

Legal expenses insurance

Findings of a mystery shopping exercise

November 2021

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Executive summary

1. The LSB wishes to see the use of legal expenses insurance to fund legal services grow, as one of a range of tools to widen access to justice. Yet, while recognising its potential, we also want to ensure that consumers can exercise choice, access good quality products and are well protected when using them.
2. In this context, we carried out a mystery shopping exercise to gather information on legal expenses insurance offered alongside home buildings and contents insurance on the UK's four largest price comparison websites.
3. The headline finding is that quality and price were not correlated. Higher quality legal expenses policies (as measured by Defaqto star ratings) were not associated with higher premiums. Further, the average Defaqto star rating for home insurance was higher than the average star rating for the legal cover.
4. In practice, consumers choose their home insurance policy, and this comes with the legal expenses cover offered by their selected insurer. Consumers do not freely choose which legal expenses cover to purchase. The findings of this mystery shopping exercise suggest that consumers are not driving the quality of products through their purchasing behaviour due to the way the market operates.
5. We hope this mystery shopping exercise provides useful evidence to support the Financial Conduct Authority's regulation of general insurance markets and will provide useful insights for insurers, price comparison websites and others.

Introduction

1. The Legal Services Board is the oversight regulator for legal services in England and Wales. We have a general duty to promote eight statutory objectives in the Legal Services Act 2007. Of relevance to legal expenses insurance these include improving access to justice, promoting and protecting the interests of consumers, and increasing public understanding of the citizen's legal rights and duties.
2. Our State of Legal Services 2020 report underlined the access to justice gap in England and Wales¹. In March 2021, we published a new ten-year sector-wide strategy focused on a set of nine challenges². The strategy includes a goal that most households have a legal expenses insurance policy or other mechanisms enabling them to access a wide range of legal services free at the point of need.
3. As a first contribution to meeting that goal, in June 2021 we published qualitative research with LSB's Public Panel³. We used the research to explore with citizens their perceived need for legal expenses insurance and what might encourage or discourage them from taking out policies. Participants had little understanding of these products and how they could use them. They also found the process of selling legal expenses insurance as an add-on to existing cover disengaging. Most people assumed legal expenses insurance was more expensive and restrictive than it is. We consider these misconceptions are likely to limit the role legal expenses insurance could play in meeting unexpected legal costs.
4. Our starting position is that we want to see use of legal expenses insurance to fund legal services grow, as one of a range of tools to widen access to justice. However, while recognising the potential of legal expenses insurance, we also have an interest in ensuring that consumers can exercise choice, access good quality products and are well protected when using them.
5. In this context, we carried out a mystery shopping exercise to gather information on the choice, quality and price of legal expenses insurance accessible through the 'big four' price comparison websites active in the general insurance market. The exercise comments on products rather than providers and does not consider the experience of consumers when using the policies.
6. While legal expenses insurance is relevant to our statutory regulatory objectives, the Financial Conduct Authority has responsibility for regulation of this market. We hope this mystery shopping exercise provides useful evidence to inform the Financial Conduct Authority's work and will provide useful insights for insurers, price comparison websites and others.

¹ [Legal Services Board, The State of Legal Services 2020, September 2020.](#)

² [Legal Services Board, Reshaping Legal Services: a sector-wide strategy, March 2021.](#)

³ [Community Research, Legal expenses insurance: A research report for the LSB, May 2021.](#)

Our approach

7. Our focus was on legal expenses insurance offered alongside home insurance. For all home insurance policies covered in the survey, legal cover was either sold as an add-on to these policies or provided as a standard inclusion within them. The exercise was conducted in August 2021.
8. Home insurance policies can be purchased directly from the insurer, via a range of price comparison websites and other sources. Survey evidence suggests that 72% of consumers use price comparison websites to research insurance⁴, so the approach taken in this research mirrors the purchasing behaviour of most people. We obtained quotes for combined home buildings and contents insurance from the four largest UK price comparison websites for insurance products:
 - Comparethemarket.com
 - Confused.com
 - Gocompare.com
 - Moneysupermarket.com
9. The same information about the property and contents was entered on each website and all quotes were obtained and recorded on the same day. Although this was done as good research practice, our understanding is that the particulars of the property are unlikely to influence the legal expenses insurance offered.
10. This process yielded quotes on 74 different home insurance policies across the four price comparison websites. Depending on the website, consumers can indicate their interest in legal expenses insurance either during the process of obtaining a quote or by filtering the results after quotes are returned.
11. We collected the following types of information for each policy, where available:
 - Home insurance premium
 - The legal expenses insurance premium (where sold as an add on)
 - Whether legal expenses insurance was sold as an add on, included as a standard feature of the home policy or offered free for the first year
 - The claim limit (and any maximum limit per claim)
 - Areas of law covered by the policy
 - Whether access to a free legal helpline was part of the policy
12. For 52 of the policies, we were able to match these with a Defaqto star rating. Defaqto star ratings are updated in February of each year and are based on the comprehensiveness of cover, acting as a proxy for quality (see further below).

⁴ [Mintel, UK Price Comparison Sites In General Insurance Market Report, 2019.](#)

13. We also noted whether the price comparison website contained more general consumer education materials about legal expenses insurance.

Findings

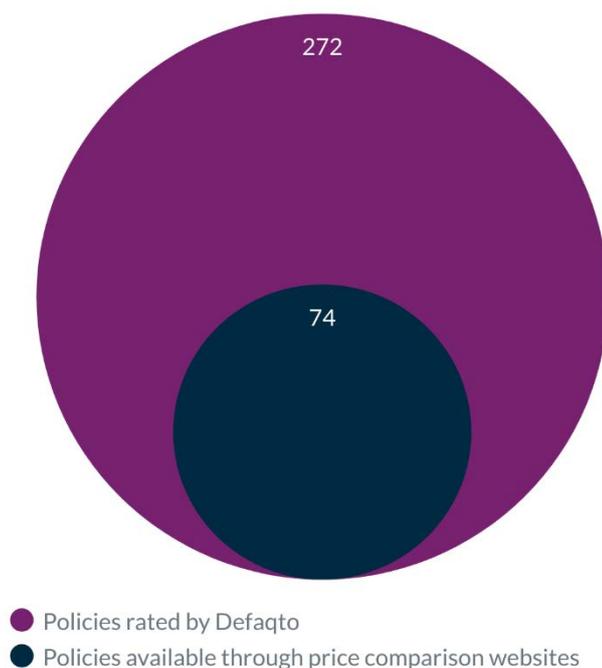
Choice of cover

14. The 74 policies accessed across the four price comparison websites represents 27% of the 272 home legal expenses insurance policies rated by Defaqto in its February 2021 exercise. There are likely to be a range of reasons for this. Policies aimed at the rental market and niche markets will not have matched the search criteria we used. Other policies will be accessible directly from insurers or via other financial institutions such as banks. We are aware that insurers make a commercial decision on whether to offer their policies on price comparison websites and there has been debate in the industry about this. From a consumer perspective, on the basis that most people research (but do not necessarily buy) insurance through a price comparison website, it is noteworthy that only a quarter of legal expenses insurance policies are available through these services.

15. We noted that where insurers offered multiple home insurance policies providing different features at different prices, the legal expenses insurance add-on was usually the same price across these policies. This suggests it is likely to be the same policy across the different deals offered.

16. Gocompare.com offered an element of choice on a small number of policies where consumers were given the option to upgrade the legal expenses insurance based on the claim limit and maximum cover limit per claim.

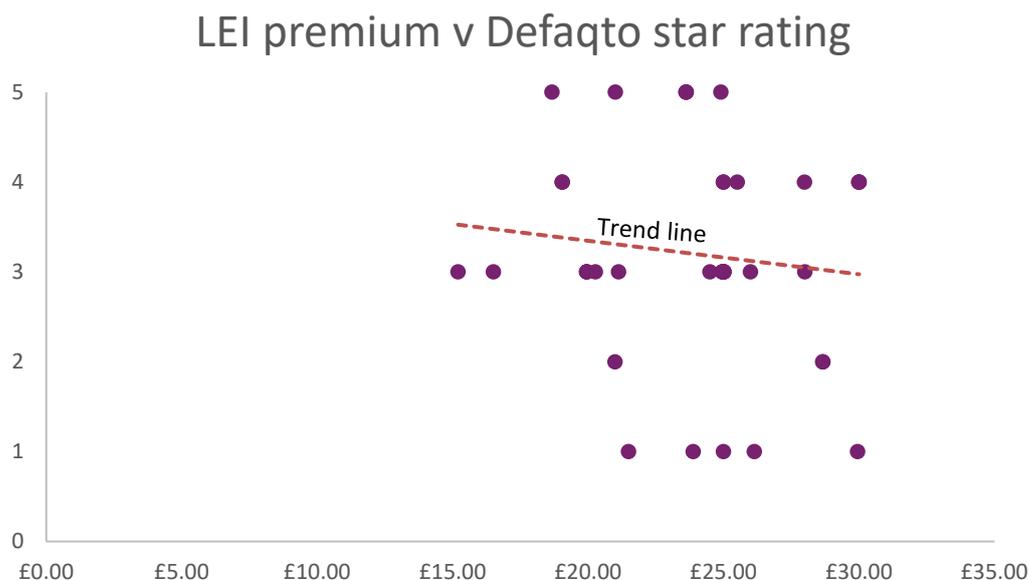
Chart 1 – Availability of legal expenses insurance



Quality

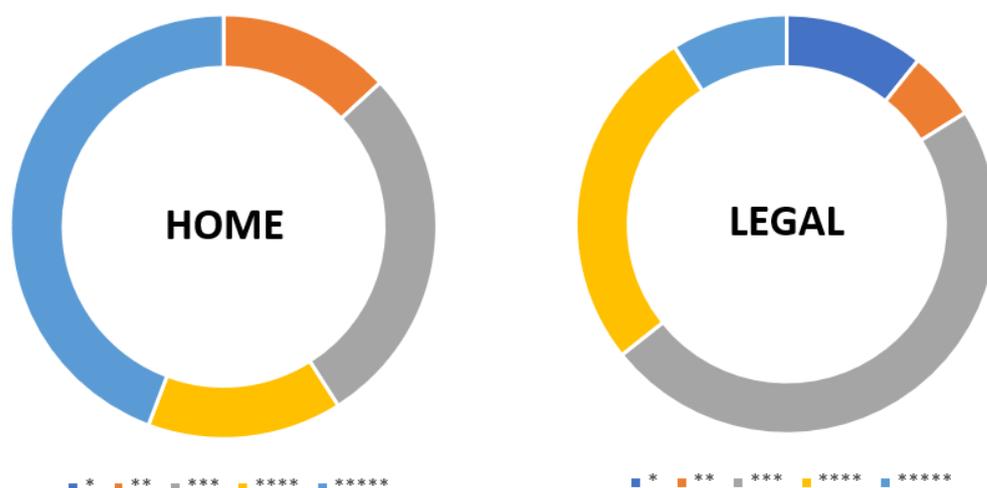
17. As a proxy for quality, we conducted statistical analysis to explore the relationship between Defaqto star ratings and legal expenses insurance premiums. Defaqto star ratings are based on its analysis of the most important product features and benefits. These criteria cover a range of feature categories, encompassing the key areas of the product being analysed. Criteria for legal expenses insurance include claim limits, areas of law, a range of policy terms and excesses, and service elements like online document services, discounted legal services, mediation and legal advice helplines. Usually, the more comprehensive a product the more points it will score. To achieve a 4 or 5 star rating, the policy must also meet or exceed the benchmark for several 'Core Criteria'.
18. Although the findings were not statistically significant, there was a low negative correlation between Defaqto star ratings and prices. Put simply, more expensive legal expenses insurance was not associated with higher quality products.

Chart 2 – Relationship between price and quality



19. We also compared the Defaqto star rating for the home insurance with the Defaqto star rating for the legal expenses insurance. The average star rating for home insurance was 4.1 compared to 3.3 for the legal expenses insurance. 44% of the home insurance policies had a 5-star rating compared to just 9% of the legal expenses policies. On 54% of occasions the home insurance had a higher star rating, the star rating was the same for both products 29% of the time and the legal cover had a higher star rating 17% of the time. This may suggest stronger incentives for insurers to offer higher quality home insurance policies.

Chart 3 – Defacto ratings for home and legal expenses insurance



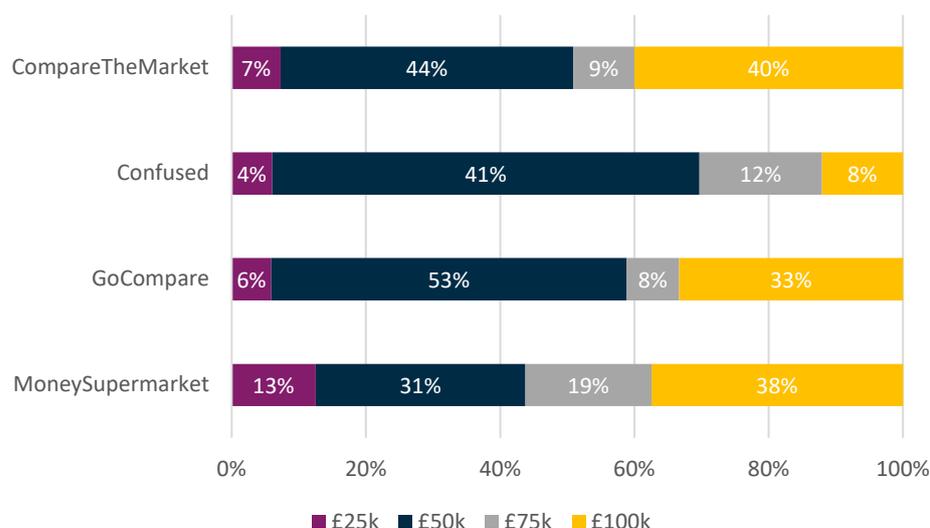
20. Comparethemarket.com and Confused.com provided information on whether policies covered claims in seven and eight specific areas of law respectively. Across both websites at least 90% of policies covered legal issues relating to the home, employment, contracts and injury. Supplying a defence, tax, the cost of jury service and clinical negligence were covered the least often. There was no evidence that areas of law differ based on whether the legal expenses insurance is provided as a standard feature of policies or sold as an optional add-on.

Table 1 – Areas of law included within policies

	Comparethemarket	Confused
Employment	91%	96%
Contract	93%	100%
Injury	96%	96%
Home	93%	-
Property protection	84%	-
Property	-	100%
Tax	-	69%
Jury service	-	63%
Supplying a legal defence	75%	67%
Clinical negligence	56%	63%

21. Another dimension of quality is the indemnity limits (the value of claims covered under the policy). All four price comparison websites indicated claim limits using four bands: £25k, £50k, £75k and £100k. On Comparethemarket.com and Confused.com the most common bands were £50k and £100k. Claims limits on Confused.com followed a similar pattern although claims limits were not stated for one in six of the policies. On Moneysupermarket.com there was no band stated for nearly three quarters (74%) of the policies on offer.

Chart 3 – Claims limit



22. Our analysis found a positive low correlation between higher premiums and higher claim limits, although this was not statistically significant. There was evidence that claim limits were lower where legal expenses insurance was included as a standard feature of policies rather than sold as an optional add-on.

23. Moneysupermarket.com was the only website to indicate whether access to a free legal helpline is included as part of the policy. This was the case in 19 out of the 61 policies on offer (31%). A Civil Justice Council report⁵ described these helplines as the industry's 'jewel in the crown' and industry stakeholders have similarly emphasised to us the importance of these helplines as part of a wider package of legal support that goes beyond meeting the costs of legal representation. Given these benefits, it is perhaps surprising that only one price comparison website indicated that legal helplines were included in some policies.

24. The relatively small sample size means makes statistically significant findings hard to detect. Overall, though, there is a weak relationship between the price of legal expenses insurance and the quality of these products. There are different possible explanations for this. One is that the proxies used in this research are not the best indicators of quality, although we note these are the best available to consumers. A second possible explanation is that consumers are not driving the quality of products through their purchasing behaviour.

25. Consumers are not well placed to exercise choice of legal expenses insurance cover due to the way the market operates. In practice, consumers choose their home insurance policy, and this comes with the legal expenses cover provided by the selected insurer. While consumers could reject the home insurance policy

⁵ [Civil Justice Council, The Law and Practicalities of Before-the-Event \(Bte\) Insurance: An Information Study, November 2017.](#)

because the legal expenses element does not meet their needs, it is unrealistic to expect them to exercise choice in this way given it is usually sold as an add-on either towards or at the end of the sales process.

26. The Financial Conduct Authority requires insurers to submit information on 'value measures' such as claims frequencies, acceptance rates, pay-outs and complaints for legal expenses insurance. If published, in a form that consumers and intermediaries would use, this should result in more information on the quality of these products being accessed. We note that value measures have been publicly reported for home insurance for some time, but none of the four price comparison websites provide information about them.
27. Given the findings of the research, we note the FCA's 'fair value' proposals as part of its Consumer Duty consultation⁶. The FCA wishes to set out a clear and consistent expectation of how firms should assess whether the price of products and services offers fair value. Firms should be able to demonstrate that the benefits of their products and services are reasonable relative to their price.

Price

28. The same deals were commonly offered on multiple price comparison websites. Prices were collected separately for each price comparison website and the mean average was calculated for each deal, i.e. total price from all quotes divided by total number of quotes. Based on this figure a mean average for each of the different policies was calculated. The mean 'average of averages' was £23 and the median around £25. Two policies appeared to be offered on a promotional basis (priced at £1.75 and £2.09) with all other policies priced between £15-30.
29. There were 43 policies offered on all four price comparison websites. 32 of these policies (74%) were priced the same across all four websites. The price difference was £5 or less for 8 policies (19%) and more than £5 for 3 policies (7%) – two of these were the policies apparently sold on a promotional basis.
30. We used the interquartile range (IQR) – the middle 50% of values in a range – to indicate the spread of prices. Across the four price comparison websites the IQR ranged between £4.53 and £5.17. Annex A contains scatter charts for each site.

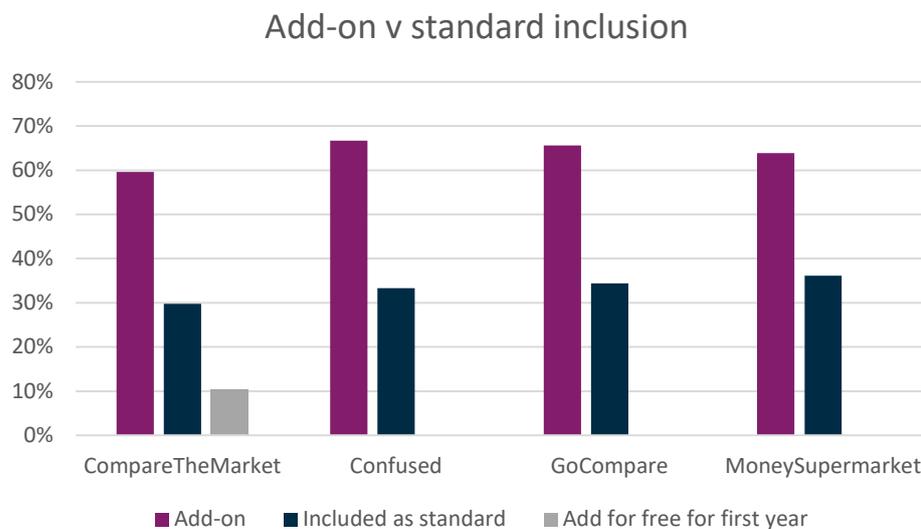
⁶ <https://www.fca.org.uk/publications/consultation-papers/cp21-13-new-consumer-duty>

Table 2 – Spread of prices

	Q3	Q1	Mean	Median	IQR
Comparethemarket.com	£25.12	£19.95	£22.40	£24.49	£5.17
Confused.com	£25.00	£19.95	£23.19	£24.90	£5.05
Gocompare.com	£25.12	£19.95	£23.32	£24.90	£5.17
Moneysupermarket.com	£25.00	£20.48	£23.38	£24.89	£4.53

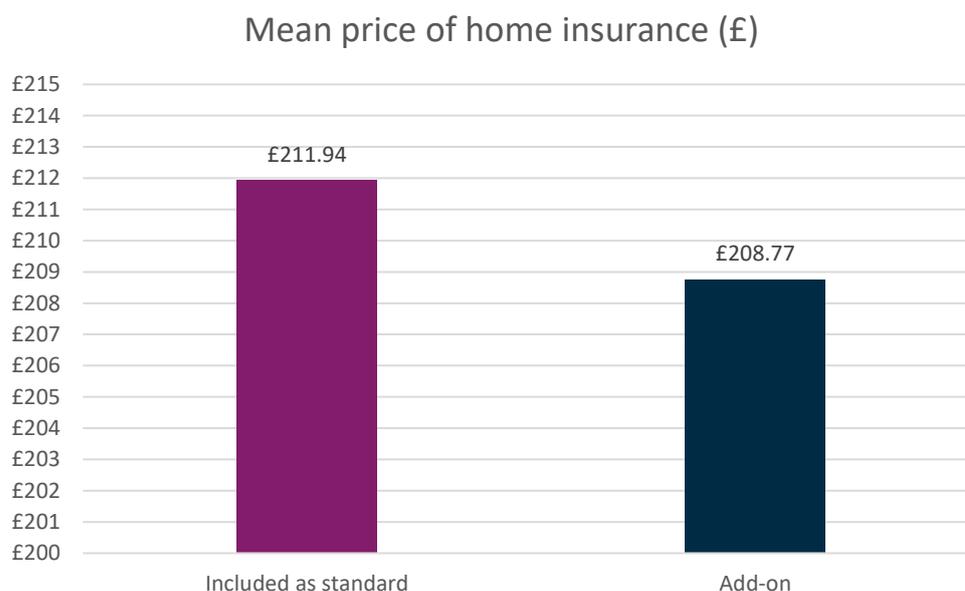
31. Across the four price comparison websites, around two-thirds of legal expenses insurance policies were offered as add-ons and for the remaining third the legal expenses cover was included as standard feature of the home insurance policy. The percentage of add-ons was lower on Comparethemarket.com where six policies were offered as ‘add for free for the first year’ basis.

Chart 4 – How legal expenses insurance is offered



32. We compared prices for home insurance policies where legal expenses cover was sold as an optional add-on with policies where legal cover was a standard inclusion. All things being equal, we would expect the latter to be more expensive on average since the costs of providing the product should be reflected in the price. In fact, there was no statistically significant difference in average prices when comparing the two ways that consumers obtain legal expenses insurance.

Chart 5 – Price of home insurance: add-on v standard inclusion



33. In the LSB’s qualitative research with consumers, participants assumed the price of legal expenses insurance was higher than these figures suggest. When given a menu of options, only one in six participants who did not have legal expenses insurance were in the right ballpark with their cost estimate and the majority thought it was more expensive, with over a third thinking it was £50 or more per year (and three people thinking it would cost more than £150). Most of those who said that the sum was not affordable had assumed that the cost was £50 a year or higher. This research identified perceived cost as one of the main barriers to purchase, but our findings appear to confirm that the cost barrier is likely to be based on misapprehensions about the degree of expense involved.

Consumer education

34. Briefly, we noted whether the price comparison website contained more general consumer education materials about legal expenses insurance.

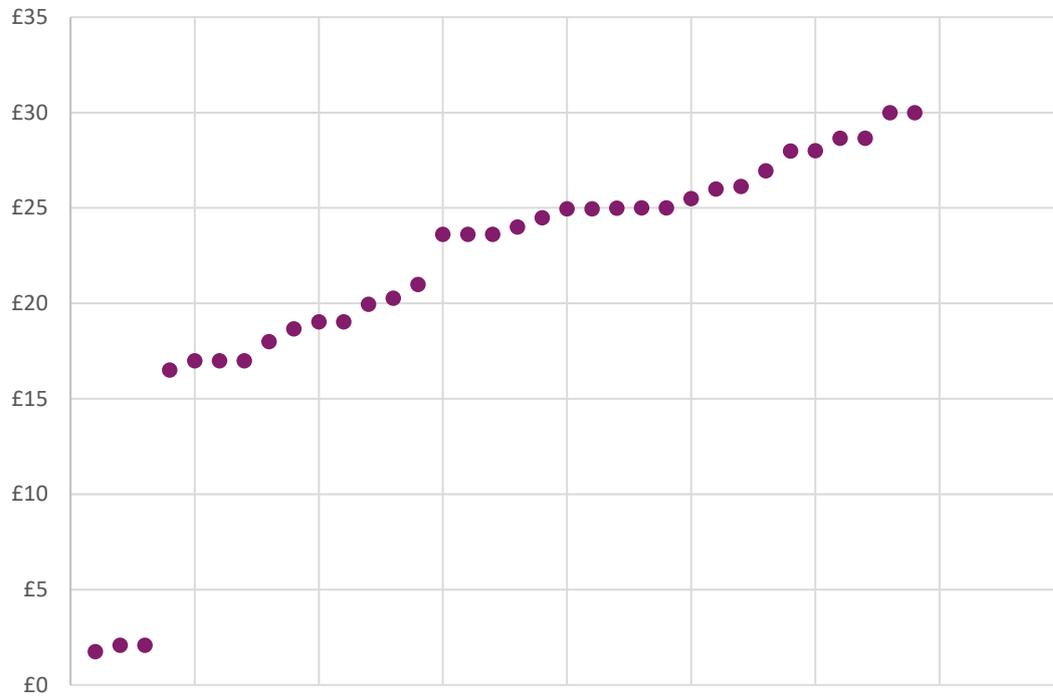
35. Each of the websites contained articles giving a range of information about legal expenses insurance, including information on the following:

- The purpose of legal expenses insurance
- The difference between before-the-event and after-the-event insurance
- Policies sold as an add-on or as a standard feature of home insurance
- The typical price of legal expenses insurance
- Legal helplines
- Claim limits
- Areas of law typically included and excluded from cover
- The reasonable prospects of success test
- Choice of lawyer

36. Overall, we considered that the materials provided were comprehensive, useful and balanced. They were not pitched as a 'hard sell' but as helping consumers to decide whether legal expenses insurance was a good option for them. However, reflecting the add-on nature of the market, their existence was not obvious from the home page and was located towards the end of materials on home insurance.
37. LSB's qualitative research suggests some common misconceptions about legal expenses insurance. Many people assume home legal expenses insurance only covers matters relating to their property and is more expensive than it is. There are also behavioural biases: people underestimate the likelihood of legal issues arising and thus see insurance as a product they would not use. If the information was more prominently featured on price comparison websites, this would help to raise awareness and address misconceptions that act as barriers to adoption.

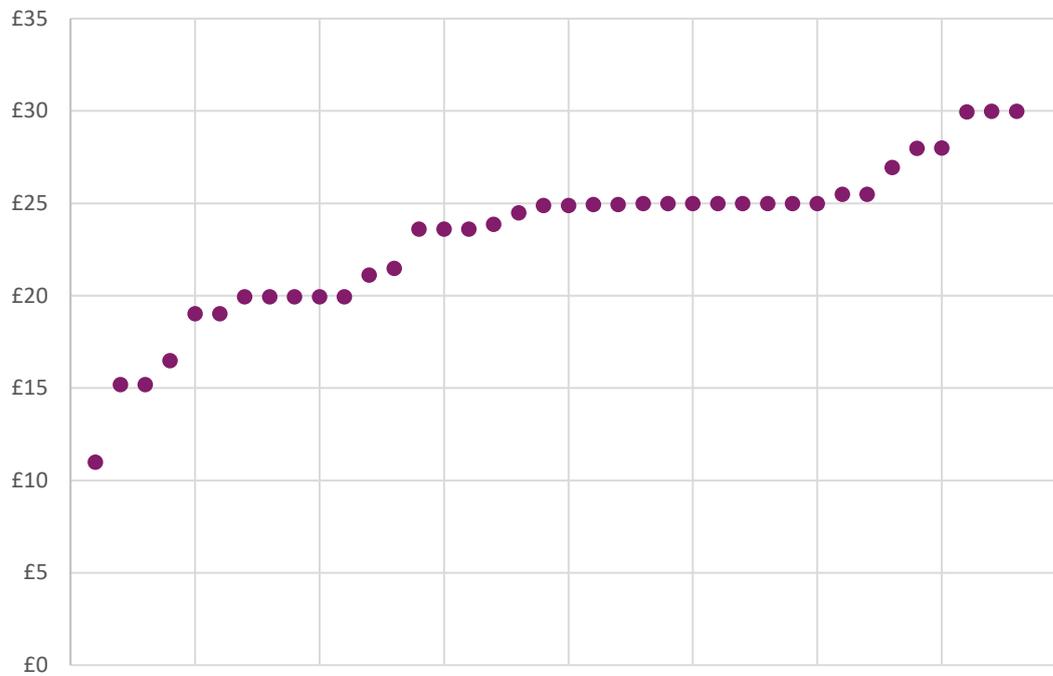
Annex A: Scatter charts

Comparethemarket.com



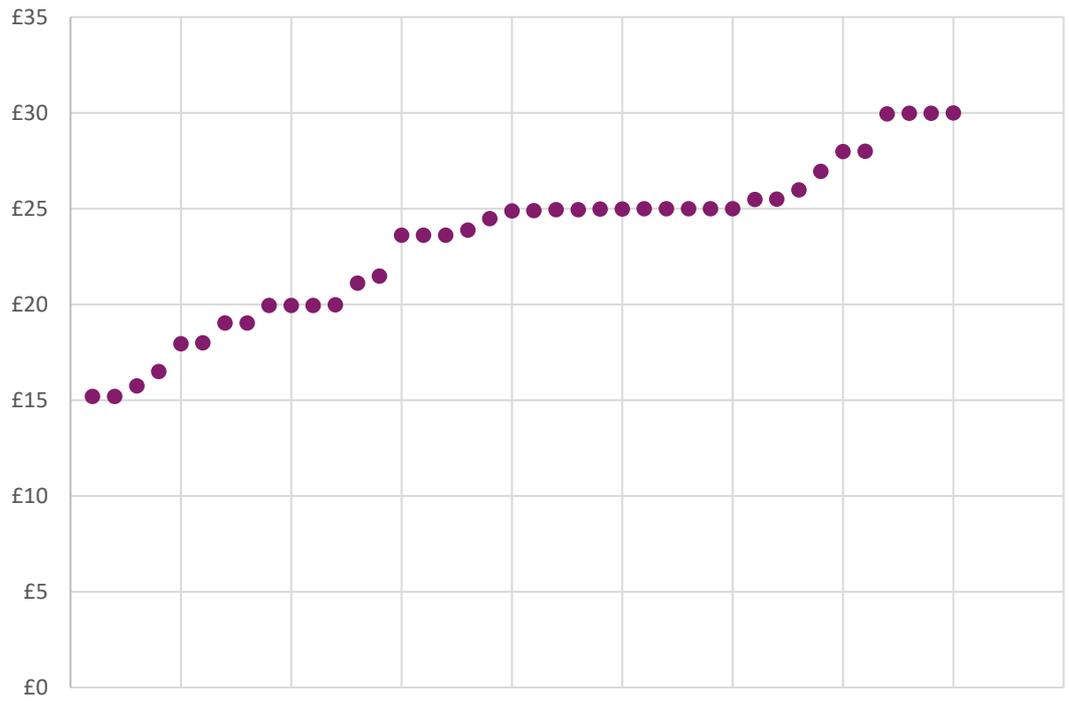
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Confused.com



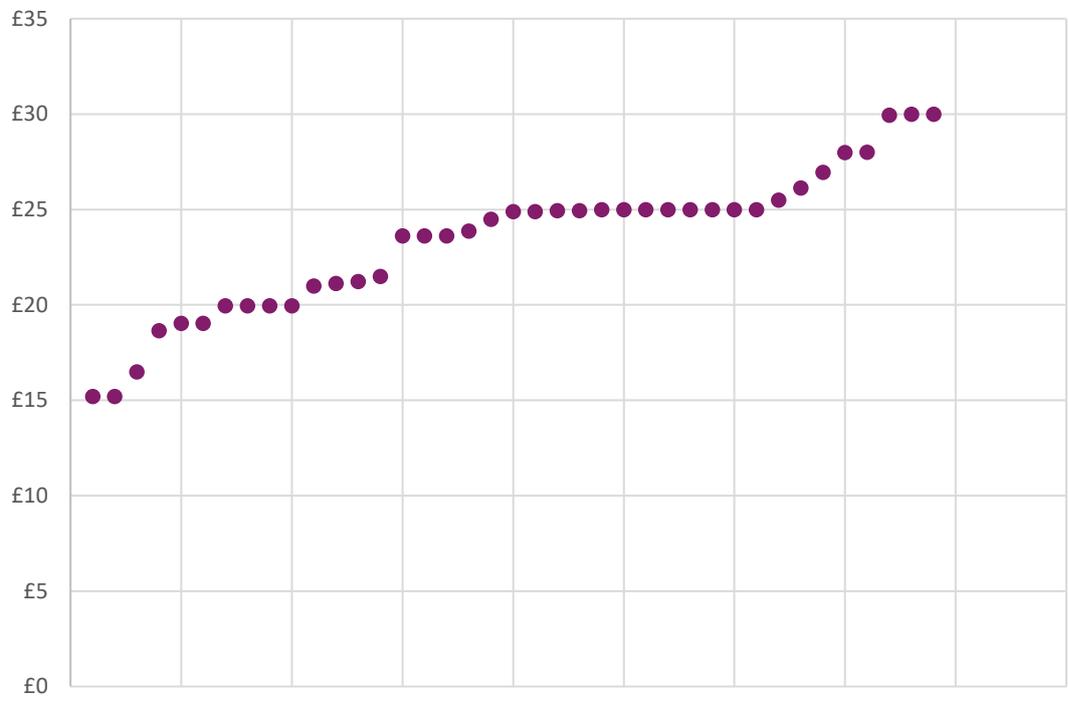
n=38

Gocompare.com



n=40

Moneysupermarket.com



n=39