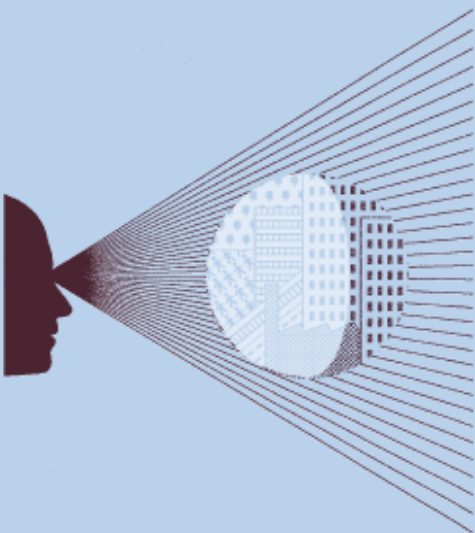


A framework to monitor the legal services sector

Prepared for the
Legal Services Board

September 20th 2011



This study has been conducted in cooperation with the Legal Services Board. Assistance has also been provided by a number of legal service suppliers, Approved Regulators, trade associations, the Office of Fair Trading, and the Ministry of Justice.

Oxera is grateful for their contribution and assistance.

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Foreword from the Legal Services Board

The first step in wisdom is to know the things themselves; this notion consists in having a true idea of the objects; objects are distinguished and known by classifying them methodically and giving them appropriate names. Therefore, classification and name-giving will be the foundation of our science.

— Carolus Linnaeus

The Legal Services Act 2007 set out for the first time a framework for the regulation of legal services in England and Wales. While the Act maintained the different branches of the profession, it brought them together as being regulated as ‘approved persons’. The Legal Services Board (LSB) was also created to sit across all the regulators in the market. It is from this position we have taken to describe and categorise the different market so that it can be properly understood.

Later this year a new era of legal services regulation will commence with the introduction of licensing authorities to authorise Alternative Business Structures (ABS). Inevitably, the introduction of ABS will alter the structure of the provision of legal services and with far reaching consequences that we believe will increase competition and lead to a greater focus on the needs of the end client of legal services. The days in which it is enough to describe the provision of legal services by a simple calculation of the number of partners working in a firm will be, if they are not already, over. For example, how would this measure translate to a legal business owned by thousands of shareholders?

Given the dynamic changes taking place in the market and its regulation, the LSB chose to ask Oxera to consider how best data on the changing market could be captured in future.

The legal services market is hugely complex. Customer can be anything from an international corporate entity to a child, and the types of services required vary widely, from providing support to the Government in taking state control of banks, to providing advice for single parents on getting the right benefits. When we set out our framework for evaluating the impact of the reforms introduced through the Legal Services Act 2007, we recognised that the very complexity of the market and paucity of data posed the greatest challenge. Tackling the huge gaps in evidence required first a clear framework for analysis, to allow us to systematically collect data and evaluate the impact of regulatory changes.

Oxera’s approach looks at the legal services market by framing the provision of legal services by type of client, type of problem and the legal service activity. These three characteristics form the basis of data collection, and market insight. A law firm is grouped for analysis with other law firms providing the same services for the same types of client, they can then be differentiated in such a group by more traditional data – numbers employed turnover, etc. The market is defined by the features of competition within the market rather than simply the traditional legal structure of a legal firm. We believe that this represents a step forward in thinking for the sector, providing for the first time a credible framework for analysis and supports the development of new industry nomenclature, to understand and describe the changes taking place.

While the report is inevitably technical and theoretical – it describes the framework rather than illustrating any actual results from analysis of the sector – we believe that this represents an essential first step to understanding systematically how the provision of legal services is changing. This report will shape our future analysis and the measurement of changes in our evaluation. We would also encourage frontline regulators to consider how the data they collect fits within this framework of

analysis now and in the longer term, so that common regulatory risks can be identified and resolved effectively.

Inevitably as our understanding of the sector grows, particularly with our pilot studies, our application of the framework will develop. To support us in developing our approach, we would welcome any views on the approach taken in this report and its application. We would be grateful if feedback could be directed to Alex.roy@legalservicesboard.org.uk.

Alongside this report we are publishing pilot studies looking at the market for legal advice from firms based in and around the city of London and the provision of legal advice from third sector bodies. We believe that this report marks a major first step in our work to evaluate the impact of the Legal Services Act 2007 and understand the changing nature of legal services provision in England and Wales.

Chris Kenny
Chief Executive
Legal Services Board

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Glossary

Acronym	Definition
ABS	alternative business structure
ACCA	Association of Chartered Certified Accountants
ALCD	Association of Law Costs Draftsman
BSB	Bar Standards Board
CAB	Citizens Advice Bureau
CLAC	Community Legal Advice Centre
CLC	Council for Licensed Conveyancers
CMR	Claims Management Regulator
FSA	Financial Services Authority
ILEX	Institute of Legal Executives
IPREG	Intellectual Property Regulation Board
HMCPSI	Her Majesty's Crown Prosecution Service Inspectorate
LSB	Legal Services Board
LSC	Legal Services Commission
LSRC	Legal Services Research Centre
MoJ	Ministry of Justice
OISC	Office of the Immigration Services Commissioner
OFT	Office of Fair Trading
PII	professional indemnity insurance
SDT	Solicitors Disciplinary Tribunal
SRA	Solicitors Regulation Authority
TLS	The Law Society

1 Introduction

1.1 Objectives and remit

The Legal Services Board (LSB) commissioned Oxera to develop a framework within which to monitor changes in the legal services sector, with particular focus on the impact of regulation.

Regulation within the legal services sector is undergoing significant changes. The Legal Services Act 2007 established the LSB as a regulatory oversight body to reform and modernise the legal services sector in the interests of consumers, and, thereby, to enhance quality, ensure value for money and improve access to justice across England and Wales. The LSB seeks to achieve this goal by pursuing its regulatory objectives, and by overseeing the approved frontline regulators. In line with best practice, the LSB wishes to monitor the effects of any regulatory intervention as part of its overall evaluation strategy.

The legal services sector in England and Wales is diverse, employing around 137,000 authorised people¹ to provide a broad range of services to a spectrum of consumers, under different regulatory rules. Therefore, the full impact of many regulatory reforms is likely to be complex, with different implications within different legal services markets.

Where it is difficult to predict the overall impact of regulatory reforms, the LSB needs first to obtain data about the way in which legal services suppliers currently provide legal services, in order to understand how the market changes over time. This is likely to involve significant activity by the LSB, and engagement with industry stakeholders, such as the industry associations, Approved Regulators, the Ministry of Justice (MoJ), as well as directly with legal services suppliers and consumers.

This report presents a framework that can be applied to collect evidence in order to understand how the market is changing and to evaluate the impact of the Legal Services Act 2007 and the LSB. The framework segments the legal services sector into groups of markets that are likely to function in a similar way, identifies indicators of change, and provides practical guidance on how these can be measured using existing data sources and the cost of additional data collection. The framework also provides guidance on how to isolate, as far as possible, changes in the market driven by the LSB's actions from those occurring as a result of unrelated market trends.

1.2 Approach, scope and information sources

The framework presented in this report seeks to establish the following.

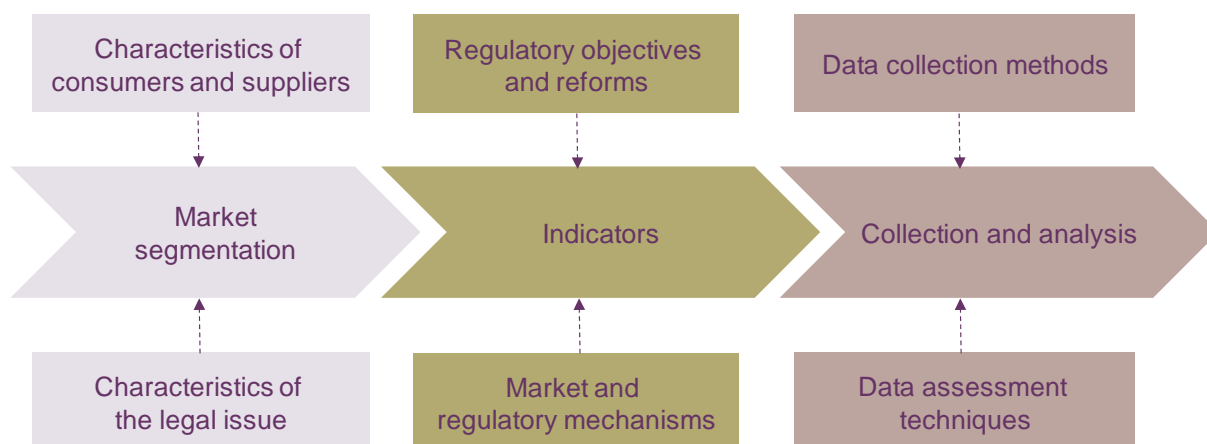
- **What to measure**—consumer experiences and supplier behaviour may vary between legal service transactions, for example, according to the characteristics of the consumer, the legal issue, and/or the supplier. Therefore, to capture changes across the sector, markets that function differently need to be monitored separately. This issue of market segmentation is considered in section 2.

¹ 'Authorised people' refers to legal services suppliers registered with an Approved Regulator to undertake the reserved activities defined within the Legal Services Act. This will exclude legal services suppliers who provide unreserved legal activities only—eg, trademark agents, claim management companies and paralegals. Data on authorised persons was provided directly by the LSB.

Section 3 addresses the other aspect of what to measure; namely, how to identify the topics and questions that need to be answered in order to monitor change, and thus the market indicators to be measured. For some questions, it is necessary to consider multiple indicators together—for example, when assessing the impact of specific changes to regulation. Section 3 provides additional guidance for when this is the case.

- **How to measure**—having identified what should be measured, the framework is extended to discuss how the indicators can be measured in practice (considered in section 4). Importantly, it considers what data can be obtained from existing sources and what may need to be obtained through surveys to law firms, other legal services suppliers, and consumers, for example. It also provides guidance on sampling and the interpretation of the data.

Figure 1.1 Framework to benchmark the legal services sector



Source: Oxera.

To provide a methodology that will allow the user to ask the right questions to monitor the impact of any change in the legal services sector (including to its regulation), the framework seeks to meet the following criteria.

- *Comprehensive*—regulation within the legal services sector is undergoing significant changes that are likely to affect the various markets in different and complex ways. Therefore, to monitor both the potential benefits and the potential adverse effects that might arise, an array of indicators is needed. According to the form and scope of regulation, these indicators will need to be monitored separately within different areas of law. Furthermore, to identify the role of regulation in shaping the developments within the legal services sector, other trends and changes within the markets will need to be controlled for.
- *Practical*—the methodology needs to take into account limitations to the scope and type of data that can be collected. It also needs to provide guidance on how to select relevant indicators to monitor the impact of specific pieces of regulation and the time horizon over which changes should be observed.
- *Flexible*—not every analysis that is going to be useful can be specified in advance, Therefore, to remain effective in monitoring the impact of regulation going forward, the framework needs to be flexible and allow for the incorporation of new developments and indicators.

To provide guidance on how to measure the impact of regulation on the legal services sector, the framework builds on previous regulatory cost–benefit analyses and post-implementation reviews, and identifies: ²

- the market detriment that the regulation aims to improve;
- the market mechanisms by which regulation is to deliver these improvements;
- the counterfactual against which changes can be compared.

1.2.1 Scope of this report

The Legal Services Act 2007 lists six reserved activities: ³

- the exercise of the right of audience;
- conduct of litigation;
- conveyancing;
- probate;
- notarial activities;
- administration of oaths.

These can be provided by authorised persons only. However, once authorised, other commercial (unreserved) activities undertaken by such practitioners also fall within the scope of regulation.

The reserved activities are limited in scope compared with what are commonly understood as legal services, and what are defined within the Legal Services Act as legal activities, which include the provision of advice, assistance or representation in connection with the application of the law, or the resolution of disputes determining the nature of a person’s legal rights or liabilities, as well as the reserved legal activities. ⁴

The LSB’s remit is practitioner-based; that is, to consider all activities (reserved or otherwise) undertaken by reserved persons. This defines the scope of this report. However, to put the unreserved activities undertaken by reserved persons into context, it may be necessary to use a much broader definition of legal service suppliers and include non-authorised persons. For example, according to the legal service provided, reserved persons may compete with organisations such as the Citizens Advice Bureau (CAB), the Community Legal Advice Centres (CLACs), charities such as Help the Aged, and trades unions; and, when serving corporate clients, other professional business advisers such as accountants and investment banks.

Where alternative legal service suppliers to authorised persons are available, this can directly alter the consumer’s experience. For example, trades unions may provide free advice about employment law; the CAB or CLACs may be able to offer face-to-face advice more locally than authorised persons; and the quality of service received from alternative legal service suppliers may also affect consumer confidence in the service provided by authorised persons. In addition, when alternative legal service suppliers impose a competitive constraint on authorised persons, the conduct of supply and the impact of regulation are also likely to alter. While important to bear in mind, it is unlikely to be practical to collect data on the full breadth of the legal services supply base.

² See, for example, European Commission (2009), ‘Impact Assessment Guidelines’, January; Oxera (2006), ‘A framework for assessing the benefits of financial regulation’, prepared for the Financial Services Authority, September; Oxera (2004), ‘Competition Review of the Financial Services and Markets Act 2000’, report for the Office of Fair Trading, November; HM Treasury (2003), ‘The Green Book: Appraisal and Evaluation in Central Government’, Treasury Guidance; Alfonsi, I. and Andrews, P. (1999), ‘Cost–Benefit Analysis in Financial Regulation: How to Do it and How it Adds Value’, FSA Occasional Paper Series 3, July.

³ Legal Services Act 2007, c.29, Part 3, Article 29.

⁴ Legal Services Act 2007, c.29, Part 3, Article 12.

In line with the LSB remit, the geographic scope of this benchmarking framework is England and Wales, but the framework's principles apply more broadly. For example, to benchmark legal services in other geographic areas, the methodology to segment the sector into markets in order to monitor them separately still applies, as do the types of indicator, even if the actual market segmentation and metrics for such indicators may vary.

Although the framework outlined here lists the indicators that need to be measured, assesses the extent to which data is available, and provides guidance on the samples that need to be selected for surveys, it does not design survey questionnaires or select the survey samples. These activities will be undertaken when applying the methodology. Moreover, the list of indicators may need to be refined or added to over time, to take into account new developments and particular changes in the market. For example, according to the types of alternative business structure (ABS) that enter the market, a more detailed breakdown of supply-side business models may be required. Suitable metrics may also change. For example, if additional services become more standardised, it may become possible to collect data more directly related to the consumer cost, especially where such services are charged on a fixed-fee basis.

1.2.2 Counterfactual

Rather than prescribing a single benchmark for the legal services sector, the framework suggests several benchmarks that could be used to examine the ways in which the legal service markets are changing.

- *Benchmarking the supply of legal services over time*—the main aim of the application of the framework will be to assess whether the indicators are moving in the 'right direction' (ie, in line with regulatory objectives), taking into account the order of magnitude and persistence of the change. The picture of the market before the introduction of the regulation can then be taken as the baseline.
- *Control groups*—to understand to what extent changes in the market can be attributed to particular types of regulation, it may be useful to identify control groups, such as legal services or legal service suppliers, which are not subject to the same regulatory reforms (eg, legal services and law firms in Scotland). Such analysis is far from straightforward and would need to control for differences between the two jurisdictions. Assessing causality between the changes and the regulation is discussed in section 3.
- *Self-regulation*—when assessing the impact of regulation, it should be considered that the counterfactual is not necessarily the complete absence of regulation. In markets where there is no regulation, some degree of self-regulation can often be observed.⁵
- *A competitive and well-functioning market*—more generally, it would be possible to assess the legal service markets against the benchmark that competition authorities normally apply when conducting market investigations.

1.2.3 Information sources

Oxera's analysis has been informed by interviews with various parties, and several existing data sources.

- Meetings were held with representatives of the LSB, the Law Society (TLS), the MoJ, the Office of Fair Trading (OFT), the Solicitors Regulation Authority (SRA), the Bar Standards Board (BSB), the Bar Council, and the Intellectual Property Regulation Board (IPREG), to discuss the market segmentation and the indicators.

⁵ The incentives to participate in self-regulation, and the potential scope of such regulation, are considered in Oxera (2007), 'The economics of firm and industry incentives to participate and comply with co- and self-regulatory schemes', prepared for Ofcom, September.

- Meetings were also held with a range of law firms to discuss in detail the availability of data and the practicality of applying different market segmentations. In addition, some firms provided examples of how their internal business management systems collect and record data.
- Existing data sources—industry associations, Approved Regulators, and other stakeholders, such as the MoJ and the Legal Services Research Centre (LSRC), already collect some data on the legal services sector. This data was reviewed with reference to the LSB knowledge bank and helped to identify existing metrics for benchmarking the sector.
- When preparing the approach to sector segmentation, existing market segmentations were consulted, including those from TLS (used to direct consumers in their search for legal service providers, to understand the work of large law firms, and to collect turnover data from firms on their renewal certificates); the Legal Services Commission (LSC) (with regard to legal aid); the LSRC (with regard to the Civil Social Justice Survey); the MoJ (with regard to the courts and tribunal systems); and insurers providing professional indemnity insurance (PII) to suppliers of legal services.
- A 2010 survey of City law firms provided high-level insight into the way in which some firms organise their business.⁶

1.3 Background information

Background information relevant to the development and application of a framework that monitors the legal services sector, with particular focus on the impact of the Legal Services Act and the creation of the LSB, covers the following areas:

- the LSB’s regulatory objectives and frontline regulators;
- the market failures that the regulation aims to address;
- the current areas of legal services regulation and regulatory reforms;
- other developments in the legal services sector that may have an impact on the functioning of the legal services markets and consumer outcomes.

An overview of these is provided below.

1.3.1 Regulatory objectives

The LSB was created to reform and modernise the legal services sector in the interests of consumers, and, thereby, to enhance quality, ensure value for money, and improve access to justice across England and Wales. To achieve this, the Legal Services Act 2007 defined the following eight regulatory objectives for the LSB, and awarded it regulatory oversight authority for the eight approved frontline regulators:⁷

1. protecting and promoting the public interest;
2. supporting the constitutional principle of the rule of law;
3. improving access to justice;
4. protecting and promoting the interests of consumers;
5. promoting competition;
6. encouraging an independent, strong, diverse and effective legal profession;
7. increasing public understanding of the citizen’s legal rights and duties;
8. promoting and maintaining adherence to the following professional principles:
 - that authorised persons should act with independence and integrity;

⁶ CRA (2010), ‘Benchmarking the supply of legal services by city law firms’, June.

Of the 21 firms interviewed, 13 ranked in the top 50 law firms by turnover, and a further four in the next 150 firms. The remaining four firms interviewed constitute three US law firms and one smaller member of the City of London Law Society.

⁷ These regulatory objectives are described in LSB (2010), ‘The regulatory objectives—Legal Services Act 2007’, July 15th.

- that authorised persons should maintain proper standards of work;
- that authorised persons should act in the best interests of their clients;
- that persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons, should comply with their duty to the court to act with independence in the interests of justice;
- that the affairs of clients should be kept confidential.

These long-term regulatory objectives identify the focal areas of regulatory concern on which intervention by the LSB can be assessed.

1.3.2 Market failures

As noted, the legal services sector consists of a diverse set of markets, covering a broad range of services, consumers and suppliers. According to the characteristics of the service, consumers and/or suppliers, some legal service markets may develop such that resources are not allocated efficiently. The more common reasons why this may occur in different legal service markets are considered below.

- **Asymmetric information**—the consumer may be less well-informed about the service required than the provider and therefore less able to judge the quality of the service provided. This can inhibit their ability to evaluate the characteristics of the legal service product and/or the legal service provider. For example, consumers may not always be able to evaluate whether litigation is required, or in their best interests, or the level of research necessary to establish a sufficient case. The asymmetry may also occur in the other direction. For example, with litigious services, the consumer is (initially) better-informed about the details of the case (eg, the circumstances of the incident, the reliability of witnesses/evidence) than the supplier. This can affect the terms on which the supplier is willing to take on the case.
- **Imperfect information**—often there is general uncertainty about which service is required. This arises since, for many legal services, the full benefits may take time to materialise, and therefore depend on currently unknown events—for example, legal services in relation to the drawing up of contracts that may subsequently be contested (wills, conveyancing reports, tenancy), or in litigious services, where the service required may depend on the actions pursued by the other party involved.
- **Consumer switching and search costs**—it may be costly for a consumer to gather the required information to choose effectively between different legal services and providers such that, where purchases are infrequent, choices are not well-informed. Once a legal supplier has been instructed, it is usually costly to the consumer to switch supplier prior to the completion of the case.
- **Market power**—in some legal transactions there can be an asymmetry of market power between the consumer and supplier and in some cases this results in a risk of consumer detriment. For example, where a small number of legal suppliers dominate local markets for particular areas of legal advice to individuals (‘natural persons’), prices may be raised above the costs of supply. In other cases, a consumer may have sufficient demand to have a significant effect on the market outcomes for certain legal services, in which case they may hold market power over suppliers (at least in the short term). For example, the government, where it is a procurer of legal aid services, may hold greater market power than suppliers. Where there is a referring intermediary, this intermediary could also influence market outcomes if they have sufficient market power.
- **Externalities**—there may be positive externalities from the provision of high-quality legal services to the wider economy, particularly in criminal and civil transactional areas of law—for example, in terms of a safer society, clearer contracts and better-defined property rights. The provision of legal services can also have a negative impact on

people not directly involved—for example, the potential cost of future litigation can result in rules and regulation that alter the options available to the general population.

Wherever there is evidence of one these problems, the market failure will not necessarily result in consumer detriment. It is often the problem of incentive misalignment that gives rise to a market failure, or exacerbates the negative impact of that failure. For example, even if a consumer were unable to observe or monitor fully the activities of a legal service supplier, there would be no detrimental impact if the incentives of the intermediary could be aligned with those of the consumer—eg, by means of a fully specified contract or sufficient probability of repeat-purchases. Therefore, to confirm whether a market fails to function efficiently, and that regulation could improve the market outcome, the incentives within the market would also need to be analysed.

In addition to improving the efficiency of a market, there may be other reasons for regulating legal services, including the following.⁸

- **The importance of law**—compared with many other consumer products and services (eg, retail products, leisure activities), legal services frequently deal with matters that can be of high importance for the consumer acquiring the service. This means that failure to provide an adequate service can result in substantial consumer harm—eg, imprisonment, child taken into care, substantial loss of wealth, and inability to receive compensation.
- **Equity and access**—related to the importance of law, and the positive externalities of a strong legal system, there may be a broader policy objective to ensure access to those who cannot afford it. This is different to addressing market power and weak competition. Some people may not be able to afford legal services even at a competitive price.
- **Operational risk**—in supplying specific legal services, the supplier may be entrusted with substantial sums of money on behalf of its client (eg, when executing a will or providing conveyancing services). This enhances the operational risk that the supplier may not act in its client's best interests owing to the misalignment of incentives.
- **Industry legacy**—the self-regulation that lawyers have traditionally adopted to help overcome some of the above problems has resulted in 'guild-like' associations and the introduction of various restrictions/rules. Some of these restrictions have been considered as having the adverse effect of being anti-competitive, and have subsequently been removed. For example, a series of Monopolies and Mergers Commission reports in the 1970s argued that the restrictions on the freedom of solicitors to advertise limited the information available to the public about solicitor services. TLS removed the advertising ban in 1983 after pressure from the government.⁹

1.3.3 Frontline regulators

The Approved Regulators referred to in the Legal Services Act are:

- TLS (the relevant department has now been separated to form the SRA);
- the General Council of the Bar (the relevant department has now been separated to form the BSB);
- the Institute of Legal Executives (the relevant department has now been separated to form the Institute of Legal Executives Professional Standards Board);
- the Council for Licensed Conveyancers;
- the Chartered Institute of Patent Attorneys;

⁸ Decker C. and Yarrow, G. (2010), 'Understanding the economic rationale for legal services regulation', Regulatory Policy Institute, October.

⁹ Stephen, F. and Burns, C. (2009), 'Liberalisation of Legal Services', written for the Institute for Law Economy and Global Governance. Available at: http://www.law.manchester.ac.uk/aboutus/staff/frank_stephen/documents/LiberalizationofLegalServices.pdf.

- the Institute of Trade Mark Attorneys;
- the IPREG;
- the Association of Law Costs Draftsmen (ALCD);
- the Master of the Faculties;
- the Association of Chartered Certified Accountants (ACCA);
- the Institute of Chartered Accountants of Scotland.

Additional to these regulators of civil law is Her Majesty's Crown Prosecution Service Inspectorate (HMCPPI), of which the LSB does not have regulatory oversight. Other key authorities active within the legal services sector of England and Wales include the MoJ, the LSC, and the Office for Legal Complaints.

1.3.4 Regulatory reform and other changes in the legal services sector

The role of regulation in the context of legal services is prudential-based, focusing on the conduct and products of legal service suppliers, and ensuring that the markets work effectively for consumers. The style of regulation pursued by the LSB has been described as risk- (or outcomes-) based. This reflects the systematic decision-making process adopted by the LSB to intervene according to the risk that a firm or activity poses for the regulator's objectives.¹⁰

The LSB's current focus is on the delivery of three particular reforms to the legal services sector:¹¹

- ensuring that regulation is independent of legal services professional bodies;
- the introduction of ABS to open up legal services firms to investment and ideas from non-lawyers;
- improving consumer redress when problems arise, by improving first-tier complaints-handling and introducing a new independent legal complaints ombudsman.

The LSB's draft 2011/12 business plan identifies some other areas of potential focus for the 2011–15 regulatory agenda, including:¹²

- referral fees;¹³
- rationalising the scope of regulation (with reference to currently unreserved activities, such as will-writing);
- the conveyancing market;
- the effectiveness of Approved Regulators' arrangements for discipline, enforcements and appeals;
- delivery of the LSB's new responsibilities for overseeing immigration advice.

In addition to the LSB's regulatory agenda, the legal services sector is subject to the policy agenda of the MoJ and the LSC. Two drivers of market change currently being developed include the Lord Justice Jackson Review and the reform of legal aid.¹⁴

Other changes (related or unrelated to regulatory changes) that have been identified in the literature include:

¹⁰ Legal Services Board (2011), 'Putting consumer and public interests at the heart of legal services regulation', Draft Business Plan 2011/12.

¹¹ As defined in Legal Services Board (2010), 'Research Specification: Developing a framework for benchmarking the supply of legal services'. An overview of the LSB's planned activities can be found in the LSB's final business plan for 2010/11.

¹² Legal Services Board (2011), op. cit.

¹³ For recent analyses of referral fees, see CRA (2010), 'Cost benefit analysis of policy options related to referral fees in legal services', May; and ABI (2009), 'Research into Personal Injury solicitor fees', written by Oxera.

¹⁴ Lord Justice Jackson (2009), 'Review of Civil Litigation Costs: Final Report', written for the Ministry of Justice, December; Ministry of Justice (2010), 'Proposals for the reform of Legal Aid in England and Wales', Consultation Paper 12/10, November.

- the voluntary agreement by four banks to improve the way they sell will-writing and executor services, following discussions with the OFT;¹⁵
- outsourcing of certain activities traditionally undertaken within law firms (eg, through legal process outsourcing);
- new organisational models for law firms;
- the use of web-based technology to offer services to consumers.¹⁶

1.4 Application of the framework

Information to benchmark the legal services sector can come from a variety of sources. For some indicators, information is being collected on an ongoing basis, for example, by one of the Approved Regulators.¹⁷ However, more generally, new data will need to be collected, and this will predominately come from consumers and suppliers of legal services, particularly law firms.

The level of detail at which the law firms can provide data has not been fully assessed. As noted in section 1.2.3, the framework has been discussed with various law firms, regulators and industry associations, and the next step would be to conduct a quantitative pilot of the framework.

The 2010 qualitative survey of City law firms provides insight into what information these firms can provide within one segment of the legal services sector.¹⁸ One expectation, confirmed by the survey, is that collecting data in a consistent way across law firms will always impose additional costs on at least some of them—since even among the ten law firms with the top UK turnover, the internal organisation of staff differs and, therefore, the internal management systems aggregate and record data against different categorisations. Combining data from different firms to obtain a market-wide picture requires at least some of these firms to change their internal systems. However, it is also clear from the survey that no alternative, more practicable method of gathering the required market-wide data exists.

¹⁵ Office of Fair Trading (2011), 'Big four banks promise to review practices for selling will-writing and executor services', press release, February 23rd.

¹⁶ See, for example, Legal Services Board (2010), 'The future of legal services—emerging thinking', June.

¹⁷ The types of data already collected by Approved Regulators and other organisations are summarised in Table 4.1.

¹⁸ CRA (2010), op. cit.

2 Market segmentation

This section forms one part of the first objective of the framework: defining what needs to be measured in order to monitor changes in the legal services sector. Section 2.1 develops an approach to segment the legal services sector into different markets that represent the units for which change in the sector can be monitored. Section 2.2 then applies this approach. The dimensions along which these markets can be monitored for change (indicators) are considered in section 3.

2.1 Approach to market segmentation

2.1.1 Existing approaches to market segmentation in the legal services sector

An industry standard segmentation that covers the breadth and depth of the legal services sector does not currently exist: law firms, regulators, trade associations, market research reports and insurance companies (providing PII to law firms) all segment the legal services sector in different ways, and each method has altered over time.

To a certain extent this reflects the different objectives of these bodies. For example, in the case of PII, legal services have been grouped according to the risk of a PII claim. This risk increases with the value of the service provided, and the probability of a claim materialising (which depends on both the likelihood that the solicitor makes a liable mistake, and that the consumer decides to pursue a claim). Therefore, for the purposes of PII, non-litigious legal services (such as debt collection of less than £10,000, cases involving children, and mental health tribunal cases) are commonly grouped together, despite the different nature of the legal advice provided.¹⁹ Similarly, the groups of different legal services have altered over time to reflect shifts in the riskiness (from the professional indemnity insurer's perspective) of different legal services.

By contrast, TLS identifies 54 areas of law, combining legal services that are commonly required together. This reflects its function as a signpost for consumers seeking solicitors able to provide the type of advice they need. To provide an effective signpost, TLS's list aims to be as comprehensive as possible, and segments by several dimensions that might be of help to the consumer, including type of customer, type of legal activity (such as advocacy and mediation), as well as by area of law. This has resulted in the addition of new categories over time and a large degree of overlap between different groups of legal services. For example, the activity 'Advocacy' is not mutually exclusive from the many areas of law listed; the broad category of 'Business Affairs' is not distinct from the specific industry sectors identified, such as Maritime/Shipping and Aviation, nor is the line between Banking Law and Financial and Investment Services always clear. (The full list of TLS's categories of law is presented in Appendix 1.)

Table 2.1 below summarises some of the legal services sector's existing market segmentations.

¹⁹ Based on a quick review of a number of professional indemnity insurance application forms for 2010/11.

Table 2.1 Existing market segmentations of the legal services sector

Source	Objective	Dimensions
Insurance firms	Underwriting of PII	Splits by type of service (litigious or contractual); type of client (corporate, natural person or government); and problem area (eg, personal injury claims are often a distinct category)
TLS	To signpost consumers to appropriate solicitors	Splits by type of client; type of law (EU, international, environmental); problem area (injury, finance and debt); and sector (banking, agricultural, maritime)
TLS—research study	To understand the work of the largest law firms	Splits by type of client; some split according to type of law (corporate finance, taxation, property) but also by sector (banking, aviation, construction, media), with some aggregation across litigious work
The Legal Services Act	To define which ‘reserved’ activities to regulate	Splits basic research and advice from the reserved activities of litigation, representation, cost disputes, and other reserved activities
Suppliers of legal services	Advertising of legal services	Varies between legal suppliers who often specialise by type of client, and then advertise different areas of law most relevant to their target consumer
Suppliers of legal services	For the purposes of billing, performance measurement and completion of tax returns	Varies between legal suppliers but common splits include by company partner, office building, and law category, as specified by their PII provider

Source: Oxera analysis.

2.1.2 Principles for market segmentation in this report

The objective of market segmentation in this report differs from the objectives of existing segmentations (some of which are described in Table 2.1). Here, the purpose is to define markets that will be useful for monitoring developments in the functioning of the legal services sector over time. This imposes one critical requirement on the market segmentation—that it remains stable over time. To monitor changes in the legal services sector, it is crucial that the way in which data is collected and analysed remains consistent over time. Otherwise, it would become difficult to determine whether observed changes in the data reflect real market developments, or simply adjustments to the data reporting and/or analysis methodology.

At present, there is no industry standard segmentation, and none of the prevailing segmentations identified has remained stable over time. Moreover, as none of the existing segmentations has been designed with the primary objective of monitoring developments across the legal services sector, it is appropriate to develop a market segmentation with the primary objective of monitoring changes in the functioning of the legal services sector.

Competition policy tools such as the hypothetical monopoly test, used to define ‘relevant markets’ (which involves assessing demand- and supply-side substitution), provide a solid conceptual basis for this market segmentation.²⁰ By identifying the types of legal service and supplier that consumers can switch between (ie, demand-side substitution), and the circumstances under which one supplier imposes a competitive constraint on another (ie, where either demand- or supply-side substitution occurs), legal service transactions can be grouped into different markets.

²⁰ For more details on these techniques, see Office of Fair Trading (1999), ‘Market Definition’, Competition Act 1998 Mini Guides, 403, March.

Such competition policy tools are most commonly used to define relevant markets for the assessment of specific competition problems. This is often a complex exercise, resulting in precisely delineated markets, which would not be practical for data collection within this framework. Therefore, while high-level markets should be primarily identified from the perspective of demand- and supply-side substitution (following common practice in competition policy), they should be generally less refined than a formal market definition exercise would provide. Instead, the focus should be on identifying why markets might function differently, since between such markets the impact of regulation (and other factors) is likely to vary, with different implications in terms of consumer market outcomes.

Factors that can be influential in determining how the market for a legal service functions include the reasons for market failure (as listed in section 1.3, and considered in more detail below). However, these reasons are not always dominant; other factors may play a greater role—particularly industry legacy and prevailing regulation. Therefore, an important second step in defining the level of detail at which it is appropriate to benchmark the legal services sector is to consider where there is strong overlap on the supply side.

In the context of legal services, the following (overlapping) characteristics can be influential in determining how a market for a particular legal service functions (many of which can be influenced by regulation):

- informational issues—consumer understanding of the service required and provided, supplier understanding about the service required, and the extent of information asymmetry between the consumer and supplier;
- substitutability—on the demand and supply side, and the extent of asymmetry in terms of options available to the consumer and supplier;
- service characteristics—the circumstances under which the legal service is purchased can, in turn, be important in determining the informational issues and substitutability that may arise. Relevant characteristics may include, for example, whether the purchase is reactive or proactive; whether there are single or multiple issues on which the client has sought advice; and the degree of homogeneity of service that can be provided for different clients.

Informational issues

Many legal service markets are characterised by informational problems, most commonly on the consumer's side. Indeed, because legal services can be thought of as credence goods (ie, prior to purchase, consumers cannot predict with certainty the specifics of the service that will be provided), informational problems for the consumer are an intrinsic issue for the sector as a whole. Nevertheless, the impact of this on how the service is provided depends on whether there is an alignment of incentives between the supplier and consumer. The potential for a repeat-purchase, reputational effects, the types of contract that the consumer and supplier can enter into (eg, conditional-fee arrangements) and regulation can all help to mitigate the effects of poor consumer understanding prior to purchase. Such features vary between different legal transactions, and so informational problems can vary for the same consumer, according to the type of legal transaction purchased, and type of legal supplier instructed. Where incentive misalignment remains, an inefficient level of quality and/or service may be provided, and problems such as 'gold-plating' or 'shirking' could arise.²¹

In addition to information asymmetry regarding how a service will be provided, for some legal services many consumers may have a poor understanding about the type of service that is

²¹ Gold-plating refers to situations where the supplier exploits an informational advantage over the consumer about the optimal volume of work (or level of detail) that is required for the case, and undertakes additional work to that which is appropriate in order to increase their billable time and, therefore, their fee. Shirking refers to situations where the supplier exploits an informational advantage over the consumer about what effort has been undertaken, and provides insufficient effort to justify the agreed fee.

required, or ex post, the service that has been provided. This reduces the extent to which such consumers can choose effectively between different legal services and service providers.

Within a particular transaction, a number of factors will affect a consumer’s understanding, including:

- the consumer’s legal experience;
- the consumer’s knowledge about the issue in question;
- the complexity of the issue.

In addition to consumer informational problems, the supplier is not always perfectly informed. For example, within contentious areas of law, the service required from one side is influenced by the case put together by the other, which is not known at the outset. Furthermore, the supplier may be less well informed if the issue on which legal advice is sought is highly specific to that particular consumer. In either case, these issues may result in a sub-optimal level or quality of advice, and higher costs for the supplier (eg, through increased PII premiums for areas of law where the risk is too high). Higher costs may be passed on to the consumer, resulting in a scarcity of supply at prices that the consumer is willing to pay, or in fee arrangements that the legal service provider is willing to accept (eg, a solicitor may refuse to accept a case on a no-win, no-fee basis). Increased experience with a type of legal issue can help to reduce the uncertainty for the supplier.

In this way, informational problems can vary according to both consumer and supplier characteristics, as well as the specific characteristics of the service provided. The stylised matrix below (see Table 2.2) shows the informational problems that may occur in legal services, which can help to explain differences in how a market functions.

Table 2.2 Distribution of informational problems in different legal markets

		Supplier	
		High understanding	Low understanding
Consumer	High understanding	Simple (non-contentious) issue or sophisticated client—eg, wills	Service is client-specific—eg, some areas of corporate work
	Low understanding	Common legal issue, or unsophisticated client—eg, tax law, juvenile delinquency	Contentious—eg, competition litigation

Source: Oxera.

Demand-side substitutability

Demand-side substitutability considers the alternative options available to the consumer.²² When the consumer can substitute between options, the threat of consumer switching can impose a competitive constraint on firms, with implications for the market in terms of both outcomes (price, quality and availability of supply) and functioning (how different firms and consumers interact). Within the context of legal services, there is generally little flexibility for the consumer in terms of the type of legal service that they require, which is typically problem-specific, but they may still have a choice over:

²² Demand-side substitution is an important element of market definition in competition policy investigations; however, this aspect of market definition can prove a complex exercise, leading to quite precise market definitions relevant to the specific competition problem in question. See Office of Fair Trading (1999), ‘Market Definition’, Competition Act 1998 Mini Guides, 403, March.

- the legal service supplier (these can range quite widely—eg, not-for-profit organisations, full-service providers, and organisations specialising by sector, client, legal skill and/or activity);
- whether to provide the service in-house;
- whether to take legal action at all.

The availability of such choices can be both consumer- and issue-specific. Therefore, to account for the scope of demand-side substitutability, it can be relevant to consider three dimensions: the type of consumer; the area of law; and whether the issue is contentious.

The first dimension (consumer type) is generally most effective, since many of the factors that determine demand-side substitutability depend on consumer-specific characteristics. For example, in-house provision is economic only for consumers with sufficient legal demand—ie, government or corporate bodies. Similarly, the level of information, the types of legal supplier available, the costs of searching for alternative suppliers and then switching, often vary between distinguishable consumer types.

The area of law, and whether the issue is contentious or not, can also be useful factors. The supply side often segments by area of law, and therefore the types and volumes of supplier available often vary by area of law. For example, Community Law Centres and CABs provide advice on many areas of law relevant to natural persons, but do not cover all areas of law (eg, they do not provide personal injury advice). Whether the issue is contentious or not can affect the cost of delaying action to search for alternative suppliers and the cost of not taking action at all, with contentious, often reactionary, issues typically having higher costs than non-contentious, proactive, issues.

Supply-side substitutability

Supply-side substitutability considers the alternative options available to the supplier. This is relevant for two reasons. First, markets for services between which a legal service provider can easily substitute are likely to have similar characteristics. For example, if suppliers can switch between markets easily, differences in profitability will be eroded over time. Where suppliers do switch, there is likely to be more comparability in terms of cost efficiencies, technology, and other aspects of the conduct of supply—especially when a significant proportion of suppliers is active in both markets. Second, where there are few options available to the supplier, individual consumers may have greater buyer power and the market may function in a different way. For example, for certain legal services, government bodies or corporate clients can have a large market share, and where the supplier cannot easily undertake work in different areas of law or for different clients, such consumers may hold buyer power (either individually or collectively) over suppliers. Areas of law where this may be relevant include criminal work; public law, such as public child custody cases; public inquiries; and defending the actions of public services (such as the police, schools and benefits providers).

Consumer market shares can also affect the conduct of supply in a number of ways. For example, in areas of law where it is common for the client to seek advice over multiple issues, suppliers may find economies of scope in providing advice across a broader portfolio of issues (eg, for corporate clients); while in areas of law where different clients face relatively similar issues, it may be more cost-effective for suppliers to specialise (eg, personal injury). Markets may also differ in terms of the prevalence of different customer acquisition techniques and pricing options according to the type of consumer. For example, the use of law advisory panels and availability of secondments is restricted to consumers with sufficient legal demand (corporates).

2.1.3 Practical approach

To provide a practical approach to market segmentation, it is necessary to identify easily observable characteristics to capture what might cause markets to function in a different way, and therefore the level of detail at which indicators of change should be monitored. In the

context of legal services, the following dimensions are most significant in determining how a market functions.

- **Type of consumer**—the consumer type dimension is informative for two reasons:
 - consumer-specific characteristics may alter the supplier–consumer relationship, and therefore have an important impact on how the market functions, even within a particular area of law. For example, differences in the consumer’s understanding of the system, ability to pay, ability to delay purchase to search for an alternative provider, and search costs may alter the supplier choice;
 - different consumers may require advice on different issues, even within a particular area of law. For example, personal injury and employment advice for individuals (natural persons) will predominately be claimant in nature, while firms (legal persons) are more likely to require defendant advice.
- **Type of consumer problem**—there is a multitude of problems on which legal advice might be sought. Since consumers cannot alter the nature of these problems, there is limited substitutability on the demand side. Without demand-side substitution, differences in market outcomes can persist, since consumers cannot switch to the service with the characteristics they prefer. Thus, providers of different services do not need to compete. For example, advice in relation to a divorce proceeding is not a substitute for property conveyancing services—indeed, even advice relating to ancillary relief is not a substitute for advice relating to the custody of children in the context of divorce. Therefore, the ideal market segmentation would split between each possible type of consumer problem on which legal advice might be sought.
- **Type of legal service activity**—the type of legal service provided can be an additional relevant distinction since this limits the extent of supply-side substitution possible (ie, the extent to which suppliers can supply different legal services). For example, the market for basic advice in injury cases may function differently to the market for litigation, due to the regulatory barrier controlling the provision of litigious services.

These three dimensions—consumer type, consumer problem and legal service activity—considered together can result in a detailed breakdown of the legal services sector. In some cases, it is not necessary to apply all three dimensions because, often as a result of industry and/or regulatory legacy, the dimensions do coincide, such that controlling for one dimension accounts for another. For example, certain types of consumer problem are specific to certain types of consumer (as illustrated by the colour coding in Table 2.4); similarly, certain types of legal activity are dependent on whether the consumer problem is contentious or not. In many cases, applying all three dimensions does identify a possible market, but this may be too detailed for practical benchmarking purposes (eg, where data at this level of detail is not readily available). Therefore, considering when such markets may be sufficiently comparable, such that data can be collected at an aggregate level without a significant loss of detail, is an important second step in developing and applying a practical market segmentation. In the context of legal services, the following four circumstances are most influential:

- there is a large overlap in the characteristics of individual consumers;
- different legal problems tend to arise together;
- the market is very small/does not exist;
- there is a large overlap in legal suppliers (see Box 2.1).

Box 2.1 Reasons why conduct of supply may be similar across different legal markets

Markets for legal advice for different types of consumer problem (of which there are many) can often be grouped where there is a large overlap on the supply side.

For some aspects of legal advice, there are practitioner-specific skills that are automatically transferable across all areas of law—examples include an ability to structure an argument, and approachability to the client. While each practitioner may choose to act differently for different clients or within different areas of law, it is reasonable to assume that, in general, they do not. Therefore, between areas of law where there is a large overlap in supply at the practitioner level, the conduct of supply is likely to be more similar than in areas where there is little overlap.

Where there is an overlap in supply at the organisation level, there are additional reasons for the conduct of supply to be similar, such as:

- common regulation—eg, the Solicitors' Code of Conduct applies across all practice areas;
- reputational incentives;
- business strategy incentives—eg, an organisation may have a common policy on the use of specific customer acquisition channels, availability of different pricing structures, or marketing objectives;
- business organisational effects—eg, in order to allow different staff to work on the same case, standard protocols may be put in place;
- common costs—eg, organisations may have standard rates across all areas of law to recover common costs such as overheads (in the case of CABs and CLACs, the rate may be free).

Areas of law where there is an existing overlap of solicitors and solicitor firms have been identified using data from solicitors' practising certificates. By analysing data on the areas of law undertaken, as reported by each solicitor in their practising certificate, it is possible to identify which areas are more or less likely to be undertaken by the same solicitor, and by aggregating across solicitors within the same firm, by the same firm. This analysis can consider areas of overlap for solicitors only (rather than other types of legal service supplier), and it is not without caveats—for example, marking an area of law on a practising certificate does not mean that it is actually undertaken. In addition, the analysis relies on the categories of law as defined within the practising certificate, of which a number can be considered catch-all groupings for other smaller categories. This analysis has informed the groupings presented in the following section, with a more detailed explanation of the analysis and the results provided in Appendix 4.

2.2 Application: segmentation of the legal services sector

To monitor changes in the legal services sector, the way in which data is collected and analysed must be consistent over time. Otherwise, it becomes difficult to determine whether observed changes in the data reflect real market developments or simply adjustments to the data reporting and/or analysis methodology.

While the legal services sector has been segmented into several areas in the past, there is no industry standard segmentation, and none of the prevailing segmentations identified has remained stable over time. Moreover, none of the existing market segmentations has been designed specifically to monitor developments across the sector. In this context, it is appropriate to apply the conceptual framework described in section 2.1 and segment the sector into the markets as described below. For additional clarity, this market segmentation has been mapped onto a number of the existing market segmentations (see Appendix 1).

The level of detail at which to monitor the legal services sector must be sufficient to capture changes across the sector, but proportionate and practical, given the costs of data collection. This trade-off between detail and data has been central to the market segmentation

developed in this report and is reflected in the alternative level of detail benchmark segmentation, set out below. When focusing on specific markets or regulatory objectives, or collecting data from different data sources, the appropriate level of detail may vary: in some cases, it may not be practical to apply all three dimensions (see section 2.1.3). Therefore, along each dimension, several levels of detail have been identified, as informed by consultation with legal service suppliers and regulators, and practical guidance provided for situations where data constraints require a trade-off between having the benefit of more detailed data collection and the cost of obtaining such data.

At each level of detail, within each dimension, the segmentation aims to define mutually exclusive markets. This reduces the scope for the same data to be split in an inconsistent way between different categories (either among different firms or other sources of data). It also increases the flexibility in terms of how the data collected can be used. For example, if required, these distinct categories can easily be aggregated at a later stage.

Guidance on how to aggregate on the supply side is also provided, for two reasons:

- collecting all the relevant data from one specific type of supplier at a time can be a more practical way to break up the research compared with focusing on each legal market in turn;
- when regulation is aimed at specific types of organisation or practices, targeting these organisations can be a cost-effective way of assessing the initial impact of the regulation.

However, to draw conclusions about the full impact of regulation (or other drivers of change) on a legal services market and consumers' experience, it will be important to consider all suppliers active within the market, even those not targeted by the regulation.

2.2.1 Type of consumer

In comparison to natural persons, organisations (businesses, charities or government bodies) tend to have accumulated more legal experience of, and/or are more familiar with, the issue on which they are seeking legal advice. They may also have more knowledge of alternatives to the particular legal professional they approach for advice. Similarly, some organisations are more sophisticated consumers of legal advice services than others.

Therefore, the first distinction to make (level 1) is between natural persons, 'less sophisticated' legal persons, 'sophisticated' legal persons, and government bodies. Whether the legal person has an in-house legal team/employee is an objective, standardised measure of whether the client is a sophisticated legal service consumer. Where this is not known, size of organisation can be a useful proxy, since larger organisations are typically more likely to be repeat-purchasers of legal services, and will therefore tend to have accumulated greater experience and hold more buyer power. However, when considering size, it may be relevant to look at the broader organisation than the direct client. As found in the 2010 survey of City law firms, behind very small legal persons, such as investment funds and vehicles, may sit much larger corporate entities.

In addition to accounting for much of the variation in the balance of power between consumers and suppliers within different legal transactions, the level 1 type of client categorisation provides a further split of the issues arising within the same area of law. For example, government bodies, acting within their constitutional role, will require different forms of advice in areas of family law, competition and regulation law, and benefit issues, than either natural or legal persons.

In many cases it is not necessary to split corporate firms and government bodies. Often the balance of market power between the supplier and consumer when the consumer is either the government or a corporate firm is the same, as are the issues—eg, when the government body is purchasing legal advice in relation to its role as an employer, procurer of services or personal injury defendant. The exception is when the supplier cannot easily substitute to

acting on behalf of other clients. This occurs when the government body is the sole purchaser—eg, for advice in relation to rule-making (eg, designing regulation)—or when the other consumers are natural persons, which will require changes in the conduct of supply.²³ This is relevant within areas of public law, crime and issues regarding welfare, benefits and civil liberties.

Clarity over where to make the distinction in each area of law is provided by the colour coding in Table 2.4. Where a government body is comparable to a legal person consumer, the area of law is shaded grey or brown if natural persons also purchase legal advice within this area. In areas of public law, or where the government body acts differently to a legal person consumer, the area of law is shaded lilac (if the sole purchaser), yellow (if natural persons also purchase legal advice within this area), purple (if legal persons also purchase legal advice within this area) or pale grey (if legal persons and natural persons also purchase legal advice within this area).

When collecting information from barristers, this dimension refers to the end-consumer rather than the solicitor who may be contracting directly with the barrister on behalf of a diverse range of clients. How the work has been acquired, perhaps via solicitor referral or direct contact from the end-consumer (if the barrister holds public access rights or for some corporate client work), is one of the key indicators to monitor.

Levels 2 and 3 (other defining characteristics) in Table 2.3 provide a more detailed breakdown of consumers. Level 2 makes the important distinction for natural persons on whether the work was covered under legal aid or not. This split is not a proxy for vulnerability or other socio-economic characteristics (which are captured at the next level of detail—level 3), but a way of ensuring that the impact of current and future regulatory and MoJ legal aid policy developments are captured within the framework. Therefore, when applying this distinction, it is intended that the cases be split according to the realisation of their funding (as opposed to any consumer-specific characteristics), which, at least from suppliers, should be relatively straightforward to confirm.

Given the cost of data collection, level 3 would be appropriate for specific data sources only, such as consumer surveys or where such information is already collected. However, interviews regarding internal data management suggest that many law firms should be able to provide at least an approximate breakdown of revenue at the level 2 type of consumer. Many legal service suppliers will serve only a selection of the five level 2 categories, reducing the burden of requesting data at this level. For example, CLACs and CABs provide services to natural persons only.

²³ Natural persons will only be on the 'other side' of the issue to the government body, which will affect the type of advice sought. In addition, methods to acquire work and the level of advice needed are also likely to vary substantially depending on whether the purchaser is a government body or a natural person.

Table 2.3 Type of consumer

Level 1	Level 2	Level 3— other defining characteristics
Natural persons	Legal aid	Ethnicity
		ONS socio-economic group
		Income
	Not legal aid	Age
		Postcode
		Ethnicity
Legal persons (less sophisticated) ¹ —SMEs, charities	Not legal aid	ONS socio-economic group
		Income
		Age
	Legal aid	Postcode
		For-profit; not-for-profit government; not-for-profit non-government
		Number of employees
Legal persons (sophisticated) ² —larger companies, savvy charities, government	Not legal aid	Turnover
		For-profit; not-for-profit government; not-for-profit non-government
		Number of employees
	Legal aid	Turnover
		Local
		Central
Government (sole purchaser) ³		Quasi

Note: ¹ Legal person purchasers without in-house legal teams. This includes charities, corporate firms and government bodies purchasing legal services also purchased by corporate firms. SMEs are defined by 2003/361/EC as having staff of up to 250 and either turnover not exceeding €50m or balance sheet not exceeding €43m. ² Legal person purchasers with in-house legal teams. A suitable proxy in some cases can be size of legal consumer. ³ Closely related to the definition of public law, this includes issues such as the role of government bodies in child custody cases, in criminal prosecution, or in judicial review. For areas where the purchaser is a government body, but the issue is also encountered by other private organisations, the appropriate classification of customer type is legal persons (eg, the government purchasing legal advice in relation to employment contracts).

Source: Oxera.

2.2.2 Type of consumer problem

Table 2.4 below provides a three-level breakdown for grouping consumer problems according to their distinguishing characteristics. The most important distinction to consider is the area of law. This is because, at a high level, the area of law identifies the types of consumer problem that may arise, and many practitioners and firms will cover all issues within one particular area. For many areas of law, suppliers may specialise in either contentious or non-contentious issues—for example, some suppliers provide advice on contentious employment matters only, while, in other areas of law, such as property and planning, some suppliers provide advice on non-contentious matters only. Since markets may function differently when suppliers (and consumers) do not overlap, this contentious/non-contentious distinction can provide an important additional level of detail. In part reflecting legacy regulation regarding reserved activities, suppliers often specialise according to whether the case the client *has presented* could *potentially* become contentious or not; therefore this definition should be adopted.²⁴

²⁴ When providing billing guidance, the Law Society defines contentious areas of law as those involving court proceedings. This definition appears to be too narrow in this context: in many cases a legal service supplier's decision over whether to take on a case or client will depend on whether the work *might* result in court proceedings. Therefore, the market for types of work that had the potential to end in court proceedings but did not is expected to function in a comparable way to a market where the

The level 3 categorisation provides a benchmark for use when it is possible to collect detailed data (eg, from consumer surveys or, on particular indicators, from law firms). This categorisation also plays a valuable role in offering clear guidance to firms (and other data providers) on how to provide data at the higher levels of aggregation of levels 1 and 2. From considering the work practice management software of mid-size and large law firms, it is expected that the level 3 categories can, in general, be matched to existing (firm-specific) work type classifications. A mapping onto a number of existing data sources—including PII applications, legal aid classifications, and TLS’s *Find a solicitor* list—is also provided in Appendix 1.

Given the way in which many law firms operate, for certain indicators the level 1 split, or even firm-level data, may provide sufficient detail. More detail on how and when to apply the segmentation in Table 2.4 is provided in the sample questions for a high-street pilot (see Appendix 3).

The colours used in Table 2.4 show which types of consumer may purchase services within each area of law. Where different types of consumer purchase services in the same area of law, different sub-markets may arise. As such, it can be useful to apply both the type of law segmentation (Table 2.4) and the type of consumer segmentation (Table 2.3) to understand and monitor changes in the legal services sector.

case did end up in court. Similarly, the objective is to focus on the case *presented*, since many ‘non-contentious’, ‘transactional’ areas of law, such as conveyancing, could ultimately result in court proceedings.

Table 2.4 Type of law

Key to table		
Natural persons		
Legal persons		
Government (acting within its constitutional status)		
Natural persons and legal persons		
Natural persons and government		
Legal persons and government		
Natural persons, legal persons and government		
Level 1	Level 2	Level 3
Crime—prosecution	Contentious	Fraud and forgery Offences against the person Burglary, robbery, thefts and handling Homicide Criminal damage Drug offences Public order offences Motoring offences
		Fraud and forgery Motoring offences
Crime—defence	Contentious	Offences against the person Burglary, robbery, thefts and handling Homicide Criminal damage Drug offences Public order offences
		Road traffic accidents Injury at work Clinical negligence Slips and trips
Injury	Contentious	Contested probate
		Wills Trusts Probate and estate administration
Wills, trusts and probate	Non-contentious	For commercial properties
		For residential properties
Conveyancing	Non-contentious	Children (eg, care proceedings) Matrimonial
		Children (eg, adoption)
Family	Contentious	Landlord and tenant problems Repossession Squatters Boundaries and rights of way
		Planning applications
	Non-contentious	Landlord and tenant (eg, drawing up contracts) Other reasons for drawing up contracts
		Property finance Property leasing Planning applications
Property, construction and planning	Contentious	Landlord and tenant problems Repossession Squatters Boundaries and rights of way
		Planning applications
Property, construction and planning	Non-contentious	Landlord and tenant (eg, drawing up contracts) Other reasons for drawing up contracts
		Property finance Property leasing Planning applications

Level 1	Level 2	Level 3
Employment (excluding injury at work)	Contentious	Pensions Unfair dismissal Redundancy
	Non-contentious	Pensions Establishing and maintaining contracts
Immigration and nationality	Contentious	Immigration and asylum
	Non-contentious	National insurance details, visa applications
Consumer problems	Contentious	Sale of goods and services Hire purchase agreements Time shares Motor vehicles
Welfare and benefits	Contentious	Community care Education Benefits (including housing benefits) Mental health
	Non-contentious	Applications for benefits
Civil liberties	Contentious	Human rights
		Actions against the police
		Discrimination (excluding employment)
		Other rights including specialist areas such as rights to life
Intellectual property rights	Contentious	Patents Trademarks Copyright Confidentiality IT
	Non-contentious	Patents Trademarks Copyright IT
Corporate taxation	Contentious	Indirect taxation Property taxation International taxation
	Non-contentious	Indirect taxation Property taxation International taxation
Corporate structuring and finance	Non-contentious	Mergers and acquisitions Joint ventures Public takeovers Privatisations Issuance of securities Corporate insolvency
Other business affairs	Contentious	Infringement of contracts
		Competition and regulatory issues (including work for both corporates and government bodies) Environmental
Other	Contentious	Procurement (including work for both corporates and government bodies) Licensing Business registration
		Libel and defamation

Level 1	Level 2	Level 3
		Compensation arising from fraud
		Debt management (debtor)
		Debt collection
Other public and administrative law	Non-contentious	
	Contentious	judicial review public inquiries

Source: Oxera.

2.2.3 Type of legal activity

The type of legal activity provided can also affect the market for a given area of law for a specific type of consumer. Some suppliers specialise by type of legal activity as a result of regulatory barriers (eg, barristers and claims management companies); non-transferable skills (eg, advocacy); business model (eg, a firm decides to provide only basic advice across a wide range of services). Such factors may also influence the conduct of supply from the same set of suppliers. For example, division of labour may be by type of legal activity, which can affect the cost of providing such activities.

In addition, different types of legal activity are purchased in a different way, which can have a significant effect on the market. In particular, advocacy for natural persons is often chosen by the solicitor, who acts as an informed ‘agent’ on behalf of the consumer; while for advice and litigious services, general consumer understanding is likely to be weaker. On this basis, the split in Table 2.5 is most relevant.

Table 2.5 Type of legal activity

Level 1	Level 2	Description
Research, advice on transactional matters and document preparation	Unreserved	The provision of unreserved, transaction, legal services—eg, will writing, advice on conveyancing, visa applications, employment contracts, property Includes ‘investigative help’, as defined by the LSC
	Reserved	The provision of the reserved activities of land registration, granting of probate and administration of oaths, as defined in the Legal Services Act
Notarial activities	Reserved	The provision of notarial activities, as defined in the Legal Services Act
Advice on (potentially) litigious matters and work required to prepare such advice	Unreserved	The provision of legal advice for a party to proceedings or for a person who is contemplating taking proceedings
	Reserved	The provision of the reserved activity of litigation, as defined in the Legal Services Act—ie, issuing proceedings before a court; commencing, prosecuting or defending those proceedings; and the performance of any ancillary functions
Representation (in person)	Unreserved	Representation in lower courts, arbitration, and mediation
	Reserved	The provision of the reserved activity of advocacy, as defined in the Legal Services Act—ie, appearing before and addressing a court, including the right to call and examine witnesses

Source: Oxera analysis; and Legal Services Act (2007) Schedule 2: the reserved activities.

In the absence of a prevailing industry standard, specifying the type of legal activity involves some subjectivity, and collecting data split by type of legal activity will not be possible from many existing sources. However, the categories identified in Table 2.5 reflect prevailing regulation and legal aid categorisations, and should therefore be the most practical to apply.

2.2.4 Type of supplier

In many markets, different types of legal service supplier compete for the same consumer. Although, in general, markets should be analysed as a whole, identifying the types of supplier can be informative for the following reasons.

- **To help understand the impact of specific regulation**—where regulation has an asymmetric impact on different types of legal service supplier, monitoring the type of provider can be an important part of determining the causality of any change in market outcomes. For example, monitoring the rate of entry by ABS-type firms in a market and their subsequent market share will be informative when linking any reduction in prices in the market to increased competition from ABS. While the impact of the introduction of ABS may spill over into markets that they do not enter (eg, where there is a credible threat of entry, or by affecting the supply of different legal services by incumbents), the competitive impact is likely to be greater where entry does occur.
- **To identify a representative sample for a market**—if one type of legal provider dominates a particular area of law, this should be reflected in any sample. Factors that affect such firms idiosyncratically may drive changes for this particular area of law that are not observed elsewhere.
- **To target regulation**—if there are problems across markets where one type of supplier is dominant, it may be appropriate to target regulation towards this type of supplier. To identify what is causing the problem (in order to design regulation appropriately), it may be sufficient to collect data from this type of firm, rather than the market as a whole.
- **To undertake research in a cost-effective manner**—engaging with one type of supplier at a time can be a cost-effective way of undertaking research.

In the absence of any prevailing industry standard definition, when segmenting on the supply side, a first line needs to be drawn. The lack of standard definitions, and the general variation in business models between legal service suppliers, makes it difficult to know where this line should be drawn. However, for benchmarking purposes, the precision of the line is less important than applying the same definition consistently over time and ensuring full coverage of the sector. Indeed, when undertaking initial surveys from the supply side, it is preferable to sample beyond the proposed definitions, such that these definitions can be tested and the risk of omission of a certain segment of the supply side may be reduced.

The supply-side segmentation proposed in Table 2.6 below reflects the output of solicitor practitioner data analysis; interviews with legal service suppliers, industry associations, regulators and academics; and the identification of barriers to supply-side substitution such as regulation. It groups together organisations that provide legal services that are more comparable, while segmenting where the dynamics of the supply process (eg, the consumer–supplier relationship) are likely to differ more significantly.

The first distinction to make is to reflect the primary Approved Regulator, if any, for the organisation. Suppliers supervised by the same Approved Regulator will be subject to the same Code of Conduct, are more likely to have undertaken similar qualification routes, and will belong to the same industry associations, which may provide additional guidance on specific aspects of supply.²⁵ Whereas suppliers supervised by different Approved Regulators are subject to Codes of Conduct that may differ and may have different qualifications. For example, public access is not commonly granted to barristers (additional qualifications are

²⁵ For example, TLS provides guidance to its members on how to determine charge out rates and how to manage data internally.

required) and the extent to which all solicitors employed within CLACs are subject to the full Solicitors' Code of Conduct has been debated.²⁶

After accounting for the Approved Regulator, the conduct of supply can still vary according to distinguishable business models. This is most relevant for solicitor firms, where the population of suppliers is particularly large and heterogeneous, and where sub-groups can be defined with a high degree of within-group comparability and between-group heterogeneity. The self-employed nature of work at the Bar has also resulted in considerable diversity, for example, with some barristers choosing to seek public access qualifications and/or litigious rights. To account for this, key defining characteristics are highlighted in Table 2.6.

Table 2.6 Supply-side segmentation

Level 1	Other defining characteristics
Regulated by the SRA	Registration status: partnership, ABS, other
	Number of partners
	Central London office ¹
	Number of UK offices
	Turnover
Regulated by the BSB	Organisation type: chamber, ² hybrid, ³ sole practitioner ⁴
	Number of barristers with public access rights
	Central London office ¹
Unregulated entity (serving the public)	Publicly funded (eg, CLACs and CABs)
	Privately funded (eg, Help the Aged and other charities)
Unregulated entity (in-house practitioner)	
Regulated by the ILEX	
Regulated by the CLC	Registration status
Regulated by IPREG	
Regulated by the ALCD	
Regulated by the Master of the Faculties	
Regulated by the ACCA	
Regulated by HMCPSI	

Note: The primary Approved Regulator for the entity (rather than the practitioner) determines the level 1 categorisation. There is no industry standard definition defining the types of business and organisation within which solicitors and other legal practitioners work. In addition, it is important that the definitions do not create a gap in data, by not covering the full supply side. This requires the use of a single cut-off point and broad definitions. ¹ Central London is defined as the following postcodes: EC1, EC2, EC3, EC4, E14, WC1, WC2. ² Chamber is defined as an organisation where barristers are the only regulated legal practitioners and remain self-employed in status. ³ Hybrid is defined as an organisation with barristers acting as employees. ⁴ Sole practitioner can be distinguished from chamber when the practitioner does not obtain their work through affiliation with a chamber, and can be distinguished from an in-house advocate when they remain self-employed in status.

²⁶ See, for example, ASA (2008), 'CLACs – are they worth it', May. Available at: http://www.asauk.org.uk/fileLibrary/pdf/CLACs_are_they_worth_it.pdf.

3 Indicators

The previous section identified the relevant markets within which changes in the sector can be monitored. To complete the first objective of the framework—defining what needs to be measured in order to monitor change—this section identifies the relevant characteristics and aspects (indicators) of such markets that should be monitored. Section 3.1 outlines the approach to identifying the indicators, which are then summarised in section 3.2 and presented in more detail in Appendix 2. To measure the impact of specific regulatory intervention, often only a selection of indicators is relevant; guidance on this matter is presented in section 3.3, with an illustrative application to the introduction of ABS.

3.1 Approach to identifying indicators

Market characteristics can differ in a number of ways and may vary over time. Change may be endogenous, resulting from shifts in regulation or innovation within firms. Alternatively, factors arising outside the legal services sector may influence market dynamics and other aspects of the market more directly relevant to the consumer—eg, changes in the economic climate, government policy, and the profitability of other markets. Therefore, to understand how markets currently function and how they may change over time requires an extensive range of indicators. These indicators can be identified by considering the following aspects, which are relevant when assessing the impact of regulation in any market.

- **Final market outcomes**—at a high level, the outcomes of a market from a consumer’s perspective can be considered in terms of price, quality and volume. There are other aspects, but these can be seen as sub-categories of these three. For example, the ease of access to legal services is a valuable dimension of the volume indicators; and market outcome ‘quality’ incorporates market characteristics such as the extent to which there is a match between what consumers need (want) and what they buy.

In addition to these consumer market outcomes, characteristics that depend on the dynamics of the market, such as innovation, efficiency and productivity, can be considered as final market outcomes. For example, innovation captures the extent to which firms compete against each other by improving existing products and introducing new ones using new technologies.

In some markets it may be possible to measure some of these final market outcomes directly. For example, if services are standardised, it may be possible to measure the price for a specific unit, such as a conveyancing service per property transaction. In other markets, however, it may be necessary to find proxies that measure the market outcome indirectly. For example, it may be possible to obtain an indication of quality by measuring the number of complaints over time.

- **Indicators to measure the functioning of markets**—final market outcomes will depend on the general functioning of each individual legal services market, for which a number of indicators can be relevant. These indicators can be identified on the basis of those used in standard market analysis—for example, as used by the Competition Commission when conducting market investigations.²⁷

Such indicators can be considered intermediate outcome indicators, because they determine the final market outcomes described above. These can be grouped into those that monitor the composition of supply, and those that focus on the consumer–supplier

²⁷ Competition Commission (2003), ‘Market Investigation References: Competition Commission guidelines’, June.

interaction. The first group considers aspects such as the concentration and size of the market and the heterogeneity of suppliers in the market, while the second focuses on monitoring direct evidence of competition and barriers to competition.

- **Regulatory objectives**—these identify the characteristics and outcomes of the market that are important to the regulator, and are therefore important to monitor. In the case of the regulatory objectives that the Legal Services Act has given to the LSB, some go beyond ‘traditional’ market outcomes defined from an economic perspective. For example, the LSB has regulatory objectives relating to aspects such as encouraging an independent, strong, diverse and effective legal profession, and increasing public understanding of citizens’ legal rights and duties. Both of these may be considered to be intermediate outcomes that will contribute to improving final market outcomes for consumers.
- **Regulation and regulatory reforms**—indicators based on the aforementioned areas (ie, final market outcomes, the functioning of markets and regulatory objectives) can be used to measure the general impact of regulations and regulatory reforms on markets. However, to measure the impact of specific regulations or regulatory reforms in more detail, some additional indicators may be required.²⁸

3.2 Overview of indicators

Reflecting the different objectives and sources of indicators described in section 3.1, the significant indicators when benchmarking legal services can be classified into the following areas.

- **Drivers**—these indicators monitor the emergence of changes, shocks or trends that are likely to drive changes in the legal services sector. Indicators are generally binary: does a regulatory change occur or not? Has the MoJ altered the funding of legal aid or not? They form the first part of the chain of events that may alter outcomes for the consumer.
- **Market functioning**—these indicators help to understand the mechanisms and processes through which the drivers may alter the composition of supply and/or market outcomes. They consider whether there are reasons why the market is not functioning effectively—eg, are there barriers to entry? Can consumers effectively choose between providers? Can consumers complain? By identifying the market dynamics, the mechanisms through which regulatory changes (and other drivers) affect the sector can be assessed.
- **Composition of supply**—similar to the market functioning indicators, these are relevant to understand how drivers may alter market outcomes. They provide information on the conduct of supply, and can therefore be useful in providing early evidence of supply-targeted regulation—eg, has allowing ABS resulted in additional business registrations? Have market shares changed? Are these new businesses behaving differently to incumbents? In this way, such indicators can be important in establishing the causality of changes in market outcomes.
- **Market outcomes**—these indicators monitor the performance of markets. Relevant indicators consider what matters to consumers—price, quality and access (as part of volume)—and evidence on the efficiency of the market more generally—innovation, costs and productivity. According to the immediate regulatory focus, the importance of different indicators may shift.

²⁸ Oxera (2006), ‘A framework for assessing the benefits of financial regulation’, prepared for the Financial Services Authority, September.

The broader topics in each of these areas are summarised in the following diagram and text, while identification of specific indicators relevant to each topic is provided in Appendix 2.

Figure 3.1 Indicators to benchmark the legal services sector



Source: Oxera.

3.2.1 Drivers

These indicators focus on the drivers of change in the legal services sector, and include the identification of proposals for change from the regulatory and government authorities influencing the legal services sector—the Approved Regulators, the LSB, the MoJ and the European Commission. Proposals that can already be identified for monitoring are the Jackson Review, the recovery of success fees, changes to the contracting and funding of legal aid, court closures, the introduction of ABS and the creation of the Legal Ombudsman. For each proposed regulator/policy change, it will be useful to measure progress through the various stages, such as consultation, determination and implementation.

In addition to regulatory and policy changes, there may be other external factors and industry trends that influence how the legal services sector develops over time. Some trends and factors that can already be identified include government spending cuts, the state of the housing market (and the state of the economy more generally), changes in the proportion of solicitors with higher rights of audience, changes in the proportion of commercial work that is undertaken in-house and legal process outsourcing.²⁹

3.2.2 Functioning of the market—elasticity of supply

The rate at which supply changes in response to changes in prices (ie, the elasticity of supply) cannot be measured directly. Instead, it requires analysis of price and volume data, in sufficient quantity such that changes in demand can be controlled for. To support or, more likely, substitute (due to data feasibility issues) such analysis, other indicators can be particularly informative:

- identification of barriers to entry—what channels of customer acquisition dominate? What are the entry barriers to this legal service? What is the importance of brand value for this legal service?
- evidence of effective barriers to entry—what is the proportion of new registrations of firms/professionals relative to renewals by each registered authority? What is the total market share of newly registered business after 12 months?
- evidence of effective barriers to exit—to what extent can investment be transferred to other legal markets? What proportion of an organisation’s clients purchase advice across multiple legal markets? What proportion of an organisation’s staff works in multiple legal markets? How much do fees vary for each practitioner, when working in different legal markets, where their experience varies?

²⁹ See Legal Services Board (2010), ‘The future of legal services: emerging thinking’, June; Lord Justice Jackson (2009), ‘Review of Civil Litigation Costs: Final Report’, written for the Ministry of Justice, December; Ministry of Justice (2010), ‘Proposals for the reform of Legal Aid in England and Wales’, Consultation Paper 12/10, November.

- evidence of supply-side substitution—what other types of law are (have been) provided by each firm/legal professional?

3.2.3 **Functioning of the market—elasticity of demand**

The rate at which demand changes in response to changes in prices (ie, the elasticity of demand) cannot be measured directly. Similar to the elasticity of supply, the elasticity of demand requires analysis of substantial price and volume data, and alternative indicators can provide a rough approximation, including:

- evidence of consumer switching—when have consumers switched mid-case? When do consumers repeat-purchase from the same provider?
- evidence of effective consumer choice—do consumers shop around?
- bundling of services—is there willingness for a one-stop shop? If so, for which services?

3.2.4 **Functioning of the market—consumer conduct**

Consumer conduct covers areas that can affect market dynamics, including consumer understanding and buyer power. Consumer understanding is closely related to the elasticity of demand and quality of service, and therefore there is a degree of overlap in the relevant indicators. For example, evidence that consumers are not shopping around or complaints that services have been mis-sold are also indicative of low consumer understanding. Consumer understanding can also be influenced by the level of information available in the market, and therefore providers' customer acquisition techniques. In the context of legal services, indicators should cover consumer understanding in relation to:

- the value of legal services offered;
- how to access legal services;
- what is a competent service and supplier.

Buyer power may also influence market dynamics and outcomes, and could therefore also be appropriate to monitor. Such power depends on the buyer's market share, but also on the availability of alternatives to the buyer (eg, whether the service could be provided by another legal services supplier or potentially in-house), the cost of switching to the buyer (eg, setting up the necessary skills in-house), and the extent to which the supplier can switch to other consumers. Therefore there is an overlap with the indicators used to measure the elasticity of demand and supply, the value chain and access.

3.2.5 **Composition of supply—horizontal integration and coordination**

Horizontal integration can be measured through market share analysis, using similar (market-wide) data as collected for 'market outcomes—volumes' (see section 3.2.10). High concentration ratios can indicate market power and may give rise to concerns about the effectiveness of competition in the market. To support this analysis, it is also useful to consider the volatility in market shares over time. Where the same firms have consistently high market shares over time, this can indicate that such firms have competed successfully on a continuing basis, or industry coordination and weak competition.

The degree of competition in a market can also be assessed by considering final market outcome indicators: where competition is effective, the outcomes will improve at a faster rate than otherwise. However, the counterfactual can be difficult to control for—prices may not fall despite effective competition, because demand has increased, for example. Therefore, before concluding that coordination exists, it is relevant to examine whether factors exist that could, in principle, help facilitate coordination and inhibit competition. Indicators for many of these factors have already been covered—eg, barriers to entry, high switching costs, poor consumer understanding and high concentration ratios can facilitate (but do not necessarily result in) coordination. Others include stable costs, stable demand, excess capacity and the strength of industry associations.

3.2.6 **Composition of supply—business models**

The characteristics of the supply side, in terms of both business and the specific legal practitioner providing the service, can go some way in explaining market outcomes and dynamics. For example, the scope of services offered can be limited according to the legal registration of the business and qualification route of the practitioner. Monitoring changes in the business models (in particular, legal registration) will also be crucial to assess the impact of the introduction of ABS—for example, to link changes in the improvement of competition to the introduction of ABS.

Business characteristics to monitor include corporate structure, business size, location, profitability, activity in different legal markets and other non-legal markets and registered authority. It can also be informative to ask legal suppliers how they would style their business model, to identify new ways in which suppliers seek to differentiate themselves.

At the legal practitioner level, it can be informative for both understanding the consumer–supplier relationship, and (potentially) the quality of legal service provided, to monitor their legal experience, qualification route, and socio-economic group.

3.2.7 **Composition of supply—value chain and vertical integration (link to consumer conduct and access)**

The provision of a legal service can involve intermediaries at different points in the value chain:

- customer acquisition may be outsourced to claim management companies or other organisations (eg, a bank or insurance company) that refer cases to suppliers of legal services;
- representation in court may be outsourced by solicitors to barristers;
- in-house legal departments may outsource certain tasks to external legal professionals;
- more recently, international outsourcing of certain types of legal work by solicitor firms has also become more popular.

Monitoring the value chain and degree of vertical integration is important for several reasons. At the consumer access level, an intermediary can act as a gatekeeper to the service—for example, in the case of solicitors relying on referrals from other companies (eg, conveyancing and personal injury) or from in-house counsel (for corporate clients), or in the context of referrals by solicitors to barristers (for advocacy work). Such gatekeeper roles can have important implications for market dynamics and outcomes. For example, they can alter the incentives for the supplier (in some cases realigning them with the end-consumer), and where access to intermediaries is limited, create barriers to entry.

Outsourcing from the legal services supplier is an emerging trend that could be monitored. It is expected to lower costs, and therefore prices, but may have more wide-reaching effects on the market.

3.2.8 **Market outcomes—price**

Market outcome indicators monitor the performance of markets in terms of how they meet consumer needs. At a high level these indicators can be summarised as price, quality, volume and innovation, but within each of these there are valuable aspects to monitor.

In the case of price, it is not only the effective unit price to the consumer that is important, but also, for example, the predictability of prices and the flexibility of pricing arrangements. Predictability involves considering the consumer's expectation and understanding of the total cost throughout the purchase process, including when deciding to engage a solicitor.

To understand the market's performance along these dimensions, it is necessary to consider what regulatory pricing restrictions exist, for example, on the use of conditional-fee arrangements and success fees, and any restrictions imposed by (informal or formal) industry associations. In addition, from a policy perspective, the importance of securing low,

flexible pricing arrangements may depend on the type of customer and funding sources (eg, legal aid) available.

3.2.9 **Market outcomes—quality**

To evaluate how well a market meets consumer needs, it is relevant to consider the extent to which the quality available matches (true) consumer preferences, by looking at:³⁰

- whether an adequate level of quality is (always) provided;
- the average/typical level of quality provided;
- whether a range of quality is available *and* observable *prior to purchase* by consumers at cost-reflective prices;
- whether ‘excessive’ quality (quantity) acts as an access barrier. For example, if affordable, basic advice is not available; or, within contentious legal markets, action is not taken due to concerns about the ability to afford the quality/quantity of advice required to ‘compete’ with the other side.

The quality of legal service can be judged along several dimensions such that the average level within the market cannot be directly monitored. One approach separates quality of advice from quality of service.³¹ The latter refers to the conduct of the provider (such as timeliness) which can be more easily judged by consumers, and is thus captured from consumer surveys. The former is much more difficult for consumers to judge since it requires an understanding of the law.

Where quality (of advice or service) falls below a threshold, it may result in one or more of the following actions, for which data may be available:

- court adjournment;
- referral by the SRA to the Solicitors Disciplinary Tribunal (SDT);
- disciplinary action by the Bar Council;
- consumer complaints to the Ombudsman;
- other legal services, such as probate issues resulting from poor quality wills, or property issues resulting from inadequate conveyancing reports.

3.2.10 **Market outcomes—volume**

An important aspect of volume relates to consumer access, in terms of both unmet demand (refusal to take a case) and mediums of service delivery. For some access indicators, in certain areas of law, it will be relevant to consider the detailed market segmentation breakdown provided by level 3 in Tables 2.3 and 2.4. For example, consumer characteristics such as funding source, socio-economic group and location are likely to be important to consider when monitoring unmet demand within certain areas of law.

Monitoring the total volume of different legal services, and how this changes over time, can be useful to identify changes and trends in the legal services sector. This can help in assessing the impact of regulation and other changes on the sector. Measures include inputs (registered persons, registered businesses, billable hours, revenue and hours in court) and outputs (the number of wills written, final hearings, crimes solved, and legal purchases from natural persons).

Such volume measures will be informative in monitoring the market outcomes, but the data collected will also be informative about the functioning of the market. For example, turnover from different suppliers can be used to calculate the concentration ratio of different legal services markets, and how the market has grown (or shrunk) over time. Combining revenue and input volume and value measures can also establish the profitability of a market.

³⁰ What these ‘true’ preferences are should be defined separately.

³¹ See Solicitors Regulation Authority (2010), ‘Indicative cost benefit analysis’, November.

3.2.11 Market outcomes—efficiency, innovation and productivity

It can be useful to consider evidence of efficiency, innovation and productivity separately, to ensure completion.

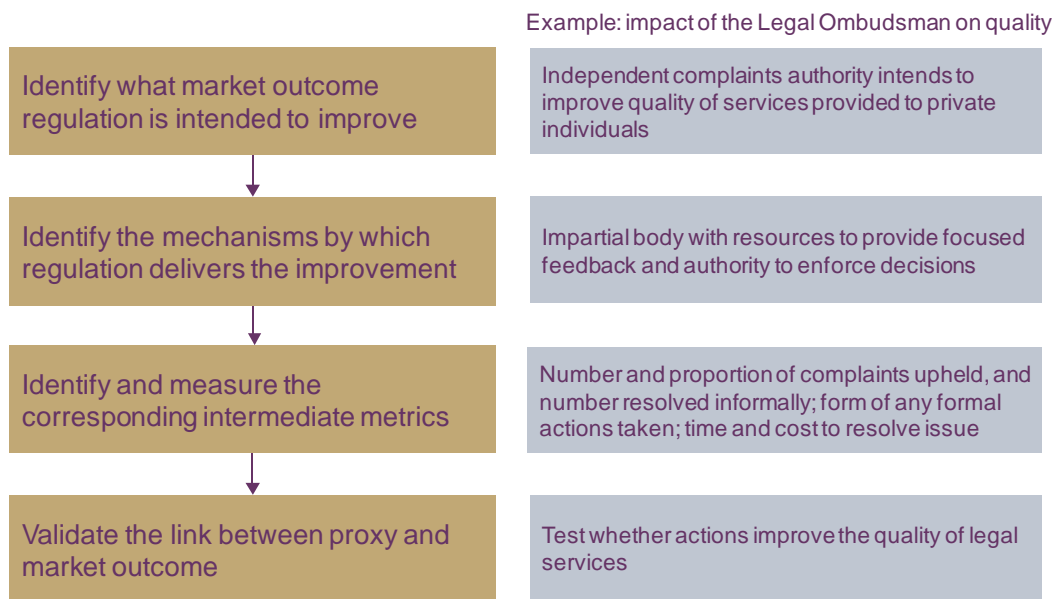
When monitoring the efficiency of a market, a distinction can be made between allocative efficiency and productive efficiency. Allocative efficiency occurs where there are willing suppliers in all areas where it is economic to provide services and where, for each service, the price is equal to the marginal cost of producing the product concerned. Productive efficiency occurs when, for any given set of products, these are being produced at the lowest possible cost using existing technology. In general, competition will drive prices down to costs so as to help achieve productive efficiency—companies that set prices higher than their rivals will lose market share, and will at some point have to adjust their prices or exit the market. In addition, as long as suppliers can move between different products or services, competition helps achieve allocative efficiency by increasing supply where there is excess demand and reducing it where there is inadequate demand. The success of competition will therefore affect both the allocative and productive efficiency within the market. Furthermore, the dynamics of competition create incentives for suppliers to increase productivity through innovation, which lowers costs and hence prices through time.

Using data on costs, prices, volumes and quality, either in cross-section or through time, efficiency can be assessed. In terms of innovation and productivity, relevant measures will typically be qualitative assessments from both firms and consumers of their perception of innovation within pricing, quality, bundling, marketing, cost efficiency, or other unforeseen areas.

3.3 How to assess the impact of a specific change in regulation

The legal services sector is dynamic: change is being driven from within and outside it. Therefore, to assess the impact of any specific regulatory change, it is crucial to establish a conceptual framework identifying the mechanism through which regulation is hypothesised to affect the market, before considering what changes can be observed. This is consistent with the approach developed for the Financial Services Authority (FSA) to assess the benefits and costs of financial services regulation, and is set out in the following figure and text.

Figure 3.2 How to measure the specific impact of regulation



Source: Oxera.

First the market detriment(s) that the regulation or a specific rule is supposed to mitigate (or the adverse effect(s) it is expected to create) must be identified. In many cases the targets will have been identified in the consultation process preceding the regulatory change, and will be expected to coincide with the market failure and non-economic regulatory rationale, as set out in section 1.3. In some cases, identification of the rationale for intervention identifies direct measures along which the effectiveness of regulation can be monitored.

The next step is to consider the mechanisms (or processes) by which regulation is likely to deliver the anticipated change in market outcome. By identifying the mechanisms through which regulation changes (improves or worsens) a market outcome, indirect and intermediate indicators of change can be identified. Recognition of such mechanisms can also identify other possible effects that the intervention may create.

Measurement of the intermediate indicators can be very valuable for two important reasons. First, direct measurement of change in market outcomes may not be possible in the available time horizon, whereas measurement of change in the intermediate indicators can provide an early signal regarding the effectiveness of the policy change. Second, measuring change in relevant intermediate indicators is key when establishing the causality of changes in final market outcomes. For example, should a consumer survey find an improvement in consumer satisfaction, but there is an increase in the number of recurring complaints to the Legal Ombudsman about the same firms, it becomes less likely that the Ombudsman is driving the improvement in consumer satisfaction.

The last, and important, step is to validate that the chosen intermediate indicators are suitable for drawing inferences about improvements in market outcomes. For example, this would involve controlling for other factors that may drive changes in the complaints received by the Legal Ombudsman and their handling.

It is important to make a distinction between direct measurement of changes in market outcomes, and indirect measurement using proxies and intermediate indicators. For example, a change in the intermediate indicators is unlikely to provide information on the magnitude of the change in the final market outcome. Existing cost–benefit analyses often evaluate benefits by considering changes in metrics that are, in fact, proxies rather than outcome measures. Absent any discussion of the rationale for the chosen proxies and validating their suitability, there is a risk that the estimated improvements generate incorrect inferences about the ultimate benefits.

Box 3.1 Monitoring the potential impact of ABS on the localised provision of legal advice

One concern expressed in relation to the introduction of ABS is that it may reduce the geographic presence of solicitors and that this could impair access to justice by reducing the availability and/or increasing the cost of face-to-face legal advice.

There are two mechanisms through which the localised provision of legal advice may decline, and indicators to monitor and anticipate both of these are explained below. However, in terms of monitoring (and anticipating) the impact of ABS, it is also necessary to assess the extent of consumer detriment caused, should either mechanism occur. This depends on the value provided by localised provision of legal advice that remote access (via telephone, Internet or post) cannot provide, and the affordability of face-to-face advice. For example, the loss (or increased cost) of face-to-face legal advice will not affect consumers who cannot currently afford it.

Localised provision of legal advice **may** decline for the following reasons:

- legal services suppliers adopting an ABS can achieve a cost advantage by concentrating their activities in one location in a way that conventional legal firms cannot. In areas of law where this is the case, ABS suppliers may be able to offer legal services at a distance from the consumer, at lower prices than currently available. The remaining localised suppliers become more dispersed (or exit) and *local* access to that legal service becomes further away, on average;

- where there is a cross-subsidy (or diversification advantage) between different areas of law, and ABS have a cost advantage and a centralisation impact, cherry-picking the more profitable services, local supply of all areas of law by incumbent firms may decline, including those not provided by the ABS suppliers.

To clarify, under the first mechanism, only the areas of law provided by the ABS suppliers are affected, while under the second there may be spillovers to other practice areas.

Indicators for the first mechanism

To consider the impact of ABS under the first mechanism, the following indicators are relevant (*possible metrics are provided in italics*).

- Entry by ABS: *registration of ABS with SRA or other Approved Regulators.*
- Concentration of certain activities by ABS in centralised locations: *cost and volume data from new ABS.*
- Cost advantage for ABS that ‘concentrate’ activities in one location (which cannot be achieved by other types of legal service supplier): *cost and volume data from new ABS and suppliers of localised legal services.*
- Lower prices for the services that ABS supply from a centralised location: *price data from new ABS and suppliers of localised legal services, or from a consumer survey.*
- Withdrawal of similar services from ‘dispersed’ legal service suppliers: *volume data from suppliers of localised legal services, or from a consumer survey.*

Indicators for the second mechanism

To anticipate the extent to which the second mechanism will function *prior to implementation*, it is valuable to consider to what extent there is any cross-subsidy (or diversification advantage) between different areas of law provided by existing suppliers of localised legal services. This can be assessed using detailed profitability data from existing legal service suppliers, although a more cost-effective analysis would first consider the following.

- The profitability of different areas of law currently provided by suppliers of localised legal services: *existing legal service suppliers may be able to provide an approximate ranking.*
- The existence of other benefits from providing multiple areas of law that suppliers of localised legal services currently enjoy: *existing legal service suppliers may be able to provide information on this.*
- The existence of firms providing the ‘less profitable’ services only: *from revenue and volume data from all legal service suppliers.*
- The existence of legal service suppliers providing the ‘more profitable’ services only: *from revenue and volume data from all legal service suppliers.*
- To monitor the extent to which the second mechanism occurs *post-implementation*, in addition to the indicators relevant for the first mechanism, monitoring the supply of all legal services from localised legal service suppliers more broadly (including their general presence in the market) is relevant: *changes in the geographic distribution of legal services suppliers from registration data may provide this.*
- To evaluate the consumer detriment caused under either mechanism, it is necessary to identify the value that localised access provides which remote access via the telephone, Internet or post cannot. This may vary by service and/or consumer group: *consumer survey data may be necessary.*

Source: Oxera (2010), ‘What will be the impact of alternative business structures on geographic access to justice?’, prepared for the Law Society, July.

4 Collecting and interpreting data

This section provides guidance on how to apply the framework set out in sections 2 and 3 to benchmark the legal services sector. The first question considered is how to measure the comprehensive list of indicators identified. To answer this, section 4.1 provides guidance on data sources and forms, data collection tools and techniques, and data validation methods.

How to interpret the information collected is addressed in section 4.2, in which a range of tools and techniques relevant for different types of research questions is considered. Section 4.2 also covers how to assess the reliability of sample inference and how to assess the causality of changes.

4.1 Collecting information

4.1.1 Data

Even where data already exists, it may still be relevant to consider the value that more detail (eg, in line with the market segmentation presented in section 2) or additional measures and context could bring, and trade this off against the (incremental) cost of such data collection.

Sources that collect information on an ongoing basis for specific indicators and/or markets are summarised in Table 4.1 below. These tend to cover aspects of the legal services sector where there is a government, industry or external regulatory interest; therefore, while informative, existing data is often restricted in scope (in terms of indicators and markets covered) and detail. For example, the government monitors some volume and performance data but only those aspects of the legal system that are publicly funded (eg, legal aid, the CPS, prisons, and courts/tribunal systems).

Table 4.1 Data already collected on an ongoing basis

Source	Outline of data	Relevant for the following indicators	Limitations
TLS	Registration information, ¹ areas of law undertaken, organisation size	Volume, composition of supply, and elasticity of supply	Restricted to solicitors
BSB	Registration information	Volume, composition of supply, and elasticity of supply	Restricted to barristers
ALCD	Registration information	Volume, composition of supply, and elasticity of supply	Restricted to law costs draftsmen
Master of Faculties	Registration information	Volume, composition of supply, and elasticity of supply	Restricted to notaries
IPREG	Registration information	Volume, composition of supply, and elasticity of supply	Restricted to trademark and patent attorneys
CLC	Registration information	Volume, composition of supply, and elasticity of supply	Restricted to conveyancers
ILEX	Registration information, areas of law undertaken	Volume, composition of supply, and elasticity of supply	Restricted to legal executives
Faculties website	Registration information	Volume, composition of supply, and elasticity of supply	Restricted to scriveners
OISC	Registration information, areas of law undertaken	Volume, composition of supply, and elasticity of supply	Restricted to registered immigration service providers
Charities Commission	Registration information (organisation level only), areas of law undertaken	Volume, composition of supply, and elasticity of supply	Restricted to legal advice charities
CAB	Registration information (organisation level only), areas of law undertaken, organisation size	Volume, composition of supply, and elasticity of supply	Restricted to CABs
Advice UK	Registration information (organisation level only), areas of law undertaken, organisation size	Volume, composition of supply, and elasticity of supply	Restricted to advice centres
Society of Will Writers	Registration information (organisation level only)	Volume, composition of supply, and elasticity of supply	Restricted to organisations offering will writing services
Trading Standards	Registration information (organisation level only), areas of law undertaken, organisation size	Volume, composition of supply, and elasticity of supply	Restricted to trading standards offices
Law Centres	Registration information (organisation level only), areas of law undertaken, organisation size	Volume, composition of supply, and elasticity of supply	Restricted to law centres
Shelter	Registration information (organisation level only), areas of law undertaken, organisation size	Volume, composition of supply, and elasticity of supply	Restricted to Shelter housing advice centres
LSC	For firms undertaking legal aid work: Postcode, name, quality marks held, volume of cases undertaken, total payments received,	Price, volume, costs, quality and elasticity of supply	Restricted to legal aid
LSC	Legal Aid means testing requirements	Price, volume	Restricted to legal aid
MoJ CMR	Registration information, areas of law undertaken	Volume, composition of supply, and elasticity of supply	Restricted to claims management companies
MoJ	Court statistics: volume of hearings (by court, case type, effective/cracked/ineffective), user satisfaction survey, time intervals, sentencing	Price, volume, costs, quality	Restricted to cases heard in court (contentious areas of law)
MoJ	Tribunal statistics: costs awarded, compensation awarded, volume (by claim type), outcome	Price, volume, costs, quality	Restricted to cases heard at tribunals (contentious areas of law)
MoJ	Criminal statistics: oversight of system, volume of offenders, crimes, arrests, sentencing outcomes; Prison statistics	Price, volume, costs, quality	Restricted to criminal law
MoJ	CPS statistics: staff costs, employees, convictions, and some performance indicators	Price, volume, costs, quality	Restricted to criminal law
MoJ	Disputed costs: estimated total value and number of disputed costs by type of court	Costs	Restricted to contentious areas of law
MoJ	Miscellaneous volume measures: number of housing repossessions, number of death certificates, number of companies wound up, number of bankruptcies	Volume	Restricted to certain areas of law
LSRC	Civil and Social Justice Survey	Price, volume, costs, quality	Restricted to certain areas of law
Insurers	PII claims from legal professionals	Volume, composition of supply	
Insurers	Other insurance claims data (eg, personal injury, professional negligence)	Volume, price	Restricted to areas of law for which insurance companies are consumers
Law directories	Registration information (organisation level only), areas of law undertaken, organisation size	Quality	Restricted to areas of law relevant to corporate consumers
Companies House	Registration information (organisation level only), areas of law undertaken, organisation size, financial information	Volume, composition of supply, and elasticity of supply	Restricted to certain types of legal provider
Legal Ombudsman	Complaints	Quality	Causality of change difficult to determine
SDT	Disciplinary action	Quality	Causality of change difficult to determine

Note: ¹ Registration information includes practitioner details such as name (but may also include age, qualification, gender, ethnicity) and organisation details such as name and address. In general, organisation size is available by number of employees, but turnover may also be available. In addition to the information in the public domain available from each of the identified sources (accessible online), relevant information may be available on request.
Source: Oxera, and LSB Knowledge bank.

Many indicators do not have one, unique, direct measure—eg, the quality of legal service, the degree of competition, consumer understanding and profitability. In such cases, different measures may be available that monitor, directly or indirectly, different aspects of the indicator. For example, when considering quality of service provided, relevant aspects and metrics include the following.

- **Delays caused by supplier behaviour:** duration of case/matter (from suppliers); duration of hearings (from courts/tribunals); availability of supplier (from consumers).
- **Incompetent legal service:** ineffective hearings (from courts/tribunals).
- **Consumer satisfaction with the service:** complaints made, complaints upheld and actions taken (from Legal Ombudsman); general satisfaction (from consumers); volume of work arising from referrals from past clients (from firms); willingness to refer supplier to someone else (from consumers).
- **Other output measures:** valuation of compensation awarded (from courts); conviction statistics (from CPS); subsequent court appeals (from courts); public inquiries and ‘wasted costs’ (from courts/firms).
- **Input measures:** quality marks held by supplier (from firms); unsuccessful applications for quality marks by supplier (from industry associations); years of (relevant) experience of practitioner (from legal service supplier).

To avoid drawing incorrect conclusions, it is best to consider as many aspects as possible together.

In some cases quantitative data on particular aspects may not exist—eg, consumer satisfaction regarding the quality of legal service provided. In such cases, qualitative information (eg, from consumer surveys) may be effective at providing context to fill the gap.

Where data is collected and analysed only certain aspects of the indicator, this should be made explicit when drawing conclusions, to reduce the risk that findings are taken out of context. This is particularly important in the case of indirect measures, where there may be additional factors influencing the metric, other than the indicator in question. For example, the number of complaints upheld by the Legal Ombudsman may reflect its effectiveness at handling complaints, as well as the average quality of legal service in the market.

Guidance on how to measure each of the indicators (topics) listed in section 3 is provided in Appendix 2. This identifies a collection of metrics and appropriate sources for each indicator based on what data is expected to be available from firms, courts, regulators and other sector stakeholders. This may need to be updated over time.

The conceptual market segmentation breakdown presented in section 2 identifies levels of detail at which data can be collected. As explained, the level of detail that is appropriate will vary between different indicators and data sources, according to the (incremental) cost and (incremental) value that greater detail provides. For example, staff costs within a firm are unlikely to vary significantly between different areas of law. Asking for such a breakdown may therefore not be cost-effective, at least for baseline analysis. However, it is worth considering what future analysis may be informative, since the ability to monitor changes over time depends on the availability of baseline data for comparison.

Similarly, if there is a choice about which indicators/data should be monitored, considering the incremental value and cost is important. The incremental value will depend on the LSB’s current regulatory agenda and, as with costs, this will be time-dependent. However, when the upfront cost of engaging with a particular data source is high, it may be worthwhile erring on the side of collecting more rather than fewer metrics from the source at a time, regardless of the current regulatory focus.

4.1.2 Different collection techniques

Collecting new information introduces a new set of questions, including how to engage with the source; how to select a representative sample; and, once data has been collected, how to validate and cross-check any data received.

Engaging with the source

Information can be collected and respondents engaged with in a number of ways, the main ones being as follows.

- **Interviews (and focus groups)**—interviews may take place in person (face to face) or via telephone, with one respondent at a time or simultaneously (focus groups). There is some flexibility regarding the scope and detail of information that can be considered in an interview, limited to the respondent's own understanding. Very rarely are interviews suitable for collecting quantitative information.
- **Questionnaires (and data requests)**—questionnaires can vary in form (eg, in hard copy, soft copy, Excel/Word format) and in distribution technique (eg, in person, online, via engagement with an intermediary such as an industry association/regulator). As in the case of interviews, there is some flexibility regarding the scope and detail of information that can be considered in a questionnaire, but this is limited to the respondent's own understanding/access to information. Questionnaires can be an effective way of collecting quantitative information, but care is required to ensure that data is provided on a consistent basis between respondents.
- **Observation**—directly observing market practices through techniques such as mystery shopping and case file (peer) review are additional methods for collecting information.

Which technique is most appropriate depends on a number of factors, and in some cases it is relevant to use a combination. For example, interviews can provide contextual qualitative information, relevant when interpreting quantitative information obtained through data requests. Some relevant factors when choosing between different techniques are summarised in Table 4.2 below.

Table 4.2 High-level overview of different data collection techniques

	Interviews	Questionnaires	Observations
Unit cost to research company	(Except for focus groups) the incremental cost of undertaking an interview is typically higher than distributing a questionnaire, but lower than observation techniques Cost of validating and interpreting responses is variable	Incremental cost of distributing a questionnaire is typically lower than undertaking an interview and than observation techniques Cost of validating and interpreting responses is variable	Incremental cost of mystery shopping/case file review can be very high There are no responses to validate
Cost to respondent	Limited to the duration of the interview	Highly variable—depends on detail and scope of the questionnaire, and respondents' access to information	Case file review—restricted to providing data Mystery shopping—variable, but does not affect 'response rate'—the respondent cannot choose not to participate
Type of information available	Qualitative Closed questions (eg, use of options) can be useful to standardise answers Open-ended questions about trends and context are possible	Qualitative and quantitative Since typing out data/responses increases the cost to the respondent, the scope and detail of data requested must be traded against the expected impact on the response rate	Limited to what can be observed
Response rate	Relatively low cost to respondent, and personal engagement may improve the response rate	Typing out data/responses shifts the cost burden onto the respondent. This can reduce the response rate	Case file review—depends on confidentiality issues and firm co-operation Mystery shopping—100%
Other advantages	Interviewer can provide additional clarity where necessary		
Disadvantages	More difficult to get quantitative data May be subject to sampling bias (eg, on-the-street surveys)	May be subject to sampling bias (eg, cost of responding may vary between respondents in a way that cannot be controlled for)	Limited to information that can be observed May be subject to (unknown) sampling bias

Source: Oxera.

In terms of respondent engagement, choosing the data collection technique that minimises the burden for the respondent is important (where they have a choice over participation). In addition, round tables and gaining support from the relevant industry associations, regulators and the government can have a strong impact on response rate.

It is also necessary to be flexible in terms of the data metrics requested. Where industry standards already exist, requesting data in a different form may impose considerable costs not justified by the benefit. To allow for flexibility in the level of detail in the data, the market segmentation set out in section 2 provides three levels of detail. Importantly, to ensure consistency between responses, such that reliable inference can be drawn, the three levels are presented in a hierarchical structure.

How to select a representative sample

In statistics, the focus is usually the experience of a group or 'population' rather than the experience of individuals or 'elements' that make up the population. In the context of legal services, such groups may be defined as:

- firms;
- practitioners;
- consumers;
- potential legal issues;
- consumer instructions (legal service transactions);
- court hearings.

The cost of collecting population data is typically prohibitive. Exceptions include where data is already monitored—eg, firm and practitioner registration information and some detail regarding legal aid work. In general, sampling—whereby data from a sub-set of the population is used to make inference about the population—is the only cost-effective option, but it creates two sources of error: **random sampling error**—the sample is not representative of the population, but there is no systematic bias; and **selection bias**—there is a systematic bias between the sample estimates and the population.

Such errors reduce the certainty with which conclusions about the population can be drawn from the information provided by the sample, but they can be mitigated by:

- increasing the size of the sample;
- adopting specific sampling techniques, such as stratification or following a consistent panel over time;
- minimising the burden to all respondents—to enhance the response rate;
- harmonising the (net) costs to all respondents—to avoid introducing bias in the sample that responds, it may be necessary to collect data at different levels of detail from different respondents;
- post-sampling weighting of responses in line with existing (known) information about population proportions;
- post-sampling sensitivity analysis of responses, which can estimate the potential of either of the two sources of error.

Guidance on sample size

For random (unbiased) samples, the law of large numbers indicates that, as the sample size increases, (consistent) sample estimators will converge to the (population) true values. The larger the sample in absolute terms, the more information that is revealed about the population, therefore the more confident one can be that it is representative for the population. This means that samples that are proportionately small, but large in absolute terms, can still be representative. For example, a rule of thumb used by market research companies is that 2,000 respondents to a general consumer survey is representative of the UK, despite representing less than 0.01% of the population.

As variation within the population increases, there can be less confidence in the estimates based on a given sample size, and (according to the cost and type of analysis intended) a larger sample size may be appropriate. Alternatively, it may be possible to improve confidence levels without collecting more data by adjusting the sampling technique. For example, instead of randomly choosing the sample from the full population, stratified sampling (whereby the population is first split into sub-groups (strata) and then each sub-group is sampled) can be a cost-effective way of increasing confidence in sample estimates for a given sample size.

For stratification to be effective, characteristics that account for population heterogeneity must be observable, such that sub-groups that minimise within-group variation and maximise between-group variation can be defined. In this way, stratification provides a more representative sample than pure random sampling, by ensuring that each sub-group is suitably represented by cross-referencing to the population. Stratification also provides the researcher with the flexibility to adjust the sub-group sample size to take into account different degrees of heterogeneity within each sub-group, or to reflect the relative importance of each sub-group when interpreting the results.

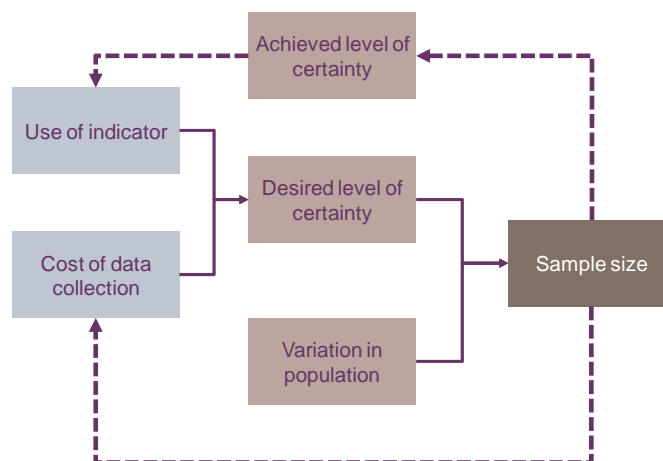
Another sampling technique that can be particularly useful when monitoring experiences over time is panel sampling. Here, a consistent sample is monitored over time, removing the uncertainty over whether any changes observed represent changes in the sample over time, or the true experience of the sample. However, whether the experience of the panel sample is representative of the full population (either at any point in time or, in terms of experience over time) depends on the size of the sample, how it was picked and the response rate.³²

The desired level of confidence (and thus the appropriate sample size) depends on how the indicator is interpreted, and the cost of additional data collection. For example, to monitor the *direction of change* over time, a lower degree of confidence is required than if it is important to monitor the *absolute level of change* in the indicator, since the direction of change is much less sensitive to inaccuracy in the indicator than the absolute level of change.

The appropriate size of sample is also sensitive to the estimator being considered. For example, when looking at what determines a discrete choice by consumers (eg, whether to travel by a particular mode of transport), sample sizes of between 500 and 1,000 respondents are generally required to be considered robust, while for continuous consumption decisions, smaller samples are often considered representative.

Similarly, some indicators play a greater role in shaping future regulation than others, in which case a higher degree of certainty over sample estimates will be appropriate. In practice, the cost of any additional data collection will often constrain the sample size (and thus the degree of confidence) that is feasible. This feedback mechanism is illustrated in Figure 4.1 below.

Figure 4.1 Determining the appropriate sample size



Source: Oxera.

When measuring the sample size, it is important to recognise the underlying unit and population of interest. Typically the unit is an individual legal service transaction, but the population (market) will often vary. Therefore, when collecting data from firms, it is not just the number of firms surveyed, but their share of the relevant market that is relevant when considering sample size.³³ For example, sampling the six 'Magic Circle' firms will cover a much larger proportion of all corporate client legal transactions than sampling another six legal service providers. As such, the sample estimates drawn from the 'Magic Circle' sample are more likely to be representative of the total population of **corporate client** legal transactions.

³² Unbalanced panels, whereby respondents are added and removed from the sample over time, can help reflect changes in the population—eg, in the case of firm surveys, to account for the introduction of ABS in the population, or to overcome sample attrition.

³³ Market share can be measured in terms of the number of cases or the value of cases (gross fees paid). The first will equally weight all cases regardless of price, while the second will give greater weighting to more expensive cases. This can have implications for other indicators should they be correlated with price—eg, complexity and quality may be correlated with price.

This also means that for legal service markets that have a broad, diverse supply base, a larger number of legal service suppliers would need to be engaged to achieve the same volume of data as for a more concentrated area of law. This is exaggerated when the population of legal service suppliers is difficult to identify in advance of any survey, since in this case some suppliers will be engaged who cannot provide relevant data. A similar issue arises in ‘consumer’ surveys, since it is rare to be able to identify actual consumers of legal services prior to sampling. Thus, for less common legal problems, the number of individuals surveyed must be higher in order to achieve a given level of incidence than would be necessary for common legal issues such as wills and divorces.

Box 4.1 Key messages for sampling

- Larger samples increase confidence in sample estimates by increasing the information that the sample captures about the population.
- As variation in the population increases, the appropriate sample size increases.
- The ‘volume’ of information on each indicator may vary between respondents. Market shares vary between firms and within firms according to the area of law. Similarly, the incidence of legal problems varies according to the legal problem, and, especially in the case of corporate clients/vulnerable people, between individuals.
- Stratification can increase the confidence in sample estimates for heterogeneous populations for a given sample size.

Box 4.2 Additional guidance when sampling small populations

When inferring population statistics from sample estimates and when the variance of the population statistic is known, the minimum sample size required to achieve a given level of accuracy of the estimate can be calculated using the following formulae:¹

when the population size (N) is more than 5,000: $n = \frac{z^2 \text{var}(\hat{x})}{E^2}$

when the population size (N) is less than 5,000: $n = \frac{Nz^2 \text{var}(\hat{x})}{(E^2(N-1) + z^2 \text{var}(\hat{x}))}$

where z is the inverse of the cumulative normal distribution function, for the desired level of confidence (eg, for a 95% level of confidence, z is 1.96); var(x) is the variance of statistic in the population; E is the desired level of accuracy (eg, for the sample statistic to be accurate to ±5%, within a range of 10%, E is 0.05).

When inferring population proportions from sample estimates, it is not necessary to know the population variance; instead, 0.25 can be used as a conservative measure. This is because a proportion is effectively a Bernoulli variable (a firm either provides family law or not), and Bernoulli variables have a maximum variance of 0.25. Therefore, the following summary results can be calculated.

Guidance on size for 95% confidence interval

Population size	±3% accuracy	±5% accuracy	±10% accuracy
>8,000	1,068	384	96
8,000	942	367	95
5,000	880	357	94
1,000	517	278	88
500	341	217	81
300	235	169	73

Source: Oxera calculations.

The formulae differ according to the size of the total population. This is because, in small populations, it is necessary to account for the effect of sampling without replacement (ie, one deliberately avoids choosing any member of the population more than once) on the probability that the rest of the sample is selected. When the population is large enough, this effect becomes insignificant.

The statistical theory behind these formulae is the 'central limit theorem'. However, as it relies on large samples, even when the formulae suggest that a small sample is sufficient (eg, below 50), this approach should be treated with caution—it may overestimate the confidence with which conclusions about the population can be drawn.

Source: Morris, E. (2010), 'Sampling from small populations', University of Regina.

How to validate and cross-check data received

The data validation stage is important since it not only prepares the data for analysis but can also highlight any problems that may have arisen during the fieldwork. It involves considering the following:

- **accuracy of individual responses**—do the respondents all answer the required questions? Are responses to different questions consistent?
- **gaps in the sample**—is the sample that responded representative of the target sample, or is there a bias among those who have responded? For example, in supplier surveys, response rates may vary according to the type or size of legal service supplier;
- **consistency between responses and other (existing) data sources**—although heterogeneity between responses is to be expected, where variation is unexpected, and contrary to other data, confirming the data/response with the respondent may be appropriate.

When considering the accuracy of individual responses, it is first important to look at whether the respondent has answered all the required questions. Where this is not the case, it may be possible to request additional information, either as the respondent moves through the questionnaire (should the questionnaire be electronic or an interviewer be present) or via subsequent communication with them after receipt of the original submission.

The next step is to check for internal consistency of each response. Has the respondent provided contradictory answers? In the case of electronic questionnaires, it is often possible to incorporate routing between questions and immediate data-validation pop-ups, to indicate to respondents at an early stage if their answers are contradictory. This can be helpful when there is particular concern that the question or terminology might be misunderstood, or if, for example, data may have been provided in different units/parts of a firm. However, when designing the questionnaire, it is important to bear in mind that such prompts can make it more burdensome to complete (eg, by making it more difficult to scan through the questionnaire or skip certain sections), and risks reducing the response rate.

When undertaking a survey, a 100% response rate is rarely achieved, and anything less introduces the chance that the sample that responds no longer represents the target sample and, therefore, the target population. Where data on the target population already exists, it may be possible to detect any sampling bias by comparing known population statistics to those calculated from the *response* sample data. On the assumption that there is no other systematic bias in the response rate, answers can be weighted to reproduce the pattern of answers that would have been observed if all those sampled had responded. For example, some population data exists for all authorised persons from their registration applications. In the case of solicitors, this means that response samples can be compared with known population data on statistics, such as the average number of solicitors within each firm, within each area of law (as defined in the solicitor practising certificate), or within each geographic region (using postcode data). In addition, if it is possible to match a firm's response to its registration information via its registration ID, comparing the accuracy with which the same

information has been provided to both sources can be informative about the general accuracy with which the questionnaire has been completed.

In some cases population data is not available (eg, population data on consumers of legal services is limited to what the ONS collects for the UK population as a whole). Where it is available, it may be limited in scope such that it is difficult to test whether the sample is biased or not. In such cases, bias can often be detected by considering which firms or consumers only partially completed (or did not complete) the survey, particularly if there are comments regarding why a (full) response was not provided. For example, non-responses from firms on more data-intrusive questions may reflect internal data management systems, which, if considered related to the variable of interest, may bias the results. In contrast, non-responses because the question was not relevant to the respondent are unlikely to bias results.

Selection bias is not restricted to survey data. Existing data sources often provide information on only one part of the market. This must be kept in mind when interpreting the results. For example, when considering the market for different areas of law and or consumers, it is important to recognise the (potential) diversity of the supply base, on which data may only be available for certain parts.

Although heterogeneity between responses is to be expected, where variation is unexpected, and contrary to other data, confirming the data or response with the respondent may be appropriate. It may be that the respondent has misunderstood certain terminology, misread the question or misunderstood the context. Careful question design, stakeholder engagement (particularly on terminology) and piloting of the questionnaire can be effective preventative measures and reduce the need for ex post data validation and the burden on the respondent.

4.2 Interpretation of indicators

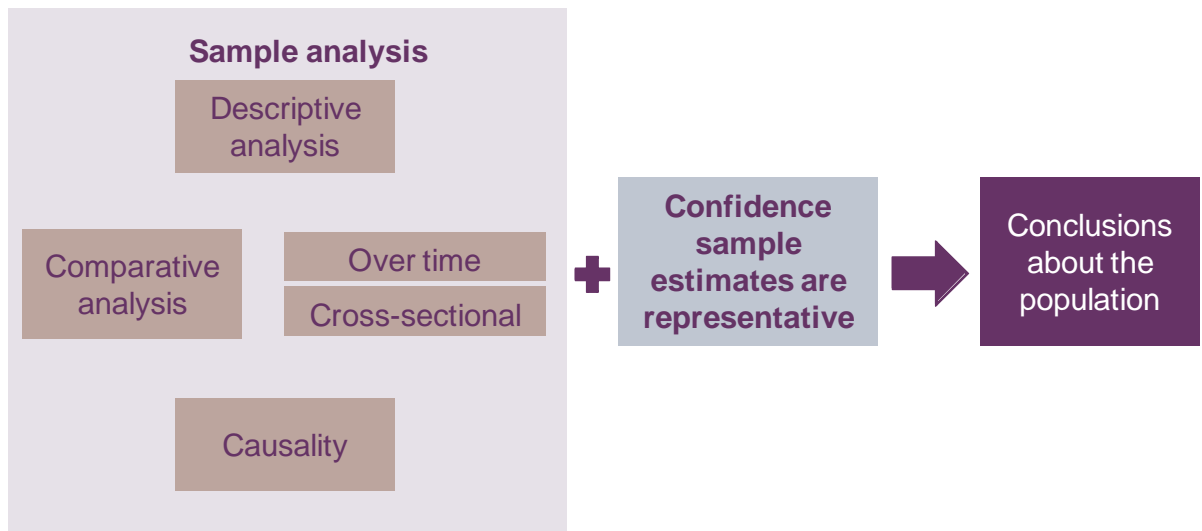
The scope of analysis that is relevant depends on the types of question each piece of research is intended to inform, and the quality and quantity of data available.

To consider different questions, different analytical techniques are required. The types of question and analysis that might be required will generally fall into the following three groups: descriptive analysis, comparative analysis (cross-sectional or over time), and causality analysis. (Detail on some of the relevant analytical techniques for each of these categories is provided in Figure 4.2 below.)

To draw conclusions from any sample analysis, it is also necessary to consider the likelihood that such analysis is representative of the population. This depends on the quality and quantity of data available, and the complexity of the analysis undertaken. Comparative analysis requires more steps than descriptive analysis. For example, to make any comparison, the necessary intermediate steps include the estimation of at least two population statistics. Similarly, causality analysis requires more steps than comparative analysis. In addition to estimating the population statistics observed to have changes, other possible explanatory population statistics need to be estimated first. These intermediate steps introduce additional uncertainty about whether the overall sample analysis is representative of the population. Therefore, when the quality and/or quantity of data available is limited, the insight added from more complex analysis can be marginal.

Figure 4.2 summarises this conceptual framework for drawing conclusions from data received.

Figure 4.2 Conceptual framework for statistical inference



Source: Oxera.

Tools and techniques that can be relevant are provided below for each type of analysis (descriptive, comparative and causality analysis). For multi-dimensional indicators (such as quality, competition, consumer understanding), it is important to consider each metric in context (ie, in combination with other metrics and/or qualitative information available) to avoid drawing misleading conclusions.

4.2.1 Descriptive analysis

Depending on the indicator in question, it is relevant to use sample data to estimate the average (mean, median, or mode), total and/or proportion for the population. For example, the average price of a legal service, the total incidence of a type of legal problem, or the proportion of legal service suppliers that do not offer direct (face-to-face) contact with clients. For unbiased samples, population values can be estimated from sample data.³⁴

Considering sample variation provides insight into the expected population variation, but is also informative about how representative sample estimates regarding the population mean, proportion and/or total are likely to be: the greater the heterogeneity in the sample, the greater the potential for random sampling error. For example, estimating the total number of cases in an area of law undertaken by solicitor firms from the total number of cases undertaken by each firm within a sample is likely to be more accurate the less unexplained heterogeneity there is in the sample. This becomes apparent when estimating confidence intervals regarding the population values using the sample variance as an approximation for the population variance.

Techniques to assess sample variation include:

- visual analysis: plotting sample data to identify how concentrated the data is, as well as any outliers or skewness;
- statistical analysis: calculating the range, quartiles, variance, standard deviation for the sample;
- simulation (sensitivity) analysis: recalculating the statistics described above using different sub-samples, and (if applicable) by weighting responses differently.

³⁴ There are statistical techniques that can control for selection bias (see Heckman, J. (1979), 'Sample selection bias as a specification error', *Econometrica*, 47:1, pp. 153–61). However, these require information about the unsampled population, which may not be available.

4.2.2 Comparative analysis

After descriptive statistics have been measured, indicators can be compared over time or within a time period, but cross-sectionally—eg, between different markets, consumers or types of legal service suppliers. Differences can be measured in terms of the direction (eg, how has the number of solicitors changed over time), magnitude (eg, what was the absolute change between 2009 and 2010), and persistence (eg, what was the change between 2005 and 2010). Where the magnitude and/or persistence of change are large, there can be more confidence in the general trends of the change. This is because any sampling error in estimating the descriptive statistics becomes less important as the magnitude of the change increases.

Techniques for assessing the direction, magnitude and persistence of change include:

- visual analysis: plotting the data can be particularly helpful when there are multiple datapoints to be compared—eg, a longer time horizon is being considered, or multiple cross-sectional units are being compared;
- statistical analysis: calculating the absolute and relative difference, and benchmarking the change to a control group. For example, when comparing two particular markets, how different are they relative to another pair of markets? When comparing changes over time, how large is the change between a given time horizon and general volatility over a full time period?
- more advanced econometric techniques may also provide insight—eg, cluster analysis of the different areas of law undertaken by different legal service providers helps to identify the types of business models active within the market.

4.2.3 Causality

Causality is closely related to comparative analysis. When two markets or time periods are significantly different, an obvious next question to ask is: what causes this difference?

To establish a reliable answer, first it is necessary to develop a conceptual framework to explain the difference: is there an intuitive explanation accounting for the observed change? After sense-checking with relevant stakeholders in the industry (or existing qualitative information), this can be tested using data collected, but it is important not to rely simply on data analysis. Moreover, by identifying the mechanisms through which regulation (or another identified driver) is expected to alter the market indicator of interest, it may be possible to identify intermediate indicators of change. Monitoring change in such intermediate indicators provides an additional way to test whether the hypothesised cause actually drives the change in the original indicator of interest.

A number of statistical techniques are available to test the hypothesis that may be relevant to apply, depending on the quality and quantity of data available. The intuition behind each technique is to establish a **counterfactual** in which the expected cause of change does not exist, and compare this against the observation of interest (the **event** group). If there is no significant difference, the expected driver is rejected as the cause of change. This is particularly useful when the mechanism linking the driving factor to the indicator of interest involves a number of steps, or is expected to occur over a long time horizon.

In some cases, data may be available for control groups that are representative of the counterfactual. Possible control groups include:

- geographic markets—eg, Scotland, Northern Ireland, other EU countries;
- markets for different areas of law—eg, criminal versus civil;
- markets serving different types of consumer—eg, eligible for legal aid versus otherwise;
- the same market, but at a different point in time—eg, pre- and post-event to control for existing trends in the market.

To account for factors resulting in heterogeneity between the control group and the event group other than the factor being tested, it is often helpful to draw comparisons with multiple control groups. For example, if the deregulation of conveyancing services is expected to have reduced the volume of conveyancing undertaken by solicitor firms, it is expected that:

- relative to before the policy is announced, volumes decline more significantly after;
- relative to solicitor firms active in unaffected geographic areas (eg, Scotland), volumes decline more significantly for those active in England and Wales;
- relative to other areas of work, volumes of conveyancing work within solicitor firms decline more significantly.

Statistical techniques such as difference in differences take advantage of multiple control groups to account for different underlying trends in the data.

Regression analysis can be applied when a control group does not exist. In this case, explanatory variables create a hypothetical control group, against which the importance of a particular variable of interest can be considered, using statistical techniques such as t-tests, and for changes over time, causality tests.³⁵ Such statistical tests can often require large volumes of data.

Using the same intuition as behind the statistical techniques, combining multiple (and often qualitative contextual) data sources can be particularly informative when testing causality. Take the above example regarding the role of the deregulation of conveyancing in reducing the volume of conveyancing work that would otherwise have been undertaken by solicitor firms. Here, one would expect to see a (negative) correlation between the volume of work undertaken by conveyancing firms and that undertaken by solicitor firms. Discussing with solicitor firms and conveyancing firms alternative explanations (such as a general decline in the number of house sales) is also likely to be important.

³⁵ For example, Engel–Granger causality tests. For a broad overview of econometric techniques, see Wooldridge, J.M. (2002), *Econometric Analysis of Cross Section and Panel Data*, The MIT Press; and Wooldridge, J.M. (2005), *Introductory Econometrics: A Modern Approach*, third revised edition, South-Western, a division of Thomson Learning.

A1 Market segmentation mapping

The tables in this appendix present a mapping from the categorisations adopted by existing data sources to the type of legal services market segmentation presented in Table 2.4. The existing categorisation and data sources considered are:

- the 54 categories identified in the solicitors' practising certificate (which corresponds to TLS's *Find a solicitor* list);
- the categories of legal problems identified in the Civil Social Justice Survey (undertaken on behalf of the LSRC);
- the categories of work identified in TLS's cost and efficiency survey;
- the categories of work identified for the purposes of legal aid contracts;
- the categories of work identified by ILEX;
- the categories of work identified in legal PPI application (2010/11) forms.

It is not always possible to provide a comprehensive one-to-one mapping of all categories in existing sources. Problems occur when the existing sources use categories that are not mutually exclusive. This usually arises when the market segmentation incorporates multiple dimensions—for example, the segmentation splits by activity, jurisdiction, or consumer type as well as by area of law. Where this problem has arisen, a comment has been provided.

Table A1.1 Categories identified in the solicitors practising certificate

Category	Level 1	Level 2	Level 3	Comment
Administrative and Public Law	Other public and administrative law			Very broad area of law
Advocacy				Type of legal activity that can occur in many areas of law
Agricultural Law	Other business affairs	Contentious	Environmental	
Aviation	Other business affairs			
Banking Law	Corporate structuring and finance			
Business Affairs	Other business affairs			Very broad area of law
Chancery				Type of law that can cover many types of problems
Charity Law	Other business affairs	Non-contentious		Type of client, covers a number of areas of law
Children Law	Family		Children	
Civil Liberties/ Human Rights	Civil liberties	Contentious		
Commercial Property	Property, construction and planning			
Common Law	Other business affairs			Type of law that can cover many types of problems
Computer and IT Law	Other business affairs	Non-contentious	Licensing	
Construction/ Civil Engineering	Property, construction and planning			
Consumer problems	Consumer problems	Contentious		
Conveyancing— Residential	Conveyancing	Non-contentious	For residential properties	
Corporate Finance	Corporate structuring and finance			
Crime – General Motor & Juvenile	Crime-defence	Contentious	Motoring offences	
Debt and Money Advice	Other	Contentious	Debt management	
Education	Welfare and benefits	Contentious	Education	
Employment	Employment			
Energy and Natural	Other business affairs			Broad area of law

Category	Level 1	Level 2	Level 3	Comment
Resources				
Environment Law	Other business affairs	Contentious	Environmental	
European Community Law	Other business affairs	Contentious	Competition and regulatory issues	
Family	Family			
Financial and Investment Services	Corporate structuring and finance			
Fraud	Other	Contentious	Compensation arising from fraud	
Immigration—Asylum	Immigration and nationality	Contentious	Immigration and asylum	
Immigration—Other	Immigration and nationality			
Immigration and Nationality	Immigration and nationality	Non-contentious		
Insolvency and Bankruptcy	Corporate structuring and finance	Non-contentious	Corporate insolvency	
Insurance	Corporate structuring and finance	Non-contentious		
Intellectual Property	Intellectual property rights			
International Law (Non-EC)	Other business affairs	Contentious		
Landlord and Tenant—Residential	Property, construction and planning		Landlord and tenant	
Libel and Defamation	Other	Contentious	Libel and defamation	
Liquor Licensing/ Gambling	Other business affairs	Non-contentious	Licensing	
Litigation—Commercial	Other business affairs	Contentious		Type of legal activity that can occur in many areas of law
Litigation—General				Type of legal activity that can occur in many areas of law
Maritime/Shipping/ Admiralty	Other business affairs			
Media/ Entertainment Law	Other business affairs			
Mediation—Civil/Commercial				Type of legal activity that can occur in many areas of law
Mediation—Family	Family	Contentious		
Medical Negligence	Injury	Contentious	Clinical negligence	
Mental Health	Welfare and benefits	Contentious	Mental health	
Mergers and Acquisitions	Corporate structuring and finance	Non-contentious	Corporate structure	
Neighbour Disputes	Property, construction and planning	Contentious	Boundary disputes	
Personal Injury	Injury	Contentious		
Planning Law	Property, construction and planning		Planning	
Professional Negligence	Consumer problems	Contentious		
Taxation	Corporate taxation	Non-contentious	Taxation	
Transport Road and Rail	Other business affairs			Broad area of law
Travel and Tourism	Consumer problems	Contentious		
Trusts	Wills, trusts and probate	Non-contentious	Trusts	
Welfare Benefits	Welfare and benefits			
Wills and Probate	Wills, trusts and probate			

Source: Oxera, and the Solicitors Practising Certificate (2009/10).

Table A1.2 Categories identified in the Civil Social Justice Survey (undertaken on behalf of the LSRC)

Category	Level 1	Level 2	Level 3
Children—care/fostering, abduction	Family		Children
Children—school	Welfare and benefits	Contentious	Education
Discrimination	Civil liberties	Contentious	Discrimination
Unfair treatment by the police	Civil liberties	Contentious	Actions against the police
Consumer—faulty goods	Consumer problems	Contentious	Sale of goods and services
Consumer—faulty services	Consumer problems	Contentious	Sale of goods and services
Money/debt	Other	Contentious	Debt management
Employment	Employment		
Divorce, family, domestic violence	Family	Contentious	Matrimonial
Immigration	Immigration and nationality		
Living in rented accommodation	Property, construction and planning		Landlord and tenant
Clinical negligence	Injury	Contentious	Clinical negligence
Mental health	Welfare and benefits	Contentious	Mental health
Personal injury/negligence	Injury	Contentious	
Welfare benefits	Welfare and benefits		

Source: Oxera, and Legal Services Research Centre (2008), 'Report of the 2007 English and Welsh Civil and Social Justice Survey'.

Table A1.3 Categories identified in the Law Society's cost and efficiency survey

Category	Level 1	Level 2	Level 3	Comment
Family	Family			
Debt	Other	Contentious	Debt management	
Welfare benefits	Welfare and benefits			
Housing	Property, construction and planning			
Immigration (legal aid)	Immigration and nationality	Contentious		
Immigration (privately funded)	Immigration and nationality			
Clinical negligence	Injury	Contentious	Clinical negligence	
Personal injury	Injury	Contentious		
Crime	Crime-defence	Contentious		
Employment	Employment			
Other litigation				Type of legal activity that can occur in many areas of law
Residential property	Conveyancing	Non-contentious	For residential property	
Probate, wills and trusts	Wills, trusts and probate			
Commercial property	Property, construction and planning			
Corporate and commercial				Type of client, covers a number of areas of law
Other				Broad area of law

Source: Oxera, and the Law Society's cost and efficiency survey (running from January 10th to 21st 2011).

Table A1.4 Categories identified for the purposes of legal aid contracts

Category	Level 1	Level 2	Level 3	Comment
Family private	Family			
Family public	Family			
Community care	Welfare and benefits	Contentious	Community care	
Debt	Other	Contentious	Debt management	
Employment	Employment			
Housing	Property, construction and planning			
Welfare benefits	Welfare and benefits			
Actions against the police	Civil liberties	Contentious	Actions against the police	
Clinical negligence	Injury	Contentious	Clinical negligence	
Consumer and general contract	Consumer problems	Contentious		
Education	Welfare and benefits	Contentious	Education	
Personal injury	Injury	Contentious		
Public law	Other public and administrative law			Broad area of law
Miscellaneous				Broad area of law
Mental health	Welfare and benefits	Contentious	Mental health	
Immigration and asylum	Immigration and nationality	Contentious	Immigration and asylum	
Police station	Crime-defence			
Magistrate's court				
Prison law				
Crown court				
Very High Cost Case (VHCC)				
Court of Appeal/ Supreme Court				

Source: Oxera.

Table A1.5 Categories identified by the Institute of Legal Executives

Category	Level 1	Level 2	Level 3	Comment
Civil litigation—debt recovery	Other	Contentious		
Civil litigation—employment	Employment			
Civil litigation—general litigation				Type of legal activity that can occur in many areas of law
Civil litigation—housing	Property, construction and planning			
Civil litigation—personal injury	Injury	Contentious		
Conveyancing –conveyancing	Conveyancing			
Corporate—commercial	Other business affairs			Type of client, covers a number of areas of law
Corporate—company	Other business affairs			Type of client, covers a number of areas of law
Criminal litigation—defence	Crime-defence	Contentious		
Criminal litigation—prosecution	Crime-prosecution	Contentious		
Family law—family	Family			
Legal practice—costs or accounts				Not relevant for demand analysis
Legal practice—practice management				Not relevant for demand analysis
Non-legal—non-legal work				Not relevant when benchmarking legal services
Not provided				Not relevant for demand analysis
Private client—finance	Corporate structuring and finance			
Private client—probate and wills	Wills, trusts and probate			
Public law work—government				Type of client, covers a number of areas of law
Public law work—immigration	Immigration and nationality			
Public law work—Local Authority	Welfare and benefits			Type of client, covers a number of areas of law
Public law work—welfare benefits	Welfare and benefits			
Advocacy practicing rights				Type of legal activity that can occur in many areas of law
Immigration Advisor	Immigration and nationality			

Source: Oxera, and ILEX website.

Table A1.6 Categories identified in a legal PII application form

Category	Level 1	Level 2	Level 3	Comment
Criminal law	Crime			
Acting as arbitrator, adjudicator or mediator				Type of legal activity that can occur in many areas of law
Immigration	Immigration and nationality			
Employment	Employment			
Property selling and valuation	Property, construction and planning			
Residential conveyancing	Conveyancing	Non-contentious	For residential property	
Commercial conveyancing	Conveyancing	Non-contentious	For commercial property	
Landlord and tenant	Property, construction and planning			
Wills, trust and probate	Wills, trusts and probate			
Matrimonial	Family	Contentious	Matrimonial	
Personal Injury	Injury	Contentious		
Debt collection (judgement debts over £10,000)	Other	Contentious	Debt collection	
Financial advice and services	Corporate structuring and finance	Non-contentious		
Commercial	Other business affairs			Type of client, covers a number of areas of law
Defendant litigious work for insurers				Type of client, covers a number of areas of law
Litigation and arbitration (other)				Type of legal activity that can occur in many areas of law
Other non litigious				Broad area of law
Other low-risk work ¹				Broad area of law
Other work				Broad area of law

Note: ¹ In some PII application forms, other low-risk work was defined to include debt collection under £10,000; children; mental health tribunal; welfare; offices and appointments; administering oaths and taking affidavits; parliamentary advice; agency advocacy; lecturing and related activity; expert witness; town and country planning. Source: Solicitor and barrister PII application forms from various insurance companies and brokers.

A2 Indicators: metrics and data sources

The following tables provide more detail on some of the types of metrics and questions, and corresponding data sources, relevant for each indicator. It is not practical to provide a comprehensive list for each indicator, since the type of data available will vary between markets for different legal services and may change as the markets continue to develop. In some cases, the same type of data is relevant for different indicators. For example, data collected from legal service suppliers on total revenue earned in each legal service market will be informative for the following: the size of the market (market outcome—volume); market shares (composition of supply—market structure); business models (composition of supply—business characteristics); supply-side substitution (market functioning indicators—elasticity of supply).

The tables group the indicators according to the high-level classification: drivers, market functioning, composition of supply and market outcomes—and the following notes apply.

- Suppliers has been used to describe both authorised and non-authorised firms, such as publicly funded organisations (eg, CLACs, CAB) and other organisations providing services also provided by authorised firms.
- An asterisk has been used to highlight where the Approved Regulator (AR) may not currently collect this data.

Table A2.1 Driver indicators

Focus of indicator	Metric/question	Identified sources of ongoing data	Supplier/ consumer survey
Regulation	What regulation is on the agenda? What is the regulatory timetable?	AR	
State of the economy	Current growth rate in inflation, relative to ten-year mean	ONS	
MoJ	What changes for the legal services market have been proposed/consulted on? What is the regulatory timetable?	MoJ	
Technology	What new technology has been used within this legal service market in the past five years? How widespread has the uptake been? At what stage in the value chain is the technology relevant? What benefits does the new technology bring? Which technology companies are targeting their marketing towards legal service providers?	Market research reports	Supplier
International context	Have there been any significant changes in the legal service markets of Scotland, Northern Ireland, or the Republic of Ireland? Have there been any changes to European law that affect the regulation of legal services?	Market research reports	Supplier

Source: Oxera.

Table A2.2 Market functioning indicators—elasticity of supply

Focus of indicator	Metric/question	Identified sources of ongoing data	Supplier/ consumer survey
Identification of barriers to entry (supply substitution)	What are the entry and exit barriers for this legal service?	AR	Supplier
	What are the barriers to changing services offered?	AR—for regulatory barriers	Supplier
	What channels of customer acquisition dominate? How accessible are these to new entrants?		Supplier
	What qualifications are required to provide this legal service?	AR	Supplier
	What is the regulatory registration cost of entering this legal service market?	AR	
	Why does the supply side segment the way it does?		Supplier
	What factors determine whether a provider expands into/withdraws from an area of legal services?		Supplier
Evidence of the effective barriers	Number of new registered individuals with positive fees in this service	AR—registration forms*	Supplier
	Number of new registered entities with positive fees in this service	AR—registration forms*	Supplier
	Number of non-renewals for registered individuals (who had positive fees) in this service	AR—registration forms*	Supplier
	Number of non-renewals for registered entities (who had positive fees) in this service	AR—registration forms*	Supplier
	What is the market concentration ratio for this legal service?	AR—registration forms*	Supplier
Evidence of supply substitution	What other types of law are (have been) provided (within the firm, by the individual)?		Supplier
	What other types of customer are provided (within the firm, by the individual)?		Supplier
	What other types of reserved legal activity are provided (within the firm, by the individual)?		Supplier
	What other types of legal activity are provided (within the firm, by the individual)?		Supplier
	How has the total value of this legal service market changed over time?		Supplier

Source: Oxera.

Table A2.3 Market functioning indicators—elasticity of demand

Focus of indicator	Metric/question	Identified sources of ongoing data	Supplier/ consumer survey
Switching	Do consumers ever switch mid-case?		Supplier
	What is the cost to the firm of consumers switching mid-case?		Supplier
	What is the cost to the consumer of switching mid-case?		Consumer
	What proportion of work is from the same consumer?		Supplier
	Do consumers obtain different legal services from the same law firm?	Baseline survey	Supplier
What is a consumer willing to pay more for?	What do consumers want from the legal services market?		Consumer
	How do they prefer to have legal advice delivered?		Consumer
	What does consumer demand look like for different service models?		Consumer
Choosing legal service providers	Do consumers shop around?		Consumer
	What choice do they have?	Baseline survey	Consumer
	How do they compare providers?		Consumer
	How do they choose the type of service they use? Do they choose a lawyer who reflects a similar background to them? Do they understand reserved and unreserved activities?		Consumer
	What is the importance of signifiers of quality in people’s purchasing decisions— eg, professional title (solicitor versus conveyancer, ISO standard, regulator, brand name)?		Consumer
	How does a consumer get to know what is a fair price?		Consumer
	What type of legal service would consumers be prepared to buy from online advice tools and under what conditions?		Consumer
	What elements of service are consumers prepared to trade for price?		Consumer
	Which established brands would consumers trust to provide legal services?		Consumer
	Would they buy services from a lawyer found on an aggregator site (eg, ‘confused.com’)?		Consumer
Bundling	How much value do consumers place on their lawyer having insurance?		Consumer
	Are consumers willing to ‘one-stop-shop’ for all legal, finance, accounting services?		Consumer
	What non-legal services are also provided by businesses registered with an AR? Are any of these bundled with the reserved legal services provided? If so, how are they charged for? Is there a bundled fee?		Supplier

Note: Baseline refers to the Ministry of Justice (2010), ‘Baseline survey to assess legal services: consumers experience of using legal services for personal matters’, March.
Source: Oxera, and Ministry of Justice (2010).

Table A2.4 Market functioning indicators—consumer understanding

Focus of indicator	Metric/question	Identified sources of ongoing data	Supplier/ consumer survey
Regarding the value of legal services offered	Which consumers understand the value of legal services?		Supplier
	For different consumers, what determines the value of legal service provided?		Consumer
	Is expensive seen as better?		Consumer

Source: Oxera.

Table A2.5 Composition of supply indicators—market structure

Focus of indicator	Metric/question	Identified sources of ongoing data	Supplier/ consumer survey
Supply side ¹	Concentration ratios: total revenue of the five largest legal service suppliers as a fraction of the total market revenue	Market research companies	Supplier
	Static analysis and volatility over time		
	Market shares: revenue for each of the ten largest legal service suppliers	Market research companies	Supplier
	Static analysis and volatility over time		
Demand side	How many clients are active on your books (at a particular point in time)?		Supplier
	What proportion of revenue earned over the last 12 months was from your ten largest (by gross fees earned) clients?		Supplier
	Static analysis and volatility over time		

Note:¹ To calculate concentration ratios and market shares, it is important to capture the full supply base, which may include multiple types of legal service supplier.

Source: Oxera.

Table A2.6 Composition of supply indicators—business characteristics (including costs)

Focus of indicator	Metric/question	Identified sources of ongoing data	Supplier/consumer survey
Corporate structure	What types of business (corporate structure) exist in the market: ABS, partnership, sole practitioner, franchises, non-legal enterprises, in-house?	AR—registration forms	Supplier
Business model	What types of business (organisational structure) exist in the market: equity partner to non-equity partner ratio?	AR—registration forms*	Supplier
Size	Turnover	AR—registration forms*	Supplier
	Number of staff	AR—registration forms*	Supplier
Location	Geographically, where is supply concentrated for this service?	AR—registration forms*	Supplier
Authorisation	What is the reserved and unreserved split for this type of law? By time, by revenue?	AR—registration forms*	Supplier
Costs	Cost (average) per unit (for standardised services)	LSC—legal aid	Supplier
	Cost (average) per unit input (eg, hour) for non-standardised services	MoJ—CPS costs	Supplier
		All government bodies are required to report costs >£25k	Supplier
	Inputs required for service	MoJ—CPS	Supplier
		MoJ—CPS and Very High Cost Case (VHCC)	
	Guideline hourly rates	Some areas have guideline hourly rates ¹	Supplier
	Volatility in cost per unit (for standardised services)		Supplier
Cost of regulation	Registration fee	AR	
	Cost of collecting data		Supplier
	Any fines imposed	AR, SDT	
Profitability ²	Turnover minus staff costs minus overheads. Can be measure per case, per fee earner, per staff	SRA cost survey	Supplier

Note: ¹ See, for example, Ministry of Justice (2009), 'Rates and scales in respect of defendant's costs orders', October; and Ministry of Justice (2010), 'Guideline Hourly Rates – conclusions', Advisory committee on civil costs; ² Measuring profitability directly in businesses where the asset base is uncertain or where the owners are also part of the workforce (eg, partnerships) is far from straightforward. Changes in any metrics in this area need to be interpreted with caution and, where changes occur, it is important to establish why.
Source: Oxera.

Table A2.7 Composition of supply—provider characteristics

Focus of indicator	Metric/question	Identified sources of ongoing data	Supplier/consumer survey
Qualifications	What is the diversity of providers in terms of qualifications in this market?	AR—registration forms*	Supplier
Ethnicity	What is the diversity of providers in terms of ethnicity in this market?	AR—registration forms*	Supplier
Gender	What is the diversity of providers in terms of gender in this market?	AR—registration forms*	Supplier
Experience	What is the diversity of providers in terms of experience in this market?	AR—registration forms*	Supplier

Source: Oxera.

Table A2.8 Composition of supply—value chain and vertical integration

Focus of indicator	Metric/question	Identified sources of ongoing data	Supplier/consumer survey
Customer acquisition routes	Proportion of work (by volume and value) acquired through referral network	CMR	Supplier
	Proportion of work (by volume and value) that is from a recurring customer		Supplier
	Proportion of work (by volume and value) arising from personal recommendation		Supplier
	Proportion of work (by volume and value) acquired through referrals		Supplier
	Proportion of work (by volume and value) acquired through means other than solicitor referrals		Supplier
	What methods of customer acquisition are used (in-house, referrals, aggregator websites, etc)?		Supplier
	How did you find (hear about) your chosen provider?	Baseline survey	Consumer
Cost of different customer acquisition techniques	What is the range of referral fees paid?	CMR	Supplier
	On what basis are referrals secured (eg, bulk contracts or per individual case)?		Supplier
	How much does registering on an aggregator website cost?		Supplier
Outsourcing	What use of legal process outsourcing and international outsourcing are firms making?	Datamonitor reports	Supplier
	Which intermediaries are used to obtain access to legal advice?		Supplier
Value chain	To what extent is legal advice obtained outside law firms (eg, consumers may use CABs, and large firms may have their own legal department)		Consumer

Note: Baseline refers to the Ministry of Justice (2010), 'Baseline survey to assess legal services: consumers experience of using legal services for personal matters', March.
Source: Oxera.

Table A2.9 Market outcome indicators—price

Focus of indicator	Metric/question	Identified sources of ongoing data	Supplier/ consumer survey
Effective price to consumer	Price (average) per unit (for standardised services)	LSC—for legal aid only	Either (consumers can provide a more detailed type of law breakdown)
	Price (average) per unit input (eg, hour) for non-standardised services	MoJ—for disputed costs only; Association of British Insurers (ABI)—for legal costs paid by insurers	Either (consumers can provide a more detailed type of law breakdown)
Ex ante price to consumer	Perceived (average) price by consumer per unit (for standardised services)		Consumer survey
	Forecast fee to consumer from commissioned provider		Consumer survey/ case file review
Predictability	Volatility in price per unit (for standardised services)	Baseline survey	Either (consumers can provide a more detailed type of law breakdown)
	Difference between forecast and realised fees	Legal Ombudsman—complaints about volatility in fees	Either (consumers can provide a more detailed type of law breakdown)
Structure of pricing	What payment options are available?	Parliament and AR—legal/regulatory restrictions on fee arrangements	Either (consumers can provide a more detailed type of law breakdown)
	What work is charged as a fixed fee or on hourly rate?		Supplier
	Are invoices transparent?		Supplier
	How do providers set a fee?		Supplier
Funding source	Which institutions pay for legal services?		Supplier
	Is there a free alternative?	Baseline survey; LSC should be able to provide data on the scope of legal aid, in terms of types of law and service, means-testing and price to consumer; MoJ	Consumer
Regulation	Is there any direct regulation over prices in the market?	Parliament and AR	Supplier

Note: Baseline refers to the Ministry of Justice (2010), 'Baseline survey to assess legal services: consumers experience of using legal services for personal matters', March.
Source: Oxera.

Table A2.10 Market outcome indicators—quality

Focus of indicator	Metric/question	Identified sources of ongoing data	Supplier/ consumer survey
Developing (and monitoring) suitable measures	What measures on the quality of legal services are available (both proxy measures and actual measures)?	AR—quality marks	
	What does competent service mean? What does excellent service mean?	AR—quality marks	Consumer
Output measures—quality of service	Proportion of calls/emails returned within five (working) days		Consumer
	Proportion of (customer) requested face-to-face meetings held		Consumer
	Was information on how to complain about service provided?		Consumer
	Was a fee forecast provided?	Baseline survey	Consumer
	Was a forecast of the duration of the case provided?		Consumer
	General satisfaction with service		Consumer
Output measures—quality of service and/or advice	Consumer complaints rates	Currently all (qualifying) complaints are referred to the Legal Ombudsman. Previously, the Office for Legal Complaints held complaint data against solicitor firms	
	Complaint ‘success rate’	Legal Ombudsman	
	How many appeals have been made to the Ombudsman?	Legal Ombudsman	
	What was the breakdown of complaints by type (eg, excessive cost, difficult to contact, poor quality of advice)	Legal Ombudsman	
	What proportion of appeals to the Ombudsman was upheld?	Legal Ombudsman	
	What types of disciplinary action did the Ombudsman take?	Legal Ombudsman	
	‘Second opinion’ rates		Consumer
	How many (proportion of) court hearings were adjourned due to insufficient preparation?	MoJ	
	At each level of court, how many appeals have been made?	MoJ	
	Proportion of trials that are ineffective	MoJ	
	Proportion of appeals that are successful	MoJ	
	Proportion of convictions that are unsuccessful	MoJ	
	What additional qualifications are required to undertake CPS work?	CPS	
	Satisfaction with courts system and pre-court system	MoJ	
	Tribunal system performance indicators	MoJ	
	Criminal justice indicators	MoJ	

Focus of indicator	Metric/question	Identified sources of ongoing data	Supplier/ consumer survey
	Sentencing statistics	MoJ	
Process measures— compliance with SRA rules	How many referrals were made to the SDT?	SDT	
	What was the breakdown of referrals to the SDT by type (eg, financial compliance, dishonesty)?	SDT	
	What types of disciplinary action did the SDT take?	SDT	
Input measures	What additional qualifications are available from ARs?	AR	
	What additional qualifications are available from consumer groups?	AR or industry associations (IA)	
	What additional qualifications are available from the government?	AR or IA	
	What additional qualifications are available from industry associations?	IA	
	For each qualification, how many applicants are there, and what proportion is successful?	AR or IA	

Note: Baseline refers to the Ministry of Justice (2010), 'Baseline survey to assess legal services: consumers experience of using legal services for personal matters', March.
Source: Oxera.

Table A2.11 Market outcome indicators—volume

Focus of indicator	Metric/question	Identified sources of ongoing data	Supplier/ consumer survey
Inputs ²	Total revenue for different segments of the legal sector ¹	Datamonitor reports for personal injury and corporate law; CMR; MoJ; LSC	
	What is the total revenue generated from registered persons?		Supplier
	What is the total revenue generated from legal services from registered businesses?		Supplier
	How many qualified legal service providers are in the market? ¹	AR	Supplier
	How many registered businesses are in the market? ¹	AR	
	For various types of legal service, the number of cases or transactions can be measured		Supplier
	Letters sent		Supplier
	Hours in court		Supplier
Billable hours		Supplier	
Demand	Incidence of legal problems	Baseline survey	Consumer
		Probate registry—death certificates	
		Land registry (house sales)—conveyancing	

Focus of indicator	Metric/question	Identified sources of ongoing data	Supplier/ consumer survey
Outputs	Initial hearings	MoJ—courts and employment tribunal statistics	
	Final hearings	MoJ—courts and employment tribunal statistics	
	Hearings	MoJ—courts and employment tribunal statistics	
	Advice requests		Supplier
	Active clients		Supplier
	How many legal services have you purchased in the last three years?	Baseline survey	
Access	What mediums of service delivery are available (eg, F2F, phone, Internet)?		Supplier
	What is the distance between the supplier and the consumer?		Either (consumers can provide a more detailed type of law breakdown)
Unmet demand, link to quality measure	Refusal to take a case	LSRC, Civil Social Justice Survey	Consumer
	For what reasons are cases refused?		Consumer
	Was a subsequent provider able to take your case?		Consumer

Note: ¹ To capture the full market may require data from multiple types of legal service supplier. Baseline refers to the Ministry of Justice (2010), 'Baseline survey to assess legal services: consumers experience of using legal services for personal matters', March. Civil Social Justice Survey refers to the ongoing survey undertaken by the LSRC. See, for example, Legal Services Research Centre (2008), 'Report of the 2007 English and Welsh Civil and Social Justice Survey'.
Source: Oxera, LSRC, and MoJ.

A3 Piloting the framework with law firms

As part of this project Oxera was asked to provide guidance on testing the framework through a pilot survey of two, supply-side categories of service providers: ‘City of London’ law firms and ‘high-street’ law firms. In this context, the guidance set out below identifies the **types of data and information** that would be useful to collect from City of London law firms and high-street law firms in order to monitor the legal services sector going forward. In addition, the guidelines identify the appropriate **level of detail** at which information should be collected, given the context of the survey and its role in testing out the data capabilities of legal service suppliers.

This list **does not** represent a draft questionnaire. However, to aid questionnaire design, where different indicators use the same underlying firm data and the metric has already been listed, it is presented in italics.

A3.1 Business characteristics

The following metrics can be used to monitor changes in the types of provider, and to cross-check against population data to consider how representative the sample is and how, if at all, results should be weighted.

Firm-level data

- Type of legal registration (provide examples—eg, ABS, partnership, sole practitioner)
- Regulatory overlap: identification of any non-legal registration authorities that the firm is registered with (now and in the last 24 months)
- Self-definition of type of business (provide examples—eg, high-street solicitor firm; virtual solicitor firm; niche solicitor firm; national solicitor firm; corporate solicitor firm (London-based); corporate solicitor firm (non-London-based); franchise of solicitors; high-volume ABS; local ABS)
- Any overseas affiliations?
- Total revenue in last 12 months (dates to be specified), split between legal and non-legal business
- Number of partners, split between legally qualified and otherwise

All remaining questions are restricted to the legal segment of business

- Location: number of offices; postcode of head office; postcode of all other offices

Office-level data (if appropriate)

- Number of staff (on a full-time equivalence (FTE) basis)
 - Legally qualified staff, split by qualification—eg, partner, senior solicitor, solicitor, trainee/paralegal
 - Not legally qualified staff, business support staff for legal part of business (only)
- Total revenue in last 12 months (dates to be specified), split by type of customer (at least level 1) and type of law (at least level 1)
- Total hours billed in last 12 months (dates to be specified), split by type of client (at least level 1) and type of law (at least level 1)

- Total hours recorded in last 12 months (dates to be specified), split by type of client (at least level 1) and type of law (at least level 1)³⁶

A3.2 Price

Office-level data (if appropriate)

- Effective price to consumer: direct measures
 - Price lists for services for which the firm offers fixed, standardised fees (eg, conveyancing, wills and probate). These can be aggregated by the surveyor by area of law and, if relevant (ie, if fees vary), by type of activity and customer

Data should be split by office (if appropriate), type of law, and type of client

- Effective price to consumer: approximate measures
 - ‘Effective hourly rate’ = total revenue/ total time recorded (may exceed that billed) To be calculated by surveyor using firm data on the following, for a consistent time period—eg, last 12 months
 - *Total revenue, split by type of customer (at least level 1) and type of law (at least level 1)*
 - *Total hours recorded, split by type of client (at least level 1) and type of law (at least level 1)*
 - Top-down approach to ‘effective price per case’ = total revenue/ total number of cases. To be calculated by surveyor using firm data on the following, for a consistent time period—eg, last 12 months
 - *Total revenue, split by type of customer (at least level 1) and type of law (at least level 1)*
 - *Total number of cases, split by type of customer (at least level 1) and type of law (at least level 1)*
- ‘Case’ needs to be defined. Most law firms surveyed open a new file even for repeat customers, and so the case could be defined as a distinct file. Firms should be guided to ensure that the revenue provided relates to the number of cases reported (stock-flow issue)
- ‘Reported hourly rates’ = average (charge-out) hourly rates, split by qualification of employee—eg, as in section A3.1
 - Hourly rates may range within a firm. Surveyor should inquire if these vary systematically between different areas of law, or client, and if so, request data or a description of how (eg, are hourly rates for smaller corporate clients discounted?)
 - Bottom-up approach to ‘effective price per case’. There are a number of methods to calculate this using data that has already been provided—eg, by first estimating the effective hourly rate, and average hours spent per case. This would use the following data
 - *Total revenue, split by type of customer (at least level 1) and type of law (at least level 1)*
 - *Total hours recorded, split by type of client (at least level 1) and type of law (at least level 1)*
 - *Total number of cases, split by type of customer (at least level 1) and type of law (at least level 1)*
 - *Total hours billed in last 12 months (dates to be specified), split by type of client (at least level 1) and type of law (at least level 1)*

³⁶ (Total hours billed and total hours recorded effectively monitors the realisation rate of the company.)

- If data of sufficient quality cannot be obtained, a small number of firms could be interviewed and the results combined with LSC research for legal aid purposes, to create some bottom-up estimates of the required inputs for different types of law
- Structure
 - Revenue from different pricing structures, split by type of customer (at least level 1) and type of law (at least level 1)—eg, as follows
 - Conditional fee arrangements
 - Hourly rates
 - Fixed fees, agreed in advance
 - If data is not available, approximations or at least an indication of different pricing structures available, should be requested
- Predictability
 - What is the ratio of the final bill to the consumer to the forecast fee within the customer care letter?
 - If such data is available, it will be at the individual-case level, therefore a split by type of customer and type of law is possible
 - It is unlikely that a survey will secure such data (potential for client confidentiality issues if raw case-level data is provided, and otherwise requires significant effort by the respondent). Instead, this could form part of an in-depth interview with a select sample of firms
- Funding source
 - Revenue from legal aid or privately funded split by type of law (at least level 1)

A3.3 Quality

It has been challenging to identify data that firms could provide which would be informative about the quality of legal advice provided.

Indicators considered and rejected include specialist quality market (rejected due to sample selection bias, only certain firms want to undertake legal aid work); experience of staff (but reflects stage of company and recession); peer review (but scarce). Length of case—the duration of time elapsed between opening and closing a file—remains a possible measure. This is sensitive to the complexity of the case, and would therefore be most suitable for standardised services such as conveyancing and will writing. For other legal services, trends would have to be monitored at an aggregate level across multiple firms to limit the impact of idiosyncratic experiences. This measure is also sensitive to delays in the client paying. For corporate clients, this can be indicative that a poor quality of service was received (thus the bill is under negotiation); but it will also be influenced by external factors such as the economic climate.

Other sources may be helpful, such as the Legal Ombudsman, the SDT, courts, and consumer surveys.

A3.4 Volume

Data should be split by office (if appropriate), type of law, and type of client

- By case
 - *Total number of cases ‘active’ at a particular point in time (eg, survey date) (stock), split by type of customer (at least level 1) and type of law (at least level 1)*
 - *Total number of files that were ‘active’ in 12 months (flow), split by type of customer (at least level 1) and type of law (at least level 1) ‘active’ would need to be defined consistently between firms—eg, whether a case is open or not*

- The flow measure is preferred in case of a low response rate (since it implicitly incorporates annualised averaging), but what is important is that data is provided on a consistent basis between respondents
- By client
 - Total number of clients for which cases are active/open at a particular point in time (stock), split by type of customer (at least level 1) and type of law (at least level 1)
 - Total number of clients for which cases were active/open in last 12 months (flow), split by type of customer (at least level 1) and type of law (at least level 1)
 - The flow measure is preferred in case of a low response rate (since it implicitly incorporates annualised averaging), but what is important is that data is provided on a consistent basis between respondents
- By hours
 - *Total hours recorded, split by type of client (at least level 1) and type of law (at least level 1)*
- By revenue
 - *Total revenue, split by type of customer (at least level 1) and type of law (at least level 1)*

A3.5 Access

Firm-level data

- Mediums of service available
 - Approximate allocation of cases in which there was:
 - no face-to-face interaction
 - no telephone or face-to-face interaction (beyond knowing your customer requirements)
 - the surveyor should inquire if this ranges systematically between different areas of law, or clients, and, if so, request a description of how
- Distance between clients and head/nearest office
 - If case-level data can be provided, postcodes of clients for each case could be analysed by the surveyor to estimate this
 - Alternatively, firms may be able to provide an approximate allocation of clients who live:
 - 'locally' (to be defined)—eg, within 20 miles of the serving solicitor's office
 - otherwise
- Availability of discounted advice
 - Outside the scope of pro bono work, is any free advice available? If so, under what circumstances (area of law, type of client, stage of process)?
 - How much flexibility is there in the pricing structure offered to clients? Does this differ by area of law, or client? If so, how?
 - Are standard rates explicitly discounted? If so, is this on a systematic basis? (eg, certain areas of law, types of client, stage of process)
- Are initial consultations available? If so, what is the conversion rate to cases (by type of law)?
- Any views on why clients have not pursued a case?

A3.6 Costs and profitability

Data should be split by office (if appropriate)

- Payscales
 - Average remuneration for legal staff within firm—eg, annual salary broken down by employee rank (on an FTE basis)
 - Average remuneration for legal support staff split by job function: administrative, IT, accounting, business strategy, marketing

Firm-level data

- Total annual staff costs for staff registered with an Approved Regulator
 - Excluding partner profit share and notional salaries, split by employee rank, and split between contracted and non-contracted costs (ie, with and without bonuses)
 - On what basis are partners' notional salaries normally estimated?
- Total annual staff costs for legal support staff, split by location (eg, in England and Wales, UK, Europe, Asia)
- Breakdown of other costs
 - Staff training costs
 - Split between LPC, CPD and other training costs
 - PII premiums
 - Qualitative description of any recent trends in PII premiums
 - Marketing and BD costs
 - Marketing spend, split by form (to be defined by surveyor—eg, referral costs, advertising spend (by medium), salary costs)
 - Office space rent
 - IT spend
 - Subcontractor fees
 - Legal services
 - Other services
 - Other costs
- Investment
 - Qualitative questions on their long-term investment (business) plan
 - What forms of investment have been considered and undertaken?
 - What is the objective of the investment?
 - What are the sources of investment finance?
 - How are new areas for investment chosen?
 - Total value of investment undertaken over past 24 and 12 months, and what it covered
 - How many new partners were taken on in the past 24 and 12 months, and what was their capital injection?
 - Cost data on the following possible areas of investment
 - IT systems
 - Claim management systems
 - Practice management systems
 - Buildings (purchase), split by location (London, England and Wales outside London, abroad)
 - Building contents (furniture, etc purchase) for properties in England and Wales
- Profitability—to ensure consistency in definitions and accuracy in calculations, this should ideally be calculated by the surveyor as opposed to the firm providing the data
 - $\text{Gross margins} = (\text{revenue} - \text{costs}) / \text{revenue}$
 - $\text{Mark-up} = (\text{revenue} - \text{costs}) / \text{costs}$
 - What measures of profitability are monitored within your firm?
- Utilisation rates can be calculated using data already collected on total hours billed and total hours recorded
- Predictability

- Does the cost volatility vary systematically between different areas of law, or types of client? If so, how?

A3.7 Diversity of the supply base

TLS and the SRA already collect sufficient information to monitor the diversity of the supplier base for solicitor firms, including high-street and City of London law firms.

A3.8 Value chain

Data should be split by office (if appropriate), type of law, and type of client

- (Approximate) breakdown of work that has arisen from the following methods of customer acquisition (by revenue, hours billed and number of files), split by type of customer (at least level 1) and type of law (at least level 1)
 - Referral with a fee or contractual arrangement
 - Referral without a fee
 - Panel membership
 - Aggregator website
 - Cross-selling to an individual customer (eg, sold a will to someone purchasing conveyancing services)
 - Other
- Types of referral source split by type of customer (at least level 1) and type of law (at least level 1) (surveyor should provide a standardised list—eg, other law firm, claims management company, estate agent, garage, insurance company/broker, medical company, other)
 - Should also inquire whether there was a fee, or other contractual arrangement
- Description of referral contractual arrangements used, split by type of customer (at least level 1) and type of law (at least level 1)
- Description of trends in referral contractual arrangements, split by type of customer (at least level 1) and type of law (at least level 1)
- Description of trends in customer acquisition techniques more generally, split by type of customer (at least level 1) and type of law (at least level 1)

Firm-level data

- Customer acquisition/retention
 - Do you have a website?
 - Advertising spend by medium: newspaper, television, radio, other
 - Ratio of advertising spend to referral fees spend
- Cross-selling
 - Between which areas of law (if any) is cross-selling significant?
- Outsourcing
 - How many wholly owned international offices do you operate?
 - Ratio of international office staff costs to domestic staff costs
 - What types of legal process have been outsourced?
 - What is the value of legal activities that have been outsourced?
 - This could be measured by the transfer price of such activities used for tax purposes
 - For what types of legal process is outsourcing on the potential agenda?
- Division of labour

- On average, across how many areas of law does each legal practitioner work? How much variability is there between different practitioners? Does this vary systematically—eg, by experience of practitioner?
- What types of work are undertaken by different types of legal practitioner? Surveyor to provide a list of types
- Why is work allocated between different legal practitioners in this way? (open question)

A3.9 Direct impact of regulation

Firm-level data

- Registration and information costs
 - What was the total registration cost for your firm (including all practitioners) this year? (approximately)
 - What was the total time spent completing the annual registration forms for your firm (including all practitioners) this year? (approximately)
 - What was the total time spent completing this survey? (approximately)
 - What was the total time spent responding to other regulatory data requests? (approximately)
- The direct costs of specific areas of regulation could be requested, for example:
 - What was the total cost of complying with CPD requirements?
 - What was the total cost of complying with anti-money laundering regulation?
- Scope of regulation
 - What proportion of work is reserved/unreserved?
 - *This can also be estimated by the surveyor by a bottom-up approach from the volume and cost data by type of law in sections A3.2 and A3.4, and employee data in section A3.1*
- How has the creation of the Legal Ombudsman affected your business?
 - Has the number of complaints increased?
 - Have you altered the way you operate?
 - Otherwise

A3.10 Elasticity and changes of supply

Data should be split by office (if appropriate), type of law, and type of client

- Approximate change in turnover—last three years
- Approximate change in numbers employed (legal and legal support staff) over the last three years

Firm-level data

- Past trends
 - What, if any, have been the recent changes in **types of law** undertaken? Areas of expansion? Areas of contraction? (in reference to level 3 groupings)
 - Reasons for change
 - What, if any, have been the recent changes in **types of legal services** provided? (in reference to the level 1 type of service categories: advice, litigation, representation in higher courts)
 - Reasons for change
 - What, if any, have been the recent changes in the (absolute and relative) **volume of legal aid work** undertaken?
 - Reasons for change
- Future trends

- Expected change in turnover—next three years
- Expected change in total staff employed—next three years
- How, if at all, are you considering changing the types of law provided? Expansion and contraction (as % of total activities) (in reference to level 3 groupings)
 - Reasons for change
- How, if at all, are you considering changing the types of law service provided? (in reference to level 1 groupings)
 - Reasons for change

- Which areas of law would you consider expanding into?
 - Reasons why? For example, consumers are the same, issues are the same
- For which areas of law do you consider there to be transferable skills?
 - Reasons why? For example, consumers are the same, issues are the same

A3.11 Other firm-specific trends

- How have the following areas changed over the last three years? Looking forward, what changes are expected in these areas?
 - The **qualification routes of the legal professionals** employed (at a high level—eg, role of RELs, legal executives, conveyancers)?
 - The **fee arrangements** offered to, and preferred by, clients
 - The **role of cross-selling legal services** (either with non-legal services, or with other legal services—eg, mental health, wills and probate)
 - Sources of capital
 - Forms of investment
 - Profitability of different areas of law

A3.12 General trends

The pilot could be used to develop an informed view regarding general trends in the market place. This could help to prioritise areas of further research, but data that is available from the pilot is unlikely to be sufficient to draw firm conclusions. Examples of trends that the LSB may wish to monitor include:

- the role of alternatives to the court system in seeking justice;
- the role of solicitor-advocates in the provision of advocacy services;
- the role of in-house legal advice (areas of law/types of client that are increasingly using in-house services);
- the impact of alternative funding arrangements as a substitute offered to clients where legal aid is no longer available

A4 Analysis of Solicitor Practising Certificate data

A4.1 Objective

The Solicitors Act 1974 requires practising solicitors to hold a practising certificate.³⁷ Within such certificates solicitors select up to six practice areas from the list of 54 presented (see Table A1.1) and, on average, three areas chosen. Although there are caveats to bear in mind (identified below), this data can be analysed to assess the extent to which there is an overlap in individual solicitors or solicitor firms³⁸ that practise across different areas of law. This serves two purposes: it helps to confirm the areas of law on which data can be collected at an aggregate level without a significant loss of detail, and facilitates confirmation of the existence of any common ‘types’ of law firm.

Often, markets for legal advice for different types of consumer problem (of which there are many) can be grouped where there is a large overlap on the supply side.

For some aspects of legal advice there are some practitioner-specific skills that are automatically transferable across all areas of law. Examples include the ability to structure an argument, and approachability to the client. While each practitioner may choose to act differently for different clients or within different areas of law, it is reasonable to assume that they do not in general. Therefore, between areas of law in which there is a large overlap in supply at the practitioner level, the conduct of supply is likely to be more similar than where there is little overlap.

Between areas of law where there is an overlap in supply at the organisation level, there are additional reasons for the conduct of supply to be similar:

- common regulation—eg, the Solicitors’ Code of Conduct applies across all practice areas;
- reputational incentives;
- business strategy incentives—eg, an organisation may have a common policy on the use of specific customer acquisition channels, availability of different pricing structures, or marketing objectives;
- business organisational effects—eg, to allow different staff to work on the same case, standard protocols may be put in place;
- common costs—eg, organisations may have standard rates across all areas of law to recover common costs such as overheads (in the case of CABs and CLACs, the rate may be free).

Therefore, by identifying clusters of firms that all operate in a similar area of law, it is possible to confirm which areas of law data can be collected at an aggregate level, possibly even at a firm level, without a significant loss of detail.

The caveats to consider are as follows.

- Marking an area of law on a Practising Certificate does not ensure that the area of law is actually undertaken.

³⁷ Subrule 20.02 of the Code of Conduct sets out what the SRA regards as ‘practising’, and the guidance to rule 20 discusses exemptions from the requirement to hold a practising certificate.

³⁸ The areas of law are marked at the solicitor level; however, since the name of the firm is recorded, data can be aggregated up in order to undertake firm-level analysis.

- The 54 practice areas that solicitors can choose from do not always correspond to types of law as defined within this study. For example, categories include advocacy, and sectors such as banking law, aviation and maritime/shipping.
- TLS uses the data to signpost consumers to relevant solicitors. This may encourage solicitors to mark ‘umbrella’ categories (such as commercial litigation, common law, business affairs and general litigation).
- This does not reflect the proportion of time spent in each area.

Approach

The following two analytical approaches have been adopted.

- **cluster analysis**—this identifies the groupings of different areas of law in which individual solicitors, or individual firms, are more likely to practise (mark on their practising certificate). The advantage of this analysis is that groups across multiple areas of law are more easily identifiable;
- **bilateral correlation analysis**—this considers which pairs of two areas of law are commonly provided by each solicitor firm, by considering the number of firms that undertake a pair of practice areas, as a proportion of the total number of firms active within each area separately. The advantage of this analysis is that the total size of each area of law can be controlled for. This is beneficial since larger areas of law will be more likely to be undertaken by the same firm than smaller areas.

Results

Figures A4.1 and A4.2 present the results of the cluster analysis. As expected, there are some slight differences in the clusters formed from the analysis at the solicitor level compared with the firm level. In particular, clusters from the solicitor-level analysis are more subject-specific. For example, the clustering is stronger at the solicitor level between areas of law associated with property rights (eg, computer, IT, media and entertainment, and intellectual property) than at the firm level. However, in general, the results of the analysis at both the solicitor and firm level are consistent. For example, both cluster corporate areas of law and high-street areas of law separately, as summarised below.

Groupings visible from the solicitor-level analysis include (see Figure A4.1):

- public: administrative and public, civil human rights;
- welfare and benefits: mental health, welfare benefits;
- finance (predominately corporate clients): banking, financial and investment services, debt money advice, insolvency and bankruptcy;
- property rights: computer and it, intellectual property, media and entertainment;
- family: children and family;
- finance (predominately natural person): taxation and trusts;
- property: landlord and tenant, conveyancing, commercial property;
- corporate: corporate finance, mergers and acquisitions and business affairs;
- high-street: property cluster is grouped with commercial litigation, general litigation, personal injury and employment.

The firm-level cluster analysis is presented in Figure A4.2. This identifies many of the same groupings as derived from the solicitor analysis (described above) but illustrates more clearly the high-street and corporate clusters:

- high-street: commercial property, conveyancing, wills and probate, landlord and tenant, family, general litigation, personal injury, family, children;
- corporate: corporate finance, mergers and acquisitions, intellectual property, insolvency and bankruptcy, professional negligence.

Technical detail on the clustering techniques adopted

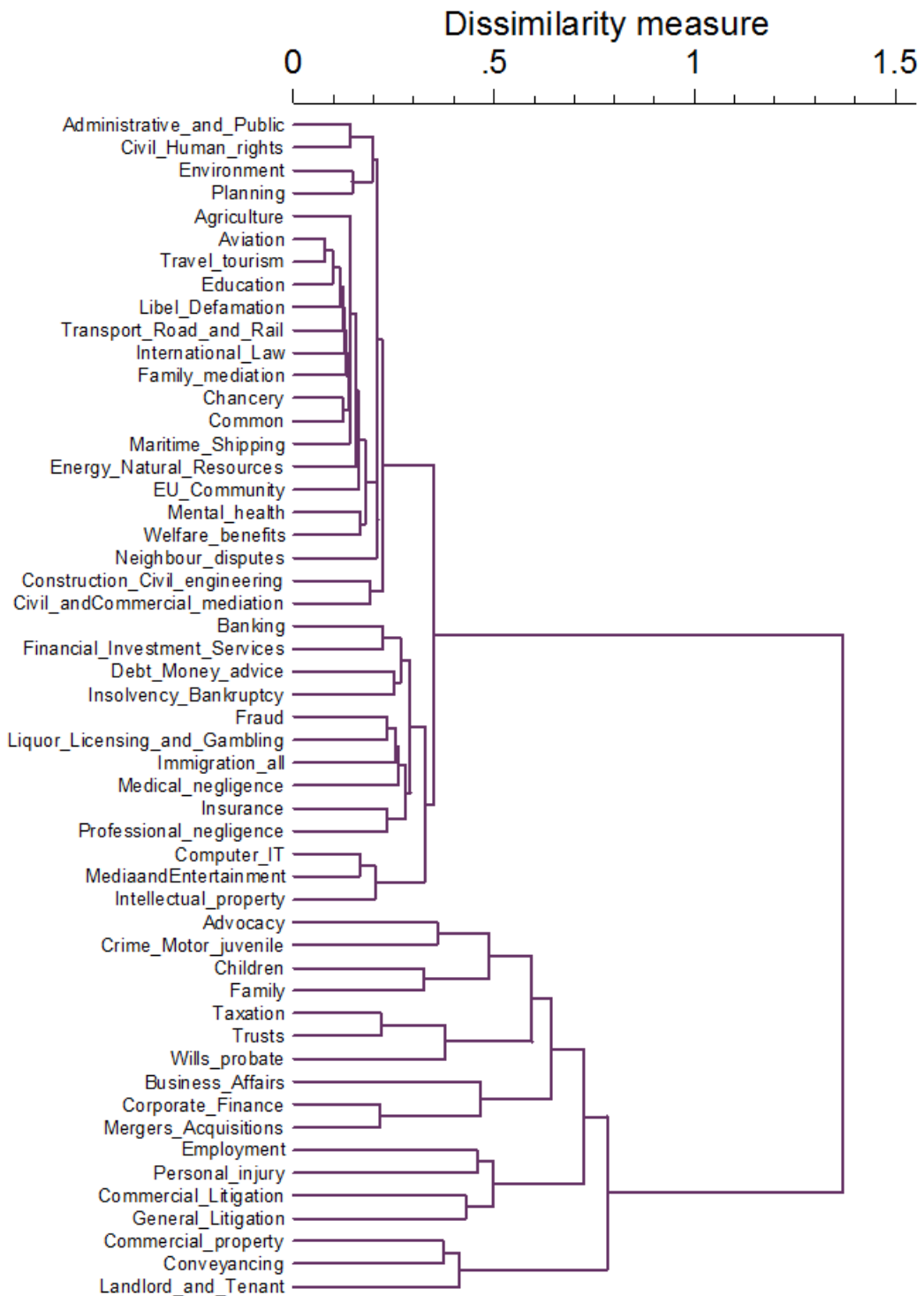
Given that the dataset is binary, the similarity measure used to determine the similarity between law types is the Russell–Rao Index.³⁹ This measure gives the proportion of cases in which both observations (solicitors or law firms) have the trait of interest (ie, practise the same law types). This measure was preferred over Jaccard’s coefficient, as the latter measure excludes cases in which neither observation has the trait of interest.⁴⁰ In other words, Jaccard’s coefficient excludes cases of negative co-occurrences when computing the similarity index, while the Russell–Rao measure does not; for this reason, the latter was chosen as the preferred similarity measure.

Among the better-known algorithms for hierarchical clustering (for example, single linkage, complete linkage, average linkage, weighted average linkage and Ward’s linkage), the Ward’s minimum variance linkage method was chosen as the preferred approach. Ward’s method uses an analysis of variance approach to evaluate the distances between clusters and optimises the minimum variance within clusters. Specifically, this method attempts to minimise the sum of squares of any two (hypothetical) clusters that can be formed at each step. In general, this method is regarded as very efficient and avoids ‘chaining’, which is common with the single linkage method, and is less sensitive to outliers, unlike the complete linkage method. Ward’s method has a tendency to form clusters of a small size.

³⁹ Russell, P.F. and Rao, T.R. (1940), ‘On habitat and association of species of anopheline larvae in south-eastern Madras’, *J. Malaria Inst. India* 3:153–78.

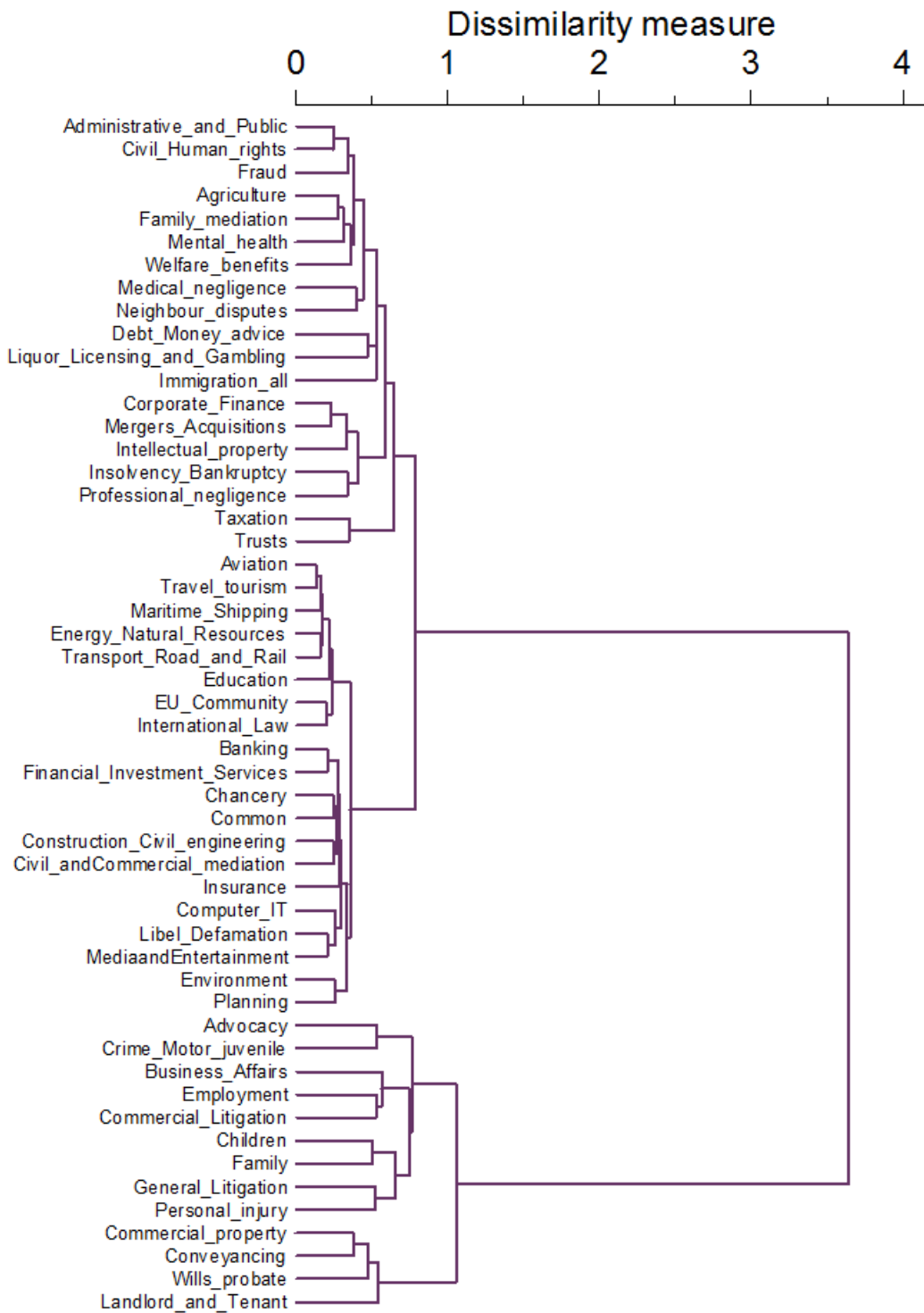
⁴⁰ Jaccard, P. (1901), ‘Étude comparative de la distribution florale dans une portion des Alpes et des Jura. Bull’, *Soc. Vaudoise Sci. Nat.* 37: 547–79.

Figure A4.1 Cluster analysis at the solicitor level



Note: The dissimilarity measure D_{ij} between two observations i and j is obtained by taking the square root of $(s_{ii} + s_{jj} - 2 \times s_{ij})$, where s_{ii} , s_{jj} and s_{ij} are similarity measures computed using the Russell–Rao approach.
 Source: Oxera analysis of Solicitors Practising Certificate data provided by the LSB.

Figure A4.2 Cluster analysis at the solicitor firm level



Note: The dissimilarity measure D_{ij} between two observations i and j is obtained by taking the square root of $(s_{ii} + s_{jj} - 2 \times s_{ij})$, where s_{ii} , s_{jj} and s_{ij} are similarity measures computed using the Russell–Rao approach.

Source: Oxera analysis of Solicitors Practising Certificate data provided by the LSB.

Tables A4.1–A4.3 present the results of the firm-level bilateral analysis, distinguishing between firms with different postcodes.

Table A4.1 Bilateral analysis at the firm level—all legal practices in England and Wales

Practice area	Practice area size	Practice area	% of overlap	2	%	3	%	4	%	5	%	6	%	7	%	8	%
Immigration - Other	10 (0%)	Litigation - General	90	Personal Injury	80	Conveyancing Residential	80	Employment	80	Commercial Property	80	Family	70	Business Affairs	60	Landlord and Tenant - Residential	60
Travel & Tourism	126 (1%)	Litigation - General	90	Litigation - Commercial	84	Employment	79	Business Affairs	77	Commercial Property	75	Personal Injury	75	Conveyancing Residential	74	Landlord and Tenant - Residential	73
Aviation	144 (1%)	Litigation - Commercial	85	Business Affairs	83	Litigation - General	81	Employment	75	Commercial Property	73	Mergers & Acquisitions	69	Conveyancing Residential	67	Corporate Finance	67
Maritime/Shipping/Admiralty	209 (2%)	Litigation - Commercial	88	Litigation - General	78	Business Affairs	70	Commercial Property	65	Insurance	62	Employment	59	Conveyancing Residential	57	Landlord and Tenant - Residential	52
Energy & Natural Resources	232 (2%)	Business Affairs	89	Litigation - Commercial	86	Litigation - General	79	Corporate Finance	74	Mergers & Acquisitions	72	Commercial Property	71	Employment	70	Banking Law	64
Transport Road & Rail	252 (2%)	Litigation - Commercial	79	Litigation - General	78	Business Affairs	73	Commercial Property	71	Employment	69	Advocacy	68	Conveyancing Residential	62	Mergers & Acquisitions	60
Education	272 (3%)	Litigation - General	81	Conveyancing Residential	75	Landlord and Tenant - Residential	73	Family	72	Employment	72	Commercial Property	71	Wills & Probate	70	Advocacy	69
Libel & Defamation	315 (3%)	Litigation - General	92	Litigation - Commercial	88	Business Affairs	82	Employment	81	Commercial Property	76	Intellectual Property	75	Conveyancing Residential	74	Landlord and Tenant - Residential	70
International Law (Non-EC)	330 (3%)	Business Affairs	82	Litigation - Commercial	79	Litigation - General	77	Employment	65	Mergers & Acquisitions	65	Commercial Property	64	Corporate Finance	60	Intellectual Property	58
Financial and Investment Services	412 (4%)	Business Affairs	88	Litigation - General	78	Litigation - Commercial	75	Commercial Property	74	Employment	74	Corporate Finance	72	Mergers & Acquisitions	70	Conveyancing Residential	67
European Community Law	418 (4%)	Litigation - General	77	Business Affairs	77	Litigation - Commercial	71	Intellectual Property	67	Employment	67	Commercial Property	64	Advocacy	62	Mergers & Acquisitions	61
Common Law	464 (4%)	Litigation - General	92	Litigation - Commercial	79	Employment	77	Commercial Property	74	Business Affairs	74	Conveyancing Residential	73	Landlord and Tenant - Residential	70	Wills & Probate	67
Chancery	473 (5%)	Litigation - General	93	Litigation - Commercial	90	Commercial Property	79	Business Affairs	79	Conveyancing Residential	77	Employment	75	Landlord and Tenant - Residential	74	Wills & Probate	69
Agricultural Law	486 (5%)	Commercial Property	96	Conveyancing Residential	94	Wills & Probate	92	Business Affairs	86	Landlord and Tenant - Residential	84	Litigation - General	83	Trusts	80	Family	76
Media/Entertainment Law	498 (5%)	Business Affairs	84	Intellectual Property	82	Litigation - Commercial	73	Employment	69	Litigation - General	69	Computer & IT Law	64	Commercial Property	63	Conveyancing Residential	59
Mediation - Family	541 (5%)	Family	99	Children Law	89	Litigation - General	80	Conveyancing Residential	79	Wills & Probate	79	Commercial Property	74	Landlord and Tenant - Residential	69	Employment	68
Construction/Civil Engineering	548 (5%)	Litigation - Commercial	89	Litigation - General	86	Business Affairs	82	Commercial Property	80	Employment	74	Conveyancing Residential	73	Landlord and Tenant - Residential	69	Wills & Probate	62
Banking Law	569 (5%)	Business Affairs	90	Litigation - Commercial	81	Litigation - General	79	Corporate Finance	76	Commercial Property	75	Mergers & Acquisitions	73	Employment	72	Conveyancing Residential	67
Administrative and Public Law	589 (6%)	Litigation - General	76	Advocacy	67	Conveyancing Residential	59	Employment	59	Commercial Property	58	Landlord and Tenant - Residential	58	Litigation - Commercial	54	Family	54
Civil Liberties/Human Rights	606 (6%)	Litigation - General	73	Advocacy	63	Crime - General Motor & Juvenile	60	Family	57	Conveyancing Residential	56	Employment	53	Landlord and Tenant - Residential	51	Commercial Property	48
Insurance	617 (6%)	Litigation - General	87	Litigation - Commercial	83	Business Affairs	67	Personal Injury	67	Employment	62	Commercial Property	59	Conveyancing Residential	56	Professional Negligence	51
Environment Law	637 (6%)	Litigation - General	82	Commercial Property	81	Business Affairs	77	Conveyancing Residential	76	Landlord and Tenant - Residential	73	Litigation - Commercial	72	Employment	70	Wills & Probate	67
Mediation - Civil/Commercial	667 (6%)	Litigation - General	89	Litigation - Commercial	88	Business Affairs	78	Employment	77	Commercial Property	72	Conveyancing Residential	67	Advocacy	63	Landlord and Tenant - Residential	63
Planning Law	677 (6%)	Commercial Property	89	Conveyancing Residential	83	Litigation - General	78	Landlord and Tenant - Residential	76	Business Affairs	75	Employment	71	Wills & Probate	70	Litigation - Commercial	70

Practice area	Practice area size	Practice area	% of overlap	2	%	3	%	4	%	5	%	6	%	7	%	8	%
Mental Health	690 (7%)	Litigation - General	75	Conveyancing Residential	74	Family	73	Wills & Probate	73	Commercial Property	67	Landlord and Tenant - Residential	65	Children Law	62	Personal Injury	61
Computer & IT Law	729 (7%)	Business Affairs	90	Intellectual Property	81	Litigation - Commercial	74	Employment	72	Litigation - General	70	Commercial Property	68	Mergers & Acquisitions	63	Conveyancing Residential	61
Corporate Finance	915 (9%)	Business Affairs	94	Mergers & Acquisitions	82	Litigation - Commercial	76	Commercial Property	75	Litigation - General	74	Employment	73	Conveyancing Residential	68	Landlord and Tenant - Residential	63
Fraud	915 (9%)	Crime - General Motor & Juvenile	82	Advocacy	74	Litigation - General	70	Family	53	Conveyancing Residential	51	Litigation - Commercial	48	Commercial Property	48	Employment	48
Welfare Benefits	926 (9%)	Family	83	Litigation - General	82	Conveyancing Residential	75	Landlord and Tenant - Residential	71	Wills & Probate	69	Commercial Property	66	Children Law	65	Personal Injury	62
Insolvency & Bankruptcy	1147 (11%)	Litigation - General	90	Litigation - Commercial	86	Business Affairs	79	Commercial Property	77	Conveyancing Residential	73	Employment	73	Landlord and Tenant - Residential	68	Wills & Probate	63
Mergers & Acquisitions	1162 (11%)	Business Affairs	95	Commercial Property	80	Litigation - Commercial	77	Litigation - General	77	Employment	76	Conveyancing Residential	72	Landlord and Tenant - Residential	65	Corporate Finance	65
Professional Negligence	1174 (11%)	Litigation - General	95	Litigation - Commercial	84	Employment	71	Commercial Property	71	Personal Injury	70	Conveyancing Residential	70	Business Affairs	68	Landlord and Tenant - Residential	67
Medical Negligence	1178 (11%)	Personal Injury	95	Litigation - General	93	Conveyancing Residential	76	Wills & Probate	72	Commercial Property	71	Family	71	Employment	69	Litigation - Commercial	68
Neighbour Disputes	1227 (12%)	Litigation - General	91	Conveyancing Residential	88	Wills & Probate	85	Landlord and Tenant - Residential	84	Commercial Property	84	Family	80	Personal Injury	72	Employment	70
Intellectual Property	1233 (12%)	Business Affairs	88	Litigation - Commercial	75	Litigation - General	72	Commercial Property	71	Employment	71	Conveyancing Residential	64	Landlord and Tenant - Residential	58	Mergers & Acquisitions	56
Taxation	1515 (14%)	Wills & Probate	90	Trusts	87	Conveyancing Residential	85	Commercial Property	84	Business Affairs	78	Litigation - General	78	Landlord and Tenant - Residential	72	Family	68
Liquor Licensing / Gambling	1666 (16%)	Conveyancing Residential	87	Commercial Property	85	Litigation - General	81	Wills & Probate	79	Landlord and Tenant - Residential	74	Family	71	Business Affairs	70	Employment	64
Immigration and Nationality	1669 (16%)	Litigation - General	70	Conveyancing Residential	67	Family	62	Commercial Property	55	Landlord and Tenant - Residential	51	Wills & Probate	44	Crime - General Motor & Juvenile	44	Employment	43
Debt and Money Advice	1930 (18%)	Litigation - General	87	Conveyancing Residential	81	Commercial Property	75	Wills & Probate	74	Family	72	Landlord and Tenant - Residential	71	Personal Injury	63	Business Affairs	62
Trusts	2437 (23%)	Wills & Probate	96	Conveyancing Residential	90	Commercial Property	87	Litigation - General	75	Landlord and Tenant - Residential	74	Business Affairs	71	Family	70	Employment	62
Advocacy	2728 (26%)	Litigation - General	70	Conveyancing Residential	64	Family	61	Commercial Property	59	Wills & Probate	59	Landlord and Tenant - Residential	54	Crime - General Motor & Juvenile	53	Employment	52
Crime - General Motor & Juvenile	3109 (30%)	Litigation - General	66	Family	64	Conveyancing Residential	61	Wills & Probate	53	Commercial Property	50	Personal Injury	50	Advocacy	46	Landlord and Tenant - Residential	46
Children Law	3122 (30%)	Family	87	Litigation - General	78	Conveyancing Residential	75	Wills & Probate	71	Commercial Property	66	Landlord and Tenant - Residential	61	Personal Injury	60	Employment	56
Litigation - Commercial	3517 (34%)	Litigation - General	89	Commercial Property	71	Conveyancing Residential	69	Business Affairs	67	Employment	64	Wills & Probate	61	Landlord and Tenant - Residential	59	Personal Injury	58
Employment	3851 (37%)	Litigation - General	81	Conveyancing Residential	72	Commercial Property	69	Family	64	Wills & Probate	64	Business Affairs	61	Landlord and Tenant - Residential	60	Litigation - Commercial	58
Personal Injury	3972 (38%)	Litigation - General	88	Conveyancing Residential	74	Wills & Probate	68	Family	68	Commercial Property	65	Landlord and Tenant - Residential	57	Employment	55	Litigation - Commercial	52

Practice area	Practice area size	Practice area	% of overlap	2	%	3	%	4	%	5	%	6	%	7	%	8	%
Business Affairs	4263 (41%)	Commercial Property	80	Conveyancing Residential	77	Wills & Probate	69	Litigation - General	67	Landlord and Tenant - Residential	61	Litigation - Commercial	55	Employment	55	Family	52
Landlord and Tenant - Residential	4420 (42%)	Conveyancing Residential	90	Commercial Property	85	Wills & Probate	78	Litigation - General	75	Family	66	Business Affairs	59	Employment	53	Personal Injury	51
Family	4999 (48%)	Conveyancing Residential	78	Litigation - General	75	Wills & Probate	71	Commercial Property	66	Landlord and Tenant - Residential	59	Children Law	55	Personal Injury	54	Employment	49
Wills & Probate	5399 (52%)	Conveyancing Residential	90	Commercial Property	79	Litigation - General	67	Family	66	Landlord and Tenant - Residential	64	Business Affairs	54	Personal Injury	50	Employment	46
Commercial Property	5548 (53%)	Conveyancing Residential	93	Wills & Probate	77	Landlord and Tenant - Residential	68	Litigation - General	68	Business Affairs	62	Family	60	Employment	48	Personal Injury	46
Litigation - General	5841 (56%)	Conveyancing Residential	71	Family	64	Commercial Property	64	Wills & Probate	62	Personal Injury	60	Landlord and Tenant - Residential	57	Litigation - Commercial	53	Employment	53
Conveyancing Residential	6228 (60%)	Commercial Property	83	Wills & Probate	78	Litigation - General	67	Landlord and Tenant - Residential	64	Family	63	Business Affairs	52	Personal Injury	47	Employment	44

Note: Size of practice area presents the number of solicitor firms for which at least one solicitor marked this area of law on their practising certificate, and in brackets, this as a proportion of all solicitor firms.

Source: Oxera analysis of solicitors practising certificate data (provided by the LSB).

Table A4.2 Bilateral analysis at the firm level—legal practices not domiciled in the following postcodes: EC1, EC2, EC3, EC4, WC1, WC2

Practice area	Practice area size	Practice area	% of overlap	2	%	3	%	4	%	5	%	6	%	7	%	8	%
Immigration - Other	1 (0%)	Litigation - General	100	Immigration - Other	100	Insolvency & Bankruptcy	100	Litigation - Commercial	100	Mental Health	100	Immigration and Nationality	100	Wills & Probate	100	Commercial Property	100
Travel & Tourism	9 (0%)	Litigation - General	89	Personal Injury	78	Employment	78	Conveyancing Residential	78	Commercial Property	78	Family	67	Immigration and Nationality	56	Crime - General Motor & Juvenile	56
Aviation	70 (1%)	Business Affairs	76	Litigation - General	74	Litigation - Commercial	71	Conveyancing Residential	71	Commercial Property	69	Employment	66	Landlord and Tenant - Residential	60	Wills & Probate	59
Maritime/Shipping/ Admiralty	75 (1%)	Litigation - General	87	Personal Injury	77	Litigation - Commercial	76	Employment	71	Conveyancing Residential	67	Commercial Property	65	Business Affairs	64	Landlord and Tenant - Residential	64
Energy & Natural Resources	99 (1%)	Business Affairs	85	Litigation - Commercial	77	Litigation - General	67	Employment	62	Commercial Property	61	Mergers & Acquisitions	60	Conveyancing Residential	56	Corporate Finance	56
Transport Road & Rail	103 (1%)	Litigation - Commercial	77	Litigation - General	75	Business Affairs	65	Commercial Property	65	Conveyancing Residential	62	Employment	54	Wills & Probate	53	Landlord and Tenant - Residential	53
Education	140 (1%)	Litigation - General	69	Litigation - Commercial	64	Advocacy	60	Commercial Property	60	Employment	58	Business Affairs	58	Conveyancing Residential	56	Personal Injury	53
Libel & Defamation	152 (2%)	Business Affairs	78	Litigation - General	70	Litigation - Commercial	66	Commercial Property	58	Employment	58	Conveyancing Residential	56	Mergers & Acquisitions	51	Landlord and Tenant - Residential	50
International Law (Non-EC)	189 (2%)	Litigation - General	89	Litigation - Commercial	81	Business Affairs	76	Employment	76	Conveyancing Residential	70	Commercial Property	69	Landlord and Tenant - Residential	66	Intellectual Property	65
Financial and Investment Services	209 (2%)	Family	75	Litigation - General	75	Conveyancing Residential	73	Landlord and Tenant - Residential	69	Children Law	68	Wills & Probate	67	Commercial Property	67	Employment	66
European Community Law	219 (2%)	Business Affairs	83	Commercial Property	74	Conveyancing Residential	74	Litigation - General	72	Wills & Probate	68	Employment	68	Litigation - Commercial	64	Landlord and Tenant - Residential	63
Common Law	238 (2%)	Business Affairs	69	Litigation - General	68	Intellectual Property	58	Commercial Property	57	Employment	57	Litigation - Commercial	56	Conveyancing Residential	56	Advocacy	55
Chancery	316 (3%)	Business Affairs	80	Intellectual Property	77	Litigation - Commercial	63	Employment	62	Litigation - General	59	Computer & IT Law	57	Commercial Property	56	Conveyancing Residential	53
Agricultural Law	336 (3%)	Litigation - General	91	Conveyancing Residential	74	Employment	73	Litigation - Commercial	73	Commercial Property	71	Wills & Probate	70	Landlord and Tenant - Residential	69	Business Affairs	67
Media/Entertainment Law	337 (3%)	Litigation - General	92	Litigation - Commercial	88	Commercial Property	79	Conveyancing Residential	78	Business Affairs	77	Landlord and Tenant - Residential	74	Employment	74	Wills & Probate	71
Mediation - Family	343 (4%)	Business Affairs	89	Litigation - Commercial	77	Litigation - General	77	Commercial Property	76	Conveyancing Residential	72	Employment	70	Corporate Finance	69	Landlord and Tenant - Residential	69
Construction/Civil Engineering	374 (4%)	Litigation - Commercial	85	Litigation - General	81	Business Affairs	78	Commercial Property	78	Conveyancing Residential	72	Employment	70	Landlord and Tenant - Residential	66	Wills & Probate	62
Banking Law	401 (4%)	Litigation - General	87	Litigation - Commercial	78	Personal Injury	75	Employment	61	Business Affairs	60	Conveyancing Residential	60	Commercial Property	57	Wills & Probate	53
Administrative and Public Law	441 (5%)	Litigation - General	69	Advocacy	62	Family	55	Conveyancing Residential	55	Landlord and Tenant - Residential	54	Commercial Property	51	Employment	50	Civil Liberties/Human Rights	50
Civil Liberties/Human Rights	451 (5%)	Commercial Property	96	Conveyancing Residential	93	Wills & Probate	92	Business Affairs	85	Landlord and Tenant - Residential	83	Litigation - General	82	Trusts	79	Family	76
Insurance	451 (5%)	Litigation - General	87	Litigation - Commercial	84	Employment	77	Business Affairs	74	Commercial Property	71	Conveyancing Residential	69	Wills & Probate	65	Landlord and Tenant - Residential	64
Environment Law	486 (5%)	Litigation - General	70	Advocacy	61	Crime - General Motor & Juvenile	60	Family	58	Conveyancing Residential	55	Landlord and Tenant - Residential	49	Employment	49	Immigration and Nationality	47
Mediation - Civil/Commercial	490 (5%)	Family	98	Children Law	90	Litigation - General	80	Conveyancing Residential	79	Wills & Probate	78	Commercial Property	73	Landlord and Tenant - Residential	68	Employment	67

Practice area	Practice area size	Practice area	% of overlap	2	%	3	%	4	%	5	%	6	%	7	%	8	%
Planning Law	493 (5%)	Commercial Property	79	Litigation - General	78	Conveyancing Residential	75	Business Affairs	73	Landlord and Tenant - Residential	72	Wills & Probate	67	Litigation - Commercial	65	Employment	65
Mental Health	518 (5%)	Business Affairs	88	Intellectual Property	77	Employment	66	Litigation - Commercial	66	Commercial Property	64	Litigation - General	63	Conveyancing Residential	58	Mergers & Acquisitions	56
Computer & IT Law	536 (6%)	Commercial Property	88	Conveyancing Residential	83	Landlord and Tenant - Residential	75	Litigation - General	74	Business Affairs	72	Wills & Probate	69	Employment	67	Litigation - Commercial	63
Corporate Finance	626 (6%)	Family	74	Conveyancing Residential	73	Wills & Probate	73	Litigation - General	73	Commercial Property	65	Landlord and Tenant - Residential	63	Children Law	61	Personal Injury	61
Fraud	638 (7%)	Business Affairs	95	Mergers & Acquisitions	79	Commercial Property	76	Conveyancing Residential	72	Employment	71	Litigation - General	71	Litigation - Commercial	71	Landlord & Tenant - Residential	64
Welfare Benefits	710 (7%)	Crime - General Motor & Juvenile	88	Advocacy	73	Litigation - General	63	Family	55	Conveyancing Residential	48	Children Law	44	Personal Injury	44	Wills & Probate	43
Insolvency & Bankruptcy	872 (9%)	Family	83	Litigation - General	81	Conveyancing Residential	75	Landlord and Tenant - Residential	71	Wills & Probate	69	Commercial Property	65	Children Law	65	Personal Injury	61
Mergers & Acquisitions	875 (9%)	Litigation - General	89	Litigation - Commercial	84	Commercial Property	78	Business Affairs	77	Conveyancing Residential	76	Employment	71	Landlord and Tenant - Residential	69	Wills & Probate	67
Professional Negligence	879 (9%)	Business Affairs	95	Commercial Property	81	Litigation - General	75	Conveyancing Residential	75	Employment	75	Litigation - Commercial	74	Wills & Probate	68	Landlord and Tenant - Residential	67
Medical Negligence	930 (10%)	Litigation - General	94	Litigation - Commercial	81	Personal Injury	75	Conveyancing Residential	72	Employment	70	Commercial Property	70	Wills & Probate	69	Landlord and Tenant - Residential	68
Neighbour Disputes	943 (10%)	Business Affairs	87	Litigation - Commercial	71	Commercial Property	71	Employment	69	Litigation - General	69	Conveyancing Residential	64	Landlord and Tenant - Residential	57	Wills & Probate	56
Intellectual Property	1060 (11%)	Personal Injury	96	Litigation - General	93	Conveyancing Residential	75	Wills & Probate	72	Family	72	Commercial Property	71	Employment	67	Litigation - Commercial	65
Taxation	1133 (12%)	Litigation - General	90	Conveyancing Residential	88	Wills & Probate	85	Commercial Property	83	Landlord and Tenant - Residential	83	Family	81	Personal Injury	72	Employment	68
Liquor Licensing / Gambling	1284 (13%)	Wills & Probate	94	Trusts	89	Conveyancing Residential	88	Commercial Property	85	Litigation - General	77	Business Affairs	76	Landlord and Tenant - Residential	74	Family	73
Immigration and Nationality	1473 (15%)	Conveyancing Residential	88	Commercial Property	85	Wills & Probate	81	Litigation - General	79	Family	74	Landlord and Tenant - Residential	73	Business Affairs	68	Personal Injury	62
Debt and Money Advice	1496 (15%)	Litigation - General	68	Conveyancing Residential	67	Family	63	Commercial Property	54	Landlord and Tenant - Residential	50	Crime - General Motor & Juvenile	45	Wills & Probate	43	Employment	40
Trusts	1746 (18%)	Litigation - General	86	Conveyancing Residential	82	Family	75	Wills & Probate	74	Commercial Property	74	Landlord and Tenant - Residential	71	Personal Injury	64	Employment	60
Advocacy	2213 (23%)	Wills & Probate	97	Conveyancing Residential	91	Commercial Property	87	Litigation - General	74	Landlord and Tenant - Residential	74	Family	72	Business Affairs	70	Employment	61
Crime - General Motor & Juvenile	2428 (25%)	Litigation - General	68	Conveyancing Residential	63	Family	63	Wills & Probate	60	Commercial Property	58	Crime - General Motor & Juvenile	55	Landlord and Tenant - Residential	53	Children Law	52
Children Law	2929 (30%)	Family	88	Litigation - General	77	Conveyancing Residential	75	Wills & Probate	72	Commercial Property	66	Landlord and Tenant - Residential	61	Personal Injury	61	Employment	55
Litigation - Commercial	2938 (30%)	Litigation - General	65	Family	65	Conveyancing Residential	61	Wills & Probate	53	Personal Injury	49	Commercial Property	49	Landlord and Tenant - Residential	45	Advocacy	45
Employment	2999 (31%)	Litigation - General	89	Conveyancing Residential	72	Commercial Property	72	Business Affairs	66	Wills & Probate	64	Employment	64	Personal Injury	62	Landlord and Tenant - Residential	61

Practice area	Practice area size	Practice area	% of overlap	2	%	3	%	4	%	5	%	6	%	7	%	8	%
Personal Injury	3446 (36%)	Litigation - General	80	Conveyancing Residential	73	Commercial Property	68	Family	67	Wills & Probate	65	Landlord and Tenant - Residential	61	Personal Injury	59	Business Affairs	59
Business Affairs	3742 (39%)	Litigation - General	88	Conveyancing Residential	74	Family	69	Wills & Probate	69	Commercial Property	64	Landlord and Tenant - Residential	56	Employment	54	Litigation - Commercial	49
Landlord and Tenant - Residential	3776 (39%)	Commercial Property	81	Conveyancing Residential	79	Wills & Probate	71	Litigation - General	66	Landlord and Tenant - Residential	62	Family	55	Employment	53	Litigation - Commercial	52
Family	4109 (42%)	Conveyancing Residential	90	Commercial Property	85	Wills & Probate	79	Litigation - General	74	Family	67	Business Affairs	57	Personal Injury	51	Employment	51
Wills & Probate	4755 (49%)	Conveyancing Residential	78	Litigation - General	74	Wills & Probate	72	Commercial Property	66	Landlord and Tenant - Residential	58	Children Law	54	Personal Injury	54	Employment	48
Commercial Property	5106 (53%)	Conveyancing Residential	91	Commercial Property	79	Family	67	Litigation - General	67	Landlord and Tenant - Residential	63	Business Affairs	53	Personal Injury	51	Employment	44
Litigation - General	5150 (53%)	Conveyancing Residential	93	Wills & Probate	78	Landlord and Tenant - Residential	68	Litigation - General	66	Family	61	Business Affairs	60	Personal Injury	47	Employment	46
Conveyancing Residential	5309 (55%)	Conveyancing Residential	73	Family	67	Commercial Property	64	Wills & Probate	64	Personal Injury	62	Landlord and Tenant - Residential	57	Employment	52	Litigation - Commercial	50
Immigration - Other	5870 (61%)	Commercial Property	82	Wills & Probate	79	Litigation - General	66	Family	64	Landlord and Tenant - Residential	63	Business Affairs	51	Personal Injury	47	Employment	43

Note: Size of practice area presents the number of solicitor firms for which at least one solicitor marked this area of law on their practising certificate, and in brackets, this as a proportion of all solicitor firms.

Source: Oxera analysis of Solicitors Practising Certificate data (provided by the LSB).

Table A4.3 Bilateral analysis at the firm level—legal practices domiciled in the following postcodes: EC1, EC2, EC3, EC4, WC1, WC2

Practice area	Practice area size	Practice area	% of overlap	2	% 3	% 4	% 5	% 6	% 7	% 8	%						
Agricultural Law	35 (4%)	Litigation - General	97	Advocacy	97	Business Affairs	97	Litigation - Commercial	97	Professional Negligence	97	Commercial Property	97	Conveyancing Residential	97	Employment	97
Travel & Tourism	51 (6%)	Litigation - Commercial	96	Business Affairs	96	Litigation - General	94	Employment	92	Commercial Property	90	Mediation - Civil/Commercial	86	Advocacy	86	Intellectual Property	86
Mediation - Family	51 (6%)	Mediation - Family	100	Wills & Probate	86	Conveyancing Residential	80	Landlord and Tenant - Residential	78	Commercial Property	78	Litigation - General	76	Litigation - Commercial	76	Children Law	75
Welfare Benefits	54 (7%)	Litigation - General	94	Employment	87	Litigation - Commercial	83	Advocacy	81	Landlord and Tenant - Residential	80	Wills & Probate	80	Conveyancing Residential	80	Business Affairs	76
Education	63 (8%)	Litigation - General	98	Employment	94	Litigation - Commercial	92	Landlord and Tenant - Residential	86	Commercial Property	86	Advocacy	83	Conveyancing Residential	83	Professional Negligence	81
Mental Health	64 (8%)	Litigation - General	97	Litigation - Commercial	89	Advocacy	88	Conveyancing Residential	81	Employment	80	Landlord and Tenant - Residential	78	Business Affairs	78	Commercial Property	78
Aviation	74 (9%)	Litigation - Commercial	97	Business Affairs	91	Litigation - General	88	Employment	84	Corporate Finance	84	Mergers & Acquisitions	82	Banking Law	81	Intellectual Property	78
Neighbour Disputes	94 (12%)	Neighbour Disputes	100	Litigation - Commercial	99	Landlord and Tenant - Residential	98	Conveyancing Residential	96	Commercial Property	96	Business Affairs	95	Employment	94	Wills & Probate	84
Maritime/Shipping/ Admiralty	106 (13%)	Litigation - Commercial	99	Litigation - General	82	Insurance	78	Business Affairs	75	Commercial Property	65	Employment	63	Corporate Finance	61	Mediation - Civil/Commercial	59
Transport Road & Rail	112 (14%)	Litigation - Commercial	96	Business Affairs	93	Litigation - General	89	Corporate Finance	87	Commercial Property	86	Employment	83	Banking Law	82	Mergers & Acquisitions	82
Medical Negligence	118 (15%)	Litigation - General	97	Personal Injury	92	Litigation - Commercial	92	Employment	87	Business Affairs	81	Commercial Property	77	Conveyancing Residential	76	Professional Negligence	75
Civil Liberties/Human Rights	120 (15%)	Litigation - General	88	Litigation - Commercial	75	Advocacy	69	Employment	68	Commercial Property	63	Business Affairs	62	Conveyancing Residential	61	Fraud	61
Libel & Defamation	126 (16%)	Litigation - Commercial	97	Litigation - General	97	Intellectual Property	90	Business Affairs	90	Employment	89	Commercial Property	86	Media/Entertainment Law	81	Mergers & Acquisitions	81
Common Law	128 (16%)	Litigation - General	96	Litigation - Commercial	96	Business Affairs	94	Employment	89	Mergers & Acquisitions	82	Commercial Property	82	Intellectual Property	80	Advocacy	80
Energy & Natural Resources	133 (17%)	Business Affairs	92	Litigation - Commercial	92	Corporate Finance	88	Litigation - General	88	Mergers & Acquisitions	82	Banking Law	80	Commercial Property	78	Financial and Investment Services	76
Chancery	136 (17%)	Litigation - Commercial	96	Litigation - General	95	Business Affairs	82	Insolvency & Bankruptcy	81	Commercial Property	80	Employment	79	Advocacy	78	Professional Negligence	76
Planning Law	141 (18%)	Litigation - General	94	Litigation - Commercial	94	Commercial Property	94	Business Affairs	90	Employment	87	Conveyancing Residential	86	Landlord and Tenant - Residential	81	Mergers & Acquisitions	80
Environment Law	144 (18%)	Litigation - General	95	Litigation - Commercial	94	Business Affairs	92	Commercial Property	90	Employment	88	Advocacy	81	Intellectual Property	81	Insolvency & Bankruptcy	79
Administrative and Public Law	148 (19%)	Litigation - General	95	Litigation - Commercial	91	Employment	86	Business Affairs	84	Advocacy	84	Commercial Property	82	Intellectual Property	77	Professional Negligence	76
Crime - General Motor & Juvenile	171 (22%)	Litigation - General	88	Litigation - Commercial	71	Fraud	71	Advocacy	68	Employment	64	Conveyancing Residential	64	Commercial Property	61	Family	60
Immigration and Nationality	173 (22%)	Litigation - General	84	Employment	75	Commercial Property	69	Business Affairs	69	Conveyancing Residential	69	Litigation - Commercial	66	Advocacy	59	Landlord and Tenant - Residential	58
Construction/Civil Engineering	174 (22%)	Litigation - Commercial	97	Litigation - General	95	Business Affairs	91	Commercial Property	86	Employment	83	Corporate Finance	80	Mergers & Acquisitions	78	Insolvency & Bankruptcy	78
International Law (Non-EC)	178 (23%)	Litigation - Commercial	89	Business Affairs	87	Litigation - General	83	Mergers & Acquisitions	76	Corporate Finance	75	Employment	72	Banking Law	71	Commercial Property	69
European Community Law	180 (23%)	Litigation - Commercial	90	Litigation - General	89	Business Affairs	87	Intellectual Property	80	Employment	79	Mergers & Acquisitions	78	Corporate Finance	76	Insolvency & Bankruptcy	73
Media/Entertainment Law	182 (23%)	Intellectual Property	91	Business Affairs	91	Litigation - Commercial	90	Litigation - General	86	Employment	81	Mergers & Acquisitions	76	Computer & IT Law	76	Commercial Property	75
Debt and Money Advice	184 (23%)	Litigation - General	96	Litigation - Commercial	92	Business Affairs	89	Commercial Property	87	Employment	80	Conveyancing Residential	80	Landlord and Tenant - Residential	77	Insolvency & Bankruptcy	73
Financial and Investment Services	193 (24%)	Business Affairs	94	Corporate Finance	92	Mergers & Acquisitions	89	Litigation - Commercial	88	Litigation - General	85	Banking Law	84	Employment	81	Intellectual Property	75

Practice area	Practice area size	Practice area	% of overlap	2	%	3	%	4	%	5	%	6	%	7	%	8	%
Liquor Licensing / Gambling	193 (24%)	Litigation - General	92	Litigation - Commercial	92	Business Affairs	89	Commercial Property	87	Employment	83	Conveyancing Residential	81	Landlord and Tenant - Residential	78	Corporate Finance	73
Children Law	193 (24%)	Litigation - General	89	Litigation - Commercial	83	Business Affairs	77	Employment	76	Commercial Property	75	Advocacy	74	Conveyancing Residential	74	Family	72
Fraud	205 (26%)	Litigation - General	93	Litigation - Commercial	83	Advocacy	80	Business Affairs	74	Employment	70	Commercial Property	68	Insolvency & Bankruptcy	65	Conveyancing Residential	63
Computer & IT Law	211 (27%)	Litigation - Commercial	95	Business Affairs	95	Intellectual Property	90	Litigation - General	87	Employment	87	Mergers & Acquisitions	82	Corporate Finance	78	Commercial Property	78
Insurance	216 (27%)	Litigation - Commercial	94	Litigation - General	86	Business Affairs	80	Professional Negligence	65	Employment	65	Commercial Property	63	Mediation - Civil/Commercial	62	Insolvency & Bankruptcy	62
Mediation - Civil/Commercial	216 (27%)	Litigation - Commercial	96	Litigation - General	92	Business Affairs	85	Employment	77	Insolvency & Bankruptcy	73	Commercial Property	72	Professional Negligence	72	Advocacy	72
Trusts	224 (28%)	Business Affairs	87	Litigation - General	84	Litigation - Commercial	83	Wills & Probate	82	Commercial Property	82	Employment	78	Taxation	77	Conveyancing Residential	76
Banking Law	226 (29%)	Business Affairs	91	Corporate Finance	88	Litigation - Commercial	87	Mergers & Acquisitions	85	Litigation - General	83	Insolvency & Bankruptcy	77	Employment	76	Commercial Property	73
Personal Injury	230 (29%)	Litigation - General	95	Litigation - Commercial	88	Employment	77	Business Affairs	73	Commercial Property	73	Conveyancing Residential	72	Landlord and Tenant - Residential	65	Wills & Probate	59
Taxation	231 (29%)	Business Affairs	89	Litigation - Commercial	84	Litigation - General	82	Employment	79	Commercial Property	75	Trusts	75	Mergers & Acquisitions	74	Corporate Finance	72
Professional Negligence	244 (31%)	Litigation - Commercial	97	Litigation - General	95	Business Affairs	79	Employment	75	Commercial Property	74	Insolvency & Bankruptcy	68	Advocacy	67	Mediation - Civil/Commercial	64
Family	244 (31%)	Litigation - General	84	Conveyancing Residential	76	Litigation - Commercial	72	Commercial Property	72	Wills & Probate	68	Landlord and Tenant - Residential	68	Employment	65	Business Affairs	64
Insolvency & Bankruptcy	272 (35%)	Litigation - Commercial	93	Litigation - General	90	Business Affairs	87	Employment	77	Commercial Property	75	Corporate Finance	71	Mergers & Acquisitions	71	Intellectual Property	67
Corporate Finance	277 (35%)	Business Affairs	94	Mergers & Acquisitions	88	Litigation - Commercial	87	Litigation - General	81	Employment	78	Commercial Property	74	Banking Law	71	Intellectual Property	71
Mergers & Acquisitions	283 (36%)	Business Affairs	95	Litigation - Commercial	88	Corporate Finance	86	Litigation - General	82	Employment	81	Commercial Property	76	Intellectual Property	76	Insolvency & Bankruptcy	68
Intellectual Property	290 (37%)	Business Affairs	91	Litigation - Commercial	88	Litigation - General	83	Employment	79	Mergers & Acquisitions	74	Commercial Property	73	Corporate Finance	68	Computer & IT Law	66
Wills & Probate	293 (37%)	Conveyancing Residential	84	Commercial Property	83	Litigation - General	82	Business Affairs	80	Litigation - Commercial	77	Landlord and Tenant - Residential	72	Employment	70	Trusts	63
Advocacy	300 (38%)	Litigation - General	89	Litigation - Commercial	81	Business Affairs	72	Employment	70	Commercial Property	68	Conveyancing Residential	65	Landlord and Tenant - Residential	62	Intellectual Property	57
Landlord and Tenant - Residential	311 (39%)	Litigation - General	91	Conveyancing Residential	90	Commercial Property	90	Litigation - Commercial	84	Business Affairs	82	Employment	77	Wills & Probate	68	Advocacy	59
Conveyancing Residential	358 (45%)	Commercial Property	91	Litigation - General	86	Business Affairs	80	Landlord and Tenant - Residential	78	Litigation - Commercial	78	Employment	71	Wills & Probate	69	Advocacy	54
Commercial Property	398 (51%)	Business Affairs	86	Litigation - General	85	Conveyancing Residential	82	Litigation - Commercial	81	Employment	72	Landlord and Tenant - Residential	70	Wills & Probate	61	Mergers & Acquisitions	54
Employment	405 (51%)	Litigation - General	85	Litigation - Commercial	83	Business Affairs	81	Commercial Property	71	Conveyancing Residential	63	Landlord and Tenant - Residential	59	Intellectual Property	57	Mergers & Acquisitions	56
Business Affairs	487 (62%)	Litigation - Commercial	81	Litigation - General	77	Commercial Property	70	Employment	68	Conveyancing Residential	59	Mergers & Acquisitions	55	Intellectual Property	54	Corporate Finance	53
Litigation - Commercial	518 (66%)	Litigation - General	87	Business Affairs	76	Employment	65	Commercial Property	62	Conveyancing Residential	54	Landlord and Tenant - Residential	50	Intellectual Property	49	Insolvency & Bankruptcy	49
Litigation - General	532 (68%)	Litigation - Commercial	85	Business Affairs	71	Employment	65	Commercial Property	64	Conveyancing Residential	58	Landlord and Tenant - Residential	53	Advocacy	50	Insolvency & Bankruptcy	46

Note: Size of practice area presents the number of solicitor firms for which at least one solicitor marked this area of law on their practising certificate, and in brackets, this as a proportion of all solicitor firms.

Source: Oxera analysis of solicitors practising certificate data (provided by the LSB).

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