

# Understanding the unreserved market

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## *Background*

Many legal services include 'reserved activities', which can only be carried out by regulated professionals. But many commonly used services including for wills, housing, family and employment law are unreserved activities. This means that there is no restriction stated in the Legal Services Act on who can offer unreserved services so providers could be:

- regulated by one of the Legal Services Act (LSA) regulators
- regulated by other regulators such as the Financial Conduct Authority (eg. professional advice for an employment-related dispute must be authorised by the FCA)
- unregulated for the professional services they provide.

While unregulated providers can offer affordable, accessible services that meet the needs of consumers, some unregulated providers might not offer particular consumer protections such as adequate insurance or routes to redress for poor advice or services. And they might have no formal legal training or qualifications.

As one of the LSA regulators, we are responsible for protecting consumers and supporting the rule of law and the administration of justice. To carry out this responsibility we need to continue building our understanding of the whole legal market. This includes its future development and the potential positive impacts and challenges of the unreserved legal activities provided by unregulated businesses.

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## *The research*

We commissioned Frontier Economics, The Data City, and BMG Research to research the unreserved market, primarily that conducted by the unregulated providers. To understand the size of the market they focused on providers that offer tailored legal advice to individuals and businesses rather than broader legal services. This was to exclude organisations that only provide generic information and services.

The findings are based on:

- a web-reading exercise to gather information about the possible number and types of providers of unreserved legal advice that is tailored to each client
- a survey of 510 small business users of legal services as they use legal services more often than individual consumers
- a survey of 162 providers of unreserved activities, most of which were not regulated by any LSA or financial regulator
- interviews with regulated and unregulated providers of unreserved activities
- engagement with a panel of industry experts.

## *Key findings*

### *The current market*

- The volume of tailored legal advice providers that are not regulated by an LSA-regulator ('unregulated') is growing but is currently a fairly small portion of all legal services. The estimated proportion of the unregulated legal market is approximately 6-8% of the total legal market turnover, similar to that found by the Legal Services Board.
- Most of these services are provided to individuals and small businesses. A quarter of the unregulated providers are concentrated in will and estate administration work followed by family (12%) and employment (11%) work.
- Some unregulated providers are regulated by non-LSA regulators such as the Financial Conduct Authority. And many are members of professional bodies such as the Society of Will Writers. Some providers are not regulated at all and/or are not members of professional bodies.
- Small business consumers were slightly more satisfied with the quality of advice and the service from regulated compared with unregulated providers. However, satisfaction was high for both types of providers. But some research participants had concerns about the quality of advice and service from unregulated providers that are not subject to any regulation or professional membership.
- Most small business consumers view regulation as important for the market and said that they knew whether their providers were regulated or not. Most preferred using a regulated provider even if they were more expensive.
- Many unregulated providers thought regulation is important too, especially those providing wills and trusts services. About half of unregulated providers thought that people do not understand the difference between regulated and unregulated services. And 14% said they would become regulated if they had to disclose their regulatory status.

### *Potential future development of the market*

- The unregulated providers report a significant planned increase in their use of legal technologies for storing data, developing interactive websites and for identity checking.
- The risk of digital exclusion appears limited in the medium term as most providers plan to continue offering their services in-person.
- It is likely that demand for legal services will rise over the next few years. It is not clear whether there will be a difference in how the regulated and unregulated providers will meet this demand.

### *Potential implications for consumers*

- Consumers who cannot distinguish between regulated and unregulated providers might not be aware of the protections available to them. So consumers are likely to benefit from better information about whether a legal services provider is regulated and the differences between, and within, regulated and unregulated providers.
- Any growth in unregulated provision will increase access to justice, especially for those with lower incomes, but it brings the potential for increased risks. This is because there are fewer protections and routes to redress for poor quality and services when using a provider not subject to regulation.

### *Next steps*

Our Board will take the findings of this research into account later this year, along with other recent research such as our evaluation of the Transparency Rules, when considering potential changes to our regulatory requirements.

These findings will also inform how we and others help consumers to understand regulation, for example, by encouraging consumers to use the public legal education resources provided by the regulators, for example Legal Choices [<https://www.legalchoices.org.uk/>], and through our engagement with consumer bodies.

And we will continue to engage with other regulators and self-regulatory bodies to build on this evidence and consider how we can support consumers to access justice.

We have published the findings [<https://www.sra.org.uk/sra/research-publications/consumer-segmentation-research/>] from the consumer segmentation research conducted by Bayes Business School for us. Together these findings improve our understanding of the supply and demand for services and therefore give us a better understanding of access to justice gaps. For example, this research shows there is a good supply of services to write

wills but less so in other areas of tailored legal advice/services. And it shows that unregulated services are more likely to be used by those on lower incomes.

Frontier Economics suggested further research options such as periodically tracking key indicators of potential issues in the market. We currently track some of these issues as part of our horizon scanning work. We plan to explore the benefits of their suggested options, engaging with other stakeholders where appropriate.