



Welcome to the first edition of *Research Roundup*, the Law Society's quarterly publication highlighting recent research on the legal services market published by legal sector bodies, the Ministry of Justice (MoJ), academics and others interested in the sector.

The following reports, scanned by the Society's Research and Insight team, were published over the last three to six months. They have focused on the perspectives of purchasers and providers of legal services, as well as some broader market themes, such as technology and innovation, unbundling as a subset of that, regulation and the value of legal advice.

Market trends



Technology and innovation

Legal services and people on low incomes

The Legal Education Foundation commissioned Roger Smith in 2014 to produce [Digital Delivery of Legal Services to People on Low Incomes](#). The report describes a 'profusion of creativity' in the use of the internet to provide legal services and aims to provoke discussion and further innovation in service delivery. A series of quarterly updates on the topic has followed, featuring developments around:

- medium choice (mobile/tablet/video)
- the potential of apps
- re-design of information websites around user-oriented content,
- and help for litigants in person - including an online game designed to improve confidence and ability in court

Information and document management predictions

The CEO of [Ascertus](#), Roy Russell, [offers views](#) on how information and document management will affect legal sector providers in 2016, based on customer and market insight. Among other things, Russell predicts that:

- law firms will finally make 'paper to digital' a high priority action
- new and innovative email and document management tools coming on the market in 2016 will be attractive to law firms and in-house corporate counsels alike
- niche solutions providers will remove the typical obstacles that prevent smaller firms and legal departments from acquiring best-of-breed system
- app stores will make inroads into the sector, allowing organisations to trial and use new applications for free until they can establish the long term benefits of the solutions to the business.

SRA and LSB survey on Innovation in legal services

The Solicitors Regulation Authority (SRA) and Legal Services Board (LSB) have published a survey entitled [Innovation in legal services: A report for the Solicitors Regulation Authority and the Legal Services Board](#). It is the largest survey of innovation among legal service providers. The study finds that a quarter of all legal services organisations had innovated in some way in the three years prior to reporting and that ABS solicitors were more likely to introduce new legal services than other providers.

Solicitors tended to be more innovative than other regulated legal-services organisations in terms of both managerial and organisational changes, but legal service providers were less innovative than business firms in general. Regulatory and legislative changes emerged as both a barrier to, and driver of, innovation. Other barriers included finance and the 'conservatism of the profession'.

The study was cited in the Treasury's announcement to launch a consultation on removing barriers to entry for alternative business models and on making legal service regulators independent from their representative bodies.

The innovation captured in the study covers a broad spectrum of activities, such as extending service range and attracting new clients, rather than the type of 'disruptive' innovation that commentators, such as Susskind, expect to change the market radically.

Technology taking the place of human experts

Richard and Daniel Susskind consider how technology will transform the work of human experts in their book, *The Future of the Professions*. Over time, various technologies will address people's needs for knowledge through the standardisation and systematisation of what professionals currently do. The authors hypothesise that technologies will satisfy the large unmet need of those who currently would benefit from professional guidance but cannot afford it.

They also predict technological unemployment in the professions in the long-run. While the Susskinds address many of the objections that professionals raise, other issues, such as professional duties, are set aside. In large part, their purpose is to stimulate debate about two moral issues in particular:

- Are there any likely uses of technology that are regarded as morally unacceptable?
- Who should own and control practical expertise in a technology-based Internet society?

Incomplete innovation and premature disruption

American academic, Brian Sheppard, refers to Richard Susskind's earlier books in [Incomplete Innovation and the Premature Disruption of Legal Services](#). His admittedly 'speculative analysis' of innovation in the US legal market suggests that conditions are ripe for incomplete innovation leading to premature disruption.

The consequence of this, he argues, could well be greater access for people to some legal services but less access to others. In turn, overall welfare will be jeopardised because the scarce services will be those that are required to push progressive ends in the legal system and help the system respond to changing social needs.

Whereas the *Future of the Professions* downplays the importance of ethics and professional duties and decouples these from the 'primary' function of delivering information, Sheppard emphasises their importance to users and the wider 'law' project. He asks, 'are low cost legal services better than no services at all'?

Unbundling

Unbundling is a significant feature of modern practice and the recognition of that in a [recent Court of Appeal decision](#) is reflected in recent studies of consumers and firms. According to the *Legal Services Consumer Panel's (LSCP) 2014 Tracker Survey*, 16 per cent of users of solicitor services over a two-year period had purchased unbundled services (and 19 per cent of users of all providers), while 28 per cent of firms surveyed by the Law Society in 2015 reported providing unbundled services.

Qualitative research exploring experiences and perceptions of unbundled legal services

[Research commissioned by the LSCP](#) provides insights into unbundled provision from the perspective of consumers, providers and judges. For consumers, benefits included:

- reduced cost
- having a role to play in their own case, and
- a belief that help from a provider improved outcomes relative to DIY

On the other hand, providers raised concerns about:

- clients who are unable to cope with the work, adversely affecting outcomes
- clients understanding the limits of what the provider has agreed to do, and
- risks of poor initial information from clients and related lack of control

The judges commonly found that litigants in person had difficulties when dealing with court or tribunal proceedings and agreed that, if full representation could not be obtained, some legal advice from a regulated provider ought to be beneficial.

Purchasers of legal services



Majority find courts option of 'last resort'

The MoJ's *Postal Survey of Individual and Business Claimants* using the civil courts finds that the majority of claimants took other action before going to court. Perhaps reflecting the seriousness of this 'last resort' option, 70 per cent of claimants were found to have used legal service providers in court cases, compared to much lower levels of uptake of advice for legal needs more broadly.

The majority of cases were decided in favour of claimants, suggesting that legal advisers play an important role in filtering cases so court resources are allocated where most needed.

Differences in users of legal services

In relation to non-contentious issues, the *LSCP's 2015 Briefing Notes from its Tracker Survey* indicates that users of legal services in Wales behave differently to those in England in a number of ways.

[Read the survey in English](#)

[Read the survey in Wales](#)

For all users, [highlights](#) include:

- fixed fees continue to be the most common way of charging consumers, with almost half, 46 per cent, of users having prices calculated in this way
- perceived value for money remains high at 61 per cent
- those thinking they had less choice tend to be less satisfied: 64 per cent against 86 per cent
- satisfaction with choice continues to increase, along with an increase in shopping around and a decline in difficulties
- levels of trust in lawyers increase with a greater level of knowledge of what lawyers do

On the other hand, [public trust in Claims Management Companies \(CMC\) is low](#).

Varying paths to justice

The influences on the ways in which people with civil problems resolve their issues were the focus of qualitative study in the MoJ's [The Varying Paths to Justice](#). The report concludes that difficulties in accessing procedural information are a critical barrier to resolving justice problems and that skills, such as comprehension and literacy, along with confidence, are also important.

In family justice problems with domestic abuse, a lack of financial resources led to participants self-representing or turning to social networks for financial support.

The study indicates that, for some problem types, including employment and family finance, 'seeking advice from a lawyer or resolution from the courts was seen as unavoidable', but the implication identified was not to facilitate access to lawyers and court, but rather to give: 'further consideration ... to exploring how these problems may be effectively resolved without recourse to this pathway - and to promoting awareness of these options'.

The implication drawn from the evidence on the behaviours of people who had experienced domestic abuse was that the eligibility rules needed to be made clearer and further work may need to be done to ensure that legal professionals are providing accurate advice and guidance. Findings in relation to the timeliness and quality of mediation in family justice cases suggest that further research is required to explore what makes mediation successful.

Purchasers of legal services



The business-buyers perspective

The LSB's survey [The Legal Needs of Small Businesses](#) attributes the reduction in the use of legal service providers by small firms to reduced problem incidence which, in turn, is put down to better trading conditions.

Use of solicitors by small businesses in the previous 12 months fell from almost 20 per cent to almost 10 per cent; and of accountants from over 60 per cent to just over 49 per cent.

Views of the cost effectiveness of lawyers remain largely negative or ambivalent with only 13 per cent of small businesses viewing lawyers as cost effective and micro-enterprises were the least likely to view lawyers as affordable. However, satisfaction that law and regulation provide a fair trading environment increased from 30 per cent in 2013 to 45 per cent in 2015.

Providers of legal services



Increased risks in client relationships

Claire Coe and Dr Steven Vaughan's research for the SRA on lawyer-client relationships in large firms ([Impact on independence, risk and representation](#)) with senior representatives from 20 leading English and US law firms delivering corporate and finance legal services, suggests that firms are accepting increasing risks in their relationships with clients. The authors raise the prospect of a build-up of systemic risk in the profession rather than the situation representing a current regulatory concern.

Ups and downs for not-for-profit legal advice providers

At the other end of the supply spectrum 1,462 organisations were identified for the MoJ's [Survey of Not-for-Profit Legal Advice Providers in England and Wales](#). The overall findings show that while some organisations have seen decreases in funding, client numbers and their workforce since 2013/14, roughly equal proportions of respondents have experienced growth in these areas.

Over half of participating organisations made major changes after April 2013, such as investing in new technology and expanding geographical reach. While 10 per cent anticipated having to close completely, 42 per cent anticipated increasing the number of outreach services and 15 per cent suggested that they would expand into new categories of law. The survey also found that 13 per cent mentioned they were likely to merge with other organisations.

The value of advice



Good legal advice is good for you

A [review of 140 research studies of health outcomes of advice](#) (PDF) provides mounting evidence of both the adverse health impact of social welfare legal problems and the beneficial health impact of receiving good legal advice. The study also identifies a gap in evidence demonstrating the actual cost or efficiency savings that could be delivered through advice services working in health settings. The study was commissioned by the [Advice Services Alliance](#) and the [Low Commission](#) and funded by [The Legal Education Foundation](#).

Regulation



Investigations into the costs of regulation

The LSB's [*In-depth Investigation into the Costs of Regulation in the Market for Legal Services*](#) generated very small samples, demonstrating the difficulty of obtaining data on this issue. The findings suggest that professionals governed as entities see legal regulatory costs primarily as a burden and additional to activities for other regulatory or commercial reasons. By contrast, those governed as individuals are more likely to undertake aspects of legal sector regulation even if the specific regulatory requirement to do so were removed. In such cases regulation is viewed as meeting wider legislative requirements of doing business or as being commercially advantageous. Given the small sample sizes, the findings on costs are, at best, indicative only.

Research in the pipeline



PURCHASERS

Legal Problem Resolution Survey (MoJ), a nationally-representative survey on the prevalence of civil justice problems in England and Wales, generating a sample of 3,000 people with legal problems. Initial findings from the survey are likely to be available in early 2016.

Legal Needs Survey 2015 (TLS, LSB, TLEF) is expected to have a final sample size of approximately 10,000 respondents with legal problems, providing more robust samples across a greater number of problem areas than the MoJ survey. The survey has been designed to provide comparison of problem-resolution strategies pre-LASPO and post-LASPO. Publication is likely to be March 2016.

PROVIDERS

LSB's unregulated legal service provider project

Earnings of solicitors (TLS) - private practice and in-house (January)

Firms Survey 14/15 top line findings - (February)

GC benchmarking survey (TLS) - (February)

Solicitor firms' experiences of regulation (TLS) - (February)

PRICE AND VALUE OF LEGAL SERVICES

Economic value of the UK legal services sector (TLS) - supply and demand chain analysis, highlighting the jobs supported by the legal sector in other sectors and direct and indirect contributions to GDP input/output multipliers (January)

LSB has commissioned research to establish the price of common legal services - the challenges of obtaining the required sample size acknowledged.