Research Specification: Benchmarking the supply of legal services by high-street solicitors

Purpose

The LSB would like to commission research to understand more about the legal practices of high-street solicitors, to help us monitor the impact that regulatory changes have on high-street practices and their clients. This project will form one part of a much wider programme of evaluation.

Background

The LSB has been set up to reform and modernise the legal services market in the interests of consumers, enhancing quality, ensuring value for money and improving access to justice across England and Wales. The LSB will achieve this pursuing its regulatory objectives[1] and providing regulatory oversight for the eight approved frontline regulators[2].

We have been set up to improve outcomes for consumers dealing with legal services. But, it is also important for us to understand our impact on the market more generally. This was recognised in the Legal Services Act, which gave equal focus to a range of objectives which are often in conflict. Understanding whether access to particular services from legal providers changes, and if so how it changes, will be an important part of our overall evaluation strategy. This project will help us benchmark the market and monitor changes that have resulted from changes to regulation.

 In our early years, we are focusing our efforts on the delivery of three particular reforms to the legal services market:

- Ensuring regulation is independent of legal services professional bodies and vested interests
- The introduction of Alternative Business Structures (ABS) to open up legal services firms to investment and ideas from non-lawyers
- Improving consumer redress when things go wrong by improving first tier complaints handing and introducing a new independent legal complaints ombudsman

Reforms such as these will have a number of complex impacts on the market that are difficult to predict at the outset of the reforms with any certainty. In evaluating the impact of reforms we will therefore need to obtain a significant amount of data about the way legal businesses provide legal services in order to understand how the market changes over time. The majority of this data is not easily avaible at present, and will require significant activity to gather. For example Alternative Business Structures could result in more legal services being provided:

- by stockmarket listed companies
- online
- by non-lawyers with fewer lawyers in support
- with new charging structures at lower costs.

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[1] http://www.opsi.gov.uk/acts/acts2007/ukpga_20070029_en_2#pt1
[2] The Law Society, General Council of the Bar, Council for Licensed Conveyancers, The Institute of Legal Executives, The Chartered Institute of Patent Attorneys, The Institute of Trade Mark Attorneys, Association of Law Costs Draftsmen, Master of the Faculties, Association of Certified and Chartered Accountants, Insitute of Chartered Accountants of Scotland.

While these changes are significant, the reserved activities and requirements that only regulated individuals can carry out reserved activities are not changing. All that is changing are the rules that currently impose restrictions on the ownership and management of law firms. The impact of these changes will not be limited to those firms operating as an Alternative Business Structure but will also affect those firms competing with Alternative Business Structures. At the same time the legal services market is subject to a variety of other business pressures which are likely to change the market. The changes we see in the market may therefore not be as a result of our reforms at all, but could be caused by other factors, such as:

- A reduction in government spending on legal aid
- Changing technology altering the provision of legal servies
- Changing consumer demands
- Economic downturn reducing demand
- Closing down of traditional channels for work e.g. smaller bank panels

This research must enable us to produce robust evidence to illustrate how the market is changing to support our evaluation of the impact of the Legal Services Act 2007 and the Legal Services Board. Ideally, future evaluations using this and other data will be able to isolate those changes in market structure driven by actions of the LSB rather than those occurring as a result of unrelated market trends.

Since May 2010 we have been engaged in a review of the available evidence to support the evaluation of our effectiveness as part of a process we call our Regulatory Information Review. This review, while not yet complete, has identified a significant evidence gap about the supply of legal services. We have good knowledge of the location of solicitors and barristers, but know little else about the nature and operation of their businesses, including how they offer services to the market, pricing, and nature of market competition.

CRA, an economic consultancy, have been commissioned to manage an initial study considering the supply of legal services in the City of London[3] and "high-street"[4] solicitor firms and produce an economic report on these two market segments. This project is designed to collect the data on "high-street" firms that will be used in the report that CRA produce. CRA will collect the information on City law firms separately to this project.

There is no current agreed definition for a "high-street" legal firm, though generically the term is used to refer to the smaller law firms whose primary business is the provision of legal services to household clients. Historically these firms were based in towns, in some cases on actual high-streets. 8,834 firms of 10,362 in 2009 had four or fewer partners (The Law Society, Trends in the Solicitors Profession 2009), the majority are likely to be captured by any definition of "high-street" legal firms.

Aims and Objectives

We have already identified where data is available from existing sources and the researchers should not expect to be able to collect any further data from existing sources. This study will be particularly

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[3] By "City" we refer to the area defined as the "City" by the City of London Law Society
[4] "High-street" solicitor firms will be defined by OXERA in the framework project

concerned with the collection and analysis of new data that will improve our understanding of the supply of legal services by high street firms in England and Wales.

This project will carry out a survey with a statistically robust sample of high street firms from across England and Wales looking at key aspects of their business. The survey should be sufficiently robust to allow us to analyse separate market segments e.g. regional, urban v rural, number of partners, type of work, type of client etc.

Issues and scope

A first task in this research will be to agree a definition of high-street that can be used in this research. The LSB have a dataset of firms by geographical location matched to several characteristics which will help in the practical application of this sampling frame to a survey, we also have access to telephone and address contact details for the majority of solicitor firms from practicing certificates (though these have not been checked for accuracy). Secondly we need to agree the exact scope of the survey, our initial analysis has suggested a need to collect data to explore a number of issues, including:

- Type of law practised

- Type of client served

- Business characteristics (legal structure, number of staff split by type, number of offices)

- Volume of cases/clients

- Medium of service delivery

- Value chain

- Elasticity and changes of supply.

A more detailed description of the types of issues that the survey should cover are included in Annex A. Ideally we would like to explore where possible where firms have experienced changes over the previous 3 years to help us understand existing market trends. An early project meeting would be required to refine the final scope.

It is likely to be challenging to persuade firms to respond to the project, ensuring an adequate sample size will be a key challenge in the project and should be incorporated into the project plan. The Law Society has recently conducted a survey of firm finances, so we will not be looking to collect financial data from the firms, which is expected to improve response rates on the survey. Sample size remains a key concern and it is essential that a robust sample is achieved. A key challenge will be undertaking the survey in such away as to improve upon histroilcal ow response rates form thissector. Past surveys have achieved a response rate of as low as 10% and researchers will have to consider how to achieve a higher response rate.

Furthermore, the detail of the information we are requesting is likely to require careful thought as to how it will be captured. It is unlikely that individuals responding to the survey will, without

preparation, be able to respond to the range of questions asked.   We expect that the survey will be carried out either by phone of face to face, though would welcome views in tenders of the most appropriate methodology. It may be necessary to pilot methodologies to test the most successful way of gathering the information.

The successful researchers will be working alongside CRA, the economic consultancy who are leading the initial evaluations of city and high-street firms. CRA will be supporting the development of the questionnaires as well as writing the full report incorporating the data gathered in this project. The successful market research company carrying out the high street research will be expected to produce a separate factual report summarising the data from the study as well as lessons learnt from carrying out the survey.

Tender Evaluation Criteria

All projects commissioned by the LSB are subject to our **standard terms of contract** which will be sent out with this tender. Tenders will be evaluated on best value for money and will be assessed on the basis of:

1. Cost. Please include applicable daily rates of staff that would be involved in this project and the approximate proportion of individual staff time that would be spent on the project
2. The extent to which tenders are clearly written, highlighting relevant experience – particularly in studies of professional services markets
3. Proposed team composition, expertise and management and the organisation's diversity policy
4. How diversity issues would be addressed in the research.

All tenders should be kept to a maximum of 10 pages or 20 slides if using Powerpoint.

Deliverables

Output

The final output will be a factual report setting out the key data findings and lessons learnt from the survey of legal firms. A summary set of data tables should be produced in Excel as well as a full data set in SPSS.

The LSB will retain ownership of the report and underlying data which will be delivered in a publishable format.

Project plan

Tenders should include a project plan and time schedule for the work that identifies the main task and key milestones that will be used to monitor progress. The plan should be accompanied by a resource profile, giving a breakdown of the resources in person days allocated to each task.

Duration

The initial research will commence in March 2011. The draft final report should be completed by the end of May 2011. A final agreed report should be completed by June 2011.

Legal Services Board Contact Details

Tenders with any queries about the research specification would be welcome to contact either Rob Cross (020 7271 0091) or Alex Roy (020 7271 0060)

Tenders must be submitted by 5pm on Thursday 17 March 2011

Business characteristics

Firm-level data

Type of legal registration: (provide examples—eg, ABS, LLP, sole practitioner)

Regulatory overlap: identification of any non-legal registration authorities that the firm is registered with (now and in the past 24 months)

Self-definition of type of business: (provide examples—eg, high-street solicitors firm, virtual solicitors firm, niche solicitors firm, national solicitors firm, corporate solicitors firm (London-based), corporate solicitors firm (non-London-based), hybrid solicitors firm franchise of solicitors, high-volume ABS, local ABS)

Any overseas affiliations?

Total revenue in past 12 months (dates to be specified): split between legal and non-legal business

Number of partners: split between legally qualified and otherwise

– Location

Number of offices

Postcode of head office

Postcode of all other offices

Office-level data (if appropriate)

– Number of staff (on a full-time equivalence (FTE) basis):

Legally qualified staff, split by qualification—eg, partner, senior solicitor, solicitor, trainee/paralegal

Not legally qualified staff, business support staff for legal part of business (only)

– Total revenue in past 12 months (dates to be specified), split by type of customer (at least level 1) and type of law (at least level 1)

– Total hours billed in past 12 months (dates to be specified), split by type of client (at least level 1) and type of law (at least level 1)

– Total hours recorded in past 12 months (dates to be specified), split by type of client (at least level 1) and type of law (at least level 1)

Volume

Data should be split by office (if appropriate), type of law, and type of client

– By case

Total number of cases 'active' at a particular point in time (eg, survey date) (stock), split by type of customer (at least level 1) and type of law (at least level 1)

Total number of files that were 'active' in 12 months (flow), split by type of customer (at least level 1) and type of law (at least level 1)

'active' would need to be defined consistently between firms—eg, whether a case is open or not

The flow measure is preferred in case of a low response rate (since it implicitly incorporates annualised averaging), but what is key is that data is provided on a consistent basis between respondents

– By client

Total number of clients for which cases are active/open at a particular point in time (stock), split by type customer (at least level 1) and type of law (at least level 1)

Total number of clients for which cases were active/open in past 12 months (flow), split by type of customer (at least level 1) and type of law (at least level 1)

The flow measure is preferred in case of a low response rate (since it implicitly incorporates annualised averaging) but what is key is that data is provided on a consistent basis between respondents

– By hours

Total hours recorded, split by type of client (at least level 1) and type of law (at least level 1)

– By revenue

Total revenue, split by type of customer (at least level 1) and type of law (at least level 1)

Access

Firm-level data

– Mediums of service available

– Approximate allocation of cases in which there was:

no face-to-face interaction

no telephone or face-to-face interaction (beyond knowing your customer requirements)

surveyor should inquire if this ranges systematically between different areas of law, or clients, and if so, request a description of how

– Distance between clients and head/nearest office

– If case-level data can be provided, postcodes of client for each case could be analysed by the surveyor to estimate this

– Alternatively, firms may be able to provide an approximate allocation of clients which live:

'Locally' (to be defined)—eg, within 20 miles of the serving solicitors office

otherwise

– Availability of discounted advice

Outside the scope of pro bono work, is any free advice available? If so, under what circumstances? (area of law, type of client, stage of process)

How much flexibility is there in the pricing structure offered to clients? Does this differ by area of law, or client? If so, how?

Are standard rates explicitly discounted? If so, is this on a systematic basis? (eg, certain areas of law, types of client, stage of process)

– Are initial consultations available? If so, what is the conversion rate to cases (by type of law)

– Any views on why clients have not pursued a case?

Value chain

Data should be split by office (if appropriate), type of law, and type of client

– (Approximate) breakdown of work that has arisen from the following methods of customer acquisition (by revenue, hours billed and number of files), split by type of customer (at least level 1) and type of law (at least level 1)

Referral with a fee or contractual arrangement

Referral without a fee

Panel membership

Aggregator website

Cross-selling to an individual customer (eg, sold a will to someone purchasing conveyancing services)

Other

– Types of referral source split by type customer (at least level 1) and type of law (at least level 1) (surveyor should provide a standardised list—eg, other law firm, claims management company, estate agent, garage, insurance company/broker, medical company, other)

Should also inquire over whether there was a fee, other contractual arrangement, or no fee

– Description of referral contractual arrangements used, split by type of customer (at least level 1) and type of law (at least level 1)

– Description of trends in referral contractual arrangements, split by type customer (at least level 1) and type of law (at least level 1)

Description of trends in customer acquisition techniques more generally, split by type of customer (at least level 1) and type of law (at least level 1)

Firm-level data

– Customer acquisition/retention

Do you have a website?

Advertising spend by medium: newspaper, television, radio, other

Ratio of advertising spend to referral fees spend

– Cross-selling

Between which areas of law (if any) is cross-selling significant?

– Outsourcing

– How many wholly owned international offices do you operate?

– Ratio of international office staff costs to domestic staff costs

– What types of legal process have been outsourced?

– What is the value of legal activities that have been outsourced?

This could be measured by the transfer price of such activities used for tax purposes

– For what types of legal process is outsourcing on the potential agenda?

– Division of labour

On average, across how many areas of law does each legal practitioner work? How much variability is there between different practitioners? Does this vary systematically—eg, by experience of practitioner?

What types of work are undertaken by different types of legal practitioner? Surveyor to provide a list of types

Why is work allocated between different legal practitioners in this way? (open question)

Elasticity and changes of supply

Data should be split by office (if appropriate), type of law, and type of client

Approximate change in turnover—past three years

Approximate change in numbers employed (legal and legal support staff) over the past three years

Firm-level data

– Past trends

– What, if any, have been the recent changes in **types of law** undertaken? Areas of expansion? Areas of contraction? (in reference to level 3 groupings)

Reasons for change

– What, if any, have been the recent changes in **types of legal services** provided? (in reference to the level 1 type of service categories: advice, litigation, representation in higher courts)

Reasons for change

– What, if any, have been the recent changes in the (absolute and relative) **volume of legal aid work** undertaken?

Reasons for change

– Future trends

– Expected change in turnover—next three years

– Expected change in total staff employed—next three years

– How, if at all, are you considering changing the types of law provided? Expansion and contraction (as % of total activities) (in reference to level 3 groupings)

Reasons for change

– How, if at all, are you considering changing the types of law service provided? (in reference to level 1 groupings)

Reasons for change

– Which areas of law would you consider expanding into?

Reasons why? For example, consumers are the same, issues are the same

– Which areas of law do you consider there are transferable skills?

Reasons why? For example, consumers are the same, issues are the same