



Review of Legal Services Market Study in England and Wales

Consultation response by: The Institute of Paralegals

30th September 2020

The Institute of Paralegals (IoP)

1. The IoP is a not-for-profit professional body for Paralegals who do legal work and other non-lawyers working in a legal environment. The purpose of the Institute is:

1.1 To be the professional membership and representative body for paralegals in England and Wales;

1.2 To implement general policies regarding all matters affecting the paralegal profession;

1.3 To improve the standards, standing and quality of the paralegal profession, to promote, and improve the services and functions of the paralegal profession, and to represent and act for the paralegal profession generally to include matters affecting the administration of justice.

2. The Institute has around 2,000 members in 40 countries. Professional membership comprises of three levels namely Associate, Qualified and Fellow. Members opt in to be regulated by the Professional Paralegal Register however this is not currently mandatory.

3. IoP has developed robust competency standards for paralegals and Legal Secretaries which map to the National Occupation Standards for Legal Services. The standards are divided into Core Competencies; Technical Competencies and Behavioural Competencies. These standards are widely used to help with risk management; better delegation of work; differentiating between levels of paralegal staff, to reduce PI insurance premiums and to create an internal career path for paralegal staff.

4. All members of the Institute are required to comply with the Paralegal Code of Conduct, the Complaints procedure and any other rules governing professional conduct matters.

Members must:

4.1. Support the Institute's objective of helping to ensure good standards of service to clients, by promoting the Institute and the Paralegal profession as a whole.

4.2. At all times when acting as a paralegal uphold the standards of professional practice set out in the Institute's Paralegal Code.

6. The IoP 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.

Introduction

8. The IoP 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.

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 who provide guidance on transparency. Not all members of the IoP are regulated under the PPR. Those that are, are governed by the rules on transparency outlined in the PPR regulations. IoP members who are not subject to PPR Regulation- IoP has a practice guide that outlines best practice to include essential information on cost and services provided in the client care letter.

Not all providers will have websites and therefore keeping information easily accessible to consumers can be more difficult.

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 IoP was one of the first organisation to introduce smart badges which provides an indication of a professional who has met our standards. The IoP badges currently act as a quality mark- but IoP agree that this doesn't cover providers who are not members of our body. Consumers do contact the IoP looking for Paralegals. 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. The IoP is considering making PPR registration mandatory for all practising members.

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.

Providers of legal services who are not members of IoP, another 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.

The IoP receives frequent inquiries, mainly by telephone, from consumers wanting to find out if a certain individual or organisation providing legal services are members of IoP and if they are regulated. We do not believe that consumers are aware of the difference between authorised and unauthorised firms, hence their inquiries about regulation.

These consumers, most often than not, are being directed to us by the Legal Ombudsman. In almost every instance, the individuals they are inquiring about, are not members of IoP and this fact always comes as a surprise to the consumer. Consumers are not aware that anyone can call themselves a paralegal, don't have professional qualifications to offer legal advice, don't have to be registered with any professional membership body to be able to do so (with a few exceptions) and most importantly, are not regulated.

When faced with the prospect of not having any means of redress, some become very distressed. Our advice is to check with other membership bodies for paralegals in the first instance and if not, to contact the police.

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?

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.