



Review of Legal Services Market Study in England and Wales

Consultation response by: The Professional Paralegal Register (PPR)

30th September 2020

The Professional Paralegal Register (PPR)

1. PPR is the voluntary regulatory scheme for Paralegals who work in the unregulated sector in England and Wales. It was launched at the House of Lords in December 2014 after extensive consultations had taken place with The Law Society; The SRA; The Bar Council; The Bar Standards Board; The Legal Services Board; The Consumer Panel of the LSB; The Legal Ombudsman's Office; CILEX and CILEX Regulation.
2. A stakeholders' forum took place in June 2014 with attendance from Skills for Justice; The Ministry of Justice; The Institute of Paralegals; The National Association of Licensed Paralegals; The Society of Willwriters; The Institute of Professional Willwriters; Mc Kenzie Friends; Citizens Advice; The Legal Ombudsman; Law Society for Scotland; The Scottish Paralegal Association; Which?Legal; Co-operative legal; TSI; Council for Licensed Conveyancers; Chartered Institute of Patent Attorneys; Institute of Trade Mark Attorneys; The Voluntary Public Interest Advocacy (McKenzie Friend Association) and the Treasury Solicitors.
3. The aim of the PPR is to provide a robust regulatory scheme for Paralegals working in the unregulated sector in England and Wales. It has, as one of its regulatory objectives, improved access to justice for consumers who require cost effective and legal advice and assistance. The PPR is a not-for-profit organisation.
4. The Register is both open and transparent and provides a list of PPR members who are categorised in 'Tiers' dependant on their qualifications and experience. The register is accessible to all. The regulatory scheme enables consumers to seek out professionally qualified and 'regulated' (by the PPR) Paralegals in the knowledge that they can take advantage of a first tier

complaints procedure via a Paralegal's membership body and a second tier complaints procedure via the PPR that has a compensation fund available in certain circumstances.

5. The Legal Services Act 2007 (the Act) allows for the provision of legal services outside the Regulatory Framework and provides the court with discretion to grant permission to conduct litigation or rights of audience to non-authorised persons.

6. The PPR has a direct interest in the issues raised by this consultation and believes that it can offer insight into the unregulated market in relation to transparency of costs and help for consumers to make informed choices.

7. The PPR would welcome a further discussion with the CMA to enable us to more fully explain the PPR and how it can assist with this issue. For more information on the PPR please visit <http://ppr.org.uk>

Introduction

8. The PPR accepts that it is important that a collaborative approach amongst key stakeholders is required to encourage transparency on the level of service and associated costs by all providers of legal services.

9. The consultation seeks inputs on transparency and its effects on competition. It further seeks inputs on consumer engagement and redress and regulation.

Consultation Questions:

Q1. What challenges have legal service providers faced in complying with transparency measures, and how could these be addressed?

The Paralegal sector is unique as it does not carry a protected title. Some Paralegals offering services may not be qualified whilst other could be highly qualified. Some are members of professional bodies such as the Institute of Paralegals who provide

guidance on transparency. Those paralegals who are regulated by the PPR have transparency regulations within their practising rules. Not all providers will have websites and therefore keeping information easily accessible to consumers can be more difficult.

Our recognised bodies such as the Institute of Paralegals adhere to our rules on transparency.

Q2. Are consumers engaging with the new transparency measures including the availability of price information, eg by accessing the pricing information on the provider websites and/or using this information in their interactions with providers?

We are due to complete a member survey at the end of the year to provide us with data on this issue.

Does this differ between different areas of law?

The main difference can be seen where a consumer knows what they want rather than seeking advice. For example a basic will.

Q3. How effective have transparency measures been in driving competition? Does this differ across areas of law?

We have no evidence that transparency measures drive competition in most areas of law except in residential conveyancing.

We expect to have data at the end of the year.

Q4. To what extent has the Legal Choices website helped consumers to navigate the legal services sector? To what extent has improved content been actively promoted by regulators, consumer/industry bodies and service providers?

The Legal Choices website does not adequately provide consumer information on unauthorised providers. Despite being given 'access' to provide up to date information this has not been published.

Q5. To what extent are quality indicators needed to drive consumer engagement and competition? Which further indicators are needed and what are the barriers to these indicators being developed?

The PPR was the first organisation to introduce smart badges which provides an indication of a professional who has met our standards. In the main, consumers are heavily influenced by recommendations and geographical location of the providers.

Q6. To what extent are DCTs currently operating in the legal services market? What are the main barriers to greater use of DCTs in legal services and how can they be overcome?

Digital comparison tools are not being used widely in the legal services sector. The Check a Trader model has to some extent given the impression that comparing 'quality' is for non-professional services.

There is a mistrust of the review that are given on-line with no real effective way that consumers can indeed trust the reviews.

Most consumers of legal services will either go by direct recommendation or use local high street providers.

Q7. What impact have ABSs and lawtech38 had on driving innovation in the legal services sector? Are there any barriers deterring further innovation?

ABSs have no relevance or real impact in the unauthorised market as Paralegals can set up paralegal law firms without regulation. Lawtech38 has made great strides in innovation but the main barriers are cost and meeting the needs of vulnerable consumers or those who do not have access digital devices.

Q8. Are there other developments which have had or will have a significant impact on competition in the sector?

We are yet to see the full effects of Covid-19 although to date on how the regulated/unregulated sector will be affected. It is envisaged that more unauthorised providers will commence trading as it is more cost-effective for them to trade.

Q9. Are further measures needed to drive consumer engagement and competition in legal services in addition to the areas we have identified above?

Legal Choices or a similar platform needs to be totally independent from the regulators. The government departments need to be more engaged in the Solicitor General's Public Legal Education Programme, with funding available for this work to be taken forward.

Q10. Are there any issues specific to the provision of legal services for small businesses that should be considered in order to improve competition for such customers?

The Reserved Activities should be removed and replaced by a set of competencies for before, during and after the event provision of legal services, based upon activity not title. This would enable a more diverse legal sector to compete on a level playing field. The terms 'authorised' and 'unauthorised' are not understood by consumers.

Q11. What measures can be taken to develop a more flexible and proportionate regulatory framework within the Legal Services Act 2007 without requiring any, or only light touch, further legislative change, for example a review of the reserved activities as being considered by the LSB?

The existing framework and the constraints of the Legal Services Act 2007 do not provide for our current and future legal services provision. The suggestion in the IRLR final report to bring the unauthorised provision under a register is already provided by the PPR. The existing register could be adapted to provide an umbrella regulation for all unauthorised providers on a mandatory basis. Activity-based rather than title-based regulation is the way forward.

Q12. Would such measures above be sufficient to deliver effective change that can promote competition and optimise consumer outcomes in the longer term?

Making registration compulsory would enable consumers to access providers via one register. Information on individual providers and/or entities would include status, services that can be provided, cost and a quality system.

Q13. To what extent is there merit in extending the regulatory framework to include unauthorised providers? What evidence is there of consumer detriment from unregulated providers, or other rationale, to warrant this?

Consumer detriment should not be the only driver here. A clear route to redress via one regulator would give consumers confidence to use the services of a professional legal provide, having met a set of competency criteria.

The PPR has not had cause to deal with any complaint vis its independent regulatory board. Our two-tier system enables consumers to access redress at the route of the issue.

Providers of legal services who are not members of a professional body or the PPR are choosing not to be verified by an independent source and therefore no data is available on the detriment these pose. It is essential that it becomes mandatory to become members of the PPR register.

Q14. We recommended a review of the independence of regulators both from the profession and from government, to the MoJ in the CMA market study. Is that review still merited, taking into account, for example, the work that has been undertaken by the LSB on IGRs and the arguments put forward by the IRLSR?

The review of the independence of regulators is still relevant and should proceed. Whatever the outcomes are of the IRLSR, it is still vital that the roles of professional bodies and regulators are clear and independent of each other.

Q15. What work has been undertaken by regulators to reduce the regulatory burden on providers of legal services for individual consumers and small businesses? What impact has this had?

The PPR offers proportionate and targeted regulation which reduces the burden on the Paralegal sector. The system in place is easy to access and easy to understand the process. The cost to the consumer is nil.

Q16. What impact has the removal of restrictions to allow solicitors to practise in unauthorised firms had on the availability of lower cost options in the sector?

We do not believe that consumers are aware of the difference between authorised and unauthorised firms. We have no data that suggests that solicitors working in unauthorised firms has any effect on the price to the consumer as it will be the firm that makes that commercial decision.