

Results and Analysis of the Explanatory Notes Survey July 2013

1 Executive Summary

Highlights from the survey based on answers to questions and an analysis of the comments:

- People want Explanatory Notes to be **more practical**, to contain **examples** about how the law is to be applied in the real world.
- People want to understand '**why**' the legislation has been passed rather than just 'what' it does to the law.
- People want **more legal context** about the intent or purpose of the legislation.
- People use the Explanatory Notes to Acts on an **ongoing basis**, not only when the Act is first passed.
- People want practical information that explains any amendments to existing legislation, or new regulations that may be passed as a result.

Other important points:

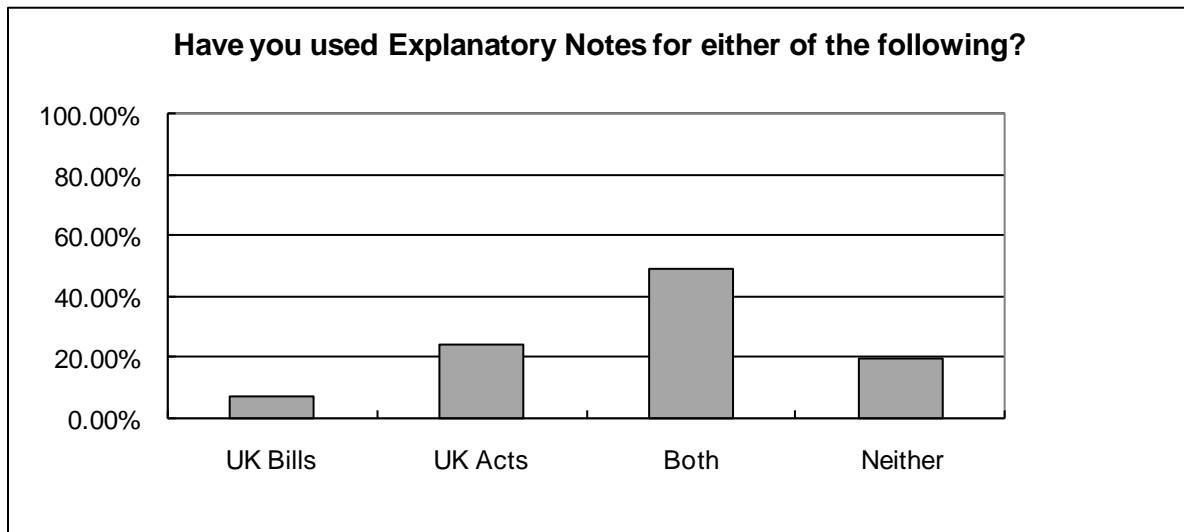
- The audience for Explanatory Notes is **overwhelmingly online**. Very few people use the printed copies of Explanatory Notes.
- People use Explanatory Notes particularly when they are trying to understand a provision where the text of the legislation is not self-explanatory.
- Explanatory Notes are not useful when they merely restate the legislation in different words.
- The main reason why people don't use Explanatory Notes is that they don't know they exist.

Facts and figures:

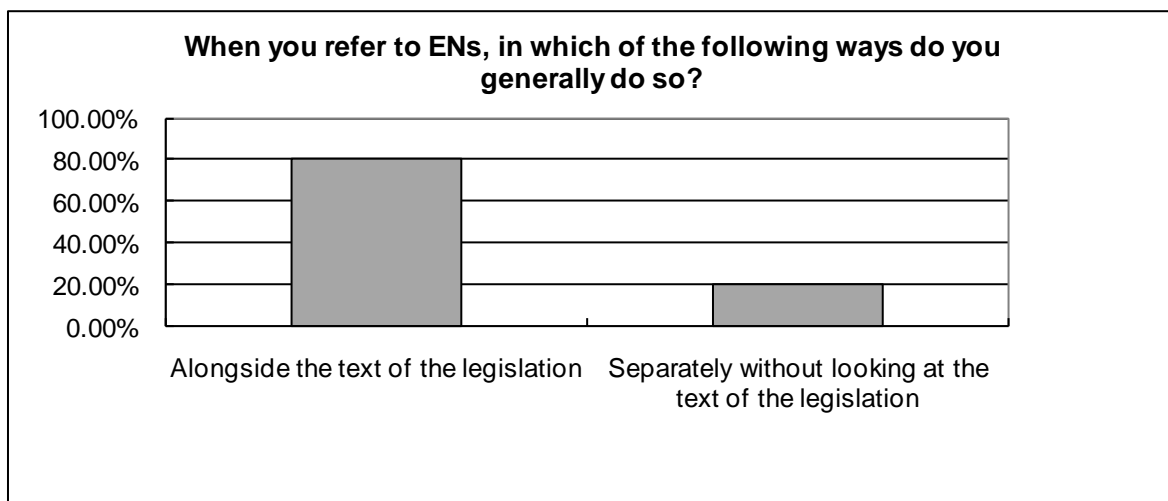
- Survey viewed 6369 times, started by 1233, and **completed by 572 people**, a completion rate of 46%.
- Of the 572 respondents **418** use Explanatory Notes to **both Bills and Acts**.
- 106 users would be happy to be contacted further.

2 How do users interact with Explanatory Notes?

Most respondents to the survey use Explanatory Notes to both Acts and Bills. When they do use Explanatory Notes, they are reading them alongside the text of the legislation, not as documents in isolation.

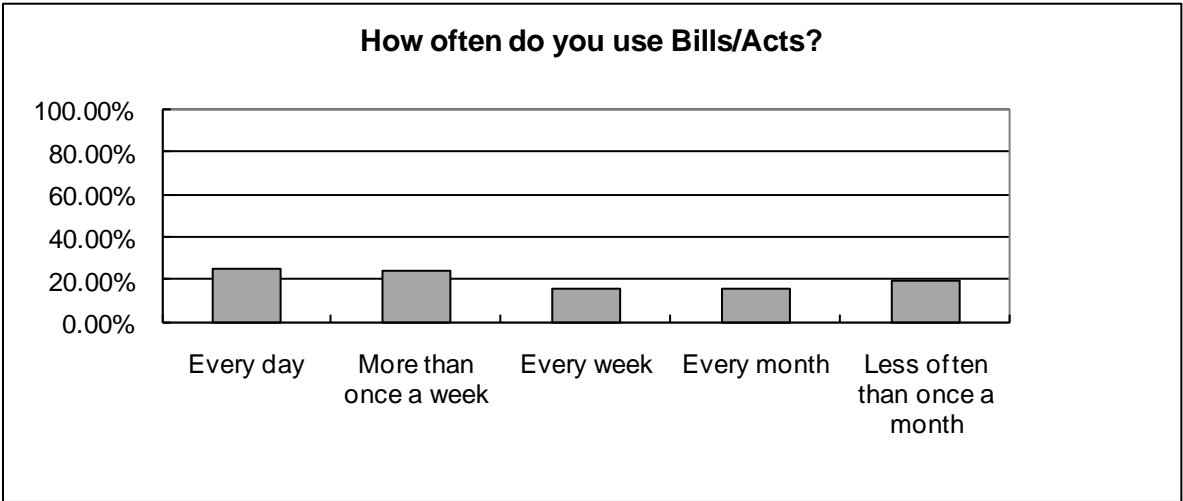


897 respondents to this question

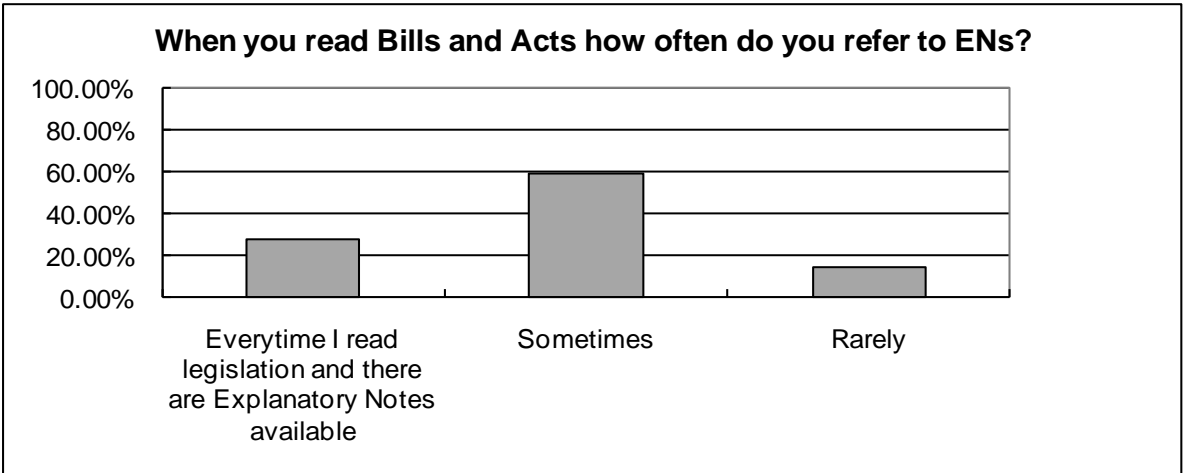


491 respondents to this question

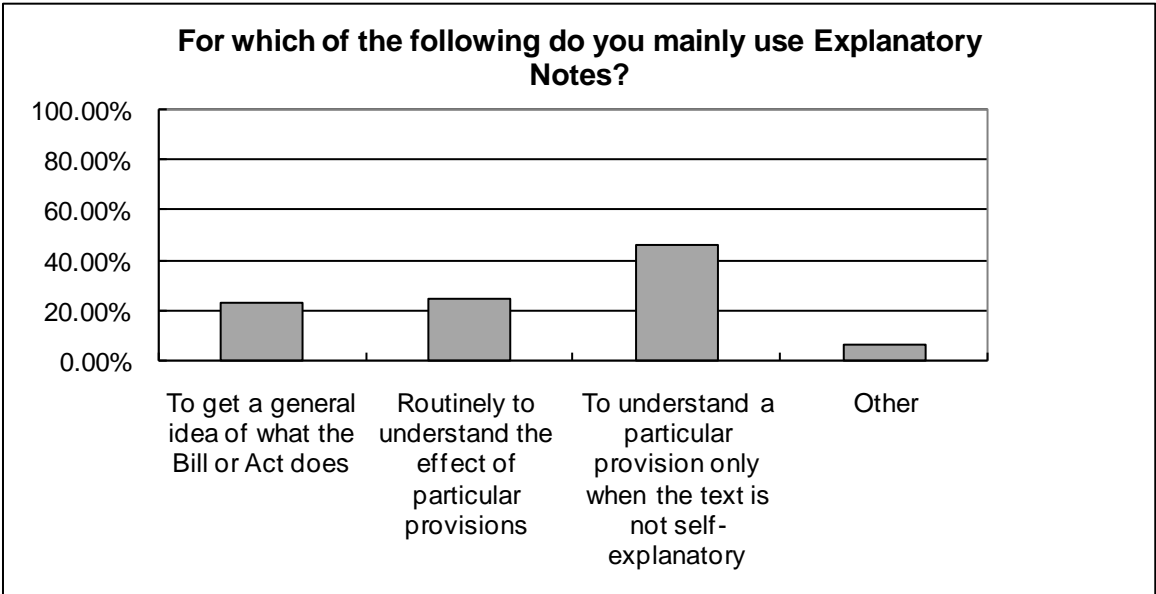
Putting together the results for the frequency people use legislation and in particular the frequency they use Explanatory Notes, alongside the motivation for using Explanatory Notes, we can surmise that people read the notes out of necessity, to better understand the legislation. In particular people read Explanatory Notes when they are trying to understand a provision where the text of the legislation is not self-explanatory.



493 respondents to this question

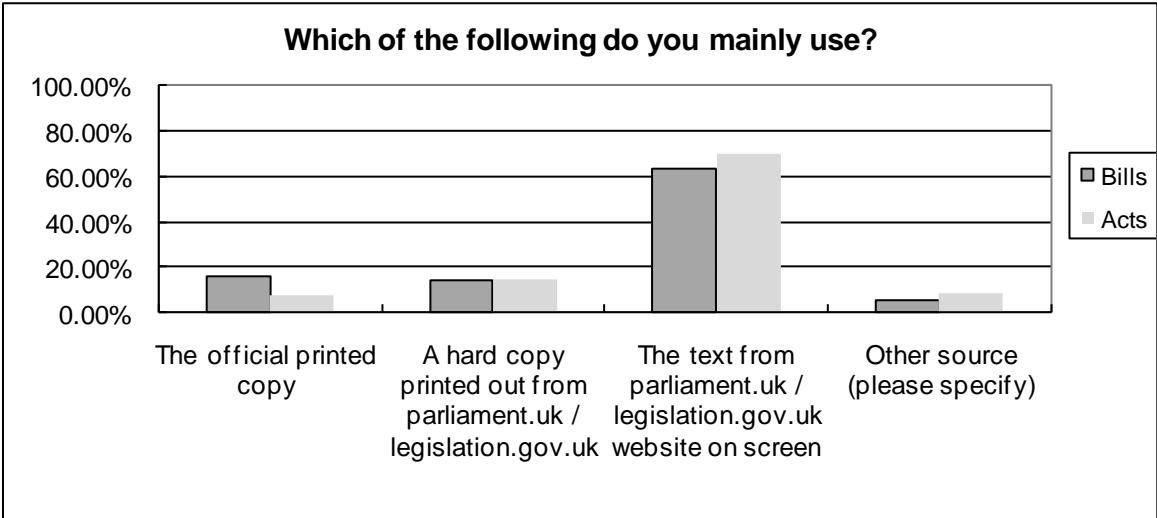


487 respondents to this question



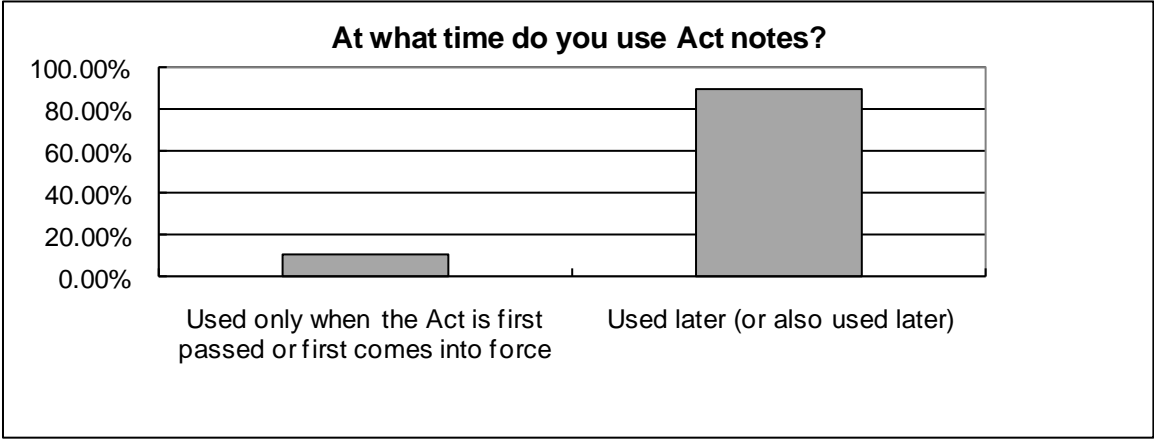
491 respondents to this question

When accessing the Explanatory Notes to Bills or Acts, people are mainly using the online version, rather than the using any printed hard copy. The audience for Explanatory Notes is overwhelmingly online.



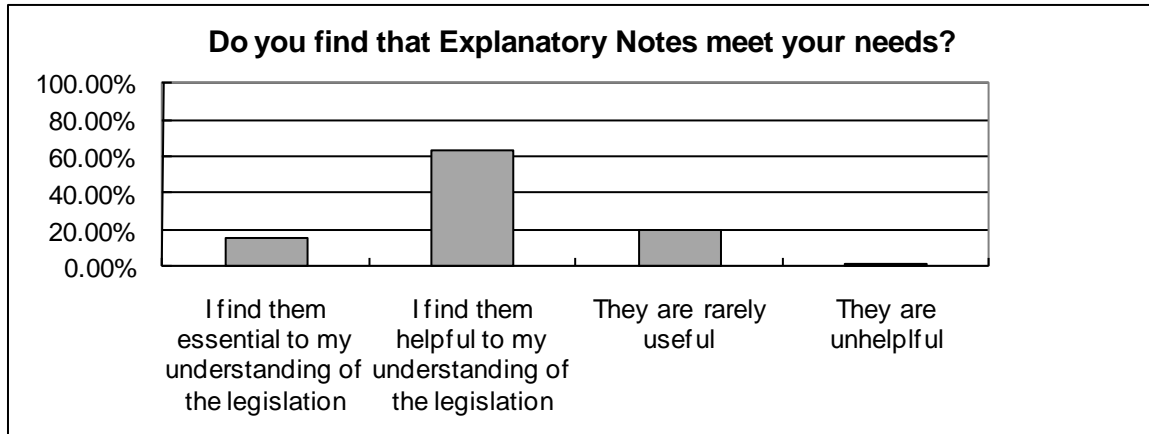
343 respondents to this question for Bills
 401 respondents to this question for Acts

People use the Explanatory Notes to Acts on an ongoing basis, not only when the Act is first passed. It is important to be aware that Explanatory Notes are not updated as the legislation is amended, although people continue to use Explanatory Notes when a revised version of an Act is available. One issue for legislation.gov.uk is whether users realise Explanatory Notes are not updated and may not correspond with the current version of the legislation they are reading.

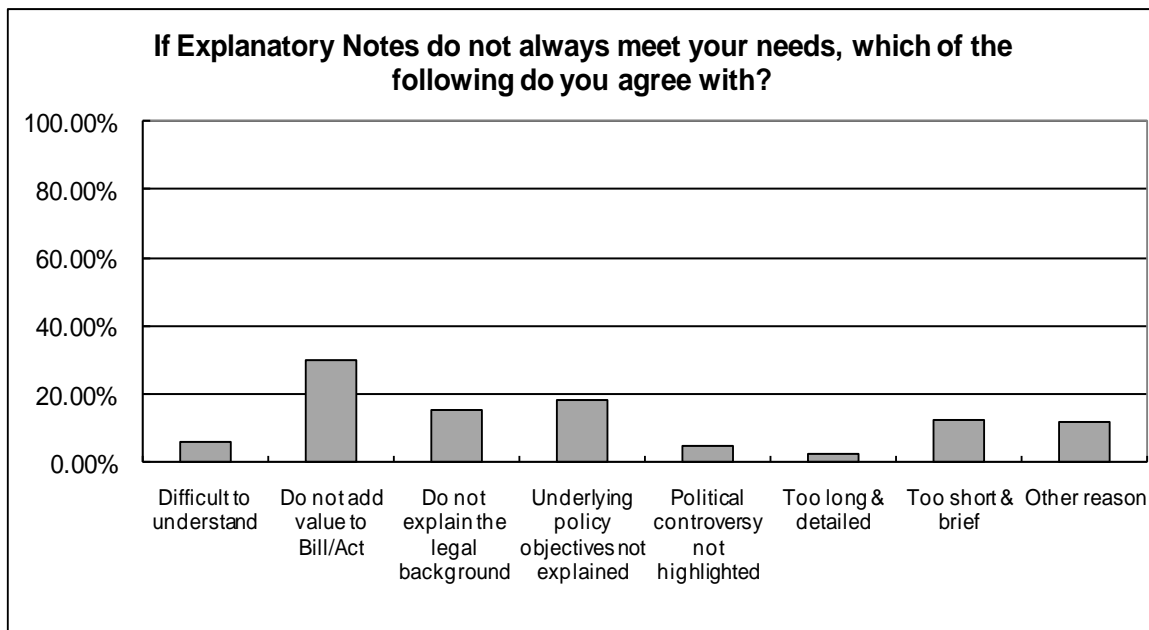


3 What do users like about Explanatory Notes and where are they helpful?

The majority of users find Explanatory Notes helpful, but not necessarily essential to their understanding of the text of a Bill or Act. Explanatory Notes are not useful when they merely restate the legislation in different words.

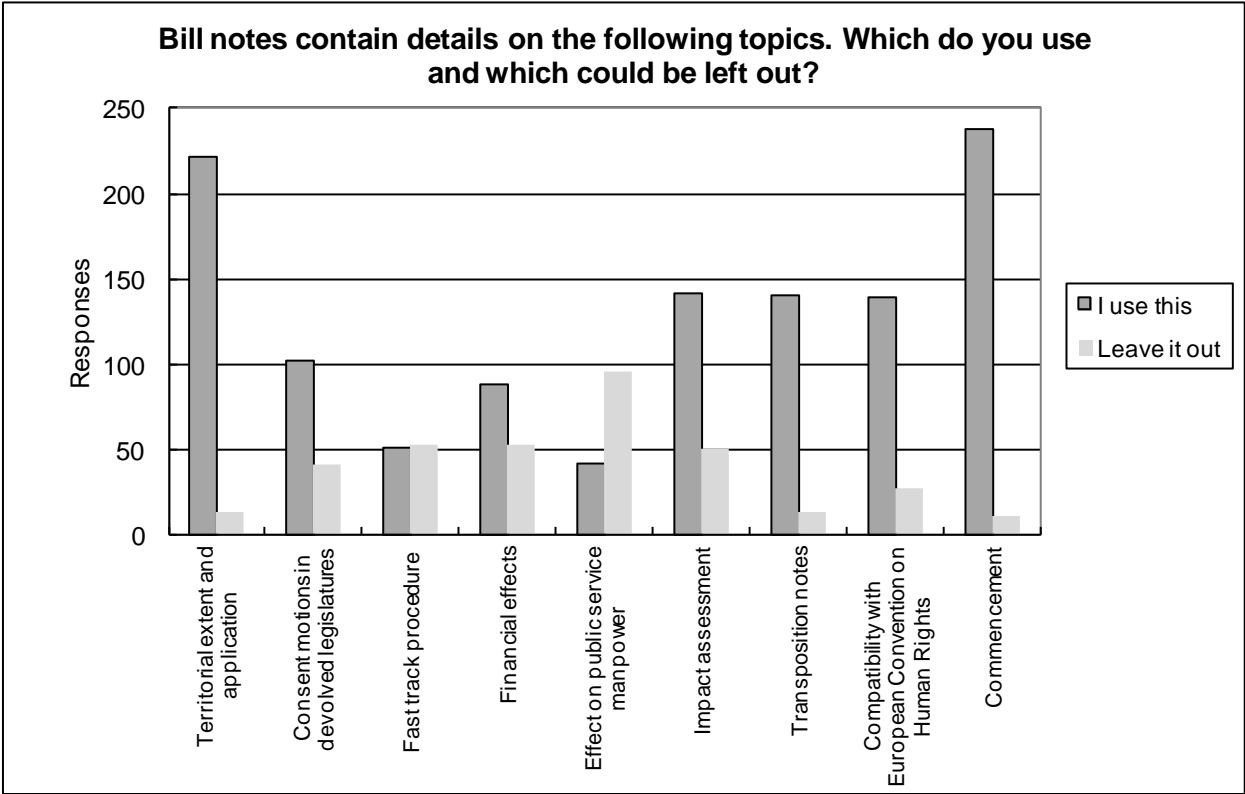


491 respondents to this question



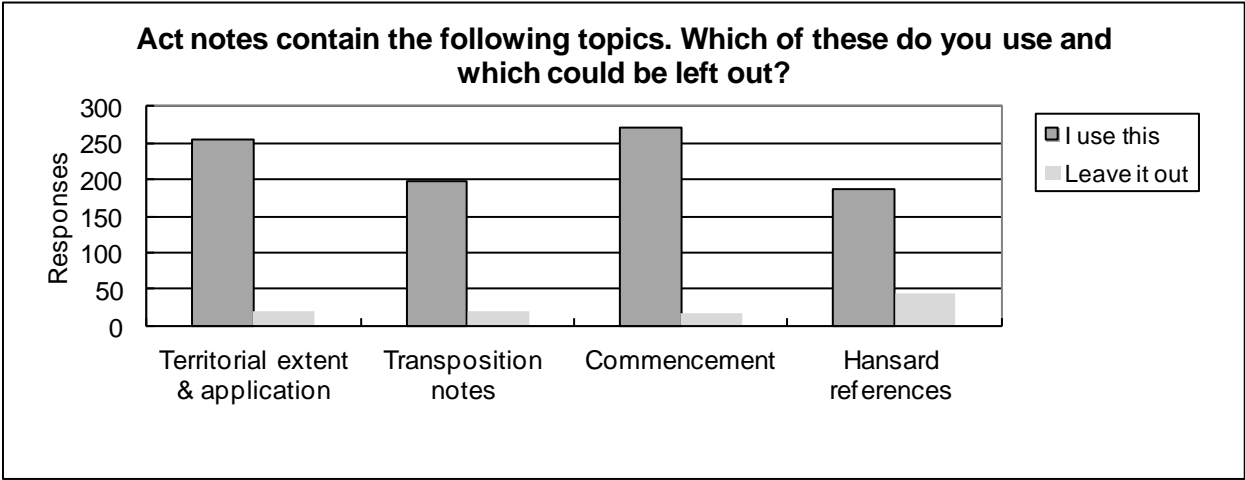
235 respondents to this question

For Bills, when asked which parts of the Explanatory Notes people use, 'Territorial extent and application' and 'Commencement' topics were nearly twice as popular as any of other options (in percentage terms). Very few respondents said they used 'Fast Track procedure', or 'Effect on Public Service Manpower' in the Explanatory Notes for Bills.



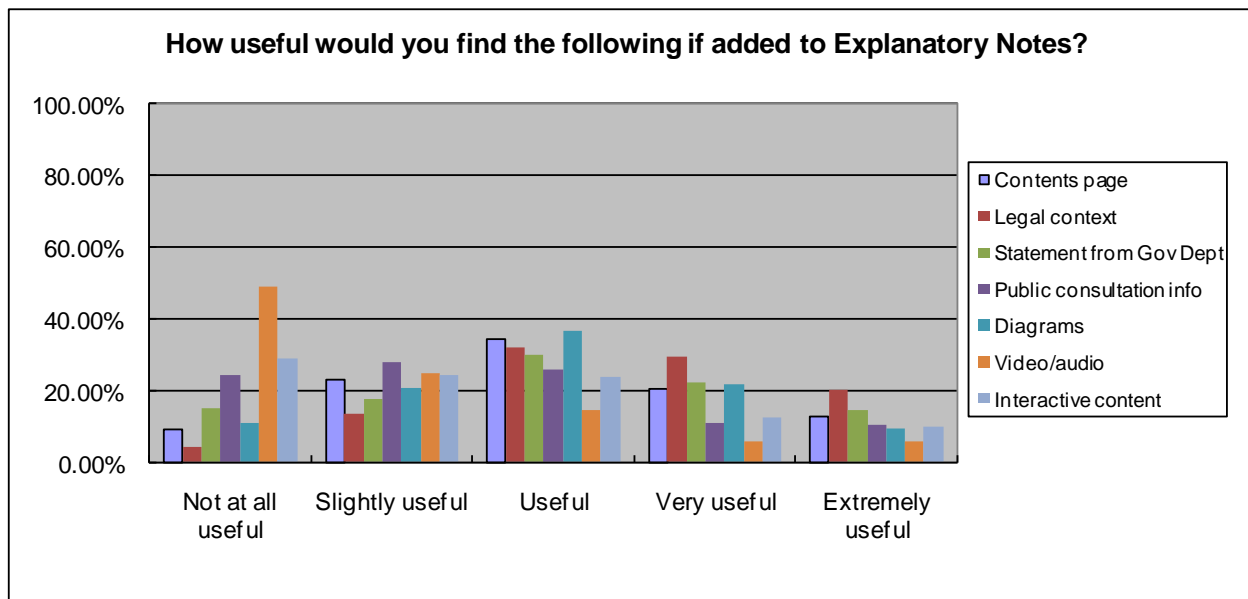
1163 respondents to the 'I use this topic' question
 355 respondents to the 'Leave this topic out' question

For Acts people find more of the information contained in the Explanatory Notes useful.



911 respondents to the 'I use this topic' question
 100 respondents to the 'Leave this topic out' question

4 What information would users like to see Explanatory Notes contain?



Users had lots of ideas about how Explanatory Notes could be improved. These broadly fit into the following themes, with a selection of the comments listed in bullet points:

Practical information and the importance of examples

- Ensuring that the legalese often used in bills and acts is translated into plain and understandable English and its practical application in real terms
- More/better examples of situations covered by a provision where appropriate; reference to relevant case law where appropriate
- It would be useful to have examples of how particular provisions will operate in real life situations.
- More explanation of background to provision and detail on how it should apply - the notes too often just recite the legislation in the same terms and so are not very helpful.
- Examples are helpful in some contexts -for example those given in the notes to the EA 2010 were very well received
- Examples of how a provision works, as in the Equality Act 2010.
- Yes - something that explains the effect of the clauses.
- A clear tracing of the history of a provision where it is an amending provision
- More detail including numerical examples.
- More examples
- I find it useful to have examples in the Explanatory Notes. The Legislative and Regulatory Reform Act Notes, for example, set out instances where it would be appropriate to use a Legislative Reform Order.
- Clear guidance on applicability of legislation and the effective target
- In a complex area, possibly more detailed explanation as to who certain provisions are intended to work in practice.
- For tax legislation worked examples setting out the principles

Making the legal context of the legislation clear

- What Westlaw is attempting to do with explanatory notes is useful - including links to interpretation aids, as well as relevant text from Hansard.
- with the more obscure sections a bit more context would help to explain them.
- Flags to indicate where there are powers or duties or other provisions that must be activated by, eg, the making of regulations."

- Explanatory Memorandums for S.I.s are getting more and more useful. They are much more useful than ENs for Acts. Something similar might help for Acts?
- The key material is (a) what has prompted the legislation, (b) the policy objective, (c) examples/indications of what it means in practice. The Background section is the bit I mostly use - more than the Details of the Clause/Schedule.
- Along with background to a section (such as the public consultation you note above and legal context), other background information such as a white paper or legislation on which this is based (e.g. if it is a consolidation Act) is particularly helpful.
- As above - the information about legal context etc needs to help me understand why a route has been chosen and what is being done with the new rules.

Drafting Explanatory Notes for online use

- The online version does not display well when Forms are includedlots of scrolling about to see it all.
- A link to relevant parts of debates
- Difficult to page through!
- Make them searchable for specific words and phrases.
- Links to the consultation, consultation response, and IA
- Its interaction with other Acts of a similar or relevant scope
- - On the web, hyper links to relevant provisions.
- Hyperlinks to statutory materials referred to and to other public documents

More 'why' rather than 'what'

- Less 'summary', more 'explanation'. Notes should add something to the text, rather than restate what the text says in a different form.
- a linked policy/political statement?
- a summary of the bills key aims
- More information about the policy intention of the relevant section/clause, rather than re-stating what the section/clause says
- Some detail about the policy context
- ENs often explain 'what' but not 'why', which would be particularly useful to me in comparing devolution settlement legislation or amendments.
- Greater detail of the policy intention and the actual effect of the provision, including examples
- More detail around the purpose, intent and background of specific clauses that doesn't
- Clear explanation for the reason for inclusion of a provision and what it seeks to achieve.
- Something, where relevant, that explains how the new provision will change the situation covered by previous legislation - esp where the provision is bringing the law up to date or closing a gap (e.g. the Sexual Offences Act)
- I often use ENs for historical background as to why a provision came into being and the key to that is to find out what problem the legislation sought to solve, which isn't always covered.
- Rather than the Notes saying what a provision does it would be useful if they say why it does what it does.

Explaining amendments to existing legislation

- More context of the effect on existing legislation amended by the specific Bill/Act
- Where the legislation amends other legislation, a better explanation of the legislation being amended.
- A 'before and after' table where the clause / schedule makes amendments to existing legislation showing what the relevant legislation looks like now and what it would look like after the clause / schedule amends it.
- Where an Act amends another Act it would be useful for there to be a document showing the amended version.

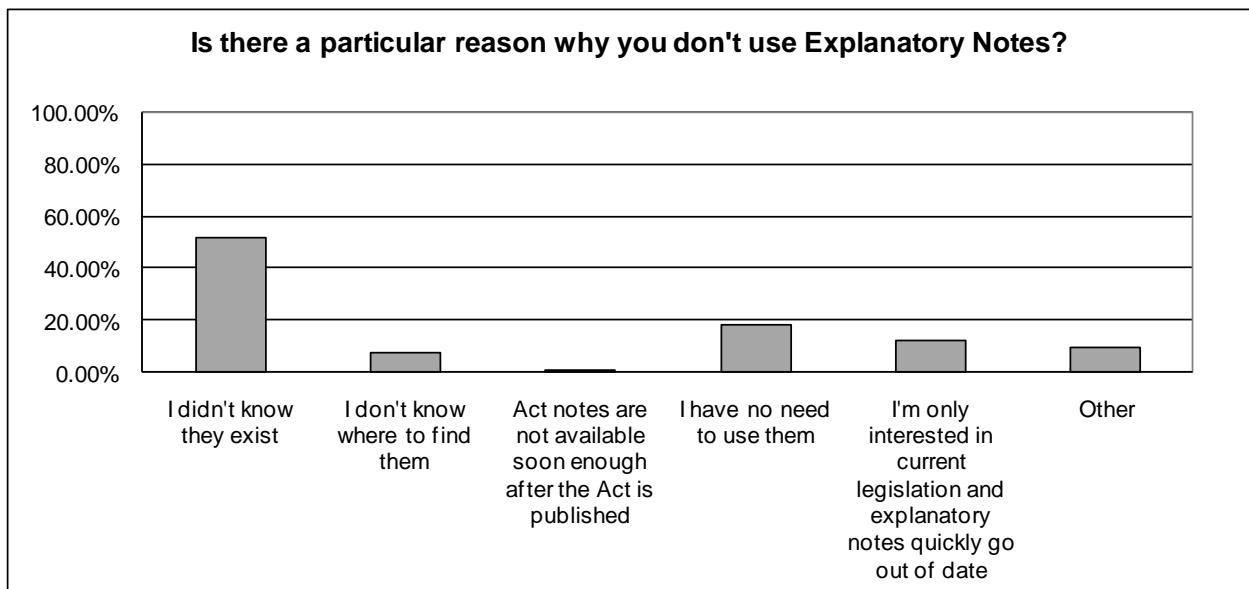
Keeping updated

- If they were updated with details of any regulations made after the main Act which affect the duties of public services.
- Where there are a number of updating documents that these could be consolidated into a single document rather than their being a constant need to refer back to previous provisions. ie most up to date and more straight forward in the digital age!

Clear language and plain English were also recurrent themes.

5 Why do people not use Explanatory Notes?

174 respondents who answered the survey said they did not use Explanatory Notes. The biggest group being members of public (followed by the non-legal professionals) and the main reason being that they didn't know ENs existed. 20 people have left contact details and would be happy to answer further questions about why they do not use ENs.

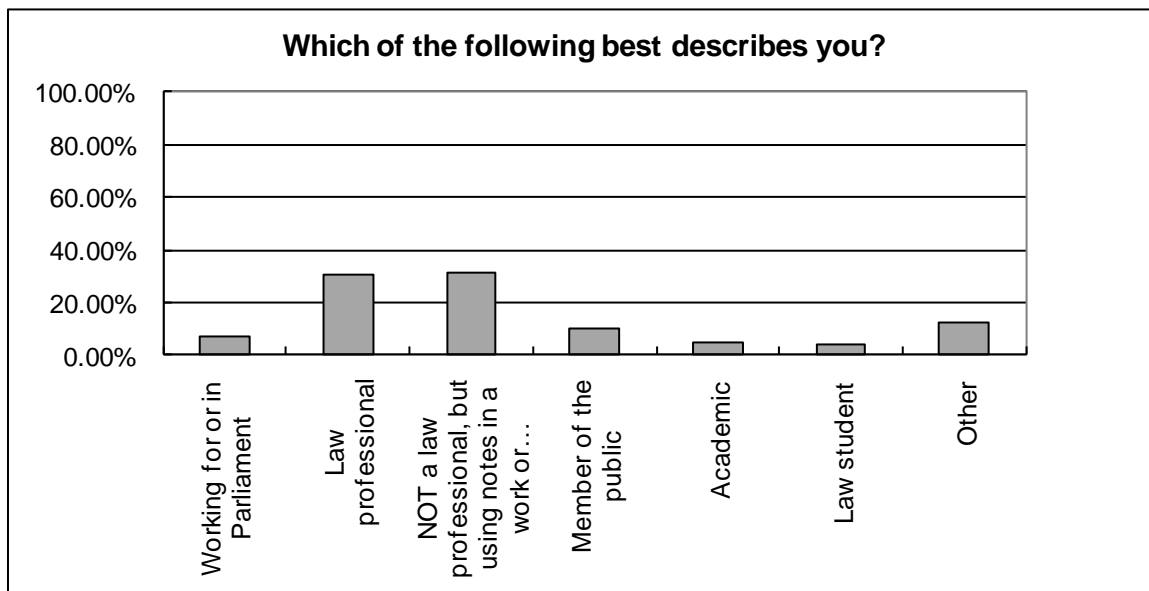


108 responses to this question

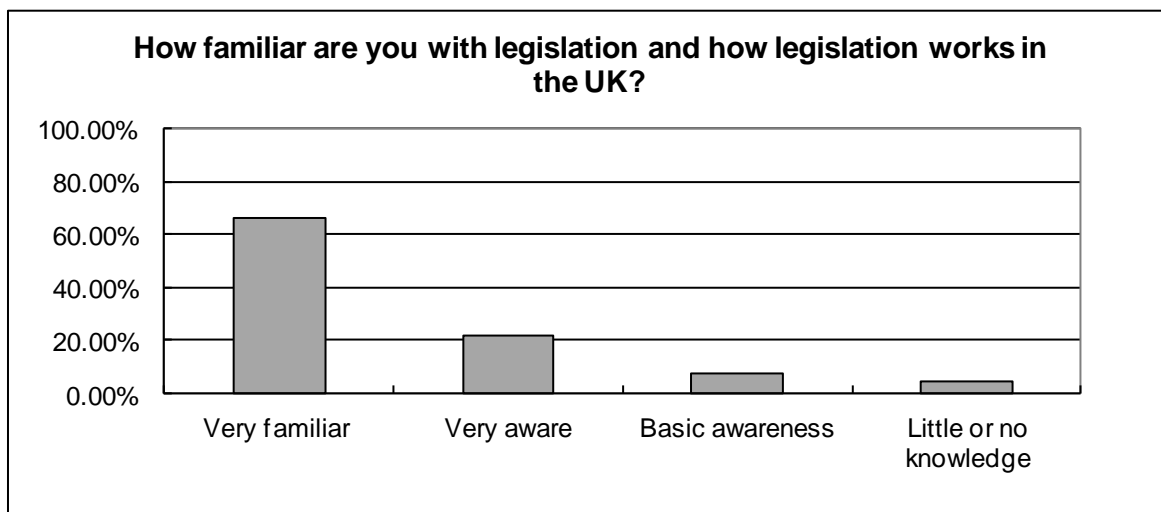
6 Who answered the survey?

Of the respondents, **80% use Explanatory Notes for work purposes** with only **9% for study** and **10% for personal interest**.

This is consistent with the profile of people who typically use legislation.gov.uk and the personas that represent the main user groups for the website. The majority of users access Explanatory Notes for work purposes (both legally trained and non-legally trained) and claim to have a good general understanding of legislation.



547 respondents to this question



545 respondents to this question