

Appendix B: Research and testing

1. In this Appendix we discuss the following topics;
 - (a) The various methods of testing and research;
 - (b) How testing and research could be applied in implementing some of our recommendations on best practice guidance and formats;
 - (c) How testing and research could be used to test the questions and prompts used to gather feedback from consumers;
 - (d) How to conduct testing and research which takes the needs and circumstances of vulnerable consumers into account; and
 - (e) How testing and research could be conducted to measure the impact of interventions as they are implemented by legal services providers.

Methods of research and testing

2. Regulators could use the following methods of research and testing, individually or in combination when designing and implementing interventions:
 - (a) Qualitative research: this method commonly includes consumer focus groups, workshops and interviews (with both consumers and legal services providers). It can be used to explore consumer or firm behaviours, attitudes, expectations and beliefs both at present and in the presence of new remedies, as well as to inform remedy design before other forms of testing;
 - (b) Surveys: these can be used to provide robust evidence for specific questions, in order to obtain quantitative and/or qualitative information on consumer and provider attitudes, beliefs and expectations.
 - (c) Laboratory testing: laboratory testing and online experiments can provide insights on consumers' ability to 'assess' new information. In a laboratory experiment, participants are assigned to groups and given a specific scenario (eg how the publishing of price and quality information in different formats affects consumers' ability and willingness to compare and choose between legal services providers).
 - (d) Field trials: this involves real-life testing of interventions (also called randomised controlled trials or RCTs). In a typical trial, the population to be tested is divided into two groups – one group would receive the service as usual and the other would receive the new intervention (eg the visibility

of complaints data prior to purchase). The difference in customer behaviour and outcome can then be measured.

- (e) User/human-centred or User Experience (UX) design: these are not entirely separate methods but rather terminology used to describe design processes that involve users throughout. User centres / UX design comprises a mix of iterative design underpinned by inputs from research to understand user needs as well as user testing of designs with end users.

Testing for best practice guidance and formats

3. A key factor affecting consumer engagement with price, service and quality information is the comprehension and understanding of this information by consumers.
4. Research indicates that numeracy is an underlying challenge for a large segment of the population,¹ with the FCA estimating that 20 million consumers have vulnerabilities due to numeracy.² Testing for legal services which may have prices described in formats that are not a fixed price would be particularly appropriate.
5. We recommend that regulators use an iterative user-centred design approach to develop best practice formats (eg pricing location and format). This should be underpinned where feasible by qualitative interviewing with consumers, for example, to understand user needs and barriers. Additionally, qualitative user testing of proposed best practice formats is recommended to understand how consumers navigate content, their comprehension of the service offered and financial commitment, as well as their potential actions.
6. We would also recommend that larger regulators consider the use of quantitative methods (eg surveys) to understand consumer comprehension and understanding of information. This could, for example, take place within a wider survey presenting research participants with stimulus material of a proposed best practice formats of a specific legal service (eg conveyancing) under consideration. Research participants would be asked what they understood about the legal service and their hypothetical financial commitment.

¹ Department for Business, Innovation and Skills (2012), [2011 skills for life survey](#).

² FCA (2015), [FCA Occasional Paper 8: Consumer Vulnerability](#).

Testing consumer understanding of questions and prompts used to gather feedback from consumers

7. There are a range of different influencing factors on the feedback and survey responses consumers may provide which do not relate to the quality of the legal service itself. For example, the outcome of a case has been shown to influence users' perceptions of experience of administration of the courts and legal cases including applications in England and Wales.³ It is plausible to assume similar impacts for consumer perception of experience in broader legal services.
8. In addition, it is also important to test consumer understanding of, and responses to, the questions posed when implementing any surveying or feedback mechanism. Google Review analysis has shown that some feedback about experience with a specific organisation may gather feedback about other unrelated legal experiences. Finally, specific feedback and surveying mechanisms, including net promoter score questions, may also need to be adapted after testing if concepts such as recommending a legal services provider do not resonate with consumers in some legal service contexts.
9. We therefore recommend that regulators test a core set of key feedback questions including the timing of these questions across a range of legal services consumers. This would usually involve qualitative interviewing to check the understanding of, and responses to, questions.⁴ In addition, pilots of new survey or feedback mechanisms (eg reviews, NPS) can discover issues before rolling out and also test the impact of asking questions at different points in the consumer journey (eg pre-outcome).

Testing for vulnerable consumers

10. As highlighted by the research conducted by the LSB, there are significant vulnerabilities across consumers of different legal services and specific or concentrated vulnerabilities of consumers of specific legal services.⁵ The CMA's research echoes the LSB's findings that personal characteristics and circumstances can both drive consumer vulnerabilities.⁶ For example, while immigration legal services lend themselves to more standardisation of price information, it is acknowledged that both the context of the legal need (eg

³ HM Courts and Tribunals Service (2018), [Citizen User Experience Research](#).

⁴ Often called cognitive interviewing for surveys. For discussion in the context of testing Net Promoter Score see Graham, C. and McCormick, S. (2012), [Overarching questions for patient surveys: development report for the Care Quality Commission \(CQC\)](#).

⁵ For LSB examples of vulnerability research and a summary of LSB research see [here](#).

⁶ CMA (2019), [Consumer vulnerability: challenges and potential solutions](#).

potential cognitive load related to leave to remain or removal) and characteristics of consumers (eg English not being a first language) may create vulnerabilities.

11. Where possible, regulators should use existing data and research to produce brief summaries of known vulnerabilities in key legal services when developing best practice guidance and quality information remedies.
12. Additionally, we consider that within the areas of criminal, family, civil and administrative justice there may be specific additional vulnerabilities, for example, where there is a potential loss of liberty or employment, family unit considerations or where mental health issues are an underlying driver of the legal need. As well as drawing on data and research held by the regulators themselves, those designing best practice guides or quality information remedies should consider seeking input from researchers working on legal user vulnerability in public bodies, representative bodies, academics and Justice Councils (eg the Administrative Justice Council).
13. We recommend that qualitative interviewing and user testing be used by regulators to understand the context of and barriers to a consumer's search for a given legal service (eg immigration, divorce) to inform user centred design of best practice guides and formats. In addition, all best practice guides should consider providing guidance on accessibility for consumers with vision, hearing, mobility, and thinking and understanding barriers.⁷

Testing to measure the impact of interventions

14. As legal services providers and potentially other bodies (such as DCTs for example) implement new guidance or quality information interventions, testing should be conducted to measure the impact on and for consumers, including their propensity to shop around.
15. This may be facilitated by regulators recruiting legal services providers and other bodies to provide data for research and testing. This would seek to fill gaps in data between regulators' periodic survey research with consumers. Regulators may wish to consider collaborating with academics and academic funding bodies to consider how this type of research could be developed.
16. In conducting research and testing, we recommend that the following principles are considered:

⁷ For an example of such guidance see [here](#).

- (a) All data should be anonymised (eg that the legal services provider and consumers cannot be identified by the regulator) and correspondingly not used for compliance/enforcement purposes.
 - (b) A third party (eg research agency, academic partner or similar) would likely need to standardise collection and secure capture of data as well as advising on data protection issues for providers.
 - (c) Where firms have not regularly used the type of data collected, the researcher provides support to extract this data and a brief summary of their data should be provided to aid providers in the development of their business.
- 17. Testing should seek to collect data at multiple points in time and across multiple firms, for example, before and after a provider makes changes on their websites to incorporate new best practice guidance. This would allow regulators to consider some of the impact of changes to websites and applications used by consumers in near real time.
- 18. Examples of data that could be collected include:
 - (a) website and application analytics to understand how consumers navigate and click through content, including actions taken (eg click through to price information pages or the use of enquiry forms). This would provide regulators with a deeper understanding of consumer behaviour in real websites and applications of different designs;
 - (b) brief exit surveys of consumers using firm websites or other tools which provide information on price, service or quality. For example, a range of data could be collected in a short exit survey of a sample of consumers on experience, comprehension and shopping around. This could support the testing of new interventions or changes under regulator guidance to providers' websites; and
 - (c) seeking consent from consumers for the regulator's researchers to conduct follow up research (eg telephone interviews) in order to help develop best practice guidance in the future.