

# **Market impacts of the Legal Services Act – Interim Baseline Report**

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April 2012

## Foreword

Understanding the impacts of change is vital for those, like us, who believe we must focus on the outcomes of regulation. For any organisation tasked with changing a market both in the public and consumer interest, evaluation of the impact of policies introduced is essential. For those operating in the regulatory sphere evaluation is key to understanding whether regulatory policy achieves the right balance of protecting consumers and promoting competition.

However regulation does not operate in isolation from wider changes. The LSB needs to consider the wider context of the economy, and other external views and factors that may influence and change the perspectives of other players in the market place.

In this report – the first of a series – we bring together data from a wide range of sources to look at how the legal services market in England and Wales has changed over the past five years. We believe that this is the first time this wide range of indicators have been presented together, allowing insight into longer term trends in legal services.

We use what information is readily available to reflect on trends in the legal services market between 2006/07-2010/11. We see a legal services market growing in terms of number of professionals, and overall in good financial health – worth £25.5bn in 2010/11. Prices appear to be rising for business to business legal services. This is against a backdrop of falling levels of demand in some traditional areas of work, albeit with increases in some others. Clearly the wider economic downturn has impacted on legal services. High levels of consumer satisfaction can be contrasted with rising levels of complaints in relation to solicitors. Consumers continue to exhibit low levels of empowerment, but increasing awareness of complaints procedures.

This report will act as our baseline for future measurement. We have therefore also set out a range of additional sources of information we will use in the coming months to refresh this analysis in October this year, with annual reports thereafter. We also list the major knowledge gaps we have identified, which shape our analysis and conclusions drawn. The gaps in data reduce our ability to isolate the specific impacts of regulation, so we need to look at general movements as well as specific numerical measures.

This is a work in progress, and so we would encourage every reader to consider where we have overlooked evidence and share that with us.



David Edmonds

Chairman

Legal Services Board

Contents		Page No.
1	Overview	6
2	Background	13
3	Environmental context	16
4	The Stakeholders	23
	A. The Profession	24
	B. The Consumer	40
	C. The Public	49
	D. The Market	53
	E. The Investor	65
5	Activities to close gaps in knowledge and missing indicators	67
	Annex	69

### List of Figures

No.	Figure Title	Page No.
1	List of 25 proxy indicators of demand for legal services.	17
2	Major fall in residential property transactions and remortgage approvals, and a steady decline in the actual demand for solicitor services for probate grants.	20
3	Growth in criminal trials and NHS litigation.	20
4	Increases in Employment Tribunals where clients are represented by a lawyer, contrasted with falls in other private and business consumer indicators.	21
5	Large falls in commercial property transactions and mergers and acquisition activity, contrasted with increases in the business death rate.	22
6	Increased volumes of commercial arbitrations.	22
7	Stakeholders and Outcomes.	23
8	Proportionate increases in BME solicitors in private practice and in BME partners, against a backdrop of growing BME population.	25
9	Small but growing gap between proportion of self employed BME barristers and BME population, and little change in the proportion of BME QCs.	25
10	Growth in female solicitors in private practice against falling proportion of female population, but continued low levels of female partners.	26
11	Very small increases in the proportion of self employed female Barristers and female QC's.	26
12	Missing indicators for measuring Outcome 1.	28
13	High levels of satisfaction with service highlighted in a range of separate surveys.	29

14	Service complaints reported to the Legal Ombudsman are only a fraction of consumer issues with service.	30
15	Trends in complaints made against solicitors.	31
16	Growth in SRA entity allegations of financial compliance risk.	31
17	Exponential growth in more serious complaints against solicitors.	32
18	Large fall in level of complaints received against licensed conveyancers.	32
19	Small fluctuations in complaints received against legal executives.	32
20	Fall in level of complaints received against barristers, but increases in the number referred for further action since 2006/07.	33
21	Trends in complaints in other sectors.	34
22	Missing indicators for measuring Outcome 2.	34
23	Falling levels of trust in the professions generally, but around half the public trust lawyers to tell the truth.	35
24	Only 3 out of 5 people experiencing a legal issue are confident of getting a fair hearing.	36
25	Solicitors views of SRA performance.	36
26	Missing indicators for measuring Outcome 3.	37
27	Large proportion of legal aid solicitor firms providing threshold competent advice.	38
28	Relatively low levels of membership of additional quality assurance schemes.	39
29	Missing indicators for measuring Outcome 4.	39
30	Increasing public knowledge of what lawyers do.	41
31	Small decreases in people obtaining advice when they experience a problem.	41
32	Shift away from use of solicitors in probate applications.	42
33	Missing indicators for measuring Outcome 5.	43
34	The Law Society is the most well known of the regulatory community.	43
35	Consumer confidence that rights are protected and they can complain.	44
36	Missing indicators for measuring Outcome 7.	45
37	Consumers of legal services segmented by experience.	46
38	Only 1 in 5 individual consumers shopped around, and most of them did so on the basis of price.	47
39	Missing indicators for measuring Outcome 8.	48

40	Missing indicators for measuring Outcome 9.	49
41	Growing exports of UK legal services.	50
42	UK ranked 8 <sup>th</sup> for time taken but 13 <sup>th</sup> for cost of enforcing contracts among 16 economies.	51
43	Missing indicators for measuring Outcome 10.	51
44	Falling ethical concerns contrasted with rising number of solicitors.	52
45	Missing indicators for measuring Outcome 11.	52
46	Growing numbers of Authorised Persons over time.	53
47	A growing legal industry.	54
48	Non solicitor legal services account for two fifths of UK legal industry turnover.	55
49	Reduction in the proportion of solicitors firms owned by sole practitioners.	56
50	Average number of solicitors per firm increasing in firms owned by sole practitioners.	56
51	Constant proportional use of non-solicitors in legal aid firms.	56
52	Little change in market share for conveyancing over the past 5 years.	57
53	Prices for business legal services are rising.	58
54	Missing indicators for measuring Outcome 12.	61
55	Improvements in perceived value for money.	62
56	Perceptions of un-affordability for legal services.	62
57	Missing indicators for measuring Outcome 13.	62
58	Range of income per fee earner for solicitor firms.	63
59	Missing indicators for measuring Outcome 14.	63
60	Missing indicators for measuring Outcome 15.	65
61	Missing indicators for measuring Outcome 16.	66
62	Missing indicators for measuring Outcome 17.	66
63	Responses to knowledge gaps against risk and burden considerations.	67
64	Timetable for gathering of information on missing indicators.	69

## Overview

- 1.1 The Legal Services Act 2007 (LSA) provides for a set of regulatory reforms designed to increase competition in the legal services market and place the consumer at the heart of the regulatory system.<sup>1</sup> Monitoring how the market changes is a vital part of understanding the impacts of this reform. This evaluation represents the first of several steps in evaluating change in the legal services market over the coming years.
- 1.2 This first report is in effect a summary of market changes leading up to the implementation of the Alternative Business Structure (ABS) regime. It also highlights the areas and data that the Legal Services Board (LSB) will monitor over the coming years. This interim baseline report will be followed by a final report in October 2012 to account for the first year of the ABS regime and the findings of a range of ongoing research. Thereafter we will refresh and update this evaluation report alongside our Business Plan to track changes over the 2012-2015 period.
- 1.3 For this interim baseline report we encourage feedback on our approach and the evidence we have used so as to enhance the quality of future legal services market evaluations.

## Regulation as part of a wider system

- 1.4 It is very challenging to isolate the specific impacts of regulation on the market from the impacts of wider economic factors. For example, a rise in complaints reported to the Legal Ombudsman could be interpreted as evidence of a negative, neutral or positive change - driven either by increased openness of firms to seek and act on consumer feedback, a broader social propensity of all consumers to complain or actual falls in quality of service provided. Particular challenges include the extent to which changes in the legal market are interconnected with changes in the rest of the economy; the fact that the legal market itself consists of a number of interconnected markets impacted in different ways by exogenous economic factors. These challenges are exacerbated by a lack of robust consistent data across the legal services market that would allow us to apply statistical techniques to identify underlying drivers.
- 1.5 Our approach is to identify as many of the indicators of change and to describe the extent to which these demonstrate changes in the legal markets that lead us to believe our objectives are being met. This interim baseline report comes before the regulatory changes allowing ABS have had an opportunity to bed in. The results therefore provide a baseline against which we will measure future changes.
- 1.6 Global economic turmoil has had and will continue to have a significant impact on the legal services market. Its impact affects different segments of the legal services market in different ways – changes affecting global finance will have a greater impact on large corporate or city law firms while changes to the housing market will have a greater impact on smaller or high street law firms offering services to individual customers. This is against a backdrop of rising consumer expectations of service generally, and reduced real incomes for most consumer groups. While many legal services are distress

purchases, or purchases of necessity, consumers still face choices about how they address a problem, including whether to address a problem at all.<sup>2</sup>

### Limited information available

- 1.7 The LSB has a responsibility for overseeing regulation of lawyers in England and Wales, undertaken by the approved regulators.<sup>3</sup> Prior to the LSA, regulatory activity for lawyers largely focused on maintaining a list of members of each of the individual professions, coupled with a complaint driven reactive approach.<sup>4</sup> Each regulatory body, some of which also had representative functions, took a relatively narrow focus around its membership. This resulted in these organisations lobbying government for legal and related reforms based on feedback from their membership, and rarely taking a wider focus on the legal services market as a whole.
- 1.8 Latterly, basic data on diversity and address of employer has been added to the information collected upon annual renewal of membership of the profession, but before 2009 and aside from the Law Society (TLS), little in the way of research was undertaken by these organisations. Approved regulators with no authorised persons – such as the Association of Chartered Certified Accountants – have published some research into legal services in the past. This is contrasted with summaries of government records – property transactions, court hearings, legal aid suppliers etc – starting to be made more available in more recent years.
- 1.9 As a result of this history, there is no embedded culture of information collection and analysis in legal services at both a business and regulator level. This can be contrasted to other more competitive industries such as the financial sector, where competition drives better provision of information reducing consumer's transaction costs in searching for information about provider's quality and prices. This results in piecemeal coverage of data in certain areas of the market and virtually no information on private consumers of legal services. The major knowledge gaps for the regulatory community<sup>5</sup> include:
  - I. Volume of consumers using legal services over time.
  - II. Diversity of authorised persons delivering legal services.
  - III. Quality of legal services delivered.
  - IV. Levels of satisfaction with legal services over time.
  - V. Trends in service complaints for each profession, at both first and second tier.
  - VI. Size of unreserved legal sector.
  - VII. Staff employed in reserved and unreserved legal service providers.
  - VIII. Prices offered and paid for legal services.
  - IX. Range and frequency of different use of service delivery methods.
  - X. Turnover of non solicitor legal service providers.
  - XI. Existing use of external financing.
- 1.10 We have identified many areas where good indicators exist which will help us track progress against our objectives over time- e.g. consumer confidence - while in other areas data is either absent (e.g. quality), or inconclusive (e.g. complaints). We have outlined in this paper our ambitious plans for filling in some of the significant data gaps

with additional indicators, but we recognise that the knowledge gaps above are likely to remain, at least in the coming two to three years.

- 1.11 While limited in our analysis by the absence of data in many areas, we have been able to consider the direction of travel over the previous three to five years for each of the outcomes. We form a view of how the market has changed in the years preceding the implementation of the ABS regime through the assessment of a set of proxy indicators, which we interpret via reference to the wider market context and qualitative inputs.

### **What available indicators tell us about market movements towards desired outcomes**

- 1.12 Looking back over the past five years, we look at market trends against the outcomes we have set for the market, with reference to our regulatory objectives.<sup>6</sup> However at present, it is clearly too early to see the impacts of reforms to the regulatory structure implemented over the past two years - such as new complaints procedures, independent regulatory bodies, and ABS. However, what we can glean from this exercise is what the market looked like between the inception of the LSA in 2006/07 through to 2010/11.
- 1.13 We do this in an environment where we wish to avoid imposing any additional information burden on the professions, except in situations where transparency of information is a key part of achieving the regulatory objectives. An example of this is in the publication of diversity data to encourage greater diversity among the profession. That means relying on a combination of published data and research to establish what the changes in the market have been, but with some gaps in knowledge remaining.
- 1.14 The LSB has a key role in commissioning, monitoring and investigating research into the market for legal services, in supporting the oversight of regulatory objectives and in developing an evidence base for regulatory reforms to widen or narrow the scope of future regulation<sup>7</sup>, and adhere to the principles of better regulation.<sup>8</sup>
- 1.15 The LSB's Evaluation Framework, published in April 2011, highlighted 17 outcomes that we seek to evidence with a series of indicators, to explore whether the outcomes have been met. These outcomes are spread across 5 stakeholder groups – the profession, the consumer, the public, the market and the investor. Our summary conclusions for each stakeholder and related set of desired outcomes are set out below. We also highlight the level of confidence we have in the conclusions we can draw about the last three to five years at this stage.
- 1.16 It is important to note that the indicators are just that: indicators, not targets. Any one of the indicators may move in either direction and of itself tell us nothing about cause or even if it is a step towards the outcome. Only by triangulating different indicators, analysing trends and relationships will we be able to reach an assessment of the delivery of the outcomes. At this stage our analysis will be tentative – we are taking the first steps towards evaluation of long term changes.



## Stakeholder A. The profession

**Outcome 1.** Diversity of the legal profession shows greater similarity to the client population.

**Outcome 2.** Quality of legal services is improved overall compared to 2009.

**Outcome 3.** The profession, judiciary and public maintain confidence in the independence and reputation of the legal sector.

**Outcome 4.** Education and training of the legal workforce supports the delivery of high quality legal services.

- 1.17 For diversity, we want to understand whether the profession represents the diversity of the group of consumers served. We do not have information on the diversity of consumers, apart from legal aid, so we use the diversity of the population as a proxy. We have up to date diversity statistics for solicitors and barristers, covering the vast majority of the legal profession. However gaps exists for the smaller elements of the legal profession and there is little published information that addresses the diversity of the whole legal services workforce – those working in solicitors' firms who are not authorised persons for example. Available data shows entry levels matching the diversity of the population, but limitations on career progression for those from Black and Minority Ethnic (BME) groups. We conclude that there has been limited progress towards this outcome, prior to the impact of the LSA.
- 1.18 Direct evidence of the quality of the actual legal advice is limited - our study of will writing provided one example in a single limited area of legal advice. Looking wider than this, the regulatory community does not have this information. While consumers report high levels of satisfaction with legal services provided, and records show falling levels of complaints for barristers, legal executives, and licensed conveyancers - suggesting improved levels of quality - there is a mixed picture for solicitors.
- 1.19 The number of complaints for solicitors rose between 2004/05-2008/09, and where we have data, the seriousness of service failures appears to be increasing. This points to falling levels of quality. Rising complaint numbers against a background of falling demand also points to falling levels of service quality. The impact of changes to complaints procedures or wider changes in consumer propensity to complain is unknown. Information on the volume and nature of complaints received by Legal Ombudsman will play a key part in understanding changes in the future. At this point in time, it is difficult to conclude with any confidence that the quality of legal services improved over the 2008/09-2010/11 period.
- 1.20 For confidence in the independence of the legal sector, we have very limited direct measures. Levels of trust in the profession, the judiciary, and the court system, show a mixed picture prior to the LSA reforms. These show trust in the judiciary falling slightly over time but remaining high. However a small proportion of consumers reported not seeking legal advice because of a lack of trust in lawyers. We conclude that available sources of information point to no major changes in the perception of independence of regulation, though there is highly limited corroborating evidence at this stage.

- 1.21 The link between education and high quality legal services in the absence of measures of actual quality is difficult to establish at this point in time. In the absence of major changes, we await with great interest, the findings of the Legal Education and Training Review<sup>9</sup>, and how the approved regulators take these findings forward.

### **Stakeholder B. The consumer**

**Outcome 5.** A higher proportion of the public are able to access justice.

**Outcome 6.** Consumers have confidence in the regulation of legal services.

**Outcome 7.** Consumers have confidence in the legal profession.

**Outcome 8.** Consumers are confident and empowered in their dealings with legal services.

- 1.22 Access to justice is a complicated concept to address, and for the purpose of this evaluation, we confine our measures to access to legal services. Previously this has been measured largely from a supply side perspective – how many providers – and geographical proximity to legal aid solicitors. However, these approaches show little consideration of the decision making process through which consumers go in recognising and responding to a legal issue, and the potential for technology to change this. We have no information on the volumes of consumers using legal services, in all forms, removing the ability to use actual numbers as a simple measure.
- 1.23 Available data suggests that, for the areas of law where it is recorded, a growing number of individual consumers are not using lawyers where they have a non-contentious legal issue, and the perception of legal services as costly and unaffordable persists. Based on this we conclude that levels of access to legal services has at best remained constant over the 2006/07-2010/11 period.
- 1.24 In terms of developing a better understanding of consumer confidence, there has been a significant amount of work in the past two years.. We rely largely on the findings of the Legal Services Consumer Panel (LSCP) Consumer Impact Report 2011 (CIR). For consumer confidence in regulation, a growing proportion of consumers are aware of Legal Ombudsman, but only half feel confident that their rights will be protected in the event of any issues. Without a historical context, we conclude that there is a significant amount of improvement required in this area, and the approved regulators will need to take the lead over the coming years.
- 1.25 For consumer confidence in the trustworthiness of legal profession, we recognise that this is linked to wider public confidence in the legal profession, which we believe has remained largely constant. Confidence in dealing with legal services is believed to be partly driven by frequency of use of legal services, with large corporate consumers being highly empowered and not subject to the same information asymmetries as individual consumers. Generally, individual private consumers of legal services appear to show low

levels of empowerment<sup>10</sup>, and we do not believe that this has improved over the 2006/07-2010/11 period.

### Stakeholder C. The public

**Outcome 9.** Wide confidence in the law and the legal profession.

**Outcome 10.** An efficient legal system delivering quality legal services at a reasonable cost.

**Outcome 11.** Wide confidence in the standards and ethics of the legal profession.

- 1.26 The public's confidence in the law and standards of the professions is linked to both consumers' and the judiciary's views on the profession. It is our view that the public's confidence in the profession is enhanced by growing awareness of consumer complaints mechanisms, though it remains too early to assess this. The concern is that confidence in ethics is undermined by approved regulators who are not perceived to be independent of the representative arms, as highlighted by the LSCP. We conclude that in the absence of any other information, confidence in the law and ethics of the profession remains unchanged over the 2008/09-2010/11 period.
- 1.27 In terms of the efficiency of the legal system, one indicator of the perception of efficiency is the international demand for legal services provided by organisations based in the UK. The 2005/06-2008/09 period is characterised by growing levels of legal services exports suggesting increased international demand for UK legal services. We use this measure in the absence of quality and price information. Juxtaposed with recent data from Her Majesty's Courts and Tribunal Service (HMCTS) showing a drop in length of court cases, this suggests to us that the 2006/07-2010/11 period is characterised by improvements in efficiency, and increases in prices (see below Stakeholder D. The market).
- 1.28 With regard to ethics of the legal profession, based on highly limited information we concluded that there have been no changes in the level of ethical concerns over the 2006/07-2010/11 period.

### Stakeholder D. The market

**Outcome 12.** The market for legal services is more competitive.

**Outcome 13.** More consumers are able to get legal services at an affordable cost.

**Outcome 14.** There is a greater plurality of, and innovation in, legal services offered.

- 1.29 Competition in markets is challenging to measure. What we see in the legal services market is a large growth in the supply of authorised persons as a whole, and relatively small changes in business structures in the 2006/07-2010/11 run up to ABS implementation. This is coupled with the few available price measures – relating mainly to business-to-business legal services – growing slightly faster than inflation. Indicators – largely relating to private consumers – show falling levels of activity that might translate into demand for legal services. As noted above perceptions of unaffordability remain, but a simple measure shows increases in the perceived value for money of legal services.

- 1.30 Evidence of out-sourcing or in-sourcing both overseas and to UK regions and nations demonstrates increasing competitive pressures in some areas of the market, though pricing indicators suggest little evidence, to date, of competition influencing final prices.
- 1.31 The majority of the market (by number of firms) serving individual consumers is under pressure from exogenous factors (such as government spending cuts impacting on client wealth), but there is limited evidence of an active competitive response. There is a question as to whether current economic pressures are leading to challenges on quality rather than efforts to reduce costs or innovate, though the growth of legal brand franchises is a sign of innovation. There is also anecdotal evidence that in advance of ABS being introduced, firms are starting to consider entering the market which if realised could encourage greater competition and start to move the market in the direction set out in the LSA.

### Stakeholder E. The investor

**Outcome 15.** A legal market which is attractive to all sources of finance including external investors.

**Outcome 16.** Proportionate regulation allowing an in-flow of capital.

**Outcome 17.** Risk based supervision of legal practitioners.

- 1.32 For the investor it is simply too early to tell what the impacts of the LSA have been. In the run up to the introduction of ABS, business finance has been largely limited to bank or partner finance. Over the coming years we will endeavour to monitor the extent to which new rules lead to increased availability of finance in practice. In the run up to ABS implementation in 2011, investor organisations had been having discussions with law firms, according to trade media, and at least one guide on how to float a law firm has been published by an accountancy firm.
- 1.33 As of the end of March 2012, of over 180 applications received by the Solicitors Regulation Authority (SRA)<sup>11</sup>, there is a range of new investment, including private equity firms, stock market floatation, foreign stock market ownership, and expansion of consumer and retail brands. This indicates a fast pace of change in this area, but only time will tell if it is sustainable rather than just a demonstration of initial enthusiasm.

### Overall

- 1.34 Based on this assessment, our conclusion is that during the 2006/07-2010/11 period the overall movement towards achieving desired outcomes was largely static, though some very tentative positive movement has been made. We reach this view with a level of caution, because of the range of missing information, and the mixed picture provided by available indicators. We believe this represents the most prudent judgement at this point in time.
- 1.35 However, this represents a backward look over this period, with the market impacts of the LSA yet to be fully felt. This report highlights some lead indicators of positive movements towards our desired outcomes, which we will monitor and evaluate in the years to come.

- 1.36 In many areas, we have identified gaps in data; some can be filled and we will be working with the approved regulators to fill these where possible. In other areas, data is both unavailable and also unlikely to become available. This will remain a shortfall in the analysis that we will endeavour to fill with proxies. It will only be in future years that we are able to determine whether the changes emerging from the LSA deliver the market changes the Act envisaged.

## 2. Background

- 2.1 The legal services market is undergoing significant change as a result of a number of factors including the LSA. The LSA aims to reform and modernise legal services by putting the interests of consumers at the heart of the legal system.
- 2.2 We set out our intention to evaluate the market impacts of the LSA in the Evaluation Framework published in April 2011.<sup>12</sup> Further, the LSCP published their first annual CIR in June 2011<sup>13</sup>, looking at the legal services market from consumers' perspectives. In this report, we draw from this work and look across all the key stakeholders.
- 2.3 As set out in the LSB's Evaluation Framework, the market we are evaluating and the reforms we are introducing are complex, and therefore require the monitoring of a range of outcomes and indicators. Following consultation with the approved regulators, we did not set out specific targets, but instead highlighted 17 outcomes that we evidence with a series of indicators, to explore whether the outcomes have been met. These outcomes are spread across five stakeholder groups – the profession, the consumer, the public, the market and the investor.
- 2.4 For each stakeholder, individual indicators will not provide conclusive evidence of the success or failure to meet objectives. Nevertheless, a number of indicators together can provide robust evidence of success or failure. By developing a basket of indicators for each outcome a more valid, reliable, and rounded assessment of progress can be made. We do not seek to determine causality of changes, but rather describe what available information tells us about how the legal services market has changed. These indicators are largely drawn from the framework developed by Oxera to monitor changes in the legal services market.<sup>14</sup>
- 2.5 We recognise that it is too early to assess the full impacts of the LSA at this stage. While the new complaints arrangements have been in place since October 2010, the regulatory framework for ABS only came into place for entities regulated by the Council for Licensed Conveyancers (CLC) in October 2011 and for entities regulated by the SRA in January 2012. Although they were introduced in March 2009, it has been suggested that take up of Legal Disciplinary Practices (LDPs) is likely to have been reduced due to more pressing economic needs for firms, and that some firms will be waiting for ABS before changing structures.<sup>15</sup> Press coverage suggests that ABS has the potential to have the biggest impacts on the legal services market.<sup>16</sup>
- 2.6 Therefore, the purpose of this report is to summarise the existing measures for evaluating outcomes across stakeholder groups, in anticipation of future evaluations, consider what existing data suggests, and highlight gaps in the knowledge about the regulated community. We also recognise that the reforms in the LSA were not developed in a vacuum, and have therefore set 2006/07 as the base year from which to measure change, where data allows. At this point, the Clementi Report had been published, and the Legal Services Bill was being debated and discussed. This was also the year that the Ministry of Justice (MoJ) came into being, which was responsible for guiding the Legal Services Bill through parliament to Royal Assent in 2007, working with approved regulators throughout this period, and establishing the LSB in 2009.

- 2.7 In looking at the past five years we cover the period of the financial crisis and subsequent impacts on the economy as a whole. Following a brief assessment of the wider economic environment in Section 3, this report presents a detailed assessment against each indicator in Section 4.
- 2.8 The majority of indicators are taken from existing published data, and so involve no additional regulatory burden on the professions. However, while working this way minimises the burden, we recognise that this approach means we only have a partial picture of changes in the legal services market. Gaps in knowledge are highlighted throughout this report. These are collated in Section 5, which sets out activity the LSB is undertaking to address these gaps, working alongside the regulatory community. This builds on the LSB's Regulatory Information Review (RIR)<sup>17</sup> which baselined knowledge of the legal services market. Our continuing aim is to utilise existing published sources of information to compile our evidence base, so as to minimise additional information collection burden on the professions.
- 2.9 This represents the first of several steps in evaluating change in the legal services market over the coming years. This interim baseline report will be followed by a final report in October 2012 to account for the first year of the ABS regime and the findings of a range of ongoing research. Thereafter we will refresh and update this evaluation report alongside our Business Plan to track changes over the 2012/13-2014/15 period. Therefore, we encourage feedback on our approach and the evidence we have used so as to enhance the quality of future legal services market evaluations.



### 3. Environmental context

- 3.1 Changes to the legal services market must be viewed against the wider economic and political changes across England and Wales during the period under review.
- 3.2 The Legal Services Bill received Royal Assent in 2007, and the LSB came into being in 2009. Since then there have been 4 quarters with negative economic growth of Gross Domestic Product (GDP), and the rest with growth below an annualised rate of 2.5%. Figures for the UK economy published in February 2012 suggest a 0.2% contraction in GDP between September-December 2011. The current Office for Budget Responsibility (OBR) forecasts<sup>18</sup> show that the UK will not reach the long term trend rate of growth until 2014/15, with the figures for the years 2011/12 through to 14/15 being 0.8%, 0.8%, 2 % and 2.7%.
- 3.3 Associated with the changes in GDP are growing levels of unemployment and inflation, alongside a fall in real incomes. In 2007, unemployment was at 5.2% of the workforce, rising to 8% by 2010<sup>19</sup>. Unemployment is expected to rise from 8.3% of the workforce in 2011 to 8.7% in 2012, before falling back again to 6.2% by 2016. Household disposable income has fluctuated over the 2007-2010 period, growing by 1.6% in 2009. However, this fell by a record 2.4% in 2011. The OBR reports that consumer spending will remain broadly flat in real terms over 2012/13 before picking up as real household disposable income starts growing again.
- 3.4 Government activity has an impact on the legal services market, most directly through general legislation and reforms introduced by the MoJ. Over the period 2008/09-2010/11 there was a range of changes to legal aid remuneration for solicitors and barristers. While overall spending has remained largely constant at 6-8% of total industry turnover, individual providers of legal aid services have faced changes to levels of remuneration, with funding being redistributed across suppliers affecting around 25% of all solicitors firms and around 24% of self employed barristers. Other reforms in development include reforms to the funding of personal injury and clinical negligence cases following the findings of Lord Jackson's Review of Civil Litigation Costs, the Family Justice Review designed to reduce volumes of court hearings, Legal Aid reforms removing some categories of work from scope, and reducing rates of pay in other categories. It is expected that pressures on public sector spending have impacted on the use of external legal services in the public sector, possibly through greater use of in house legal services or renegotiation of professional service procurement arrangements.<sup>20</sup>
- 3.5 Specifically what the combined impact of these factors is on the legal services market is unclear. However when looking at the environmental context, available evidence points to a contraction in the overall demand for legal services between 2006/07-2010/11. We use a set of proxy indicators in the absence of any data on the actual volume of demand for legal services.

#### Knowledge Gap 1 – Volume of consumers using legal services over time.



**Figure 1. List of 25 proxy indicators of demand for legal services.**

No	Proxy indicators of demand (Data source)	Segmentation dimensions			
		Main consumer group <sup>21</sup>			Main category of law <sup>22</sup>
		Private	Business	Gvmt.	
1	Probate grants on application by solicitors (Ministry of Justice)	X			Wills, trusts and probate
2	Residential property transactions (HM Revenue and Customs)	X			Conveyancing
3	Approvals for residential remortgage lending (Bank of England)	X			Conveyancing
4	Total Divorce Petitions (Office for National Statistics)	X			Family
5	Family Court Proceedings (Ministry of Justice)	X		X	Family
6	Road Traffic Accidents casualties (Department for Transport)	X	X		Injury
7	Claims to NHS for Negligence (NHS Litigation Authority)	X			Injury
8	Police Station Advice (Legal Services Commission)	X	X		Crime—defence
9	Crown Court Trials (Ministry of Justice)	X	X	X	Crime—defence Crime—prosecution
10	Magistrates' courts criminal trials (Ministry of Justice)	X	X	X	Crime—defence Crime—prosecution
11	Employment Tribunals where clients represented by a lawyer (Ministry of Justice)	X	X		Employment
12	Trademark Applicants using a Lawyer (Intellectual Property Office)	X	X		Intellectual property rights
13	Total Patent Applications (Intellectual Property Office)	X	X		Intellectual property rights
14	Non Family Civil Proceedings (Ministry of Justice)	X	X		Welfare and benefits Property, construction and planning Other business affairs
15	Immigration - Inflow of Non EU citizens into the UK (Office for National Statistics)	X	X	X	Immigration and nationality
16	UK Business births (Office for National Statistics)		X		Corporate structuring and finance
17	UK Business deaths (Office for National Statistics)		X		Other business affairs
18	Cross border and UK national mergers, acquisitions, and disposals (Office for National Statistics)		X		Corporate structuring and finance
19	Company incorporations (Companies House)		X		Corporate structuring and finance
20	Commercial property transactions (HM Revenue and Customs)		X		Other business affairs

21	Insolvency petitions - County Court (Ministry of Justice)		X	Other business affairs
22	Commercial Arbitrations and Mediation (The City UK)		X	Other business affairs
23	Chancery Division - proceedings started (Ministry of Justice)		X	Other business affairs
24	Commercial Court - Claims issued (Ministry of Justice)		X	Other business affairs
25	Technology and Construction Court caseload (Ministry of Justice)		X	Property, construction and planning

3.6 Recognising that the legal services market is comprised of a number of different markets, we present these 25 proxy indicators measuring trends in the volume of demand during the 2006/07-2010/11 period. The 25 indicators are listed in Figure 1 above, with reference to the main consumer groups and the categories of law they relate to.

3.7 These indicators provide a broad coverage across all of the different segments<sup>23</sup> of the legal services market. They represent a mix of measures of wider economic activity that drives incidence of legal need, and actual measures of demand for legal services. These are indicators covering a range of different points in the legal issue resolution process. They are all drawn from regularly published data, provided by government agencies and departments. However they remain proxy indicators of demand as they do not capture three key areas:

- a **Changes in how consumers respond to legal problems:** A consumer faced with the incidence of a legal issue can choose to handle that issue alone, as opposed to seeking legal advice. This is most reported on in relation to large corporations keeping legal work in house, rather than using external law firms<sup>24</sup>, but there are also a few direct measures as shown in proxy indicators 1, 11 and 12 largely relating to private individuals. This could be driven by changes in application processes making a transactional legal issue easier to deal with alone. Further, measures of total numbers of, for example, court proceedings do not mean that legal counsel is used – some may choose to conduct litigation themselves for a variety of reasons.<sup>25</sup>
- b **Changes in the level of cases that settle before court proceedings are issued:** Behind each court related measure, it is recognised that there will be a proportion of incidences where legal advisors are used but these disputes never come to court, and this ratio may also be changing overtime in civil and commercial matters. Tighter finances may mean individuals and companies are more willing to settle cases earlier and avoid the costs of further litigation<sup>26</sup>. Analysis of cases progressing through the Commercial Court in England and Wales shows that in 2006, 7.5% of claims issued went to trial, compared with 4.4% in 2009. This rose to 7% in 2010. The trend in the Commercial Court is for more claims being issued between 2007/08 and 2009/10, but proportionally less trials actually taking place.<sup>27</sup> Therefore a falling number of cases being heard in court does not in itself translate into falling demand for legal services.

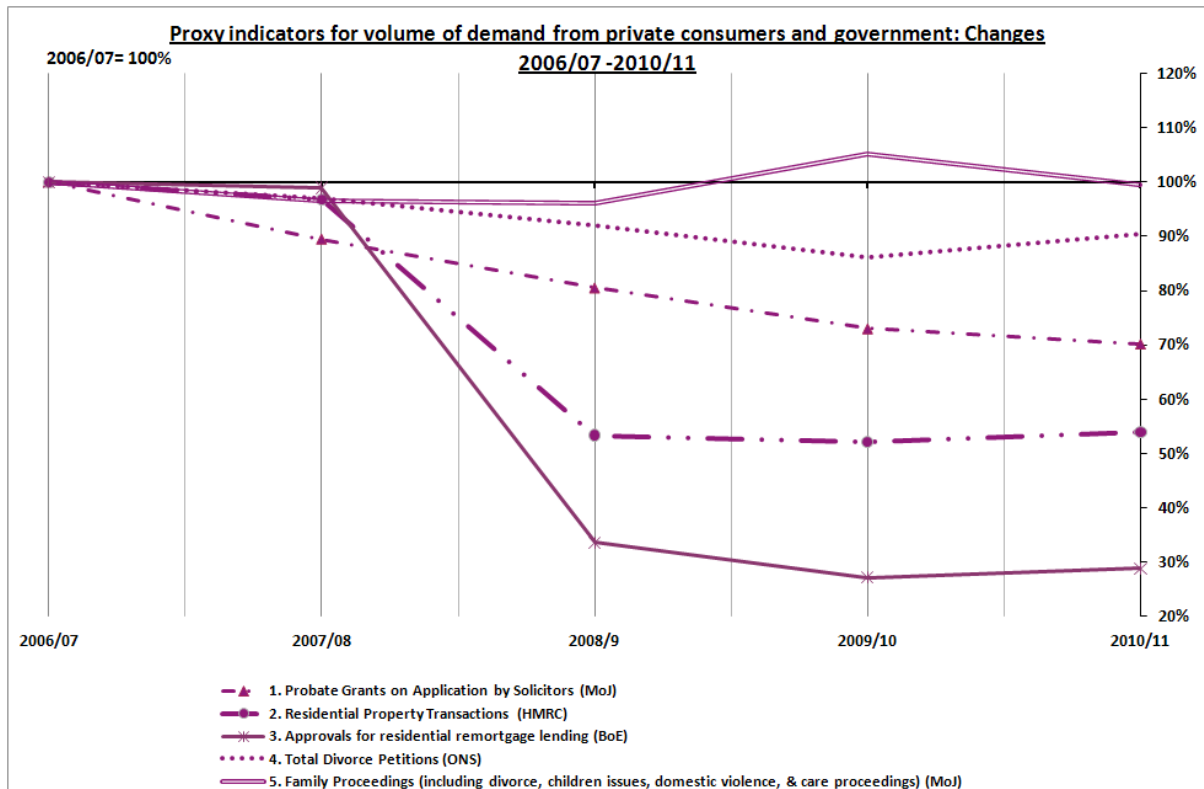
- c Changes in the use of advice for risk management:** It is recognised that a significant part of the work of legal advisers will be to support their customers in avoiding legal issues and managing risks. For example, this could include legal opinion to policy makers in government, or advice on how to comply with a new piece of regulation for business consumers. A 2010 survey of in-house counsel by Legal Week Intelligence<sup>28</sup> reported a growth in demand arising from new law and regulation, such as the Bribery Act 2010. None of these indicators capture this activity directly, though indicators 16 and 19 reflect some aspect of demand for this type of advice.

3.8 Therefore, these are partial indicators of demand, showing trends in an element of each of the main legal services market segments, and not deep insight into the underlying changes taking place. However, as a group these indicators generally point to lower levels of activity that might generate demand for legal services from both private consumers and business consumers, as might be expected given the fact that the financial crises takes place during the time period under consideration. They also cover the majority of work for solicitors<sup>29</sup> and barristers.<sup>30</sup>

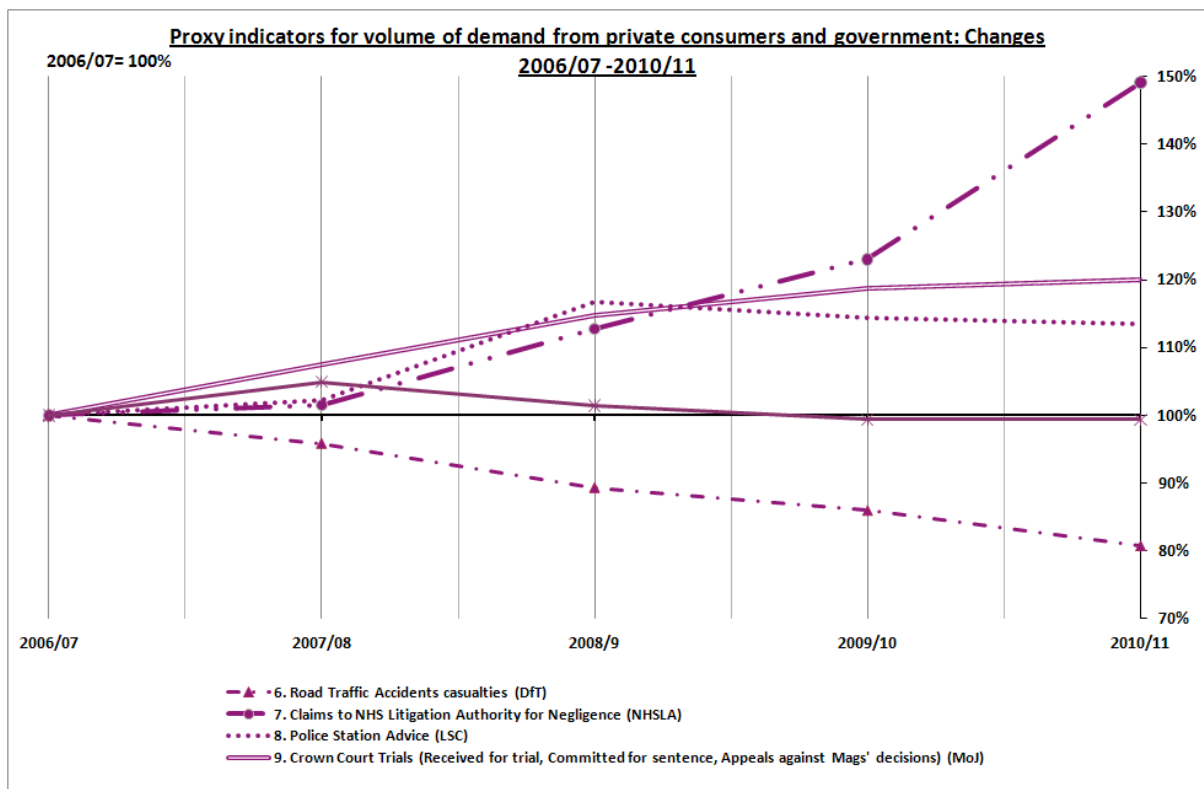
3.9 For private consumers, a major change in activity that might generate demand for legal services is the fall in residential property transactions and changes in the number of approvals for remortgaging. This is shown in Figure 2 below, where the number of transactions is running at 54% and 28% of 2006/07 levels in 2010/11. The fall in actual demand for solicitor services with regard to applications for probate is more steady, falling year on year to 70% of 2006/07 levels in 2010/11. In comparison, the level of family proceedings is largely static, although divorces have fallen over the same period. This can be contrasted with growing levels of criminal proceedings at the Crown Court, with large increases in the volume of cases received for trial, and increases in advice delivered at the police station, as shown in Figure 3. National Health Service litigations for negligence were 150% of 2006/07 levels in 2010/11. It is not known what has driven these increases.

3.10 With regard to the proxy indicators relating to both individual and business consumers, there is a mixed picture shown in Figure 4 below. Increases in the actual use of lawyers for employment tribunals can be contrasted with falls in the actual use of lawyers for making trademark applications. This is against a background of falling patent applications, and non-family civil court proceedings covering such areas as breach of contract, defamation, and claims for the recovery of money.

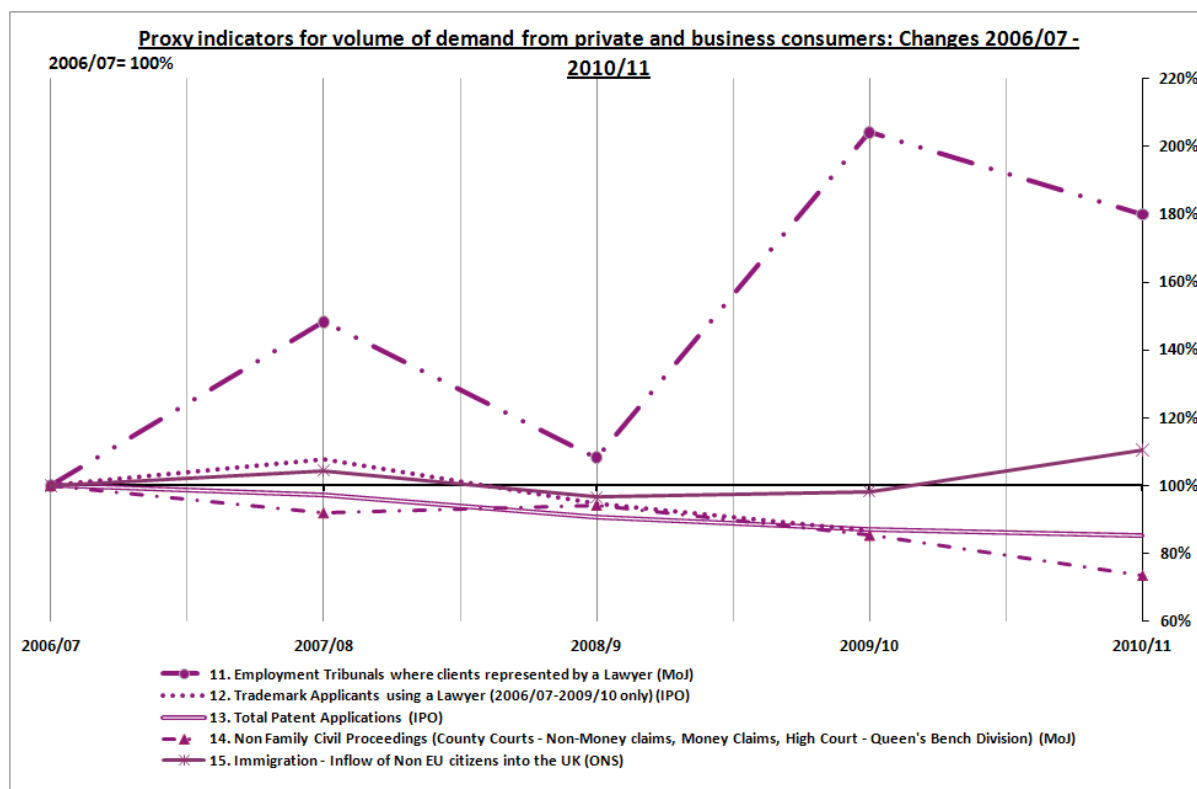
**Figure 2. Major fall in residential property transactions and remortgage approvals, and a steady decline in the actual demand for solicitor services for probate grants.**



**Figure 3. Growth in criminal trials and NHS litigation.**



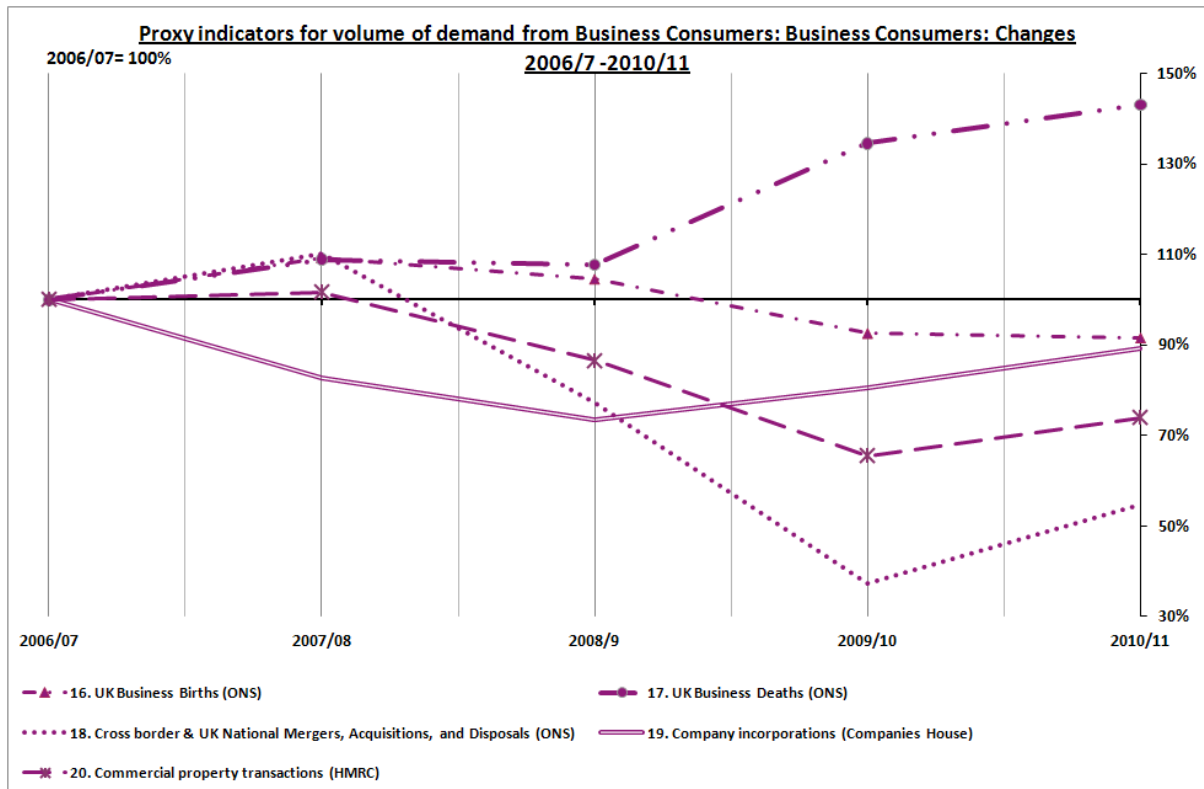
**Figure 4. Increases in Employment Tribunals where clients are represented by a lawyer, contrasted with falls in other private and business consumer indicators.**



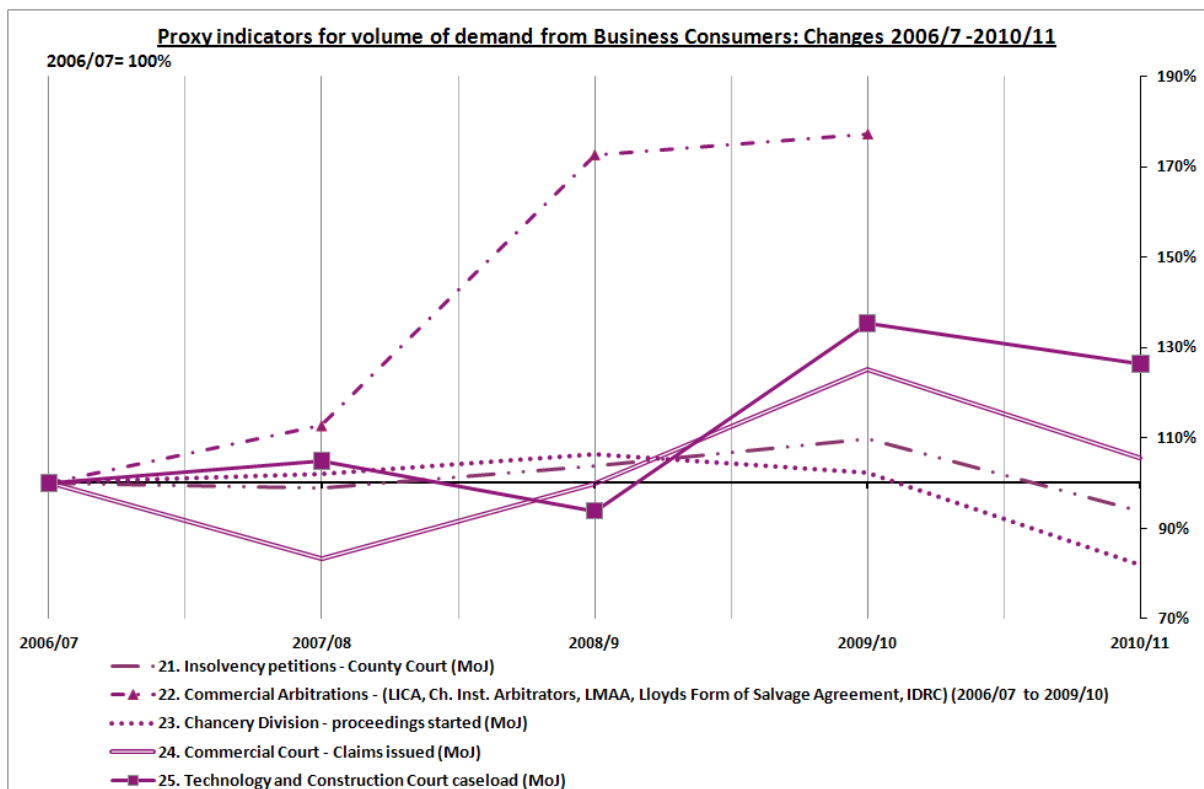
3.11 For business consumers of legal services, Figures 5 and 6 show a similar fall in commercial property transactions as with residential, and an increased rate of business deaths<sup>31</sup> within the UK. Mergers and acquisitions volumes - a key indicator of levels of work for City firms - show a significant drop at just 55% of 2006/07 levels in 2010/11.<sup>32</sup> Other research suggests large reductions in work for city law firms in banking and finance.<sup>33</sup> Significant increases in the use of commercial arbitration – at 177% of 2006/07 levels in 2009/10 – can be contrasted with smaller falls in the proceedings at the key commercial courts.

3.12 Combined these indicators suggest falling demand for legal services across the majority of areas, with growth in demand in some specific areas including criminal trials, employment tribunals, and business dispute resolution methods.

**Figure 5. Large falls in commercial property transactions and mergers and acquisition activity, contrasted with increases in the business death rate.**



**Figure 6. Increased volumes of commercial arbitrations.**



#### 4. The Stakeholders and Outcomes

4.1 The LSB Evaluation Framework<sup>34</sup> identified 17 outcomes, spread across five stakeholders, to be considered in evaluating the impacts of the LSA. These are shown in Figure 7 below.

**Figure 7. Stakeholders and Outcomes.**

Stakeholders	Outcomes
<b>A. The profession</b>	<ol style="list-style-type: none"> <li>1. Diversity of the legal profession shows greater similarity to the client population.</li> <li>2. Quality of legal services is improved overall compared to 2009.</li> <li>3. The profession, judiciary and public maintain confidence in the independence and reputation of the legal sector.</li> <li>4. Education and training of the legal workforce supports the delivery of high quality legal services.</li> </ol>
<b>B. The consumer</b>	<ol style="list-style-type: none"> <li>5. A higher proportion of the public are able to access justice.</li> <li>6. Consumers have confidence in the regulation of legal services.</li> <li>7. Consumers have confidence in the legal profession.</li> <li>8. Consumers are confident and empowered in their dealings with legal services.</li> </ol>
<b>C. The public</b>	<ol style="list-style-type: none"> <li>9. Wide confidence in the law and the legal profession.</li> <li>10. An efficient legal system delivering quality legal services at a reasonable cost.</li> <li>11. Wide confidence in the standards and ethics of the legal profession.</li> </ol>
<b>D. The market</b>	<ol style="list-style-type: none"> <li>12. The market for legal services is more competitive.</li> <li>13. More consumers are able to get legal services at an affordable cost.</li> <li>14. There is a greater plurality of, and innovation in legal services offered.</li> </ol>
<b>E. The investor</b>	<ol style="list-style-type: none"> <li>15. A legal market which is attractive to all sources of finance including external investors.</li> <li>16. Proportionate regulation allowing an in-flow of capital.</li> <li>17. Risk based supervision of legal practitioners.</li> </ol>

4.2 A detailed analysis of each of the indicators relating to outcomes by stakeholder group is presented below, with a summary of findings at the beginning of each section. This summary is based on a triangulation of what the available indicators show. Missing indicators are highlighted at the end of each section, and knowledge gaps are highlighted throughout this assessment.



## A. The profession

### Outcome 1. Diversity of the legal profession shows greater similarity to the client population

*Based on available information there has been no improvement in the representativeness of the legal profession compared to client population.*

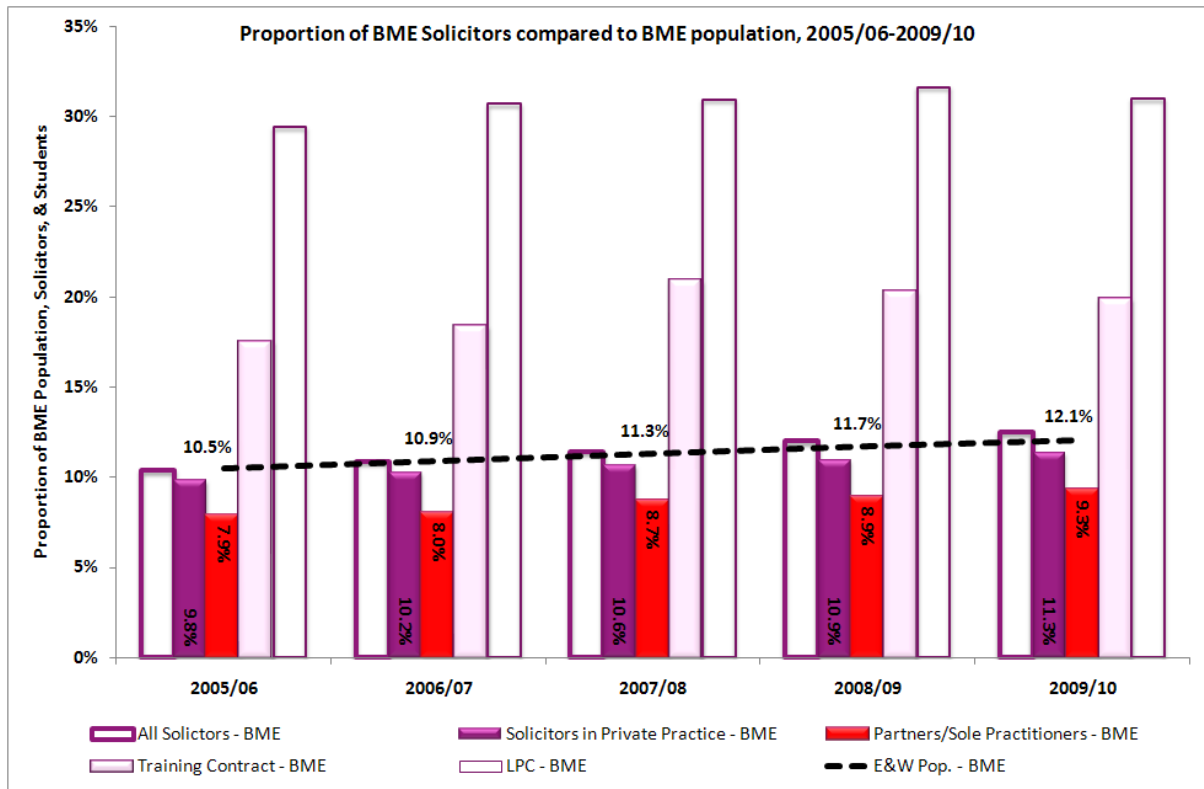
- A.1.1 In 2011, only TLS and the Bar Standards Board (BSB) collected and published data on diversity of their members and regulated community respectively.<sup>35</sup> As the Solicitors Regulation Authority (SRA) regulate entities in addition to individuals, other authorised persons are captured in their data collection on diversity but this data is not published or analysed on a systematic basis. In 2009/10, around 40% of fee earners in firms regulated by the SRA were not solicitors.<sup>36</sup> The Chartered Institute of Legal Executives (CILEx) published a survey of the diversity of its membership as at 2008.
- A.1.2 A number of the approved regulators do not collate information on the demographics of their profession. This results in a lack of awareness of the overview of the market, resulting in diversity barriers not being identified, and, therefore, not addressed.<sup>37</sup> The CLC and the Master of Faculties (MoF) only collect data on member's gender and age. The Institute of Trade Mark Attorneys (ITMA) and the Chartered Institute of Patent Attorneys (CIPA) collect data on the university attended, qualification gained and gender. There is no evidence gathered on socioeconomic background, disability and race of these professions, nor is summary analysis of diversity data published.

### Knowledge Gap 2 – Diversity of all authorised persons and legal services staff employed

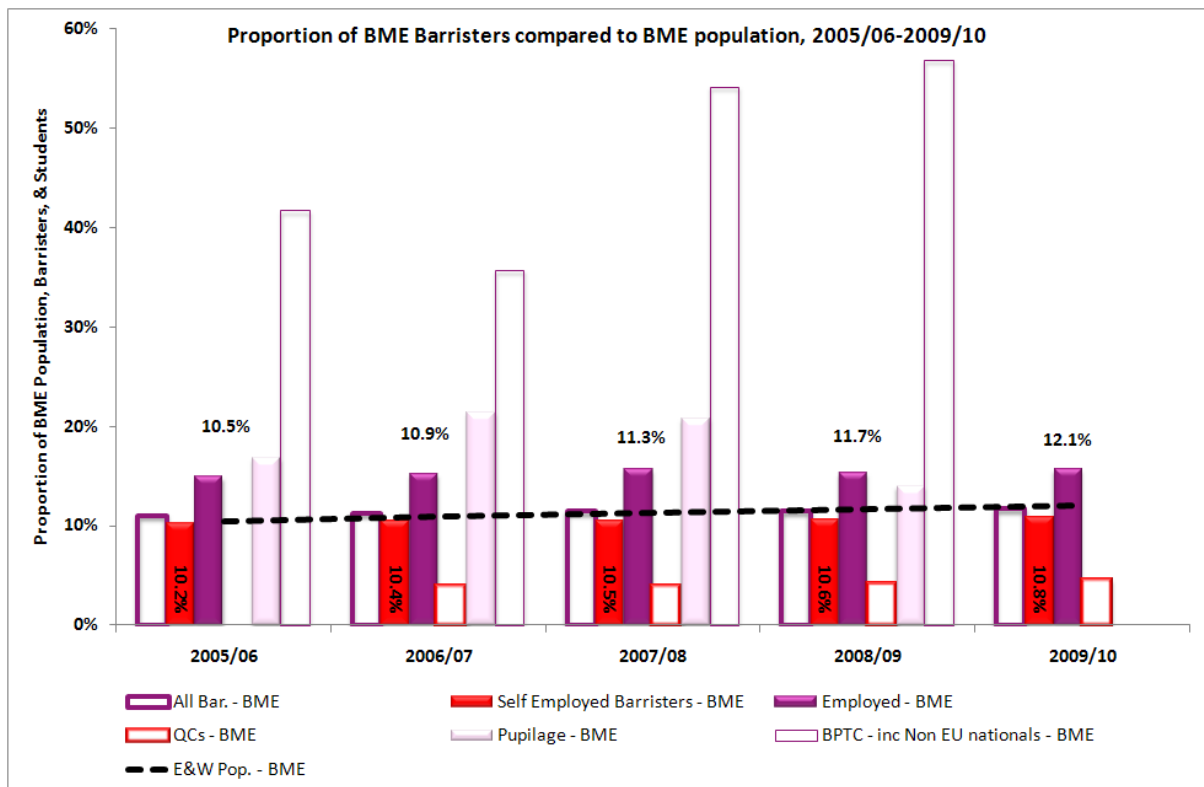
- A.1.3 To address this, the LSB has issued guidance to the effect that approved regulators will collect diversity data from those they regulate and mandate the publication of these statistics at a firm level. The approved regulators must implement these plans from April 2012. We expect that the data will be available from April 2013. We also expect that this information will allow a more in depth analysis of diversity including ethnicity breakdowns and information on socioeconomic background.
- A1.4 With available data, we can analyse the changes in solicitor and barrister known levels of diversity over the review period.. The proportion of BME solicitors compared to the population is shown in Figure 8 below. This also shows different groupings of solicitors, showing the proportion of solicitors as a whole, those working in private practice, those who are partners as a proxy measure for business owners, and for those at entry points into the profession. Plotted against this is the trend for changes in the BME population of England and Wales. Diversity data for the population of England and Wales is used as a comparator in the absence of the diversity of information on the client base served. This is baselined against 2005/06 because of data lags in this area.<sup>38</sup> Figure 9 shows the same information for barristers with Queen's Counsel (QC) representing the most senior level. Figures 10 and 11 show the proportion of female solicitors and barristers respectively.



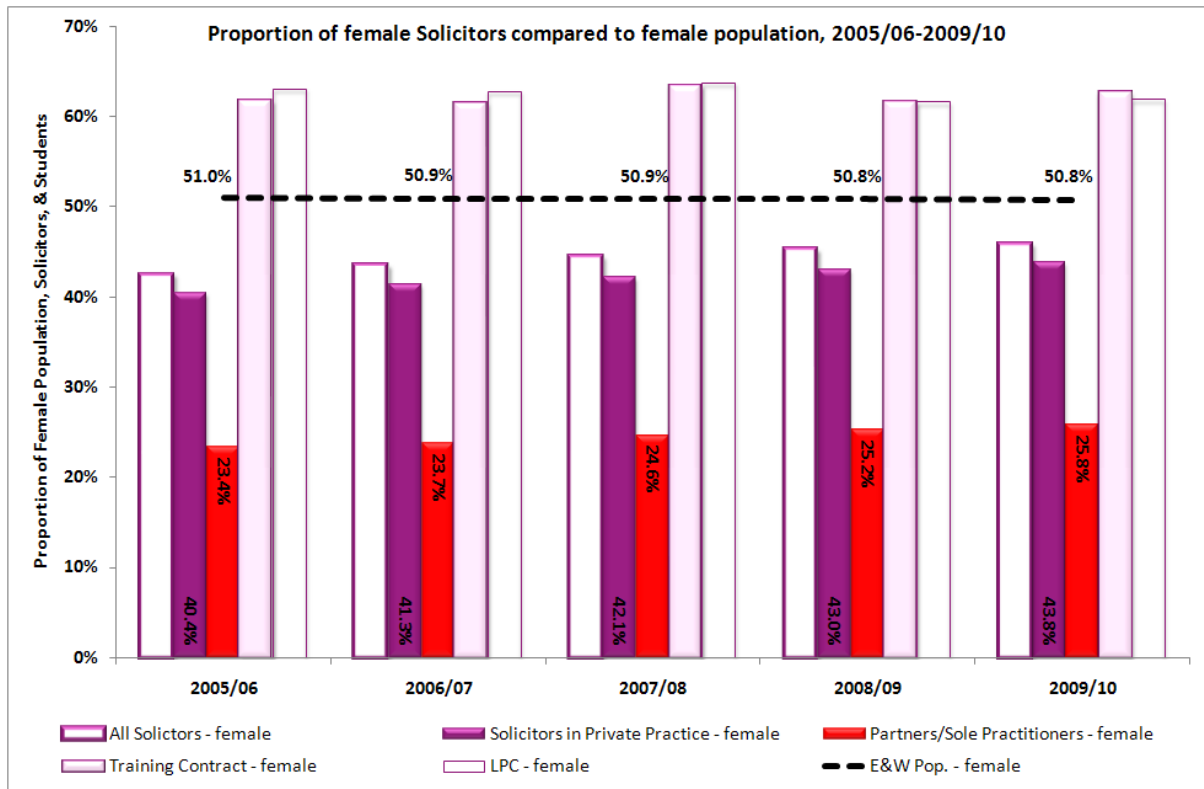
**Figure 8. Proportionate increases in BME solicitors in private practice and in BME partners, against a backdrop of growing BME population.**



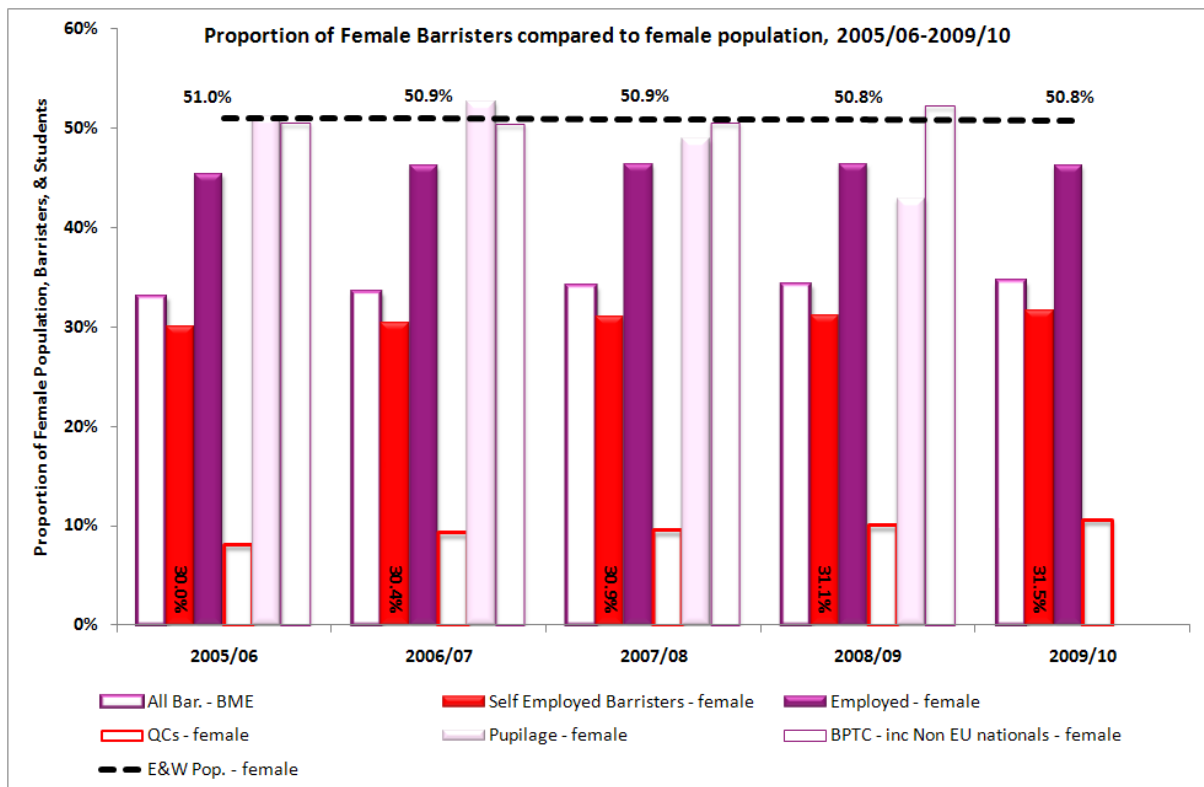
**Figure 9. Small but growing gap between proportion of self employed BME barristers and BME population, and little change in the proportion of BME QCs.**



**Figure 10. Growth in female solicitors in private practice against falling proportion of female population, but continued low levels of female partners.**



**Figure 11. Very small increases in the proportion of self employed female Barristers and female QCs.**



- A.1.5 For both solicitors and barristers, there are large differences in diversity when looking at different stages of a legal career. Entry-level indicators such as students on a Legal Practice Course or the Bar Professional Training Course show a strong similarity to the diversity of the population of England and Wales. While there have been changes in overall diversity statistics for solicitors and barristers in the past, available information shows significant differences in entry-level diversity, but career progression challenges remain.
- A.1.6 A survey undertaken in 2007 of the self-employed Bar showed that female barristers in comparison to male barristers are disproportionately junior and that area of specialisation is strongly related to both gender and ethnicity. The research reports on “*marked differentials in income by gender and ethnicity, with 21% of white men billing less than £80,000, whereas 39% of BME men do so, 44% of white women, and more than half, 54%, of BME women. Women are also more likely to be billing between £80,000 and £125,000 than men. Over 80% of BME women bill less than £125,000 compared with 43% of white men.*”<sup>39</sup>
- A.1.7 More recent research by the BSB<sup>40</sup> shows for self-employed barristers there are very different demographic profiles across different categories of work, with BME and female barristers working in areas associated with public funding. Twice as many women work in family as in any other practice. BME barristers are most likely to work in civil law (14%) and family (10%). Publically funded work dominates crime (87%) and family (58%). The larger proportion of BME and female barristers in these areas is similar to the situation with diversity and solicitors turnover. LSB analysis of SRA data suggests that a greater proportion of BME firms undertake work in immigration, crime, and family compared to non-BME firms. Furthermore, 23% of all BME firms derive more than 50% of their income from public funding compared to just 7% of non-BME firms.<sup>41</sup>
- A.1.8 In 2011, a study by the University of Westminster found that stereotyping and (perceived) bias act as barriers for women and BME lawyers from furthering their careers. Inequalities in pay and status are among factors causing them to abandon their careers in disproportionately high numbers.<sup>42</sup> However, recent data published in *The Bar Barometer*<sup>43</sup> reports that the proportion of BME barristers after five years call is lower than after 15 years call – 7.7% compared 8.8% - suggesting better rates of retention. For female barristers high entry levels of female bar have not translated into better gender diversity at senior levels – post 12 years. The report stresses that this is strongly correlated with other factors such as accessibility of childcare.
- A.1.9 As the approved regulators begin to collect and publish more comprehensive information on diversity, we will be able to understand the diversity of other branches of the regulated legal professions, and consider all elements of diversity. Collectively the existing indicators point to little change in terms of the representativeness of the professions compared to the wider population, especially at senior levels.

**Figure 12. Missing indicators for measuring Outcome 1.**

Missing Indicators	Information Source	Date available
Diversity data on all Authorised Persons broken down by demographics and role within legal service organisations	Approved Regulators	April 2013
Summary Solicitor diversity information for 2011/12	Trends in the Solicitors Profession, TLS	July 2012
Diversity statistics for the population of England and Wales 2010/11	ONS	July 2012

**Outcome 2. Quality of legal service is improved overall compared to 2009**

*Based on available information, consumers report high levels of satisfaction with legal services provided, suggesting constant levels of quality. There are falling levels of complaints for barristers, legal executives, and licensed conveyancers suggesting improved levels of quality. However, the number of complaints for solicitors has risen, and where we have data the seriousness of service failures appears to be increasing. This points to falling levels of quality. It is unknown at this stage to what extent this is a result of changes to complaints procedures or wider changes in consumer propensity to complain.*

- A.2.1 Research shows that individual consumers measure quality in terms of service, because of a lack of knowledge to be able to judge quality of advice.<sup>44</sup> In the same research, consumers highlighted six areas they saw as a priority for solicitors, four of which related to service standards. Given that the quality of legal service can be judged along several dimensions, it is very difficult to directly monitor the actual level of quality within the market. In the absence of data on actual quality of legal service, we consider quality from two perspectives where we do have information – consumer levels of satisfaction and trends in the volume and nature of complaints.

**Knowledge Gap 3 – Quality of legal services provided**

- A.2.2 A measure of how satisfied a consumer is with a legal service is whether or not they would recommend the service to someone else. Research demonstrates that the “*most common way of hearing about a provider was word of mouth or recommendation by family or friends, which was mentioned by 29% of users. A further 3% heard about their provider through knowing someone who worked there. The second most common way of knowing a provider was because the user or their family had used it in the past (23%). Collectively, these personal contacts and recommendations explain how 56% of users heard about their provider*”.<sup>45</sup> Similar research in 2009 found this level to be 53%, but 42% in a 2011 survey.
- A.2.3 For solicitors, research shows that individual consumers have very high levels of satisfaction with the service they received. A survey in 2008 found that 65% of consumers were satisfied with their service, 19% said they were dissatisfied.<sup>46</sup> Further surveys in 2009 found that 93% of consumers of conveyancing services and 82% of BME consumers of solicitor legal services were satisfied with their service.<sup>47</sup>

A.2.4 A range of different surveys of individual consumers of legal services provided by all types of legal service provider show repeated high levels of satisfaction in terms of service and outcome, summarised in Figure 13 below. These might be interpreted as showing a fall in the proportion of consumers satisfied with the outcome of legal advice, but do not strictly allow a like for like comparison because of different measures of satisfaction used in different surveys. We do not have robust data to measure trends in satisfaction over time, although the annual LSCP tracker survey will provide this information in the future.

**Figure 13. High levels of satisfaction with service highlighted in a range of separate surveys.**

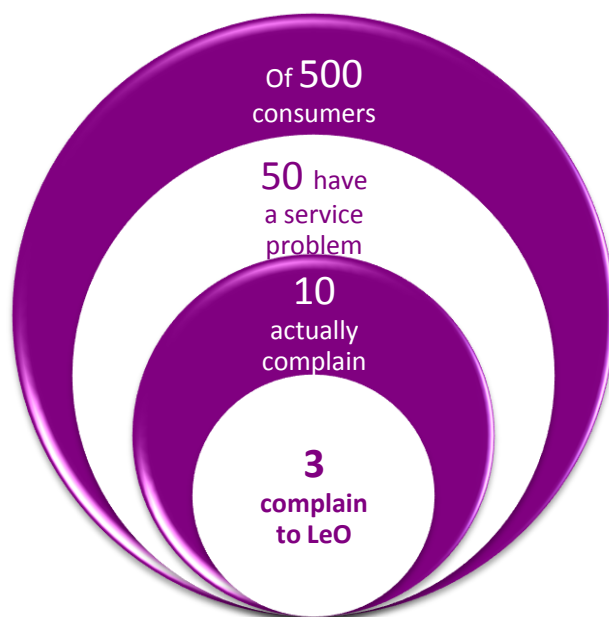
	Very Satisfied/Quite Satisfied/ Satisfied
Satisfaction with legal advice received - 2009 Individual consumers of legal services in past 5 years	76%
Satisfaction with service received- 2011 Individual consumers of legal services in past 2 years	72%
Satisfaction with outcome of legal advice - 2010 Individual consumers of legal services in past 3 years	93%
Satisfaction with outcome of legal advice - 2011 Individual consumers of legal services in past 2 years	71%

#### Knowledge Gap 4 – Levels of satisfaction with legal services overtime

A.2.5 Where quality falls below a certain threshold, this may result in consumer action for which data is generally available.<sup>48</sup> Therefore, we utilise complaint volumes as another way of measuring the levels of quality of legal services. Consumer complaints are a key indicator of markets failing to deliver against consumers' expectations.<sup>49</sup> We look at both service and technical aspects of poor quality as measured through different categories of complaints. We have no information for business consumers of legal services either in terms of satisfaction nor with regard to the levels of complaints; although since it began operating in October 2010 Legal Ombudsman has considered complaints from small businesses and charities

A.2.6 Levels of complaints across the sector are difficult to compare over 2010-2011. This is because of the establishment of a new complaints process in mid October 2010, and responsibility for service complaints moving to the Legal Ombudsman, and conduct complaints remaining with the ARs. The potential impacts of the new complaints procedures on consumer propensity to complain is unknown at this point, but is likely to become clearer over time. Therefore, at present we focus on trends in the preceding five years where data covers both service and conduct complaints made to approved regulators.

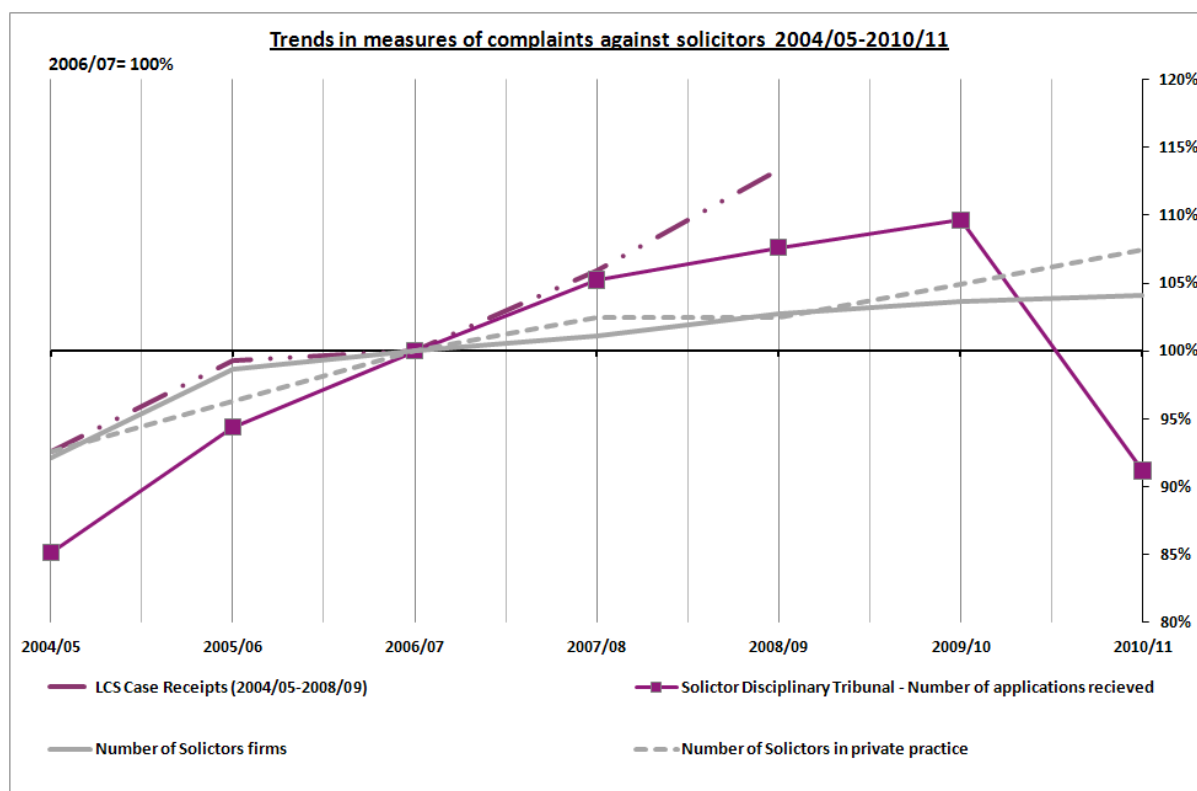
A.2.7 Research reported that 10% of individual consumers had a problem or issue with their legal service that they were unhappy about, but only 2% of individual consumers actually complained.<sup>50</sup> Other research suggests that 28% of first tier complaints convert into complaints to Legal Ombudsman.<sup>51</sup> This conversion rate is illustrated below for a hypothetical group of 500 individual consumers. How this changes over time is a key indicator for future assessments.



**Figure 14. Service complaints reported to the Legal Ombudsman are only a fraction of consumer issues with service.**

#### Knowledge Gap 5 – Trends in service complaints for each profession at both first and second tier

- A.2.8 Looking back over the 2006/07-2010/11 period for solicitors, there are four different aspects to complaints which we consider in turn below. The percentage change in the number of solicitors is included to enable a limited comparison against other factors. If complaints were growing at a similar rate as the number of solicitors it would be reasonable to conclude that some element of the growth in complaints was driven by the growth in supply, on the assumption of a constant ratio of complaints. However, generally measures of complaints for solicitors appear to be increasing by a greater proportion than the increase in number of solicitors in private practice, or the increase in solicitors firms.
- A.2.9 Prior to the establishment of Legal Ombudsman, the Legal Complaints Service (LCS) dealt with second tier complaints of service and conduct only with regard to solicitors. This was receiving a growing number of complaints<sup>52</sup> year on year, shown in Figure 15 below. This year on year increase was highlighted as a concern by the Legal Services Complaints Commissioner.<sup>53</sup> However, in the last six months of 2010/11 Legal Ombudsman opened 3,769 cases<sup>54</sup> about legal services provided by all authorised persons – lower than might be expected. In comparison, the LCS received a total of 20,902 cases in 2008/09, just in relation to solicitors, though this may reflect a less stringent approach to handling first tier complaints. The number of complaints about solicitors received by Legal Ombudsman is a key statistic to monitor over time.

**Figure 15. Trends in complaints made against solicitors.**

A.2.10 For the 2008/09-2010/11 period, the SRA has published statistics on the allegations received against different compliance risks. There were a total of 10,320 allegations in 2010/11 – an average of one allegation for each solicitors firm or one allegation for every 8.4 solicitors in private practice. These have all have increased between the 2009-2011 period<sup>55</sup>, with a spike in 2009/10. The most notable increase is with regard to financial compliance risks, which cover areas including costs and fees, fraud, dishonesty and money laundering, despite largely static numbers of SRA firms over the same period. This is shown in Figure 16 below. This can be contrasted with Figure 15, which shows a sharp fall in the number of applications received by the Solicitors Disciplinary Tribunal (SDT) between 2009/10 and 2010/11, but the volume of applications remains very low. This tribunal, which adjudicates upon alleged breaches of the rules and regulations applicable to solicitors and solicitors firms, received just 227 applications in 2010/11.

**Figure 16. Growth in SRA entity allegations of financial compliance risk.**

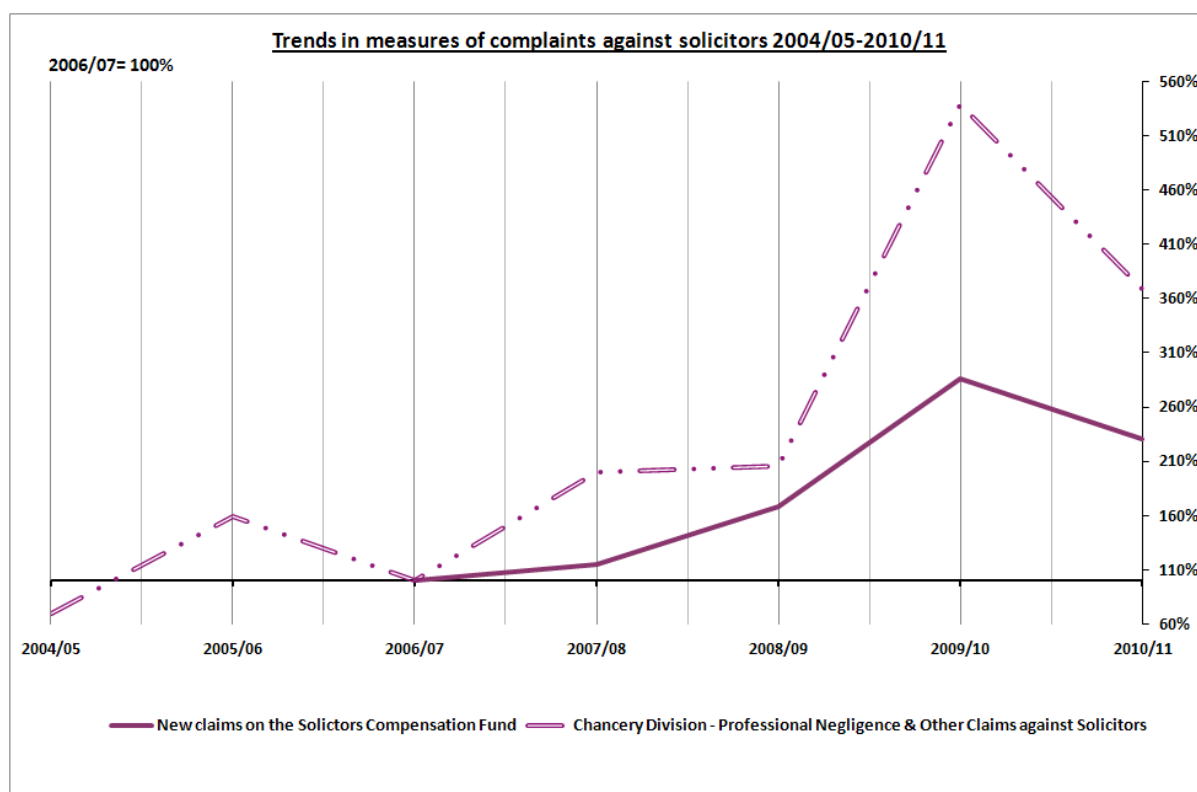
Allegations received by compliance risk - SRA	2008/09	2009/10	2010/11
Efficiency, management and administrative competence	100%	129%	109%
Financial	100%	129%	122%
Legal competence	100%	129%	101%
Number of solicitors as a % of 08/09 levels	100%	101%	101%

A.2.11 A feature of the regulatory protection afforded to consumers of solicitor services is access to the Solicitors Compensation Fund for people who have suffered financial loss due to a solicitor's dishonesty or failure to account for monies received. A total of 3,694 claims were made in 2010/11. SRA data shows that the level of claims is increasing over



the 2006/07 to 2010/11 period. Further, there has been an exponential growth in proportion of professional negligence claims against solicitors, though the actual numbers remain low with just 144 claims in 2010/11. Taken together these indicate that the seriousness of the service failures appears to be increasing. To what extent these increases are driven by ‘shocks’ such as the high level of claims and negligence proceedings arising from the miners compensation scheme<sup>56</sup> is unclear. If this is a one off ‘shock’ we would expect these levels to fall over the coming years, as they have started to do between 2009/10-2010/11.

**Figure 17. Exponential growth in more serious complaints against solicitors.**



A.2.12 For licensed conveyancers, complaints<sup>57</sup> have fallen over time by a larger proportion than the fall in total numbers of conveyancers. For legal executives, there have been small fluctuations in the level of conduct complaints.<sup>58</sup> There is no comparable published data for other Authorised Persons, aside from barristers.

**Figure 18. Large fall in level of complaints received against licensed conveyancers.**

	2006/07	2007/08	2008/09	2009/10	2010/11
Complaints Received	228	277	177	130	153
As a % of 06/07 levels	100%	121%	78%	57%	67%
Number of conveyancers as a % of 06/07 levels	100%	100%	93%	96%	99%

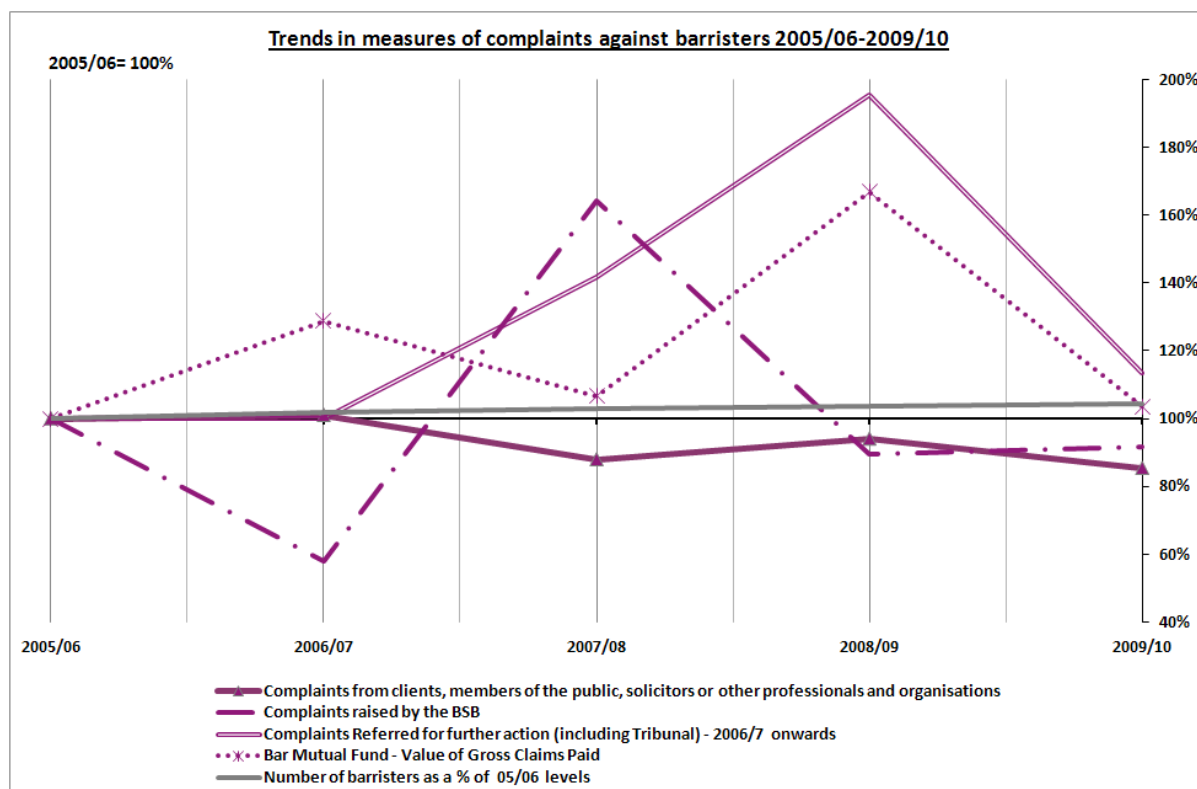
**Figure 19. Small fluctuations in complaints received against legal executives.**

	2006/07	2007/08	2008/09	2009/10	2010/11
Conduct complaints received	30	29	26	18	41
As a % of 06/07 levels	100%	97%	87%	60%	137%



A.2.13 With regard to barristers, the BSB has dealt with a falling number of total complaints<sup>59</sup> over time – 682 in 2009/10 compared to 784 in 2005/06. However, there have been fluctuations in the proportion of complaints referred for further action, such as a tribunal hearing, which are assumed to be the more serious complaints. There have also been large fluctuations in the value of claims paid out of the Bar Mutual Fund.<sup>60</sup> This is shown in Figure 20 below.

**Figure 20. Fall in level of complaints received against barristers, but increases in the number referred for further action since 2006/07.**

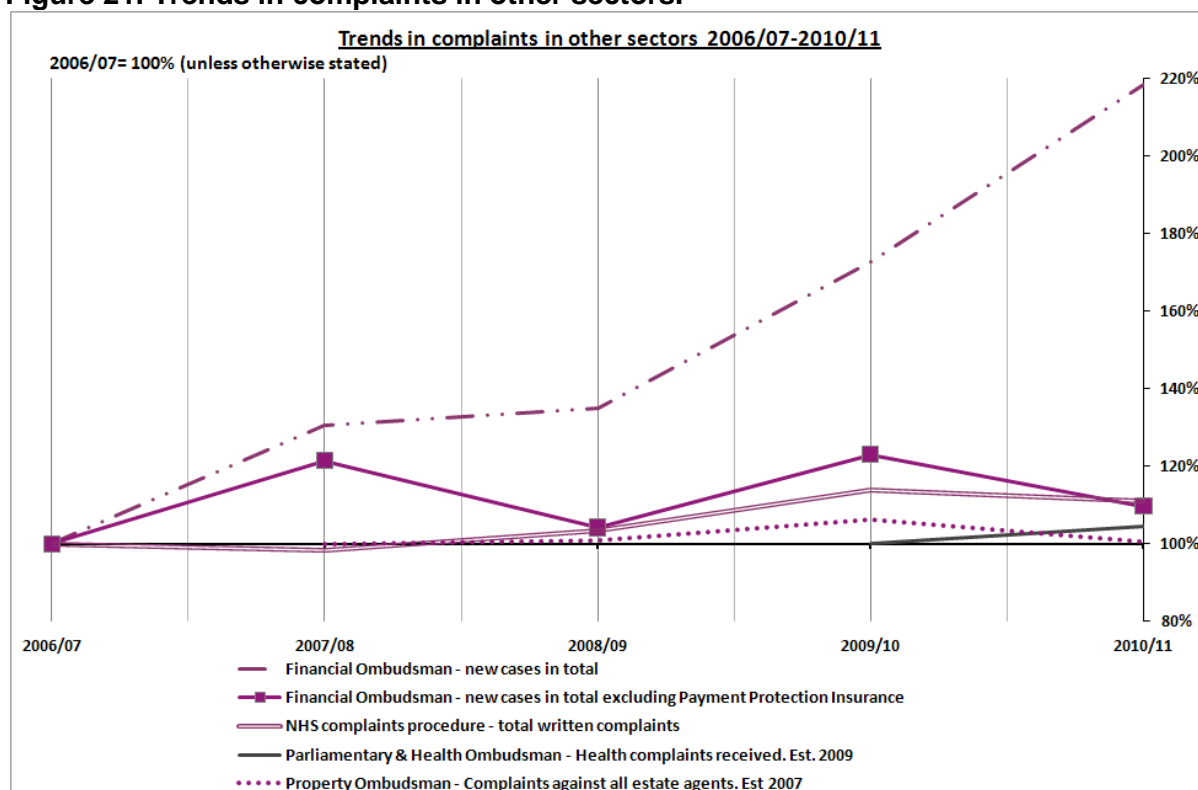


A.2.14 It is unknown what proportion of the changes in complaints against Authorised Persons is driven by greater consumer awareness of complaints procedures (see B.6 below), and a more general change in propensity to complain across society. Over the 2006/07-2010/11 period, there have been increases in levels of complaints in financial services and health, as shown in Figure 21 below. Research<sup>61</sup> conducted by the European Union shows a 9% increase in British consumers making a complaint to any seller or service provider between 2006 and 2009. These point to the possibility of a general increase in consumer propensity to complain.

A.2.15 In summary, it is difficult to conclude with any confidence that the quality of legal services has improved over the 2008/09-2010/11 period. While consumers report high levels of satisfaction with legal services provided, and records show falling levels of complaints for barristers, legal executives, and licensed conveyancers suggesting improved levels of quality, there is a mixed picture for solicitors. The number of complaints for solicitors rose at a greater rate than the proportional increase in numbers of solicitors between 2004/05-2008/09, and where we have data the seriousness of service failures appears to

be increasing. This points to falling levels of quality. Rising complaint volumes against a background of falling demand (see Section 3) also points to a falling level of quality. The impact of changes to complaints procedures or wider changes in consumer propensity to complain is unknown. Future information on the volume and nature of complaints received by Legal Ombudsman will play a key part in understanding whether quality is changing.

**Figure 21. Trends in complaints in other sectors.**



**Figure 22. Missing indicators for measuring Outcome 2.**

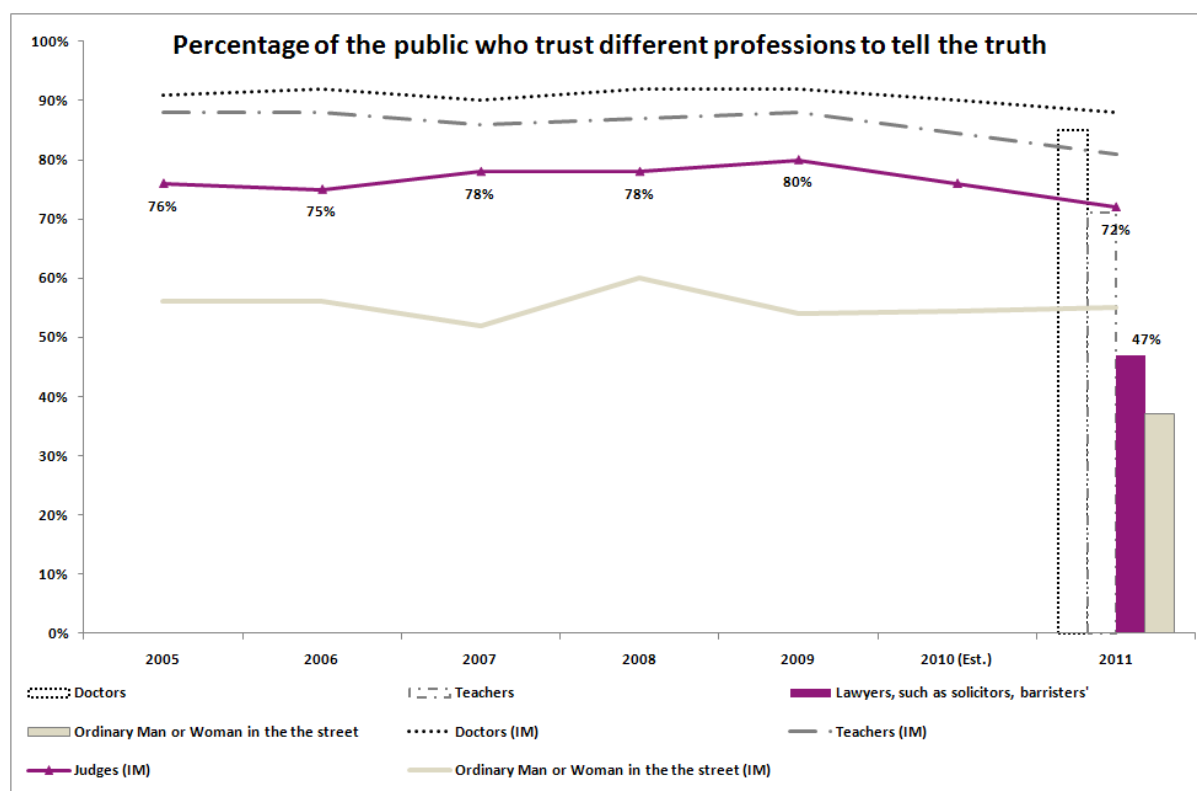
Missing Indicators	Information Source	Date available
Levels of consumer satisfaction with different types of legal service providers	LSB Consumer Survey - BDRC	July 2012
Trends in levels of consumer satisfaction	LSCP Tracker Survey	July 2012
Changes in volumes of regulatory actions undertaken by all the Approved Regulators, including COLP self reporting, and LSB list of people disqualified from being ABS owners	Approved Regulators, LSB	April 2013
Analysis of Second tier complaints data between 2010-2012	Legal Ombudsman	July 2012
Analysis and Publication of First Tier Complaints data between 2010 -2012	Approved Regulators	April 2013

### Outcome 3. The profession, judiciary and public maintain confidence in the independence and reputation of the legal sector

Available information shows falling public trust in professionals generally, including the judiciary. Other sources of information point to no major changes in the perception of independence of regulation, though there is highly limited corroborating evidence at this stage.

- A.3.1 Aside from levels of complaints and disciplinary actions, set out in A.2. above, confidence in the independence and reputation of the profession can be measured through the activities of the representative arms over time, as well as consumer perceptions of the judiciary, and the profession itself.
- A.3.2 Looking at perceptions of the profession, the general public have mixed levels of confidence in the trustworthiness of the legal sector. LSCP research shows that 47% of the public trusted solicitors to tell the truth in 2011, compared to 85% for Doctors and 37% for the ordinary man or woman in the street. An annual Ipsos Mori (IM) survey<sup>62</sup> shows falling levels of trusts in other professions, but continued high levels of trust in the judiciary. This is shown in Figure 23 below.

**Figure 23. Falling levels of trust in the professions generally, but around half the public trust lawyers to tell the truth.**



- A.3.3 The general public's very high levels of trust in judiciary contrasts with over half of people experiencing a legal issue saying that judges are out of touch with ordinary people<sup>63</sup>, even where they had experienced a legal problem but had not been to court.

A.3.4 Of equal concern are incidences where consumers do not engage with legal services at all, as a result of lack of trust in lawyers. A survey by the LSB in 2009<sup>64</sup> found that 3% of private consumers surveyed had experienced a legal problem but had not sought legal advice because of a bad experience in the past, or a lack of trust in lawyers. This is a key statistic to track going forward.

**Figure 24. Only 3 out of 5 people experiencing a legal issue are confident of getting a fair hearing.**

	Not been to court	Been to court
Confident of getting a fair hearing in Court	60%	49%
Courts are an important way to enforce rights	74%	72%
Most Judges are out of touch with ordinary people	55%	59%

A.3.5 We currently have limited information on Authorised Persons' views of the independence of the approved regulators. The first of a planned biennial survey of barristers by the BSB, reported that 38% of respondents agreed with the statement that the BSB is an effective regulator of the barrister profession, but more barristers in self-employed practice held negative views of the BSB.<sup>65</sup> However, to what extent 'effective' relates to perceived independence is open to question.

A.3.6 The Law Society undertook a survey of 1,000 solicitors' firms views on the SRA in 2009 and again in 2011. This reports that across a range of measures, respondents felt the SRA had improved its performance. This is shown in Figure 25 below, with the size of the differences reported to be small but statistically significant. As with other research, while it is reasonable to suggest that these measures do touch on the concept of independence to what extent they capture all aspects is also open to question.<sup>66</sup>

**Figure 25. Solicitors' views of SRA performance.**

Performance area	Mean score (1-10)		
	2009	2011	Difference
Setting standards of behaviour	6.10	6.34	0.24
Securing the right degree of protection for the consumer	5.96	6.29	0.33
Upholding the rule of law	5.99	6.27	0.28
Promoting and securing standards of behaviour	5.81	6.10	0.29

A.3.7 Future evaluation will include an analysis of approved regulator and representative arm activity that acts as a proxy indicator for independence, such as the number of responses to government consultations. This will rely on published information since we are considering this for the wider public's perspective, as well as the members of the profession, making transparency key.

A.3.8 Reviewing the available sources of information points to no major changes in the perception of independence of regulation, though there is highly limited corroborating evidence at this stage.

**Figure 26. Missing indicators for measuring Outcome 3.**

Missing Indicators	Information Source	Date available
Trends in trust in the legal profession	LSCP Tracker Survey	July 2012
Consumers handling legal problems alone as a result of a lack of trust in lawyers	LSB Consumer Survey - BDRC	July 2012
Number of responses to government consultations from approved regulators and representative arms	LSB review of approved regulator websites	July 2012
Understanding of professions view of the independence of regulation	LSB research to benchmark professional principles	April 2013

#### **Outcome 4. Education and training of the legal workforce supports the delivery of high quality legal services**

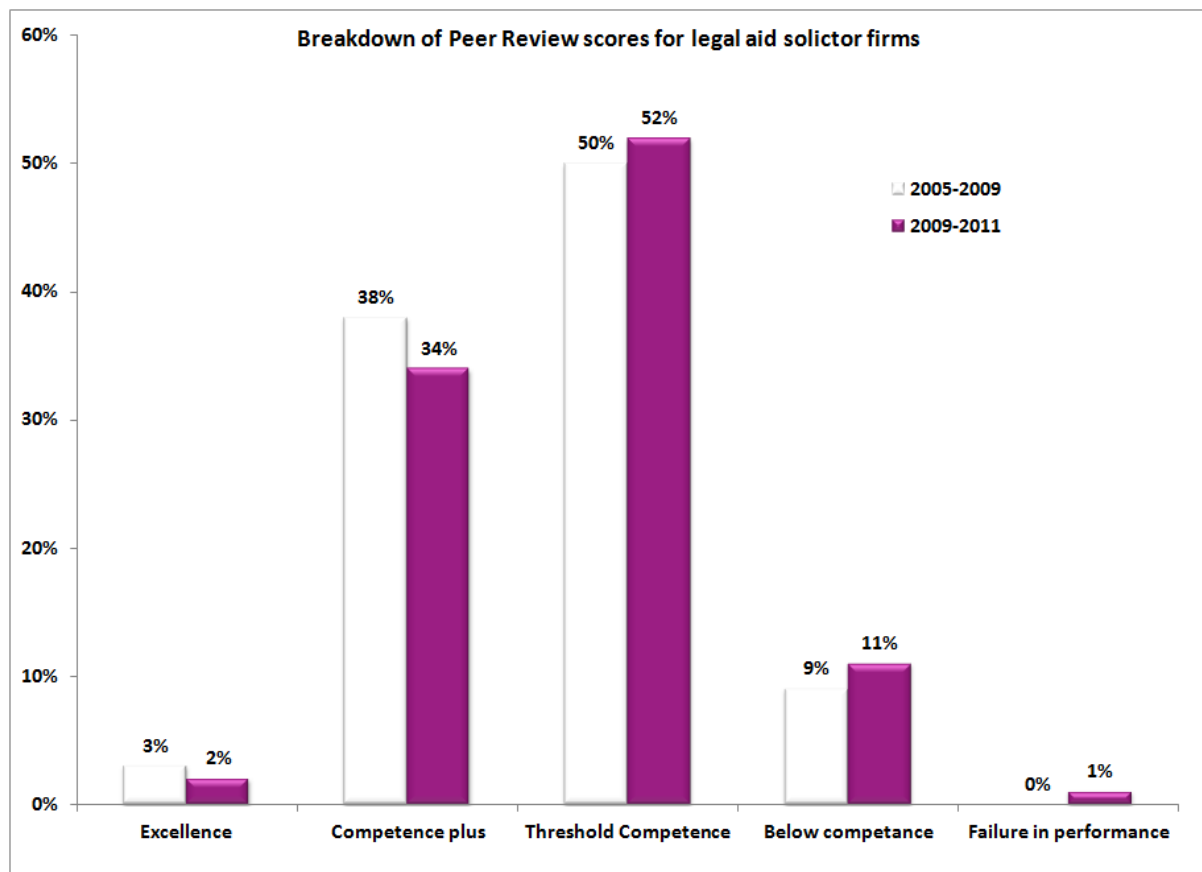
*Very limited information suggests no major changes in level of quality of advice provided over time.*

- A.4.1 This outcome is specifically concerned with the quality of legal advice delivered by the legal workforce. Trends in service and conduct complaints are set out at A.2 above, which act as a proxy measure for changes in service quality. Future analysis of complaints received by Legal Ombudsman will enable a greater understanding of how these relate to quality of advice or issues with costs and services.
- A.4.2 For the 31% of all solicitor firms that undertake legal aid, Legal Services Commission (LSC) Peer Review results show the quality of advice ratings falling slightly over time. During the 2008/09-2010/11 period, 11% of peer reviews were graded as below competence or failure in performance, compared to 9% in the previous period. This is shown in Figure 27 below. The absence of quality assurance for advocacy was highlighted in Lord Carter's Review of Legal Aid Procurement in 2006. This provided the impetus for the development of the Quality Assurance Scheme for Advocates<sup>67</sup>.
- A.4.3 The SRA, BSB, and IPS began a review of legal education and training in February 2011.<sup>68</sup> This review is due to report in December 2012. In advance of the findings of this review, the qualifications required to join one of the legal professions have not changed over the 2009-2011 period.
- A.4.4 Another aspect of quality of advice are voluntary quality schemes that require members to demonstrate specialism in particular areas and to undertake a specific level of professional training. This is in addition to standard continuing professional development requirements. Research by the LSCP<sup>69</sup> shows relatively low levels of membership of accreditation schemes for solicitors, legal executives, and barristers as set out in Figure 28 below. High level of coverage in Law Society Accreditation schemes for Criminal Litigation, and Immigration and Asylum are expected to be linked to the legal aid

requirements in these areas. How the levels of membership changes over time will be a key indicator for future evaluations.

A.4.5 The robustness of some of these schemes from a regulatory perspective is challenged by the findings of the LSCP work. They report, “*Many perform well in relation to entry requirements, reaccreditation and having systems in place to deal with poor practice. There was less success in other areas. Most notably, there are few practical checks on technical competence, little lay input in the design and operation of schemes and minimal collection and use of consumer feedback. Moreover, schemes are not validated and so offer no proof that they are delivering on their quality claims: that members are specialists offering added value beyond the minimum requirements of regulators*”. This may mean these schemes change significantly overtime to better meet the needs of consumers.

**Figure 27. Large proportion of legal aid solicitor firms providing threshold competent advice.**



**Figure 28. Relatively low levels of membership of additional quality assurance schemes.**

Voluntary Quality Schemes in Legal Services	Estimated Coverage
Association of Personal Injury Lawyers accreditation	9%
Action Against Medical Accidents Specialist Panel member	6%
Barristers - Queens Counsel	6%
Resolution accreditation specialist	11%
Society of Trust & Estate Practitioners- Full members	13%
The Law Society Accreditation schemes:	
Children	36%
Clinical Negligence	11%
Conveyancing Quality Scheme	9%
Criminal Litigation	51%
Family Law/Family Law Advanced	17%
Immigration & Asylum	46%
Mental Health	22%
Personal Injury	7%

A.4.6 Further evaluations will be able to utilise information coming from the QASA, once this is fully rolled out<sup>70</sup>, and the findings from the LSB's *Approaches to Quality* consultation paper<sup>71</sup>.

**Figure 29. Missing indicators for measuring Outcome 4.**

Missing Indicators	Information Source	Date available
Comparison of academic literature and legal education curriculum/CPD requirements	Review of approved regulators website	July 2012
Analysis of Second tier complaints about quality data between 2010-2012	Legal Ombudsman	July 2012
Quality Assurance Scheme for Advocates scheme analysis of 12 months of applications and assessments	SRA, BSB, IPS	One year after implementation
Findings of the Review of Education and Training	SRA, BSB, IPS	December 2012



## B. The consumer

### Outcome 5. A higher proportion of the public are able to access justice

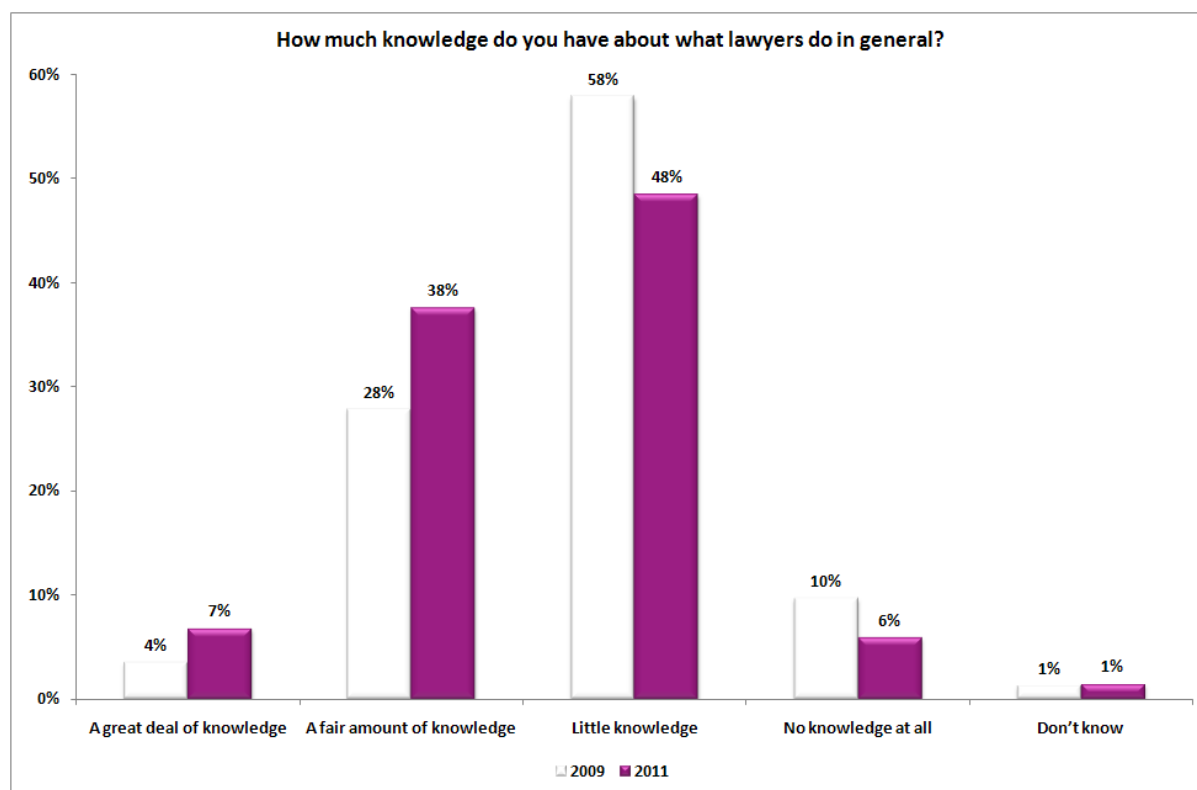
*Available evidence suggests constant levels of access to justice at best, but a growing proportion of consumers are applying for probate and trademarks without the use of lawyers. Perceptions of legal services as unaffordable and as representing poor value for money remain high.*

- B.5.1 The LSB defines access to justice as “the acting out of the rule of law in particular or individual circumstances. The tools to achieve that outcome range from informing the public about their rights, through routine transactional legal services and personalised advice, through to action before tribunals and courts”.<sup>72</sup> This covers services delivered through any channel such as face-to-face, telephone or internet, and services both individually tailored and those tailored to groups or provided to potential consumers. We define access not only in terms of authorised persons but include access provided by the wider legal services industry, related professions and related advice bodies in the public, commercial and not-for-profit sectors.
- B.5.2 The key is that consumers should be empowered to access services in any way that suits them, confident that providers will meet their needs and preferences because justice is not served when people are disenfranchised from their rights by a system that they find incomprehensible, inaccessible or unaffordable. Empowerment can mean taking action themselves without recourse to legal services, as well as having the ability to utilise legal services if they so choose. However, for the purpose of this interim baseline report our main focus is on indicators of access to legal services.
- B.5.3 As set out in Section 3, the regulatory community as a whole does not have data on the volume of cases undertaken by those they regulate, meaning we cannot simply track the number of consumers of legal services year on year against drivers of problem incidence. Therefore we need to rely on proxy indicators. Because of data availability, these relate mainly to private consumers of legal services.
- B.5.4 If consumers do not understand what services are offered, they are unlikely to recognise they have a need that can be addressed through accessing this service. Among the public there is a low level of knowledge of what lawyers do, but this appears to be increasing over time, as shown in Figure 30. However, the proportion of people accessing advice from a wide range of sources, not just lawyers, has fallen slightly.
- B.5.5 The Civil and Social Justice Survey<sup>73</sup> shows the proportion of people experiencing a legal problem, making the decision to do something about it but not being able to get advice, has been largely constant over the past 5 years, at around 7-8%. This is shown in Figure 31. In the 2010 survey, 10% of people did nothing. People handled problems entirely on their own in 46% of occasions. People obtained formal advice in 29% of occasions. However, the 2010 findings are not directly comparable with previous surveys, as it included problems that were not difficult to solve. Further, the focus of this survey is on the social legal problems, as opposed to retail legal issues such as conveyancing. Research undertaken for the EU<sup>74</sup> found that the most significant Alternative Dispute Resolution mechanisms in the UK are the consumer ombudsmen,



the largest scheme being the Financial Ombudsman Service, but there is no published data on whether or not complainants or respondents seek any legal advice in these circumstances.

**Figure 30. Increasing public knowledge of what lawyers do.**



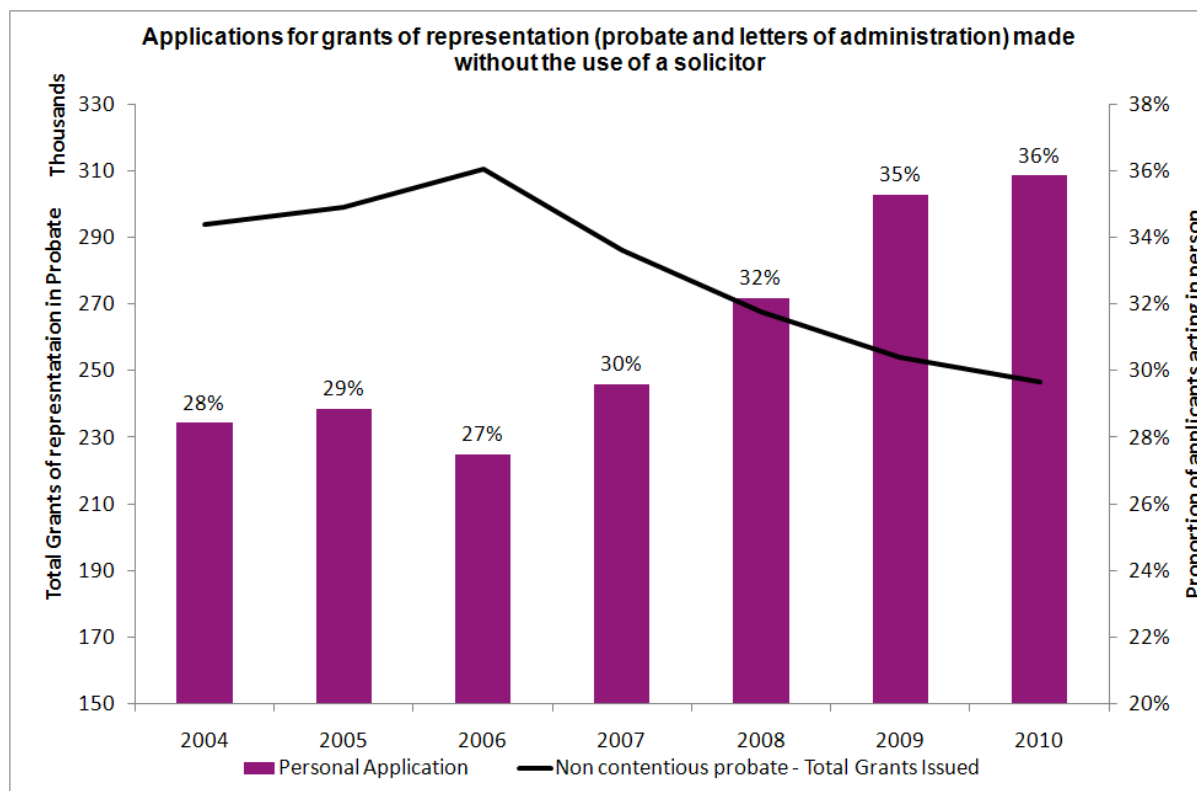
**Figure 31. Small decreases in people obtaining advice when they experience a problem.**

	2004	2006-9
Did nothing	11%	9%
Handled alone	31%	34%
Obtained advice	52%	49%
Tried and failed to obtain advice	2%	2%
Tried, failed and handled alone	5%	6%

B.5.6 Where we do have data on type of representation it shows that growing numbers of all types of consumer are not using lawyers' services for probate, and trademark applications, but are for employment tribunals. Taking probate as an example, Figure 32 plots the trend in volumes of probate and letters of administration applications, and levels made without the use of a solicitor. This shows that over one in three applications for grants of representation were made by individuals in 2009, rising from 28% of all non-contentious applications in 2004 to 36% in 2010. At the same time, the total volume of non-contentious probate applications fell from 294k to 246k, while the number of contentious probate applications remained largely constant at around 0.05% of all

probate applications.<sup>75</sup> A survey of people who had gone through the probate process in the past 3 years found that only 54% used professional probate services at some stage of the process. Of these 86% went to solicitors, and 10% to financial advisors, banks, accountants and trust corporations.<sup>76</sup>

**Figure 32. Shift away from use of solicitors in probate applications.**



B.5.7 However not using lawyers could be driven by simplification of the process for probate and trademark applications, as much as other factors such as affordability, perceived value for money etc. However, a range of research between 2007/08-2010/11 has repeatedly reported a general perception that legal services are expensive and unaffordable, from both private individual and small business consumers.<sup>77</sup> An assessment of what available price indicators suggest about changes in prices is set out in D.2 below. We recognise this provides only a partial picture of prices, but it does suggest increases in rates charged. Combined with a reduction in consumer wealth driven by CPI inflation, these perceptions could be driving lower levels of access. A survey in 2009<sup>78</sup> found that one in five consumers did not seek advice even though they thought legal advice would have been beneficial. For 54% of these consumers this was because they believed it would be too expensive. Investigations into whether probate administration should be regulated looked at why people consider but turn down a provider type for writing wills. A recent survey showed that the most common reason participants using a will-writing company gave for their choice was value for money. Of participants that considered but decided against using a solicitor, 61% gave a solicitor being too expensive as a reason, compared to 40% that considered but rejected a will-writing company.<sup>79</sup> How these perceptions develop over time is a key indicator of change.

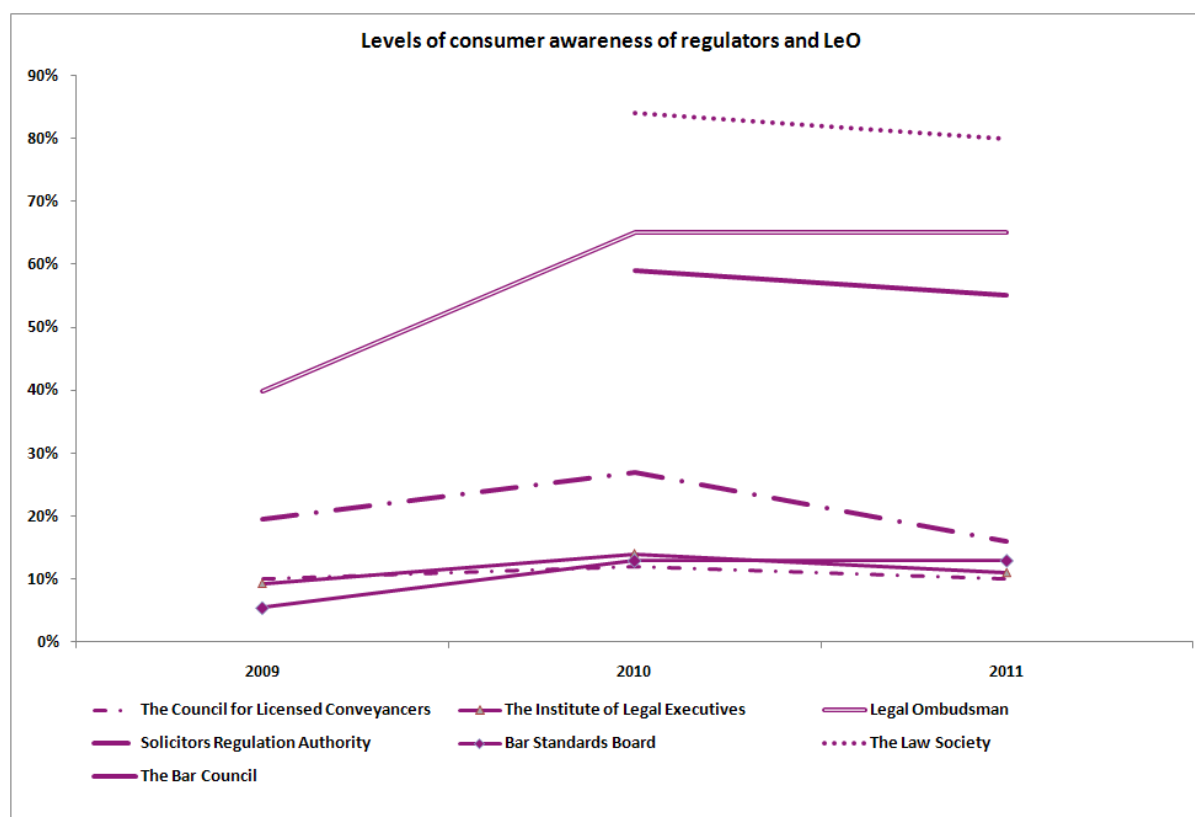
**Figure 33. Missing indicators for measuring Outcome 5.**

Missing Indicators	Information Source	Date available
Assessment of consumers' response to transactional legal problems	LSB Consumer Survey - BDRC	July 2012
Changes in the proportion of people with a complaint that don't take it further – FTCH and STCH data	ARs, LeO	July 2013
Availability of ADR schemes across legal sector	LSCP research, LSB analysis	May 2012
Survey of solicitor firms to benchmark use of different methods of delivery	High Street Survey, MoJ, TLS, LSB	September 2012

### Outcome 6. Consumers have confidence in the regulation of legal services

*Consumers awareness of regulatory bodies has grown over the past three years, but only half of consumers have confidence that their rights are protected and in their ability to complain.*

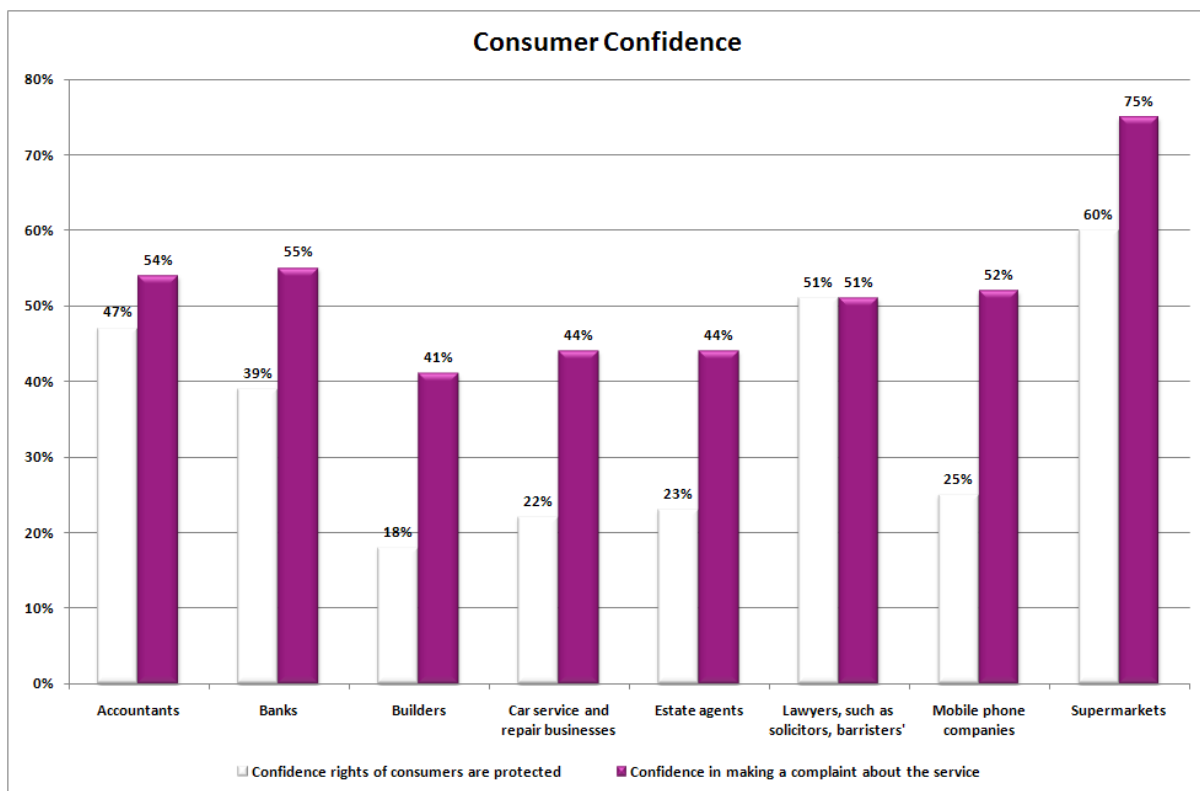
- B.6.1 The public's level of trust in lawyers is around 47% (see A.3), but 3% of the public who experienced a legal problem reported that they did not seek legal advice because they did not trust lawyers.

**Figure 34. The Law Society is the most well known of the regulatory community.**

B.6.2 There are high levels of consumer awareness of TLS, the SRA and Legal Ombudsman, shown below. While the levels of awareness are generally increasing over time, research suggests that consumers wrongly believe all legal services to be regulated.<sup>80</sup> Other research has reported on a general assumption among individual consumers that nearly all solicitors were ‘competent’ was based on the common standard for qualifying, and respect for the ‘professions’, rather than any knowledge of active regulation.<sup>81</sup>

B.6.3 Surveys show that 51% of private consumers are relatively confident in the protection of their rights when dealing with lawyers, and in their ability to complain if something goes wrong. This is as good as all other professions surveyed, but far short of the levels achieved in relation to supermarkets.

**Figure 35. Consumer confidence that rights are protected and they can complain.**



B.6.4 The process that most private consumers go through in purchasing legal services is analysed in B.7 below. This suggests that because consumers are over confident in regulation – they assume all legal services are regulated – services recommended by a friend of the family is most often chosen. For large business and government consumers of legal services, the development of panels of providers, with entry-level quality standards could be interpreted as an indicator of lower levels of confidence in the ability of regulation to ensure the quality of services. Recent press coverage suggests these types of panels are on the increase.<sup>82</sup> To what extent these panels are used to ensure quality of service, as opposed to trying to achieve economies of scale, is unclear. Consumer confidence in regulators will be a key measure to track over time.

B.6.5 Consumer engagement by the regulators remains low. The LSCP report that the SRA was the only one to publish any consumer research. As the Regulatory Information

Review shows, only the SRA, TLS, and BSB have undertaken and published any research into consumers over the past five years. Engagement with consumers is important if they are to have a level of confidence in regulation. As the LSCP state *“Effective engagement requires both expert input and direct dialogue with the public. This is not a choice between the two: experts cannot second-guess how consumers think and behave in the real world, while the public will struggle to analyse critically detailed regulatory issues through a consumer interest lens”*.<sup>83</sup>

**Figure 36. Missing indicators for measuring Outcome 7.**

Missing Indicators	Information Source	Date available
Analysis of consumers levels of confidence	LSB Consumer survey – BDRC	May 2012
Value consumers place on regulation	LSB research - Opinion Leader	July 2012
Number of decisions overturned by approved regulators, including SDT activity and appeals against ABS applications	LSB Analysis	October 2012
Number of AR consultations with consumers	LSB Analysis	July 2012
Number of approved regulators who use consumer feedback to input into regulatory policy	LSB Analysis	July 2012
Legal services scandals and word association tracking over time	Media Scan	January 2013

## **Outcome 7. Consumers have confidence in the legal profession**

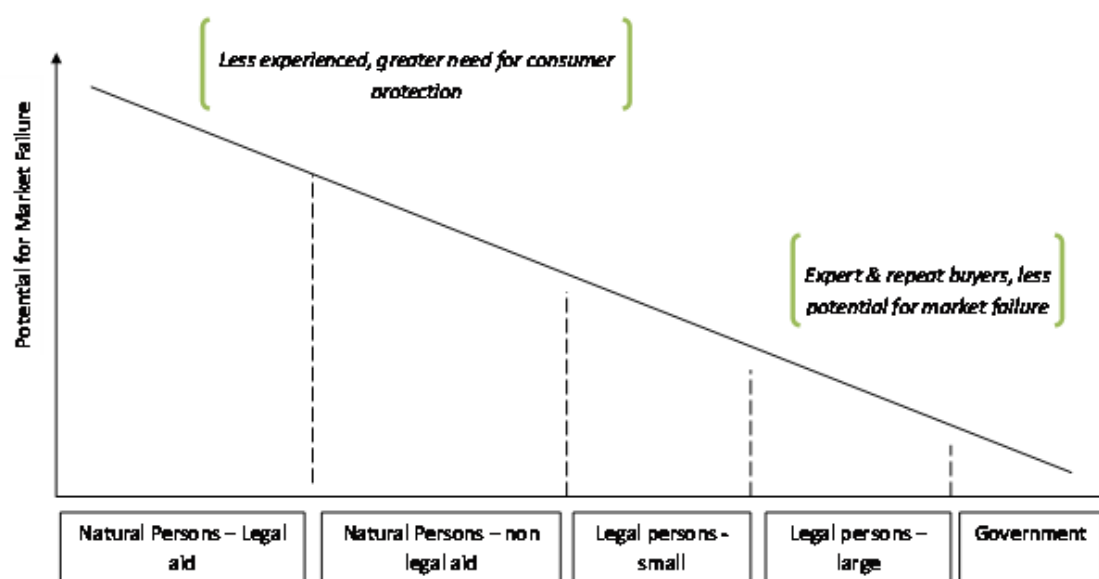
B.7.1 An analysis of confidence in the profession is set out in A.3. above.

## **Outcome 8. Consumers are confident and empowered in their dealings with legal services**

*Private and small business consumers have very low levels of empowerment in their purchase of legal services at present, in contrast to corporate consumers.*

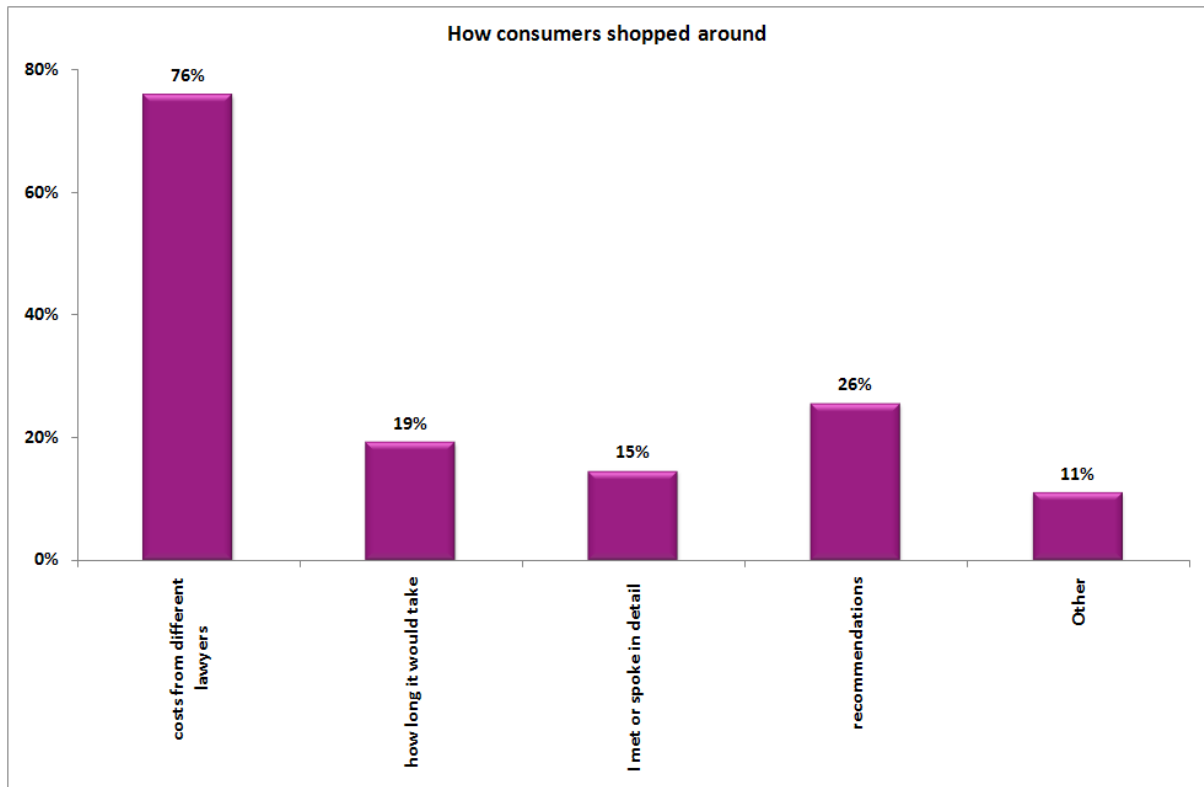
B.8.1 We assume that consumers’ frequency of use of legal services is key to understanding levels of confidence and empowerment and will monitor how these change over time. Consumers can be segmented on this basis, as set out in Figure 37 below.

B.8.2 Our assumption is that because the private consumer – the natural person - uses legal services less frequently than other groups, having greater search costs and switching costs, they are therefore less empowered at present. This is supported by research findings showing for private consumers *‘there was a poor understanding of what is involved in the provision of legal services, and the expertise required. This meant that participants found it difficult to make any valid comparison between two alternative services providers, as a) they did not know what skills/experience to look for in a legal services provider and b) they did not know how to go about finding out what their skills and experience were.*<sup>84</sup> This is further supported by the prevalence of personal recommendations in individual consumer’s choice of provider, set out in A.2 above.

**Figure 37. Consumers of legal services segmented by experience.**

- B.8.3 At the other end of the scale, larger businesses can be seen as expert buyers of legal services, with their own in-house solicitors and other legal professionals frequently involved in the procurement process and often using buying power to negotiate down prices.<sup>85</sup> This is supported by a range of reports that show them frequently negotiating down fees, and using alternatives to traditional legal services such as Legal Process Outsourcing (LPO).<sup>86</sup>
- B.8.4 Private consumer confidence in the legal profession and the protection of their rights is set out in A.3 and B.6 above. The LSCP Consumer Impact Report highlights the relatively low level of consumer empowerment when dealing with legal services with only 1 in 5 private consumers shopping around. Of these 76% did so on the basis of price, shown below. They point to a consumer survey which shows that only 1.4% of consumers used price comparison websites for the purchase of legal services. This compares to 43% of consumers saying they wanted to use them.<sup>87</sup> This should be contrasted with 56% of consumers using price comparison websites for car insurance, and 32% for household insurance.
- B.8.5 However the level of shopping around for some areas is clearly higher than in others. For example one piece of research reported that the level of private consumers shopping around in conveyancing was 48%.<sup>88</sup>
- B.8.6 Price information on legal services is highly limited (see D.12 below). Traditionally prices would be quoted by the hour and excluding the costs of additional services or disbursements, meaning overall costs would remain unknown. This means comparing prices is very difficult and time consuming. The general availability of price information is clearly an enabler for consumers to be empowered in their dealings with legal service providers.

**Figure 38. Only 1 in 5 individual consumers shopped around, and most of them did so on the basis of price.**



B.8.7 However, price is not the only consideration in buying legal services. Individual consumers make a decision based on a range of factors, including their own assessment of the problem they face, and the quality of service required. Research highlights that *‘professionals such as divorce advisors or will-writers or even banks providing a will-writing service were an acceptable choice in simple circumstances (e.g. an amicable divorce with no children or substantial assets, or a will in similar circumstances). However, at the merest hint of complexity or potential acrimony consumers wanted the reassurance of using a solicitor’*.<sup>89</sup> This is further demonstrated by the fact that when consumers did shop around price was one of many factors considered.

B.8.8 Recent research by the LSCP demonstrates the low level of awareness of voluntary quality mark schemes, with only 4.7% using them as part of the consumer buying process. These are largely identifiers of technical competence, most relevant for expert buyers of legal services or funders of public legal advice. How this changes over time will be affected by the potential for brand names to act as quality marks in terms of reputation and service.

B.8.9 In terms of monitoring changes in empowerment, our focus going forward is on private consumers of legal services.



**Figure 39. Missing indicators for measuring Outcome 8.**

Missing Indicators	Information Source	Date available
Trends in the number of consumers using price comparison websites	LSCP Research	April 2013
Availability of price information for legal services	LSB Research	April 2013
Consumer recognition and use of legal services specific quality marks	LSCP Research	April 2013
Brand recognition for legal services providers	Media Scans, private surveys	April 2013
Proportion of consumers using different service delivery channels	BDRC Research	July 2012

## C. The public

### Outcome 9. Wide confidence in the law and the legal profession

*The public's confidence in the profession should be enhanced by the growing awareness of complaints procedures, which improves consumer confidence in redress. In one significant area of legal services, confidence remains low - getting a fair trial.*

- C.9.1 As set out in A.3. above, surveys suggest that the wider public has high levels of trust in judiciary, and lower levels of trust in lawyers. This needs to be offset against the high levels of satisfaction for users of legal services, set out in A.2, and high levels of confidence in the quality of work of solicitors. This points to a high degree of confidence in the solicitor brand.
- C.9.2 However, there are falling levels of use of lawyers for probate and trademark applications, and less use of advisers generally. Perceptions that law works better for the rich have not changed over time, nor has the proportion of those with a legal problem who think they will get a fair trial.

**Figure 40. Missing indicators for measuring Outcome 9.**

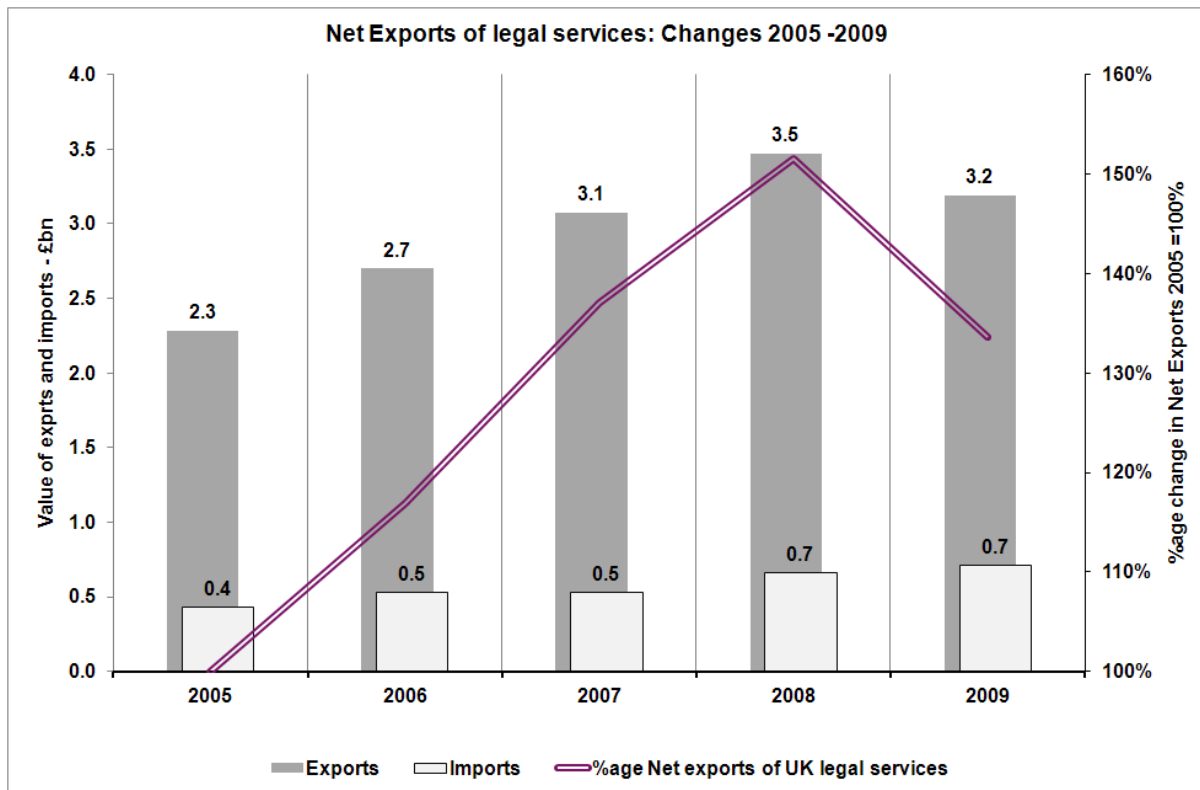
Missing Indicators	Information Source	Date available
Analysis of consumers levels of confidence	LSB Consumer survey - BDRC	July 2012
Diversity of profession, judiciary	Judicial Appointments Commission Diversity reports	July 2012
Media coverage of the profession	Media scans	October 2012

### Outcome 10. An efficient legal system delivering quality legal services at a reasonable cost

- C.10.1 The number of court cases is falling over time, but the number of days sat by judges is increasing – suggesting longer trials. We do not know to what extent the fall in court cases is driven by lower levels of problem incidence, or greater use of ADR channels. Recent data shows fall in the average length of time taken from proceedings being issued to resolution in the 2011 period.<sup>90</sup>
- C.10.2 The level of quality of legal services is discussed in A.2. As set out in D.12. below, we have very limited information on actual prices for legal services. Research looking at will-writing found a range of prices that varied between and across different types of law firm. One third of consumers who used a solicitor or a specialist will-writer paid over £150 for their will. Customers using specialist will-writers were more likely to pay £50 or under for their will (16%) than solicitors' customers (7%), while those who used solicitors were more likely to pay more than £50 but less than £150 (45%) than those who used specialist will-writers (37%).

C.10.3 One indicator of the perception of efficiency is the international demand for legal services provided by firms based in the UK. There has been a significant growth in net exports of legal services, according to the Office of National Statistics (ONS). This trend is shown in Figure 41 below, with even post recession figures being over 30% higher than in 2005. The largest percentage growth has come from Commercial Barristers Association members, with exports growing from £76m in 2008 to £84m in 2009 – an 11% increase.<sup>91</sup>

**Figure 41. Growing net exports of UK legal services.**



C.10.4 The MoJ reports<sup>92</sup> that more international and commercial arbitrations take place in London under English law than in any other city in the world and 90% of commercial cases handled by London law firms now involve an international party. Figures from the London Court of International Arbitration show that a growth in use by overseas parties, with 19% of parties coming from the UK in 2006 compared to 13% in 2009.<sup>93</sup> This is expected to grow following the building of a modern court centre in London for the Chancery Division of the High Court, the Admiralty and Commercial Court and the Technology and Construction Court, which opened at the end of 2011. Further reports<sup>94</sup> show rising volumes of different forms of commercial arbitrations over time.

C.10.5 Recent data from HMCTS shows small reductions in the length of criminal hearings between 2007/08-2009/10, and a drop in the number of weeks taken for Care proceedings cases.<sup>95</sup>

C.10.6 Data from the World Bank in 2011<sup>96</sup>, looking at a range of the efficiency of contract enforcement, puts the United Kingdom in eighth in terms of time taken and thirteenth in terms of costs when compared to 15 other economies. This assessment follows the

evolution of a sale of goods dispute, tracking the time, cost and number of procedures involved from the moment the plaintiff files the lawsuit until actual payment.

**Figure 42. UK ranked 8<sup>th</sup> for time taken but 13<sup>th</sup> for cost of enforcing contracts among 16 economies.**

Economy	Time (days)	Cost (% of claim)
Australia	395	21.8
Belgium	505	17.7
Canada	570	22.3
Denmark	410	23.3
France	331	17.4
Germany	394	14.4
Greece	819	14.4
Ireland	650	26.9
Italy	1,210	29.9
Netherlands	514	23.9
New Zealand	216	22.4
Norway	280	9.9
Switzerland	390	24
Turkey	420	27.9
United Kingdom	399	24.8
United States	300	14.4

**Figure 43. Missing indicators for measuring Outcome 10.**

Missing Indicators	Information Source	Date available
Analysis of prices paid by consumers	LSB Consumer survey - BDRC	May 2012
Expenditure on legal services per legal need met	High Street Survey MoJ, TLS, LSB	September 2012
Court service user survey findings	MoJ	July 2012
Proportion of 'Cracked' trials	HMCTS statistics	July 2012

### **Outcome 11. Wide confidence in the standards and ethics of the legal profession**

*Confidence in the standard of the lawyers remains high with most consumers, though indicators suggest this may be undermined by limited independence from representative arms.*

- C.11.1 Sections A.2 and A.3 above provide analysis of consumer confidence as measured by trust, and the changes in complaints. Section B.6 shows the levels of awareness of regulators.
- C.11.2 The LSCP summarises changes in the AR's independence from representative arms. They report that in relation to the Internal Governance Rules designed to safeguard independence, "*the rule has been undermined by some approved regulators delaying in*

*changing the composition of their regulatory boards to achieve lay majorities. Only 3 out of 7 of these boards – the Costs Lawyer Standards Board, ILEX Professional Standards and the Intellectual Property Regulation Board – have a lay majority”.*<sup>97</sup>

- C.11.3 A 2011 investigation by Transparency International<sup>98</sup> found very low levels of corruption and fraud in the UK’s legal profession despite the occasional high profile case. The Office for Judicial Complaints received 647 complaints in 2009, of which 19 (3%) were over conflicts of interest and 9 (1%) related to misuse of judicial status.
- C.11.4 The SRA Professional Ethics helpline<sup>99</sup> shows a falling proportion of calls over time, which could be driven by a range of different factors such as lower levels of ethical concerns among solicitors, or alternative sources of advice for these concerns.

**Figure 44. Falling ethical concerns contrasted with rising number of solicitors.**

	2006/07	2007/08	2008/09	2009/10	2010/11
Calls to SRA professional ethics helpline	66,683	67,397	69,270	64,029	58,193
Percentage change in calls from 2006/07	100%	101%	104%	96%	87%
Percentage change in number of solicitors	100%	104%	108%	108%	111%

- C.11.5 Research commissioned by the LSB will provide a framework for benchmarking existing professional ethics and allow future work to track changes in ethical concerns over time.

**Figure 45. Missing indicators for measuring Outcome 11.**

Missing Indicators	Information Source	Date available
Analysis of approved regulators conduct information – Regulatory Standards	LSB	July 2012
Consumer scorecard	LSCP	July 2012
Professional Ethics measurement framework	LSB Research	April 2013
Media coverage of the profession	Media scans	October 2012

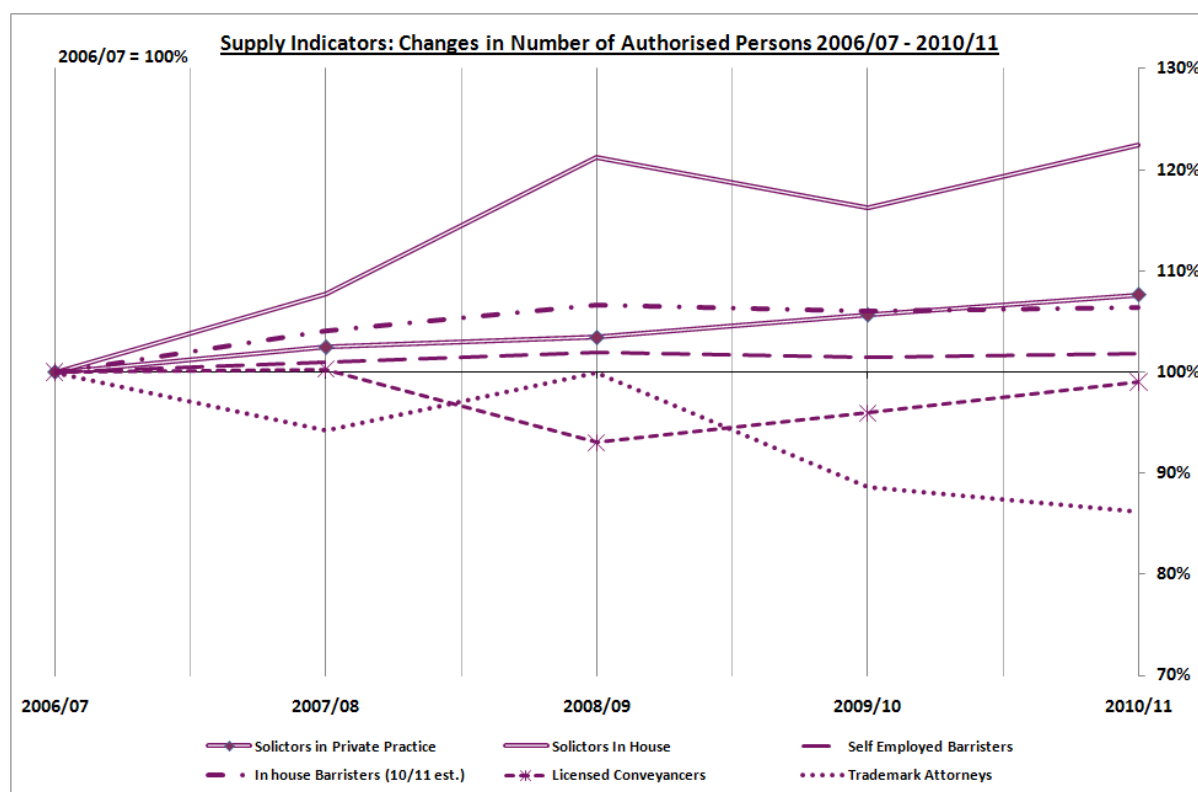
## D. The market

### Outcome 12. The market for legal services is more competitive

*Based on limited information, partial indicators suggest more competition in corporate legal services market between 2006/07-2010/11, and no change in competition in other areas.*

- D.12.1 Changes in competition can be measured across a range of proxy indicators looking at changes in supply of legal services, prices charged, and changes in demand for services. These are drawn from the Oxera framework.
- D.12.2 Looking at the number of individual Authorised Persons over time shows large increases for solicitors and barristers, with falls in the number of trademark attorneys, though this may be a result of changes in dual registration with patent attorneys. The biggest increase is solicitors working in-house.

**Figure 46. Growing numbers of Authorised Persons over time.**

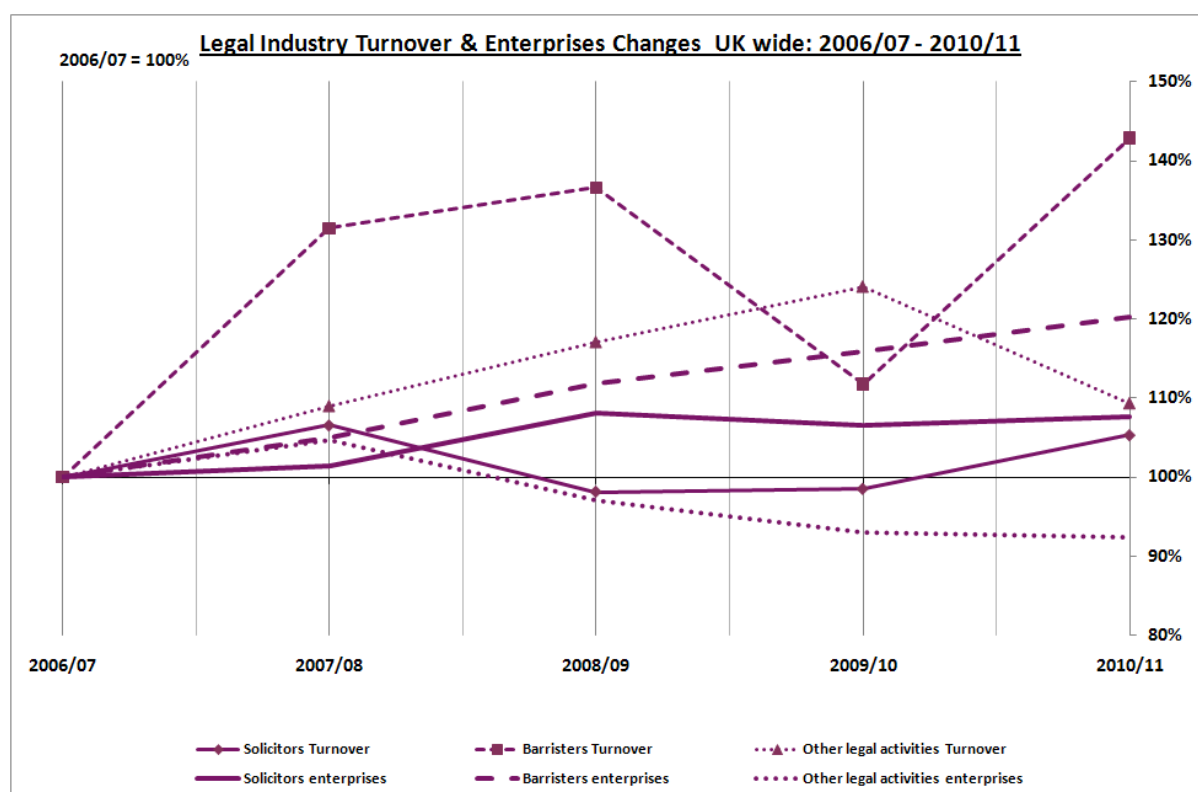


- D.12.3 It has been observed that the LSA has led to a focus on what legal service can be offered outside regulation. For example, Co-Op Legal Services was established in 2006, and by 2010 had a reported turnover of £20m from providing primarily unreserved legal services in employment and will writing.<sup>100</sup> Based on SRA turnover data this would put it in the top 5% of solicitors firms by turnover. There is virtually no publically available information on the unreserved sector, but it is estimated to be at least as large as the reserved sector, employing upwards of 130k people<sup>101</sup> compared to 136k authorised persons in 2010/11. While it only relates to one segment, Office of the Immigration Services Commissioner (OISC) data shows the number of immigration for profit providers growing by 28%<sup>102</sup> between 2008/09-2010/11.

D.12.4 Looking at total market values, ONS data for the UK shows the legal services sector total industry turnover returned to pre-recession levels in 2010/11 reaching £25.49bn compared to £25.47bn in 2007/8. Figure 47 below shows the fall in turnover of around 8% for solicitors' firms between 2007/8 and 2008/9, returning to pre-recession levels last year. However, for barristers and other legal activities, turnover grew during this period driving the return to pre-recession turnover levels for the whole market. During this period, solicitors' firms consistently account for around 44% of legal industry entities and generate around 60% of the total turnover. Non-solicitor and barrister legal services consistently account for a third or more of total industry turnover. While services provided by unreserved legal businesses are included in these figures, there is no way of separating these from reserved legal service providers. This breakdown is shown in Figure 48.

### Knowledge Gap 6 – Size of the unreserved legal sector

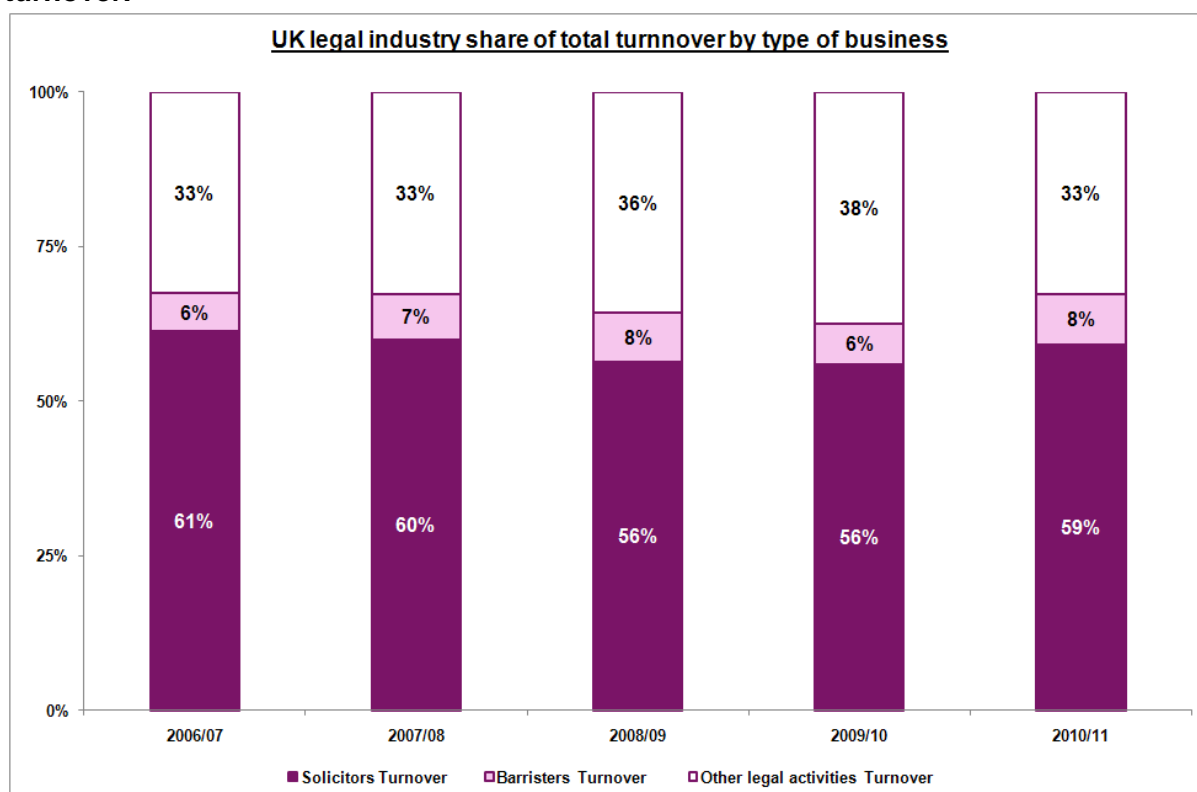
Figure 47. A growing legal industry.



D.12.5 While these figures suggest little change in supply, the SRA performance statistics show the churn of solicitors' firms – the ratio of firms closing to those opening – increasing from 1: 1.8 to 1:2.3 over the 2008-2011 period.<sup>103</sup> Over this period, the proportion of all solicitors firms classified as sole practitioners fell from 46% to 39%, and the proportion of firms classified as 2-4 partners grew from 41% to 46%. The proportion of larger firms remains constant. There is little evidence of consolidation of solicitors firms in terms of size organisation measured by the number of solicitors employed. Against a background of a growing number of firms and solicitors, this would suggest that sole practitioner firms have grown in size proportionally faster as a group.<sup>104</sup>



**Figure 48. Non solicitor legal services account for two fifths of UK legal industry turnover.**



**Figure 49. Reduction in the proportion of solicitors firms owned by sole practitioners.**

	Sole Practitioner	2-4 Partners	5-10 Partners	11-25 Partners	26-80 Partners	81+Partners
2006/07	46%	41%	9%	3%	1%	0.3%
2010/11	39%	46%	10%	3%	1%	0.5%

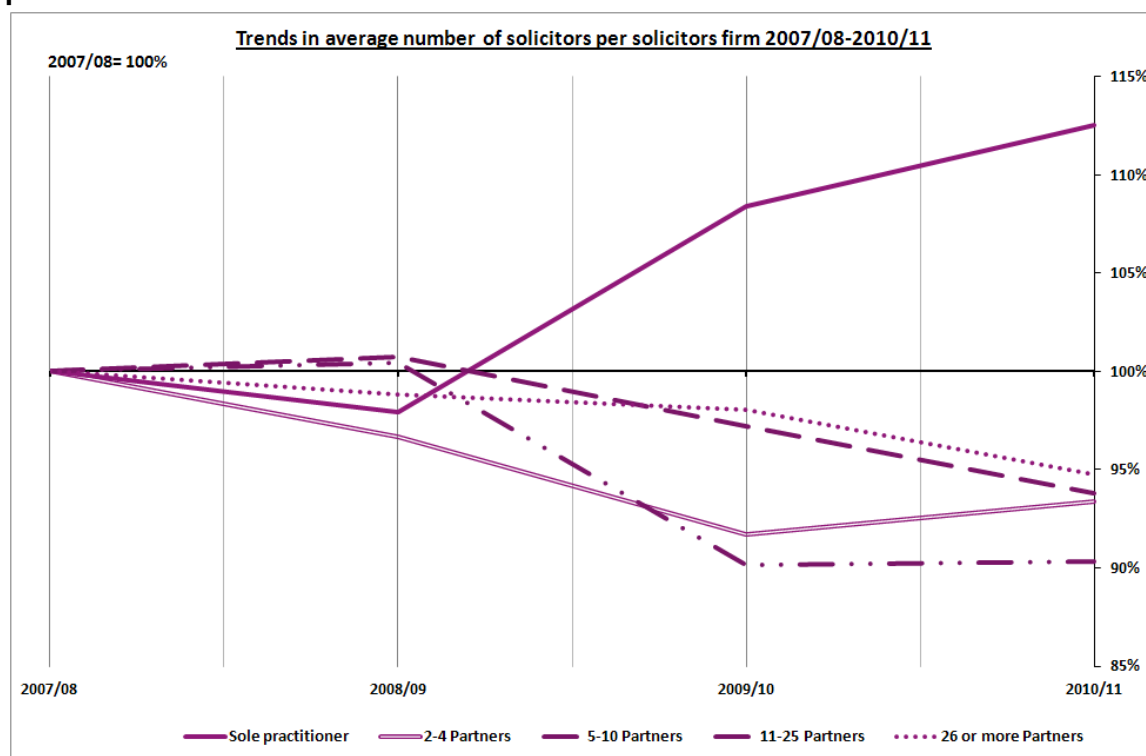
D.12.6 Considering organisational structures, published information shows that over the 2009-2011 period:

- The number of solicitors working in private practice has increased by 5%, compared to a 3% increase in the number of solicitors firms.
- There have been significant proportional increases in the number of solicitors firms registered as LLPs from 5% to 12% between 2008/09 and 2010/11. This is believed to be due to tax advantages.<sup>105</sup>
- Gearing - the number of fee earners per partner – has increased slightly from 1.29 to 1.45.
- For the Bar, while the number of barristers has grown over time, the proportion of employed barristers has remained constant at around 20% (see B.5 above).

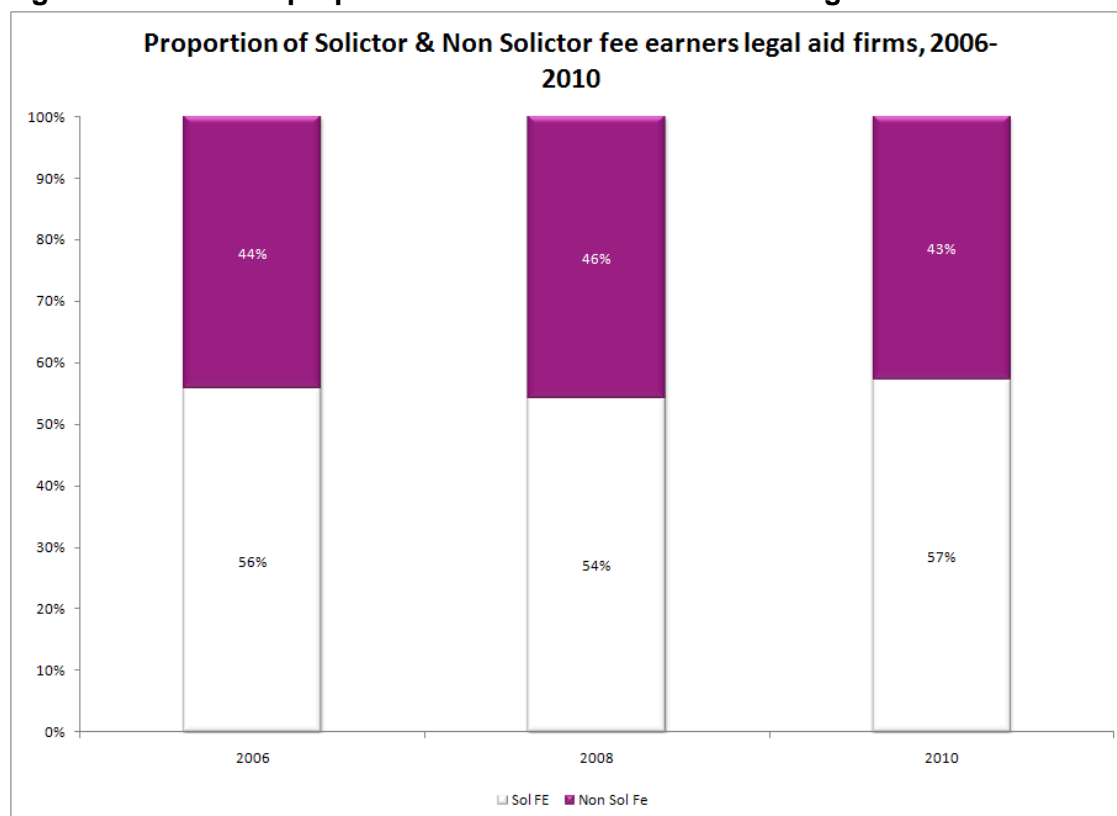
Aside from the 493 of LDPs<sup>106</sup>, these measures suggest a small consolidation among solicitors' firms, but with an underlying growth in supply.

D.12.7 Analysis of SRA data shows that in 2009/10 around 40% of fee earners in firms regulated by the SRA are not solicitors.<sup>107</sup> For legal aid solicitor firms, diversity surveys consistently show around two out of five fee earners are non-solicitors, set out in Figure 51 below.<sup>108</sup> This suggests a largely constant ratio of solicitor to non-solicitor fee earners.

**Figure 50. Average number of solicitors per firm increasing in firms owned by sole practitioners.**



**Figure 51. Constant proportional use of non-solicitors in legal aid firms.**

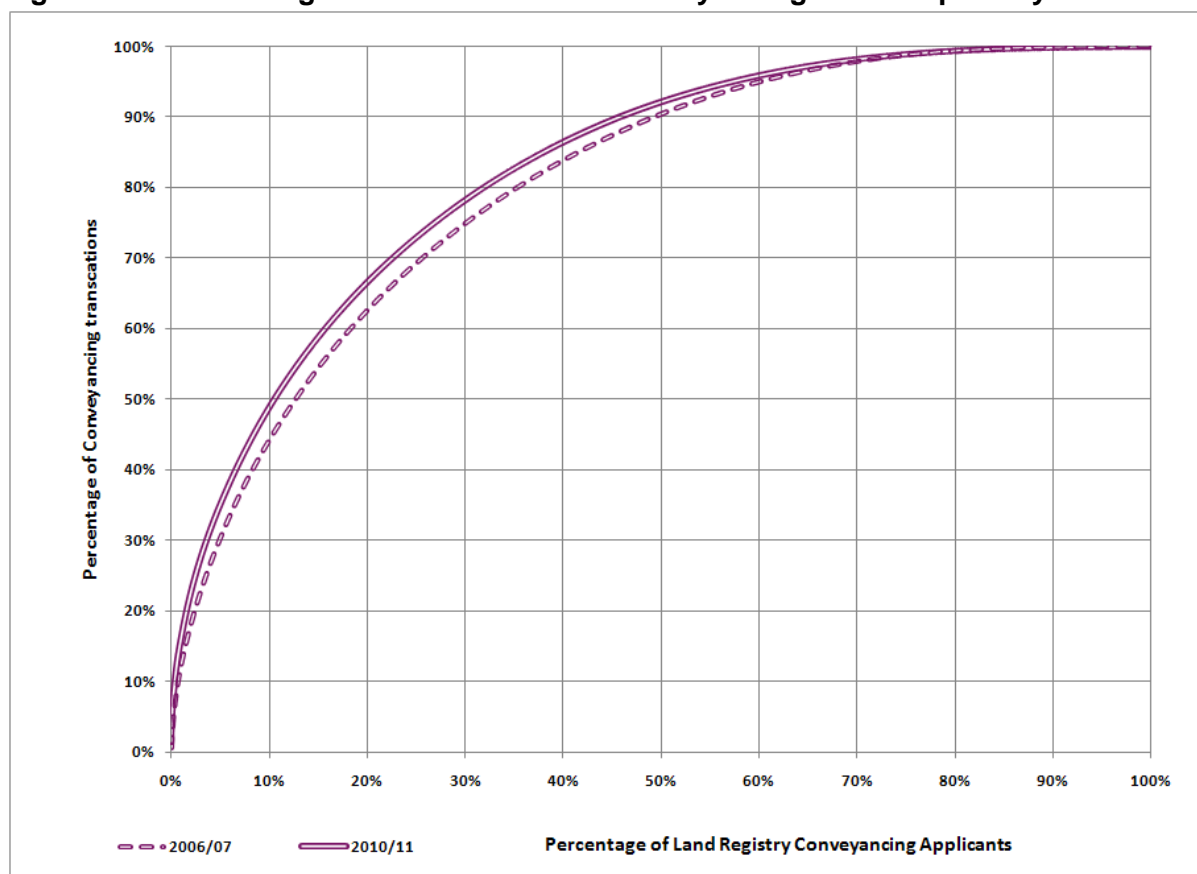


D.12.8 We have no information on the makeup of other regulated and unregulated entities.

### Knowledge Gap 7 – Unauthorised staff employed in reserved and unreserved legal service providers.

D.12.9 Information on the changes in the activity undertaken in these firms is also very limited. This makes analysis of market concentration very difficult. However, for conveyancing we have a proxy measure of market share by volume of transactions registered with the Land Registry electronic services, which will cover the majority of conveyancing transactions undertaken, though not all. This shows little change in market share or the volume of organisations undertaking this work. In 2006/07, 25% of conveyancing registrations were undertaken by 3.5% (314) organisations. A total of 8,888 organisations undertook conveyancing registrations. In 2010/11, 25% of conveyancing registrations were undertaken by 2.5% (208) organisations. A total of 8,304 organisations undertook conveyancing registrations, 83% of which were undertaking this work in 2006/07.

**Figure 52. Little change in market share for conveyancing over the past 5 years.**



D.12.10 This is against a background of falling overall volume of conveyancing transactions highlighted in Section 3 above. In 2010/11, the volume of electronic conveyancing registrations at the Land Registry was running at 52% of 2006/07 levels. At the same time in 2010/11 the number of organisations was 93% of 2006/07 levels. The average number of conveyances per organisation was 149 in 2006/07 compared to 84 in 2010/11. It is believed that these organisation are providing services on a wider geographical area. A survey of estate agents in 2010 found that 42% of estate agents

observed an increase in the use of national conveyancers while only 26% observed a decline in the use of national conveyancers.<sup>109</sup>

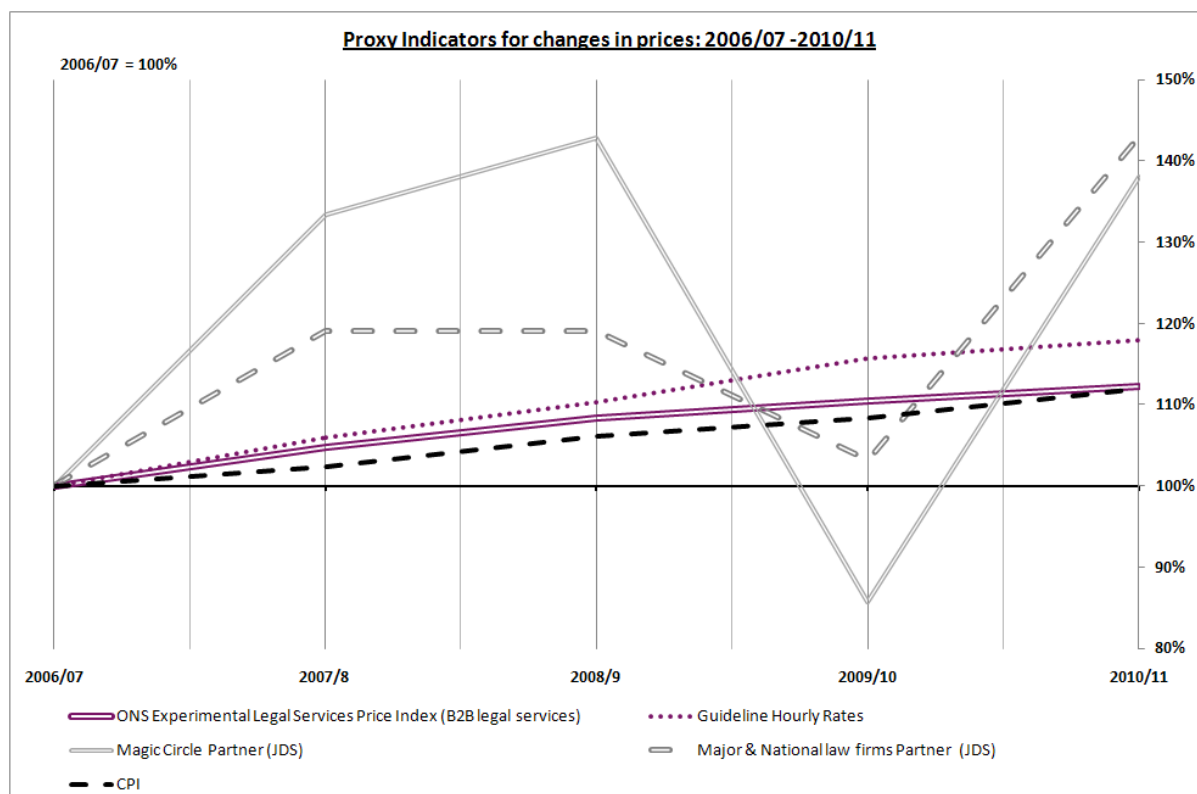
D.12.11 Price information is very limited. The only measures available over time relate to hourly rates charged:

- The ONS has recently developed an experimental prices index. This is currently based on 161 legal practices.<sup>110</sup>
- Guideline Hourly Rates (GHRs) determined by the Master of the Rolls for Civil Costs.<sup>111</sup>
- Annual hourly rates survey of larger corporate solicitors firms, undertaken by Jim Diamond (JDS).<sup>112</sup>

D.12.12 All three measures relate mainly to prices paid by business consumers, as opposed to individual consumers. All three measures point to small percentage increases in hourly rates comparing 2007/8 to 2010/11. The ONS index measures the cost of legal services delivered by all types of legal service providers with more than 10 employees, to business consumers of legal services. This index reports a 2.8% increase in prices between 2009/2010 and 1.5% for Q1 2010/11. Figure 53 below plots the changes in the GHRs and the changes in the Annual Hourly rates survey for partners at Magic Circle and Major Law firms. GHRs have risen by 18% between 2006/7 and 2010/11. All prices rises are above or at inflation as measured by the CPI.

### Knowledge Gap 8 - Prices offered and paid for legal services.

**Figure 53. Prices for business legal services are rising.**



- D.12.13 These measures need to be considered against research<sup>113</sup> in 2010 that found that average conveyancing fees for private consumers remained largely constant between 2003 and 2010, costing £595 and £630 respectively.
- D.12.14 Changes in competition are not just about changes in price: “*In many (indeed most) markets, products are differentiated and consumers also care about product quality and choice.*”<sup>114</sup> The LSCP research reported in A4.4 above, highlights the limited role that quality assurance schemes currently play in assisting private and small business consumers in choosing between legal service providers, and A2.2 highlights the role of personal recommendation as a key reason for choosing a provider.
- D.12.15 We have not identified any information on the level of advertising spend by legal service businesses over time. The historic solicitor advertising ban was removed in 1983 after pressure from the government, following a series of investigations showing the ban limited the information available to the public about solicitor services.<sup>115</sup> The traditional solicitor partnership business model requires each employee to contribute fee income directly, increasing the scope for client acquisition methods to be outsourced- hence importance of referral networks. The benefit for small to medium firms in joining such networks are reported to be lower non-staff costs and increased marketing reach through operating under an advertised brand name. However the major benefit is the opportunity to increase the amount of billed time – the rate of utilisation. This is a function of having relatively static fixed costs, such as salaries.<sup>116</sup>
- D.12.16 Given the growth in supply, the expectation is that customer acquisition channels are more vital to legal services providers overtime. However while data on use of referral networks is limited, between 2008/09 and 2010/11 the proportion of solicitors firms with referral arrangements changed only slightly from 19.9% to 21.5%. These were most prevalent among firms with 2-4 partners. One survey of private consumers in 2010 reported that 23% of them found their lawyer through a referral from another organisation.<sup>117</sup>
- D.12.17 The LSCP<sup>118</sup> lists a range of introducers including Claims Management Companies (CMCs), estate agents, insurers, banks and mortgage brokers, and trade unions. Research in 2010 found that 81% of estate agents reported that they had a panel of solicitors/conveyancers to whom they referred customers, and that membership of these panels was largely stable.<sup>119</sup> This should be contrasted to the reported activity with respect to panels used by larger companies and banks – set out in B6 above.
- D.12.18 In 2010, referral arrangements were most common for solicitors undertaking personal injury work, and the vast majority of this type of work comes through referral networks that involve the solicitor paying a referral fee to the introducer. Research reported increases in referral fees over time mainly as a result of “*increased competitive pressures between lawyers and introducers whereby competition between law firms to gain access to introducer panels bids up the referral fees.*”<sup>120</sup> Between 2007/08 and 2010/11 the number of CMCs in the personal injury sector grew from 1,385 to 2,553 - an increase of 184%. Over the same period CMC turnover grew from £174m to £377m – an increase of 216%.<sup>121</sup> In 2010/11, total solicitor firm turnover from personal injury and clinical negligence claims was approximately £2bn. How this sector changes as a result

of the anticipated forthcoming ban on referral fees will be evident from future evaluation reports.

- D.12.19 Levels of utilisation<sup>122</sup> allow insight into changes in demand for inputs over time. The findings of PWC Law Firms surveys<sup>123</sup> of larger solicitor firms show a general trend of rates of utilisation peaking in 2007 and 2008 and falling back to 2006 levels in 2009 and 2010. For firms outside the Top 100 there was no increase in utilisation during 2007 and 2008, and the general trend for these firms is for lower levels of utilisation over time. While outside the Top 100, these firms are likely to be larger than the majority of solicitor firms, with in excess of 13 partners on average, and are therefore more likely to be providing legal services to business consumers. A more recent report by RBS suggests that lower levels of utilisation persist, resulting in the need for headcount reductions at larger solicitor firms.<sup>124</sup>
- D.12.20 Figures derived from BSB research<sup>125</sup> suggest that 16% of the self-employed barristers workload has increased in the past 12 months, 57% stayed constant, and 23% decreased. One in four self-employed barristers reported that their workload had decreased over the past 12 months. The highest incidence of self-employed barristers reporting a decrease in workload was in crime where 47% had seen no change in workload, and 30% had seen a decrease. This should be considered against the increase in criminal trials shown in Section 3, and may be a result of increased use of solicitor advocates and in-house advocates.<sup>126</sup> In all other categories, the majority of self-employed barristers have seen no change in workload. We have no input demand information for other legal service providers.
- D.12.21 There are a range of research reports into in-house counsel – expert buyers of legal services in larger business and government consumers of legal services. These types of consumers were reported to account for around half of all legal services spend in the UK in 2008.<sup>127</sup> A large annual survey of in-house counsel, undertaken by Legal Week Intelligence,<sup>128</sup> reports legal spend rising by over 25% in FTSE 100 companies, and by 55% for all organisations between 2009 and 2010. While in-house counsel have been managing prices, they have at the same time received an increased demand for legal services from within their organisations. This survey reports growth in demand arising from new law and regulation and as a result of businesses moving into international markets. The survey reports a perception that law is a buyers market, and law firms are increasingly concentrating on the quality of the commercial advice they give. These consumers will remove law firms from their panels because of price pressures but also because the advisers are seen to have done a poor job. These consumers demand fixed fees with 51% of respondents preferring these above other types of charging.
- D.12.22 This should be considered against other input measures such as the increases in entities and industry turnover. Future evaluations will focus on changes in prices paid by consumers and the hourly rates achieved by providers of legal services.

**Figure 54. Missing indicators for measuring Outcome 12.**

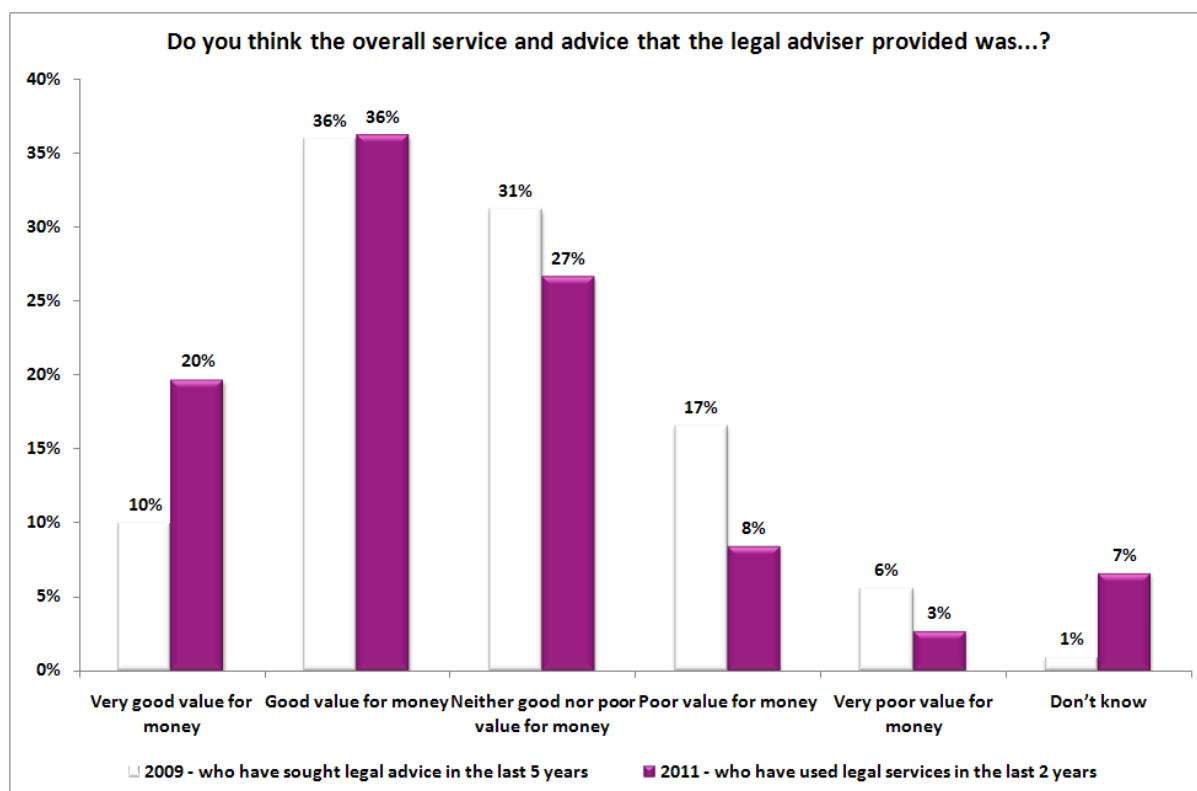
Missing Indicators	Information Source	Date available
Number of ABS firms over time	SRA, CLC	October 2012
Analysis of consumers' current and past levels of brand recognition, prices paid, and use of reserved and unreserved legal provider	LSB Consumer survey – BDRC, Media scans	May 2012, October 2012
Analysis of changes in firms entering and exiting the legal services market between 2010-2011	LSB using AR data	July 2012
Analysis of changes in hourly rates achieved for solicitors firms 2010-2011	LSB using SRA data	July 2012
Use of advertising channels by solicitor firms	High Street Survey, MoJ, TLS, LSB	September 2012
Analysis and Publication of First Tier Complaints data between 2010-2012	Approved Regulators	April 2013

**Outcome 13. More consumers are able to get legal services at an affordable cost**

*Based on what we know, fewer consumers are using legal services and perception of unaffordability remains high, though where legal services have been used a growing number of consumers believed the service was value for money.*

- D.13.1 As set out in B.5 above in assessing access, we need to consider both the level of incidence of legal problems and peoples' response to these problems. This is against a gap in knowledge around actual volumes of work undertaken by legal service providers.
- D.13.2 The analysis above in Section 3 suggests that based on available information, demand for legal services has fallen. This is in part due to changes in incidence in the need for transactional legal services. At the same time, the limited information on prices shows the cost of legal services rising, at least in the business legal services sector which is reported to be a 'buyers' market'.
- D.13.3 Looking at the findings of surveys on value for money, the proportion of private consumers considering the services they received were value for money appear has increased from 46% to 56% between 2009 and 2011.



**Figure 55. Improvements in perceived value for money.**

D.13.4 However, perceptions of affordability of legal services generally continues to be an issue. Only a small proportion of people with a legal problem thought that lawyers' charges were reasonable from the 2006-09 CSJS, shown in figure 56 below. In the 2010 Wave 1 report<sup>129</sup>, 59% of respondents agreed with the statement that lawyers were unaffordable for poor people.

**Figure 56. Perceptions of unaffordability for legal services.**

	Not been to court	Been to court
Lawyers charges are reasonable	13%	14%
Legal system works better for rich people than poor people	65%	64%

D.13.5 As set out above a survey in 2009<sup>130</sup> found that around one in ten consumers did not seek advice, as they believed it would be too expensive. This is similar to findings of research into small businesses perceptions of legal services.

**Figure 57. Missing indicators for measuring Outcome 13.**

Missing Indicators	Information Source	Date available
Analysis of prices paid by consumers	LSB Consumer survey – BDRC	May 2012
Survey of solicitor firms to benchmark annual	High Street	September

volume of customers

Survey, MoJ,  
TLS, LSB

2012

**Outcome 14. There is a greater plurality of, and innovation in, legal services offered**

*Limited information suggests growing innovation in terms of marketing, technology for delivering services, and technology for reducing costs.*

- D.14.1 For this indicator, more than others, there is very limited information currently available to assess change.

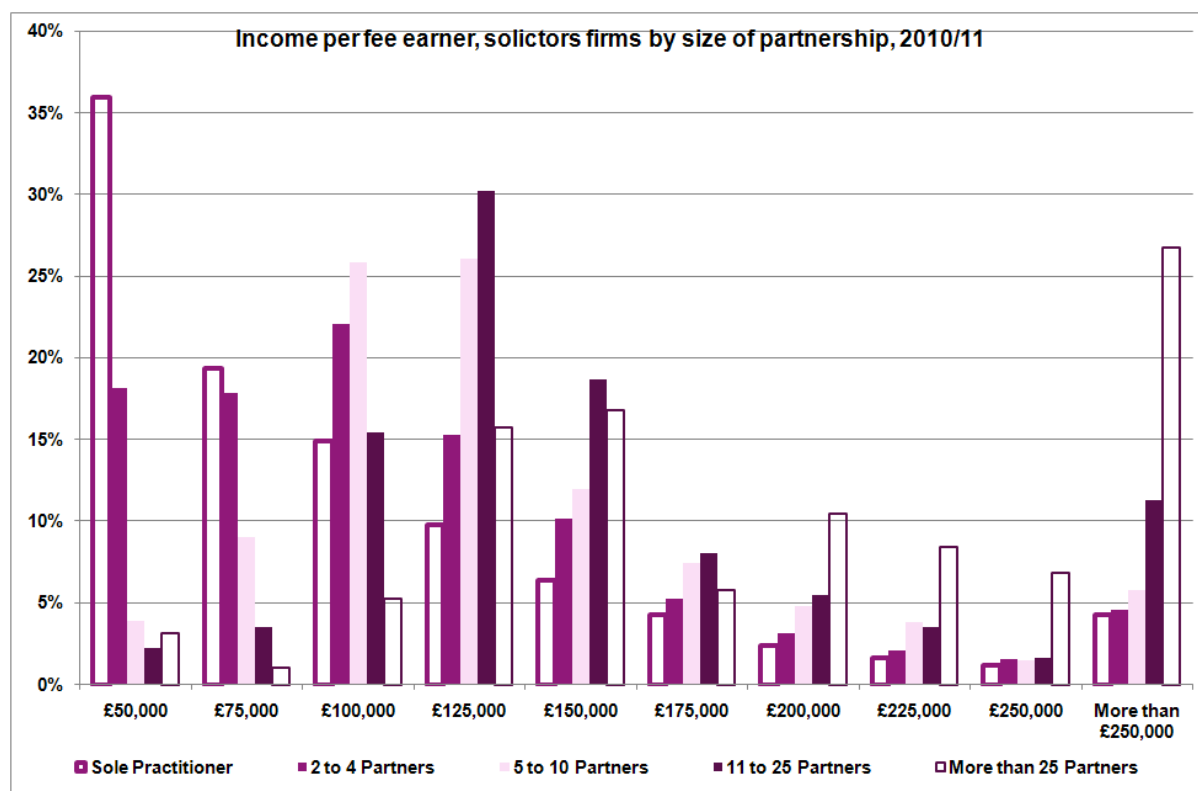
**Knowledge Gap 9 – Range and frequency of different use of service delivery methods**

- D.14.2 Based on the limited data available<sup>131</sup> there appears to have been a growth in the use of technology to promote and deliver legal services. For example, companies such as EPOQ legal and Direct Law have been actively promoting their technology as a way for firms to sell and deliver legal services. The internet is being used to establish collective brands and networks. Examples include Law Net, The Legal Alliance, Lawyer Locator and Quality Solicitors. We do not know how widespread the impact of these sites is. New entrants to the provision of legal services appear to make greater use of these technologies than existing providers. For example, Halifax Banking launched an online pay as you go legal document production and advice service in 2010.<sup>132</sup>
- D.14.3 Commentary suggests that technology is being used to support LPO particularly at larger firms, to reduce the cost of running a legal business. However, the 2010 PWC Law Firms survey suggests only a small number of large solicitors' firms are currently using LPO with 25% of the top 10 using LPO.<sup>133</sup> The ultimate aim of technology here is to reduce costs and increase productivity. One proxy measure of productivity is the income generated per fee earner within a firm, with changes in demand, prices, and productivity all feeding into this measure. This is shown below for solicitors' firms in 2010.<sup>134</sup> This acts as a baseline against which future evaluations can measure change. At this stage, the main thing to note is the range of income across and within the different firm size groups. Fee earners in larger partnerships tend to generate higher levels of fee income than those in smaller partnerships.

- D.14.4 We have no information on turnover for other legal service providers.

**Knowledge Gap 10 – Turnover of non solicitor legal service providers**

- D.14.5 Other areas where technology appears to have a major influence is in relation to transactional legal processes such as probate registration, where government agencies use internet based technology to simplify processes, enhancing consumers' ability to bypass legal services and resolve these legal issues themselves. This remains a currently unquantified factor in changes in the legal services market and a key area to monitor over time.

**Figure 58. Range of income per fee earner for solicitor firms.****Figure 59. Missing indicators for measuring Outcome 14.**

Missing Indicators	Information Source	Date available
Survey of solicitor firms to benchmark use of different methods of delivery	High Street Survey, MoJ, TLS, LSB	September 2012
Proportion of work acquired through referral networks and repeat business	High Street Survey, MoJ, TLS, LSB	September 2012
Number of ABS firms and mix of services offered by ABS firms	SRA, CLC	October 2012
Analysis of changes in solicitor firms' employment of non solicitor fee earners	SRA, LSB	July 2012
Analysis of changes in solicitor firms' turnover by category of work	SRA, LSB	July 2012
Analysis of changes in solicitor firms' membership of referral networks	SRA, LSB	July 2012
Analysis of changes in legal aid solicitor firms' use of external advocates	High Street Survey, MoJ, TLS, LSB	September 2012

## E. The investor

### Outcome 15. A legal market which is attractive to all sources of finance including external investors

*Available information suggest around one-third of financing for larger solicitor firms comes from borrowing. How this might translate into full external investment under ABS is unknown.*

- E.15.1 This outcome is considerably more difficult to measure because of very limited information on legal firms' current sources of finance. Since the implementation of the ABS framework in October 2011 and January 2012, there have been a number of high profile press reports about new forms of financing in legal services. This includes examples of larger businesses moving into reserved legal services, such as Co-Op Legal Services<sup>135</sup>, direct foreign investment<sup>136</sup>, and likely stock market flotation's of existing law firms.<sup>137</sup> This is an area where we expect significant activity going forward.

#### Knowledge Gap 11 - Use of external finances

- E.15.2 Annual surveys by PWC<sup>138</sup> suggest that the proportion of external financing remains constant over the 2009-2010 period representing between a quarter and a third of corporate solicitor firms' funding. A 2010 survey by Smith and Williamson<sup>139</sup> suggests that around a third of firms are increasing firm borrowings but larger firms are doing this via their partners rather than through the firm itself. This suggests a need for external funding in a small but not insignificant number of solicitor firms, but how this might translate into full external investment under ABS is unknown.
- E.15.3 For solicitors' firms TLS undertook a firm finances surveys in 2010-2011, which will provide information on current sources of finance for these firms once it is published. As ABS numbers increase, this may be seen as a proxy indicator for the use of external finance, complemented by analysis of investment firms' activity in this area.

**Figure 60. Missing indicators for measuring Outcome 15.**

Missing Indicators	Information Source	Date available
Solicitor firms finances survey – sources of finance	TLS	July 2012
Number of ABS firms and applications over time	SRA, CLC	October 2012
Number of ABS firms and mix of services offered by ABS firms	SRA, CLC	April 2013
Review of investment firms activity in the legal services sector	LSB analysis	April 2013

### Outcome 16. Proportionate regulation allowing an in-flow of capital

- E.16.1 Similar to E.1 above capital flows are unknown in this sector at this point in time.

**Figure 61. Missing indicators for measuring Outcome 16.**

Missing Indicators	Information Source	Date available
Analysis of the unit cost of regulation imposed by each approved regulators and representative arms (Total costs/number of authorised persons)	LSB analysis	October 2012
Number of ABS firms and applications over time	SRA, CLC	October 2012
Review of investment firms activity in the legal services sector	LSB analysis	October 2012

**Outcome 17. Risk based supervision of legal practitioners**

- E.17.1 The approved regulators are in the process of developing and implementing their risk-based approach to regulation. As such, indicators here are in development and will be reviewed in future evaluations.

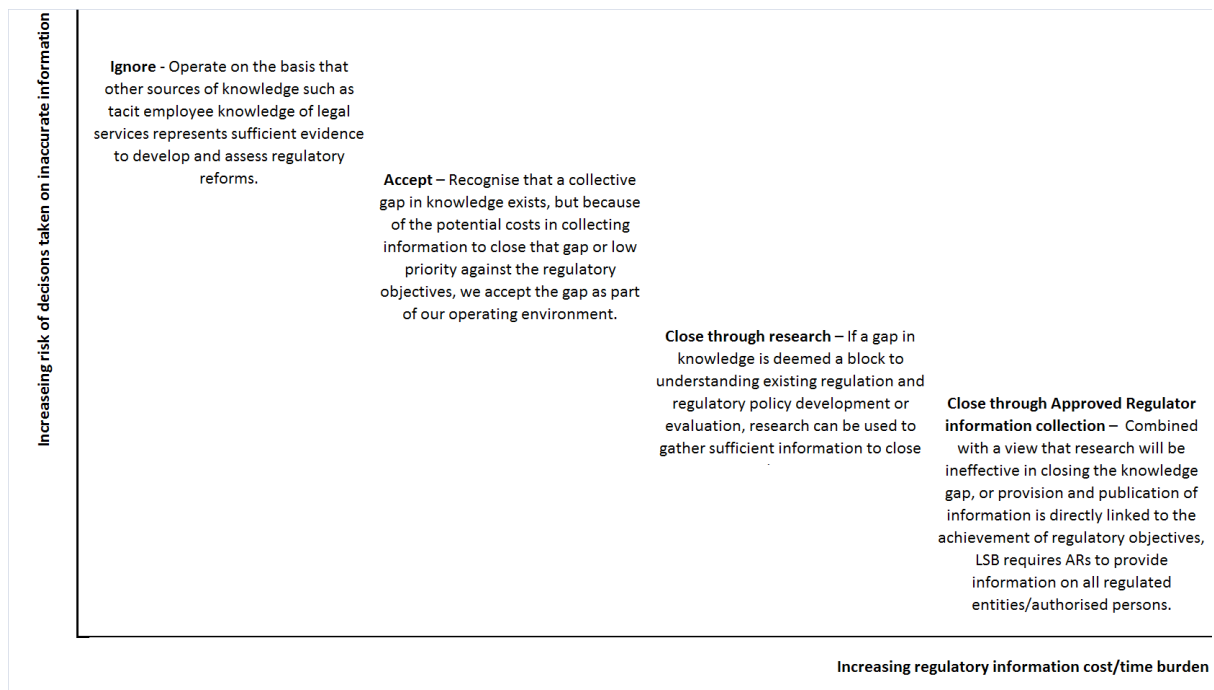
**Figure 62. Missing indicators for measuring Outcome 17.**

Missing Indicators	Information Source	Date available
Number of regulators adopting outcomes focused regulation	LSB analysis	October 2012
Assessment of Approved Regulators regulatory standards	LSB analysis	October 2012

## 5. Activities to close gaps in knowledge and missing indicators

- 5.1 As set out in the analysis in Section 4 above, there is a wide range of gaps in knowledge about the legal services market. This is not surprising given the journey of some of the approved regulators from professional membership organisations to fully-fledged regulators of a complex range of different services. The indicators used above are therefore driven largely by what information is readily available. It is recognised that while perfect information is the ideal, the reality is that the regulatory burden of collecting information to close all knowledge gaps would not pass a simple costs benefit analysis. Addressing gaps in knowledge requires both the LSB and the approved regulators to take a decision about where our priorities for evidence lie.
- 5.2 In response to a gap in knowledge we can take one of four approaches – ignore, accept, close through research, or close through information collection - set out below.

**Figure 63. Responses to knowledge gaps against risk and burden considerations.**



- 5.3 We will take different approaches to different knowledge gaps based on a pragmatic assessment to achieve the right balance of regulatory risk and information burden. We accept knowledge gaps where the regulatory risk is low, and cost of collection high. For example, knowledge gaps around how larger business consumers interact with legal services suppliers is seen as low priority to close. By contrast, we see knowledge gaps about private and smaller business consumers as priority areas to close.
- 5.4 Closing knowledge gaps through requiring approved regulators to collect information is clearly a major step in regulatory policy, and has been used only for high priority initiatives, such as publication of diversity data to encourage greater diversity among the profession. We continue to push all of the approved regulators to be more evidenced based. The need to use evidence to inform design of regulatory arrangements, risk

profiling of all aspects of market, and targeted supervision means that regulators are developing an evidence base to support the delivery of our shared regulatory objectives. It is a central part of Outcomes Focused Regulation and we have driven that in the regulatory landscape in legal services. For example, the Cost Lawyers Standards Board have introduced a range of additional fields in their annual practising certificate form to address a wide range of knowledge gaps on the work undertaken by Cost Lawyers, the split between reserved and unreserved activity, and groups of customers served.<sup>140</sup>

- 5.5 The next stage in this journey will be the analysis and publication of data by the approved regulators, driving increased understanding of this sector. In the longer term we expect increasing competition to result in better provision of information for consumers, enhancing consumers ability to select legal service providers. In the interim, our main response is to address gaps in knowledge and missing indicators through research – the best balance between burden and risk – though limited research budgets require us to focus on priority areas.
- 5.6 By setting out these indicators in advance, alongside our Business and Research plans for 2012/13, our aim is to encourage the regulatory community to move towards better coordination of research and information collection. The timeline for availability of evidence for the 60 missing indicators is show in the Annex. Based on this we will have information for a large proportion of the identified missing indicators for the October 2012 evaluation and the majority of them for the April 2013 evaluation.
- 5.7 This timetable has informed our planned research activity over the 2012/13 period, but clearly, we are reliant on both delivery of activity to timetable and continued publication of existing reports on legal services. We will continue to work with the regulatory community to ensure that research activity is coordinated as far as possible, so that we can build a complete picture of the legal services market as it stands now and track changes over time.



**Annex 1****Figure 64. Timetable for gathering of information on identified missing indicators.**

	Missing Indicators	Information Source	Stakeholder and Outcomes	Jul 12	Oct 12	Jan 13	Apr 13
1	Diversity data on all Authorised Persons broken down by demographics and role within legal service organisations	Approved Regulators	A.1				X
2	Solicitor summary Diversity information for 2011/12	TLS	A.1	X			
3	Diversity statistics for the population of England and Wales 2010/11	ONS	A.1	X			
4	Levels of consumer satisfaction with different types of legal service providers	LSB Consumer Survey - BDRC	A.2	X			
5	Trends in levels of consumer satisfaction	LSCP Tracker Survey	A.2	X			
6	Changes in volumes of regulatory actions undertake by all the Approved Regulators, including COLP self reporting, and LSB list of people disqualified from being ABS owners	Approved Regulators, LSB	A.2				X
7	Analysis of Second tier complaints data between 2010-2012	Legal Ombudsman	A.2	X			
8	Analysis and Publication of First Tier Complaints data between 2010 -2012	Approved Regulators	A.2, D.12				X
9	Trends in trust in the legal profession	LSCP Tracker Survey	A.3	X			
10	Consumers handling legal problems alone as a result of a lack of trust in lawyers	LSB Consumer Survey - BDRC	A.3	X			
11	Number of responses to government consultations from approved regulators and representative arms	LSB review of Approved Regulator websites	A.3	X			
12	Understanding of professions view of the independence of regulation	LSB research to benchmark professional principles	A.3				X

13	Comparison of academic literature and legal education curriculum/CPD requirements	Review of approved regulators website	A.4	X			
14	Analysis of Second tier complaints about quality data between 2010-2012	Legal Ombudsman	A.4	X			
15	Quality Assurance Scheme for Advocates scheme analysis of 12 months of applications and assessments	SRA, BSB, IPS	A.4				
16	Findings of the Review of Education and Training	SRA, BSB, IPS	A.4			X	
17	Assessment of consumers response to transactional legal problems	LSB Consumer Survey - BDRC	B.5	X			
18	Changes in the proportion of people with a complaint that don't take it further – FTCH and STCH data	Approved Regulators, Legal Ombudsman	B.5	X			
19	Availability of ADR schemes across legal sector	LSCP research, LSB analysis	B.5	X			
20	Survey of solicitor firms to benchmark use of different methods of delivery	High Street Survey, MoJ, TLS, LSB	B.5, D.14		X		
21	Analysis of consumers levels of confidence	LSB Consumer survey - BDRC	B.6, C.9	X			
22	Value consumers place on regulation	LSB research - Opinion Leader	B.6	X			
23	Number of decisions overturned by approved regulators, including SDT activity and appeals against ABS applications	LSB Analysis	B.6		X		
24	Number of AR consultations with consumers	LSB Analysis	B.6	X			
25	Number of approved regulators who use consumer feedback to input into regulatory policy	LSB Analysis	B.6	X			
26	Legal services scandals and word association tracking over time	Media Scan	B.6			X	
27	Trends in the number of consumers using price comparison websites	LSCP Research	B.8				X

28	Availability of price information for legal services	LSB Research	B.8				X
29	Consumer recognition and use of legal services specific quality marks	LSCP Research	B.8				X
30	Brand recognition for legal services providers	Media Scans, private surveys	B.8				X
31	Proportion of consumers using different service delivery channels	BDRC Research	B.8	X			
32	Diversity of profession, judiciary	Judicial Appointments Commission Diversity reports	C.9	X			
33	Media coverage of the profession	Media scans	C.9, C.11		X		
34	Analysis of prices paid by consumers	LSB Consumer survey - BDRC	C.10	X			
35	Expenditure on legal services per legal need met	High Street Survey MoJ, TLS, LSB	C.10		X		
36	Court service user survey findings	MoJ	C.10	X			
37	Proportion of 'Cracked' trials	HMCTS statistics	C.10	X			
38	Analysis of approved regulators conduct information – Regulatory Standards	LSB	C.11	X			
39	Consumer scorecard	LSCP	C.11	X			
40	Professional Ethics measurement framework	LSB Research	C.11				X
41	Number of ABS firms over time	SRA, CLC	D.12		X		
42	Analysis of consumers current and past levels of brand recognition, prices paid, and use of reserved and unreserved legal provider	LSB Consumer survey – BDRC, Media scans	D.12		X		
43	Analysis of changes in firms entering and exiting the legal services market between 2010-2011	LSB using AR data	D.12	X			
44	Analysis of changes in hourly rates achieved for solicitors firms 2010-2011	LSB using SRA data	D.12	X			
45	Use of advertising channels by solicitor firms	High Street Survey, MoJ, TLS, LSB	D.12		X		

46	Analysis of prices paid by consumers	LSB Consumer survey – BDRC	D.13	X			
47	Survey of solicitor firms to benchmark annual volume of customers	High Street Survey, MoJ, TLS, LSB	D.13		X		
48	Survey of solicitor firms to benchmark use of different methods of delivery	High Street Survey, MoJ, TLS, LSB	D.14		X		
49	Proportion of work acquired through referral networks and repeat business	High Street Survey, MoJ, TLS, LSB	D.14		X		
50	Number of ABS firms and mix of services offered by ABS firms	SRA, CLC	D.14, E.15		X		
51	Analysis of changes in solicitor firms employment of non solicitor fee earners	SRA, LSB	D.14	X			
52	Analysis of changes in solicitor firms turnover by category of work	SRA, LSB	D.14	X			
53	Analysis of changes in solicitor firms membership of referral networks	SRA, LSB	D.14	X			
54	Analysis of changes in legal aid solicitor firms use of external advocates	High Street Survey, MoJ, TLS, LSB	D.14		X		
55	Solicitor firms finances survey – sources of finance	TLS	E.15	X			
56	Number of ABS firms and applications over time	SRA, CLC	E.15, E.16		X		
57	Review of investment firms activity in the legal services sector	LSB analysis	E.15, E.16				X
58	Analysis of the unit cost of regulation imposed by each approved regulator and representative arm (Total costs/number of authorised persons)	LSB analysis	E.16		X		
59	Number of regulators adopting outcomes focused regulation	LSB analysis	E.17		X		
60	Assessment of Approved Regulators regulatory standards	LSB analysis	E.17		X		
Totals				30	15	2	11

<sup>1</sup> For detail on the range of reforms see [http://www.legalservicesboard.org.uk/about\\_us/index.htm](http://www.legalservicesboard.org.uk/about_us/index.htm)

<sup>2</sup> For our purposes we define demand to be more than just existing consumers. Demand is defined to cover instances where a problem occurs that can be resolved through legal means but does not result

in the use of legal services – a possible measure of *latent legal demand*. Clearly, in some incidences, alternative ways of resolving the problem exist, but these operate with reference to the wider legal services market. See RIR Map of Legal Services: Part 2 - Demand for a further discussion.

<sup>3</sup> These 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 Chartered Certified Accountants, Institute of Chartered Accountants Scotland .

<sup>4</sup> For a discussion on self-regulation in legal services generally see

[http://www.legalservicesboard.org.uk/news\\_publications/latest\\_news/pdf/economic\\_rationale\\_for\\_Legal\\_Services\\_Regulation\\_Final.pdf](http://www.legalservicesboard.org.uk/news_publications/latest_news/pdf/economic_rationale_for_Legal_Services_Regulation_Final.pdf). For a discussion of the smaller approved regulators activities see [http://www.legalservicesboard.org.uk/what\\_we\\_do/Research/Publications/pdf/20110622\\_sar\\_report\\_final.pdf](http://www.legalservicesboard.org.uk/what_we_do/Research/Publications/pdf/20110622_sar_report_final.pdf)

<sup>5</sup> See RIR Map of Legal Services: Part 1 – Supply & Part 2 – Demand for an analysis of these knowledge gaps. Due to be published in due course, available on request from the LSB

<sup>6</sup> These are Protecting and promoting the public interest; Supporting the constitutional principles of the rule of law; Improving access to justice; Protecting and promoting the interest of consumers; Promoting competition in the provision of services; Encouraging an independent, strong, diverse and effective legal profession; Increasing public understanding of the citizen's legal rights and duties; Promoting and maintaining adherence (by authorised persons) to the professional principles . See [http://www.opsi.gov.uk/acts/acts2007/ukpga\\_20070029\\_en\\_2#pt1](http://www.opsi.gov.uk/acts/acts2007/ukpga_20070029_en_2#pt1)

<sup>7</sup> See for example [http://www.lawsociety.org.uk/documents/downloads/dynamic/lisa\\_briefing.pdf](http://www.lawsociety.org.uk/documents/downloads/dynamic/lisa_briefing.pdf)

<sup>8</sup> See <http://www.bis.gov.uk/policies/bre/better-regulation-framework/better-regulation-checklist>

<sup>9</sup> See <http://letr.org.uk/> for more information.

<sup>10</sup> For a description of empowerment see page 14, LSCP Consumer Impact Report -

[http://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/ConsumerPanel\\_ConsumerImpactReport\\_2011.pdf](http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/ConsumerPanel_ConsumerImpactReport_2011.pdf)

<sup>11</sup> See <http://www.lawgazette.co.uk/news/abs-trailblazers-revealed>

<sup>12</sup> See

[http://www.legalservicesboard.org.uk/news\\_publications/publications/pdf/evaluation\\_framework\\_april\\_2011.pdf](http://www.legalservicesboard.org.uk/news_publications/publications/pdf/evaluation_framework_april_2011.pdf)

<sup>13</sup> See

[http://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/ConsumerPanel\\_ConsumerImpactReport\\_2011.pdf](http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/ConsumerPanel_ConsumerImpactReport_2011.pdf)

<sup>14</sup> See

[http://www.legalservicesboard.org.uk/news\\_publications/latest\\_news/pdf/a\\_framework\\_to\\_monitor\\_the\\_legal\\_services\\_sector.pdf](http://www.legalservicesboard.org.uk/news_publications/latest_news/pdf/a_framework_to_monitor_the_legal_services_sector.pdf)

<sup>15</sup> For example, External capital and law firms – the future, Chris Marston, Legal Futures 2010,

<http://www.legalfutures.co.uk/legal-services-act/external-capital-and-law-firms-the-future>

<sup>16</sup> For example, <http://www.lawgazette.co.uk/news/co-operative-unveils-family-law-coup> or

<http://www.thelawyer.com/russell-jones-and-walker-acquired-by-listed-aussie-firm-slater-and-gordon/1011140.article>

<sup>17</sup> Due to be published in due course, available on request from the LSB

<sup>18</sup> See <http://budgetresponsibility.independent.gov.uk/economic-and-fiscal-outlook-march-2012/>

<sup>19</sup> <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcn%3A77-222457>

<sup>20</sup> For example of initiatives to assess value for money in legal services for public sector organisations see <http://www.public-audit-forum.gov.uk/2010-11-legal.pdf>

<sup>21</sup> As defined in A framework to monitor the legal services sector, Oxera, 2011 -

[http://www.legalservicesboard.org.uk/news\\_publications/latest\\_news/pdf/a\\_framework\\_to\\_monitor\\_the\\_legal\\_services\\_sector.pdf](http://www.legalservicesboard.org.uk/news_publications/latest_news/pdf/a_framework_to_monitor_the_legal_services_sector.pdf)

<sup>22</sup> We have not yet identified any proxy demand indicators where time series data is publically available for the following categories of law: Consumer problems, Civil liberties, Corporate taxation, Other public and administrative law.

<sup>23</sup> As defined in A framework to monitor the legal services sector, Oxera, 2011 -

[http://www.legalservicesboard.org.uk/news\\_publications/latest\\_news/pdf/a\\_framework\\_to\\_monitor\\_the\\_legal\\_services\\_sector.pdf](http://www.legalservicesboard.org.uk/news_publications/latest_news/pdf/a_framework_to_monitor_the_legal_services_sector.pdf)

<sup>24</sup> For example the Crown Prosecution Service – see Report of the thematic review of the quality of prosecution advocacy and case presentation, HMCPSP 2009

[http://www.hmcpso.gov.uk/documents/services/reports/THM/ADV\\_thm\\_Jul09\\_rpt.pdf](http://www.hmcpso.gov.uk/documents/services/reports/THM/ADV_thm_Jul09_rpt.pdf)

<sup>25</sup> For a discussion see <http://www.justice.gov.uk/downloads/publications/research-and-analysis/moj-research/litigants-in-person-literature-review.pdf>

<sup>26</sup> This is mirrored in a reported general propensity to resolve complaints at an earlier stage in a harsher financial climate – see for example <http://www.financial-ombudsman.org.uk/publications/pb06/2.htm>

<sup>27</sup> LSB analysis of HMCTS data and The City UK - Dispute Resolution in London and the UK 2010 - <http://www.thecityuk.com/research/our-work/reports-list/dispute-resolution-in-london-and-the-uk-2010/>

<sup>28</sup> Client satisfaction report – Legal Week Intelligence 2010, <http://www.legalweek.com/legal-week/research/1167635/ftse-aim-client-satisfaction-survey-2008>

<sup>29</sup> As measured by turnover, see RIR Map of Legal Services Part 1 Supply, slide 146. Due to be published in due course, available on request from the LSB.

<sup>30</sup> As measured by time spent in areas of work, see table 2.10, Barristers working lives – A biennial Survey of the Bar 2011 <http://www.barstandardsboard.org.uk/media-centre/research-and-statistics/research-publications-and-reports/>.

<sup>31</sup> A business death is defined as a business that was on the active file in year t, but was no longer present in the active file in t+1 and t+2 – see <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-229177>

<sup>32</sup> Data taken from publications between 2006-2011 by HMCTS, ONS, HMRC, IPO, and BIS.

<sup>33</sup> See

[http://www.legalservicesboard.org.uk/news\\_publications/latest\\_news/pdf/benchmarking\\_city\\_law\\_firms\\_final\\_report\\_v3.pdf](http://www.legalservicesboard.org.uk/news_publications/latest_news/pdf/benchmarking_city_law_firms_final_report_v3.pdf)

<sup>34</sup> See

[http://www.legalservicesboard.org.uk/news\\_publications/publications/pdf/evaluation\\_framework\\_april\\_2011.pdf](http://www.legalservicesboard.org.uk/news_publications/publications/pdf/evaluation_framework_april_2011.pdf)

<sup>35</sup> See Trends in the Solicitors Profession, The Law Society 2011, <http://www.lawsociety.org.uk/aboutlawsociety/whatwedo/researchandtrends/researchpubs.law>, and Bar Barometer, Bar Standards Board 2011, [http://www.barstandardsboard.org.uk/media/1362443/bar\\_barometer\\_december\\_11\\_clickable\\_jan12.pdf](http://www.barstandardsboard.org.uk/media/1362443/bar_barometer_december_11_clickable_jan12.pdf).

<sup>36</sup> See slide 29 Map of Legal Services Part 1 – Supply. Due to be published in due course, available on request from the LSB.

<sup>37</sup> See

[http://www.legalservicesboard.org.uk/what\\_we\\_do/Research/Publications/pdf/diversity\\_initiatives\\_of\\_approved\\_regulators\\_the\\_report.pdf](http://www.legalservicesboard.org.uk/what_we_do/Research/Publications/pdf/diversity_initiatives_of_approved_regulators_the_report.pdf)

<sup>38</sup> For example ONS published 2009/10 diversity statistics in May 2011.

<sup>39</sup> Report of the Analysis of Demographic Data collected from the Practising Bar in November 2007, Dr. D Price & Dr. Laybourne, Kings Institute for Public Policy, Bar Council 2010, <http://www.barcouncil.org.uk/media/18154/reportoftheanalysisofdemographicdata2007.pdf>

<sup>40</sup> Barristers working lives – A biennial Survey of the Bar 2011, <http://www.barstandardsboard.org.uk/media-centre/research-and-statistics/research-publications-and-reports/>

<sup>41</sup> BME firms defined as more than 50% of all solicitors are of BME ethnic origin. See slide 72 onwards, Map of Legal Services Part 1 Supply, for further discussion. Due to be published in due course, available on request from the LSB.

<sup>42</sup> Professor Hilary Sommerlad et al, Diversity in the legal profession in England and Wales: a qualitative study of barriers and individual choices, University of Westminster, 2010. [http://www.legalservicesboard.org.uk/what\\_we\\_do/Research/Publications/pdf/lsb\\_diversity\\_in\\_the\\_legal\\_profession\\_final\\_rev.pdf](http://www.legalservicesboard.org.uk/what_we_do/Research/Publications/pdf/lsb_diversity_in_the_legal_profession_final_rev.pdf)

<sup>43</sup> See <http://www.barstandardsboard.org.uk/media-centre/research-and-statistics/research-publications-and-reports/>

<sup>44</sup> Quality in Legal Services, Vanilla Research 2011, [http://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/Vanilla\\_Research\\_ConsumerResearch\\_QualityinLegalServices.pdf](http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/Vanilla_Research_ConsumerResearch_QualityinLegalServices.pdf)

<sup>45</sup> Baseline survey to assess the impacts of legal services reform, Ministry of Justice 2010 <http://www.justice.gov.uk/downloads/publications/research-and-analysis/moj-research/legal-services-reform-survey.pdf>



- <sup>46</sup> Consumer views and their experiences on using solicitor services and their awareness of the Solicitors Regulation Authority 2008 <http://www.sra.org.uk/sra/how-we-work/consumer-research/consumer-research.page>
- <sup>47</sup> See Consumers and conveyancing: attitudes towards using solicitors for conveyancing services Solicitors Regulation Authority 2009 and Consumer research study: experiences of black and minority ethnic people using solicitors in England and Wales Solicitors Regulation Authority 2009 <http://www.sra.org.uk/sra/how-we-work/consumer-research/consumer-research.page>
- <sup>48</sup> See 3.2.9, A framework to monitor the legal services sector, Oxera, 2011, [http://www.legalservicesboard.org.uk/news\\_publications/latest\\_news/pdf/a\\_framework\\_to\\_monitor\\_the\\_legal\\_services\\_sector.pdf](http://www.legalservicesboard.org.uk/news_publications/latest_news/pdf/a_framework_to_monitor_the_legal_services_sector.pdf)
- <sup>49</sup> See [http://ec.europa.eu/consumers/strategy/docs/2nd\\_edition\\_scoreboard\\_en.pdf](http://ec.europa.eu/consumers/strategy/docs/2nd_edition_scoreboard_en.pdf)
- <sup>50</sup> See <http://www.justice.gov.uk/publications/docs/legal-services-reform-survey.pdf>
- <sup>51</sup> See First Tier Complaints Handling You Gov results - [http://www.legalservicesboard.org.uk/what\\_we\\_do/Research/Publications/publications.htm](http://www.legalservicesboard.org.uk/what_we_do/Research/Publications/publications.htm)
- <sup>52</sup> For the LCS a case was defined as a matter where action is taken to conciliate or settle or investigate and determine an expression of dissatisfaction about the service provided by a firm of solicitors or the conduct of an individual solicitor. Cases did not include enquiries which were defined as matters where we provide information, clarification or explanations of jurisdiction.
- <sup>53</sup> See LCS Annual Report 2009 - <http://webarchive.nationalarchives.gov.uk/20100612132621/http://www.olscc.gov.uk/docs/lsc-report-opportunity-for-excellence.pdf>
- <sup>54</sup> For the Legal Ombudsman a case is defined as a complaint that has been accepted for investigation and allocated to an investigator, which falls within their jurisdiction.
- <sup>55</sup> Taken from SRA Annual Reports - <http://www.sra.org.uk/reports/>
- <sup>56</sup> See for example <http://news.bbc.co.uk/1/hi/uk/6590461.stm> and <http://www.bbc.co.uk/news/uk-11008812>
- <sup>57</sup> Taken from CLC Annual Reports - [http://www.clc-uk.org/about\\_us.php](http://www.clc-uk.org/about_us.php)
- <sup>58</sup> See <http://www.ilex.org.uk/pdf/PCP%20and%20DT%20Annual%20Report%202010.pdf>
- <sup>59</sup> See <http://www.barstandardsboard.org.uk/about-bar-standards-board/how-we-do-it/our-staff/professional-conduct-department/performance-reports/annual-and-quarterly-performance-reports/>
- <sup>60</sup> For information about the <http://www.barmutual.co.uk/about-bar-mutual/>
- <sup>61</sup> The Consumer Markets Scoreboard, 2<sup>nd</sup> Edition - [http://ec.europa.eu/consumers/strategy/docs/2nd\\_edition\\_scoreboard\\_en.pdf](http://ec.europa.eu/consumers/strategy/docs/2nd_edition_scoreboard_en.pdf)
- <sup>62</sup> See <http://www.ipsos-mori.com/Assets/Docs/Polls/Veracity2011.pdf>
- <sup>63</sup> Reported in the 2006-09 Civil & Social Justice Survey, <http://www.justice.gov.uk/downloads/publications/research-and-analysis/lsrc/2010CSJSAAnnualReport.pdf>
- <sup>64</sup> See [http://www.legalservicesboard.org.uk/what\\_we\\_do/Research/Publications/consumer\\_research.htm](http://www.legalservicesboard.org.uk/what_we_do/Research/Publications/consumer_research.htm)
- <sup>65</sup> Barristers working lives – A biennial Survey of the Bar 2011, <http://www.barstandardsboard.org.uk/media-centre/research-and-statistics/research-publications-and-reports/>
- <sup>66</sup> 2011 Survey of Regulatory Performance, The Law Society, <http://www.lawsociety.org.uk/secure/file/194753/d/teamsite-deployed/documents/templatedata/Publications/Research%20Publications/Documents/regulatory-performance-2011.pdf>
- <sup>67</sup> For further information see Legal Services Commission Quality Assurance of Advocates, Moorhead et al, Cardiff Law School 2009 <http://www.law.cf.ac.uk/research/pubs/repository/2269.pdf>
- <sup>68</sup> See <http://letr.org.uk/> for more information.
- <sup>69</sup> See [http://www.legalservicesconsumerpanel.org.uk/ourwork/quality\\_assurance/documents/FinalReport\\_V\\_QS.pdf](http://www.legalservicesconsumerpanel.org.uk/ourwork/quality_assurance/documents/FinalReport_V_QS.pdf)
- <sup>70</sup> See <http://www.sra.org.uk/sra/news/press/gasa-agreement-reached.page>
- <sup>71</sup> Consultation due to close on 1<sup>st</sup> June 2012, [http://www.legalservicesboard.org.uk/what\\_we\\_do/consultations/open/pdf/20120311\\_approaches\\_to\\_quality\\_consultation.pdf](http://www.legalservicesboard.org.uk/what_we_do/consultations/open/pdf/20120311_approaches_to_quality_consultation.pdf)



<sup>72</sup> See

[http://www.legalservicesboard.org.uk/news\\_publications/publications/pdf/regulatory\\_objectives.pdf](http://www.legalservicesboard.org.uk/news_publications/publications/pdf/regulatory_objectives.pdf)

<sup>73</sup> See <http://www.justice.gov.uk/publications/research-and-analysis/lsrc/research-projects/english-and-welsh-civil-and-social-justice-survey>

<sup>74</sup> See <http://www.mediationworld.net/european-union/publications/full/94.html>

<sup>75</sup> For a further discussion please see slides 29-31 Map of Legal Services Part 2 Demand. Due to be published in due course, available on request from the LSB.

<sup>76</sup> [http://www.legalservicesboard.org.uk/news\\_publications/latest\\_news/pdf/yougov\\_research.pdf](http://www.legalservicesboard.org.uk/news_publications/latest_news/pdf/yougov_research.pdf)

<sup>77</sup> For example Consumer attitudes towards the purchase of legal services, GfK, Solicitors Regulation Authority 2010, <http://www.sra.org.uk/sra/how-we-work/consumer-research/consumer-research.page>, Study of Defendants in Magistrates' Courts Legal Services Research Centre 2009, <http://www.justice.gov.uk/downloads/publications/lsrc/2009/DefendantsInMagistratesCt.pdf>, Legal Advice for Small Businesses Qualitative Research AIA Research Ltd 2010, [http://www.legalservicesboard.org.uk/what\\_we\\_do/Research/Publications/legal\\_services\\_needs\\_of\\_small\\_businesses.htm](http://www.legalservicesboard.org.uk/what_we_do/Research/Publications/legal_services_needs_of_small_businesses.htm), Perceptions of barristers - Research study conducted for the Bar Standards Board by IPSOS MORI Bar Standards Board 2007, [http://www.barstandardsboard.org.uk/media/1087401/perceptions\\_of\\_barristers\\_ipsos\\_mori\\_2007.pdf](http://www.barstandardsboard.org.uk/media/1087401/perceptions_of_barristers_ipsos_mori_2007.pdf)

<sup>78</sup> This is derived from the following set of questions and responses. Have you ever been in a situation where seeking legal advice could have been beneficial but you decided not to? - Yes I have 20%. You said you have been in a situation where seeking legal advice would have been beneficial but you decided not to...Why did you decide not to? (Please tick all that apply) - Because I know/ I suspect it would have been too expensive 53.92%. See

[http://www.legalservicesboard.org.uk/what\\_we\\_do/Research/Publications/consumer\\_research.htm](http://www.legalservicesboard.org.uk/what_we_do/Research/Publications/consumer_research.htm)

<sup>79</sup> See

[http://www.legalservicesboard.org.uk/what\\_we\\_do/Research/Publications/pdf/lsb\\_will\\_writing\\_report\\_final.pdf](http://www.legalservicesboard.org.uk/what_we_do/Research/Publications/pdf/lsb_will_writing_report_final.pdf)

<sup>80</sup> Interim research findings: consumer attitudes to the purchase of legal services, GfK Solicitors Regulation Authority 2010 <http://www.sra.org.uk/sra/how-we-work/consumer-research/consumer-research.page>

<sup>81</sup> [http://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/VanillaResearch\\_ConsumerResearch\\_QualityinLegalServices.pdf](http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/VanillaResearch_ConsumerResearch_QualityinLegalServices.pdf)

<sup>82</sup> See <http://www.guardian.co.uk/money/2012/jan/11/hsbc-approved-solicitors-panel-conveyancing>

for example

<sup>83</sup> [http://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/ConsumerPanel\\_ConsumerImpactReport\\_2011.pdf](http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/ConsumerPanel_ConsumerImpactReport_2011.pdf)

<sup>84</sup> Consumers attitudes to the purchase of legal services, GfK, Solicitors Regulation Authority 2010 <http://www.sra.org.uk/sra/how-we-work/consumer-research/consumer-research.page>

<sup>85</sup> Taken from A framework to monitor the legal services sector, Oxera, 2011

[http://www.legalservicesboard.org.uk/news\\_publications/latest\\_news/pdf/a\\_framework\\_to\\_monitor\\_the\\_legal\\_services\\_sector.pdf](http://www.legalservicesboard.org.uk/news_publications/latest_news/pdf/a_framework_to_monitor_the_legal_services_sector.pdf)

<sup>86</sup> For example General counsel look for alternatives as law firm fees continue to soar Strategic Legal Advisor 2009, <http://www.strategiclegaladvisor.com/news-features/General-counsel-look-for-alternatives-as-law-firm-fees-continue-to-soar/>

<sup>87</sup> See

[http://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/ConsumerPanel\\_ConsumerImpactReport\\_2011.pdf](http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/ConsumerPanel_ConsumerImpactReport_2011.pdf)

<sup>88</sup> Home buying and selling: A Market Study, February 2010 OFT 1186,

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<sup>90</sup> <http://www.justice.gov.uk/publications/statistics-and-data/courts-and-sentencing/judicial-quarterly.htm>

<sup>91</sup> [http://www.legalservicesboard.org.uk/news\\_publications/latest\\_news/pdf/research\\_note\\_on\\_the\\_legal\\_services\\_market.pdf](http://www.legalservicesboard.org.uk/news_publications/latest_news/pdf/research_note_on_the_legal_services_market.pdf)

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- <sup>93</sup> See [http://www.arbitrations.ru/files/articles/uploaded/LCIA\\_stats\\_2006-2009.PDF](http://www.arbitrations.ru/files/articles/uploaded/LCIA_stats_2006-2009.PDF)
- <sup>94</sup> See <http://www.thecityuk.com/research/our-work/reports-list/dispute-resolution-in-london-and-the-uk-2010/>
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- <sup>96</sup> See <http://www.doingbusiness.org/data/exploreeconomies/united-kingdom/enforcing-contracts>
- <sup>97</sup> See [http://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/ConsumerPanel\\_ConsumerImpactReport\\_2011.pdf](http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/ConsumerPanel_ConsumerImpactReport_2011.pdf)
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- <sup>99</sup> Taken from SRA Annual Reports - <http://www.sra.org.uk/reports/>
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- <sup>103</sup> SRA Summary of Performance Measures and Statistics 2009, 2010, and 2011 <http://www.sra.org.uk/reports/>
- <sup>104</sup> Figures from Trends in the Solicitor Profession – Annual Statistical Reports, The Law Society <http://www.lawsociety.org.uk/aboutlawsociety/whatwedo/researchandtrends/researchpubs.law>
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- <sup>115</sup> See 'Liberalisation of Legal Services', Stephen, F. and Burns, C. 2009, written for the Institute for Law Economy and Global Governance. - [http://www.law.manchester.ac.uk/aboutus/staff/frank\\_stephen/documents/LiberalizationofLegalServices.pdf](http://www.law.manchester.ac.uk/aboutus/staff/frank_stephen/documents/LiberalizationofLegalServices.pdf).
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<sup>120</sup> Page 93 Cost benefit analysis of policy options related to referral fees in legal services May 2010 Charles River Associates,

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<sup>121</sup> Taken from Claims Management Regulator Annual Reports -

<http://www.justice.gov.uk/downloads/publications/corporate-reports/cmr/cmr-annual-report-2010-11.pdf>

<sup>122</sup> The ability of a fee earner to convert time into income through achieving the maximum possible level of utilisation, and bill enough hours to meet their chargeable hours target. See RIR Map of legal services Part 1, slides 151-154. Due to be published in due course, available on request from the LSB.

<sup>123</sup> See [http://www.pwc.co.uk/assets/pdf/LFS\\_2010.pdf](http://www.pwc.co.uk/assets/pdf/LFS_2010.pdf)

<sup>124</sup> See [http://www.legalweek.com/legal-week/news/2161518/rbs-legal-profession-carrying-thousands-excess-solicitor-jobs?WT.tsrc=Email&WT.mc\\_id=694&utm\\_source=Newsletters&utm\\_medium=Email&utm\\_campaign=LW\\_Daily](http://www.legalweek.com/legal-week/news/2161518/rbs-legal-profession-carrying-thousands-excess-solicitor-jobs?WT.tsrc=Email&WT.mc_id=694&utm_source=Newsletters&utm_medium=Email&utm_campaign=LW_Daily) and <http://amlawdaily.typepad.com/amlawdaily/2012/03/ukfirmcut5000jobsrbsreport.html>

<sup>125</sup> Barristers working lives – A biennial Survey of the Bar 2011,

[http://www.barstandardsboard.org.uk/media/1385164/barristers\\_working\\_lives\\_30.01.12\\_web.pdf](http://www.barstandardsboard.org.uk/media/1385164/barristers_working_lives_30.01.12_web.pdf)

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<sup>127</sup> The UK Legal Services Market, IRN Research 2008, <http://www.irn-research.com/sector-specific-services/legal-services/>

<sup>128</sup> Client satisfaction report – Legal Week Intelligence 2010 - <http://www.legalweek.com/legal-week/research/1167635/ftse-aim-client-satisfaction-survey-2008>

<sup>129</sup> See <http://www.justice.gov.uk/downloads/publications/lsrc/2011/civil-justice-wave1-report.pdf>

<sup>130</sup> [http://www.legalservicesboard.org.uk/what\\_we\\_do/Research/Publications/consumer\\_research.htm](http://www.legalservicesboard.org.uk/what_we_do/Research/Publications/consumer_research.htm)

<sup>131</sup> For a detailed analysis of data availability see RIR Map of Legal Services: Part 1 – Supply and Part 2 – Demand. Due to be published in due course, available on request from the LSB

<sup>132</sup> [http://www.legalservicesboard.org.uk/news\\_publications/latest\\_news/pdf/research\\_note\\_on\\_the\\_legal\\_services\\_market.pdf](http://www.legalservicesboard.org.uk/news_publications/latest_news/pdf/research_note_on_the_legal_services_market.pdf)

<sup>133</sup> Law Firms Survey 2010, PWC, [http://www.pwc.co.uk/assets/pdf/LFS\\_2010.pdf](http://www.pwc.co.uk/assets/pdf/LFS_2010.pdf)

<sup>134</sup> For more information see slides 145-160 RIR Map of Legal Services: Part 1 - Supply

<sup>135</sup> See for example <http://www.co-operative.coop/corporate/Press/Press-releases/Headline-news/The-Co-operative-Legal-Services-to-enter-family-law-market/>

<sup>136</sup> See for example <http://www.thelawyer.com/russell-jones-and-walker-acquired-by-listed-aussie-firm-slater-and-gordon/1011140.article>

<sup>137</sup> See for example <http://www.thelawyer.com/irwin-mitchell-we%E2%80%99ll-float-and-take-on-the-mid-tier/1007714.article>

<sup>138</sup> 2007-2010 Law Firms Surveys, PWC, [http://www.pwc.co.uk/assets/pdf/LFS\\_2010.pdf](http://www.pwc.co.uk/assets/pdf/LFS_2010.pdf)

<sup>139</sup> Annual survey of Law Firms 2010, Smith & Williamson,

[http://www.smith.williamson.co.uk/uploads/publications/Annual\\_survey\\_legal\\_sector\\_10.pdf](http://www.smith.williamson.co.uk/uploads/publications/Annual_survey_legal_sector_10.pdf)

<sup>140</sup> See section 51 application, CLSB 2011

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