

Research Specification: Understanding changes in prices of legal services

20 July 2015

Purpose

1. The Legal Services Board (LSB) is seeking to understand how prices of common legal services purchased by individual consumers change over time. The primary purpose of this research is to create a robust methodology that can be replicated in the years ahead, as well as providing a robust picture of the prices that are currently paid.

Background

2. The LSB has been set up to reform and modernise the legal services market in the interests of consumers by enhancing quality, ensuring value for money and improving access to justice across England and Wales. The LSB seeks to achieve this through pursuing the regulatory objectives set out in the Legal Services Act 2007¹ and by providing regulatory oversight for the eleven approved regulators.² All approved regulators share these regulatory objectives.
3. We are committed to the ongoing evaluation of the impacts of the regulatory reforms, and other drivers for change in the market. Other projects look at changes in consumer behaviour, and we undertake periodic reviews of changes in supply. We recognise that understanding changes in prices over time is one of the key measures of the impacts of regulatory reforms designed to promote competition.³ Changes in prices of legal services over time can be an indicator of changes in competition between providers, and affordability and access to justice for consumers. The research will provide a key evidence source for our **market evaluation** exercise due for publication next year.
4. Our investigations in 2012 and 2013 showed limited proxy information on prices based on hourly rates and legal costs as a percentage of the value of a claim. What information is available relates to business to business legal services⁴ and other proxies relate to either litigation⁵ or a simulated small business dispute⁶. Despite some limited LSB and LSCP activity in this area since⁷, understanding the prices that individual consumers pay for commonly used legal services and how these prices change over time is currently a major gap in understanding.

¹ http://www.opsi.gov.uk/acts/acts2007/ukpga_20070029_en_2#pt1

² The approved regulators are: The Law Society, General Council of the Bar, Council for Licensed Conveyancers, The Chartered 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, Institute of Chartered Accountants of Scotland, Institute of Chartered Accountants in England and Wales.

³ See http://eprints.aston.ac.uk/18473/1/Benefits_from_competition.pdf

⁴ See p87 onwards <https://research.legalservicesboard.org.uk/wp-content/media/Impacts-of-the-LSA-2012-Final-baseline-report.pdf>

⁵ See slide 9 <https://research.legalservicesboard.org.uk/wp-content/media/UCL-AtoJ-Conference-presentation-20-June-2014.pdf>

⁶ See slide 8 <https://research.legalservicesboard.org.uk/wp-content/media/UCL-AtoJ-Conference-presentation-20-June-2014.pdf>

⁷ For example see para 1.14 onwards <https://research.legalservicesboard.org.uk/wp-content/media/Changes-in-competition-in-market-segments-REPORT.pdf>

5. This research project will also support the development of a number of other projects identified in our 2015/18 strategy. In particular, the LSB is developing an understanding of what ‘**affordable**’ legal services means for different types of consumers and different legal activities. Understanding the price that consumers pay for various services will feed into the LSB’s consideration of what might be affordable for different types of consumers. That is likely to mean that any scenarios developed in this project will need to include some measure of the hypothetical typical consumer.
6. The LSB is exploring the role of **open data** and how this could develop in legal services. The LSB’s open data project looks at the role of intermediaries and choice tools in helping consumers solve problems and make choices across both the regulated and unregulated markets. Quantifying search costs for individual consumers will provide contextual information to support the development of this work.

Aims and objectives

7. The main aim of this research is to develop a robust methodology for understanding the prices paid for some key legal services commonly purchased by consumers. While the initial priority is to focus on individual consumers, the methodology may also be extended to small and medium sized businesses in the future.
8. In particular, the research should:
 - Design and develop a limited number of tightly defined scenarios covering a selection of legal services commonly purchased by individual consumers.
 - Develop a robust methodology for gathering price information against these scenarios, following the appropriate MRS codes.⁸ This should consider:
 - What number of observations are needed to provide a robust range of comparable prices?
 - Can a single figure average price be calculated?
 - Address particular challenges in the legal services market identified below
 - Carry out appropriate fieldwork and analysis to provide a range of prices for each scenario
 - Provide observations about the effort involved in obtaining the prices of different providers given known transparency issues in the market⁹

Issues and scope

9. In order to accurately understand changes in the price of legal services a number of issues on the consumer and provider side must be considered. The successful bidder must set out how the contractors will respond to and manage each of the issues set out below in its development of scenarios across a range of areas of law.

Consumers

10. For consumers the main issues are diversity of legal need and different strategies for obtaining legal services.

⁸ For example <https://www.mrs.org.uk/pdf/2011-10-11%20Mystery%20shopping%20guidelines.pdf>

⁹ The LSB is looking for these observations as a corollary of the work gathering the data, not for separate data gathering or analysis on transparency per se.

11. There are a large number of different types of legal service, and consumers have a variety of problems. Generating price information across a wide range of scenarios will be impossible, so we will need to be selective. Our early thinking is to identify legal services commonly used by consumers based on existing survey data.¹⁰ We would then specify scenarios based on available data about the average or typical consumer, such as the average value of an estate (for probate) or average house price in a specific location in England and Wales (for conveyancing). The LSB expects the successful bidder to generate and populate scenarios with results that are statistically robust. **Responses to this tender should set out the likely number of price observations that would be needed to establish a robust range for each scenario.**
12. Consumers have a number of strategies through which they can obtain legal services. Based on evidence from the LSCP tracker survey 2014¹¹ the LSB will need to select scenarios where the consumer is more likely to have funded the cost of legal services privately, rather than services paid via other routes.¹² As such an area of law like personal injury, although commonly used by consumers, is out of scope as it is mainly funded via insurance and no win no fee arrangements. Competition may still have an impact on prices for these services, but may be diluted/weakened by the way the service is funded (i.e. the split between consumer and funder).
13. An initial assessment suggests the scenarios outlined below might represent a good starting point although we may wish to add or subtract from these. We may not be able to develop scenarios for all of these within the available budget, but the table provides illustrative material on our initial thinking.

Area of law	Potential scenarios
Conveyancing ¹³	Sale and purchase
	Purchase or sale only
	Re-mortgage only
Divorce	Uncontested divorce, no children
	Contested divorce over finances and/or children
Wills	Single will for simple arrangements
	Mirror wills for simple arrangements
	A will with more complex arrangements tbc

¹⁰ See page 30 of [2012 report on Individual legal needs](#)

¹¹ See question 25 in the [2014 tracker data](#) published by the Legal Services Consumer Panel

¹² Other routes include legal aid, insurance, no win no fee agreements, trade unions, employer funded

¹³ When a property is bought or sold, the legal ownership - sometimes called the title - must transfer from the seller to the buyer. The process is known as conveyancing

Area of law	Potential scenarios
Power of Attorney ¹⁴	Lasting Power of Attorney (Property and Financial Affairs)
Probate ¹⁵	Obtaining Grant of Probate only
	Estate administration based on estate of average value
Employment ¹⁶	Unfair dismissal
	Unauthorised deductions (from pay)
	Equal pay
	Working time directive

Providers

14. In relation to legal services providers, the main issues to be considered are diversity of providers, multiple pricing options and a lack of price transparency.
15. Consumers use a range of legal services providers some of which are regulated and some which are not. This varies according to type of legal activity being provided, type of legal problem, and who is providing it. So for example divorce can be provided by regulated and unregulated providers, but conveyancing only by regulated providers. Another feature of the regulatory framework is multiple types of regulated provider offering the same service, e.g. solicitors, licensed conveyancers and notaries all provide conveyancing services. A further complexity is diversity of supply within individual types of provider, e.g. solicitors firms selling services directly to consumers range from sole practitioners to large businesses employing large numbers of practitioners. Additionally some legal services such as wills can be obtained either online or offline. A key issue will be navigating this complexity to address the objectives of the research.
16. Providers of legal services employ a variety of pricing options when they sell services to consumers. What is included within a service and what is marketed as an optional extra will vary across the market, so a key challenge will be to identify specific scenarios to enable like-with-like comparisons. Another element is the treatment of disbursements¹⁷; the methodology will need to address whether to capture disbursements within the price or just use the provider's base fee. The challenge for this research project will to develop a methodology that allows prices to be easily comparable. As such the methodology must be transparent and able to be replicated in future.

¹⁴ A legal document that lets the 'donor' appoint one or more people (known as 'attorneys') to help them make decisions or make decisions on their behalf.

¹⁵ Probate is the process of dealing with someone's money, possessions and final wishes after they die. If the person who has died left a Will, he or she may have specified who should carry out the probate process

¹⁶ The most common types of cases before employment tribunal are set out in table 1.2 of [Tribunals and gender recognition statistics tables: January to March 2015](#)

¹⁷ A disbursement is a payment made by a lawyer to a third person on the consumer's behalf but for which the consumer will reimburse the lawyer (e.g. local authority searches for a conveyancing transaction).

17. Common pricing options include but are not limited to:
- a) Fixed fee
 - b) Fixed percentage of e.g. value of an estate in probate
 - c) Unbundled services where a consumer does some of the legal work themselves
 - d) Hourly billing
18. For simplicity, any legal services which are “unbundled” (i.e. not full service) are out of scope of this research.
19. There is currently a lack of price transparency in the market. Very few providers advertise their prices up front. Often the only way to understand likely prices is to engage with a provider directly and receive a written quote for the work after discussing the individual requirements of each case.¹⁸

Tender Evaluation Criteria

20. All projects commissioned by the LSB are subject to our standard terms of contract¹⁹ and must comply with equality legislation and anti-collusion arrangements²⁰. Tenders will be evaluated on best value for money and will be assessed on the basis of:
- a) Overall cost. Please include appropriate breakdowns.
 - b) Proposed team composition, expertise and management and the organisation’s diversity policy.
 - c) The extent to which tenders are clearly written and meet the specified objectives, present a sound methodology, ensure robust research is repeatable, identifying any potential problems, and proposing suitable solutions.
 - d) Address outputs and ensure these are in line with requirements and the required timing of the project.
 - e) Demonstration of understanding of the project.

Deliverables – Outputs and Project Plan

Output:

21. The output for this research should be a report with executive summary and associated survey data sets, that covers:
- a. The reasons for choosing the methodological approach taken
 - b. A clear description of each scenario in terms of income of consumer and value of transaction
 - c. The findings for each scenario including analysis in the following areas:
 - i. What prices were paid in each scenario?
 - ii. Whether there is a difference in the prices of regulated legal providers and unregulated legal providers and if so what is the difference?
 - iii. Whether there is a difference in price between different regulated professionals for the same service and if so what is the difference?

¹⁸ The Legal Ombudsman has developed a guide for consumers on how to establish the cost of a case which might provide a useful starting point for fieldwork. See <http://www.legalombudsman.org.uk/downloads/documents/publications/consume-Guide-Costs.pdf>

¹⁹ The LSB’s standard contract can be [found here](#)

²⁰ Non-collusive tendering certificate is set out in Annex A and must be submitted alongside any bids for this research contract

- iv. Whether pricing options affect the final price that a consumer must pay for a legal service and if so how?²¹
 - v. Whether there are different levels of price transparency across the scenarios and if so what is the difference?²²
 - vi. Whether the ranges of collected prices for different scenarios are similar and if not, how are the ranges different?
22. The report should also provide an analysis of how the approach could be rolled out to other market segments and guidance on the ideal frequency of rerunning this exercise to provide a picture of change over time.
23. As a public body the LSB's policy is to publish research reports and associated datasets in full. The report should be clearly presented in accessible language so that it can be understood by our stakeholders and the general public.
24. The LSB will retain ownership of the report and underlying data which will be delivered in a publishable format. The report should be completed by 15 December 2015. The successful bidder should be prepared to write and deliver a presentation at a research launch or other event.

Project plan

25. 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. We would also expect the tenders to include a clear analysis of the potential risks and how they propose to mitigate them during the project. We value tenders that are short and concise.

Duration

26. The intention is for the final report and associated data sets to be submitted by 15 December 2015.

LSB contact details

We encourage any team considering bidding for this work to contact Vibeke Bjornfors on 020 7271 0060 / vibeke.bjornfors@legalservicesboard.org.uk or Robert Cross on 020 7271 0091 / robert.cross@legalservicesboard.org.uk.

Tender closing date

Tenders must be submitted by **4pm on 19 August 2015**.

The LSB expects to interview candidates for this research contract on 25 and 26 August.

²¹ The LSB would like to know whether certain types of payment options e.g. fixed fee or fixed percentage are likely to result in higher end costs for the consumer.

²² How easy or difficult was it to gather data under the different scenarios? As set out in paragraph eight.

