



LEGAL SERVICES
BOARD

**RESHAPING LEGAL
SERVICES TO MEET
PEOPLE'S NEEDS:
AN ANALYSIS OF
LEGAL CAPABILITY**

FEBRUARY 2020

LEGAL SERVICES BOARD

The Legal Services Board (LSB) is the oversight regulator of legal services in England and Wales. We are independent from both the legal profession and government.

ABOUT THE RESEARCH

This analysis is based on the findings of the 2019 survey of the Legal Needs of Individuals in England and Wales. Based on data collected online between February and March 2019 from 28,663 people, it is the biggest legal needs survey ever run in England and Wales. The sample is broadly representative of the population of England and Wales and covers 34 different legal issues. It is the first study in England and Wales to use About The Research guidance on how to develop legal needs surveys. It also unique by including measures of legal capability to profile the population by their experience and perceptions of the legal system. The survey was undertaken by YouGov on behalf of the Legal Services Board and the Law Society.

Further analysis of the survey data for this report was undertaken by Giorgio Castellano, Craig Wakeford and Tom May at the Legal Services Board.

Please direct any comments or queries about this report to:
research@legalservicesboard.org.uk

KEY TERMS

Contentious Legal Issues: Contentious legal work relates to legal matters that take place between two or more parties, such as a court hearing or a tribunal hearing to resolve a dispute.

Legal Ombudsman: is responsible for looking at complaints about legal service providers in England and Wales. (www.legalombudsman.org.uk)

Public Legal Education: Public Legal Education (PLE) covers a wide range of activities aimed at empowering participants and increasing their confidence and capability to deal with their law-related problems. From community-based courses, theatre performances, step by step guides, awareness-raising campaigns about rights-issues, to law reform campaigns.

Regulators: The regulators of reserved legal activities in England and Wales are ACCA, Bar Standards Board, CILEX Regulation, Costs Lawyer Standards Board, Council for Licensed Conveyancers, ICAEW, Intellectual Property Regulation Board, Master of the Faculties and Solicitors Regulation Authority.

Unmet Legal Need: When the legal need is not resolved adequately because there was no support/ the support was not helpful.

User Journey: the different stages people go through when they try to resolve their legal issue.

EXECUTIVE SUMMARY

1. Each stage in the journey to resolving a legal issue has a variety of challenges that are difficult for many people. These challenges could be easier for many by providing legal services and Public Legal Education (PLE) initiatives, that take account of variability of legal capability of users of legal services. We have explored the early stages in this journey from having knowledge of one's rights and recognising the issue as a legal one, via a series of steps to successfully deal with it. This paper examines the influence of legal capability at the different stages people go through when they try to resolve their legal issues (the "user journey").
2. We hope its insights will strengthen the evidence base for those interested in delivering PLE activities and, just as importantly, those interested in changing – through regulation or other means – the way that legal services are provided, to take fuller account of the wide range of legal capability among the general population. The LSB has a legal obligation to ensure the legal sector is 'increasing public understanding of the citizen's legal rights and duties', one of several regulatory objectives that stand at the core of the legal services regulatory framework.

Three measures of legal capability

3. The analysis in this paper is based on the legal capability components of the 2019 Individual Legal Needs Survey.¹ The survey assessed participants against three standardised measures of legal capability using new OECD guidance.²

- **Legal confidence:** confidence on the part of participants that they could personally achieve a fair and positive outcome in legal scenarios
- **Legal self-efficacy:** a belief on the part of participants that they could personally handle difficult situations in a legal context
- **Accessibility of justice:** The degree to which someone thinks the justice system, excluding criminal justice, is accessible.

4. This paper sets out additional analysis of these three legal capability measures on demographic characteristics such as gender, age, disability, income and education.

5. Our key insights are:

- **People with greater legal knowledge of their rights and responsibilities and higher legal capability are more likely to get professional help, which in turn tends to result in them perceiving that they got a better outcome.** Those with low legal capability have a very different experience to those who have a medium to high legal capability, tending to find it much harder to access the services and information they need to resolve their issues.
- **Low legal capability affects a significant minority of the population and extends beyond obviously vulnerable groups.** Over a third of all participants had low levels of self-efficacy and legal confidence, and nearly one in five perceived the justice system as inaccessible. Even a significant minority of people with high incomes and education levels exhibit low legal capability. At the same time, there is evidence of some significant differences between population groups; those who say their lives are limited a lot by disability are particularly vulnerable.
- **Understanding the needs of individual groups will be important to targeting successful interventions, whether in terms of PLE or legal service design.** Our analysis begins to lift a lid on differences between demographic groups and their different user journeys.

1 YouGov. 2020. "Legal Needs of Individuals in England and Wales". Summary Report.

Available at: <https://www.legalservicesboard.org.uk/online-survey-of-individuals-handling-of-legal-issues-in-england-and-wales-2019>

2 P, 87. OECD. 2019. "Legal Needs Surveys and Access to Justice".

Available at: <https://www.oecd.org/governance/legal-needs-surveys-and-access-to-justice-g2g9a36c-en.htm>

6. Based on our analysis, we recommend two priorities that will assist PLE providers, and the wider sector, to direct efforts and shape initiatives that will have the maximum impact on user journeys:

- **A strategic reshaping of legal services to ensure legal services meet the needs of those that use them:** This involves addressing the barriers that currently prevent people from successfully resolving legal issues. We need to change the way legal services are provided to be better at recognising and taking account of the significant variation in legal capability. Our research suggests two areas in particular that would be helpful: helping people recognise their issue as a legal one and making it easier for people to search for price and quality information:
- **Additional evidence:** more research is required to find ways to redesign services and interventions in the legal services sector to make them more accessible to those with lower legal capability. This involves developing a better understanding of why some steps in the user journey are more difficult than others for some people.

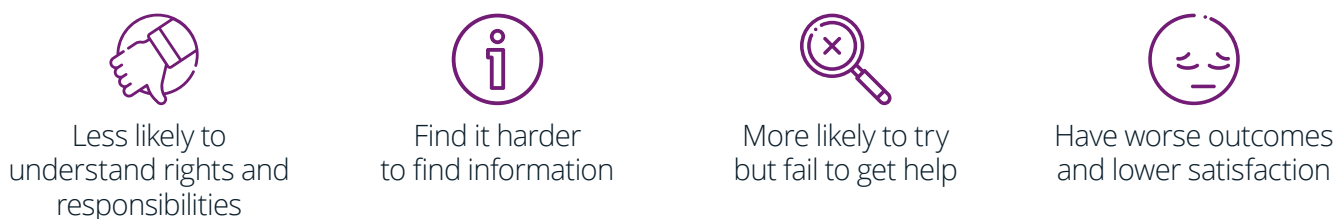
We now need to understand better what interventions work and their limitations. This will draw on fields such as behavioural economics and impact evaluation. We welcome work in this field being progressed by the Solicitor General's Public Legal Education committee and others. The LSB has commissioned a literature review on the effectiveness of PLE initiatives, which we expect to publish in the spring.

Figure 1: Levels of low legal capability among people based in England and Wales

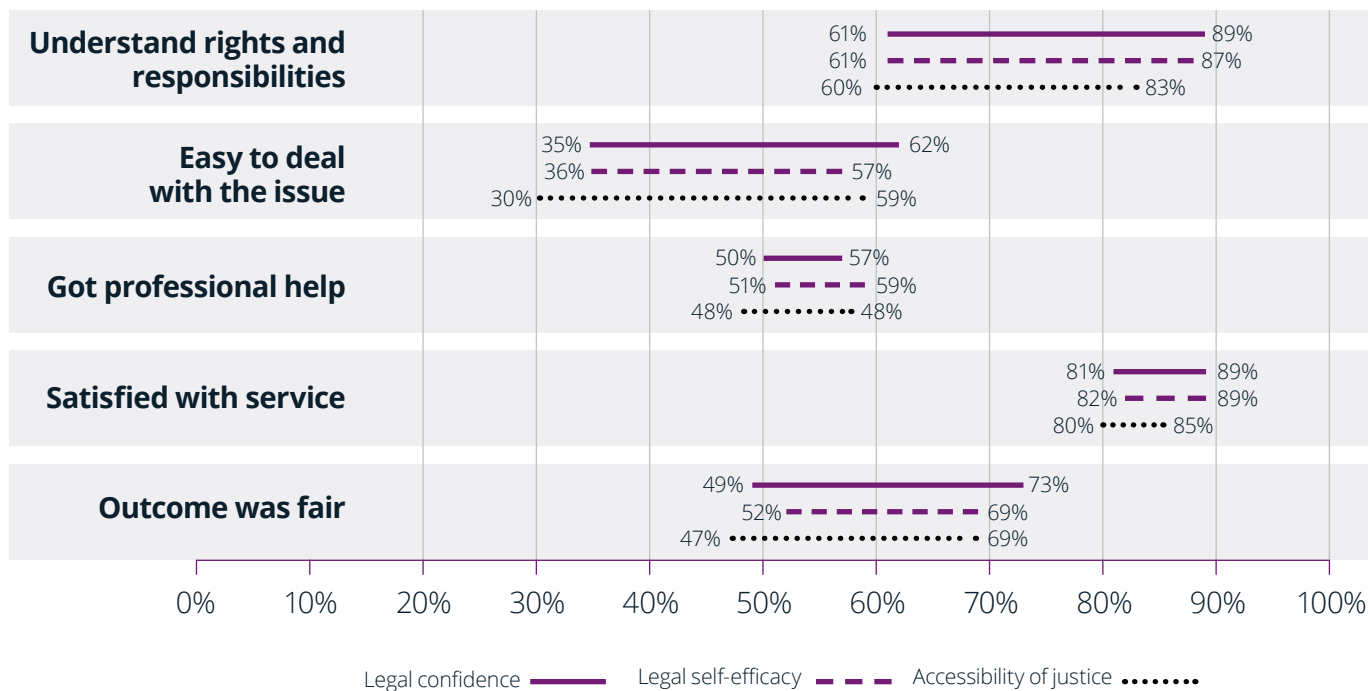


Over a quarter (28%) score low in at least 2 out of 3 legal capability measures

People with low legal capability have worse journeys and outcomes when facing legal issues:



The gap between low and high legal capability



INTRODUCTION

7. Too many people who could benefit from using legal services do not currently do so. Modelling from our 2019 Individual Legal Needs Survey³, estimates that nearly a third of people who experienced a contentious legal issue in the last four years had an “unmet legal need”.⁴ Addressing this unmet legal need should, we argue, become a key strategic focus for the sector and all those connected to it. Indeed, it goes right to the heart of access to justice. The sector should be doing more to connect people to the legal services they need.

8. We see two broad fronts for action:

Public legal education: a wide range of actions and initiatives designed to improve legal capability

- Increasing public understanding of the citizen’s legal rights and duties is one of eight regulatory objectives set by Parliament that is at the core of the regulatory framework for the legal services sector. The Legal Services Act 2007 sets out that the LSB is required to put consideration of this regulatory objective at the heart of what we do.
- We know as a result of our research that knowledge about the legal system and legal rights and responsibilities makes those that use legal services more able to participate as active citizens in society and to recognise the fundamental value of the rule of law.

Changing the way services are provided so they take better account of wide variation in legal capability across society

- Redesigning services in a way that takes account of the wide variation in legal capability should ultimately lead to less unmet legal need. This is both for those in vulnerable groups who are disproportionately represented in our data and for users in general who may not recognise how the legal system can help them resolve their problems.
 - Ultimately, legal services only exist because society needs them. If that need is not being fulfilled, which our research suggests is the case, change will need to happen; and some of that change may well need to be incentivised by regulation.
9. This paper aims to provide an accessible standalone summary of the legal capability measures of the 2019 Individual Legal Needs Survey. It also contains additional analysis of the three measures of legal capability used in the survey (legal confidence, self-efficacy, perceived accessibility of justice) on demographic lines and examines the influence of legal capability at different stages of the user journey.
10. The insights from this paper also provide an evidence base for those involved in delivering PLE and legal services. Our aim is that the insights about the scale of differences in experiences of those users with low legal capability can help providers of PLE and providers (and regulators) of legal services to better target and prove their activities have an impact.

3 YouGov. 2020. “Legal Needs of Individuals in England and Wales”. Summary Report.

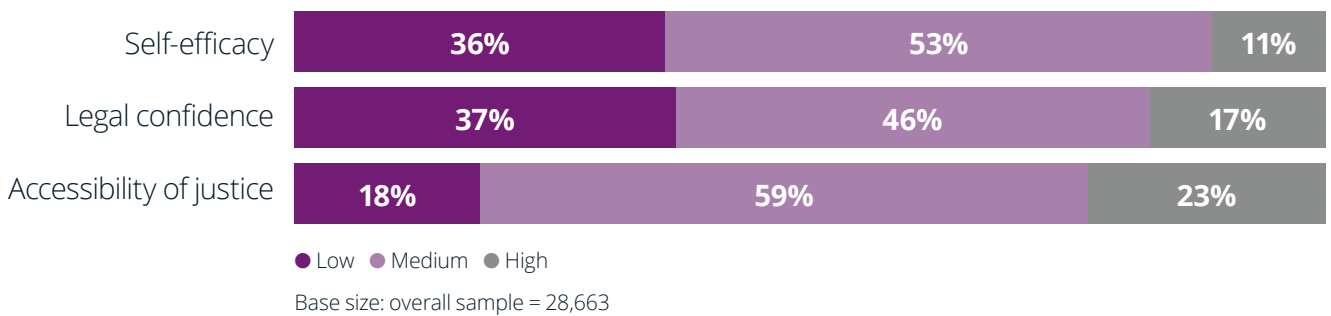
Available at: <https://www.legalservicesboard.org.uk/online-survey-of-individuals-handling-of-legal-issues-in-england-and-wales-2019>

4 Unmet Legal Need is when legal need is not resolved adequately because there was no support/ the support was not helpful

Measuring legal capability

11. Legal self-efficacy, accessibility of justice and legal confidence are three of five standardised measures of legal capability developed by UCL Professors Pleasance and Balmer and adopted by the OECD for its guidance on legal needs surveys.⁵ For the first time in England and Wales the Individual Legal Need Survey uses the three measures at scale (28,663 adults). Each measure scales from 0 to 100, for ease we have grouped these into low, medium and high.⁶
12. The data reveals significant levels of low legal capability in the general population. Over a third of participants had low levels of self-efficacy and legal confidence, and nearly one in five perceived the justice system as inaccessible.

Figure 2 – Levels of legal capability of adults based in England and Wales



DEMOGRAPHIC ANALYSIS

13. We analysed the three measures of legal capability along demographic lines. Our analysis suggests there isn't one clearly defined group of legally capable people. In other words, not everyone with low or high legal capability shares the same characteristics. That said there are some broad and significant, albeit subtle, trends.
14. Those with lower legal capability tend to:
 - Be women
 - Be younger than 55
 - Have a disability that limits daily life
 - Have lower household incomes (£32,000 or below)
15. The data shows no statistically significant differences between respondents who identify as white and those who identify as black, Asian and minority ethnic (BAME) overall on any of the three measures of legal capability. It is possible that such a relationship exists but is being masked by other demographic factors.

5 Pascoe Pleasance and Nigel Balmer. 2018. "Legal confidence and Attitudes to Law: Developing standardised measures of legal capability". Available at: <https://research.thelegaleducationfoundation.org/wp-content/uploads/2019/02/Legal-Confidence-and-Attitudes-to-Law-Developing-Standardised-Measures-of-Legal-Capability-web-version-1.pdf> and OECD. 2019. "Legal Needs Surveys and Access of justice". Available at: <https://www.oecd.org/governance/legal-needs-surveys-and-access-to-justice-g2g9a36c-en.htm>

6 See page 22 of the technical report. <https://www.legalservicesboard.org.uk/online-survey-of-individuals-handling-of-legal-issues-in-england-and-wales-2019>

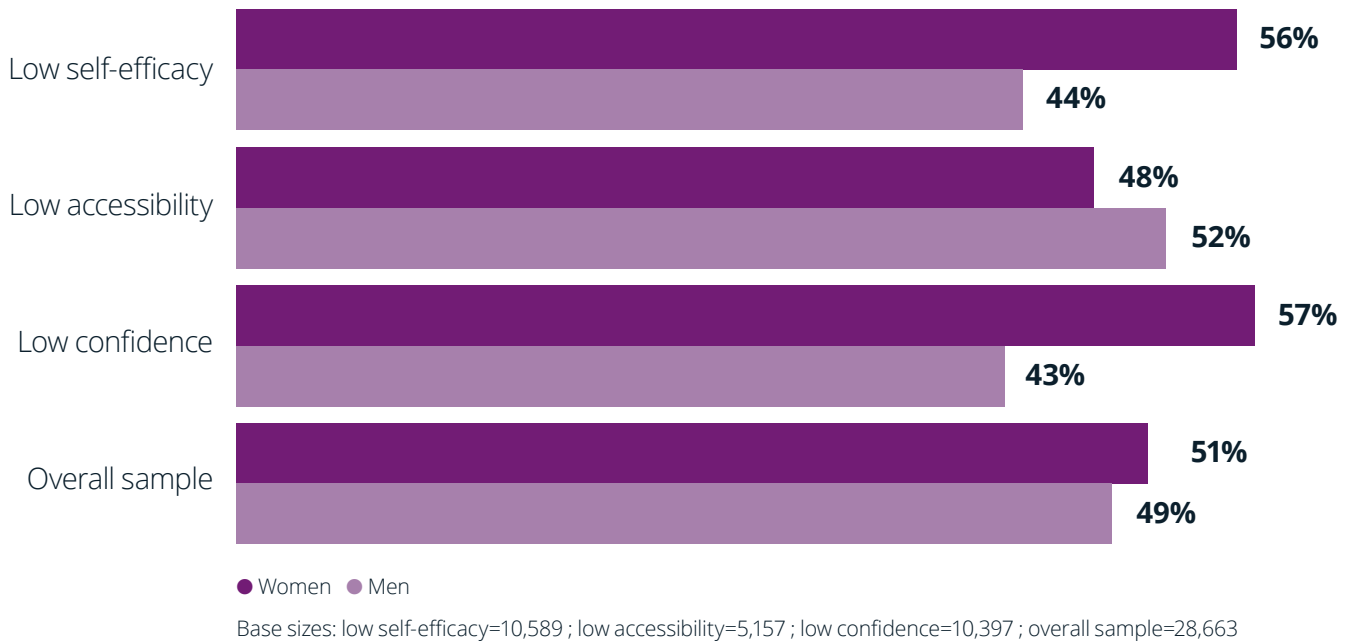
Vulnerability and Legal Services

16. It is important to consider how legal capability interacts with consumer vulnerability. The Competition and Markets Authority (CMA) has defined consumer vulnerability, in a broad sense, to refer to any situation in which an individual may be unable to engage effectively and is at a particularly high risk of getting a poor deal.⁷ The CMA's definition identifies two elements of vulnerability:
- 'market-specific vulnerability', which derives from the specific context of particular markets, and can affect a broad range of consumers within those markets; and
 - 'vulnerability associated with personal characteristics' such as physical disability, poor mental health or low incomes, which may result in individuals with those characteristics facing particularly severe, persistent problems across markets.
17. The above definition is consistent with our experience of legal services. People often face legal issues as part of a key life event such as being forced to find a new home, job loss or retirement, illness, relationship breakdown or bereavement. The physical, cognitive and emotional strain can make finding legal advice hard. All of us can be vulnerable, and someone's vulnerability may not be obvious. Further, vulnerability associated with personal characteristics can make dealing with such legal issues even more difficult. Also, some legal needs are directly related to these personal characteristics, e.g. issues relating to welfare and benefits, or mental capacity.

Gender

18. Higher proportions of women than men report low self-efficacy and low legal confidence. Men are slightly more likely to perceive the justice system as inaccessible.

Figure 3 – Low legal capability between women and men

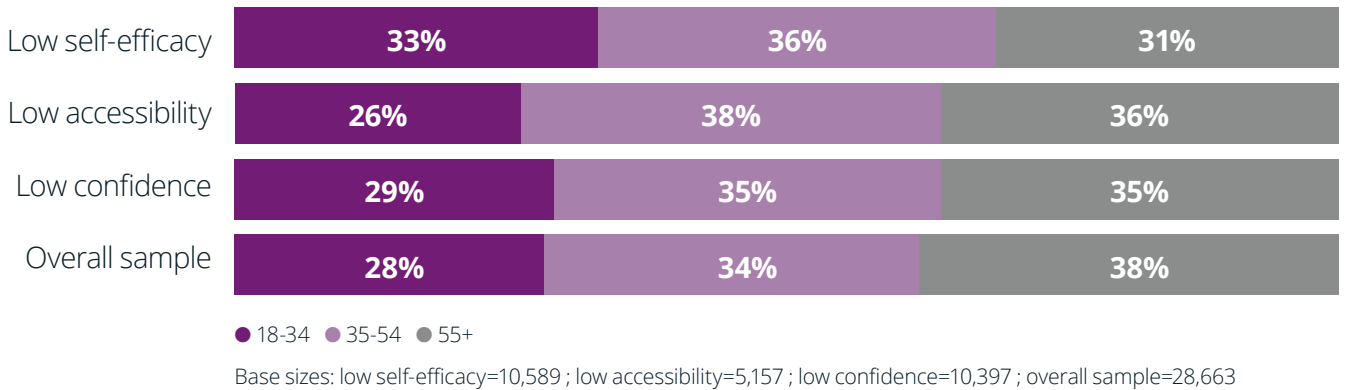


7 See CMA 28 February Consumer vulnerability: challenges and potential solutions at <https://www.gov.uk/government/publications/consumer-vulnerability-challenges-and-potential-solutions/consumer-vulnerability-challenges-and-potential-solutions#what-is-consumer-vulnerability>

Age

19. Those with low capability are slightly less likely to be aged 55 or older, particularly on the self-efficacy measure. Younger participants, as shown in figure 4, considered the justice system to be more accessible, although this was also true amongst those aged 55+. The reasons for this more positive perception among younger people are unclear but may reflect that they have less experience of the justice system and are more optimistic.

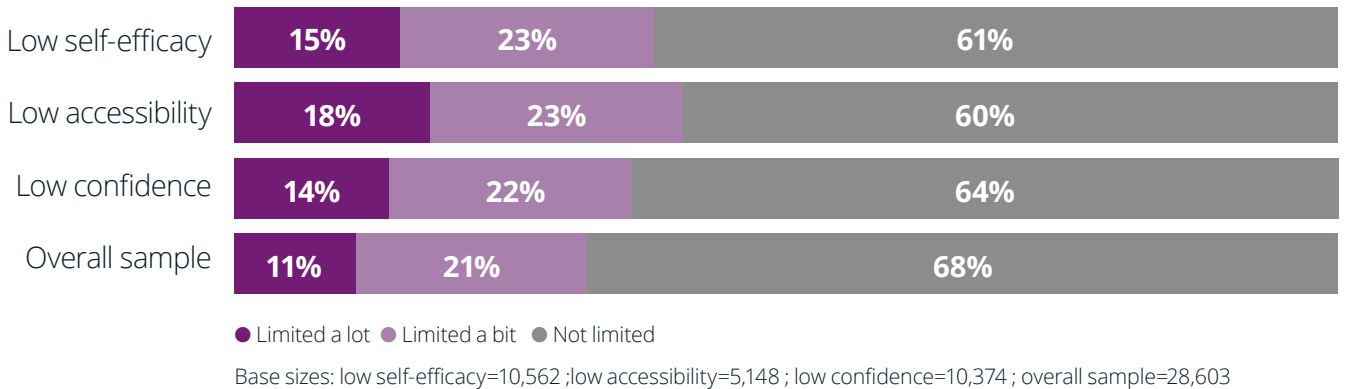
Figure 4 – Low legal capability by age group



Disability

20. There is some difference in levels of legal capability between those people who report their daily lives are limited a bit by disability and those who do not. However, there is a much clearer difference among those whose daily lives are limited a lot by disability, particularly on the accessibility of justice measure. On this measure those participants with a disability were both more likely to perceive the justice system as inaccessible and less likely to identify it as highly accessible.

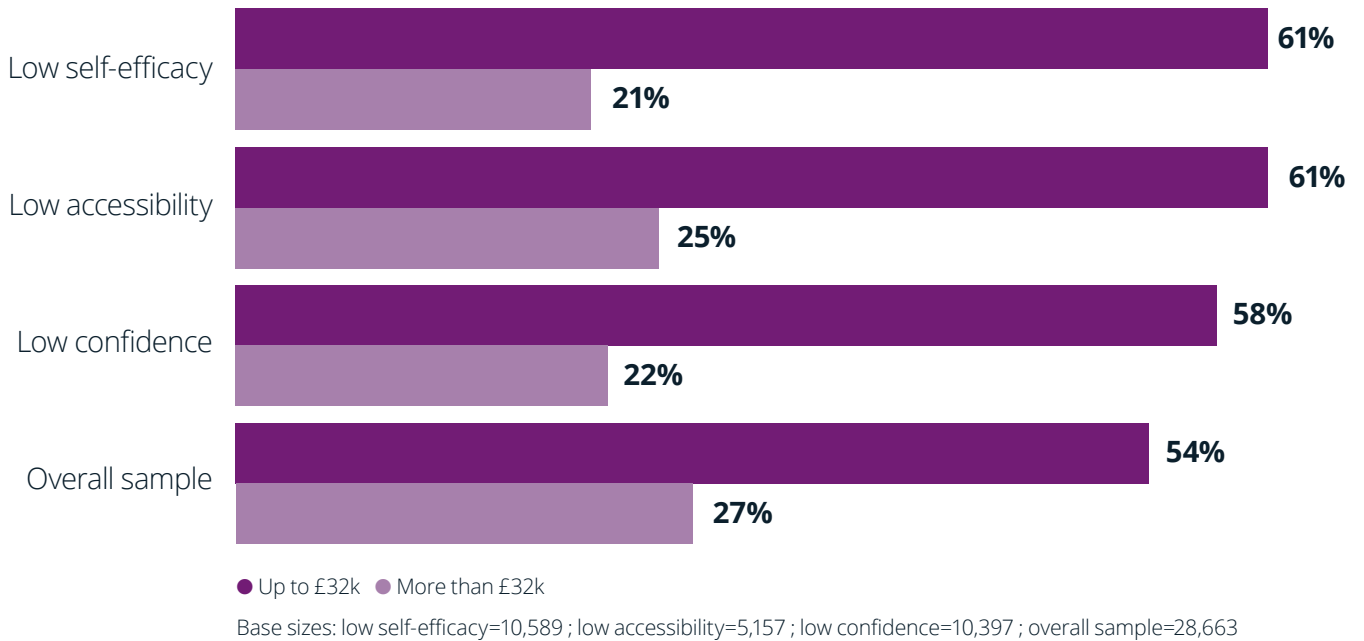
Figure 5 – Low legal capability by disability



Income and education

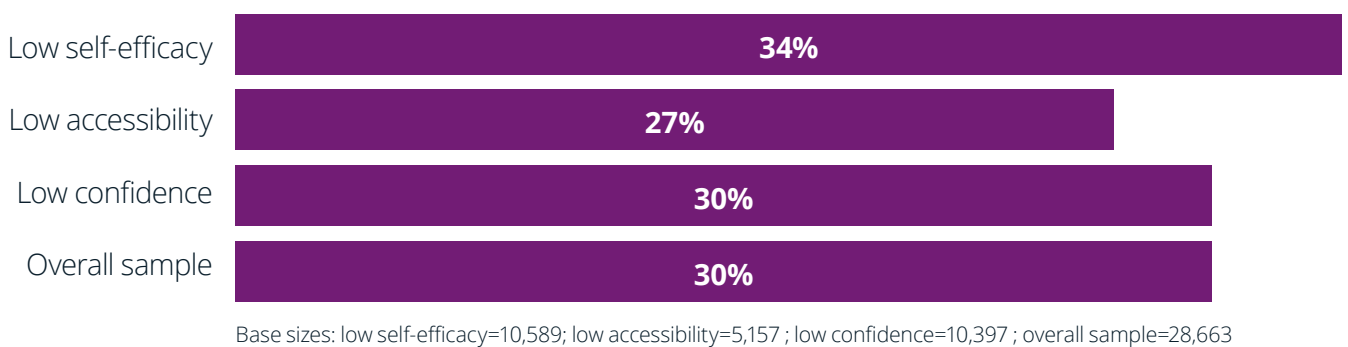
21. Adults from lower-income households were slightly more likely to have low legal capability. Generally speaking, across all three legal capability measures the higher someone's household income the more likely they were to have higher legal capability, particularly with regards to perceiving the justice system as being accessible and legal self-efficacy. However there were still relatively high proportions of less legally capable people with higher levels of income and education.

Figure 6 – Low legal capability by household income



22. However, there seems no clear link between low legal capability and education. People scoring low on accessibility or confidence appear to have higher levels of education. Whereas people scoring low on self-efficacy appear to have lower levels of education. While these are statistically significant the strength of the link is minimal.

Figure 7 – Low legal capability by low education level



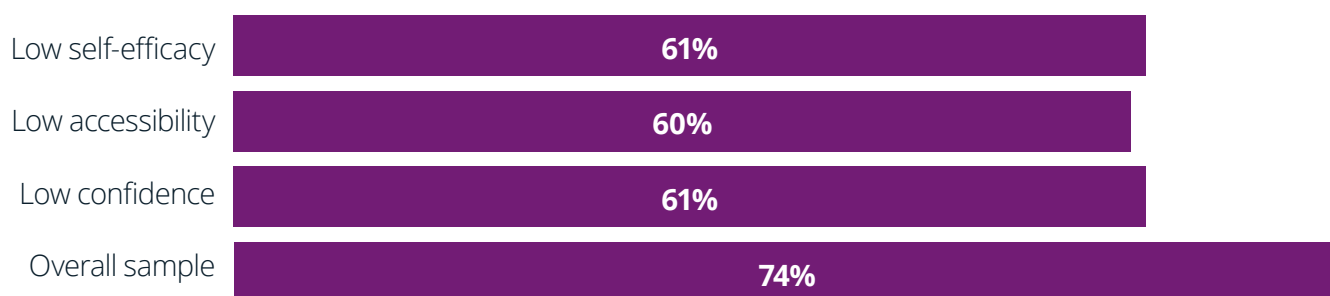
THE USER JOURNEY

23. People may experience several problems at the same time, such as mental ill health, drug and alcohol dependency, homelessness and family breakdown, but find that many existing services focus on dealing with only one of these issues. This can mean individuals are not always treated as a whole person and have to get support from a number of different and unco-ordinated services, of which legal services may comprise part of the solution to their problems.
24. Legal services that are better designed to take account of user needs at different times in their lives empower individuals and communities, enabling them to take more control over their lives, deal with their problems, participate in the democratic process, and get involved in shaping the decisions that affect them.
25. It is important to understand how people with different levels of legal capability interact with the services that they use and to make those services better at meeting user needs. If users are dealing with a number of problems with a number of organisations at a time it may be that services provided by trusted individuals, such as doctors, pharmacists and nurses, who often have first sight of their problems, can provide referrals and signposting arrangements. We found that doctors were the third most common source of help used after family and friends, and lawyers.
26. We see demonstrating legal capability as a journey that a person takes to reach their goal of resolving their legal issue. This journey starts from having knowledge of one's rights and recognising the issue as a legal one, via a series of steps to successfully deal with it. We therefore view PLE on a continuum, from ensuring basic knowledge of rights and legal issues, which could be as simple as knowing what are civil and criminal matters, through to disseminating information to raising awareness about specific legal matters, and to providing information and advice in response to a specific legal problem.
27. We have organised the analysis to mirror four main stages that follow a typical user journey from issue identification to resolution. These are:
 - knowledge of legal rights and responsibilities at the time the issue arose
 - searching for information about the issue
 - searching for legal services
 - – working out how much it might cost
 - – looking for reviews of service providers
 - seeking redress when something goes wrong

Knowledge of legal rights and responsibilities at the time the issue arose

28. There is a clear statistical relationship between legal capability and understanding rights and responsibilities. Those with a low level of legal confidence, self-efficacy and who perceive the justice system as inaccessible, were less likely to understand their rights and responsibilities compared to those with medium-high levels on these measures. For example, in the sample overall, nearly three quarters (74%) said they understood their rights and responsibilities at the time the legal issue occurred, but among those with low legal capability this was much lower at 60/61%.

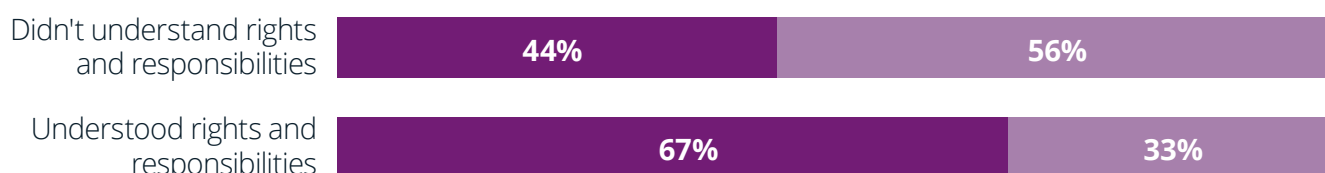
Figure 8 – Understanding rights and responsibilities by low legal capability



Base sizes: low self-efficacy=6,531 ;low accessibility=3,556 ; low confidence=6,412 ; overall sample=16,492

29. Further, those who understood their rights and responsibilities at the outset were more likely to seek professional advice. Seeking professional advice in turn is linked to being more satisfied with the service received and perceiving the outcome as fair. Those people who understood their rights and responsibilities were more likely to say that the outcome was fair (67%) compared to those who didn't understand their rights and responsibilities (44%).

Figure 9 – Fairness of outcome by understanding rights and responsibilities



● Outcome fair ● Outcome not fair

Base sizes: didn't understand rights and responsibilities=2,675 ; understood rights and responsibilities= 6,717

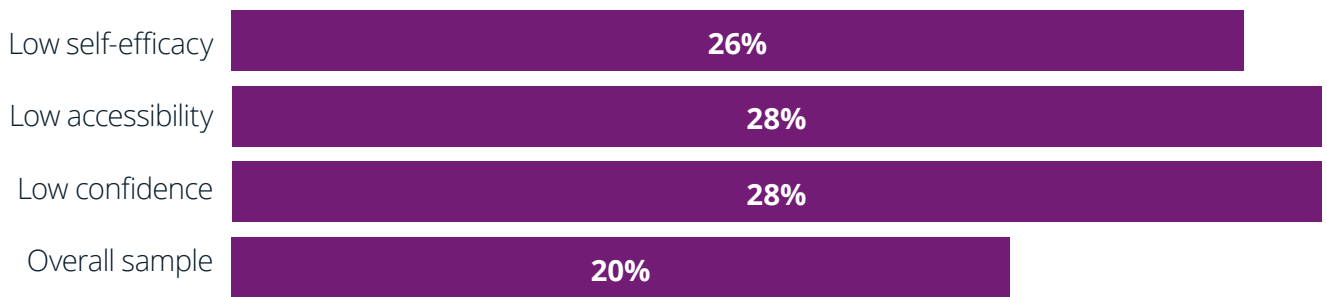
Recognising the issue as legal in nature

30. Related to knowledge of rights and responsibilities is recognising the issue as being legal in nature. Our data shows that people who primarily describe their issue as legal in nature are more likely to get help. However, there is only a minimal statistical connection between legal capability and describing an issue as legal in nature. Across the sample only 16% of participants described their issue in these terms, pointing to a general need to help people recognise the legal nature of their issue.

Searching for information about the issue

31. Our research shows that those who understood their rights and responsibilities when the issue started, were more likely to know where to get good information and advice compared to those who did not. Those perceiving the justice system as highly accessible were much more likely to report knowing where to get good information than those perceiving the justice system as inaccessible (83% versus 55%).
32. People with low legal capability were more likely to find it difficult to ask for suggestions on where to go for advice. This was just over a quarter (26% to 28%) compared to a fifth (20%) overall.
33. There was also a sizeable gap between those that agreed that they could find good information about the legal issue that they faced and participants' legal confidence. Those with high legal confidence (87%) agreed that they knew where to find good information in a much higher proportion than those with low legal confidence (58%).

Figure 10 – Find it difficult to ask for suggestions where to go by low legal capability

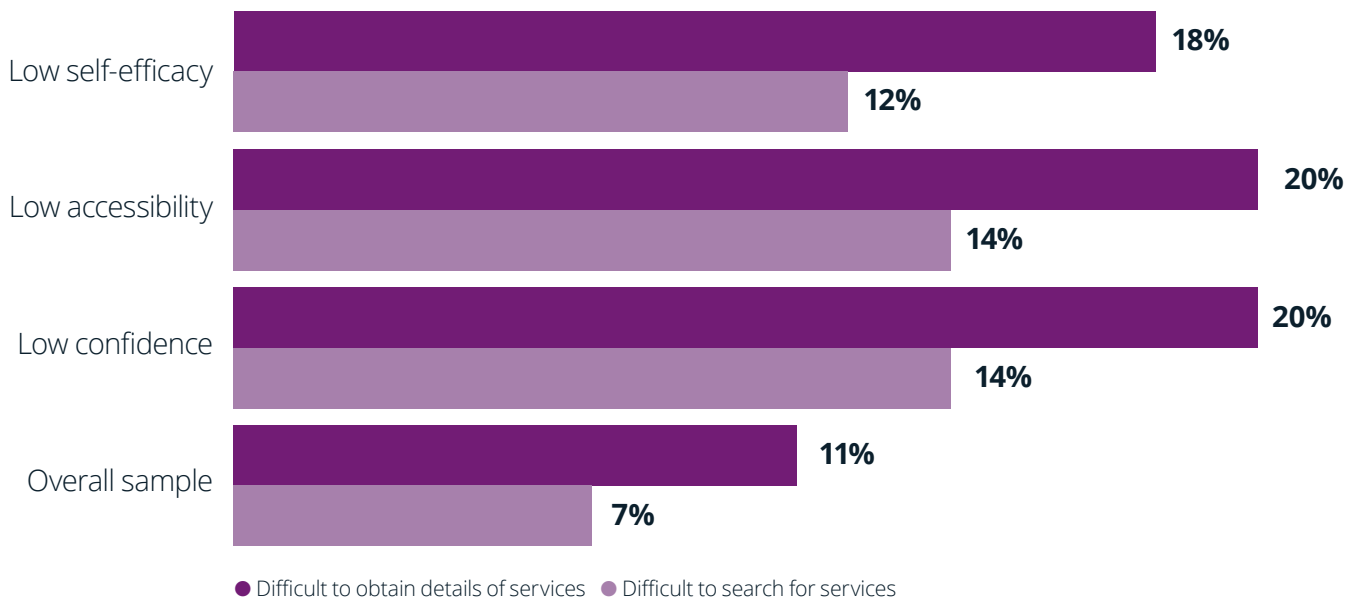


Base sizes: low self-efficacy=228 ; low accessibility=147 ; low confidence=227 ; overall sample=576

Searching for legal services

34. We found generally that those with medium/high legal capability found it easier to search for and obtain services. For example, those with low legal confidence (14%), and those who perceived the justice system as inaccessible, found it twice as difficult to search for legal services than the overall sample (7%).

Figure 11 – Find it difficult to search for or obtain details of services by low legal capability



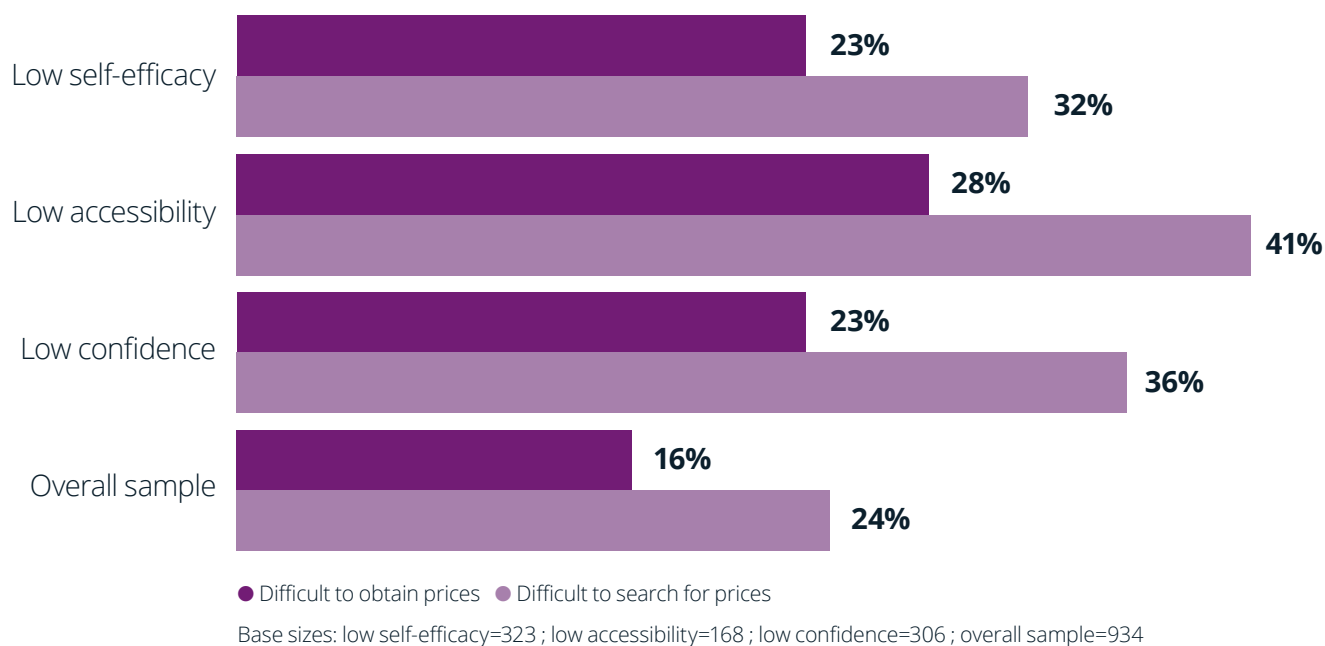
● Difficult to obtain details of services ● Difficult to search for services

Base sizes: low self-efficacy=637 ; low accessibility=374 ; low confidence=641 ; overall sample=1,930

Working out how much it will cost

35. Searching for and obtaining prices is another step in the journey to resolving legal issues. The survey found that one in five people (21%) did not seek professional advice because they assumed it would be too expensive. It is therefore important that users can easily search and obtain information about how much services cost.
36. Just under a quarter (24%) of the overall sample found searching for prices difficult, compared to around a third or higher of those with low legal self-efficacy and low legal confidence (32% to 36%), and 41% of those who perceived the justice system as inaccessible. Again, this pattern continues when trying to obtain prices. This suggests that difficulty in finding price information means that those who are most vulnerable are most likely to struggle to find affordable services.

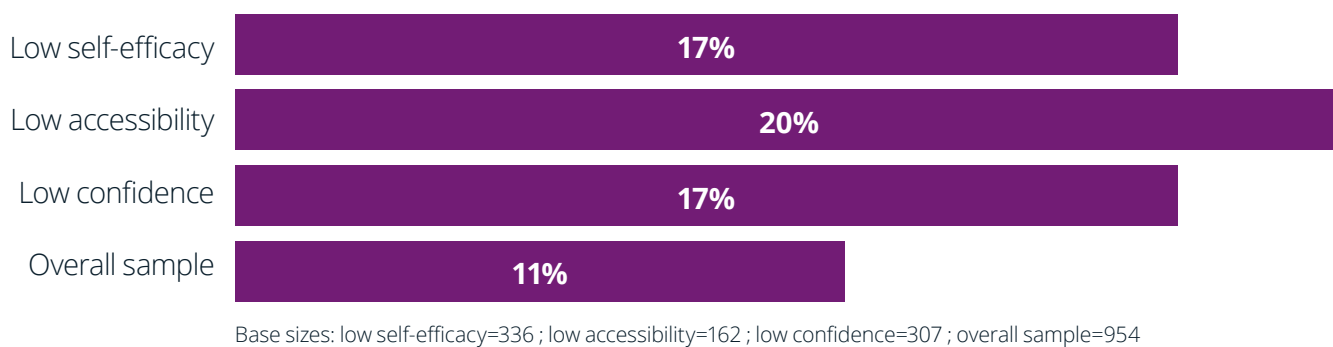
Figure 12 – Find it difficult to search for or obtain prices of services by low legal capability



Looking for reviews of service providers

37. In our everyday lives we expect to be able to find information about the quality of services that we plan to use, often by reading customer reviews on websites. Similar to the other steps, those with low legal capability were more likely to find it difficult to search for reviews compared to the overall sample.

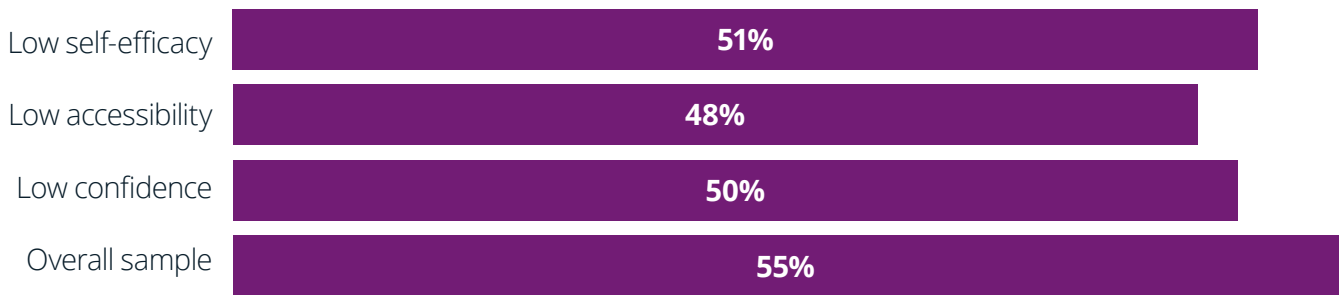
Figure 13 – Find it difficult to search for reviews of services by low legal capability



Obtaining professional help

38. Those with lower legal capability were slightly less likely to obtain professional help. This matters because the survey data shows that those getting professional help are more likely to get a better outcome to their issue. The gap between people with low legal capability and the overall sample is smaller than for other measures in this report, which may suggest that ‘the system’ is successful to a degree in ‘catching’ vulnerable people and signposting them to professional help.

Figure 14 – Obtained professional help by low legal capability

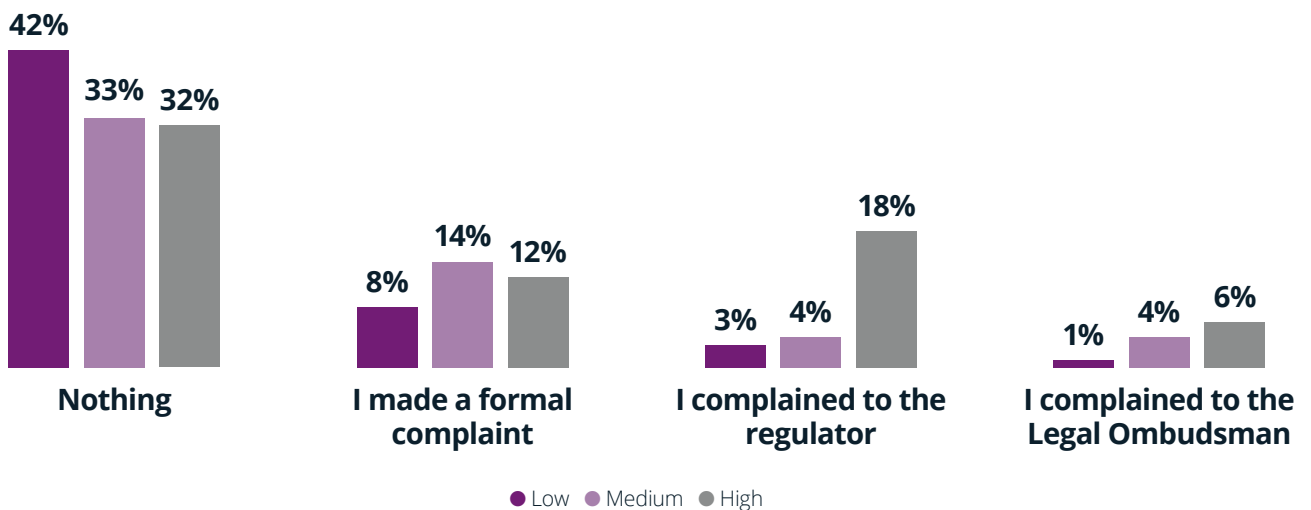


Base sizes: low self-efficacy=6,532 ; low accessibility=3,555 ; low confidence=6,413 ; overall sample=16,492

Seeking redress when something goes wrong

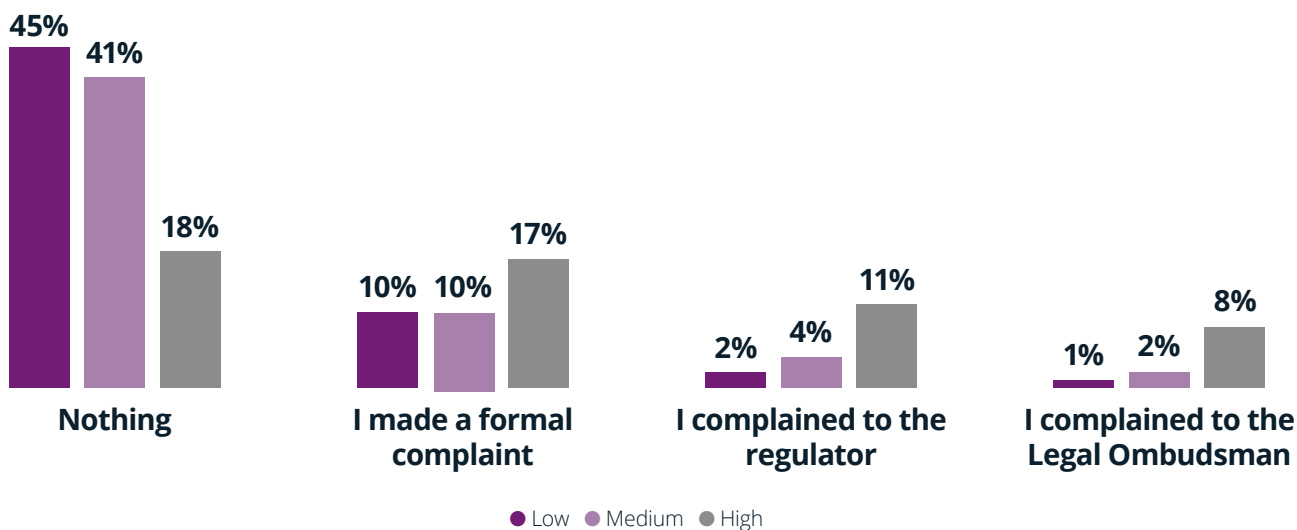
39. Our analysis shows that having higher levels of legal capability is linked to people taking action in response to receiving a poor service. Those with low legal confidence, or who perceive the justice system as inaccessible, were more likely to do nothing in response to being dissatisfied. Further, these groups were less likely to make a formal complaint in general – to the service provider, its regulator or the Legal Ombudsman. However, we did not find a clear link on the self-efficacy measure.

Figure 15 – Actions taken after being dissatisfied, by legal confidence



Base sizes: low confidence=261 ; medium confidence=309 ; high confidence=50

Figure 16 – Actions taken after being dissatisfied, by accessibility of justice



Base sizes: low accessibility=151 ; medium accessibility=330 ; high accessibility=137

CONCLUSIONS

40. The journey to resolving a legal issue is often difficult for many people. Each step in resolving a legal issue has a variety of challenges that are difficult and could be easier for many by providing PLE initiatives and legal services, that take account of the variability of legal capability of users of legal services. We have explored the early steps in this journey from having knowledge of one’s rights and recognising the issue as a legal one, via a series of steps to successfully deal with it.
41. We found a clear statistical relationship between legal capability and nearly every step in this journey. This gap means that there is significant difference in experience between those who have higher legal capability and those who do not. The data also shows differences in experience across demographic groups; those who say their lives are limited a lot by disability appear particularly vulnerable.
42. If we can better design PLE initiatives and legal services in a way that takes account of the wide variation in legal capability, advisers can target scarce resources at more difficult problems where their expertise is needed. There are many such information resources, but the quality is variable and there appears to be an awareness gap. The regulatory and professional bodies are contributing by helping people choose a lawyer and what to expect when doing so. The legal services sector needs to get better at proving that the interventions they offer work and are valuable.
43. Our analysis highlights the difficulty that those with lower legal capability have in asking for suggestions on where to go for advice. We also found that doctors were the third most common source of help used after family and friends, and lawyers. It is possible that those with lower legal capability are likely to benefit from referrals and signposting arrangements from trusted individuals, such as doctors, pharmacists and nurses, who often have first sight of their problems. Programmes, such as health justice partnerships, which enable these trusted individuals to help with referrals, would appear to offer much promise in this respect.

44. Unsurprisingly, those with lower legal capability found it harder to search for and obtain the services they needed to resolve their legal issue. Related to this, the survey found that people assume professional advice is too expensive, but do not check the cost and find it difficult to find this information. Regulators can help by improving transparency in relation to the cost and quality of different providers in the market. The work the Legal Services Consumer Panel is doing on quality indicators is particularly welcome. The recent transparency requirements introduced following the CMA study should make such information easier to find, although the impact of these measures on market outcomes has yet to be evaluated.

Priorities to ensuring people get access to justice

45. Lack of access of justice is a collective problem that needs our collective action to solve. It also needs to focus on overcoming specific barriers in the journey to obtaining legal advice. That is why we're sharing this report. We hope it sparks your interest, adds to what you know and helps prioritise efforts in providing PLE interventions in the wider legal services sector.

46. We believe that our research suggests two linked priorities.

- **Strategic approach:** the legal services sector needs to improve at recognising and taking account of the significant variation in legal capability so that services and interventions are designed accordingly. This involves addressing the barriers that currently impede people navigating the journey to resolving legal issues. We want to achieve the following goals:

- We want the legal services sector to provide information so that people can easily find information about their legal issue and choose the best route to resolve it.
- We want the legal services sector to make it easier to search for and obtain services that meet the needs of users.
- If people receive a poor service, we want it to be easy to complain.

- These are all simple goals, but our research shows that this isn't happening for a significant proportion of people. Additionally, we have a statutory responsibility to ensure that the legal sector is increasing public understanding of the citizen's legal rights and duties. This may require regulatory intervention to ensure that suppliers are delivering more accessible services.

- **Additional evidence:** more research is required to find ways to redesign services and interventions in the legal services sector to make them more accessible to those with lower legal capability. This involves knowing why some steps in the user journey are more difficult than others for various users.

47. We need to know how the legal services sector can better enable users to access the information they need to make good decisions. This paper goes towards providing an understanding for those delivering PLE on how those with lower legal capability span a significant proportion of all users. It also provides an evidence base going forward on how PLE interventions can better target and prove that interventions are having an impact.

48. We now need to understand better what interventions work and their limitations. This will draw on fields such as behavioural economics and impact evaluation. We welcome work in this area being progressed by the Solicitor General's Public Legal Education committee and others. The LSB has commissioned a literature review on the effectiveness of PLE initiatives, which we expect to publish in the spring.



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