

Competition and Markets Authority

Legal Services Market Study - Interim Report 8th July 2016

Submissions by the Society of Professional McKenzie Friends in response to the Interim Report

Introduction and Summary

We are invited to make submissions on the issues set out in the interim report by 19/8/2016.

Our submissions relate primarily to proportionality in respect of regulation¹. We identify 2 issues the CMA may wish to consider for further study; both involve adverse impacts upon the unregulated sector which, in our view, are neither proportionate nor risk-based. We believe benefits may be achieved within the existing regulatory framework:

- 1) the MoJ's Judicial Executive Board is proposing a ban on Professional McKenzie Friends by means of a new rule of court prohibiting fee recovery by MF's. We advocate keeping the existing Professional MF provision by **not** implementing this proposed rule change.
- 2) The MoJ's Claims Management Regulator has effected a blanket ban on MFs in employment law. This is not proportionate to the risk in our view, and there may be scope for CMR to interpret the current regulation in such a way as to allow employees access to MF assistance.

Annexes attached:

- 1) An academic analysis of comments by informed consumers, opposing JEB's proposed ban on Professional McKenzie Friends. (pp 5 – 48) (the comments are at pp 13 – 45)
- 2) Correspondence between SPMF and Cardiff University concerning the University's current "Study of McKenzie Friends in family law cases." (pages 49 – 54)
- 3) Letters from SPMF to the Claims Management Regulator (pages 55 – 56).

¹ Theme 3 "Whether regulations and the regulatory framework go beyond what is necessary to protect consumers and weaken or distort competition for the supply of legal services." (2.7)

1.37 "There may be scope for further ensuring that regulation is proportionate and risk based within the current framework."

1/ Judicial Executive Board's proposed prohibition on fee recovery by McKenzie friends

In February 2016, [the Lord Chief Justice & JEB published a Consultation paper](#) on “Reforming the courts’ approach to McKenzie Friends” containing a proposed prohibition on fee recovery by McKenzie Friends¹. If implemented, litigants who could not afford barrister or solicitor would have access to some free information, but barely any form of legal advice.

We are pleased to see that influential bodies such as the Legal Services Board, Legal Services Consumer Panel, and Solicitors Regulatory Authority have come out in opposition to the proposal as drafted, but the Law Society and Bar Council support it, leaving the proposal unresolved, hanging over MF provision like a Sword of Damocles. Since February, two SPMF members have closed their businesses, citing this proposed ban among their reasons for doing so.

SPMF vigorously opposed the proposed ban, [submitting an initial response to the consultation on 25/4/16](#) and [a supplementary one on 8/6/16](#).

The Consultation paper relied at para 3.5 for evidence on a [2014 study \(the MOJ study\)](#) which concluded ““it is doubtful whether... paid MF’s... justify a charge for their services.” (Page 112 of the study).“ However, on closer examination, this conclusion was based upon a sample size, not of 24 as stated at para 3.5, but of just 3 (the other 21 were not professional MFs) and some anecdotal reported concerns from law professionals (page 112). The 3 litigants themselves all spoke highly of the McKenzie friends who had assisted them, but the researchers considered that in two of the three cases that trust was misplaced, partly because one of the McKenzie friends was a fathers rights activist, suggesting a possible bias on the part of the researchers.

A sample size of 3 is wholly inadequate evidence on which to found such a ban, and so SPMF invited 250 customers of its own members to sign this statement:

“ I do not agree that McKenzie Friends should be prohibited from charging for their services. I have received and paid for valuable help from a member of the Society of Professional McKenzie Friends, and I wish to have the freedom to do so again whenever I need such help.”

93 signed it, of which 75 added their own personal comment. These comments are annexed to this submission at pages 13 – 45.

The Bar Council, one of the leading proponents of the proposed ban on professional MFs, commissioned further research by Cardiff University, to be carried out by 3 of the same researchers who carried out the discredited 2014 MOJ study. SPMF offered these 93 statements to those researchers to assist in that research. When the researchers did not take up the offer,

¹ Para 4.21 “reform should prohibit recovery of expenses and fees incurred by McKenzie friends. It should do so through providing that the provision of reasonable assistance in court, the exercise of a right of audience or of a right to conduct litigation should only be permitted where the McKenzie friend is neither directly nor indirectly in receipt of remuneration.”

SPMF commissioned its own academic analysis of what reliance should be placed upon these 93 statements. That analysis is at **annex 1**. This is an extract from the results section (pp 6 – 8):

The findings show that of the 75 clients who made additional comments: (a) significantly more than would be expected by chance affirmed the benefits and value for money of the SPMF McKenzie Friends; (b) significantly fewer stated that they would like the service to remain intact, but this is most likely an artefact of participants' having already affirmed this in signing the statement, and feeling that they need not restate it; and (c) over half said that SPMF was better &/or cheaper than a solicitor or barrister.

Of the subset of 11 who were asked "If a McKenzie friend was not available I could/could not afford a barrister or solicitor," 73% (8 of 11) responded they could not have afforded barrister/solicitor.

The findings overall suggest that customers find the SPMF service to be beneficial."

At **annex 2** is the Cardiff University research remit, and correspondence between SPMF and the University. The research outline is at pp 49 – 50. SPMF's concerns are set out on pp 51 – 54.

4) Claims Management Regulator's role in relation to Employment Law

Employment is one of 6 areas of law governed by Compensation Act 2006 part 2, and Compensation (Claims Management Regulation Services) Order 2006 section 2. Advice to employees on claims for wrongful or unfair dismissal, redundancy, discrimination, harassment, unpaid wages and other employment-related payments may only be given by persons who are regulated by the Claims Management Regulator or other approved regulator.

It is not self-evident why employment was singled out for special protection in this way when the legislation was drafted. An employee might reasonably argue he should be permitted to engage a McKenzie Friend to assist at an Employment Tribunal where the value of the claim is small and engaging a solicitor or regulated adviser would be a disproportionate cost.

Following the CMA report's principle "we believe that regulation should be proportionate and risk based," (1.35) and "there may be scope for further ensuring that regulation is proportionate and risk based within the current framework"(1.37), we suggest the next steps of the study include discussions with the Claims Management Regulator to explore what scope there might be within the current legislation to permit employees to obtain advice from unregulated Professional McKenzie Friends. Solicitors Act 1974 deals with Reserved Legal Activities. A caselaw principle subsequently evolved that this term applies only to those activities which **must** be done

by a solicitor and not those which **may** be done by a solicitor². A similar principle could be applied by CMR to allow McKenzie Friends to assist in Employment Law within the current regulation.

As a separate, but related, issue Research into unregulated legal services providers carried out by the Legal Services Board in June 2016 has uncovered significant levels of unregulated employment advice being given outside of regulation. It appears to be carried on quite openly, without any apparent steps taken by the Claims Management Regulator to stem it.

Line 5 of the table on page 2 of the [Research Summary](#) indicates that 4 – 5% of employment legal services are currently delivered by unregulated “HR/business support services, and fee charging McKenzie Friends.” Business support to employers falls outside of regulation, but McKenzie Friend advice to employees is subject to regulation. On the face of it, a significant level of employment law advice is being given by unregulated McKenzie Friends, quite openly it would seem from the fact those providing it appear content to disclose the fact to Legal Services Board researchers, and without that fact arousing any apparent interest from the regulator.

SPMF sent this Research summary to the Claims Management Regulator, and asked “On the face of it, our members are complying with the law while others are not. Have we misinterpreted the Compensation Act and Order in some way? Can our members lawfully provide employment legal services, outside of your regulation?” We received this email: “Employment is a regulated sector and would therefore require authorisation from the Claims Management Regulator in order to provide these services. Without having specific details of the 4-5% of those who are unregulated and what service they are providing it is difficult to establish whether they are committing an offence and to take it any further.”

SPMF’s letters to Claims Management Regulator are at **annex 3**.

² Para 36 [2005] EWCA Civ 1507 *Andre Agassi v HM Insp. Of Taxes*: “...the words “acting as a solicitor” are limited to the doing of acts which only a solicitor may perform and/or the doing of acts by a person pretending or holding himself out to be a solicitor. Such acts are not to be confused with the doing of acts of a kind commonly done by solicitors, but which involve no representation that the actor is acting as such.”

ANNEX 1 Analysis of SPMF Customer Comments

Title: Customers of McKenzie Friends say the service is beneficial

Author: Dr John A Barry, *Male Psychology Network*, London, UK.

Introduction

Many people use a McKenzie Friend because they don't qualify for legal aid and cannot afford lawyers' fees (McKenzie Friends Directory, 2014). In response to a recommendation by the Legal Services Consumer Panel and the Legal Services Board that fee-charging McKenzie friends should form a Trade Association, a self-regulatory body was created, the *Society of Professional McKenzie Friends (SPMF)* (McKenzie Friends Directory, 2014). However a consultation by the Lord Chief Justice of England and Wales and the Judicial Executive Board (JEB, 2016), recommended the prohibition on fee recovery by McKenzie Friends on the basis that McKenzie Friends are not beneficial and don't provide sufficient value for money. However the report relied on a study with a sample size of only three (MoJ, 2014), casting doubt on the findings. The present report describes the response of the SPMF to this recommendation, and consists of an analysis of a survey of users of McKenzie friends.

Methods

Approximately 250 users of SPMF McKenzie Friends were contacted by the McKenzie Friends whose services they had used. All were sent the letter shown in Appendix 1. Ninety-three of 250 participated, signing their agreement with the statement in the letter stating that they perceive McKenzie Friends to be beneficial, good value for money, and fulfilling a role which they do not want diminished. (One MF asked a subset of 11 of the customers to comment on this additional statement: "If a McKenzie friend was not available I could/could not afford a barrister or

solicitor”). Of the 93, 75 chose to comment further, and these comments were assessed for recurring themes using content analysis (Appendix 2). Once themes were identified, the comments of each participant were judged to either confirm the theme or not. The frequency with which confirmatory responses were made was assessed statistically using χ^2 for frequencies. The expected frequency of confirmatory responses was set at 50% (a 50/50 chance), and the threshold for statistical significance was set at $p < .05$ (5%, or a 1/20 chance), which would occur if 46 or more people agreed (or 29 or fewer people agreed). The statistical software used was SPSS Version 21 (Armonk, New York: IBM Corp).

Results

Four categories arose: being beneficial, being good value for money, fulfilling a role which they do not want diminished, and being better &/or cheaper than a barrister. There were no cases where any negative comments were made regarding McKenzies, and the comments could be coded into either (a) stating that they found McKenzies fell into one of the four categories or (b) making no reference to each of the four categories. Table 1 shows the results of this analysis.

Table 1. Statistical likelihood that the frequencies of responses occurred by chance

	Beneficial	Good value for money	Fulfilling a needed role	Better &/or cheaper than a solicitor or barrister
Participants who agreed	69 of 75	49 of 75	29 of 75	44 of 75
% of those who made additional comments	92%	65%	39%	59%
χ^2 value	52.92	7.05	3.85	2.25
Statistical significance	P<.000000000 0005	P<.0 08	P<.05	P<.13 3

Notes: significance values are 2-tailed

The findings show that of the 75 clients who made additional comments: (a) significantly more than would be expected by chance affirmed the benefits and value for money of the SPMF McKenzie Friends; (b) significantly fewer stated that they would like the service to remain intact, but this is most likely an artefact of participants' having already affirmed this in signing the statement, and feeling that they need not restate it; and (c) over half said that SPMF was better &/or cheaper than a solicitor or barrister.

Of the subset of 11 who were asked “If a McKenzie friend was not available I could/could not afford a barrister or solicitor,” 73% (8 of 11) responded they could not have afforded barrister/solicitor.

Discussion

The findings overall suggest that customers find the SPMF service to be beneficial. While it is not surprising that many referred to the cheaper cost of the MF, 17 responses (see Appendix 3) also refer to the MF being in some way better. This is an interesting and unexpected issue to emerge.

It should be noted that although the present sample was not randomly selected (they were a volunteer sample representing ~30% of the sample frame) the additional comments they gave were spontaneous and without given direction. However no negative comments about the SPMF were evident, and the probability of so many positive comments being made by chance were statistically very small ($P < .00000000000005$ i.e. less than 5 in a trillion). Thus the likely conclusion is that the above analysis provides evidence supportive of the continuation of the SPMF.

Acknowledgements

This survey was conducted by the SPMF. The resulting data analysis was conducted by John Barry and report written by John Barry with advice from Ray Barry (no relation to the author) of SPMF.

Conflicts of interest

The author declares no conflict of interest

Sources of funding

The author received no funding for the production of this report

About the author

John Barry is a chartered psychologist, honorary lecturer with the Department of Psychology at University College London (UCL) and member of the British Psychological Society (BPS). He is the founder of the Male Psychology Network (<http://www.malepsychology.org.uk/>) and campaigner for the creation of a Male Psychology Section of the BPS, an organisation which will focus on issues such as the high rate of male suicide and the underperformance of boys in education. For ten years John taught research methods and statistics to undergraduate and postgraduate students, and is the author of over 40 publications in peer-reviewed journals on topics in health and psychology since 2010.

References

McKenzie Friends Directory (2014). Accessed online 21/07/16 <http://www.mckenziefriends.directory/>

JEB (2016). Consultation Paper, Reforming the Court's approach to McKenzie Friends,

<https://www.judiciary.gov.uk/wp-content/uploads/2016/02/mf-consultation-paper-feb2016-1.pdf>

Moj (2013). Litigants in person in private family law cases.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/380479/litigants-in-person-in-private-family-law-cases.pdf

Appendix 1



Society of Professional McKenzie Friends,
Registered Office: 11 Windsor Gardens,
WOLVERHAMPTON
WV3 8LY

Dear sir or madam,

You have received this letter from a member of the Society of Professional McKenzie Friends, who will have assisted you in court proceedings. On 25/2/2016, the Lord Chief Justice published a **consultation** proposing to ban Professional McKenzie Friends. We ask for your help in opposing this ban, so that you and others can continue to receive our help.

The consultation paper can be seen on this link: <https://www.judiciary.gov.uk/wp-content/uploads/2016/02/mf-consultation-paper-feb2016-1.pdf> and below is an extract from the paper which explains why this ban on Professional McKenzie Friends is proposed:

4.21. The JEB's provisional view is that such an approach protects the public interest in facilitating the proper administration of justice, whilst providing effective protection to vulnerable litigants who would otherwise have little to no effective protection, or means of redress, from unregulated and uninsured individuals of varying and generally unverifiable competence carrying out otherwise reserved legal activities before the courts.

Members of the Society of Professional McKenzie Friends are not as characterised above. All of our members have professional indemnity insurance, comply with court rules, meet our standards of competence and conduct, and are subject to a complaints procedure if they do not meet those standards (<http://www.mckenziefriends.directory/service%20standards.html>)

If you value the help you received from your McKenzie Friend, and believe you should be allowed such help in future, please complete the attached page and return it to the McKenzie Friend who sent this letter to you. We shall attach it to our response to the consultation.

I thank you for your time in reading this, and I thank you in advance for completing and returning the reply page. It will be of great help to us in our campaign to keep Professional McKenzie Friends available to you and to others.

With best wishes,

Ray Barry,
Chair – Society of Professional McKenzie Friends.

I do not agree that McKenzie Friends should be prohibited from charging for their services. I have received and paid for valuable help from a member of the Society of Professional McKenzie Friends, and I wish to have the freedom to do so again whenever I need such help.

Other Comment

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Signed.....

Print Name:.....

Address
.....
.....

Date.....

Appendix 2

Statements from the 75 (of 93) customers of SPMF members who made an additional comment.

#	ID # (corresponding to Annex 2 above) and statement	Beneficial	Good value for money	Fulfilling a needed role	Better &/ or cheaper than a solicitor or barrister
1	1. My McKenzie friend provided me with excellent advice and direction, highlighting the key aspects which are important to the courts and how to focus on these. He also responded quickly when situations arose which a typical solicitor would have taken much longer to address. The cost of a solicitor would have been prohibitive, I would not have been able to bring my case to court, and most likely my daughter would have had to grow up with no contact with her father.	1	1	0	1
2	2. Without recourse to the McKenzie friend who supported me I would not have been able to get through the difficult process of litigation in the family courts. He always made clear his role in supporting me through the process and nurturing a positive attitude at times when emotions were playing havoc. As things are the cost of professional legal help and very quickly spiral out of control and beyond the means of the average person	1	1	0	1

	like me. In my experience the judge courted the view of Mr Barry on more than occasion which was a reflection of how he had helped me present by arguments.				
3	3. Without help from the McKenzie Friends, facing court would have been extremely 29 frightening on my own. They helped me to put together a proper court bundle which resulted in my winning the case and keeping my Grandchildren safe. I had previously used up savings for a solicitor who achieved nothing and was left disillusioned and heart broken when there was no money left. At the last minute I was informed about McKenzie Friends who immediately came to my aid. Their costs were extremely low in comparison to usual solicitor's fees. I believe it would be a grave injustice to prevent usual hard working citizens who do not have the capacity to pay for legal advice to be left adrift without aid. In fact I believe that McKenzie Friends deserve to be supported and should be more widely known to the public. I for one will always be grateful for their support, expertise and wonderful service.	1	1	1	1
4	4. I have no clue how I could have managed without a McKenzie friends help and support through this extremely stressful event	1	1	1	1

	(divorce). Going through divorce and family matters are very stressful in the first place and not everyone can afford a lawyer's fees. Having experienced this myself, I strongly feel McKenzie friends should be allowed to continue offering their support to individuals like myself at a very reasonable price. I am sure the Lord Chief Justice will consider the above and make a fair decision.				
5	5. After the first 2 Court Hearings with my McKenzie Friend, the Woolwich District Judge called James Jonklaas back in to compliment him on how smoothly he had made the process. Part of how a McKenzie Friend helps is to allow the client to talk about personal issues affecting them, sometimes at length because no one is available or wants to listen. This can help direct the client's course of action & s/he knows exactly why they have chosen the variance/order/etc. McKenzie Friends can sometimes bring their own personal experience into their advice as well as Court experience. All this comes at a lower cost than if talking to a junior solicitor, which some clients may not be able to afford or bring financial ruin & the stress that may cause.	1	1	0	1
6	6. My case led to a shared residence order put in place. Following the recommended	0	1	1	1

	route of solicitors/barristers would have left me penniless and broken. You want to deny this lifeline to others!! Shame.				
7	7. I used a McKenzie friend to assist me in my court proceedings regarding my son. The service I received was very professional and reliable, I would gladly use them again in any of 30 the court proceedings.	1	0	0	0
8	8. I spent 6 years in court to gain my rightful contact with my daughter who is now 8 years old. The first 2 years I used solicitors and barristers with limited success of contact but a huge bill. The last 4 years of court I used a McKenzie friend. Not only did we achieve a contact order until my child becomes 16 years old, but the cost involved was a fraction of the money I had spent in the first two years. I cannot thank my McKenzie friend enough for what he did for me. I will never forget him. I live in Northern Ireland but my case was dealt with in Croydon, London.	1	1	0	1
9	9. I believe that without McKenzie friends people like myself would be unable to access advice and guidance relating to legal/court matters, without being charged extortionate price and unaffordable costs.	1	1	1	1
10	10. I strongly believe that McKenzie friends offer a very valuable social service that benefits those that are most	1	0	0	0

	vulnerable in society.				
11	11. I would not have access to any kind of legal process without the option of a professional McKenzie friend – the consultation paper completely misrepresents them and appears to be more about protecting a monopoly of lawyers rather than protecting “vulnerable litigants.”	1	0	0	1
12	12. With all the cuts to legal aid the ban you propose is not logical. I have used Ray Barry of McKenzie friends several times, at a much lower cost than a high-street solicitor and found himself valuable.	1	1	1	1
13	13. Ray Barry and his team have been invaluable to us through our toughest of times. Really wouldn't have got through it without help and guidance received from them.	1	0	0	0
14	14. I needed to go to court to obtain a Residence Order for my daughter, as she wished to live with me permanently and visit her dad on occasions. Without the help of McKenzie Friends, I would not have been able to do this. I was not entitled to Legal Aid and had no funds available with which to pay hefty Solicitor bills. Had I not been able to obtain a Residence Order, I dread to think what would have happened to my daughter – she would have been 31 devastated (at the time she was 9 years old). She	1	1	1	1

	<p>was deeply affected by her drunken father, suffering for years from anxiety and panic attacks and has only just finished Counselling. She will be 15 years old next week and luckily is now a happy, healthy teenager. I recommended McKenzie Friends to my friend, whose son was in the same position as myself. With their help, he also was granted a Residence Order for his son, again he would not have been able to do this if he had needed to pay large Solicitor bills. To take this service away from normal working people like myself would be a travesty and would cause anguish and heartache to not only parents, but also the children involved. My personal view is that I would fully support McKenzie Friends 100% for the help they provide to people and would be extremely upset if this option were taken away. I am happy to be contacted at any time to confirm this.</p>				
15	<p>15. I have had an extremely good service from McKenzie friends especially in my financial difficulties and would recommend for every father.</p>	1	1	0	0
16	<p>16. It is untrue that such a ban would protect vulnerable litigants. On the contrary it will increase the likelihood of miscarriages of justice if one party is LIP without any help and the other has a solicitor.</p>	1	1	1	1

	<p>It will also increase court time. Legal aid has been withdrawn from family court hearings and professional McKenzie friends offer a valuable service to litigants who either cannot afford a solicitor or who find that they receive better help from their McKenzie friend than from a barrister brought in. This has been the case to my knowledge and such a ban would look like protectionism rather than a genuine desire to protect the public. If a McKenzie friend who is a member of the SPMF is chosen, any litigant is sure of dedicated and responsible help. The McKenzie friend with whom we have had dealings has, to my knowledge, been complimented by a district judge for his conduct during a difficult hearing and it is a fact that professional McKenzie friends can and do defuse emotionally charged atmospheres and give invaluable guidance. There is no good reason to ban professional McKenzie friends and every reason to allow them to continue helping the vulnerable people this proposed act purports to protect.</p>				
17	17. The potential removal of the option for someone to have a professional McKenzie friend to assist them in the legal process is wrong, it is putting justice at risk for	1	1	1	1

	<p>people who fall outside the legal aid system or where no legal aid is available and their financial situation 32 prevents them from having a solicitor. Surely it is everybody's right to represent themselves in court situation and at least be assisted by someone who is supportive and able to advise. Surely if people cannot afford a solicitor and barred from using a professional McKenzie friend then the court process will be adversely affected by untrained litigant in persons having to be guided through a legal process by the magistrates will judge.</p>				
18	<p>18. I feel it is wrong to remove this valuable service, I gained far more with the assistance of my McKenzie friend than I did with full legal representation. I really hope common sense prevails and this ban is not brought in.</p>	1	0	1	1
19	<p>19. Please see attached page (below) – detailing the invaluable assistance provided by Ray Barry at a particularly bleak time in my life. Thanks to him I am still in contact with my daughter, four years on from his intervention. He provided an extremely inexpensive service and promoted non-confrontational methods of interacting with my ex-wife. – Many thanks Ray! Ray Barry, my McKenzie Friend assisted and guided me in 2012 towards a solution to a most</p>	1	1	1	1

	<p>aggravated and emotionally draining situation arising from my ex-wife's announcement that she and her new husband were to take one of my children to live in Northern Ireland, thus reducing considerably my chances of contact with my daughter (then 14 years old). Ray analysed the situation carefully and suggested a pragmatic way forward at this bleakest point of my life. A comprehensive 'Contact Arrangement' was drawn up and duly signed by my ex-wife and this has stood the test of time, being complied with to this day. At the time, there was no possibility of me employing the services of a solicitor. I had undergone a costly divorce and had, it transpired, been poorly advised by the solicitor from a major Crawley firm, (whose name I will divulge if it is considered pertinent). A great deal of money had been wasted for little return. My funds were extremely depleted and I would not have been able to afford to consult a solicitor at that juncture even if I had desired to do so. At this point, I discovered the existence of McKenzie Friends, in the form of Ray Barry. Ray explained in detail the legal force and limitations of any advice and guidance he would provide. He left me in no doubt that he was not a solicitor. I was</p>				
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	<p>extremely impressed throughout at the speed of response to communications exchanged with Ray. He would normally respond to queries on the same day or certainly within a short time frame. These 33 exchanges were often conducted by email or telephone, with no need on my part to take annual leave from work to visit a solicitor's office. Ray's fees were extremely modest and there was no attempt to charge for every letter sent or phone conversation – as favoured by the professional solicitors. In sharp contrast to this, he would answer as many as perhaps ten lengthy and detailed letters for the same price as I would have paid for one at the solicitors. He represented exceptional value for money. I guess that as a result of lower overheads, the Friends are able to spend more time analysing detail and devising alternative ways of achieving goals. The whole experience took much stress out of the process and, as I mentioned, has stood the test of time, with my contact remaining intact with my daughter. Ray also pointed out various points in my Court Order which had been badly or ambiguously worded- or indeed points which I had simply overlooked – and enabled me to successfully claim back amounts of money</p>				
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	<p>due to me. I would add that he managed to advise me how to approach my ex-wife in a very non-inflammatory manner – again in marked contrast to my solicitor. In finishing this note, I will add that there are many people out there far poorer than I, who could not even consider employing solicitors. I would plead with you not to deprive such people of what turned out to be a life line for me at such a depressing time. Such people will in reality probably end up representing themselves in Court fighting their case with next to no or at least very limited legal knowledge. I would suggest that surely the situation at present, where they are offered the assistance of a Professional McKenzie Friend, well versed in legal matters, is infinitely preferable to this bleak and retrogressive alternative.</p>				
20	<p>20. Being a full-time working, busy single mum, I found Mr Barry's services very helpful, well explained and affordable in my recent divorce, Financial and as well as in children cases. He has attended court hearing with me and I felt well supported in these hectic court proceedings.</p>	1	1	0	0
21	<p>22. I am appalled to read that the service I have used and value is under threat. I was advised by a mediator to</p>	1	0	1	0

	<p>undertake this service when I was at my most vulnerable. I met with my McKenzie Friend for support and advice at a very crucial point in my life. I was not disappointed. Although my Mc Kenzie Friend is not legally trained his knowledge and expertise in supporting me through this case has been invaluable. Why then would someone want to ban a service such as this? My Mc Kenzie Friend is well versed in matters of the court as he has had numerous years of experience on both sides of the court process. He always ensured that the standards of competence and conduct required by the court were adhered to. In addition, he ensured that I was made aware of these policies and practices.</p>				
22	23. To not have the benefit of James Jonklaas's vast experience would have meant disaster for my complex and extended case.	1	0	0	0
23	24. I am grateful to McKenzie friends for the impartial assistance and help received and wish to have the freedom to do so if needed again.	1	0	0	0
24	25. I am employed by Thames Valley police for the last 6 years, I have used the services of a McKenzie friend for assistance in preparing case file for court, and found their help and support invaluable.	1	0	0	0
25	26. My professional McKenzie friend was incredibly helpful in my divorce case. Without	1	0	0	0

	his help I could not have conducted the case as well which would have lengthened court proceedings and would not have been in my son's best interest.				
26	29. After incurring a solicitor's bill of almost £5000 for my divorce I was unable to fund another solicitor. Mrs Karen Marshall (McKenzie friend) was completely invaluable in negotiating the minefield of the court process when it came to understanding the documents and court process I needed to adhere to. All forms/documents were professionally completed, I was kept up-to-date at all times. The support I received was far beyond that of a solicitor. I was never made to feel stupid or a lesser person if there was anything I didn't understand. Actually being honest it was nice to be able to deal with a human being (albeit very professional) instead of some stuffy solicitor who always seemed more concerned with lining his own pocket. I always knew what to expect, knew what was going to be discussed, never came or went with great expectations. My McKenzie friend was always honest and upfront. We always discussed the court process before we went. I could ask any questions and would always be pointed in the right direction of what I could and couldn't do in	1	1	1	1

	<p>court, what I could or couldn't say how to say it. If McKenzie friends are no more, how do people with little money, no confidence, vulnerable situations defend themselves. Without the help of my McKenzie friend I am in no doubt that I would not have left and completed the court process the way I have. Court is a daunting, sorry placed for "normal folks." Anyone in a vulnerable situation would find the whole process overwhelming. Without McKenzie friends how would "normal folks" negotiate everything. Surely the court processes would become more lengthy and drawn out. This would only cost courts more, clog the system up and cause more frustration for all involved. I have been a litigant in person both with and without a McKenzie friend. Litigants without any help/representation do not understand the court process or indeed how to conduct themselves. This can turn the courtroom into a circus. If someone is in need of help a McKenzie friend ticks all the boxes, obviously without the massive cost of a solicitor. I know from experience that my McKenzie friend Mrs Karen Marshall, Absolute Legal Services was of paramount importance in me dealing with the situation I found myself in. I would have</p>				
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	been lost and would have felt in a much more vulnerable state without her unwavering support. Without legal aid and McKenzie friends the solicitors can name their prices too can't they!!				
27	30. I value the help of my McKenzie friend and after spending money on solicitors without anything to show for it I feel I have made progress. I do not mind paying for this invaluable service.	1	1	0	1
28	31. Karen's help and fantastic service have been invaluable in helping me to see my daughter on a regular basis again. I could not afford to pay a solicitor as many people can't as they are so expensive.	1	1	0	1
29	32. I am happy to pay for a McKenzie friend to help me with any future family court proceedings I may have. I also want to emphasise how great their help has been in the past and without the help of a McKenzie friend the court may not have come to the right decision because I would not have been able to afford the use of a solicitor, and I was so very well advised by my McKenzie friend on which direction to take through my court proceedings case, and I would have really struggled to represent myself in court.	1	1	1	1
30	33. I think McKenzie friends should be allowed to stay as mine has been a great support within my case and	1	0	1	0

	as a single parent I wouldn't have been able to get any help and support as I am from Karen.				
31	34. The service I have received from Karen Marshall (McKenzie friend) has been outstanding. The help, support and advice I have received is totally exceeded any money I have paid for service. I don't think anybody putting that much in should work for no financial gain.	1	1	0	0
32	35. I wouldn't of been able to afford or done it without them.	0	1	0	0
33	37. Robert Smith of Altruro has provided me with a high-class service and have recommended him to others.	1	0	0	0
34	38. I write to advise that without the assistance and help from Karen, I would not have been in a position to pay for solicitors in order to proceed with my divorce, due to the cost involved by them.	0	1	0	1
35	40. They are helpful. Far cheaper than traditional lawyers and many McKenzie friends are doing this out of their interest to help people.	1	1	0	1
36	41. Not everyone can afford a solicitor, with the increase of online divorce procedures which may result in unfair decisions, it's extremely important to have the support from a solicitor (McKenzie friends) so I feel confident in a time of stress that I'm getting the professional support to help	1	1	0	1

	my situation. 37				
37	43. My McKenzie friend has been exceptionally helpful in his support and knowledge during my child arrangement and divorce case. I could not otherwise afford help and would be stuck in an unhappy marriage.	1	1	0	0
38	44. McKenzie friends must be allowed to appear in court and help families who cannot afford unreasonable fees imposed by lawyers.	0	1	1	1
39	45. As a single mother with limited income and minimal support from my estranged husband, I found the help of a McKenzie friend to be so helpful. I saved at least two thirds of the fee of what a practising solicitor would have charged me. At least I know I won't have to get another loan (which I cannot afford) to pay for my divorce proceedings.	1	1	0	1
40	48. I received professional and friendly service from my McKenzie friend who helped me tremendously in court. Their service is very valuable especially now that legal aid is restricted and I was not eligible for legal aid.	1	1	0	0
41	49. Without the support of my McKenzie friend I would not have gained joint care of my two children.	1	0	0	0
42	50. The service provided by McKenzie friends is invaluable. John has been very key in getting more time with my son. My barrister's	1	0	1	0

	comment was “this is one of the best statements I have ever seen.” What they do they is needed and should be available to anyone who needs them.				
43	51. I’m pretty shocked and disgusted that this would even be considered. More light needs to be shone on the family court. McKenzie friends and should be encouraged whenever possible.	1	0	1	0
44	53. It is outrageous that solicitors are allowed to charge more per hour than the British Prime Minister receives. And then they refuse to act for you in court. McKenzie Friend was the only way I was able to complete my divorce procedure at a reasonable and realistic cost. 38	1	1	0	1
45	56. I started my divorce process in 2013. The solicitor I met was really nice and assuring. He promised a quick process. Unfortunately due to my ignorance in the family law area I had no choice but trust him. Two years and about £3000 later! realised how incompetent he was. My divorce reached the Decree Nisi stage. Nothing else was done. I decided to change the law firm. In April 2015 my new lawyer was really nice and assuring. She promised a quick process. I had no choice but trust her. My ex-husband decided to take me to court. I couldn't afford a lawyer to	1	1	1	1

	<p>represent me in the childcare matters and my friend mentioned a McKenzie Friend. I contacted Nicholas Walton-Jones. We have already been through four hearings. I wish someone had mentioned him to me before I lost all my money on the lawyers who didn't progress my divorce at all. I am representing myself but with Nik's help I actually understand the process now. I feel I have a professional advisor who doesn't lead me and has always been very clear on what I should or shouldn't expect. He is not biased or doesn't tell me what to do but his explanations give a great understanding on my situation. Nik doesn't make promises- he clarifies the process, prepares and supports. When we go to hearings, Nik makes me feel really comfortable and confident. I also feel I have a friend who distracts me and makes me less stressed. Nik's fees are very low. He is flexible with the payments dates, which makes it possible to have professional and affordable help without worrying about charges. My childcare matters are being sorted thank to my McKenzie friend! A year and £2000 later my finances are still where they were over two and half year ago. I already contacted my current solicitor to tell</p>				
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	<p>them I wish for them to stop dealing with my finances matters. I have been waiting for the detailed breakdown and the final invoice for over a month. I am taking my finance matters to Nik. I know I will be finally divorced this year! If you ban McKenzie friends from charging for their services, you will lose excellent professionals. They invested a lot of time and money in their qualifications. They could charge far more for their excellence and yet those minimal fees are all they get. Comparing to the lawyers' fees, they already seem to be doing almost a charity work. Comparing to the lawyers' quality of service... There is no comparison as they actually help. If we start losing McKenzie friends (which is what is probable to happen with their charges 39 being banned), a lot of people will be disadvantaged because they won't be able to afford solicitors. I know I could have been one of them...</p>				
46	<p>57. The practical and emotional support I have received from my McKenzie friend has been invaluable to my case regarding access to my children. The legal process regarding family court is a minefield and to have to negotiate this minefield during such an emotional time would have been almost impossible. There is no doubt</p>	1	1	1	1

	<p>that I would have not been able to commence or continue with proceedings without the professional help of a McKenzie friend. Their emotional support has also been invaluable and given me the strength to continue with my case and fight to get justice and the best for my children. There is no way I would have been able to continue without a McKenzie friend and I am so pleased that I have their support. I approached a solicitor in the hope that they could help me but even on my average wage there was no way I could afford their services. At this time I was in despair until I discovered the services of a McKenzie friend and they have given me the hope that I need. If a McKenzie Friend was not available I could not afford a barrister or solicitor.</p>				
47	<p>58. Myself and friends have used McKenzie friend's in the past as we were unable to afford Solicitor fees, and they have been instrumental in helping receive justice in court when without them cases have been lost and justice not served. This is an invaluable service that should continue as it has in the past. In my own case Helen Maltby, my McKenzie friend has been there to hold my hand through a very trying time, without her help I would not have known where to start, not understood court</p>	1	1	1	1

	<p>procedures and understand how whole procedure works. Countless hours were spent preparing my case, something that I could have not done by myself. She made sure that how I approached everything was within the law and that I understood what I could and couldn't do...I would never have gotten through the process without my McKenzie friend.</p>				
48	<p>59. My McKenzie friend played such a big part in my case, both inside and outside the court, without their help it would have been impossible for me to be able to fund going to court to get access for my son. I hope not to so, but if I end up going back to court it is without question 40 on I would be relying on my McKenzie friend to provide the help I need and is without a doubt a service that I couldn't go without.</p>	1	1	1	0
49	<p>60. Without the support of McKenzie Friends there would have been a number of occasions I would have had to represent myself in the family court and would have not understood the legal terms and implications of actions that have occurred in my daughter's case that has been escalated to her now having to be made part of the proceedings with a child's Guardian and her own solicitor.</p>	1	0	0	0

50	<p>61. Working with a McKenzie friend enabled me to continue with my case without the financial stress I would have had if I had continued to use a solicitor. In my particular case I had to take swift action to protect my son and hadn't heard of a McKenzie friend at this point. The fee through a solicitor for taking this action and one court appearance was £1000. Money I had to put on my credit card, and as yet have not been able to pay off. Because of the financial pressures I was considering representing myself but felt totally unskilled, but felt I had no other option. It was my Mum who found out about McKenzie friends on the internet. I went into contact Helen Maltby, in Sheffield, who provided an excellent professional service that was affordable. I was able to meet the cost much more comfortably within my monthly budget and was offered the opportunity to spread the cost over a longer period if needed. Although my case was closed over 6 months ago I have since contacted my McKenzie on two occasions regarding organising contact between my son and his dad. Advice that has been invaluable, but advice I would not have sought if I had had to use a solicitor and pay their fees. On a personal note working with a</p>	1	1	0	1
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	<p>McKenzie friend was much less intimidating than working with a solicitor. She was able to come to my house, talk on the phone and also met me a short distance away from the court so we could walk to the court together, which supported me immensely. I can't talk highly enough of my experience of working with a McKenzie friend, and have recommended the service to many people. I felt happy to pay for the professional service I received, as the fee was a manageable amount that I could meet. I was very grateful to be able to make the choice of using a McKenzie friend.</p>				
51	<p>62. The help and advise I received from McKenzie Friend was very professional and valuable and I cannot fault the service provided. 41</p>	1	0	0	0
52	<p>63. I recently used a McKenzie Friend following my divorce, this was an unbelievably stressful and expensive time for me and the help and support I was given by my McKenzie Friend was second to none. I strongly believe they should be available to help people in a variety of situations, and I do not know what I would have done had I not had their help. The legal system is both confusing, and I must say in my case, not helpful at all. If I had known about McKenzie Friends at the start of my ordeal then I wonder if I</p>	1	0	1	0

	would have gone to court at all, therefore another good reason to have their expertise and help. I can not recommend them strongly enough.				
53	64. McKenzie Friend helped in my case as she explained to me things which I was unable to understand, after my legal aid stopped and I couldn't afford to pay a solicitor as the fees was too high for me, McKenzie Friend helped me in writing my statement and support me at court which I would have found it difficult without McKenzie Friend , I think its useful idea and I did appreciate that there is another way to help me at court and which is affordable to me .	1	1	0	0
54	65. Without my mckenzie friend I would not have been able to afford a solicitor. They helped me gain more time with my daughter which at present is nice but eventually I want to gain more contact and so I will be in need if my mckenzie again. Without legal aid avaiable it costs lots to go through family courts.	1	1	0	1
55	66. During a difficult separation (including divorce, obtaining an occupation and non molestation order and Children Act proceedings), Helen Maltby helped me with many court appearances and the preparation of court documents and correspondence in 2014 and 2015. She was courteous, well	1	1	1	1

	<p>informed and professional at all times. I could not afford the rates charged by a standard solicitor or barrister and it was a huge relief to me to know that help was out there at a reduced fee, but still with a knowledgeable and capable person. Staff at Sheffield Domestic Abuse Outreach Service recommended Helen initially and from the outset I could tell that she was experienced and well placed to help me at a very challenging time in my life. I am sure that her work and that of her colleagues is of the utmost importance in assisting the poorest members of society with legal matters. Without such help the court process would seem more baffling and the whole experience would probably be almost unbearably stressful for many people.</p>				
56	<p>67. I have found McKenzie Friends professional, friendly and most of all affordable. They provided me with a prompt and outstanding service in both of my cases – children & financial. They are approachable, understanding and reliable individuals who offer the solution for those who need it and not always can afford it.</p>	1	1	0	0
57	<p>68. Without the help of a McKenzie friend, I would have had to face an acrimonious divorce alone and as I could not afford a solicitor's fee, my</p>	1	1	0	1

	McKenzie friend was valuable and helpful beyond what can be measured in monetary terms. I had no problem paying for their help. It was a valuable service.				
58	69. My divorce case had stalled in the legal system and I had paid lawyers a substantial amount in fees. I contacted a McKenzie Friend who supported me and offered clear and constructive advice throughout my dealings with him. I can only say that the Lord Chief Justice is incorrect in his opinion. My experience is quite the opposite, in that my McKenzie Friend actually facilitated the proper administration of justice, whilst providing effective protection to me as a litigant who really felt that I had little to no effective protection, or means of redress, by 'regulated legal teams.' The competency of my McKenzie Friend was second to none and he assisted me in obtaining an outcome I could not have expected from my previous 'legal teams'. The option for an individual to choose McKenzie Friends should not be removed.	1	0	1	1
59	71. I personally received much of help from McKenzie friends and I do really appreciate the hard works I received.	1	0	0	0
60	72. Our family had spent a considerable amount of money on solicitors who had	1	0	1	1

	<p>got us nowhere. The McKenzie friends from court without a lawyer were absolutely brilliant and it is without doubt that without them our son would have lost any contact with his daughter and us with our granddaughter. To consider banning them would do a considerable injustice to all 43 involved in such cases.</p>				
61	<p>74. Going through divorce is an extremely traumatic, worrying and stressful experience. One of the most concerning aspects about the whole process is about being able to afford all of the associated costs, especially for someone like me who earns less than the national average, has to pay child maintenance to my children's mother all while having to move back home with my own Mum because I can't financially afford a place of my own. The one constant I have throughout this awful time of my life; the one reassuring person whom I can rely on completely is my McKenzie Friend, Ashlie Prescott. Even though I've still had to initially borrow the money from my Mum to pay for Ashlie's expert and value-for-money services, Ashlie has provided me with affordable, expert advice which I couldn't have obtained via a practising solicitor due to their extortionate costs. I had</p>	1	1	1	1

	<p>contacted various Family Divorce Solicitors in the Hull area prior to meeting Ashlie. I couldn't quite believe just how much their costs were, and when speaking to a couple of them over the phone it immediately appeared to me that they were more concerned with the money side of things and less concerned about my emotional and financial welfare. With Ashlie this has been the complete opposite. The fact that she is providing me with the same level of advice and professionalism I would expect from the legal services, but for a fraction of the cost is of extreme comfort to me. As a human being I much happier dealing with someone who is more concerned about me than their own financial gain - this is how everybody should operate in my view. There is too much emphasis on profit in today's world. Making large sums of money out of people while they're going through what is deemed to be the second most depressing time of anyone's life behind a bereavement, is quite frankly absurd. It is my view that rather than consider banning good-hearted people like Ashlie and the wider network of McKenzie Friends from assisting ordinary people like me, you should in fact be reviewing the entire legal system from the perspective</p>				
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	<p>of reducing the amount of profit legal companies are permitted to make from situations like divorce. 44 Therefore, it will come as no surprise to you when I say that I wholeheartedly oppose your proposal and urge you to reconsider.</p>				
62	<p>75. If I had not been able to use the services of Ashlie Prescott my life and my son's life would have such a different outcome. My ex-husband was extremely controlling over myself and my ten year old son due to him having severe mental health problems. I had to use Ashlie's services to fight to amend the contact that my ex-husband had. Since going to court and using Ashlie's services, my son had flourished at school, has stopped complaining of stress related symptoms and is able to manage his controlling father much better now as he does not see him as often. Without being able to access this service I would not have been able to pay solicitors costs. I feel a withdrawal of this service would be dangerous and would affect the mental health of a lot of people, especially children. As human's we should have the choice to choose what service we want to pay for. If there are Mckenzie friends who are unethical and not giving good advice then focus on these people rather than banishing</p>	1	1	1	1

	the qualified caring people like Ashlie.				
63	80. This concern was invaluable to me at a time that I needed professional help and didn't know where to turn. They gave me a professional, competent and caring service.	1	0	0	0
64	81. Without Ashley Prescott service I would be unable to access affordable legal advice. As an adult I welcome having a choice of either try and muddle through on my own or use this service.	1	0	1	1
65	82. I do not qualify for legal aid. Without the support of my professional McKenzie friend, whom I pay for, I would not have been able to afford "full" solicitors fees and therefore could not have been confident in securing my daughters and my own financial security during my divorce.	0	1	0	1
66	83. I found the service I received from Ashley to be a great help to me at a time when I needed professional advice and could not afford to pay a solicitor's fees. 45	1	1	0	1
67	84. The service has been invaluable to me as I would have struggled greatly to be able to afford the cost of instructing a solicitor. I have been very happy with the way the work has been undertaken.	1	1	0	1
68	85. The professional help and advice I received from Ashley Prescott as a McKenzie friend	1	0	0	0

	was invaluable and without the option to use a professional as a McKenzie friend, I would have had no means to proceed with my divorce.				
69	86. Karen has helped me immeasurably with support in terms of both my divorce, and the finance and family matters associated, help I could not have afforded otherwise, and a service that is second to none in terms of its value.	1	1	0	0
70	87. The help and support I have received has been so beneficial to myself and my family. If it wasn't for this service I could not and would not have moved forward with as little stress as I have done.	1	0	0	0
71	88. I have found it more personal and not so harrowing dealing with a McKenzie friend rather than an impersonal service from a solicitor. Also I received the same service but at an affordable cost.	1	1	0	1
72	90. I have received invaluable help and advice from Karen Marshall. Help and advice which I may not have been able to afford from a clock-ticking, cost rising solicitor. I would certainly use Karen or another member of the society of professional McKenzie friends again.	1	1	0	1
73	91. I have found the help given to me invaluable and my McKenzie friend has supported me whenever I	1	0	1	0

	have contacted her. It should be a choice for me to make who I wish to get advice from.				
74	92. Without such dedicated professionals I don't know how I could have afforded this. I have been in this position before and went down the solicitors route and found this very expensive and with very little effort to given to me to justify the fee they charged at the time. 46	0	1	0	1
75	93. Karen's help was invaluable. I was a victim of domestic abuse and had employed a solicitor but could not keep up with the fees they were requiring to protect both me and my son. I am currently going through the financial settlement and divorce. Without doubt I wouldn't be able to do this without Karen's help and guidance.	1	1	0	1

Appendix 3

17 responses which refer to the MF being in some way better (as opposed to just cheaper) than solicitor or barrister

1/ "He (MF) also responded quickly when situations arose which a typical solicitor would have taken much longer to address. The cost of a solicitor would have been prohibitive, I would not have been able to bring my case to court, and most likely my daughter would have had to grow up with no contact with her father.

3/ I had previously used up savings for a solicitor who achieved nothing and was left disillusioned and heart broken when there was no money left. At the last minute I was informed about McKenzie Friends who immediately came to my aid. Their costs were extremely low in comparison to usual solicitor's fees... I for one will always be grateful for their support, expertise and wonderful service.

6/ "My case led to a shared residence order put in place. Following the recommended route of solicitors/barristers would have left me penniless and broken. You want to deny this lifeline to others!! Shame."

8/ "I spent 6 years in court to gain my rightful contact with my daughter who is now 8 years old. The first 2 years I used solicitors and barristers with limited success of contact but a huge bill. The last 4 years of court I used a McKenzie friend. Not only did we achieve a contact order until my child becomes 16 years old, but the cost involved was a fraction of the money I had spent in the first two years. I cannot thank my McKenzie friend enough for what he did for me. I will never forget him."

16/ Legal aid has been withdrawn from family court hearings and professional McKenzie friends offer a valuable service to litigants who either cannot afford a solicitor or who find that they receive better help from their McKenzie friend than from a barrister brought in.

18/ "I gained far more with the assistance of my McKenzie friend than I did with full legal representation."

19/ *" Thanks to him (my McKenzie Friend) I am still in contact with my daughter, four years on from his intervention. He provided an extremely inexpensive service and promoted non-confrontational methods of interacting with my ex-wife....in marked contrast to my solicitor."*

29/ *"After incurring a solicitor's bill of almost £5000 for my divorce I was unable to fund another solicitor.... My McKenzie friend was completely invaluable in negotiating the minefield of the court process... The support I received was far beyond that of a solicitor.....it was nice to be able to deal with a human being (albeit very professional) instead of some stuffy solicitor.."*

30/ *"I value the help of my McKenzie friend and after spending money on solicitors without anything to show for it I feel I have made progress."*

45/ *"I found the help of a Mckenzie Friend to be so helpful. I saved at least two thirds of the fee of what a practising solicitor would have charged me. At least I know I won't have to get another loan (which I cannot afford) to pay for my divorce proceedings."*

56/ *The solicitor I met was really nice and assuring. He promised a quick process. Unfortunately due to my ignorance in the family law area I had no choice but trust him. Two years and about £3000 later I realised how incompetent he was. .. My friend mentioned a McKenzie Friend. I wish someone had mentioned him to me before... He makes me feel really comfortable and confident. I also feel I have a friend who distracts me and makes me less stressed. His fees are very low. My childcare matters are being sorted thank to my McKenzie friend!*

61/ *working with a McKenzie friend was much less intimidating than working with a solicitor. She was able to come to my house, talk on the phone and also met me a short distance away from the court so we could walk to the court together, which supported me immensely*

72. *Our family had spent a considerable amount of money on solicitors who had got us nowhere. The McKenzie friends were absolutely brilliant and it is without doubt that without*

them our son would have lost any contact with his daughter and us with our grand daughter.

To consider banning them would do a considerable injustice to all involved in such cases.

74/ I had contacted various Family Divorce Solicitors prior to meeting my McKenzie Friend. I couldn't quite believe just how much their costs were, and when speaking to a couple of them over the phone it immediately appeared to me that they were more concerned with the money side of things and less concerned about my emotional and financial welfare. With my McKenzie Friend this has been the complete opposite. ...It is my view that rather than consider banning good-hearted people like my McKenzie Friend and the wider network of McKenzie Friends from assisting ordinary people like me, you should in fact be reviewing the entire legal system from the perspective of reducing the amount of profit legal companies are permitted to make from situations like divorce.

88. I have found it more personal and not so harrowing dealing with a McKenzie friend rather than an impersonal service from a solicitor. Also I received the same service but at an affordable cost.

90. I have received invaluable help and advice from my McKenzie Friend. Help and advice which I may not have been able to afford from a clock-ticking, cost rising solicitor. I would certainly use her or another member of the society of professional McKenzie friends again.

92. Without such dedicated professionals I don't know how I could have afforded this. I have been in this position before and went down the solicitors route and found this very expensive and with very little effort to given to me to justify the fee they charged at the time.

A study of McKenzie Friends in family law cases

About the research

We are researchers carrying out a study to find out about professional McKenzie Friends and the role that they play in supporting litigants in person through family law cases.

To find out more about McKenzie Friends and the work they do, we will be conducting interviews with professional McKenzie Friends and with litigants who have used them. In a later phase of the study, we will also be observing a number of court hearings attended by professional McKenzie Friends and speaking to the people involved about their experiences.

We would very much like to interview you as part of our research and we have prepared this leaflet to give you some information about it.

Who is in charge of the study?

This research study is led by Dr Leanne Smith from Cardiff University. The other researchers are Dr Emma Hitchings from Bristol University and the research assistant, Mark Sefton. Each of us has many years of experience of research on separating families' experiences of the legal system.

The research is funded by the Bar Council. However, the research team is independent of the Bar Council and will be free to publish their findings whether or not the Bar Council agrees with them.

The study has been approved by the Cardiff University Research Ethics Committee.

Why are we doing this research?

There are suggestions that, since substantial restrictions on the availability of legal aid were introduced in 2013, more litigants are using professional McKenzie Friends to help them with their family law cases. McKenzie Friends are increasingly in the spotlight – for example, senior judiciary have recently published proposals for new rules covering what fee-charging McKenzie Friends in particular, but also McKenzie Friends more generally, should and should not be able to do. We want to learn more about what professional McKenzie Friends do and what difference their support makes to people who do not have a lawyer to help them throughout their family law case. The research will help us to make suggestions about the use of McKenzie Friends.

The results of the research will be published in a report, which will be available online, and in specialist academic journals. We can send you a copy of the support if you wish.

How you can help us

For this research to be useful we need to find out as much as we can about professional McKenzie Friends and the assistance they provide to their clients both inside and outside of the family courts.

We would like to conduct an interview with you to find out about your experiences of being or using a professional McKenzie Friend.

Participation in an interview is entirely voluntary.

What will the interview involve?

A researcher will arrange to visit you at a mutually convenient time and place and ask you questions about your work as a McKenzie Friend. The interview will last around one hour and the format will allow you to answer questions in your own words. With your consent, we would like to audio record the interview – this makes it much easier for the interviewer to listen to what you are saying.

If you do take part you can refuse to answer any questions which make you uncomfortable and you can change your mind about taking part in the study at any point - just tell the researcher that you no longer wish to take part and we will withdraw you from the study.

Confidentiality

If you choose to participate in the research your views may be used in the research report but your identity will remain strictly confidential. The researcher will not record any names or addresses in their notes and if you agree to an audio recording of your interview, we will make sure that no names or identifying details will be transcribed. Nobody from outside the research team will be able to identify you from any comments you make. Neither you nor any court case you are involved in will be identified in the research report.

Any questions or worries?

If you would like more information about the research, please contact Leanne Smith who is leading the research study:

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27th May 2016

Dear Mr Barry,

I am writing in response to the concerns you raised about the ethical integrity, specifically the impartiality, of the research project I am leading to explore the work of McKenzie Friends in family cases.

I would like to reassure you that I and the other members of the research team take very seriously the need to conduct research and analyse findings objectively. I understand your concern in relation to the funding for the research being provided by the Bar Council, which has – as you note – expressed some strong views about regulation of the work of McKenzie Friends. It was an issue that I and the research team considered carefully before taking on the project and I took steps to ensure that the independence of the research team and the impartiality of the research report would be protected. In particular, I stressed that the research findings might not support the Bar Council's position on McKenzie Friends. The Bar Council does acknowledge and support the need for independence in relation to this research and has agreed that the research team will be able to publish the results of the research with or without their support. I have now amended our project information sheet (see attached document) to clarify our independence from the Bar Council.

As researchers, we are first and foremost concerned that policy decisions should be informed by evidence as far as possible and our aim in undertaking this research is to build a stronger evidence base from which decisions about McKenzie Friends may be taken. The mixed view we obtained from the '*Litigants in person in private family law cases*' study that you mentioned in your letter is one of the reasons that we are convinced of the need for this research; there is not enough evidence at present to support strong views either against or in support of further regulation of the work of McKenzie Friends. Incidentally, I am sure you noted that we did comment on the extremely high quality of the work done by one of the McKenzie Friends we observed in that study, in addition to reporting our concerns about the others.

I cannot predict the results of this study, but it is entirely possible that we will find sufficient examples of positive practice to question the recent proposals from the judiciary. In connection with our desire to build a fuller picture of the work of McKenzie Friends, may I draw your attention to our plans to interview clients, which is something that the LSCP did not do. You have mentioned that

many clients are very satisfied with the work of McKenzie Friends and if you would like to assist us in obtaining the views of clients by advertising the project, that would be very helpful.

You do not, of course, have to participate in this research. However, it would be a shame not to be able to include your views. It is important that the study reflects the views of as diverse a range of McKenzie Friends as possible. Your views as a member of the new self-regulating body for McKenzie Friends are of interest to us, particularly as that body did not exist when earlier research on this topic was conducted. We also think it likely that the market has developed further in other ways during the last two or three years and you are likely to have good insight into this.

If you still have concerns, I would be grateful for an opportunity to discuss them with you.

Yours sincerely,

Dr Leanne Smith



To:

Dr Leanne Smith, by email to

1) Prof John Harrington, Director of Research, Chair, School Ethics Committee, School of Law and Politics, Cardiff University.

2) Prof. Colin Riordan, Vice Chancellor, Cardiff University: by email

3rd June 2016

Dear Dr Smith,

Thank you for your letter of 27 May. We appreciate you looking into this and the courtesy of your reply. In particular we welcome your assurance that “..the research team will be free to publish their findings whether or not the Bar Council agrees with them.” However, that is not the essential nature of our concern. Rather, it is that the Bar Council has commissioned 3 researchers whose involvement with the [2014 MOJ study](#) indicates a likely bias against Professional McKenzie Friends, leading to a likely skew of the findings in the Bar’s favour.

You rightly say that your previous research commented on the extremely high quality of the work done by one of the 3 McKenzie Friends in that sample. However, your blanket recommendation: “it is doubtful whether... paid MF’s... justify a charge for their services.” (P112) still damned that MF along with all the rest. Are we not right to fear that your current study may again support a blanket ban, regardless of whatever positives you may observe?

In respect of the other 2 cases in that sample, there is insufficient information to comment on one, but the other suggests a lack of understanding and a bias on the part of the researchers:

P97 “ In B034, a children case, the resident mother had unwittingly recently employed a paid MF linked to a father’s rights group. She appeared to have considerably weakened her case by agreeing, presumably on his advice, to a shared residence order for a very young child despite having previously been opposed to unsupervised contact. ”

- 1) If the researcher knew the MF was linked to a father’s group, surely the mother must have known also? If so, the term “unwittingly” suggests the researcher’s disapproval of the mother’s choice, rather than the mother being tricked in some way by the MF.

- 2) “Shared residence” is simply a type of order, and is no indication of the amount of time the child shall spend with each parent. The researchers either did not know this, or were deliberately misleading the reader, implying contact went from zero to 50%.
- 3) Anyone who works in this field knows it is common, in the early stages of children proceedings, for a resident mother to oppose unsupervised contact, and later withdraw her objection on receiving legal advice. An experienced solicitor, barrister or MF would advise a mother to withdraw any such objection at an early stage unless it is well founded; otherwise, if her concerns are subsequently found to have been exaggerated, a court might question whether she is acting in the child’s best interests. The researchers showed no understanding of this pattern and instead attribute the McKenzie Friend’s advice to his being a “covert foe” (page 112), undermining his client’s case in order to pursue his own agenda. The views of the mother, who was “very positive about the MF’s efforts” (P112) were dismissed out of hand: “..one cannot expect lay consumers to always know what they need to know. ..” (P112)

A qualitative methodology carries the potential for researchers to introduce their own agendas and prejudices, and pass them off as research findings. There appears to be an element of that in the 2014 study, and it would seem that is the very reason why the Bar Council has now chosen 3 researchers from that study, in the hope that the same prejudices and agendas will surface on this occasion too. Frankly, we are concerned that the views and experiences of our own clients may be treated in the same dismissive, patronising way in your current project.

Having said that, we take the view that it is better to participate in this project than not to do so. Individual SPMF members will decide for themselves whether to take part. For myself, I intend to.

You ask “... if you would like to assist us in obtaining the views of clients by advertising the project, that would be very helpful.” Attached to [our response](#) to the current McKenzie Friend consultation were signed statements from 93 people who had used the services of one of our members. We would be willing to forward a letter from you to each, inviting their participation.

Yours sincerely,

Ray Barry
Chair, Society of Professional Mckenzie Friends

ANNEX 3 CLAIMS MANAGEMENT REGULATOR



Claims management Regulator (by email to contactus@claimsregulation.gov.uk)
Claims Management Regulation Unit
Compliance Office
57-60 High Street
Burton- upon-Trent
Staffordshire
DE14 1JS

29th June 2016

Dear Sirs

We are a Trade Association of Professional McKenzie Friends.

We have, until now, advised our members not to assist at employment tribunals or otherwise provide employment legal services unless regulated to do so. We base that advice on Compensation Act 2006 part 2, and Compensation (Claims Management Regulation Services) Order 2006 section 2.

This advice seems to be contradicted by research published this month by the Legal Services Board: <https://research.legalservicesboard.org.uk/wp-content/media/Unregulated-providers-research-summary.pdf>

Line 5 of the table on page 2 of that document indicates that 4 – 5% of employment legal services are currently delivered by unregulated providers, including fee charging McKenzie Friends.

On the face of it, our members are complying with the law while others are not. Have we misinterpreted the Compensation Act and Order in some way? Can our members lawfully provide employment legal services, outside of your regulation?

Yours sincerely,

Raymond Barry
Chair, Society of Professional McKenzie Friends.
www.mckenziefriends.directory/

Society of Professional McKenzie Friends Ltd. Company Number: 09022389

SPMF Ltd Directory of Self-Regulated
McKenzie Friends

The Society of Professional McKenzie Friends Ltd.



Ms M Finnie, Head of Service
Claims Management Regulation Unit
57-60 High Street
Burton-upon-Trent
Staffordshire
DE14 1JS

Ref: AT/370443/JS

7th July 2016

Dear Ms. Finnie,

I wrote to your office on 29/06/16 after reading a recent research paper published by the Legal Services Board, which indicated that 4 – 5% of employment legal services are currently delivered by unregulated providers, including fee charging McKenzie Friends. These providers appear to be operating without authorisation, and doing so quite openly, to the frustration of our members, some of whom would choose to provide unregulated employment services if it were allowed.

I have since spoken to Jackie Plant at your office, and exchanged emails with Jade Squirrel. Both have been most helpful. Jackie has passed the information through to the Unauthorised Team, but advised me that team would not normally give feedback to the informant.

The LSB research has uncovered a significant volume of unauthorised provision. In view of this I would ask that this be escalated to whoever does have the necessary authority to keep us informed. Our members are entitled to know what steps the regulator is now taking to put this right.

I look forward to your response.

Yours sincerely,

Raymond Barry
Chair, Society of Professional McKenzie Friends.
www.mckenziefriends.directory/

Society of Professional McKenzie Friends Ltd. Company Number: 09022389

Registered Office: 11 Windsor Gardens, Wolverhampton. WV3 8LY