

Tracker Survey 2013

Briefing note 1: Usage and funding of legal services

Key findings:

- Use of legal services has risen since last year largely due to a pick-up in the conveyancing market, but personal injury continues its steady decline
- The family market is being transformed by fixed fee deals – over a quarter of work in this area is now billed this way; this has risen sharply since 2012
- Consumers value choice in the legal aid system; people are more likely to shop around when funded through legal aid than when paying privately
- The BME population is more likely to rely on funding through legal aid and no win no fee agreements than the White British population, suggesting the LASPO reforms may have a disproportionate impact
- The majority of consumers whose work is funded by insurers are dissatisfied with the extent of their choice of legal representative

Survey methodology

For the last three years the Panel has commissioned YouGov to conduct an annual tracker survey in two parts: a nationally representative sample (1,762 adults); and a sample of people who have used legal services in the last two years (1,462 adults). Booster samples were obtained for Wales and BME groups. All the figures below have been weighted and are representative of all GB adults (aged 18+). The results have been tested to the 95% confidence level – we are 95% confident that these findings are not due to chance. Fieldwork for this year's survey took place in 20-29 February 2013.

Usage of legal services

30% of the general public in England and Wales used one or more legal services in the last two years. This equates to approximately 6.4m people per year. This is more than in 2012 (27%) and slightly less than in 2011 (31%).

The most commonly used legal service is conveyancing, which is now back to 2011 levels reflecting a pick up in the housing market. Of note given the litigation funding reforms, 2.5% of the public have made a personal injury claim in the last two years. Overall this continues a slight decline across the three years of the Tracker Survey (2.8% in 2012, and 3.4% in 2011). This can be expected to fall further in next year's survey after which the LASPO changes may start to be observed.

There are ethnic differences in use of legal services across the population, which require further exploration. One example is levels of will ownership where some parts of the community are far less likely to have planned for the future by making a will.

Estimated annual transactions per year (to nearest 25,000)

(Figures extrapolated from Tracker Survey based on Census population data)

Area of law	Transactions
Conveyancing	575,000
Will-writing	450,000
Power of attorney	250,000
Family	250,000
Probate	200,000
Housing	175,000
Personal injury	175,000
Immigration	125,000
Tax/benefits advice	125,000
Consumer problems	100,000

Chart 1 – Usage of legal services, 2013

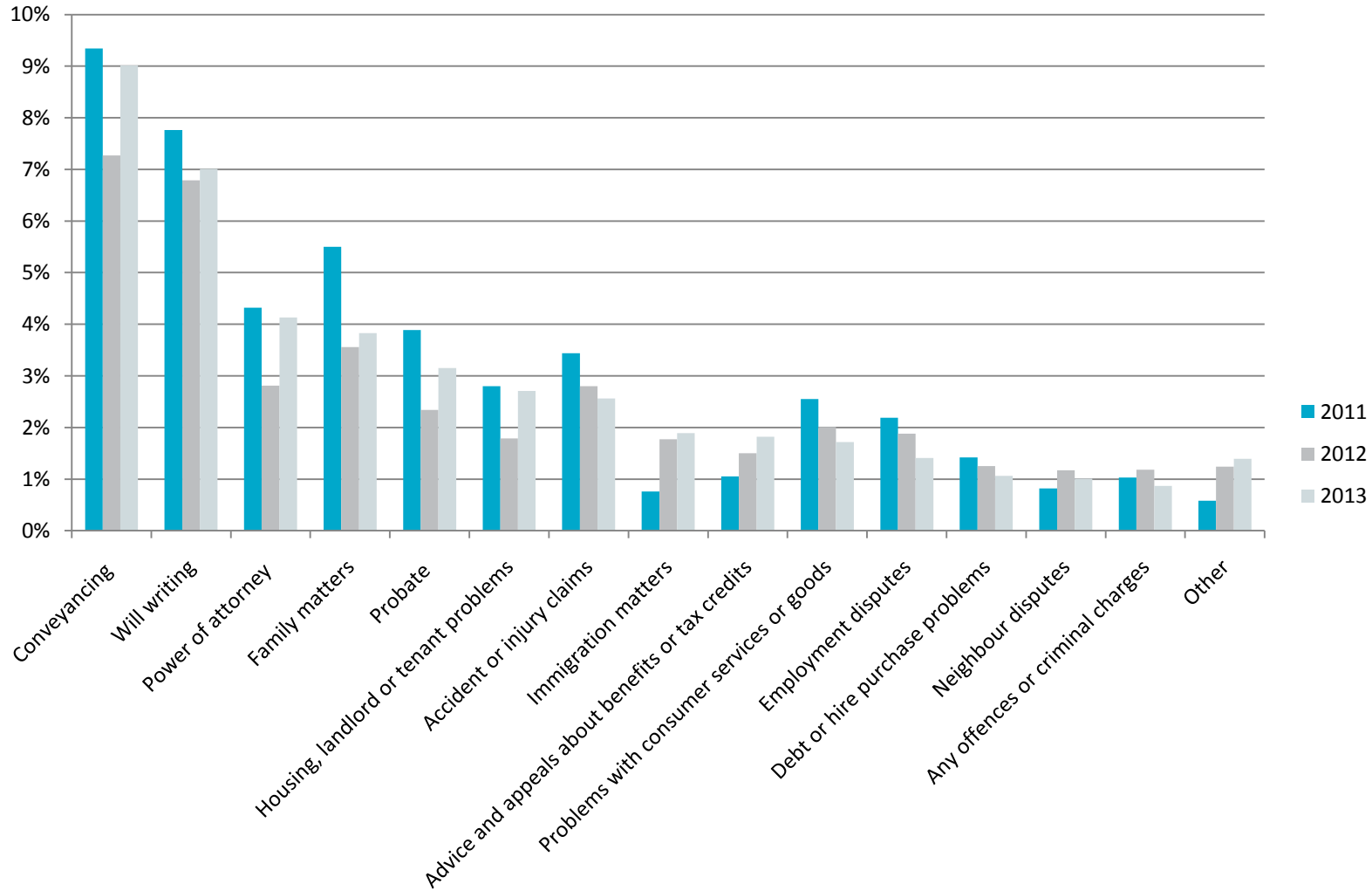


Chart 2 – Not used legal services in last two years, 2013

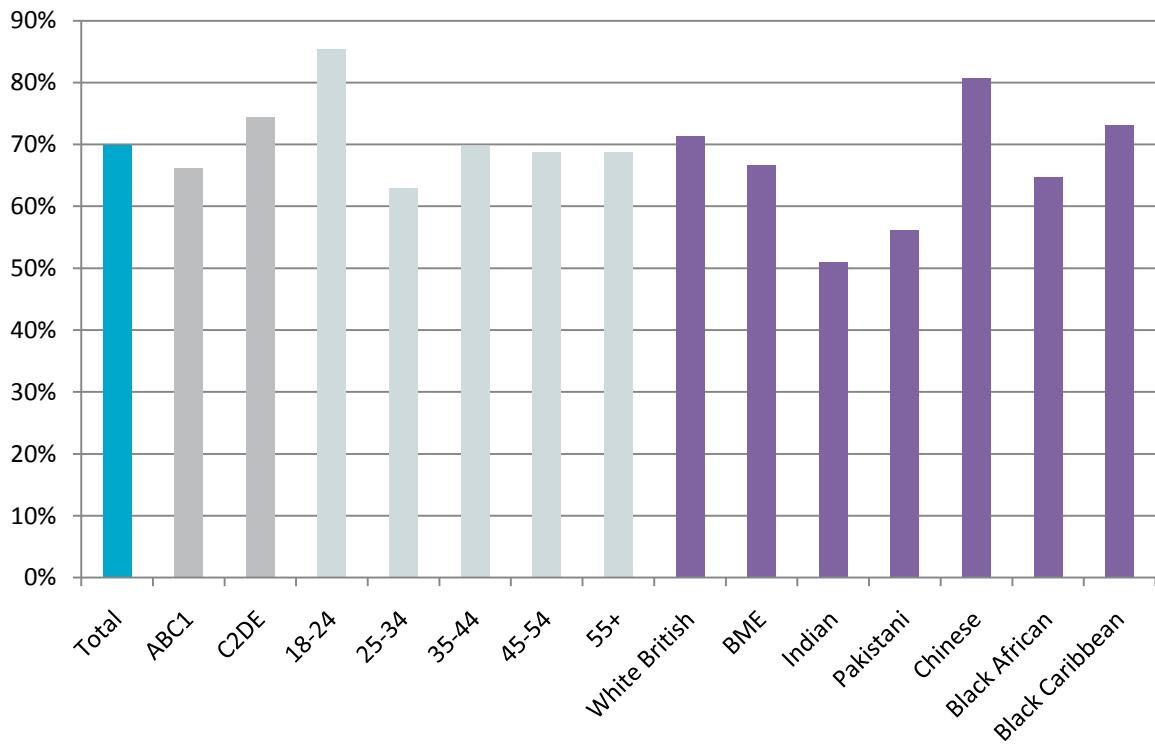
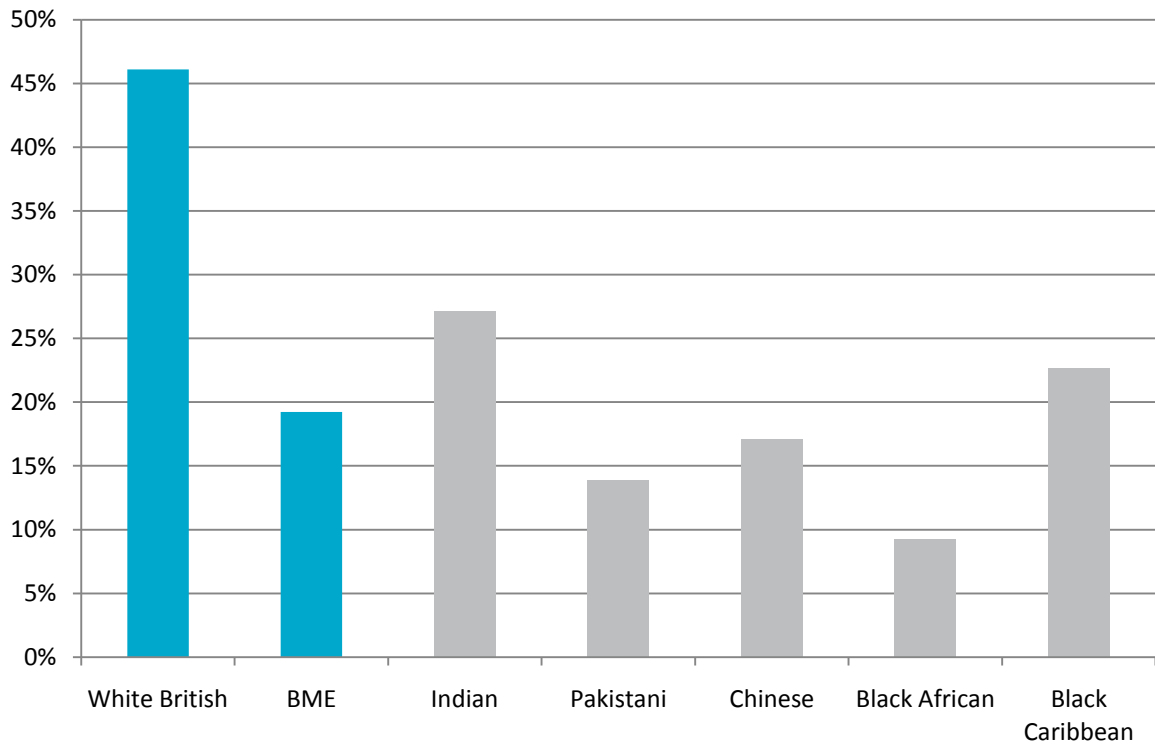


Chart 3 – Will ownership across population, 2013



Funding of legal services

Sources of funding of legal services have remained largely stable over 2011-13, with currently 60% of consumers paying privately. Numbers of people obtaining free help via legal aid (5-7%) and the not-for-profit sector (8-11%) have increased over this period. Therefore, a significant proportion of people do not pay upfront for legal services, although these costs are absorbed into public taxation and insurance premiums etc.

As expected, conveyancing, power of attorney and will-writing services are most likely to be paid for privately, while probate and family work also exceed the average across all legal work. In the areas of legal work where reliable data is available, legal aid occupies higher proportions in family matters and housing, landlord and tenant disputes. Less than one in five (19%) employment matters are privately funded; instead almost one quarter (24%) of this work is funded through employers, with free services other than no win no fee (19%) and trade unions (16%) also being common funding sources. No personal injury work is currently privately funded. Insurance (41%) is the most common funding source for personal injury, followed by no win no fee agreements (26%), free services other than no win no fee (16%) and trade unions (9%).

Chart 4 – Sources of funding, 2011-13

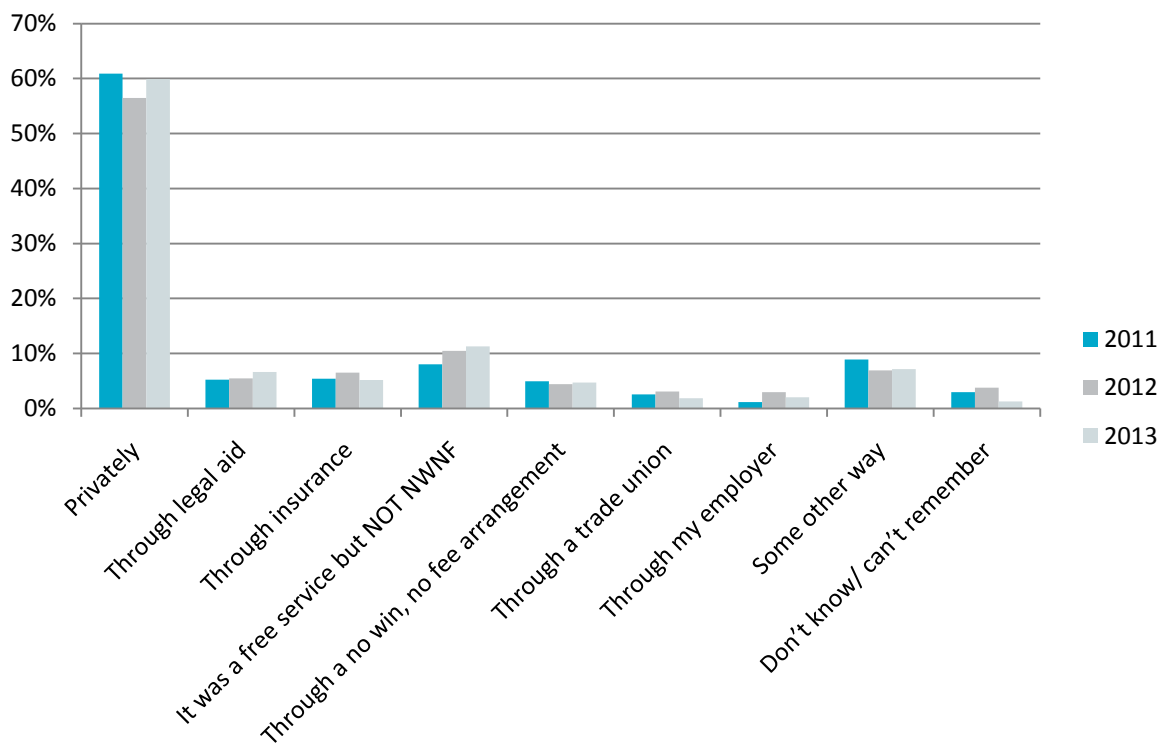
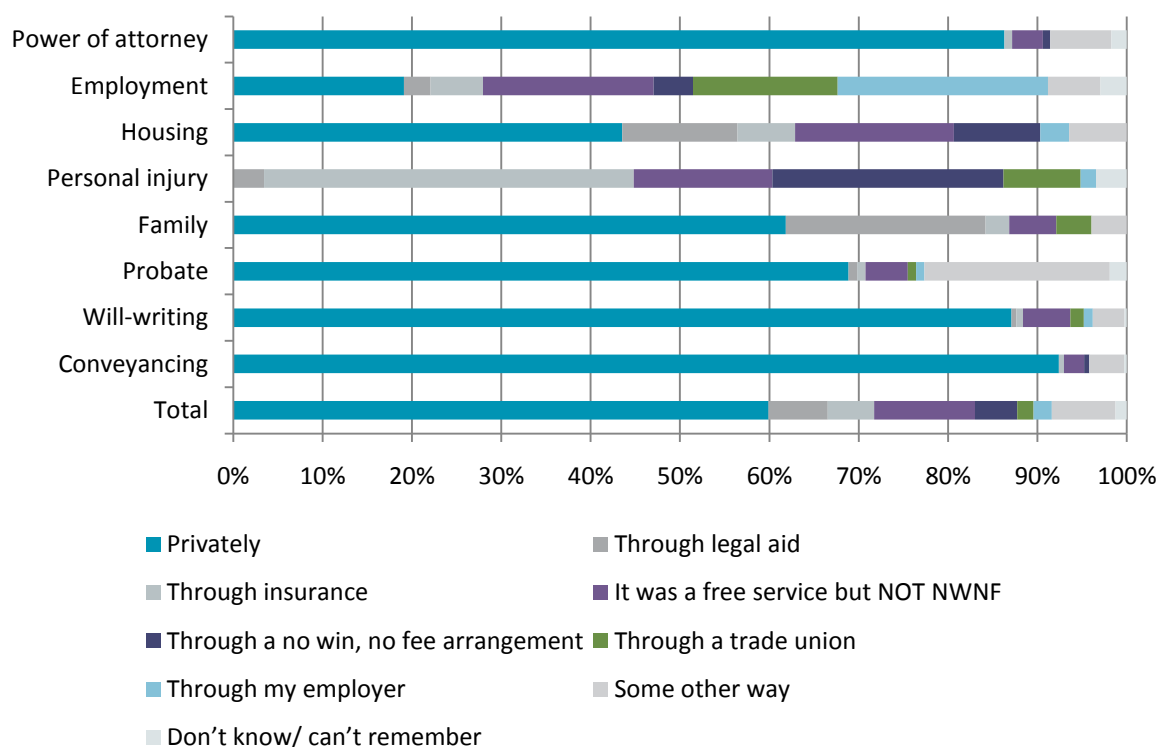


Chart 5 – Funding source by type of legal work, 2013



Population differences

There are some notable differences in funding sources across the population. These are likely to reflect general differences in wealth and type of legal work (e.g. consumers on low incomes are more likely to need legal advice in relation to benefits).

For example, as expected 64% of ABC1s pay privately compared to 50% of C2DEs. Perhaps harder to explain are some wide ethnic differences: 67% of White British people pay for legal services privately compared to 44% of the BME population; 14% of legal services used by the BME population are funded through legal aid compared to just 3% of White British people. Similar differences are seen for use of no win no fee agreements (3% of White British and 9% of BME). Legal aid changes and litigation funding reforms implemented in April 2013 thus may have a disproportionate impact on BME groups.

Delivery channels

Delivery channels for legal services vary by funding source. Of note, over 90% of insurer-funded work is delivered remotely and this may help to explain disappointing levels of service satisfaction (see briefing note 3). Face-to-face advice is most prevalent for work funded through legal aid; this may reflect a range of factors including the more emotionally sensitive nature of these needs, the existing provider model and the key role currently played by advice agencies in delivering legally aided work.

Chart 6 – Funding sources and population differences, 2013

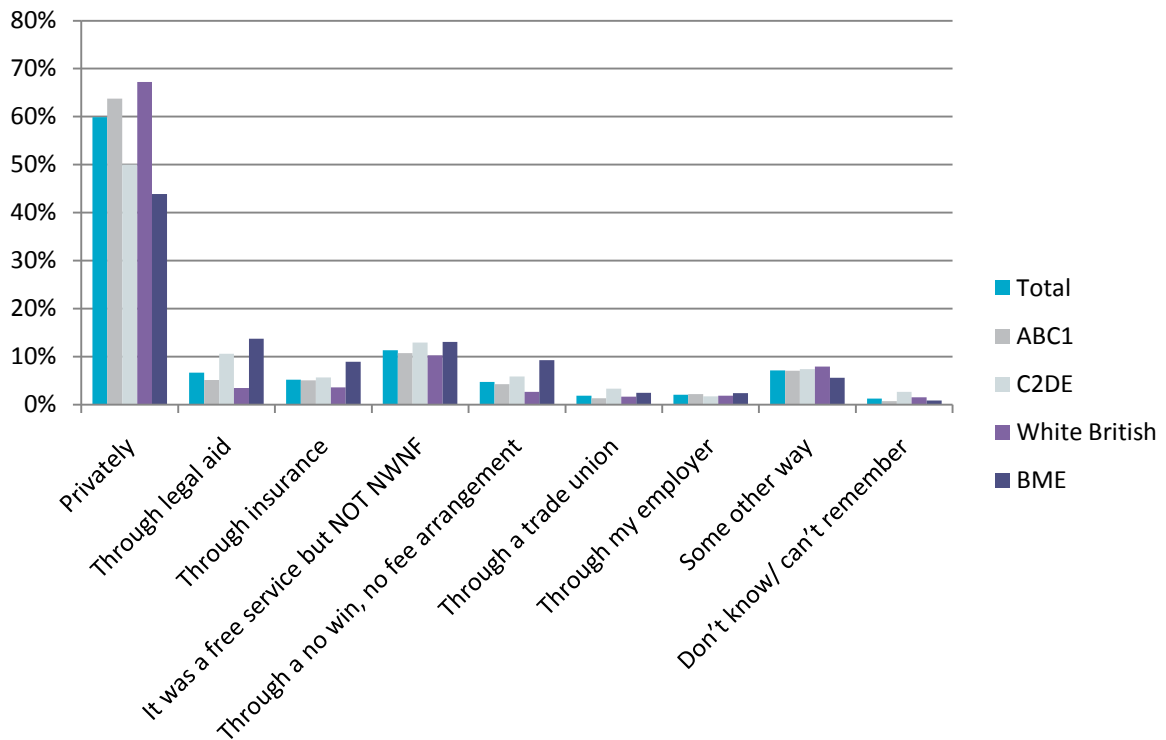
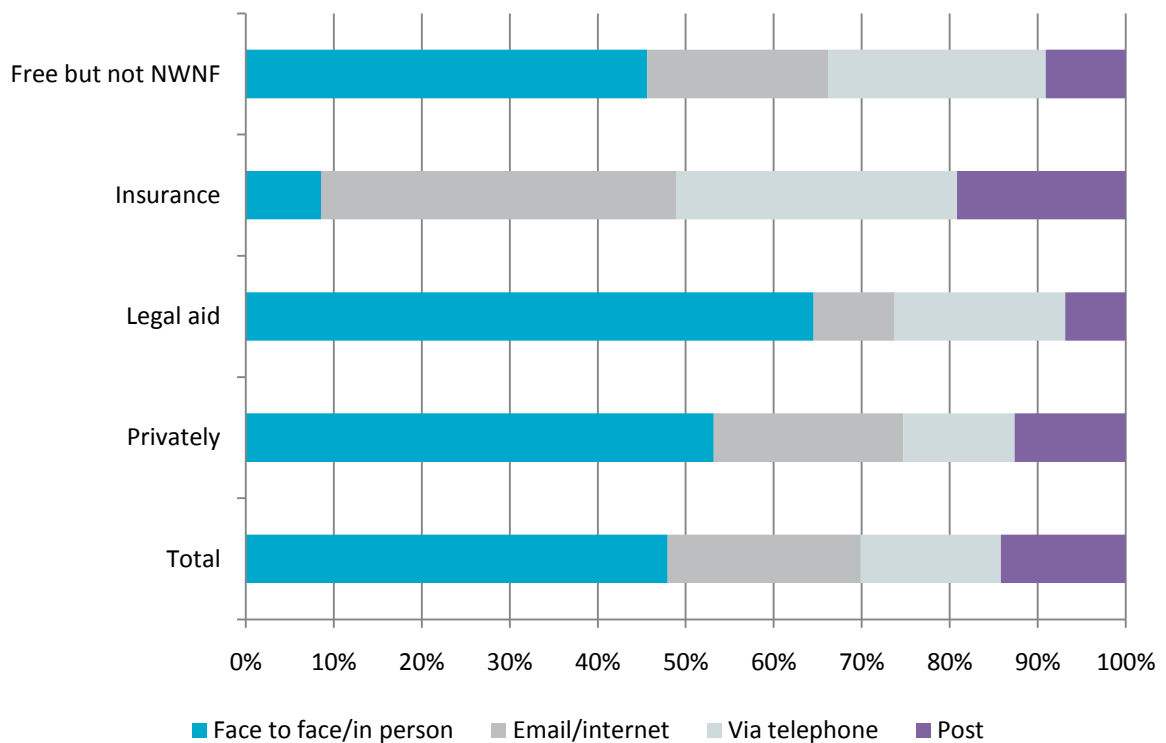


Chart 7 – Funding sources and delivery channels, 2013



Influence of funding on competition

Choice

While nearly three quarters (74%) of consumers are satisfied with the available choice of providers, this is true of less than half of work funded by insurers. 44% of people getting employment advice and 42% probate advice felt they had little or no choice of provider.

As highlighted in previous editions of the Panel's Consumer Impact Report, there has been concern about how clearly insurers communicate to policyholders their right to choose their own legal representation. There has been controversy over lender panels for conveyancing work restricting choice for consumers. Our work on will-writing has highlighted problems around providers pressuring clients to name them as an executor and thus enjoy lucrative returns from the estate administration work that follows.

Legal aid

Half of people receiving legal advice through legal aid felt they had a good or fair amount of choice of provider, suggesting that consumers still value choice despite not paying for the service. Furthermore, people are more likely to shop around when funded through legal aid than when they pay privately. This may be explained by positive or negative reasons. On the plus side, legal aid clients have access to lists of providers thus aiding choice, while comparison websites are little used by consumers in the private sphere. However, legal aid providers may reject consumers due to quota volumes of matter starts being met or assessments of profitability, thus forcing people to search around.

Levels of service satisfaction are similar for legally aided (83%) and privately funded work (80%) despite the former operating in more contentious areas of work where satisfaction might be expected to be lower. This may be partly explained by the historic emphasis on quality assurance controls in the legal aid regime.

These findings have implications for the current legal aid proposals, which would remove from people accused of an offence the right to choose their own legal representation. The Panel is firmly opposed to this specific element of the proposals which we consider is wrong in principle and not the most effective means to drive competition in the market.

Chart 8 – Perceptions choice by funding method

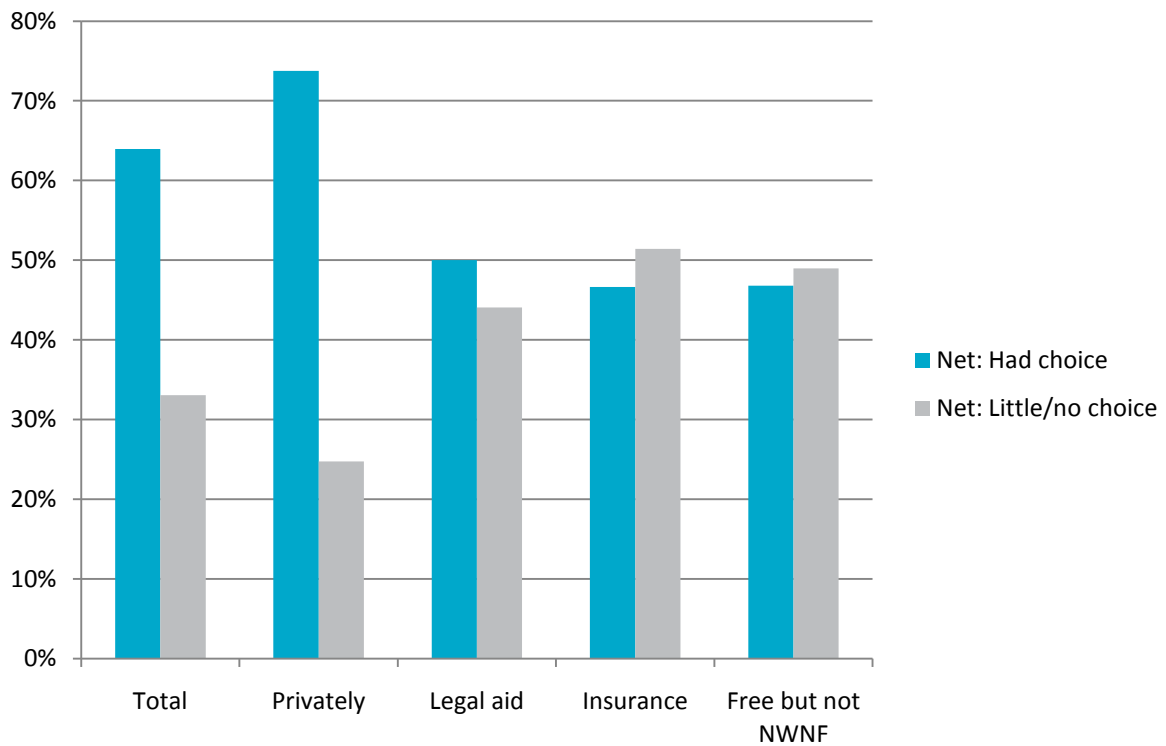
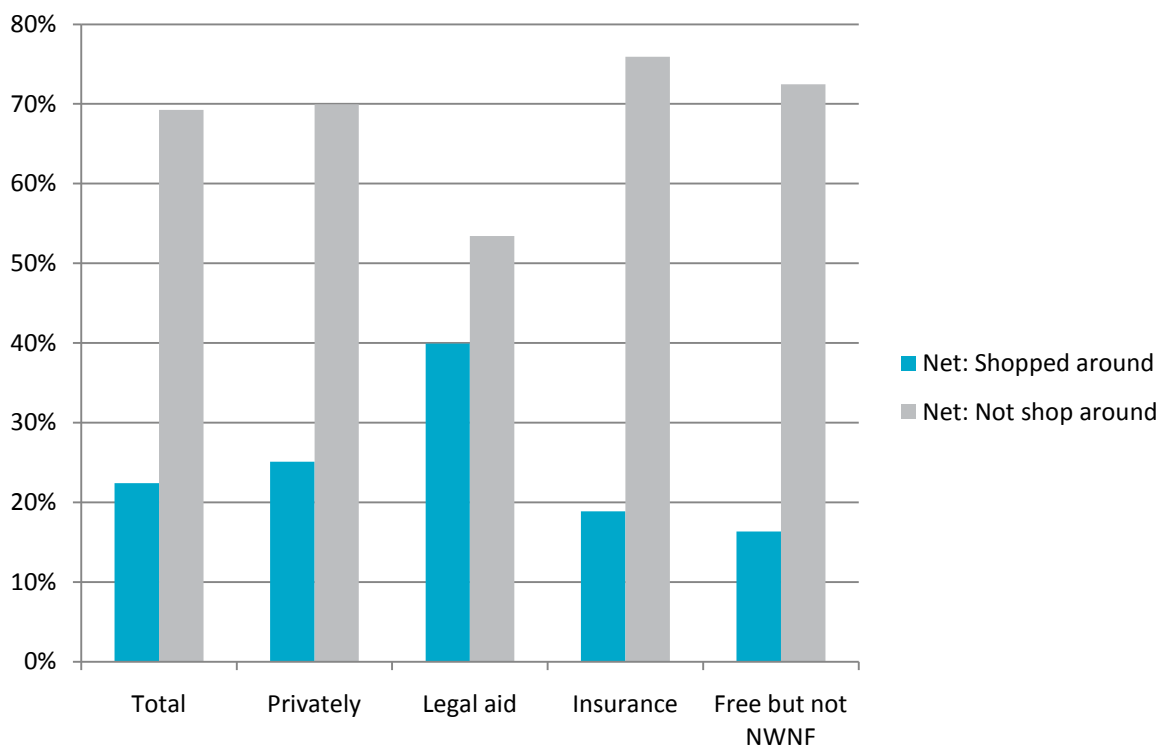


Chart 9 – Funding method and shopping around



Billing methods

The proportion of legal services billed in fixed deals has risen from 38% to 42% over the last twelve months. Less expected, the proportion of hourly rate deals has also risen. This is counterbalanced by a reduction of free/no cost deals and more people who stated they didn't know or couldn't remember.

Fixed fees are more common in some areas of law than others, being most prevalent in will-writing, power of attorney, conveyancing and probate. There has been a marked rise in the proportion of fixed fee deals in certain areas of law, most notably family (6% to 26%), probate (12% to 30%) and housing (19% to 29%).

As expected, consumers are more likely to shop around where there are fixed fee deals as it is easier to compare like with like. Furthermore, 87% of consumers paying a fixed fee were satisfied with the service they received compared to 73% of those paying by an hourly rate (which has also fallen from 79% since 2012).

Chart 10 – Rise of fixed fee deals

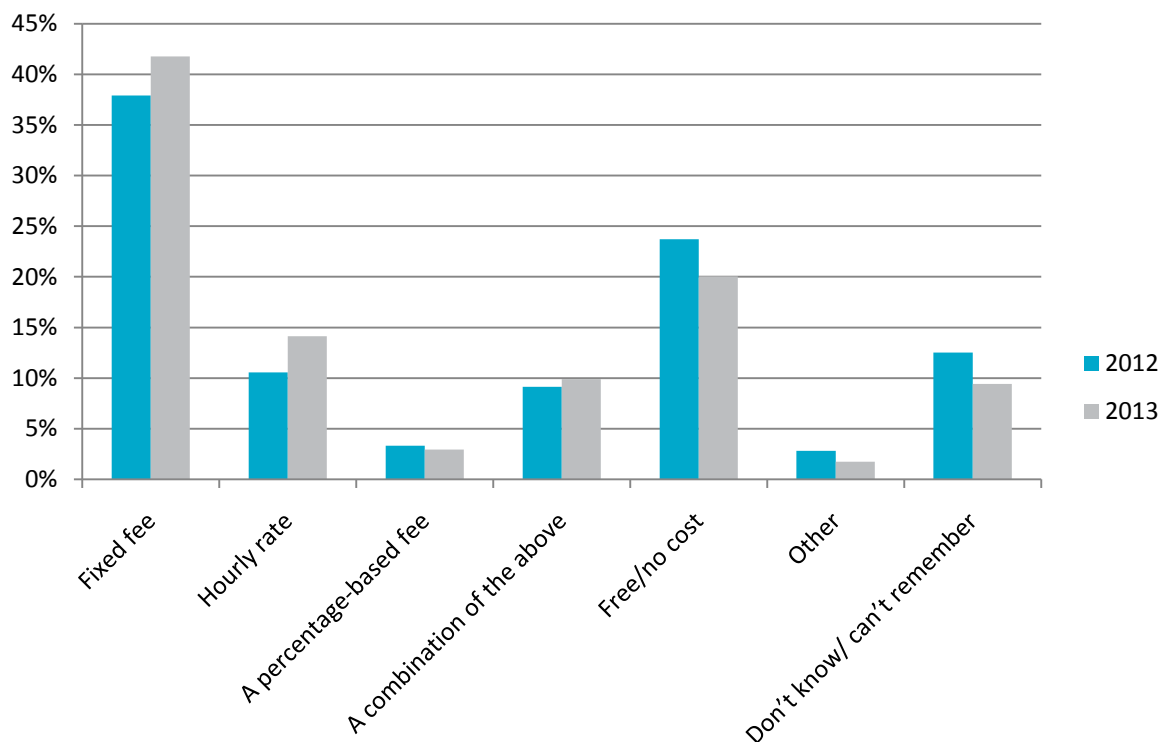


Chart 11 – Fixed fees by area of law

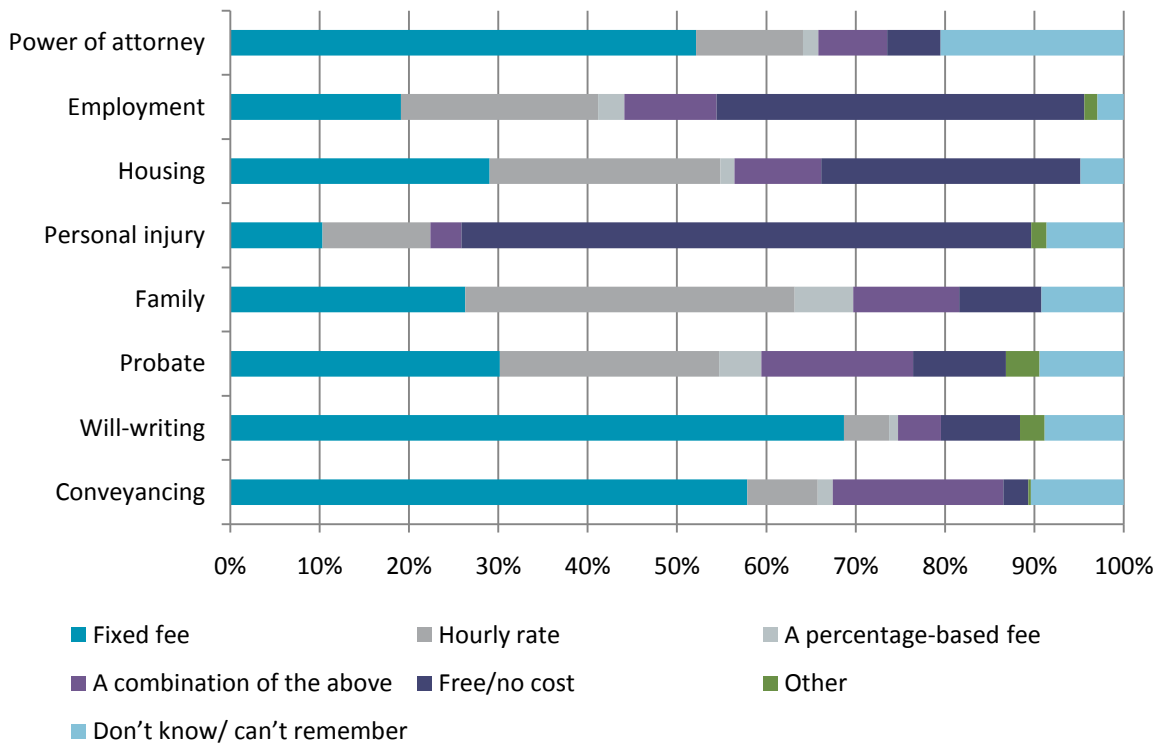


Chart 12 – Fixed fee and shopping around

