

RESEARCH SUMMARY

April, 2016



THE PUBLIC ACCESS SCHEME

1. About the research

i The public access scheme allows consumers to use barristers directly, without needing to instruct a solicitor or other intermediary.

The research provides a detailed picture of the **current provision of legal services** through public access barristers and the **perceptions of barristers about the operation of the current regulatory arrangements** – in particular their perceptions of the impacts on consumers and barristers of recent reforms to the public access scheme.

The research was commissioned jointly with the Bar Standards Board. **Over 400 public access barristers completed a questionnaire and 30 in-depth interviews were conducted.**

2. Key findings

i **Public access is a relatively small proportion of barristers' overall caseload but is expected to grow.** It is used in a wide range of practice areas but is most common in family, chancery, employment, commercial and general common law.

Relatively modest benefits for consumers since reforms in 2013, with respect to widening choice, improving timeliness of access to services and reducing costs.

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. Instructions may be declined on this basis with barristers feeling that clients have unrealistic expectations of their role.

Respondents believe the **existing regulatory framework is broadly effective in protecting consumers**, although some suggested improvements to training and guidance.

43% of respondents reported an increase in the profitability of their practice as a result of public access, **but only 4% had reduced their fees** in the last twelve months. Most appeared not to give great consideration to pricing competitively or have a clear sense of market prices.

Recommendation was the most common route for receiving instructions, but **over one-quarter of barristers have obtained work via an online directory and 4 in 10 from direct advertising.**

Over four in ten public access barristers have been instructed by microbusinesses.

5,695 barristers are registered for public access work – more than one-third of the Bar.

3. Regulatory insights

i **The public access reforms were a key market liberalisation measure.** Such work represents a relatively small proportion of barristers' work now, but this is expected to grow. Individual and business consumers are starting to see the benefits of having a wider choice of legal services.

Barriers to access for consumers occur where barristers do not conduct litigation and have different expectations than prospective clients about the nature of their role.