

RESEARCH INTO THE PUBLIC ACCESS SCHEME

Public access was introduced in 2004 to permit clients to contact barristers directly, without needing to instruct a solicitor or other intermediary. A number of changes were made to the scheme in 2013. This research was commissioned by the Bar Standards Board and Legal Services Board to understand barristers' perceptions of the scheme and the impact of those reforms.

ROUTES TO OBTAIN PUBLIC ACCESS WORK

At present public access accounts for a relatively small proportion of the overall caseload for the majority of barristers

Nearly 43% of respondents secure public access work through direct advertising undertaken by their Chambers

Just over 40% of respondents find intermediaries to be a highly effective way of obtaining public access instructions

Just over 80% of respondents obtain public access work via a recommendation

TYPES OF LAW IN WHICH PUBLIC ACCESS WORK IS MOST COMMONLY UNDERTAKEN

- family
- chancery
- employment
- general common law
- commercial law (litigation and property)

PUBLIC ACCESS WORKLOAD

Fee income gained and time spent on public access work (in relation to overall workload), is higher for barristers with more than 6 years' experience of the scheme.

Between 76 and 100% of barristers' time on public access is spent offering legal advice

NUMBER OF PUBLIC ACCESS CASES UNDERTAKEN

- Around 54% of respondents registered to do public access undertook between 1 and 5 cases in the past 12 months
- Only 2% of respondents registered to do public access undertook 50 or more cases in the past 12 months

PUBLIC ACCESS INSTRUCTIONS OVER THE LAST 12 MONTHS

- Over 95% of respondents were instructed by individuals (i.e. not a business).
- Just over 40% of respondents received instructions from micro businesses (1-9 employees).
- Nearly a quarter of respondents were instructed by small businesses (10-50 employees).
- Less than 10% of respondents were instructed by large businesses (250+ employees).



BAR STANDARDS BOARD CLIENT CARE LETTER

- Nearly 80% of respondents have used the Bar Standards Board public access model client care letter
- Nearly 90% of respondents think the client care letter is highly or quite effective in helping barristers to fulfil their regulatory obligations



IMPACTS FOR CONSUMERS

Respondents were asked a series of questions about the impact of the regulatory framework for consumers of the public access scheme, using a rating scale of 1 to 10. Average ratings are shown below:

Increasing choice:
6.2

Protecting consumers:
7.5

Reducing costs:
7.3

Faster access:
5.5

Around half of all respondents consider there are barriers preventing clients from accessing, or making full use, of the public access scheme.



Barristers consider a general lack of awareness of the public access scheme to be the biggest barrier for clients.



A key barrier for consumers occurs if barristers are not authorised to conduct litigation and the client is not able to fill the role normally performed by solicitors.

Barristers feel that clients can have unrealistic expectations of the service that they are able to provide, and that can mean that barristers are unable to accept instructions from clients in such cases.

The majority of respondents (93.6%) have not received a complaint from a public access client in the past 12 months.

IMPACTS FOR BARRISTERS

Nearly 70% of respondents say their public access caseload has increased by a lot or by a little over the past 3 years.

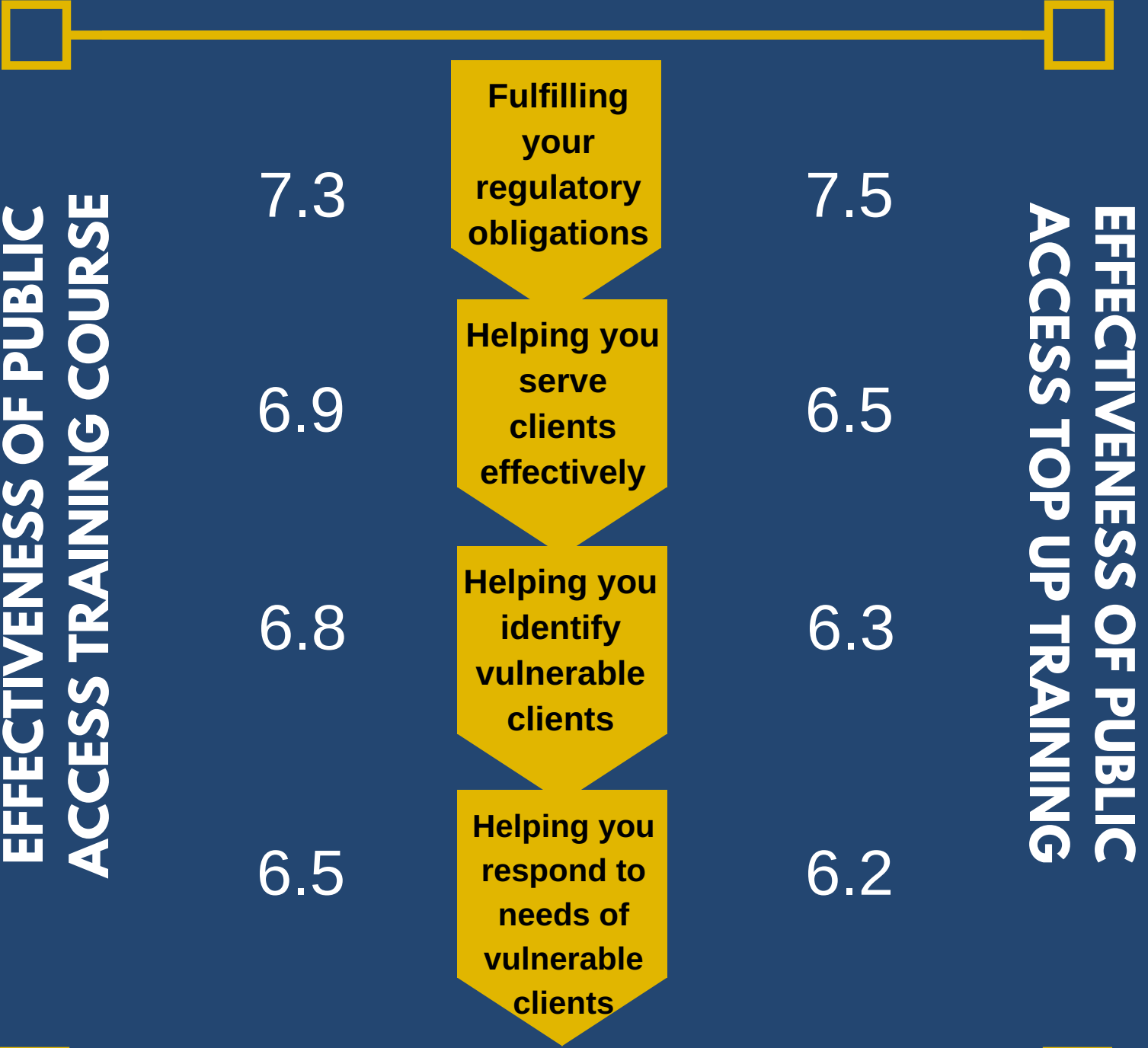
Around 43% of respondents have increased fees for public access work by a lot or by a little. Just over half of all respondents say that their fees have remained at the same level.

Only 4% of barristers said their fees had reduced over the past three years.

EFFECTIVENESS OF THE BAR STANDARDS BOARD PUBLIC ACCESS GUIDANCE

Respondents are broadly familiar with the BSB public access guidance, giving an average rating of 7.9 (where 1 is not at all familiar and 10 is very familiar).

Just over a quarter of all respondents would like changes or improvements to be made to the guidance.



FUTURE EXPECTATIONS

The overwhelming consensus among respondents is that the volume of public access work is expected to continue to increase in the next few years.

If public access work increases significantly, barristers consider this could lead to changes in infrastructure, potentially moving from the traditional operating model to be closer to that of the solicitor.

Barristers have suggested improvements to existing public access training and guidance, to better enable a clearer understanding of the regulations, and to avoid the risk of non-compliance.

The most critical change they suggest is greater clarity within the public access guidance and handbook, and training courses. This includes greater definition of terms used, and where appropriate, clearer differentiation between areas of law and/or types of client.