



Transparency Rules Evaluation: Impact on Consumers Research report

July 2022

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Contents

Executive Summary	3
1 Introduction	7
2 Methodology.....	11
3 Research findings	16
4 Summary and Conclusions	50

Executive Summary

Background

- In December 2016, the Competition and Markets Authority (CMA) published findings from a market study into legal services. Its recommendations to frontline legal regulators fall broadly into four categories:
 - Deliver a step change in standards of transparency to help consumers (i) to understand the price and service they will receive, what redress is available and the regulatory status of their provider and (ii) to compare providers.
 - Promote the use of independent feedback platforms to help consumers to understand the quality of service offered by competing providers.
 - Make data more accessible to comparison tools and other intermediaries to facilitate the development of a dynamic intermediary market
 - Develop a consumer education hub to empower legal services consumers, particularly when they first engage with the sector.
- In response to the first of these recommendations, the BSB initiated a transparency workstream which culminated in the introduction of new transparency rules for the profession. The new transparency rules were introduced in July 2019, with compliance with the rules being mandatory from January 2020. This evaluation aims to assess the impact of the 2019 transparency rules on legal consumers - an evaluation of the impact of the rules on the barrister profession was published in 2021.

Methodology

- The primary scope of the consumer side of the evaluation is to assess whether the introduction of the BSB's transparency rules has had an impact on a number of key indicators relating to the objectives of the Transparency Rules. These indicators are the extent to which potential or actual clients of barristers are:
 - Using/considering using a barrister to deal with a legal issue
 - Searching for/obtaining information on barristers' services and prices
 - Finding it easy to find/understand information about barristers' services and prices
 - 'Shopping around' and comparing different providers when searching for/choosing barristers
 - Aware of the regulatory status of barristers and routes for redress when choosing or using their services
 - Satisfied with the prices charged by their barrister/consider that their barrister was value for money
 - Making complaints about the services they have received from their barrister.

- The evaluation took the following approach to assess any impact from the introduction of the transparency rules on the key indicators:
 - Using data from the 2019 Legal Needs Survey as a pre-rules baseline measure across indicators relevant to the BSB's transparency rules, supplemented by a post-rules survey using the same questions/wording to provide a post-reform measure;
 - Using responses to the BSB's Regulatory Return from barristers' chambers and other barrister organisations to determine if they had observed any impact on their clients from implementing the transparency rules;
 - Using data from the Legal Services Consumer Panel Tracker Survey relating to indicators around market transparency and consumer behaviour to provide a more general overview of transparency changes within the legal services market over time;
 - Using data from complaints to the Legal Ombudsman (LeO) in order to provide evidence of impact on the levels and type of complaints made by barrister's clients.

Key Findings

Considering using a barrister to deal with a legal issue

- Evidence from the tracker survey/Legal needs survey suggests there has been little change in the proportion of legal clients using a barrister to deal with their legal issue – use of a barrister remains restricted to a small proportion of survey respondents. However, among those that do use a barrister there appears to be an increase in those using the direct access route as opposed to referral by a solicitor or other advisor.

Searching for/obtaining information on barrister's services and prices

- Survey evidence suggests that a larger proportion of barristers' clients/potential clients are looking for and obtaining prices and details on services provided when looking for/choosing a barrister. Among barristers' clients, the proportion who obtained details of service or price before choosing a barrister increased from 10.25% on both indicators in 2019, to 23.4% obtaining details of services and 25.7% obtaining prices in 2021.
- Although there has been a general upward trend in positive views on the clarity and availability of information on price and service since 2012 across users of legal services as a whole, there has not been a notable change in this trend since the implementation of new transparency rules across the legal professions.
- Evidence from barristers, chambers, and other barrister organisations indicates that some have noted positive impacts for their clients since implementing the rules, with greater awareness around fees (particularly the level of fees) and the services offered by their organisation being the most commonly cited benefit for clients. However, the majority have not noted any impacts on their clients since implementing the rules.

Finding it easy to find/understand information about barristers' services and prices

- Survey evidence suggests that the majority of clients who do search for information find it easy to understand the available information about price and service. However, although more clients are seeking out this information, there is little that suggests the proportion finding information easy to understand has changed substantively since transparency rules were introduced. Across legal services as a whole, satisfaction with the clarity of information received on costs and service has trended upwards since 2012. Satisfaction on both indicators is both significantly higher than at the start of data collection in 2012, and higher in 2020 and 2021 than at any previous point.
- Evidence from clients' complaints about barristers suggests that the levels and proportions of complaints that relate to overall cost and clarity of information around costs have both declined, as has the level and proportion of complaints that relate to the timescales of cases. This suggests that the introduction of the transparency rules may have contributed to a increase in clients' satisfaction with – and understanding of - information about fees and timescales.

Comparing different providers when searching for/choosing barristers

- The Legal Needs Survey suggests that substantially more clients are looking for and successfully finding information on prices and services for potential providers. In addition, proportion of clients 'shopping around' when choosing a provider also appears to have increased – in 2019, 7.4% of barrister's clients obtained details of services from more than one provider when making a choice, compared to 17.5% in 2021. Similarly, the proportion of all clients obtaining prices from more than one provider increase from 6.4% in 2019 to 19.8% in 2021.
- Although the majority of those that look for price and service information find information on more than one provider, there has been little change in the proportion of those who compared more than one provider when obtaining details of services (around three in four). However, there is more evidence that there has been an increase in the proportion of those obtaining prices who receiving price quotations from more than one provider – among those that obtained prices, 63.2% obtained prices or quotations from more than one provider in 2019 compared to 76.8% in 2021.

Aware of regulatory status and of routes to redress

- Survey evidence suggests that the BSB's rules may have had a positive impact in raising awareness among clients of the regulatory status of their barrister - with 71.3% being aware after the introduction of the rules compared to 63.3% before the introduction of the rules. Awareness is higher among public access clients, with 83.7% aware their barrister was regulated following the introduction of the rules.
- There has been a generally upwards trend in terms of the proportion of legal service clients who are aware of how to make a complaint since 2012, this has shown a more marked increase since 2018. This suggests the implementation of transparency

reforms has led to increased awareness around routes to redress, and this is supported by evidence from barristers' chambers and other organisations, some of whom stated that clients were more aware of their complaints procedures after they implemented the BSB's rules.

Satisfaction with the prices charged by their barrister/consider that their barrister was value for money

- Evidence from the Legal Needs survey suggests there has been a slight decrease in client satisfaction, both with the service provided by their barrister and the value for money of the service received. However, the majority of clients remain satisfied with both the service received and its value. Complaints about fees charged by barristers have declined since the introduction of the rules.

Making complaints about the services they have received from their barrister

- The trend since the rules were introduced has been a reduction in annual complaint levels, with 2021 in particular seeing the lowest levels of complaints about barristers for any year for which data is available.

Conclusions

- The evidence from this evaluation suggests there has been a change in a number of the indicators relating to the provisions of the transparency rules since they were introduced. In particular, a higher proportion of barristers' clients are searching for and finding information about potential providers before they appoint a barrister, a higher proportion consider complaints procedures and routes to redress as important when choosing a barrister, and a higher proportion are aware of the regulatory status of their barrister, than before the rules were introduced. The number of complaints to the Legal Ombudsman about barristers has declined overall, and the proportion of them that relate to issues around transparency of price, timescales and services provided have declined significantly.

1 Introduction

- 1.1. In December 2016, the Competition and Markets Authority (CMA) published findings from a market study into legal services.¹ Its recommendations to frontline legal regulators fall broadly into four categories:
 - Deliver a step change in standards of transparency to help consumers (i) to understand the price and service they will receive, what redress is available and the regulatory status of their provider and (ii) to compare providers. Regulators should revise their regulatory requirements to set a new minimum standard for disclosures on price and the service provided and develop and disseminate best practice guidance. Importantly, this should include a requirement for providers to publish relevant information about the prices consumers are likely to pay for legal services.
 - Promote the use of independent feedback platforms to help consumers to understand the quality of service offered by competing providers.
 - Facilitate the development of a dynamic intermediary market through making data more accessible to comparison tools and other intermediaries.
 - Develop a consumer education hub. The Legal Choices platform should be overhauled to ensure that it can play a major role in empowering legal services consumers, particularly when they first engage with the sector.
- 1.2. To respond to the CMA's recommendations, the BSB established an overarching programme with workstreams corresponding to the four recommendations plus an additional workstream for research to inform the other workstreams, including evaluation. The evaluation project relates to the transparency workstream.
- 1.3. The transparency workstream aimed to develop a step change in standards of transparency. This workstream involved a web-sweep exercise, a programme of research and engagement with consumers and the profession, transparency pilots, a policy consultation, a rule change consultation, a rule change application to the LSB and new transparency rules introduced in July 2019 (with compliance required by January 2020).
- 1.4. The BSB's response to the CMA was informed by several pieces of research and evidence gathering we undertook in response to the publication of the CMA's recommendations, as well as consultation and engagement with the profession, representative bodies and consumers. In brief, the research focussed on (i) understanding the current issues and priorities for the profession surrounding price and service transparency, including examples of good practice; (ii) perceived barriers, drivers and potential risks to increasing transparency; and (iii) consideration of ways to increase and improve transparency in ways that consumers would find useful. In particular, research commissioned from YouGov

1. [Legal Services Market Study: Final Study](#) (Competition and Market Authority, 2016)

and London Economics into the impact of price/service information on consumer understanding and decision-making provided relevant evidence on the impact of transparency on consumer decision making.

- 1.5. The commissioned research was published in 2018.² The research combined both qualitative and quantitative strands. The qualitative strand consisted of online focus groups with 22 members of the public who had used a barrister in the last two years, while the quantitative strand consisted of an online behavioural experiment with a nationally representative sample of 1,316 participants.
- 1.6. The focus groups investigated participants' experiences of using barristers' services, with particular focus on the approaches they took to choosing a barrister, the factors they saw as important while making a choice of provider, and the level of information they were provided and their views on the value and clarity of this information. The results of the focus groups suggest that:
 - Consumers frequently do not search for a barrister themselves, preferring to use their solicitor's recommendation unless they do not trust their solicitor. Consumers using public access barristers frequently reported that they did so because they did not trust their solicitors;
 - Those who looked for a barrister themselves did this mainly via online research and most of those who had a recommendation from their solicitor or friends / family also did some online research to make sure they were satisfied with the recommendation;
 - Consumers value expertise and a proven track record. Price is less important than expertise - however, consumers would value price information to help them compare between barristers;
 - Consumers often do not find the information they are looking for online; instead they are given information via email or at an initial meeting;
 - Consumers have mixed opinions about whether the information they receive is easy to understand.
- 1.7. The online experiment tested responses to both different levels of transparency, as well as to different approaches to calculating and presenting fees. The experiment used 'mock-ups' of price and service information for fictitious barristers' chambers, and tested participants' decision making, views and understanding of the information provided. These levels were based on the BSB's proposed rules on price and service transparency, ranging from minimum disclosure (which provided the least information on price and service) to discretionary disclosure (which provided the most information). In relation to transparency levels, the research found:
 - Participants found the minimum disclosure treatment to be the least helpful way of showing price/service information, in terms of information needed to compare between barristers, their confidence in comparing, and overall understanding of

2. [Consumer Behaviour and Attitudes towards Price and Service Transparency](#) (BSB, 2018)

information.

- Participants displayed broadly similar levels of confidence and understanding across mandatory and discretionary levels of transparency, although some differences were observed.
- The highest level of transparency made it easier for consumers to correctly identify some elements of the information provided, such as information on how timescales for a case may vary.
- However, the highest level of transparency made it more difficult for consumers to correctly identify other aspects, such as the cheaper option from two alternatives.
- Increasing transparency around price and service offered did not have any negative impact on consumers' opinions of barristers' skill, professionalism or expertise.

1.8. In 2021, the BSB undertook qualitative research with barrister's clients.³ In relation to choosing a barrister, the research found that most clients referred by a solicitor were only recommended one barrister by their solicitor, rather than being given a choice, and only a few interviewees who were referred to a barrister then independently looked up information on their barrister before they agreed to use him/her. However, virtually all of the public access undertook research and compared barristers before making a choice. In particular, the research found that when presented with barrister's websites to review as part of the research, most participants found them very useful for barrister information (experience, previous cases etc), services information, and price details, so there is a case for directing individuals to these sites as part of the decision-making process.

Evaluation Background

- 1.9. The Evaluation aims to assess the impact of the 2019 transparency rules, both in terms of their impact on the profession (both the impact of complying with the rules and any subsequent impact on their practice) and the impact on legal consumers (the extent to which the changes in levels of transparency have led to better levels of understanding, increased shopping around, and better outcomes for legal consumers.) The new transparency rules were introduced in July 2019. Compliance was made mandatory by January 2020, with evaluation activities originally planned to start in 2020.
- 1.10. The Coronavirus pandemic had a significant impact on the delivery of legal services – particularly for barristers who are predominantly used for representation in court. As a result, for the evaluation work on the impact on consumers, the evaluation timescales were extended into 2021 due to the likely impact of the pandemic on the numbers of clients who had used barristers since the rules had been compulsory (and therefore the difficulty in recruiting a suitably-sized sample of clients who had experience of using barristers after the rules had been implemented).

3. [Barristers' Clients Research - Expectations and Understanding](#) (BSB (2021))

- 1.11. The pandemic also had an impact on the professional side of the evaluation. The Regulatory Return,⁴ which had been planned as a key source of data for this element of the evaluation, had to be delayed due to the pandemic. As a result, while the original timescales planned to complete the professional side of the evaluation by late 2020, this was delayed to 2021 due to the delays in receiving the Regulatory Return data.
- 1.12. This report does not include the evaluation of the impact of the transparency rules on the profession – this work was undertaken in 2021 and has already been published.⁵ This follow-up report looks at the impact on consumers.
- 1.13. The primary scope of the consumer side of the evaluation is to assess whether the introduction of the BSB's transparency rules has had an impact on a number of key indicators relating to the objectives of the transparency rules. These indicators are the extent to which potential or actual clients of barristers are:
- Using/considering using a barrister to deal with a legal issue;
 - Searching for/obtaining information on barrister's services and prices;
 - Finding it easy to find/understand information about barrister's services and prices;
 - 'Shopping around' and comparing different providers when searching for/choosing barristers;
 - Aware of the regulatory status of barristers and routes for redress when choosing or using their services;
 - Satisfied with the prices charged by their barrister/consider that their barrister was value for money;
 - Making complaints about the services they have received from their barrister.

4. The Regulatory Return was an exercise undertaken by the BSB to collect information from chambers, sole practitioners and other barrister organisations. More detail is given in paragraph 2.7.

5. [Transparency Rules Evaluation – Impact on the Profession](#) (BSB, 2021)

2 Methodology

- 2.1. The evaluation of the consumer-side impact of the transparency rules took the following approach:
- Using data from the 2019 Legal Needs Survey as a pre-rules baseline measure across indicators (see paragraph 1.13) relevant to the BSB’s transparency rules. This was supplemented by a post-rules survey using the same questions/wording across areas relating to our indicators to provide a post-reform measure;
 - Using responses to the BSB’s Regulatory Return from barristers’ chambers and other barrister organisations to determine if they had observed any impact on their clients from implementing the transparency rules;
 - Using data from the Legal Services Consumer Panel Tracker Survey relating to indicators around market transparency and consumer behaviour to provide a more general overview of transparency changes within the legal services market over time; and
 - Using data from complaints to the Legal Ombudsman (LeO) in order to provide evidence of impact on the levels and type of complaints made by barrister’s clients.
- These sources of data are discussed in more detail below.
- 2.2. The consumer evaluation has predominantly used quantitative data, as we are concerned with change over time, and comparison of pre- and post-reform measures on a number of indicators. As such, quantitative measures using the same measurements – where proportions or values can be compared directly across different points in time – are the most appropriate. These have been supplemented by qualitative elements from the Regulatory Return, where barristers have observed impacts on their clients due to the introduction and implementation of the rules. Using this approach, it is possible to build up an overall picture and enable conclusions to be drawn about the impact(s) on consumers of barristers’ services.
- 2.3. There are inherent challenges relating to measuring the impact of regulatory interventions, including the difficulty of linking cause and effect and allowing sufficient time for measures to have their intended impact. While it will be possible to make an assessment of the effectiveness and impact of BSB actions on its part of the market (i.e. providers and barristers’ consumers), the evaluation will not attempt to assess the extent to which BSB’s reforms have contributed to changes in the legal market overall, although it will note trends in the overall legal services market both before and after the CMA’s recommendations.
- 2.4. The first source of data was to use the LSB/Law Society 2019 Legal Needs Survey, supplemented by a survey commissioned by the BSB using a number of the same questions. The survey was undertaken in 2019 and involved surveying 28,663 individuals in England and Wales to determine if they had a legal need in the previous three years, and what actions they took to deal with it. Of this sample,

17,583 experienced a legal issue, and 450 (2.6%) used a barrister to deal with their legal issue, whether via a solicitor or going to them direct under the public access scheme. By using the previously existing survey results from before the BSB's transparency rules were introduced, this enabled us to use already existing data as a pre-reform measure. This was then supplemented by our own commissioned survey, from the same survey company and using the same wording for relevant questions around transparency, to enable a comparable post-reform measure.

- 2.5. This survey was carried out by YouGov and provides data on a number of indicators relevant to the impact of the BSB's transparency rules on consumers:
 - Proportion of individuals that used/considered using the services of a barrister to deal with a legal issue);
 - Proportion of consumers that searched for information on service and/or price when choosing barristers' services;
 - Proportion of consumers that found it easy/difficult to find information on service and/or price;
 - Proportion of consumers who compared different providers when choosing legal services ('shopping around');
 - Proportion of consumers that checked the regulatory status of their provider;
 - Proportion of consumers that felt their legal service provider was value for money.

- 2.6. The same questions were used in the BSB's own survey, which was also carried out by YouGov with fieldwork taking place in December 2021. Our own survey focused on areas of law where use of a barrister was most common in the 2019 survey . It focused on recruiting individuals who had experienced a legal need in these areas since January 2020, in particular those who had used the services of a barrister since that date. The final sample recruited was 553, 156 of whom had used a barrister's services to deal with their legal issue. The statistical data from the Legal Needs Survey and subsequent BSB survey were analysed using SPSS, a statistical analysis package, looking at the differences across the different years of data collection in responses to questions.

- 2.7. The second main source of evidence for the evaluation was the Regulatory Return data looking at the impact on chambers and their clients of implementing the transparency rules. In September 2020, the BSB issued a Regulatory Return to a selection of around 350 chambers, BSB entities and sole practitioners. The Regulatory Return included a range of questions including views on the risks that the profession faces, information about the processes and controls in key areas of practice, and some questions on specific topics that were currently a priority in our strategic plan. This included two questions specific to the transparency reforms, asking what action organisations had taken in response to the reforms, and what impact they had noticed to date – both in terms of changes they had to make in order to comply, and any impact they had noticed so far on either their organisation or their clients.

- 2.8. The qualitative data from the Regulatory Return was analysed using a thematic analysis approach. This is a coding approach to qualitative analysis that involves

identifying the key themes that emerge from the data that have relevance to the research question or topic of interest through careful reading of the data. Each question response is then coded if it is judged to refer to a particular theme. Responses were coded using the NVivo software package.

- 2.9. The third source of evidence for the evaluation was the Legal Services Consumer Panel (LSCP) Tracker survey, a survey of legal consumers which is undertaken every year. This meant that annual data were available covering years both before and after the rules were introduced. The most recent version of the survey includes 3583 legal service users. The tracker survey includes questions that covered:
- Did consumers shop around for their legal service provider;
 - How easy consumers found it to understand price information;
 - How easy consumers found it to compare prices between providers;
 - How they first discovered the price of the service (e.g. on provider’s website, on discussion with provider etc);
 - Were consumers aware of the regulatory status of the provider they used;
 - Were consumers aware of their provider’s complaints procedures/routes to redress;
 - Were consumers satisfied with the quality/cost of the legal services they purchased.
- 2.10. The evaluation also used information on complaint levels to LeO about barristers. While the BSB also receives reports about barristers, these do not come from barristers’ clients - clients of barristers who are not satisfied with the outcome of a complaint they have made to their barrister can escalate the issue to LeO rather than making a complaint to the BSB. As such, data about complaints from clients of barristers are available from LeO rather than the BSB. This evaluation looked at LeO complaints about barristers, both the overall levels of such complaints, and in particular those relating to issues of transparency around fees, services and timelines. These data were used to provide evidence as to whether there had been any impact on complaint levels around fees and services. This was a proxy for whether barristers’ clients felt that the fees they were charged and the services they received were in line with their expectations, and therefore if there was sufficient clarity from their provider around those issues.

Limitations

- 2.11. This evaluation used a mixed methods approach, combining quantitative and qualitative analyses to assess the impact of the new rules on the profession. This approach has a number of strengths in terms of assessing the impact of the rules. Perhaps the largest benefit is the existence of comparable measures across a number of areas from both before and after the BSB’s rules were introduced. The quantitative data are drawn from three sources – the Legal Needs survey provides measures relating to barrister’s clients, the Tracker survey provides measures relating to legal clients as a whole, and data from LeO provides information on the level and types of complaints received about barristers. All three quantitative

data sets provide comparable data from both before and after the rules were introduced, and therefore evidence as to any changes that have taken place across the relevant indicators since the introduction of the rules. Qualitative data from the Regulatory Return then provides more in depth observations drawn from the profession as to the extent that they have noted changes for their clients since the rules were introduced, and thus whether barristers' organisations have observed their clients making use of the information provided. However, while this overall approach has strengths in terms of enabling the use of several data sources to answer the research questions and triangulate findings, there are several limitations in the approach adopted.

- 2.12. The Legal Needs Survey from 2019 has a large sample size, but for the purposes of this analysis the relevant questions were those asked about consumers' experiences with barristers, a much smaller sub-section of the whole survey. The BSB's 2021 survey had a significantly smaller overall sample, but was focused on asking respondents about experiences with barristers. Note that due to the routing of both surveys, some questions were asked of only a small sub-group of the sample, and therefore caution should be taken in drawing conclusions from the results of these questions, particularly as relates to annual comparisons. Sample sizes for each of the questions are given underneath the charts in this report.
- 2.13. The Legal Needs Survey (unlike the Tracker survey) only provides a single pre-reform measure. Although a previous version of the survey was undertaken in 2015, the sample was smaller and the questions used are not directly comparable to the version in 2019, and so it has not been used for this analysis. This means there is no direct evidence as to whether changes between 2019 and 2021 reflect a previous trend, making it more challenging to assess whether any changes observed are as a result of the transparency rules or reflect changes in consumer views or behaviour that were already occurring before the rules were introduced.
- 2.14. The BSB's 2021 survey used questions designed to match the 2019 Legal Needs Survey as closely as possible, to enable valid comparisons across years. However, due to the fact it was designed to maximise responses discussing barristers (unlike the 2019 survey) this means there are some differences in who was asked which questions across the two surveys – for example, all respondents who used a barrister were asked about their experiences with this barrister in 2021, but only respondents who used a barrister as their main advisor were asked these questions in 2019. As such, respondents across years are not precisely matched in terms of how they were routed through the survey and what prompted certain questions to be asked. For the purposes of analysis, responses from the BSB's 2021 survey were compared to equivalent groups from the 2019 survey – responses asking about use of a barrister were compared to those who were asked about use of a barrister in 2019, responses asking about actions taken to search for or choose a barrister to those who were asked about searching for or choosing a barrister in the 2019 survey, and so on. Full details on how question responses were matched across years are given in the technical appendix to this report.
- 2.15. The Legal Services Consumer Panel tracker survey provides a valuable source

of evidence of trends in the use of legal services since 2012. However, only a small proportion of survey responses are from barristers' clients, so it is valuable as a triangulating piece of evidence on changes for legal consumers generally, rather than specifically providing evidence of the impact of the transparency rules on barristers' clients. In addition, a number of questions that are relevant to this evaluation were introduced after the initial launch of the survey, so although for many indicators there is evidence available going back nearly 10 years, for other indicators there are only a few years' worth of data available.

- 2.16. The Regulatory Return was required of only a sample of chambers, sole practitioners and entities. As a result, the findings from the Regulatory Return may not be reflective of the whole profession. In addition, there was considerable variation in the level of detail provided in responses, and the extent to which they discussed the impact of the rules on clients. The findings from the analysis of the Regulatory Return are therefore focused on the responses that provided relevant detail. The findings may therefore not reflect the views of all the organisations that completed the Regulatory Return, particularly if the organisations which provided more limited detail in their responses differed considerably in their actual views and/or observations from those that provided more detailed and considered responses. In addition, the Regulatory Return provides the views of barrister organisations relating to the impact on clients, rather than the views from clients themselves.
- 2.17. This evaluation has analysed levels and types of complaints to the Legal Ombudsman to investigate the extent to which the introduction of the rules has impacted on the levels of complaints and types of complaints made by barristers' clients. However, if a client is dissatisfied with the service they receive from a barrister, they will first complain to the barrister or organisation directly, and only if they are dissatisfied with the response to their initial (or first-tier) complaint will they then complain to the Legal Ombudsman. However, the BSB does not have data on the annual level of first-tier complaints received about barristers' services. As such, the analysis of complaint levels is only based on complaints which clients feel were not dealt with effectively by their service provider and therefore escalated to the Ombudsman and may not reflect overall levels of complaints about services provided by the Bar.
- 2.18. More generally, the deadline for compliance with the BSB's transparency rules (January 2020) fell shortly before the Covid-19 pandemic, and the resulting lockdowns and other changes such as temporary court closures will have had an (in some cases significant) impact on how barristers' clients and potential clients were choosing and using legal services. As such, it is particularly challenging for the evaluation reliably to determine that the sole cause of any changes observed for consumers was changes made by the Bar in response to the transparency reforms, given the range of other factors in play during the period following the introduction of the rules.

3 Research Findings

Legal Needs Survey

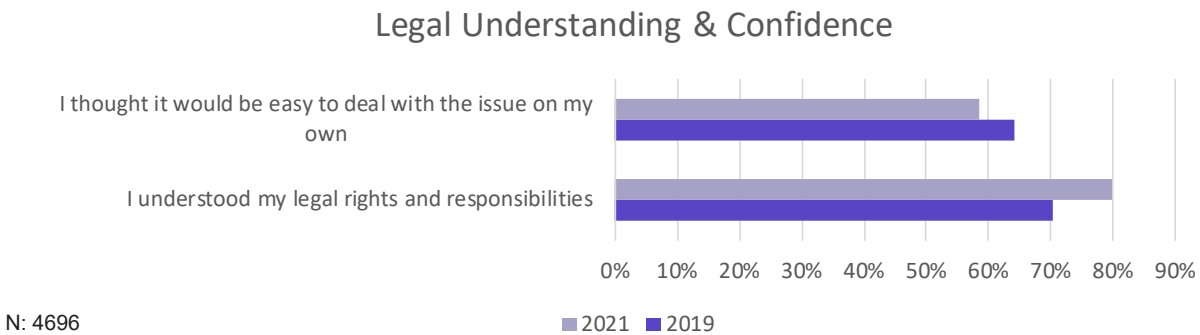
- 3.1. The Legal Needs Survey, conducted by YouGov for the LSB and Law Society, was last undertaken in 2019. The survey included a range of questions asking about individuals' experiences of legal issues in England and Wales, and the actions they took to deal with them, over the previous 4 years (2016-2019). This survey therefore provided evidence of the views and actions of consumers from the period immediately before the BSB's transparency rules came into force (January 2020). This survey had an overall sample of 28,663 individuals in England and Wales, of whom 17,583 experienced a legal issue, 1328 considered or tried getting help from a barrister, and 425 used a barrister to deal with their legal issue.
- 3.2. In order to provide a post-rules measure for the same questions, the BSB commissioned a survey in November 2021 that asked a selection of the same questions as the Legal Needs Survey relevant to the Bar and the BSB's transparency rules. The questions and survey routing matched the Legal Needs Survey, other than some small changes to certain questions to make them more relevant to those using the services of a barrister, and to ensure that the survey was able to boost the number of responses received from participants who used, or considered using, the services of a barrister to deal with their legal issue. Fieldwork for the survey was carried out in November and December 2021, with a final sample of 553, 167 of whom used a barrister to deal with their legal issue, and a further 57 considered or tried to do so.
- 3.3. For the purposes of analysis, responses from the BSB's 2021 survey were compared to equivalent groups from the 2019 survey – responses asking about use of a barrister were compared to those who were asked about use of a barrister in 2019, responses asking about actions taken to search for or choose a barrister to those who were asked about searching for or choosing a barrister in the 2019 survey, and so on. Sample sizes for each of the questions are given underneath the charts in this report. Note that due to the routing of the survey, some questions were asked of only a small sub-group of the overall sample, and therefore caution should be taken in drawing conclusions from the results of these questions, particularly as relates to annual comparisons.

Legal Needs Survey - Findings

- 3.4. Figure 1 compares respondents facing the same legal issues across the 2019 and 2021 surveys. As can be seen, there has been an increase in the proportion of respondents who said that they understood their legal rights and

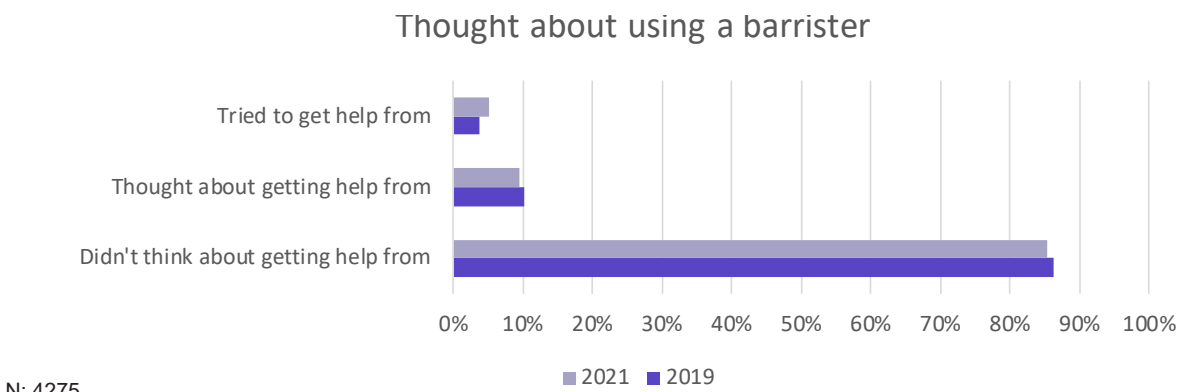
responsibilities at the beginning of the process. There has also been a decrease in the proportion of respondents who felt that they could manage the issue on their own, although the majority of respondents in both years felt that they could deal with the issue themselves. This suggests that there may have been an increase in the proportion of those facing legal issues who are aware of their legal rights, although this has been accompanied by a drop in confidence that they would be able to deal with the issue themselves. This might be expected to contribute to an increase in the proportion of those who look for or consider using legal or other help early on in the process when facing a legal issue.

Figure 1



3.5. Figure 2 compares those who did not use a barrister to deal with their legal issue in the 2021 and 2019 surveys (given that the 2021 survey had been designed to maximise responses from those who used a barrister, comparing the proportion of respondents who actually used a barrister’s services across years would not be valid). There seems to have been little change between years in the proportion of potential clients who considered or tried to obtain help from a barrister – a large majority in both 2019 and 2021 did not consider using a barrister to deal with the legal issue that they faced.

Figure 2

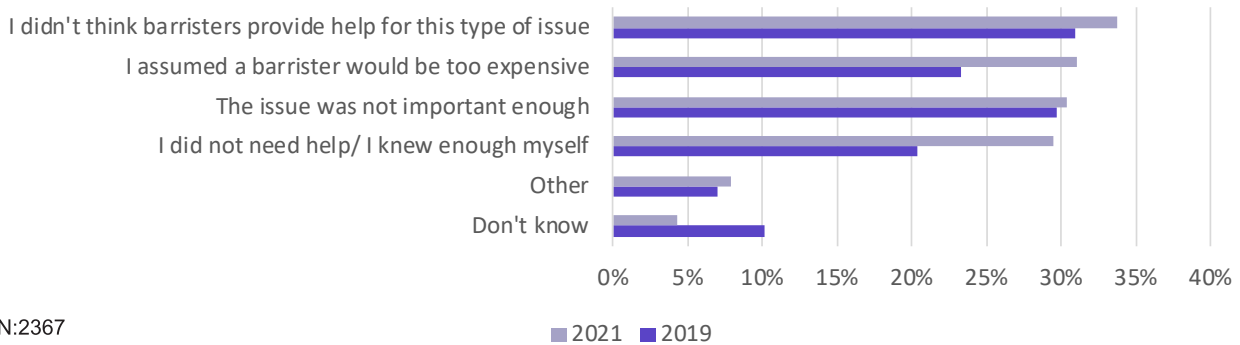


3.6. Respondents who did not consider getting help from a barrister were asked why they did not consider using a barrister to help them with their legal issue. Figure 3 compares the responses given in the 2019 and 2021 surveys, and shows that the proportion giving each reason increased in 2021 (other than ‘don’t know’, which

decreased). Smaller increases are likely to be a result of the lower proportion of 'don't know' answers in the 2021 survey, but larger increases were seen for 'I thought a barrister would be too expensive' and 'I did not need help/could deal with the issue myself'. This does not suggest that changes in response to the BSB's transparency rules have had much positive impact on the proportion of those with a legal issue who are aware of what help barristers can provide, or that increased visibility of barristers' prices have had a positive impact on views around the affordability of barristers' services. While the increase in the proportion who felt barristers were not affordable might suggest that greater availability of prices online contributed to views barristers are unaffordable, it is important to note that responses to this question are restricted to those who did not consider using a barrister (and therefore made no attempt to look for prices or services that barristers could provide). As such, the change is more likely to be a result of other factors.

Figure 3

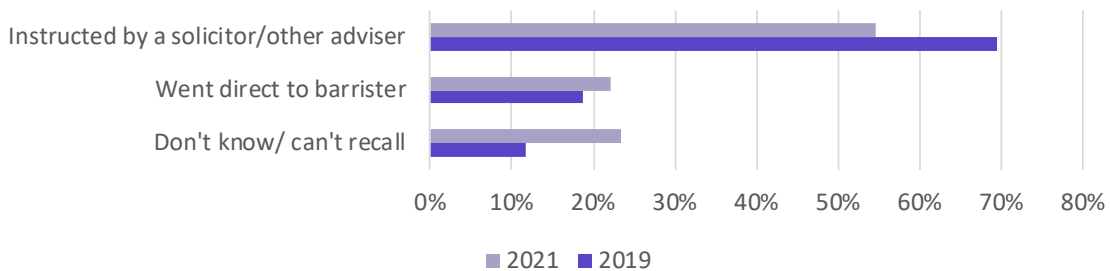
Reasons for not considering a barrister



3.7. Survey respondents who used a barrister were asked whether they were referred to their barrister by a solicitor or other advisor, or whether they went direct to their barrister (this would represent them making use of the 'Public Access' scheme). Figure 4 compares the proportions of those using a barrister in the same areas of law in 2019 and 2021 who were referred or went direct to their barrister. A large majority of clients in both 2019 and 2021 were referred clients - this is in line with the findings of a range of previous consumer research about the Bar, which has consistently found that the majority of clients are referred by a solicitor, and use of the public access scheme is restricted to a minority of clients.

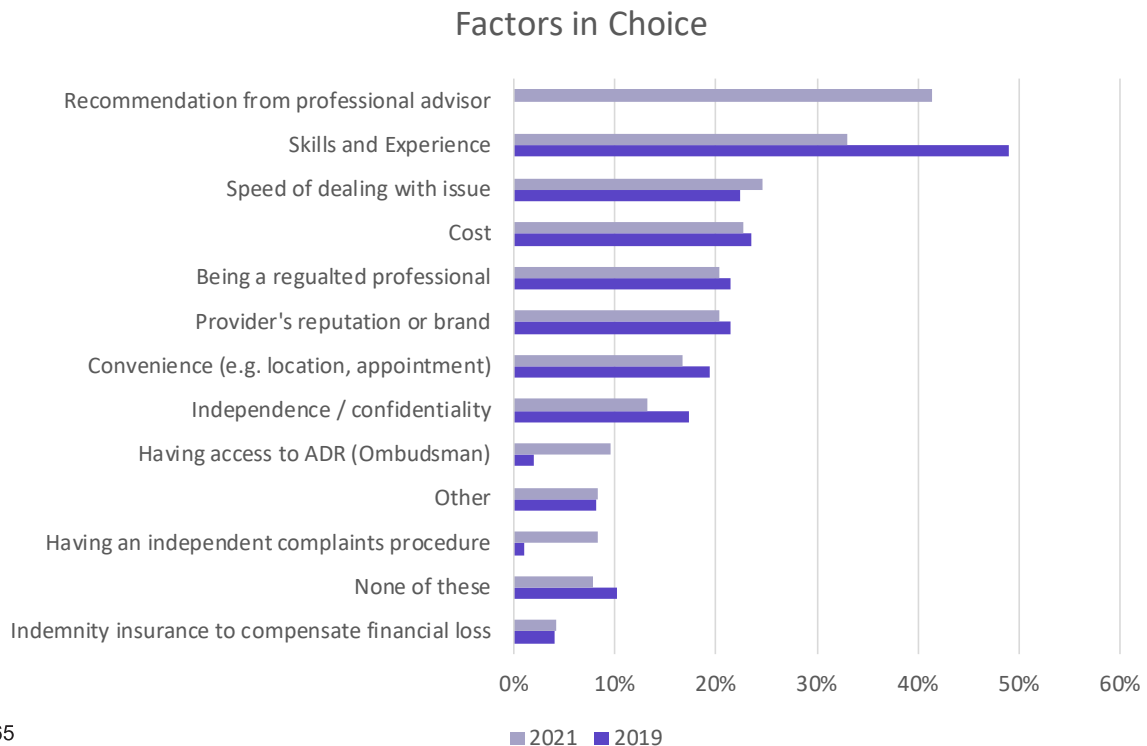
Figure 4

Referred or Public Access



- 3.8. Among those who made use of a barrister to deal with their legal issue, the most important factor determining their choice in 2021 was a recommendation from a professional advisor (this response option was not included in the 2019 survey). The next most important was the provider's skills and experience (this was the most important factor in 2019), followed by speed of dealing with the issue and cost. The proportion of clients who said each factor was important to them has seen little change since the introduction of the rules across most areas, but there are some notable changes.

Figure 5

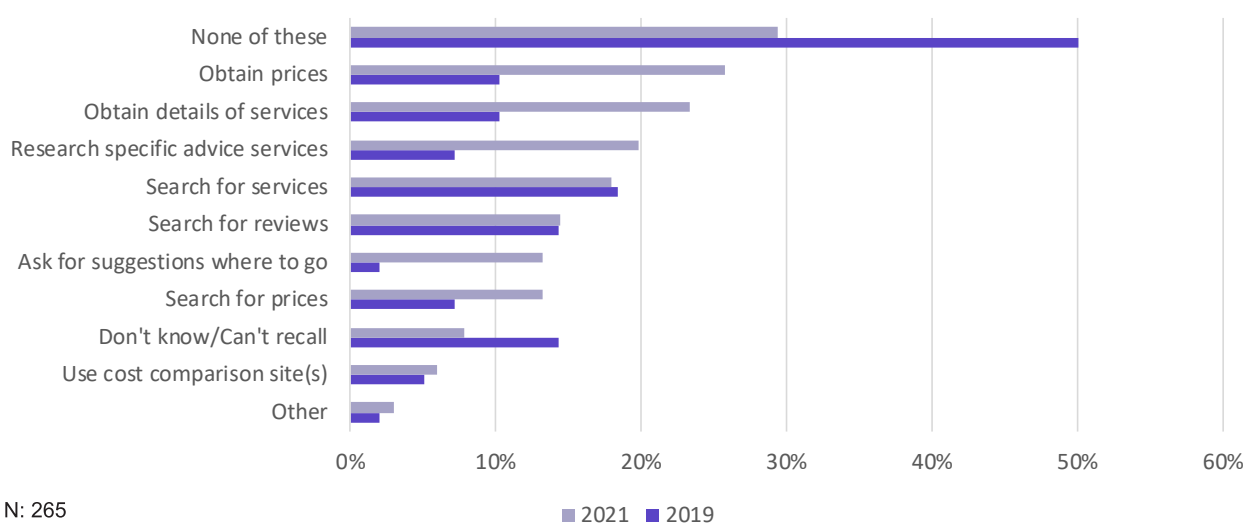


- 3.9. First, the proportion who stated skills and experience was a factor declined. However, this is likely to be due to the fact that in 2021 there was an additional response option that covered recommendation or referral from a professional advisor – the majority of those who use a barrister are referred by a solicitor, and therefore most clients are likely to feel that they or another professional making a referral are best placed to select a barrister with the necessary skills and experience for their issue. This suggests that many who might have said 'skills and experience' as a factor in choice when there was not a response option for a professional recommendation or referral are likely to have answered 'recommendation/referral' instead, as this was a better reflection of what they considered when choosing their barrister.
- 3.10. The other notable changes from 2019 were the proportion of respondents who said that having access to an Ombudsman, and/or having an independent complaints procedure, were factors in their choice of a barrister. In 2021, the proportion of respondents who rated these factors as important increased significantly – from 2% who said access to an ombudsman was important in 2019, to 9.6% in 2021,

and from 1% who said an independent complaints procedure was important in 2019 to 8.4% in 2021. The 2020 Transparency Rules included a number of elements relating to the provision of, and transparency of, information about the organisations' complaints procedures, and the right of their clients to complain to the Legal Ombudsman if they were not satisfied – responses to this question suggest that for barristers' clients, this increased transparency may have led to an increase in the proportion of clients who consider routes to redress as important when making their choice of provider.

Figure 6

Actions Taken - Identifying/Choosing a Barrister



3.11. Those that used a barrister were asked what actions they took to identify a barrister to use for their legal issue (Figure 6). The most common response given, in both 2021 and 2019, was that they had taken none of the listed actions. This may reflect that the majority of barristers' clients are referred by a solicitor, and therefore the choice of a barrister to deal with their issue is made by a solicitor, or their solicitor gives them recommendations and therefore they do not feel the need to undertake research into potential providers themselves. The most common actions taken in 2021 were obtaining prices and obtaining details of services, whereas in 2019 the most common actions taken were searching for services and searching for reviews.

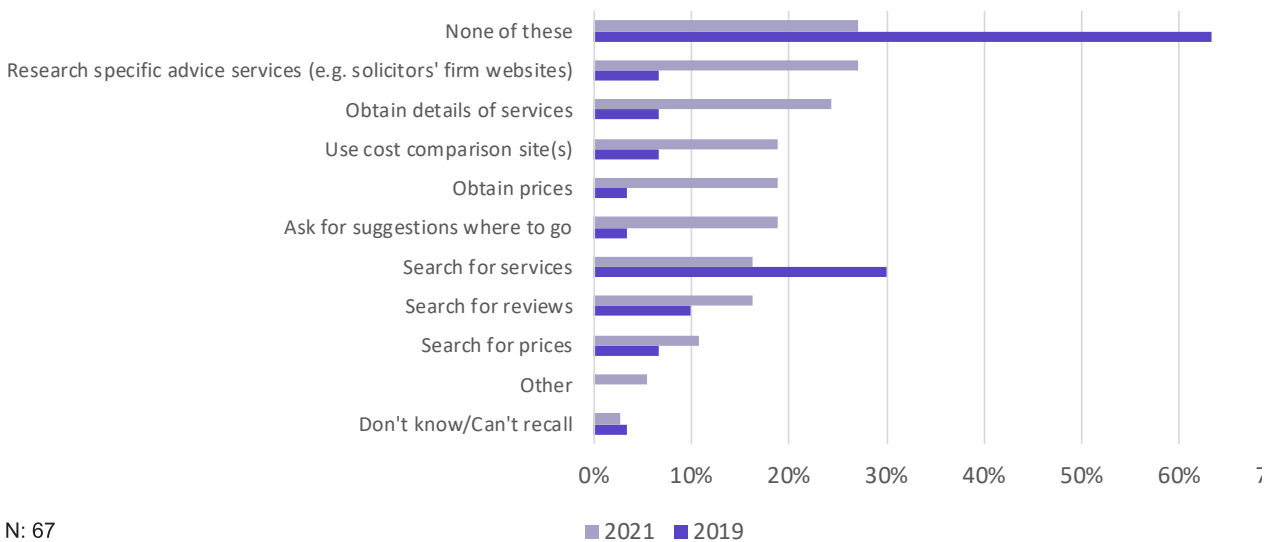
3.12. There are notable differences in the proportion of barristers' clients who undertook various actions between 2019 and 2021. There has been a notable decline in the proportion of clients who undertook none of the listed actions, from 50% in 2019 to 29.3% in 2021 – this suggests that a far higher proportion of clients are taking action to get information on potential providers following the introduction of the transparency rules. While there may be other factors that have contributed to this change, it nonetheless suggests that the transparency rules have contributed to an increase in 'shopping around' activities among those using a barrister.

3.13. Most notable is the difference in the proportion of clients who successfully obtained prices, or details of services provided, from barristers. In 2021, 25.7% of clients obtained prices, and 23.4% obtained details of services provided, when

identifying and choosing a barrister – this compares to 10.2% for both indicators in 2019. The transparency rules include requirements that chambers and barristers provide information on their websites (or an alternative format) about the services they provide. Changes in responses to the survey therefore suggest that the increased provision of price and service information may have had an impact on the proportion of barristers' clients who were successfully able to find information on services and prices when looking to choose a barrister to deal with their legal issue. Similarly, 'research specific advice services' and 'search for prices' also increased between 2019 and 2021. This increase provides further evidence that there may have been an improvement in the proportion of clients that take action to find out about what barristers' services are available that could help with their legal issue, and what these services are likely to cost.

Figure 7

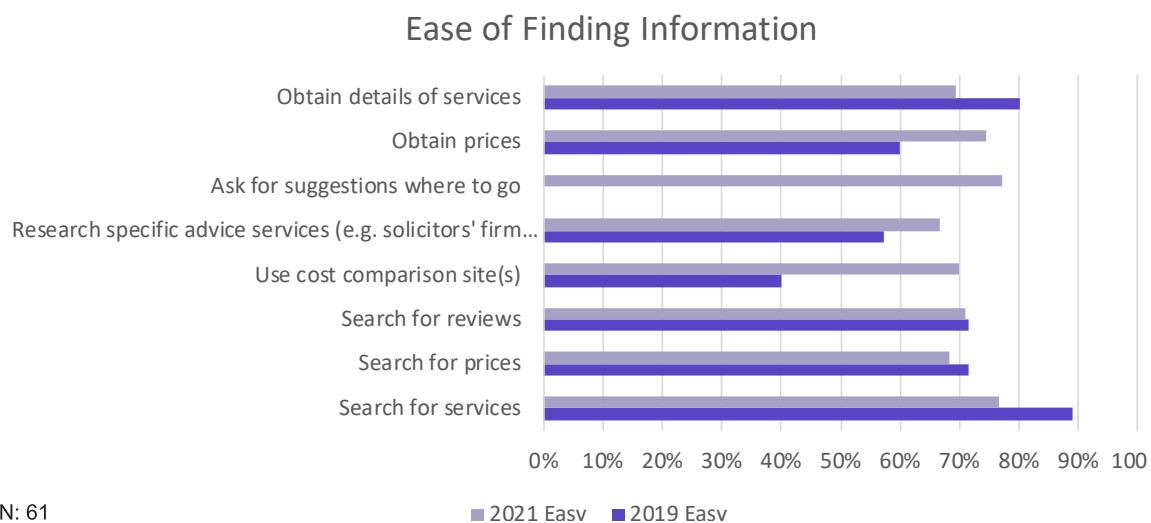
Actions Taken - Identifying/Choosing a Barrister - Public Access



3.14. The transparency rules had a particular focus on improving price information among barristers providing public access services. When looking solely at responses from clients who used a public access barrister rather than being referred by a solicitor (Figure 7), there is a similar pattern in terms of increases in the proportion who undertook specific actions when looking for a barrister, although for some the changes were more notable than when looking at clients as a whole. The most common action taken by public access clients in 2021 was researching specific advice services – while there was little difference between public access clients on this measure in 2019 compared to referred clients (6.7% of public access clients researched specific services in 2019, compared to 8.3% of referred clients) this rose to 27% of public access clients in 2021 (compared to 22% of referred clients). A similar difference was seen for use of cost comparison sites – there was a small difference in the proportions of referred and public access clients who used them in 2019 (5% of referred clients and 6.7% of public access clients), but 2021 saw a much larger increase for public access clients (increasing to 18.9%) than for referred clients (12.1%).

3.15. Notably, a lower proportion of public access clients obtained prices before choosing a barrister than referred clients, in both 2019 and 2021. However, the increase in the proportion obtaining prices in 2021 was much larger for public access clients than for referred clients. The proportion of referred clients who obtained prices increased from 15% to 25.3% between 2019 and 2021 (an increase of 10.3 percentage points), whereas the equivalent change for public access clients was from 3.3% to 18.9% (an increase of 15.6 percentage points). The low proportion of public access clients who obtained prices in 2019 is particularly notable – it suggests that referred clients found it easier to access this information (perhaps because price information about barristers was provided by their solicitor). In contrast, public access clients had to find this information themselves, and in 2019 only a very small minority of them did so. However, in 2021 a much higher proportion (although still a minority, at less than one in five public access clients) obtained price information, which suggests the transparency rules may have contributed to increased visibility and ease of identifying price information for public access clients. However, given that only a minority of public access clients obtain price information before choosing a barrister even after the introduction of the rules, there is still considerable further scope for improvements.

Figure 8



3.16. Clients were asked how easy or difficult they found it to undertake each of the activities listed. This question was only asked of those respondents who had actually undertaken each activity – as such the response rates for many of these questions were very low, as a very small proportion of respondents actually undertook each of the activities in many cases, particularly in 2019. As such, making year on year comparisons is of limited value due to the low response rate to this question. However, it is worth noting that across both years the majority of those who undertook any of the activities found it easy or very easy to find the information they were after, with the exception (in 2019) of ‘use comparison sites’ (where in 2019 60% found it difficult) and ‘ask for suggestions’ (where in 2019 100% found it difficult).⁶

6. Note that in 2019, only 2 respondents stated they asked for suggestions and only 5 stated they used cost comparison sites.

3.17. While this does not provide evidence that the transparency rules have increased the ease with which clients find information when they decide to look for it, it nonetheless provides an indication that generally, those that look for information find it easy to find. This remained the case in 2021, despite the fact that for many areas a significantly higher proportion of barristers' clients looked for information – this may well have increased the proportion of clients with lower legal confidence or lower legal knowledge who were looking for information.

Figure 9

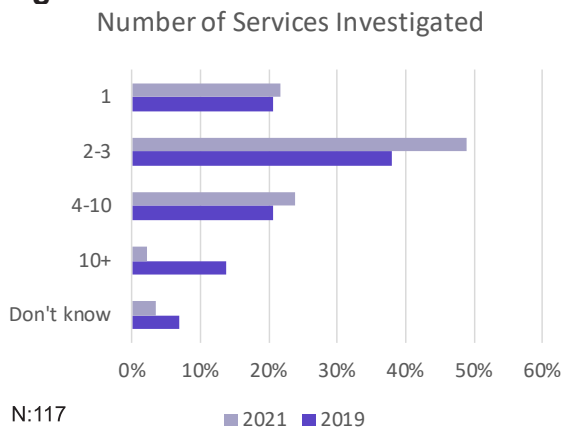
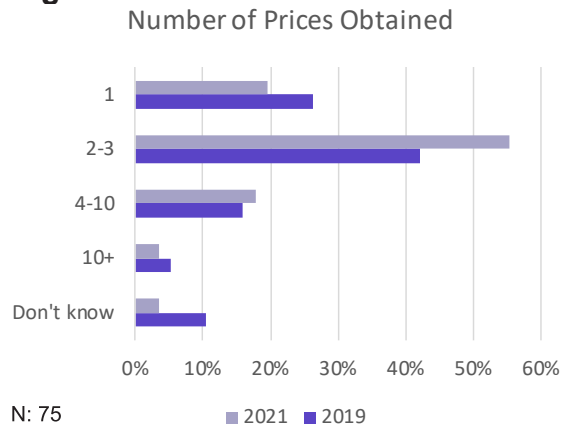


Figure 10



3.18. Survey respondents who had looked for prices or details of services were also asked the number of different providers they had looked for details about or obtained prices or quotations from. Responses to these questions are shown in Figures 9 and 10. Across both years, around one in five who looked for prices or details of services only obtained them about a single provider, whereas the majority found out details or prices from more than one provider. For the number of services investigated, there is little evidence of change between 2019 and 2021, with 75% of respondents looking for information on more than one service provider in 2021 compared to 72.4% in 2019. This suggests that the transparency rules may have contributed to an increase in the proportion of clients ‘shopping around’ when choosing a provider – in 2019, 7.4% obtained details of services from more than one provider, compared to 17.5% in 2021. However, there has been little change in the proportion of those looking for service information who only investigate one provider, at close to one in four. However, the rules may have had an impact on the proportion that looked for prices from more than one provider in order to compare – not only did the proportion of all clients obtaining prices from more than one provider increase from 6.4% in 2019 to 19.8% in 2021, among clients who obtained prices, the proportion who obtained prices from several providers rose from 63.2% in 2019 to 76.8% in 2021.

3.19. Public access clients were more likely to look for information on more than one provider than referred clients - in 2019, 88.9% looked for information on more than one potential service provider, compared to 65.0% of referred clients. Similarly, 90.5% of public access clients looked for information on more than one service provider in 2021, compared to 74% of referred clients. Similarly, they were more likely to obtain process from more than one provider – among public access clients who obtained prices in 2021, all of them obtained prices from more than

one potential provider, compared to 74.2% of referred clients (due to the very small number of public access clients who obtained prices in 2019, comparisons to 2019 have not been included for numbers of prices obtained).

Figure 11

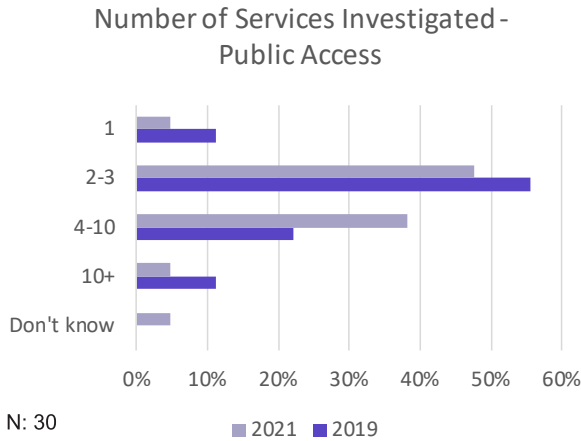
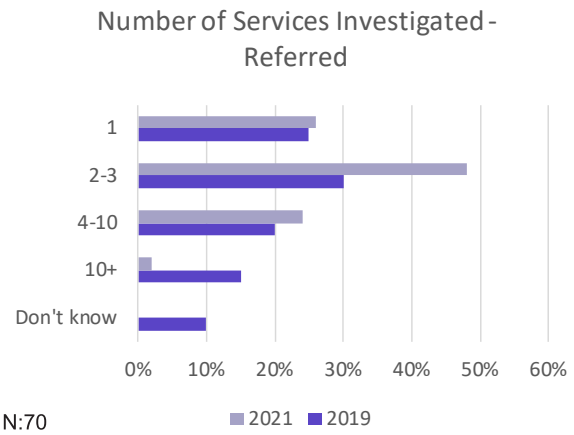
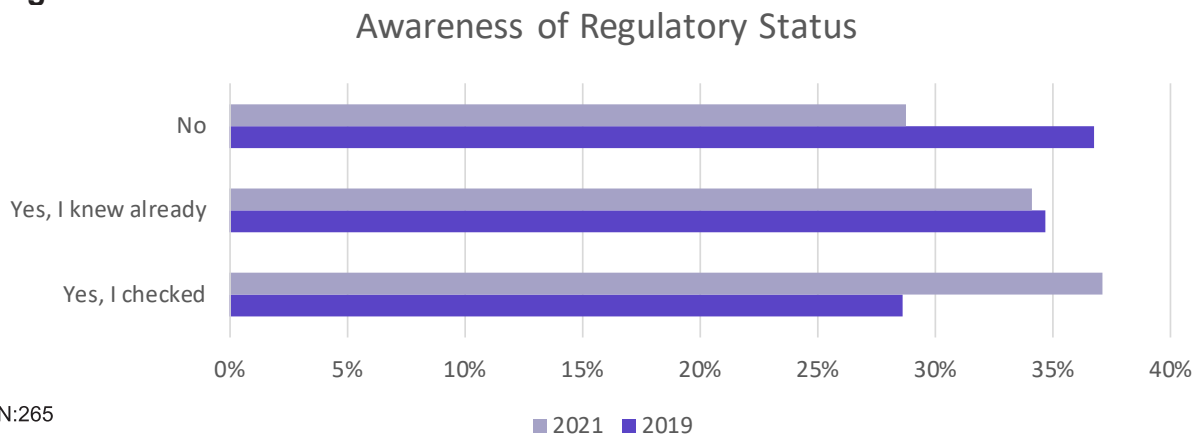


Figure 12



3.20. Public access clients were more likely to look for information on more than one provider than referred clients - in 2019, 88.9% looked for information on more than one potential service provider, compared to 65.0% of referred clients. Similarly, 90.5% of public access clients looked for information on more than one service provider in 2021, compared to 74% of referred clients. Similarly, they were more likely to obtain process from more than one provider – among public access clients who obtained prices in 2021, all of them obtained prices from more than one potential provider, compared to 74.2% of referred clients (due to the very small number of public access clients who obtained prices in 2019, comparisons to 2019 have not been included for numbers of prices obtained).

Figure 13

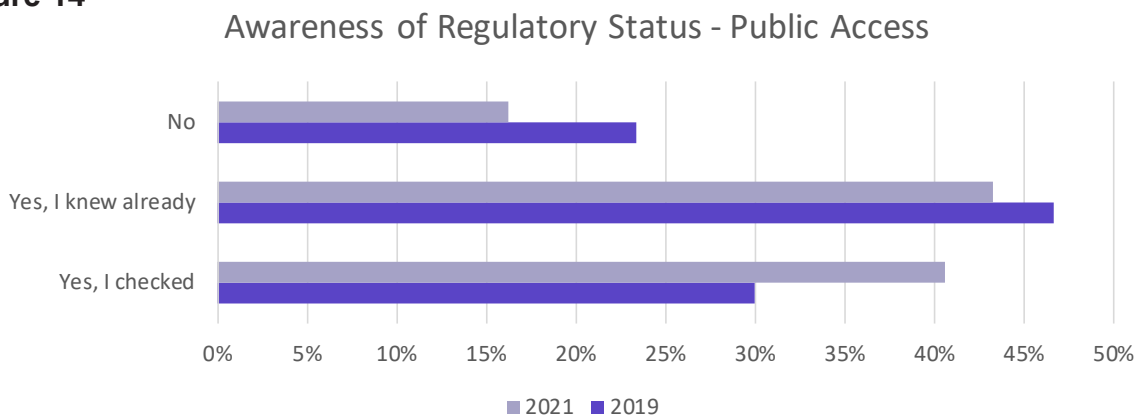


3.21. Those who used a barrister were asked if they checked the regulatory status of their barrister, and Figure 13 compares the responses given to this question in 2019 and in 2021. While the proportion of those who were already aware of the regulatory status of their barrister remained very similar across 2019 and 2021, it is notable that there was a considerable increase in 2021 in the proportion of clients who checked regulatory status – from 28.6% in 2019 to 37.1% in 2021 – and a

corresponding decrease in the proportion of clients who were not aware of their barrister’s regulatory status. The BSB’s transparency rules included requirements for the profession to include information on the fact they were regulated by the BSB on their websites and in correspondence with clients, and so this might be expected to have led to increased awareness among clients of the regulatory status of their barrister. This is supported by the survey results, suggesting that the BSB’s rules may have contributed to better regulatory awareness among those using barristers’ services, with 71.3% being aware after the introduction of the rules compared to 63.3% before the introduction of the rules. Among those who checked regulatory status, 90.3% said they find it easy to do so in 2021, whereas 100% said they found it easy to do so in 2019. This suggests that clients have always found it easy to identify whether their barrister was regulated, and although the BSB’s rules may have impacted on the proportion of those who check, they have not had any particular impact on how easy clients find it to gather this information.

3.22. Public access clients were more likely to be aware of the regulatory status of their provider in both 2019 and 2021 (Figure 14). Only 16.2% of public access clients were not aware of their providers regulatory status in 2021 (a decrease from 23.3% in 2019). This compared to 28.6% of referred clients in 2021 and 38.3% in 2019.

Figure 14

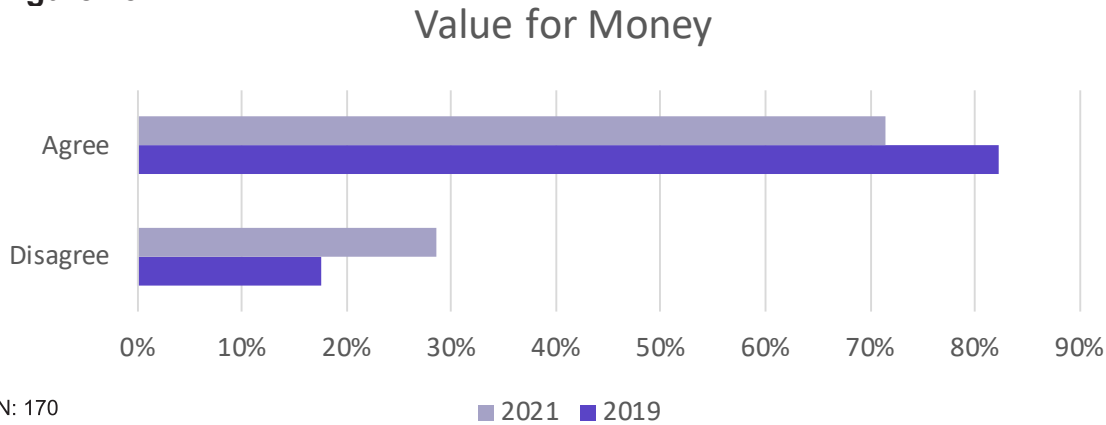


N: 67

3.23. Those who used the services of a barrister were asked if they felt their barrister was value for money, with responses shown in Figure 15. This question was only asked to clients if they had paid for some of or all of the service they received from their barrister. For both years, a large majority of clients were satisfied that the services they received were value for money. However, the proportion that felt they were value for money declined from the value observed in 2019 (82.4%) to 71.4% in 2021. There may be a number of factors that could have contributed to such a decline (such as the fact clients surveyed in 2021 may have been receiving services in a different way due to the pandemic). However, some responses to the Regulatory Return⁷ flagged that increased transparency around price might lead some clients to have unrealistic expectations about what the costs might be to deal with their legal issue. Although far from conclusive evidence, the increase in those who felt their barrister was not value for money might reflect this concern.

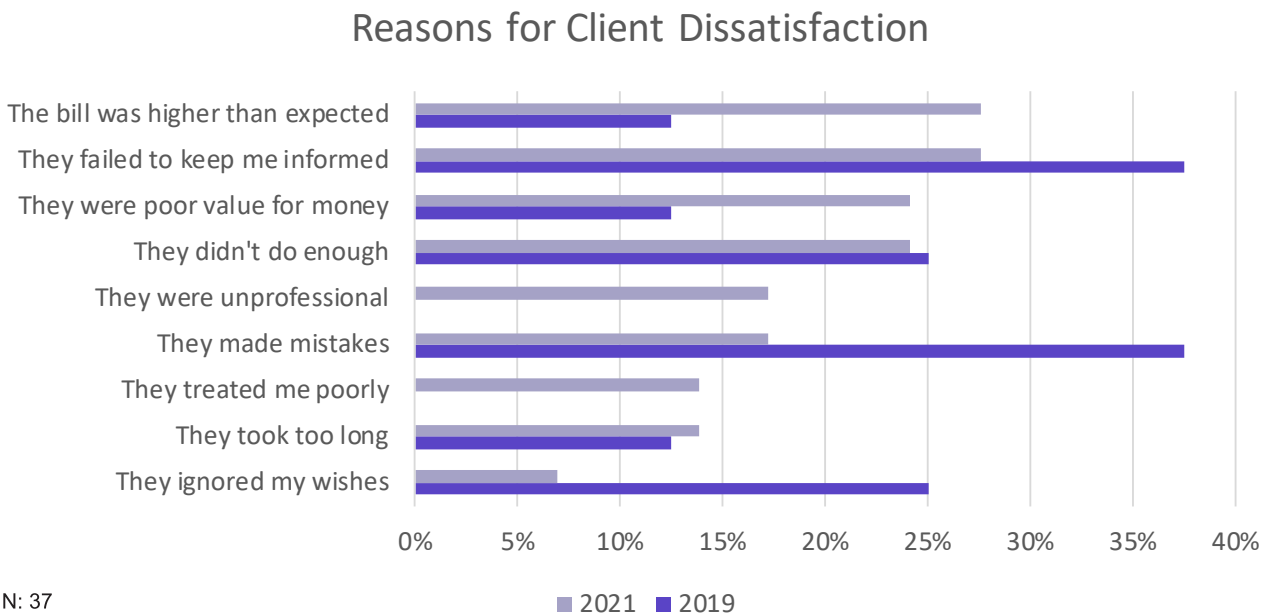
7. See paragraph 3.40

Figure 15



3.24. Clients who were dissatisfied with the service they received were also asked for the reason(s) behind this. This may provide some limited evidence as to what factors might be driving the lack of dissatisfaction between 2019 and 2021. The responses given to this question are shown in Figure 16. The most common reasons given in 2021 were that the bill was higher than expected or their barrister failed to keep them informed (both at 27.6%) or that their barrister was poor value for money or didn't do enough (24.1%). In 2019, the most common reasons given were that their barrister failed to keep them informed or made mistakes (both at 37.5%), followed by their barrister ignoring their wishes or not doing enough (both at 25%). This might suggest that the drivers behind client dissatisfaction have changed between 2019 and 2021, although given low numbers of responses to this question across the two years this does not provide strong evidence that this is the case.

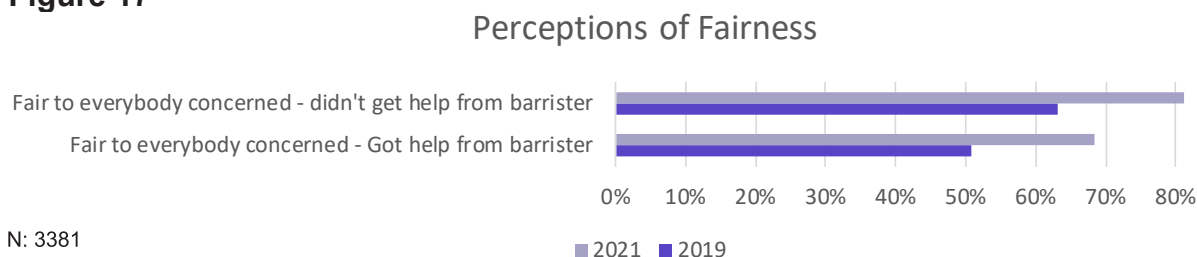
Figure 16



3.25. Figure 17 compares the proportion of those whose legal issue was resolved who thought that the process was fair for all concerned in both 2019 and 2021. This shows that there was an increase in the proportion who felt the process was fair,

both for those who did and for those who didn't use a barrister to deal with their legal issue. It is notable that in both years, the proportion who felt the process was fair was lower for those that used a barrister than for those that did not – this may well reflect the fact that those using a barrister were more likely to be facing contentious legal issues, where there is a conflict between different parties. This might be expected to lead to lower satisfaction in the outcome, as an adversarial legal process is more likely to result in winners and losers in the outcome of a legal issue.

Figure 17



3.26. The marked increase in perceptions of fairness between 2019 and 2021 is surprising – however, given that perceptions of fairness increased a similar amount both among those who did and did not use the services of a barrister to deal with their issue, this suggests the implementation of the transparency rules is unlikely to have contributed to the change.

Legal Needs Survey - Summary

3.27. Overall, changes between 2019 and 2021 suggest there has been some change on a number of client indicators that are relevant to the BSB's transparency rules. A larger proportion of barristers' clients/potential clients are looking for and obtaining prices and details about services provided when looking for/choosing a barrister - among barrister's clients, the proportion who obtained details of service or price before choosing a barrister increased from 10.25% on both indicators in 2019, to 23.4% obtaining details of services and 25.7% obtaining prices in 2021. The increase in the proportion of those obtaining prices before making a choice was particularly notable for public access clients, a major focus of the BSB's fee transparency rules. In addition, proportion of clients 'shopping around' when choosing a provider also appears to have increased – in 2019, 7.4% of barrister's clients obtained details of services from more than one provider when making a choice, compared to 17.5% in 2021. Similarly, the proportion of all clients obtaining prices from more than one provider increase from 6.4% in 2019 to 19.8% in 2021.

3.28. Evidence from the Legal Needs Survey suggests that there has been an increase in the awareness among clients of the regulatory status of their barrister - with 71.3% being aware after the introduction of the rules compared to 63.3% before the introduction of the rules. This has been driven by an increase in the proportion of clients who checked their barrister's regulatory status (the proportion of clients who stated they were already aware of regulatory status has not changed substantively). There has also been an increase in the proportion who consider

complaints procedures and access to an Ombudsman as factor when making their choice of provider. Prominently displaying information about regulatory status and routes to redress were key elements of the BSB's transparency rules.

3.29. However, there is little evidence that there has been a change since the transparency rules were introduced in terms of the proportion who consider using a barrister to help with their legal issue, or the reasons that they do not consider a barrister suitable to help them with the legal issue they face. In addition, responses to the survey suggest there has been a slight decrease in client satisfaction, both with the service provided by their barrister and the value for money of the service received. However, the majority of clients remain satisfied with both the service received and its value.

Regulatory Return

- 3.30. In September 2020, the BSB issued a Regulatory Return to a selection of around 350 chambers, BSB entities and sole practitioners, with the final deadline for submitting responses set at the end of March 2021, with an extension given to some chambers and sole practitioners until the end of April. A number of chambers or sole practitioners asked to fill in the Regulatory Return were no longer operating, and a small number had still not submitted their responses by the end of April deadline. This left a sample of 295 completed responses for analysis as part of this evaluation.
- 3.31. The Regulatory Return was a way for the BSB to assess risk across the Bar and levels of compliance with our rules. The Regulatory Return included questions about what the profession had done in response to the introduction of the rules and whether they had noticed any impact on their clients since making the changes. The full questions are given in the annexes.

Regulatory Return - Findings

- 3.32. The majority of regulatory return responses (227 out of 295) provided views on the impact they had observed or expected to observe on clients since making changes in response to the transparency rules. Of these, most (nearly three quarters of those who commented on the impact of introducing the rules) stated that they had not observed any impact since they had made the changes. This was a higher proportion than stated there had been no impact on the operation of their chambers, where the equivalent proportion was around two thirds.⁸
- 3.33. While most who provided a response that they had not seen any impact on clients did not provide further information, some provided further detail on how they had considered impact on clients. This included noting whether they had received any feedback from clients or prospective clients relating to the information on their website, web traffic on the relevant pages of their website, whether there had been any impacts on levels of enquiries or instructions, or whether there had been any impact on the number of complaints received.

“We have not observed any significant impact of the Rules since the changes have been introduced. We reviewed our records and no significant changes have been noted in the number of fee enquiries or complaints received.”

“Our new website, which has been in the public domain for 18 months, sets out the rules clearly which has resulted in no impact since the changes were made. [Chambers] have also had no enquires made regarding our statements.”

“We have not noticed any positive or negative impacts of the changes that were made. This is not to suggest that clients have not found the information useful, but they have simply not referenced the information since it has been provided.”

8. [Transparency Rules – Impact on the Profession](#) (BSB 2021)

“The extent to which it has been read by our litigant in person clients and with what benefit is uncertain. The extent to which it has contributed greatly to the sum of our professional clients’ knowledge is doubtful. Certainly, our Senior Clerk does not report receiving any enquiries in relation to it and our marketing manager reports that those pages are rarely visited.”

- 3.34. Several provided reasons why they would not have expected to observe any changes. These are largely detailed in the evaluation of the impact on the profession⁹ so are not covered in detail here. They included the proximity of the new rules and the coronavirus pandemic, which made it difficult to judge the impact of the rules. Others said that they undertook limited (relevant) public access work, that as a publicly funded chambers increased transparency had little to no impact, or that they had many of the requirements in place already and therefore needed to make very limited changes in order to comply with the rules.

“We have not observed any positive or negative impact since we introduced these changes on clients or prospective clients - however we have not, because of Covid, conducted the client survey that we would usually conduct every couple of years.”

- 3.35. Some organisations noted that there had been limited or no impact on clients as prospective clients did not look at or use the information on their websites, but instead contacted them directly.

“We have not... noted any impacts. The details are prominent in our public access pages, [but] few people who approach us have concerned themselves to look at the pricing structures.”

“We do not think public access clients spend time looking at the detailed narrative information on the website or trying to compare costs across different chambers.”

“We have not noted any positive or negative impact on or from clients or prospective clients. Solicitors or lay clients tend to call or email the clerks requesting a quote on private fees.”

- 3.36. In contrast to those that stated no impact had been observed, a small proportion of respondents (less than one in fifty of those who commented on impact) highlighted negative impacts or concerns about potential negative impacts on clients from the changes. These included that the additional information provided was more likely to confuse than to inform clients, or that publishing rates was discouraging clients from contacting them about their case.

“The only observation we would make is whether the publishing of rates on the chambers website leads to more confusion for the lay client rather than providing clarity.”

“Our Senior Clerk raised an observation that the prediction of hourly rates may offer little

9. [Transparency Rules – Impact on the Profession](#) (BSB 2021)

comfort for private clients as the breadth of hourly rates is vast.... it does raise a concern whether or not the pricing transparency by way of an hourly rate is a disadvantage as potential clients may be fearful of the highest rate quoted. However, this is not an impact necessarily that we can measure”

“We understand the logic of advertising specific fee rates, and the CMA’s stance with regard to why they should be there, however we wonder whether this creates confusion for the lay-client.”

3.37. Some chambers commented on the fact that clients were more aware of their complaints procedures, and therefore they had noted an increase in the number of complaints they were receiving. For some this was seen as a negative, in that it led to an increase in meritless complaints that achieved little for clients and wasted time for their organisation. Others saw this as a positive, as they were keen to receive information from clients as to where their services could be improved, and saw it as a benefit for clients that they had a higher awareness of routes to redress.

“The only impact this has had on Chambers is that lay clients are making more complaints. These have been mostly dealt with in Chambers following our complaints procedures”

“So far that the rules further underscore to the disaffected criminal lay client the ease of lodging a complaint, we anticipate over time that they will have a negative impact.”

“It is also useful for clients who wish to complain to be given clarity over the process and the steps they can take if they are unhappy with the outcome of their complaint.”

“The benefit to lay clients is they will have easier access to our complaints procedure which will make it easier for them to raise complaints on the rare occasion that is necessary. We see this is a positive, as if there are any issues which warrant a complaint, we would prefer to be made aware so that we can prevent the situation from occurring again.”

3.38. Around one in five of those responses that commented on the impact on clients stated that they had noted positive impacts for clients or expected to see these in the future. The most common positive impact given, mentioned by more than half of those who noted positive impacts on clients, was that clients were now better informed of the fees charged by their chambers or organisation. Those mentioning this as a positive impact in some cases highlighted more website traffic for the relevant parts of their websites, clients referring to website fees information when getting in touch, and positive feedback from clients on the website fees information provided as evidence that the change had benefitted clients.

“In terms of the impact on the clients or prospective clients, the feedback has been positive. A client or a prospective client now has a clear idea of how much our services will cost and they will instruct Chambers if they are prepared, or can afford, to pay our fees.”

“We have received positive feedback from solicitors for our clear pricing structure, and the ability it gives them to instruct us with financial confidence on behalf of clients.”

“[We have seen] a positive impact for clients who can relate their matter to case studies and have clearer understanding when discussing fees with Senior Clerk how costs relate to fixed fee quotes”

3.39. Some organisations caveated the benefits of providing fees information to clients by stating that while they felt providing fee information was useful for clients or prospective clients, that their estimates or expectations of costs based on the website fee information could be inaccurate.

“The fees information that is set out allows for a range of fees across the board and whilst that is a good starting point for clients to make provisional calculations, I have often found that they tend to underestimate the preparation requirements of a case. It is sometimes the case that expectations of costs are based on the length of the hearing alone with an unrealistic perception of preparation and consultation requirements.”

3.40. After greater client awareness around fees, the next most common benefit mentioned was that clients generally had a better understanding of the services offered by their organisation, including awareness of the process involved in instructing counsel, awareness of the option to instruct a barrister directly, and more awareness of whether direct instruction was likely to be suitable for their case. Some also stated that clients would be more aware of their regulatory compliance.

“Chambers would agree that the changes have brought about a better understanding at the client/user-end of the services that we provide”

“The introduction of the transparency rules on the website has provided greater clarity to public access clients. They are fully aware of the process and what is expected from themselves and from members and chambers.”

“The provision of the guidance for lay clients assists them in understanding the process and in holding an evaluative conversation about whether public access is right for them.”

“Our clients will be reassured that we are well organised and compliant from a regulatory perspective which may provide some clients with reassurance”

“[We have seen] a positive impact for clients who can relate their matter to case studies and have clearer understanding when discussing fees with Senior Clerk how costs relate to fixed fee quotes”

3.41. Some organisations highlighted that providing more information had meant that clients and potential clients were better able to judge which counsel was appropriate for their case, either due to the clearer availability of information on which services they provided, or due to clearer information on the fees charged by different counsel. Some highlighted that prospective clients were now more likely to

instruct more junior members of chambers, as the information available had made it clearer to them the difference in cost.

“It serves the lay client well and helps them make an informed decision about which counsel to instruct. We also found that the new transparency rules helped lay clients understand our services better”

“There has been a change in respect of the public access contact with clients in that they already have some idea about funding and this has meant that they have approached more junior members than they would have normally in that previously they would ask to instruct the more senior members only, presumably not realising that they are likely to cost more to instruct.”

“It has been evident that through the changes made under the rules, particularly with regards to indicative fees and the general availability of information, that clients are more informed at the outset which makes things smoother. We have had clients comment that it was good to be aware of hourly rates in advance of contacting Chambers, as that assisted them in indicating the level of seniority they sought to instruct.”

3.42. Some chambers specifically stated that implementing the rules – and therefore including more information on their website – had resulted in greater use of their website by clients, and that this was driving benefits for potential clients by ensuring they were better informed and had access to more information before they made contact with their organisation. This marks an interesting contrast with those who highlighted a lack of use of their website by clients and potential clients (see paragraph 3.38).

“The analytics available on the Chambers website indicate that page views and time on pages (especially those to do with Counsel’s fees) have increased since we have made changes to our guidance on fees. This would indicate that there is more valuable information being provided to our clients.”

“We have observed that increasingly more potential clients will check the internet first before approaching chambers with a telephone call, [and] we are able to tell during our conversation with the potential client that he/she has looked on our website.”

“When any new client instructs chambers we always try and find out how they came to instruct us where the answer is often the website.”

Regulatory Return - Summary

3.43. The evidence from the Regulatory Return suggests that the majority of organisations have not noted any impact on their clients since introducing changes in response to the new rules. This mirrors the findings from the Regulatory Return on the impact of the rules on the profession,¹⁰ although the proportion that stated

10. [Transparency Rules – Impact on the Profession](#) (BSB 2021)

they had seen no impact on clients was higher than the proportion that stated they had seen no impact on their own practice (3/4 of responses compared to 2/3). However, it is worth noting that organisations are more likely to be able to determine the impact of changes on their own practice than they are on their clients.

- 3.44. While some of those who had not noted any impact cited the nature of their practice, the limited time since they had made the changes, or the impact of the pandemic on their practice as the reason no impact had been observed, the majority merely stated that they had noted no impact. Although most responses that stated that they had not observed an impact on clients did not give any detail as to how they had assessed this, others detailed indicators they had considered such as number of enquiries, web traffic on the relevant parts of their websites, lack of feedback from clients or potential clients on the relevant sections of their websites, or clients or potential clients not being aware of the transparency information they provided online.
- 3.45. However, over a fifth of those commenting on the impact of the rules on their clients stated that they had noted an impact. Less than one in ten of those who had seen an impact stated that it had been negative for clients, with concerns about fees information confusing clients, or the fact that the prominence of complaints information would cause clients to make unnecessary complaints being mentioned. However, the vast majority of those who noted an impact on clients stated it had been positive, with greater awareness around fees (particularly the level of fees) being the most commonly cited benefit for clients. This suggests that chambers that undertook public access work in particular are more likely to have seen impacts on clients, given that the greatest level of transparency required on fees (including information on typical fee levels) was for certain types of public access work. A general awareness among clients of the services organisations provided and the legal process more generally was the next most commonly noted benefit, followed by prospective clients being better informed about the most suitable barrister for their case.

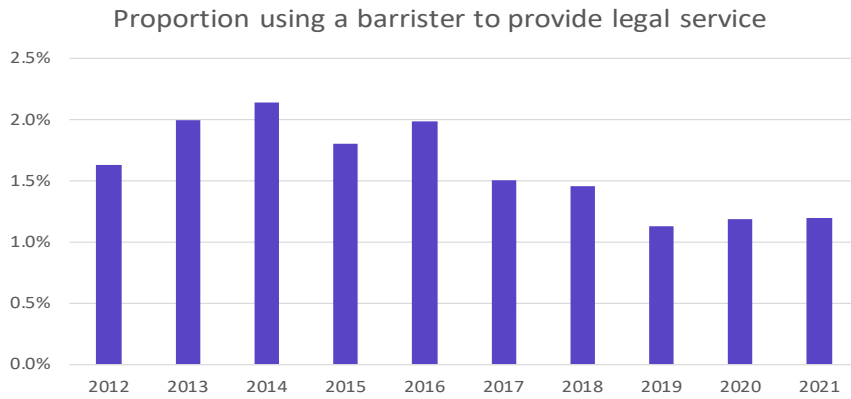
Tracker Survey

- 3.46. The LSCP has commissioned a survey of legal service users annually for the last 9 years. The survey uses the same questions every year (although a number of additional questions have been added at various points since the survey was first launched) and asks participants about their experiences choosing and using legal services. The survey typically includes over 3000 responses each year. While the survey does include barristers' clients, they make up a small proportion each year (typically 2-3%) and therefore the numbers involved mean it would be of limited value to examine their responses alone. However, it provides a useful annual measure on a number of indicators of transparency within the overall legal market of England and Wales, and is used as part of this evaluation in order to provide triangulating evidence as to how transparency in the legal market has or has not improved over time.
- 3.47. This evaluation focuses on questions from the tracker survey that relate to the clarity of price and service information, the extent to which consumers shopped around and felt that they had a good range of choice, how clients were informed about or identified costs, and what clients felt were the most important factors when choosing a provider. It is worth noting that transparency rules from different regulators were brought in at different times – the SRA brought in their rules in 2018, but the BSB in 2019, for example. As such, if the introduction of new rules by legal regulators has had an impact on clients' views on transparency as demonstrated by the tracker survey, one might expect to see a noticeable improvement in views on transparency from 2018 onward, or a further increase in the rate of improvement if client's views on transparency were already improving prior to 2018.

Tracker Survey - Findings

- 3.48. The tracker survey indicates that among those making use of legal services, use of a barrister as their main legal service provider is restricted to a small minority – Figure 18 shows that the proportion of respondents using a barrister has been 1.6% across the period the survey has been running, with a generally downward trend in more recent years (the average was 1.9% between 2012 and 2016, but 1.3% from 2017 to 2021). This should be borne in mind when considering changes in the legal services market as a whole – use of a barrister to deal with legal issues is uncommon, and changes for clients and potential clients of barristers are likely to have limited impact on consumers of legal services generally. The majority of those using legal services use a solicitor to deal with their legal issue (averaging 64% across the period the tracker survey has been running).

Figure 18



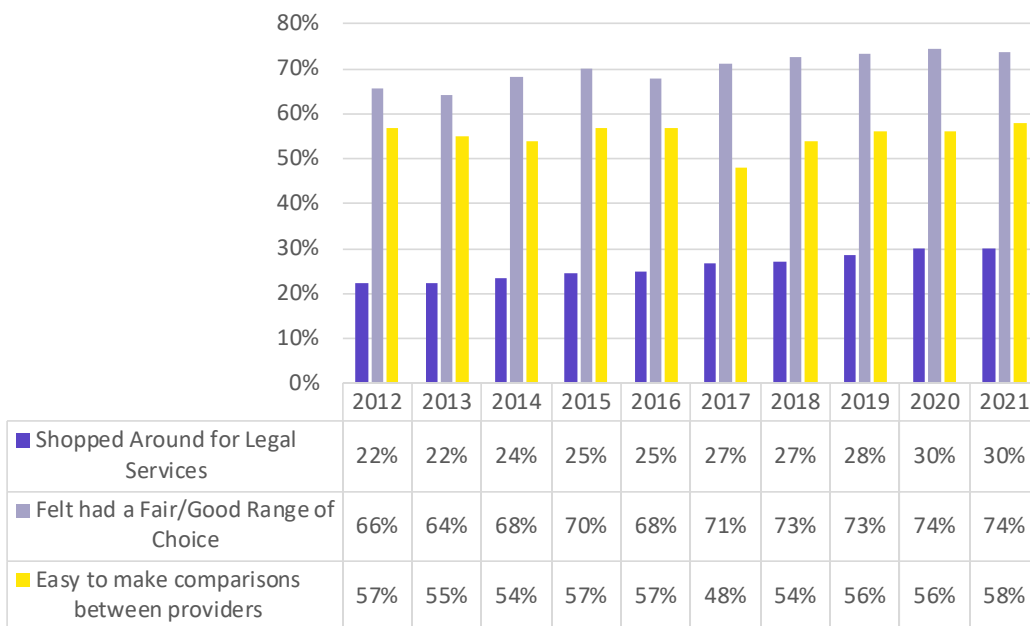
N: 22440

3.49. A key driver for the CMA’s transparency recommendations in 2016, and of the BSB’s subsequent introduction of transparency rules in 2019, was to make it easier for prospective clients to shop around and compare legal services. The tracker survey asks participants if they shopped around when choosing a legal service provider, if they were satisfied with the range of choice when they shopped around, and if they felt it was easy to compare different legal service providers.

3.50. As can be seen from Figure 19, there has been a fairly steady upward trend on the first two indicators since 2012. This is a positive development in that it suggests a trend for more legal service users shopping around, and a higher proportion of them being satisfied with the choice on offer. However, the upward trend over the last few years does not differ significantly for that observed previously, so this provides little direct evidence that transparency rules brought in following the CMA’s recommendations have had a direct effect on consumer behaviour or satisfaction to date.

Figure 19

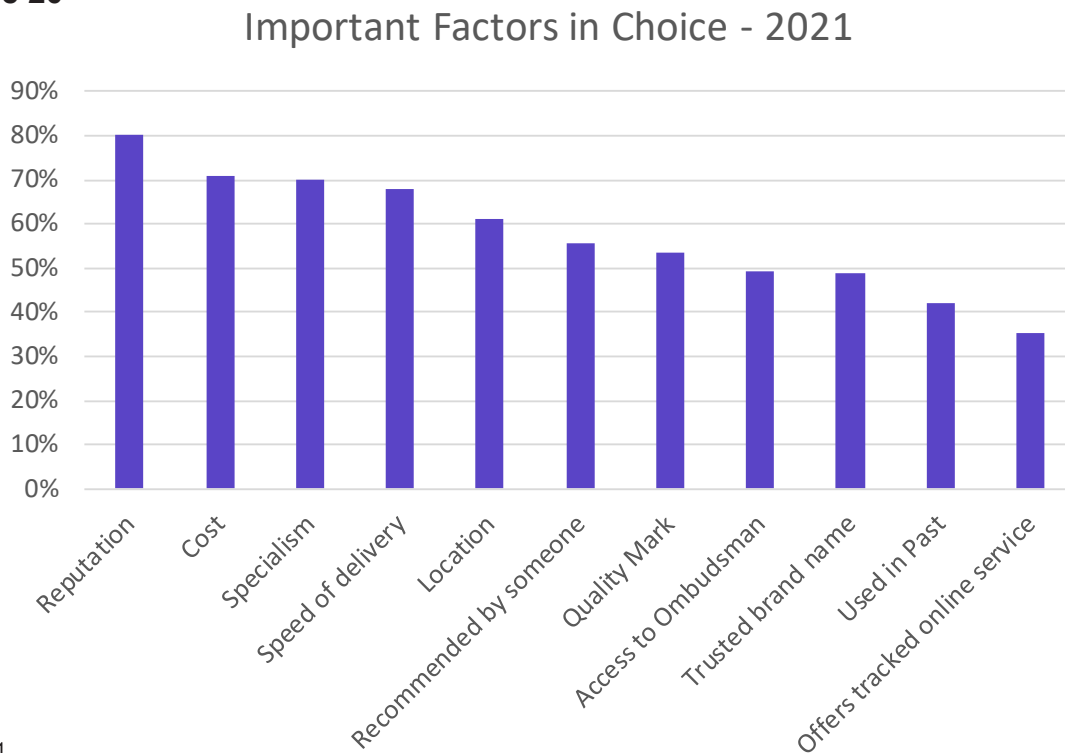
Choosing and Comparing Legal Services



N: 22441

3.51. For the third indicator (ease of comparison) the proportion feeling it was easy to compare providers has remained relatively static over the same period, ranging from 54% to 58%, other than a notable drop in 2017 that appears to be something of an outlier when compared to other years. The provision of more information by providers (both in response to the introduction of transparency rules by legal regulators, and potentially a trend towards greater transparency before the rules were introduced) might have been expected to lead to greater ease in terms of comparing across providers, which is not evident from the trends shown here. However, this should be balanced against the fact that the proportion of clients shopping around has increased (and therefore there may be more clients shopping around with limited legal expertise or knowledge). In addition, the evidence does not suggest that the provision of more information about legal services has confused prospective clients or made it harder for them to compare providers (a concern raised by some stakeholders in response to the CMA’s recommendations).

Figure 20



N: 22441

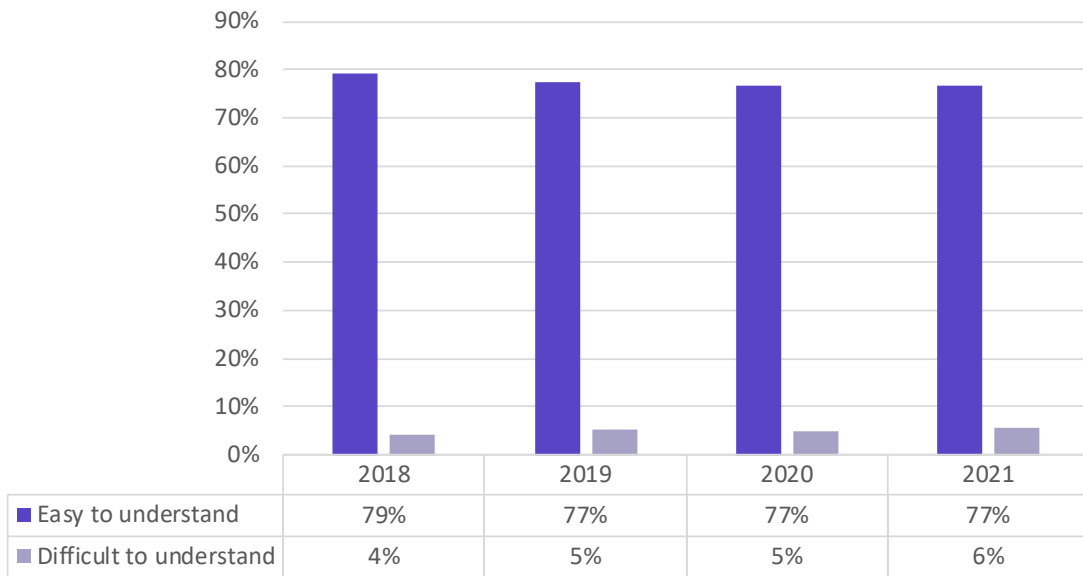
3.52. The tracker survey asks participants about what they considered the most important factors when choosing a provider. Figure 20 gives the rankings of the factors included in the 2021 survey. It is notable that of the top four factors given, three are directly impacted by the BSB’s transparency rules (which required providers to give information on pricing models, the areas of practice in which they most commonly provide legal services, and information about the timescales of their most commonly provided legal services). The final factor which relates to the transparency rules introduced by the BSB is ‘access to an ombudsman in case of dissatisfaction’ (providers are required to state that they are regulated by the BSB and display information about access to the Legal Ombudsman in case of a complaint). The majority of participants felt

this was an important factor in choice, although it ranked beneath the location of the provider and having a recommendation. There has been little change in the proportion of participants rating each factor as important over the period the Tracker Survey has been running, with values remaining relatively consistent across years. There are two notable exceptions – the proportion of respondents rating online delivery as important averaged 28% from 2012 to 2020, but increased to 35% in 2021. In contrast, the proportion of respondents rating location as important averaged 66% from 2012 to 2020, but dropped to 61% in 2021. Both changes are likely to reflect the changed priorities of clients around service delivery in response to the Coronavirus pandemic and lockdowns.

3.53. Since 2018, the tracker survey has asked respondents if the price information they received from their legal service provider was easy or difficult to understand. This has broadly remained static for the four years for which data is available, with close to four fifths of respondents stating that they found the price information they were provided with easy to understand. There has been a slight upward trend in the proportion who said that they found price information difficult to understand, but it remains a small minority of clients (around one in twenty).

Figure 21

Ease of Understanding Price Information



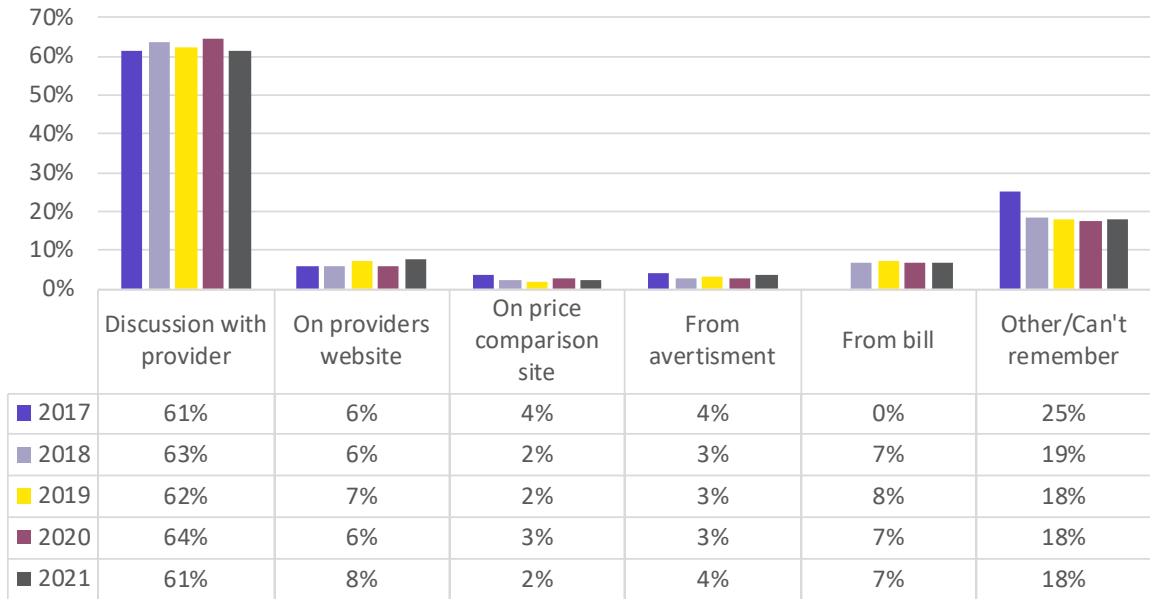
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3.54. The tracker survey has asked participants where they first found out about the price of their legal service since 2017, with an additional response option (‘when I received the bill’) added in 2018. As shown in Figure 22, the most common response given is that clients were given the price information during a discussion with their legal service provider (61% of clients in 2021). Across most of the options, the proportions have remained relatively consistent year on year. There was a significant drop in ‘other’ responses following 2017 as a result of the additional response option in 2018. However, there is more of a notable trend both for those that received price information from a price comparison website (which has broadly trended downward from 4% in 2017 to 2% in 2021) and those who

found the price on their provider’s website (which has increased from 6% in 2017 to 8% in 2021). The latter trend (information coming from the website) suggests that transparency reforms in the legal market may well have led to an increase in the proportion of clients who find prices online, although the majority continue to get price information via direct discussions with their provider.

Figure 22

Where clients first recieved price information



N: 15872

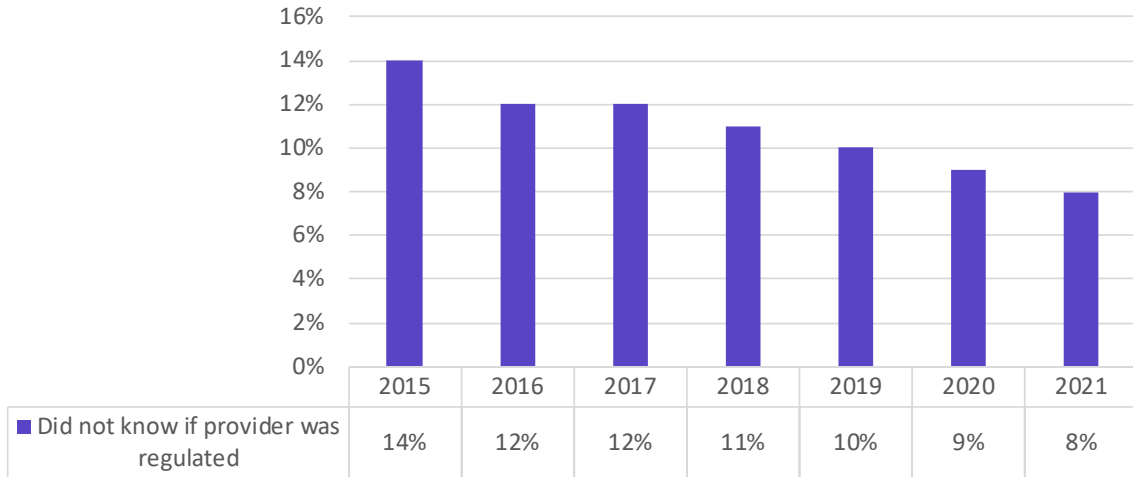
3.55. The tracker survey also asks those who found the price of their service from their provider online, either via an advertisement or via the provider’s website, whether the price was easy to notice. In the first year this question was asked (2017) 92% said it was easy to notice, and 4% said it was not easy to notice. The proportion who said it was easy dropped in 2018 to 89% (but has remained constant at that level in subsequent years). The proportion of those who said it was difficult to find rose to 9% in 2018, and has remained around that level since. While the increase in the proportion of clients finding information on prices online (see paragraph 3.57) therefore suggests that the transparency reforms across the legal services market may have had an impact on the proportion of clients who are able to find prices online, the ease with which they are able to identify this information has seen little change.

3.56. One of the objectives of both the CMA recommendations and the BSB’s transparency rules was to increase consumer awareness of the regulatory status of their provider. The tracker survey has included a question asking about the regulatory status of the provider used by participants since 2015. The proportion of participants who were unaware of their provider’s regulatory status has been trending downwards, broadly by 1% per year, since the question was first asked and stands at 8% as of 2021 (compared to 14% in 2015). Again, this does not directly provide evidence that transparency reforms in the legal services market contributed to an increase in client awareness around regulatory status, although

it does suggest the reforms may have contributed to the continuation of a pre-existing trend.

Figure 23

Did not know if provider was regulated

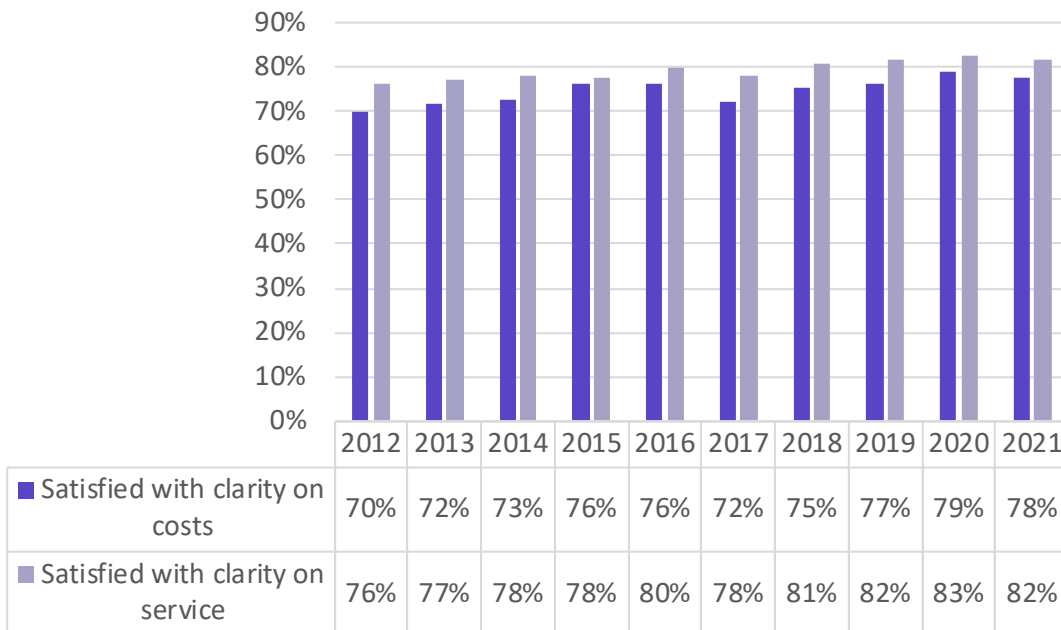


N: 18462

3.57. Client satisfaction with the clarity of information they received on costs and service have both trended upwards in responses to the tracker survey since the first version of the survey in 2012. For both indicators there was a steady rise until 2016, a drop in 2017, and then a rise since 2017, with satisfaction with clarity on costs rising faster than satisfaction with clarity on services. Satisfaction on both indicators is both significantly higher than at the start of data collection in 2012, and higher in 2020 and 2021 than at any previous point.

Figure 24

Client Satisfaction - Cost & Service



N: 22440

Tracker Survey - Summary

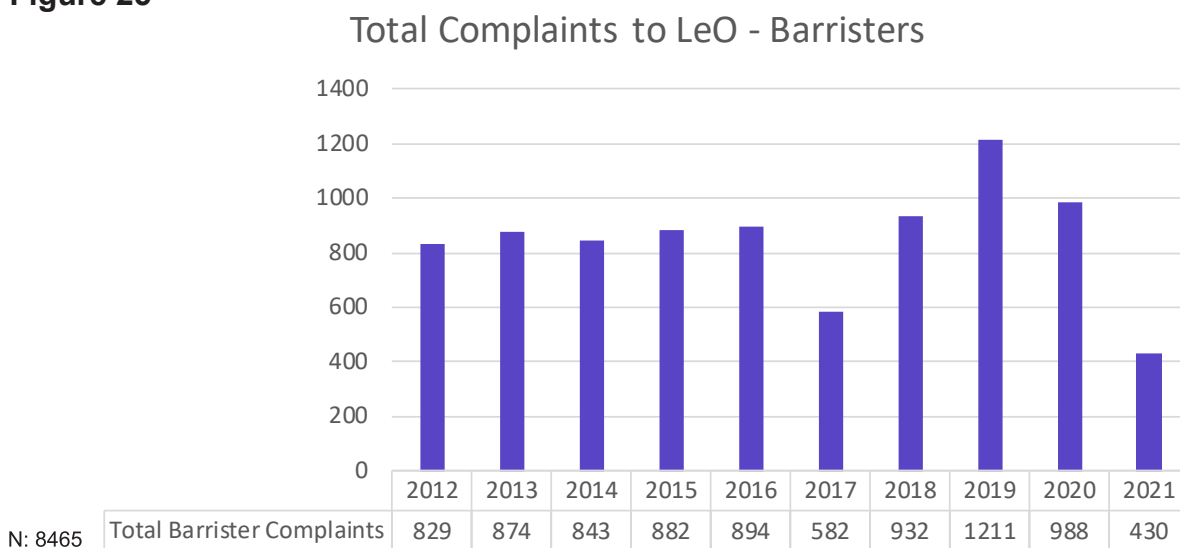
- 3.58. The evidence from the tracker survey suggests that – from the point of view of legal clients – there has been a general upward trend in the clarity and availability of information on price and service since 2012, and an increase in shopping around. However, the evidence from the tracker survey to date does not strongly support the conclusion that the transparency rules introduced by the legal regulators are themselves the primary cause of this, as trends have generally remained fairly consistent since 2012 where comparable indicators are available, rather than showing a notable increase since the various transparency rules were introduced.
- 3.59. However, some indicators do suggest that transparency rules may have had an impact in contributing to increased client awareness of price and service information. The proportion of clients finding price information on providers' websites has trended upwards from 2018, and the proportion of clients who are aware of how to make a complaint has shown a more marked increase since 2018 as well. While these findings do not directly provide evidence as to the impact of the BSB's rules (those using barrister's services remain a small minority of those responding to the tracker survey) they do suggest that changes in transparency requirements in the legal services market as a whole may have started to lead to improvements for consumers in some areas.

Legal Ombudsman Complaints

- 3.60. Clients who are dissatisfied with the service they receive from their barrister may make a complaint. These are made in the first instance to the barrister or organisation that provided their legal service (these are known as first tier complaints). If clients are dissatisfied with the outcome of their first tier complaint, they may then complain to the Legal Ombudsman (LeO). While the BSB does not have data on the levels of first tier complaints about barristers, LeO shares data with the BSB about complaints about barristers, including the main subject of the complaint (classified as 'complaint aspect') of the complaint.
- 3.61. The evaluation also used information on complaint levels from LeO, both overall complaint levels and complaints that specifically relate to elements of the transparency rules. The BSB's rules aimed to increase transparency around fee levels, expected timescales for services and the factors that will affect them, and clients' routes for redress if they are dissatisfied with the service they receive (including their right to complain to LeO). As a result, the focus for this analysis is complaints that relate to issues of transparency or clarity around fees, complaints about work taking longer than expected, and complaints related to the handling of first-tier complaints. These data were used as a proxy for whether barrister's clients felt that the fees they were charged and the timescales of their case were in line with their expectations (and therefore if there was sufficient clarity from their provider around those issues) as well as any impact on how satisfied clients are with the handling of their complaints.

Legal Ombudsman Complaints - Findings

- 3.62. Figure 25 shows the overall annual totals of complaints to LeO about barristers from 2012 to 2021. Compliance with the BSB's transparency rules was required from January 2020, although a significant proportion of barrister organisations were not compliant with the rules at this point. As such, there might be expected to be a lag in any impact that the introduction of the rules had on overall complaint levels, both due to delays in complying with the rules and the fact that some cases that generated complaints in 2020 may well have been started before the rules were in place.

Figure 25

3.63. As can be seen from Figure 25, overall complaint levels about barristers remained relatively static between 2012 and 2016. They then fell in 2017, before increasing from 2018-19, and falling in 2020 and 2021. The level of complaints in 2021 is the lowest it has been during the period for which data are available. The annual average number of complaints to LeO about barristers was 881 before the introduction of the rules, and fell to 709 in the period since compliance with the rules was compulsory. Given that complaint levels have fallen since the transparency rules were introduced, this suggests that the requirement for the Bar to provide clear information on client's right to complain to LeO has not lead to an increase in these types of complaints overall – this was a concern raised by some barrister organisations in their responses to the Regulatory Return (see paragraph 3.40 and the BSB's 2021 evaluation report on the impact of the rules on the profession). The particularly steep fall from 2020 to 2021 may indicate that the rules have contributed to a fall in complaints to LeO, either due to improved first-tier complaints handling by barrister organisations since the rules came into place, or due to the rules themselves leading to increased transparency around issues such as fees and timescales which reduce the likelihood of clients making complaints to LeO about these issues. This can be further investigated by looking at the aspects of complaints made to LeO where these aspects relate to factors around transparency and complaint handling.

3.64. Figure 26 shows the complaint aspects around fees that might be expected to be impacted by the transparency rules – clients who complained that the costs incurred were excessive (which would imply that the information about costs they were given at the start of the process may not have been clear or accurate) and clients who complained that they were not given sufficient or clear information about costs. The data show that overall levels of complaints to LeO around both of these aspects vary considerably year on year. However, there has been a notable fall from the levels observed in 2019 (before the rules were in place) in both 2020 and 2021, with the levels of complaints about both excessive costs and lack of information about costs falling to the lowest annual level in any year for which data is available in 2021. The annual average number of complaints relating to

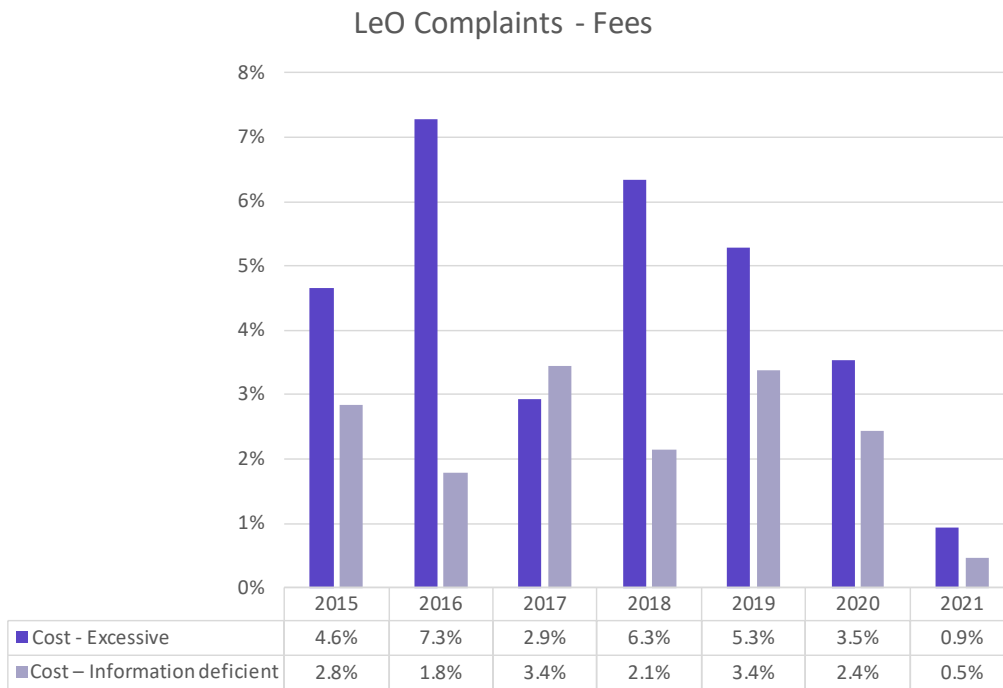
excessive costs was 49 prior to the introduction of the rules, and 20 since the rules were introduced – the equivalent values for lack of clear information about costs were 24 and 13. This suggests that the transparency rules may have contributed to a reduction in clients who were dissatisfied with the overall cost and the information they received about costs since the rules were introduced.

Figure 26



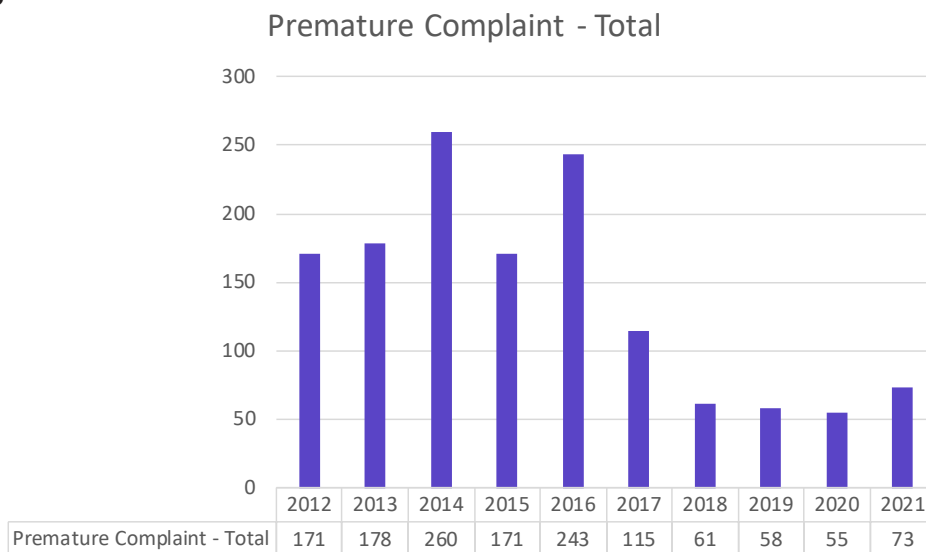
3.65. Given that the overall numbers of complaints received by LeO about barristers has varied year on year, it is also valuable to analyse whether the proportion of complaints that relate to fees has changed since the rules were introduced. Figure 28 shows the proportion of total LeO complaints that related to excessive costs or lack of information about costs from 2015 to 2021. If the proportion of complaints that were received that related these aspects has also fallen from 2020 along with overall totals, this further supports the suggestion that client dissatisfaction about these elements of the service they receive has declined since the rules were introduced. As can be seen from Figure 27, there has indeed been a marked decrease in the proportion of complaints to LeO that related to both of these aspects in 2020 and 2021. Prior to the introduction of the rules, complaints about excessive costs made up over 4.5% of complaints in every year other than 2017 – however, they then fell to 3.5% in 2020 and to 0.9% in 2021. Complaints relating to lack of information about costs have also fallen since the introduction of the rules, making up 0.5% of complaints in 2021, whereas prior to 2021 they had varied between 1.8% and 3.4% of complaints. This further supports the analysis of overall levels of cost-related complaints, and suggests that the transparency rules may well have contributed to a decrease in the levels of dissatisfaction among barrister’s clients around fee levels and information provided about fees.

Figure 27



3.66. Clarity around complaints procedures and expected timescales for different services were another area of focus for the BSB’s transparency rules. One way of determining if the transparency rules had impacted on clients understanding of complaints procedures was to analyse “premature complaints” received by LeO. These are complaints about barristers received by LeO before the client has made a complaint through the barrister/chambers own procedures and are known as ‘premature’ complaints as complainants should complain to their legal service provider before issues can be escalated to the Ombudsman (see paragraph 3.40). If the changes made as a result of the transparency rules have been effective at improving awareness of barristers’ complaints procedures, this would be expected to result in a drop in the number and proportion of premature complaints about barristers following the rules coming into force in January 2020.

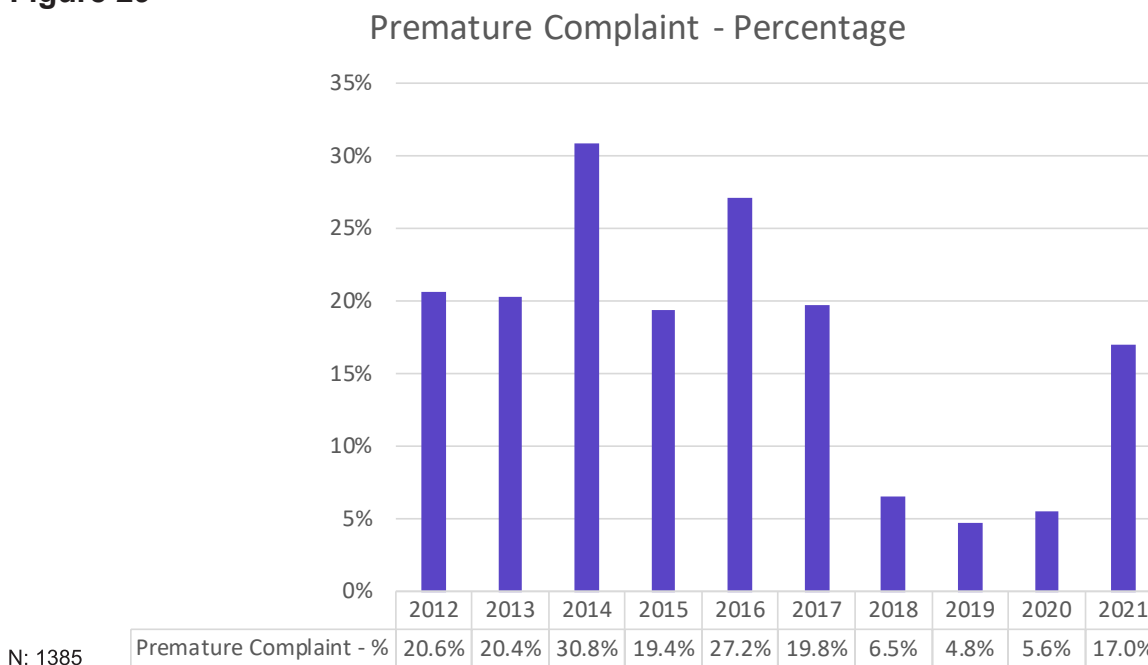
Figure 28



3.67. Figure 28 shows the total number of ‘premature complaints’ received annually by LeO. This shows that the largest change in the number of premature complaints occurred in 2017 – from 2012 to 2016, the average number of premature complaints received annually was 205, but this fell to an average of 72 between 2017 and 2021. This may reflect the work done by the BSB Supervision department with chambers as part of the 2015-16 Supervision Return, which included work with chambers around the clarity of their complaints procedures. The level of premature complaints has not fallen following the introduction of the 2020 transparency rules – indeed, 2021 actually shows a small increase in the number of premature complaints received by LeO, from an average of 58 from 2018 to 2020, to 73 in 2021. This suggests that the transparency rules may have in fact contributed to less clarity for consumers in terms of the procedures to follow if they had a complaint about their barrister – by requiring barristers to give increased prominence to information about how to complain to the ombudsman, it may have contributed to an increase in the number of clients who submitted a complaint to LeO in the first instance rather than going through the barrister or chambers own complaints procedures.

3.68. As with complaint aspects, given that the overall numbers of complaints received by LeO about barristers has varied year on year, it is also valuable to analyse whether the proportion of complaints that are premature complaints has changed since the rules were introduced. Figure 29 shows the proportion of annual complaints about barristers received by LeO that are premature complaints.

Figure 29



3.69. This shows that a high proportion of complaints received prior to 2018 were premature complaints – the annual average from 2012 to 2017 was close to one in four barrister complaints received (23%). This then fell markedly from 2018, with premature complaints averaging only 5.6% of annual complaints received

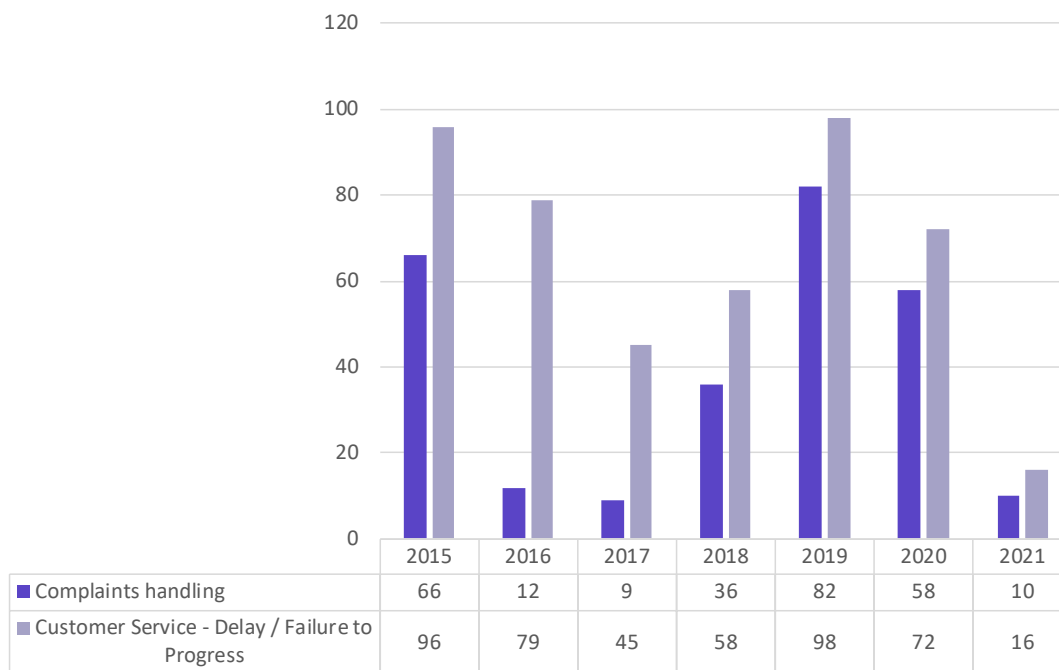
from 2018 to 2020. However, 2021 saw a significant increase in the proportion of premature complaints received, raising to 17%, closer to the levels seen prior to 2018. This further supports the possibility that increased visibility of clients rights to complain to LeO may have led to less clarity for clients around complaints procedures.

3.70. The analysis of LeO complaint categories that relate to first tier complaint handling (see paragraph 3.60) may also provide an indication of any impact that may have been made by the rules on clients. This is because increased transparency in how to make a complaint may have increased client satisfaction with the process or prompted barristers to review their complaint handling processes. In addition, LeO complaints that relate to the timescales of the case may provide evidence of whether the transparency rules have decreased dissatisfaction with the time taken with a case (as more transparency around timescales might be expected to lead to more clarity among clients as to how long their case would take, and thus less dissatisfaction about how long their case took to progress).

3.71. As can be seen from Figure 30, as with complaints about costs, the overall level of complaints about both complaints handling and case timescales have decreased since the BSB’s transparency rules came into force in January 2020. However, there has been considerable variation in the levels of LeO complaints about these issues, in particular those relating to the handling of complaints. As such, the decline in levels of complaints from clients that related to complaints handling may well not be linked to the introduction of the rules – 2020 saw higher levels of such complaints than any previous year for which data is available with the exception of 2019.

Figure 30

LeO Complaints - Timescales & Complaints

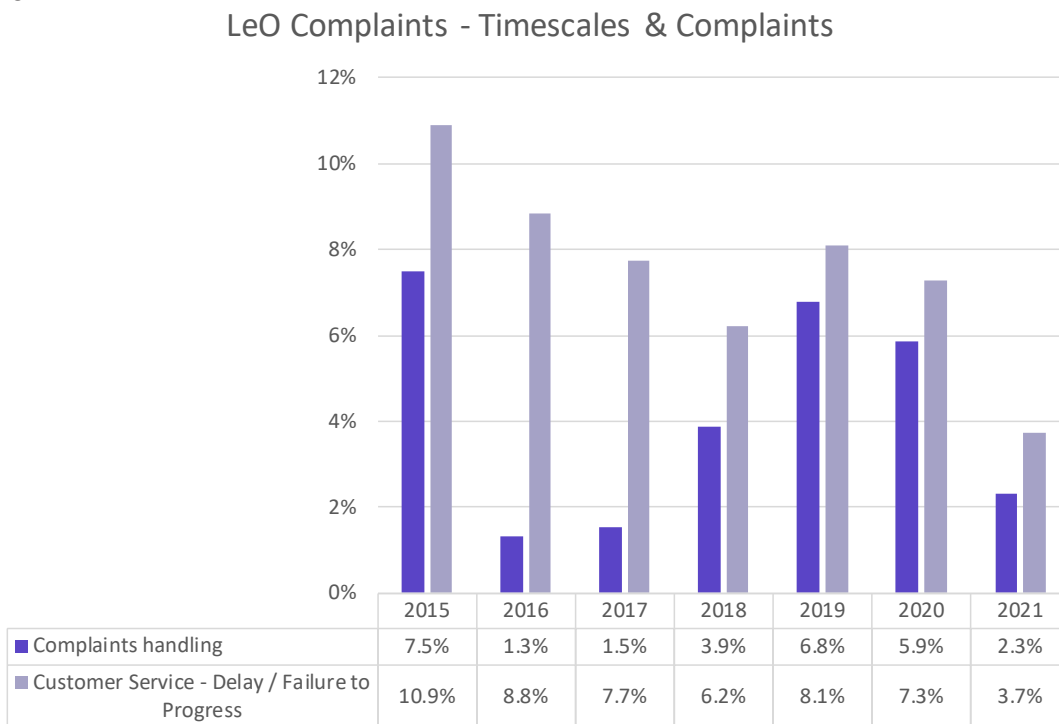


N: 737

3.72. While 2021 saw a significant drop, the level of such complaints in 2021 was similar to the levels in both 2016 and 2017. There has been little change in the annual levels of complaints to LeO that relate to the handling of first-tier complaints – prior to the introduction of the rules the average annual total was 41, whereas the average was 35 for the two years since the rules were introduced. As such, there is not strong evidence that the transparency rules have impacted on the overall level of complaints to LeO that relate to how effectively barristers dealt with first-tier complaints they have received.

3.73. However, there is stronger evidence that the introduction of the transparency rules may have had an impact on complaints about the timescales of a case. The number of complaints relating to case timescales declined in both 2020 and 2021, and the total number of complaints relating to this issue in 2021 was lower than any previous year for which data are available. In addition, in 2020 totals were lower than in three of the previous five years (with 2017 and 2018 seeing lower levels). The annual average number of complaints relating to timescales was 75 prior to the introduction of the rules, and 44 since the rules were introduced. Given the trend since 2019, and in particular the significant drop in 2021, this suggests that the transparency rules may well have contributed to increased clarity for clients around the expected timescales for their case, and a resulting decrease in complaints to LeO about case timescales.

Figure 31



N: 4501

3.74. As with LeO complaints about fees, given that the overall numbers of complaints to LeO about barristers has varied year on year, it is also valuable to analyse whether the proportion of complaints that relate to complaints handling or timescales has changed since the rules were introduced. Figure 31 shows the proportion of total LeO complaints that related to complaints handling or case timescales from 2015

to 2021. As can be seen from figure 31, there has indeed been a marked decrease in the proportion of complaints to LeO that related to both of these aspects in 2020 and 2021. However, the proportion of LeO cases relating to complaints handling have varied considerably year on year, and the decline since 2019 mirrors similar drops in earlier years.

3.75. However, as with overall levels of complaints about timescales, the proportion of LeO complaints that relate to timescales displays more of a clear trend in terms of change since the Transparency Rules were introduced. The percentage of LeO cases of this aspect not only fell in both 2020 and 2021, but the proportion of total cases in 2020 was lower than all but one of the previous years for which data were available (with 2018 being the exception) and 2021 saw the lowest proportion of cases relating to timescales of any year for which data were available. Between 2015 and 2019, 8.4% of complaints to LeO related to timescales, but in 2021 these complaints made up only 3.7% of all complaints received. This suggests that the transparency rules may well have contributed to an increased clarity for clients around the expected timescales for their case, and a subsequent fall in the number and proportion of complaints to LeO relating to timescales.

Legal Ombudsman Complaints - Summary

3.76. The evidence available from complaints made to the Legal Ombudsman suggests that the introduction of the transparency rules has not led to an increase in the overall levels of complaints about barristers since the rules were introduced, a concern raised in some of the responses to the Regulatory Return. In fact, the trend since the rules were introduced has been a reduction in annual complaint levels, with 2021 in particular seeing the lowest levels of complaints about barristers for any year for which data are available. This suggests that the introduction of the rules may have contributed either to a drop in dissatisfaction levels among barristers' clients, or to an improvement in complaints handling among barrister organisations (and thus a drop in the number of complaints that were escalated to the Ombudsman). However, the level of client complaints made to LeO in the first instance rather than to their provider has increased since the rules were introduced, suggesting that increased visibility of information about the option to complain to the Ombudsman may have led to confusion about the sequencing of complaints for some clients.

3.77. Analysis of complaints to LeO suggests that the introduction of the transparency rules may have contributed to a decrease in clients' dissatisfaction in a number of areas. The levels and proportions of complaints that relate to overall cost and clarity of information around costs have both declined, as has the level and proportion of complaints that relate to the timescales of cases. However, the level and proportion of complaints about the handling of first tier complaints by the Bar does not show any clear trend, so there is limited evidence to date to suggest that the rules have contributed to a drop in complaints to LeO relating to the handling of clients' initial complaints to their service provider .

4 Summary and Conclusions

- 4.1. The evaluation evidence relating to each of the primary evaluation areas is summarised below. The evidence available from the different sources suggests that there has been progress since the BSB's Transparency Rules across a number of indicators relating to positive impacts for consumers relating to the objectives of the rules, although this impact in some areas remains fairly limited.

Considering using a barrister to deal with a legal issue

- 4.2. Evidence from the tracker survey suggests there has been little change in the proportion of legal clients using a barrister to deal with their legal issue – use of a barrister remains restricted to a small proportion of survey respondents, with no notable change since the BSB's rules were introduced.
- 4.3. Evidence from the Legal Needs Survey suggests that there has been little notable impact from the transparency rules in the proportion who consider using a barrister to help with their legal issue, or the reasons that they do not consider a barrister suitable to help them with the legal issue they face. However, among those that do use a barrister there appears to be an increase in those using the public access route as opposed to referral by a solicitor or other advisor – it may be that an improvement in the visibility of information about barrister's services has led to more clients considering and using the public access scheme. Survey responses also suggest there may have been an increase in the proportion of those facing legal issues who feel confident they understand their rights, although the proportion who feel they are able to deal with their issue themselves has declined (this may lead to an increase in those seeking legal help at an early stage in the future, rather than assuming they can deal with the issue themselves).

Searching for/obtaining information on barrister's services and prices

- 4.4. Evidence from the Legal Needs Survey suggests that a larger proportion of barrister's clients/potential clients are looking for and obtaining prices and details on services provided when looking for/choosing a barrister. Among barrister's clients, the proportion who obtained details of service or price before choosing a barrister increased from 10.25% on both indicators in 2019, to 23.4% obtaining details of services and 25.7% obtaining prices in 2021. The increase in the proportion of those obtaining prices before making a choice was particularly notable for public access clients, a major focus of the BSB's fee transparency rules. While this represents an encouraging improvement, there is still significant room for improvement on this measure.

- 4.5. The tracker survey suggests that across users of legal services as a whole there has been a general upward trend in their positive views on the clarity and availability of information on price and service since 2012, and an increase in shopping around. However, the evidence from the tracker survey to date does not strongly support the conclusion that the transparency rules introduced by the legal regulators are themselves the primary cause of this, as trends have generally remained fairly consistent since 2012.
- 4.6. Responses to the Regulatory Return showed that the majority of organisations had not noted any impact on their clients since introducing changes in response to the new rules. However, the Regulatory Return did provide evidence that some barristers, chambers, and other barrister organisations (over a fifth of those commenting on the impact of the rules on their clients) noted an impact on clients and stated it had been positive. Greater awareness around fees (particularly the level of fees) was the most commonly cited benefit for clients. A general awareness among clients of the services organisations provided and the legal process more generally was the next most commonly noted benefit, followed by prospective clients being better informed about who the most suitable barrister was for their case. Less than one in ten of those who had seen an impact stated that it had been negative for clients, with concerns about fees information confusing clients.

Finding it easy to find/understand information about barrister's services and prices

- 4.7. Evidence from the Legal Needs Survey suggests that the majority of clients who do search for information find it easy to understand the available information about price and service. However, there is limited information that this has changed substantively since transparency rules were introduced. Nonetheless, more clients are seeking out this information, and there has been no notable downward trend in ease of understanding price and service information (which might be expected if a greater number of clients with limited legal experience or knowledge are looking for information about prices and services).
- 4.8. The evidence from the tracker survey suggests that – from the point of view of legal clients – there has been a general upward trend in positive views of the clarity and availability of information on price and service since 2012. The proportion of clients finding price information on provider's websites has trended upwards from 2018, which suggests that increased visibility of price information online may be starting to make an impact on legal consumers.
- 4.9. Evidence from complaints to LeO suggests that the introduction of the transparency rules may have contributed to a decrease in clients' dissatisfaction in a number of areas. The levels and proportions of complaints that relate to overall cost and clarity of information around costs have both declined, as has the level and proportion of complaints that relate to the timescales of cases. While this may not be directly attributable to the transparency rules, it might be expected that improving the visibility of information about services, prices and timescales for

clients means they are more likely to have realistic expectations on the price and timescale of their case, and less likely to complain about these issues. Alternatively – given that complaints to LeO are only made after first making a complaint to the barrister or their chambers directly, the decline in LeO complaints could reflect the fact that barrister organisations have improved their internal complaint procedures, and therefore more clients are satisfied with how their ‘first-tier’ complaints are handled and do not escalate the issue to LeO . However, the level of client complaints made to LeO in the first instance rather than to their provider has increased since the rules were introduced, suggesting that increased visibility of information about the option to complain to the Ombudsman may have led to confusion about the sequencing of complaints for some clients.

‘Shopping around’ and comparing different providers when searching for/choosing barristers

- 4.10. The Legal Needs Survey suggests that substantially more clients are looking for and successfully finding information on prices and services for potential providers. In addition, proportion of clients ‘shopping around’ when choosing a provider also appears to have increased – in 2019, 7.4% of barrister’s clients obtained details of services from more than one provider when making a choice, compared to 17.5% in 2021. Similarly, the proportion of all clients obtaining prices from more than one provider increase from 6.4% in 2019 to 19.8% in 2021. Although the majority of those that look for price and service information find information on more than one provider, there has been little change in the proportion of those who compared more than one provider when obtaining details of services (around three in four). However, there is more evidence that there has been an increase in the proportion of those obtaining prices who receiving price quotations from more than one provider – among those that obtained prices, 63.2% obtained prices or quotations from more than one provider in 2019 compared to 76.8% in 2021. Given the increased availability of online price information that resulted from the implementation of the transparency rules, this suggests that the implementation of the rules has contributed to an increase in the proportion of clients who are obtaining price information about a number of different service providers when researching barristers’ services.
- 4.11. Evidence from the tracker survey suggests that in the legal services market as a whole there has been a general upward trend in the proportion of clients shopping around and comparing different legal service providers. However, there is little evidence that the period following the CMA’s transparency recommendations has seen a major change in existing trends – overall the proportion shopping around has been increasing at around 1% a year from 2012 to 2021, and the majority (70%) are still not shopping around or comparing providers. There also seems to have been little change overall in the proportion of legal clients who found it easy to compare between providers, with 57% saying they found it easy to compare providers in 2012 compared to 58% in 2021.

Aware of the regulatory status of barristers when choosing or using their services/aware of routes to redress

- 4.12. Evidence from the Legal Needs survey suggests that the BSB's rules may have had a positive impact in raising awareness among clients of the regulatory status of their barrister - with 71.3% being aware after the introduction of the rules compared to 63.3% before the introduction of the rules. This has been driven by an increase in the proportion of clients who checked their barrister's regulatory status (the proportion of clients who stated they were already aware of regulatory status has not changed substantively). Among those who checked regulatory status, 90.3% said they found it easy to do so in 2021, whereas 100% said they found it easy to do so in 2019, suggesting that clients have always found it easy to find this information. There has also been a substantive increase in the proportion of clients who value or consider complaints/ombudsman access when choosing a barrister. This suggests that the requirement for increased visibility of information about complaints procedures and recourse to the Ombudsman that formed part of the BSB's rules may have contributed to clients valuing this more when choosing a provider.
- 4.13. Evidence from the tracker survey further supports this – while there has been a generally upwards trend in terms of the proportion of clients who are aware of how to make a complaint since 2012, this has shown a more marked increase since 2018, suggesting that changes in the legal market as a whole in response to the CMA's recommendation may have contributed to an improvement in awareness around routes to redress.
- 4.14. Evidence from the Regulatory Return also supports the view that the implementation of the rules has led to increased awareness around routes to redress, given that some organisations commented on the fact that clients were more aware of their complaints procedures. For some this was seen as a negative, as it led to an increase in meritless complaints that achieved little for clients and wasted time for their organisation. Others saw this as a positive, as they were keen to receive information from clients as to where their services could be improved, and saw it as a benefit for clients that they had a higher awareness of routes to redress.

Satisfied with the prices charged by their barrister/consider that their barrister was value for money

- 4.15. Evidence from the Legal Needs survey suggests there has been a slight decrease in client satisfaction, both with the service provided by their barrister and the value for money of the service received. However, the majority of clients remain satisfied with both the service received and its value. Identifying the reasons for the change is difficult given the evidence available – the impact on the delivery of services by barristers due to the pandemic/lockdown might be expected to have an impact on client satisfaction, for example.

- 4.16. Evidence from the LSCP tracker survey suggests that satisfaction with the clarity of information received on costs and service have both trended upwards in since 2012. Satisfaction on both indicators is both significantly higher than at the start of data collection in 2012, and higher in 2020 and 2021 than at any previous point. While this covers the legal sector as a whole rather than the Bar specifically, it suggests that the clarity of information provided to legal clients as regards both the services they will receive and the price they will be charged is improving, although it is difficult to identify a particular impact resulting from the CMA's recommendations and associated changes given the trend has been a fairly steady improvement since 2012, rather than a particularly notable increase in more recent years.
- 4.17. Complaints to LeO relating to elements of the transparency rules, covering fees - including the clarity of information provided about fees – and the clarity of information provided about timescales have declined since the introduction of the rules. This suggests that the introduction of the transparency rules may have contributed to a decrease in client dissatisfaction in these areas, potentially due to greater clarity around these issues at the onset of a case, or due to improvements in organisations' handling of first-tier complaints around these issues.

Making complaints about the services they have received from their barrister

- 4.18. The evidence available from complaints made to the Legal Ombudsman suggests that the introduction of the transparency rules has not led to an increase in the overall levels of complaints about barristers since the rules were introduced. In fact, the trend since the rules were introduced has been a reduction in annual complaint levels, with 2021 in particular seeing the lowest levels of complaints about barristers for any year for which data is available. This suggests that the introduction of the rules may have contributed to either a drop in dissatisfaction levels among barrister's clients, or an improvement in complaints handling among barrister organisations (and thus a drop in the number of complaints that were escalated to the Ombudsman).
- 4.19. Some responses to the Regulatory Return stated that they had concerns that the implementation of the rules – in particular the prominence of information about complaints – would lead to increased complaint levels. However, this was a very small minority of regulatory return responses, suggesting the majority of barrister's organisations have not noticed any change around levels of complaints from their clients.

Conclusions

- 4.20. The Bar is primarily a referral profession, with the majority of clients being referred to a barrister by a solicitor. This has been shown by extensive previous research, and the evidence from this evaluation confirms that it remains the case following the introduction of the transparency rules. As such, it might be expected that any impacts from the implementation of increased transparency on the behaviour

of barrister's' clients when identifying or choosing a barrister would be relatively limited at the aggregate level – for most clients, the choice or recommendation of their referring solicitor will be the main factor in choosing which barrister to use, and so use of the information provided online by the Bar would be more limited than for other legal service providers where the client is making the choice of provider themselves.

- 4.21. However, the evidence from this evaluation suggests there has been a change in a number of the indicators relating to the provisions of the transparency rules since they were introduced. In particular, a higher proportion of barristers' clients are searching for and finding information about potential providers before they appoint a barrister, a higher proportion consider complaints procedures and routes to redress as important when choosing a barrister, and a higher proportion are aware of the regulatory status of their barrister, than before the rules were introduced. The number of complaints to the Legal Ombudsman about barristers has declined overall, and the proportion of them that relate to issues around transparency of price, timescales and services provided have declined significantly. Some chambers and other barrister organisations have observed positive changes for clients, with clients being better informed about their fees and services as a result of the information provided in response to the transparency rules.
- 4.22. It is difficult to confirm that the changes observed since the implementation of the rules are solely as a result of the BSB's transparency requirements (changes in consumer behaviour may have also been driven by other factors, such as changes driven by a response to the Covid 19 pandemic and associated lockdowns). However, the fact that many of the changes observed relate to aspects of transparency that were specifically covered by the rules themselves, suggests that the transparency requirements have at least in part driven the changes.