study as: Acting for and representing the client in a court or tribunal proceedings

126 Accessable here https://www.gov.uk/government/publications?departments%5B%5D=office-of-the-immigration-services-commissioner&publication_type=corporate-reports

127 LSB analysis of SRA data.

128 The Full list is personal injury, criminal injury, industrial injury, housing disrepair, employment and redundancy, and mis-sold financial products and services – see https://www.gov.uk/government/groups/claims-management-regulator


130 LSB analysis of SRA data.

131 Figure 13, Evaluation: Changes in competition in different legal markets, LSB, 2013, https://research.legalservicesboard.org.uk/wp-content/media/Changes-in-competition-in-market-segments-REPORT.pdf


133 This data comes from the 2015 Innovation survey. Details of the survey can be found in Annex 4 of that report which is available here https://research.legalservicesboard.org.uk/wp-content/media/Innovation-Annexes.pdf . We use respondent’s answers to questions B9A. Which of the following best describes the nature of the competition you face?

134 The Z-Score is 4.8142. The p-value is 0. The result is significant at p <0.05.

135 Table 1.6, 2015 annual regulatory return analysis published by CLC - http://clc-uk.org/CLCSite/media/Corporate-Docs/CLC-ARR-Analysis-2015.pdf

136 For a discussion see https://research.legalservicesboard.org.uk/analysis/supply/charging/

137 Page 28 onwards, SRA Conveyancing Thematic Study, SRA March 2013,

138 Section 7.2, Understanding Changes in Prices of Legal Services, OMB Research, LSB 2016
https://research.legalservicesboard.org.uk/

139 Ibid Figure 7.2.4


141 Annual tracker survey, LSCP, data available here
http://www.legalservicesconsumерpanel.org.uk/publications/research_and_reports/


144 For a discussion see https://research.legalservicesboard.org.uk/analysis/supply/market-financials/turnover-and-profitability/#Drivers-of-profitability


146 Understanding Changes in Prices of Legal Services, OMB Research, LSB 2016
https://research.legalservicesboard.org.uk/
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147 Figure 5.1.2 Understanding Changes in Prices of Legal Services, OMB Research, LSB 2016 https://research.legalservicesboard.org.uk/

148 See Annexes 2,3, and 4 for details of the scenarios used, Understanding Changes in Prices of Legal Services, OMB Research, LSB 2016 - https://research.legalservicesboard.org.uk/wp-content/media/Prices-of-Individual-Consumer-Legal-Services.pdf

149 The 25th most expensive price for that scenario less the 75th price.


151 As measured by the English and Welsh Indices of Multiple Deprivation.

155 See https://research.legalservicesboard.org.uk/wp-content/media/time-of-change-report.pdf

156 Understanding Changes in Prices of Legal Services, OMB Research, LSB 2016 https://research.legalservicesboard.org.uk/

157 Barristers’ perceptions of the public access scheme, Pye Tait Consulting, BSB and LSB 2016

158 Question F.33 How did you fund the payment of your legal services?, Online survey of individuals’ handling of legal issues in England and Wales, Ipsos Mori, Law Society and LSB, 2016 https://research.legalservicesboard.org.uk/wp-content/media/Online-survey-of-individuals-legal-issues-REPORT.pdf

159 This is an experimental statistic. August 2015 publication available at - http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-402670

160 For more information see https://www.judiciary.gov.uk/related-offices-and-bodies/advisory-bodies/cjc/guideline-hourly-rates/ghrsurveyfaq/


163 For more information see https://www.judiciary.gov.uk/related-offices-and-bodies/advisory-bodies/cjc/guideline-hourly-rates/ghrsurveyfaq/


165 We use the ONS weekly earnings data published in November 2015. This is total pay, seasonally adjusted, originally expressed in Real terms at 2010 prices, which we have rebased to 2014 prices.

166 See http://www.doingbusiness.org/reports/global-reports/doing-business-2015 and for methodology see http://www.doingbusiness.org/methodology/enforcing-contracts


168 Innovation in Legal Services, Enterprise Research Centre, SRA and LSB, 2015

A summary of full findings can be found here: https://research.legalservicesboard.org.uk/news/innovation-in-legal-services-2015/

The full report is available here: https://research.legalservicesboard.org.uk/news/innovation-in-legal-services-2015/

169 Ibid paragraph 6, page 5.


174 Ibid paragraph 4.6, page 50.

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Figure 59. What do you see as the main barriers to innovation and growth in the legal services market?, Evaluation: Changes in competition in different legal markets, LSB 2013, https://research.legalservicesboard.org.uk/wp-content/media/Changes-in-competition-in-market-segments-REPORT.pdf


Select questions from Innovation in Legal services survey.

Ibid page 49. Responses to question A7b What is the main legal activity carried out by your organisation?

Ibid. Selected questions from Innovation in Legal services survey.

Ibid. Question 49: I’m now going to read out a list of possible barriers that may have constrained your new service development Please tell me whether each of the following has been a significant constraint, a small constraint or no constraint at all.

Ibid. Selected questions from Innovation in Legal services survey.

Ibid. Question G1: Please can you tell me whether any of the following factors have had a positive or negative impact on your ability to develop your services or how you provide them...

Rebecca Williams, Legal Secretary to the Lord Chief Justice, Judicial Office 19th January 2011 , Annex 0 http://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/Licensing_Authority_Application_inc_HB_25th_March_REVISION__single%20pdf.pdf page 25


Paragraph 2.10, A better deal: boosting competition to bring down bills for families and firms, HM Treasury, November 2015,


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For a discussion on the impacts of different sampling in legal need surveys please see Paths to Justice, A past, present and future roadmap, Pleasence et al. 2013, UCL, http://www.nuffieldfoundation.org/sites/default/files/Pages/PTJ%20Roadmap%20NUFFIELD%20Published.pdf


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Ibid 4.3.5

Ibid 4.3.4


LSB commissioned analysis in 2014 showed that 14% of people put up with their problems - see table 2.3, How People Resolve Legal Problems, Pleasence and Balmer, 2014, https://research.legalservicesboard.org.uk/wp-content/media/How-People-Resolve-Legal-Problems.pdf

Ibid 177, page 10.


Ibid Table 7.7

Ibid section 9.4


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References

222 See Table 3.12, Innovation in legal services, Roper et al, Warwick University, SRA and LSB 2015
223 Ibid Page 32
224 Understanding Changes in Prices of Legal Services, OMB Research, LSB 2016
https://research.legalservicesboard.org.uk/

225 For example
226 Consumer needs from legal information sources, Vanilla Research, LSB, 2012
https://research.legalservicesboard.org.uk/wp-content/media/2012-Legal-information-sources.pdf
227 Ibid 171.
228 Page 8 https://www.strath.ac.uk/media/faculties/hass/cplsp/Face_to_Face.pdf
230 Page 19 Consumer use of legal services – understanding consumers who don’t use, choose or don't trust legal services providers, Optimisa, LSB, 2013 https://research.legalservicesboard.org.uk/wp-content/media/Understanding-Consumers-Final-Report.pdf
232 Qualitative research exploring experiences and perceptions of unbundled legal services, Ipsos MORI Social Research Institute, https://research.legalservicesboard.org.uk/wp-content/media/14-086345-01-Unbundling-Report-FINAL_060815.pdf
234 LSB commissioned analysis in 2014 showed that 14% of people put up with their problems - see table 2.3, How People Resolve Legal Problems, Pleasence and Balmer, 2014, https://research.legalservicesboard.org.uk/wp-content/media/How-People-Resolve-Legal-Problems.pdf
235 Ibid table 2.4.
236 In regulatory terms they don’t use regulated legal profession who has right of audience in the courts.
238 Ministry of Justice statistics - https://www.gov.uk/government/collections/court-statistics-quarterly - reported issues with 2011/12 - In 2011/12 some cases were misreported as 'other'. Revised guidance was provided for 2012/13 but comparisons with 2011/12 should be treated with caution.
240 The reforms introduced by LASPO removed legal aid funding for private family law cases, and incentivised the use of family mediation.
242 Section 2.3 Reasons for self-representation, Litigants in person in private family law cases, Trinder et al, Ministry of Justice 2014
243 See responses to QA6 For the following types of problems, do you know whether or not help can be provided with funding from Legal Aid?, 2015 Survey of legal needs, Ipsos Mori, 2016, LSB, TLS, https://research.legalservicesboard.org.uk/

179 Evaluation: Changes in the legal services market 2006/07-2014/15
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365 F.26 When the professional service provider was FIRST instructed to go ahead with your matter which, if any, of the following were you told about?, Date cases started, reserved providers only. Online survey of individuals’ handling of legal issues in England and Wales, Ipsos Mori, Law Society and LSB, 2016 https://research.legalservicesboard.org.uk/wp-content/media/Online-survey-of-individuals-legal-issues-REPORT.pdf
367 Ibid. Q110. Please now imagine that you were dissatisfied with the legal service that you used. Would you know how to go about making a complaint about the service you received? Significant at the 95% confidence level.
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380 Ibid 44, page 53.
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388 For example the Financial Ombudsman Scheme new cases have risen by 250% between 2006/07 and 2014/15 – or by 30% if PPI cases are excluded.
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These exclude allegations relating to issue of poor service, conduct outside of practice, partnership or employee disputes, allegation of a conflict of interest, non-payment of fees, failure to hand over papers or deeds unless a court order has been made, and reports of misconduct that relate to a period more than 6 months ago or where there is a clear alternative legal remedy which hasn’t yet been pursued. See http://www.sra.org.uk/consumers/problems/report-solicitor/no-investigation-policy.page

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Introduced from 2011. The SRA has power to impose in house a fine up to £2000 as set out in the SRA (Disciplinary and Procedure) Rules 2011.


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