Segmenting Consumers:

understanding the needs of legal services consumers.

Consumer challenge

March 2017

About Consumer Challenge

Our Consumer Challenge series is designed to create a space for fresh thinking where the Legal Services Consumer Panel can stimulate debate, question the received wisdom and propose new solutions to old policy issues. These documents do not necessarily represent the Panel's final policy position, but instead allow us to test ideas and spark discussion.

Other publications in the series:

- Legal Education and Training Review
- Third party complaints
- Empowering consumers – Phase One report to the Legal Services Board
- Risk and responsibility
- Breaking the maze: Simplifying legal services regulation
- The consumer interest
- Remapping consumer redress
- Recognising and responding to consumer vulnerability
- 2020 Legal Services – How regulators prepare for the future

Contents

1 Introduction

1.1. It is increasingly apparent and accepted that the problem of access to justice and unmet legal need is significant and nuanced. There is no single solution that will benefit all. Services will need to be tailored to the needs of different groups of consumers and we are already seeing the market respond in this way. For example, reforms which enable consumers to approach a barrister directly are targeted at those who wish to manage parts of the case themselves.

1.2. In recent years the Panel's work has highlighted the emerging role of consumer segmentation. Our joint research with the Legal Services Board (LSB) on 'Unbundling Legal Services' shone a light on the need for the legal sector to accept that different problems require different solutions. We have begun to refer to the process of identifying these varying needs and solutions as consumer segmentation. This may not yet be a phrase that is common in legal services, but its meaning and relevance should be in no doubt.

1.3. Previous Panel research and data from the Panel's annual Tracker Survey have identified a variety of problems, needs and behaviours which are attributable to specific groups of consumers. We made a commitment in our 2016-17 work programme to consider these issues as they relate to these groups of consumers in more detail. For example: there has been a gap in satisfaction between BME users and White British shown in our Tracker Survey for the past six years. By focusing on these areas, we can start to identify or understand differences, where they may exist, why that may be, and whether there is anything regulators and providers can do to tackle the problems or tailor their solutions more effectively.

1.4. As the frontline regulators build their risk frameworks, they should be seeking to ensure that they are taking segmentation of consumers into account. We believe that they should be doing what is necessary to understand the risks in relation to each segment and tailoring their actions effectively to mitigate those risks.

1.5. This paper explores how consumer segmentation can be used by the frontline regulators in their work. We explain segmentation in relation to legal services and provide examples from our own research and from other sectors to demonstrate its value. Lastly, we offer a note on proportionality and practicality. We recognise that the frontline regulators are not all sufficiently equipped to carry out large-scale or data-heavy modelling exercises, nor will this always be necessary, but there are ways to use existing resources to good effect.

2 Why should regulators segment consumers?

2.1. Segmentation has traditionally been used as a marketing strategy, dividing a broad target market into subsets of consumers that have, or are perceived to have, common needs, interests and priorities. Using these categories, you can design and implement strategies to target them. Segmentation by demography uses variables such as age, gender, occupation and education level, or according to perceived benefits a service may provide. These characteristics can also combine with behaviours so as to gauge the differing groups' knowledge, attitudes or responsiveness.

2.2. Segmentation is not new to the legal services market, although its previous focus has been in understanding different businesses or providers within the market[1]. However, the same segmentation principle is applicable to consumers. Consumer segmentation enables both regulators and providers to identify those consumers who are likely to face significant detriment, to tailor solutions, and to evaluate whether solutions are having the desired effect. In our research we've seen people segmented by: capability, literacy, technological skill, individual understanding of legal matters, disabilities affecting communication, ethnic background, and case factors i.e. whether a case is complex or contentious.

2.3. Regulators can use the segmentation approach to devise messaging and communication tools that are better targeted to different groups. There is scope to

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[1] https://research.legalservicesboard.org.uk/news/market-segmentation/

develop the approach for many regulatory applications, including (but not limited to):

- *targeting consumer information* – such as changes to legislation or rules which impact particular groups of consumers

- *developing enforcement policies* – building information about the types of consumers using particular services to inform enforcement processes and target any remedies appropriately

- *tailoring authorisation processes* – using the initial authorisation process to identify firms' potential risk level based on the type of consumer they may be dealing with

- *identifying areas of unmet need* – understanding more about why consumers do not use a legal services provider, through choice or not, to explore whether there is a regulatory remedy available

- *identifying levels of satisfaction* – understanding why some consumer segments are less satisfied with the services they receive than other segments

2.4. There are also benefits for providers of legal services in that segmentation can:

- identify opportunities to offer consumers different methods of service delivery at different prices,

- help identify new needs,

- identify opportunities to innovate in order to meet those needs, and

- help deliver better tailored service to cohorts of consumers e.g. vulnerable consumers.

2.5. While this paper focuses on the benefits for regulators in embracing segmentation, it also touches on how regulators might encourage legal practitioners to provide the best possible service for their clients by using this approach.

3 Segmentation in legal services

How the Panel has used segmentation

3.1. The Panel has used segmentation to explore the experiences of different users of legal services and in turn identify risks. Each year we publish our Tracker Survey[2] to give an indication of people's perceptions and experiences when choosing and using legal services. Alongside briefings which comment on the state of the market and to what extent the reforms of the Legal Services Act are producing good outcomes for consumers, we produce a version focusing specifically on the differences for Welsh and English users.

3.2. This year we have also focused on the experiences of the Black and Minority Ethnic (BME) communities[3]. Using data from the Tracker Survey, supplemented by wider research, we looked at how the actions of choosing and using a legal service differed for the various ethnic minorities. For example, BME users are more likely to actively shop around for a provider that was a specialist in the area of law they were dealing with, but they find it harder to do so. There are also significant variations in end of life planning; Black Africans and Pakistanis are far less likely to

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[2] For the last six years the Panel has commissioned YouGov to conduct an annual survey in two parts: a nationally representative sample (1,864 adults); and a sample of people who have used legal services in the last two years (1,523 adults). Booster samples were obtained for Wales and BME groups. All the figures 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.
[3]
http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/2016%2011%2015%20TS_BME%20user%20experiences.pdf

have prepared a will than White British users. These variations signalled work to be undertaken by the frontline regulators and the representative bodies in order to ensure all users of legal services are getting equal treatment.

3.3. Over the years the Consumer Panel's Tracker Survey and other research has made us more aware that one size does not fit all in relation to consumers of legal services, nor is there a single solution to increase access to justice. We can no longer see consumers or litigants in person as homogenous groups, and must instead try to drill down and identify the different groups of legal service users in order to support regulators, advice providers, government and the profession to better serve their needs.

Segmentation: a case study in legal services

3.4. In order to illustrate how consumer segmentation can work for regulators, we have looked at previous work within the sector and what it offers. In 2015 the Consumer Panel explored the use of online self-help tools in a research piece comparing methods of service delivery in divorce cases.[4] While sample sizes were small, the research allowed some comparisons between the different groups in terms of their experience of the service.

3.5. The findings of this research revealed there was a high degree of self-selection, with consumers making rational choices based on factors beyond cost. The online divorce route appeared to work well for those with good technological skills and with less complex and more consensual divorces. For others, it would be less suitable and was less likely to be the chosen route.

3.6. We saw a similar outcome when looking at the experiences of those who used unbundled legal services. In its simplest terms, 'unbundling' separates a package of

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[4] BDRC Continental, Comparing methods of Service Delivery: a case study on divorce, March 2015

legal services into parts, with the client and lawyer agreeing what parts each will do. Our Tracker Survey suggests that around one in five transactions include some element of unbundling. But further research showed that unbundling services primarily benefits consumers with good literacy and capability and those looking to reduce costs and maintain a degree of control, rather than those for whom money is a barrier to accessing legal services. This is significant if unbundling is to be used to increase access rather than purely to reduce cost. It reinforces that unbundling isn't a one size fits all approach and that different levels of support will need to be offered to different groups of consumers.

3.7. The Legal Services Board's (LSB) most recent large scale legal needs survey found that in 18% of cases where people had legal issues, they did nothing. A further 46% of respondents handled the matter alone or with the support of friends or family. The driving factors behind response types were whether people recognised the issues as legal, the type of issue faced, and perceptions of cost. Understanding the varying barriers to people accessing legal advice and services - and whether they impact differently on different groups of consumers - is critical to being able to overcome them.

3.8. As regulators look to the future, they will need to be more flexible in the face of new and emerging business models. Being able to identify where groups of consumers are not able to benefit from developments enables regulators to work with the regulated community to maximise access and benefit.

Complementing existing risk frameworks

3.9. Earlier we noted that segmenting consumers enables regulators to better identify risks proactively, and to target any regulatory action. One of the pillars of the regulatory standards framework is risk assessment. While several of the regulators have risk frameworks in place, the LSB's 2015 regulatory standards update report identified the following priority areas:

- the building of a useable evidence base to identify risks faced by consumers that use regulated legal services

- the development of learning programmes and tools to ensure that a consistent evidence-based assessment of risk informs all regulatory processes.

3.10. Segmenting consumers can support frontline regulators in achieving both of these aims. It also reinforces the fourth regulatory objective: protecting and promoting the interests of consumers. Nonetheless the Consumer Panel recognises that there will not be a one size fits all approach to segmentation. This is due to the different resourcing capabilities of frontline regulators, and the different stages they are at in terms of developing risk assessment tools.

4 Consumer segmentation in other sectors

Financial Conduct Authority and Consumer Spotlight

4.1. The Financial Conduct Authority (FCA) created Consumer Spotlight, a segmentation model of retail financial consumers. It looks at how people in the UK deal with money and financial services, focusing on the capabilities and potential vulnerabilities of ten different groups. These groups are:

- Retired with resources
- Retired on a budget
- Affluent and ambitions
- Mature and savvy
- Living for now
- Striving and supporting
- Starting out
- Hard pressed
- Stretched but resourceful
- Busy achievers

4.2. The model makes it easier for the FCA to identify the potential impact of emerging risks affecting different types of consumers who own different products in different markets, and to target its resources and communications effectively. In its report, the FCA noted *"…we have used the data to build up a profile of the typical victim of financial scams, and we have been able to use this to target our communications. We may also use Spotlight data to develop our supervisory view of firms and their customers, or for our enforcement work when exploring the relationship between firms and their consumers."*

4.3. One of its key uses has been in response to reforms to pensions rules. The FCA identified the Retired with Resources group as being at higher risk of being victims of financial scams than other groups, allowing it to target its ScamSmart campaigns using the preferred communication channels to make people aware of the potential risks. It holds the potential for further work however, such as developing financial literacy tests to support advisers' suitability assessments or tailoring suitability letters.

4.4. The data is open and available to download, so financial businesses are also able to access it to design products and communications that work well for different, specific consumers.

Money Advice Service and advising the over-indebted

4.5. In 2012 the Money Advice Service (MAS) identified a population of approximately 8.8 million people in the UK who were classed as over-indebted. These were people who either felt their debt to be a heavy burden, or who had missed out or fallen behind on credit payments for 3 out of the last 6 months. Together, this group represents 18% of the UK population, and encompasses people with vastly different needs in terms of level of financial difficulty, family situation, knowledge and access to advice, and propensity to take advice.

4.6. In order to deliver more targeted services, MAS commissioned Public Knowledge to run a large scale (5,000 interviews) quantitative survey which asked, similar to the FCA, a number of attitudinal and behavioural questions. The data was then used by Experian in conjunction with existing segmentation and demographics to produce a model with eight distinct groups of people:

- Struggling students

- First time workers

- Optimistic young workers

- Low wage families

- Stretched families

- Worried working families

- Benefit dependent families

- Uncomfortable retirees

4.7. MAS looked for the similarities and differences across these segments to enable a better understanding of how to engage with the population as a whole. It identified that optimism and confidence played a large part in any individual's willingness to engage with advice and take action. Alongside generally low levels of knowledge across the segments, the behaviours helped to inform MAS's understanding of how the debt advice sector could increase the take up of advice and better engage individuals throughout the process. They proposed designing strategies that supported several segments based on shared behaviours or attitudes, for example encouraging better provision of advice delivered by email for segments which featured families working full time who didn't necessarily have the time to visit or contact a provider during normal working hours.

Department of Business, Innovation and Skills and the consumer empowerment study

4.8. The Department for Business, Innovation and Skills (now the Department for Business, Energy & Industrial Strategy) has focused on how it can further empower all groups of consumers, with a particular interest in helping those that are currently struggling to engage fully with the market. In autumn 2014 BIS commissioned GfK NOP to carry out research to identify different groups of consumers – to gain a better understanding of attitudes, motivations and behaviours of each group, and to build a stronger picture about their characteristics and engagement levels: particularly those consumers in vulnerable situations and/or on low incomes.

4.9. In the report identified five segments of consumers from least to most empowered, looking at the differences in their decision making, internet usage, and likelihood of

shopping around or trying new things. BIS hopes that the results may be used to help identify issues in markets and to inform future policy interventions effectively.

The Better Care Fund 'How to' Guide on Population Segmentation, Risk Stratification and Information Governance

4.10. The Better Care Fund Taskforce (comprising of the Department of Health, Department for Communities and Local Government, Local Government Association and NHS England) is a programme created to improve the lives of some of the most vulnerable people in our society, placing them at the centre of their care and support, and providing them with 'wraparound' fully integrated health and social care, resulting in an improved experience and better quality of life. It produced a technical toolkit for healthcare providers to support population segmentation, risk stratification and information governance.

4.11. This forms the first of a series of toolkits, and is designed to underpin the first step in robust planning: understanding the population. The guide sets out how population segmentation enables the design of new models of care as well as a more preventative, proactive approach in healthcare provision. Populations can be segmented by age and condition, or through risk stratification. Risk stratification identifies the typical profile and care needs based on how likely they are to use services, typically using data relating to previous admissions and age. This enables providers to identify those patients which need to be prioritised for proactive preventative care.

4.12. While this model is designed for frontline care providers, the underlying principles and benefits it sets out are transferrable to legal services.

5 Proportionality and practicality

5.1. Any segmentation exercise must be proportionate and practical. We recognise that the resources available may well prevent anything other than high level segmentation exercises. But there should be sufficient commonality of issues across the sector to warrant collaboration amongst frontline regulators to conduct a proportionate approach.

5.2. We can also learn from and build on previous research. For example, research into the experiences of deaf people when using legal services[5], and research into the experiences of people with learning disabilities when using legal services[6], both made recommendations which centred on developing information resources that are easy for vulnerable groups of consumers to access and understand. This suggests that the practical solutions to meeting the needs of various consumer groups may in fact be common or similar. Whilst consumer segmentation is a sophisticated approach to assessing need, small, simple solutions to meeting those needs are often the most effective.

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[5] Deaf Studies Trust, *Legal Choices – Silent Process: Engaging legal services when you do not hear*, 2012
[6] Norah Fry Research Centre and Bristol University, *What happens when people with learning disabilities need advice about the law?,* 2013

6 Next steps

6.1. Further exploration of consumer segmentation would have a direct and positive impact on the implementation of the recent Competition and Markets Authority's transparency recommendations to all the frontline regulators[7].

6.2. The initial focus of further work could be to determine the level of segmentation that is both feasible to achieve, and which improves frontline regulators' understanding of barriers, risks and solutions as they impact on different groups of consumers.

6.3. The Panel is keen to support the regulators in this work. To this end we intend to explore the feasibility of a cross-sector event to advance discussion on an approach to consumer segmentation in the legal services sector. We hope this will provide an opportunity for all the regulators to come together to consider common issues and potential joint working.

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[7] In 2016, the CMA published am assessment of the legal services market and found that competition was not working well because of a lack of consumer engagement and transparency. It recommended a host of information remedies. The Panel has since published a report noting that one criteria for successful implementation of these information remedies is understanding the role that segmentation plays in identifying when solutions might need to be tailored fir different groups of consumers.

The Legal Services Consumer Panel was established under the Legal Services Act 2007 to provide independent advice to the Legal Services Board about the interests of consumers of legal services in England and Wales. We investigate issues that affect consumers and use this information to influence decisions about the regulation of legal services.

Consumer Panel Members

Elisabeth Davies (Chair)

Andy Foster

Cathy Gallagher

Dr Michelle Goddard

Frances Harrison

Dr Philip Marsden

Marlene Winfield OBE

Secretariat

Lola Bello

Stephanie Chapman