

An assessment of the most effective methods of supporting consumers to identify and respond to legal problems

Purpose

The purpose of this research is to identify and assess the most effective tools, based on psychological and economic theory, for legal services regulators, to support consumers in recognising:

- where they have legal problems
- options available to handle the problems and
- how to handle the legal problems they face.

This should test existing activity in the legal services sector and look at how similar issues are dealt with in other sectors.

Background

Section 28 of the Legal Services Act 2007 (LSA), Parliament gives all the approved regulators (Solicitors Regulation Authority, Bar Standards Board, ILEX Professional Standards, Council for Licensed Conveyancers, Intellectual Property Regulation Board, Master of Faculties, and the Costs Lawyer Standards Board) the Legal Ombudsman, and the LSB the regulatory objective of increasing public understanding of the citizen's legal rights and duties. This is a duty to act as far as is reasonably practical in accordance with this objective.

The LSB reviewed the regulatory objectives and consulted on more detailed definitions than can be found in the LSA. The results were published in April 2010.¹ This shows that key to our thinking around this objective is that:

- *“Empowered consumers making informed choices drive providers of legal services to deliver the range of quality, access and value that clients should feel confident to demand”*
- *“It is beyond ambition to expect consumers to know their legal rights and duties in all situations when there is so little of life that exists outside of a legal framework. But we can encourage, with approved regulators and legal service providers, a better understanding by consumers of “rights and responsibilities” and for them to be confident about where to turn to identify them and their application in a particular situation”.*

We know from our consumer benchmarking research² that consumers respond to legal needs in range of ways. The breakdown of consumer response to legal problems is shown in the figure 1 below. Analysis shows that overall for individuals not taking action in response to a legal problem:

- a. Overall 12% of these legal needs were not acted on. This was 25% for consumer problems.
- b. This was highest for legal needs involving young (Under 35) males (21%), single people (23%), and those living in London (25%).
- c. The research indicates that in general the reasons for inaction are related primarily to the legal need faced and less about the characteristics of the individual.
- d. However, the complexity of the need and previous experience of the legal need also has a bearing on the sort of action respondents take.

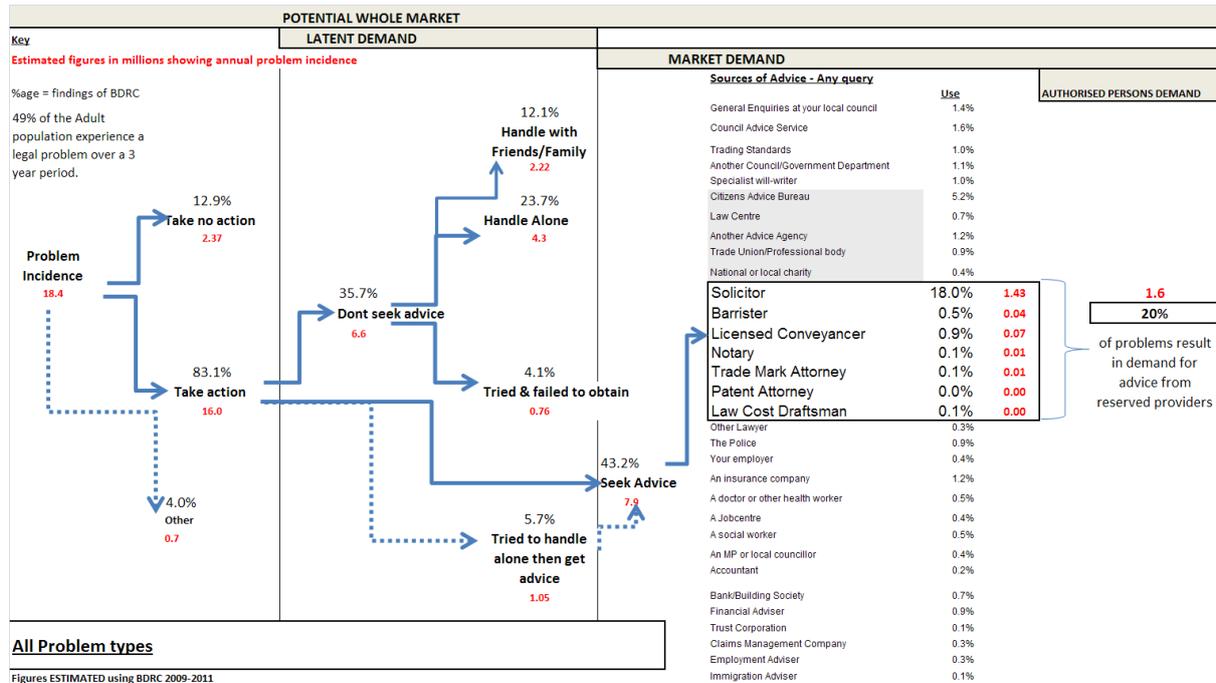
¹ See http://www.legalservicesboard.org.uk/news_publications/publications/pdf/regulatory_objectives.pdf

² See <http://research.legalservicesboard.org.uk/reports/consumers-unmet-legal-needs/>

- e. The main reason given for their taking no action, by over a third of individuals, was the belief that nothing could be done about the legal need. (84% for consumer problems).

Other research looking at the legal needs of small businesses shows that 9% of small businesses take no action in response to a legal problem, and only 29% seek formal advice.³

Figure 1: Individual consumers responses to legal problems



Research exploring the reasons why individuals take this range of actions in response to a legal problem, shows that in majority of situations consumers appear to be taking reasoned and, some might argue, rational decisions on whether to ignore problems, handle them themselves or approach someone for formal legal advice.⁴ These results question the view of a need for widespread education on legal rights and responsibilities in making the legal services market work more effectively, and improve access to justice.

Further, we commissioned separate research⁵ looking at the role behavioural economics has to play in regulation, and how this academic discipline can be used in to inform the design of regulation. This highlights the lack of consideration of how consumers and businesses make decisions in the design of legal services regulation.

Our own research found that consumers could see real benefits in simply going to a single online community and finding directly relevant examples of similar experiences in legal services as in other services, rather than asking around until they found someone with an experience like theirs. This highlighted consumer demand for something that could take their legal problem and ideally lead

³ See <https://research.legalservicesboard.org.uk/wp-content/media/In-Need-of-Advice-report.pdf>

⁴ See <https://research.legalservicesboard.org.uk/wp-content/media/Understanding-Consumers-Final-Report.pdf>

⁵ <https://research.legalservicesboard.org.uk/wp-content/media/Behavioural-Economics-Final.pdf>

them directly to the service that would help them solve their legal need.⁶ However others challenge the effectiveness of what legal websites currently offer in this area.⁷

The concept of legal capability is derived from work into financial capability, commissioned by the Financial Services Authority (FSA). A further FSA study questioned the effectiveness of teaching people about events they may face in the future. Using a behavioural economics approach it reported that psychology plays the most important role with regard to consumers responses as opposed to provision of information.⁸

The two different approaches can be summarised as ‘just in time’ (information at point of need) and ‘just in case’ (education in advance of need). One seeks to provide easy access to information support and direction to legal services, while the other seeks to develop individuals legal capability to prepare them for problems they may face in the future.

A significant amount of work has been undertaken developing and delivering public legal education to individual consumers. A leading charity in this field – Law For Life – have developed the concept of legal capability, building on Legal Services Research Centre findings.⁹ In conjunction with charities such as the Citizenship Foundation and the Bar Pro Bono Unit, activities in this area focus on education of citizens and equipping them with legal knowledge to better respond to legal problems they may face in the future. Other organisations such as Advice Now provide a range of leaflets to support people in understanding their legal needs and guiding consumers through the legal system. This approach helps consumers understand their options in response to a legal problem. It also seeks to support them in choosing when to instruct an adviser, or whether they should seek support to help them undertake the work themselves.

Aims and Objectives

The legislation has given legal regulators a duty to increase public understanding of citizen’s legal rights and duties, it remains unclear how best regulators can support this duty. We are particularly concerned to ensure that we seek to develop solutions to these challenges by working with engrained behavioural responses of individuals, using resources and organisations already working in this area. We’re interested in the types of interventions most likely to help consumers recognise the nature of the problems they face, understand options for tackling them and support them in choosing support. While much of public legal education has concentrated on educational interventions aimed at giving individuals knowledge prior to any event, we would like to explore how such interventions compare in likely success against interventions or information available at the time of the issue itself - ‘just in case’ compared to ‘just in time’.

⁶ http://www.legalservicesboard.org.uk/what_we_do/Research/Publications/pdf/understanding_consumer_needs_from_legal_information_sources_final_report.pdf

⁷ <http://lawyerwatch.wordpress.com/2012/03/20/internet-legal-advice-worthy-but-dull-guest-post/>

⁸ [Financial Capability: A Behavioural Economics Perspective](#)

⁹ <http://www.lawforlife.org.uk/research-and-theory/key-reading/knowledge-capability-and-experience-of-rights-problems,10185,FP.html>

What is not known is how other sectors have approach this problem. We assume that a significant amount of work has been undertaken in the health and education sectors with a similar aim of helping consumers navigate their way through complex systems that they deal with on an infrequent basis.

The research should provide an assessment for the LSB, the frontline regulators and other bodies to promote better outcomes for consumers in line with our regulatory objectives. We would like to develop a solid theoretical base on which to build our relationship with external parties and regulators with the aim of advancing the regulatory objective.

Issues and scope

The challenge for regulators (and others) here can be broken into three parts:

- Helping people recognise when they face a legal issue or problem;
- Helping people understand the options, including formal legal advice, available to them when they have recognised that they have a legal issue or problem;
- Helping people select the type of help best suited to the issue or problem they face, even if that is handling the problem themselves.

In other sectors, such as health, finance, and education, how have regulators sought to address similar issues? What has worked well, and what has failed? What lessons can be applied to legal services?

The assessment should consider what works well and what is less effective. Examples such as advertising of services, legal education schemes designed to inform citizens of their rights, and schemes to help individual navigate the courts system should be considered.

The assessment should consider both the effectiveness of the approaches taken and the practical applicability of the approach to legal services regulation – both the likely resource implications and the need to minimise regulatory burden. Effectiveness should seek to address the cost effectiveness of a particular option as well as other aspects. It is expected that this will involve a comprehensive review of existing literature, a review of activities in other sectors, and how these apply to the situation in the legal sector.

We would welcome suggestions on how best to develop the themes from the literature whether through experiment or simply drawing in examples of work already in existence that demonstrates features consistent with lessons from the literature. The assessment should highlight areas for further investigation, in the event that the regulators decide to pursue a particular approach. We would be especially interested in examples from public and private sector of initiatives or simply commercial propositions that are aligned with the most promising suggestions for action.

Tender Evaluation Criteria

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

1. Overall cost. Please include appropriate breakdowns
2. Proposed team composition, expertise and management and the organisation's diversity policy
3. The ability of the research team to write about complex technical issues in clear accessible language
4. Demonstration of understanding of the project.

Deliverables

Output

The key output will be a detailed report reviewing a range of approaches to this issues from the legal and other sectors. This should address each of the research questions above, and drawing robust conclusions.

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. 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

The research will commence in November 2013 and should be ready to report no later than March 2014.

Legal Services Board Contact details

We encourage any team considering bidding for this work to contact either Robert Cross (020 7271 0091) or Alex Roy (020 7271 0060) for a discussion prior to submitting a tender.

Tenders must be submitted by 4 pm on 31st October 2013.