



# **UNREGULATED LEGAL SERVICES PROVIDERS**

## **LITERATURE REVIEW**

**FOR**

**CILEx Regulation Ltd**

12<sup>th</sup> September 2024

**IRN Legal Reports**

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## **EXECUTIVE SUMMARY**

This literature review analyses published sources on the unregulated legal services sector in the UK. This review covers both for-profit and not-for-profit providers, plus McKenzie Friends and Litigants in Person (LIPs).

There are details of 34 references from a range of sources including regulatory bodies, government departments and agencies, research organisations, academic journals, support groups, and other publishers. Also included are selected news items from the legal press.

### **Key takeaways**

- While the unregulated legal services sector has been the focus of various pieces of research including some that have recommended a tighter control of the sector there has been no major initiative so far to either expand regulation to this sector, or create mandatory accreditation via a register of these providers.
- Unregulated providers take a relatively small share of the total legal services market but the sector is growing with more LIPs taking on legal issues particularly via digital legal portals and AI legal content becoming another unregulated source.
- There is evidence that some consumers of legal services do not understand the distinction between regulated and unregulated providers.

### **A small share of the total market but more important in some sectors**

- Separate research findings from the Legal Services Board (LSB), Solicitors Regulation Authority (SRA), and the Legal Services Consumer Panel (LSCP) have all arrived at a similar conclusion, i.e. that the unregulated sector takes a relatively small share of the overall legal services sector - no more than 10%. However, in some practice areas the share is much higher, for example over 20% in personal injury and close to 20% in conveyancing along with wills and probate. SMEs are also important clients for unregulated providers with almost four out of ten SMEs turning to these providers when using legal services.
- It is difficult to estimate the total number of unregulated providers but the LSB research puts the number at over 207,000.

### **No sign yet that unregulated providers will be regulated**

- In its 2016 investigation into the legal services market, and an update in 2020, the Competition & Markets Authority (CMA) called for a mandatory

register of unregulated providers to be set up. The Ministry of Justice (MoJ) has also considered the option of a mandatory register of unregulated providers but has taken it no further.

- The LSB research cited above concluded that “there was no compelling case for a full statutory review” of the unregulated sector but instead recommended that voluntary arrangements in specific practice areas or for types of providers would be better, for example voluntary codes of practice for those in membership bodies.
- Currently, there is a CMA consumer enforcement investigation underway on the will writing and online divorce markets with concerns around the potential risk to customers and possible breaches of consumer protection law.
- Some potential customers of legal services may also be confused by some providers offering legal services and emphasising that they are regulated although this regulation refers to another sector, for example financial services.

### **Regulated vs unregulated - Mayson review calls for no distinction**

- A different approach to regulation was taken by Professor Stephen Mayson in research published in 2020 with an update in 2022. The research concluded that the legislative framework under the Legal Services Act (LSA) was not sustainable in the long-term and proposed complete reform. Central to Mayson’s framework was a move away from the current title-based regulation towards risk-based regulation of all legal practise areas, whether reserved or non-reserved.

### **LIPs play big role in family law but growing in other practice areas**

- The removal of legal aid from many consumer legal advice areas, plus the financial costs associated with regulated legal advice, has led to more individuals dealing with their legal matter themselves, i.e. LIPs. In some family law matters in particular LIPs often represent themselves in a majority of cases.
- The creation of online portals for the submission of cases and claims aims to encourage more private individuals to deal with the legal process themselves. Digital divorce and probate portals from the MoJ has increased their use by LIPs while the Official Injury Claim portal dealing with personal injury claims has been less successful in encouraging LIP use.

## Some concerns over using McKenzie Friends

- LIPs may be allowed to have someone to help them in court by taking notes and giving advice and these are known as McKenzie Friends. Most research around the use of McKenzie Friends has expressed some concerns over their use given that they are often unqualified in legal matters, not subject to any disciplinary measures and are uninsured. Other research has focused on McKenzie Friends that charge fees for their services but a proposal by the Judicial Executive Board in 2016 to ban McKenzie Friends charging fees was later dropped.

## 1. INTRODUCTION

This literature review analyses published sources on the unregulated legal services sector in the UK. The Legal Services Act 2007 (LSA) identified six reserved activities and individuals and organisations carrying out these activities must be regulated by an approved LSA regulator. However, this leaves many other legal services (unreserved activities) that can be provided by both regulated and unregulated providers.

This review covers both for-profit and not-for-profit providers, plus McKenzie Friends and Litigants in Person (LIPs).

The review covers key content published over the last decade.

Section 2 offers an overview of some of the key themes identified in the review while Section 3 provides more details of all the referenced sources included.

## 2. KEY THEMES

While the unregulated legal services sector has been the focus of various pieces of research including some that have recommended a tighter control of the sector there has been no major initiative so far to either expand regulation to this sector, or create mandatory accreditation via a register of these providers.

### Size of the Unregulated Sector

Given the relatively fragmented nature of the unregulated sector its precise size and role in the legal services market is difficult to calculate but recent estimates of its size are generally in agreement. In 2023, research by the Solicitors Regulation Authority (SRA)<sup>1</sup> stated that unregulated providers accounted for 6% to 8% of the turnover of the legal services sector. This is a similar figure to up to 9% suggested by the mapping exercise of the unregulated sector reported by the Legal Services Board (LSB)<sup>2</sup> in 2022. In the 2024 Tracker Survey from the Legal Services Consumer Panel

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<sup>1</sup> Solicitors Regulation Authority 2023, Understanding the Unreserved Market

<sup>2</sup> Legal Services Board 2022, Mapping Unregulated Legal Services

(LSCP)<sup>3</sup> results point to use of unregulated providers representing 10% of the use of consumer legal services.

However, in certain practice areas, use of unregulated providers is considerably higher than the above percentages. For example, the LSB research found that 22% of consumers looking for personal injury advice used unregulated services, along with 19% of those using conveyancing services and 16% needing will writing and probate advice. The research also found a particularly high use of unregulated providers amongst SMEs – 37% to 39% of SME users of legal advice services.

Based on Office for National Statistics (ONS) data, the LSB research estimated that there could be over 207,000 unregulated providers of legal services in England and Wales. Both the LSB and SRA research suggests that the unregulated sector is still a relatively small part of the overall legal services market.

## **Policy and Regulation**

In 2016, a Competition and Markets Authority (CMA) investigation into the legal services market concluded that a full review of the LSA was needed and one reason given for this was the rise in the unregulated legal providers sector. In a 2020<sup>4</sup> update to the investigation the CMA noted that “the case for reform remains pressing”. In relation to the unregulated sector specifically, the original CMA investigation had called for a mandatory register of unregulated providers to be created and it reiterated this recommendation in 2020.

In the same year (2020) the Ministry of Justice (MoJ)<sup>5</sup> considered the option of a mandatory register of unregulated providers. However, there has been no progress on this since.

The 2022 mapping exercise from the LSB concluded that “there was no compelling case for a full statutory review” of the unregulated sector but instead recommended that voluntary arrangements in specific practice areas or for types of providers would be better, for example voluntary codes of practice for those in membership bodies. It also said that it would consider entering voluntary arrangements for unregulated firms to sign up to a register of accredited providers. It also noted that as many unregulated providers were small operations then any regulation and the costs and resources involved might affect the viability of these operations to the detriment of consumer choice.

A different approach to regulation was taken by Professor Stephen Mayson<sup>6 7</sup> in research published in 2020 with an update in 2022. The research concluded that the

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<sup>3</sup> Legal Services Consumer Panel 2024, Consumer Legal Services Tracker Survey

<sup>4</sup> Competition & Markets Authority 2020, Review of the Legal Services Market Study in England and Wales

<sup>5</sup> Legal Futures 16<sup>th</sup> September 2020, Government Eyes Regulating the Law’s Unregulated Providers

<sup>6</sup> Mayson S 2020, Reforming Legal Services: Regulation Beyond the Echo Chambers

<sup>7</sup> Mayson S 2022, Consumer Harm & Legal Services – From Fig-Leaf to Legal Well-Being

legislative framework under the LSA was outdated and not sustainable in the long-term and proposed wholesale reform. Central to Mayson's framework was a move away from the current title-based regulation towards risk-based regulation of all legal practise areas, whether reserved or non-reserved. All providers of legal services would be regulated to a various degree depending on the nature of work they undertake and brought within the Legal Ombudsman (LeO) jurisdiction. He repeated this proposal in the 2022 update. Mayson also agreed with the CMA regarding a register of unregulated providers although he said that this would be a short-term fix in advance of the longer-term reforms he proposed.

A consumer enforcement investigation into the unregulated legal services of will writing, online divorce, and pre-paid probate launched by the CMA<sup>8</sup> in Summer 2023 is addressing concerns involving potential risk to customers and possible breaches of consumer protection law. The results of the investigation may lead to calls for more regulation. The CMA published consumer protection compliance guidance for these unregulated providers in April 2024<sup>9</sup>.

Another issue in the unregulated sector is that many of these providers may not be regulated to offer legal services but could be subject to other regulation, for example accountants, advisers in banks, claims management companies etc. This may be confusing for consumers and some claims management companies, for example, have been accused by their regulator the FCA of using FCA authorisation to "legitimise" unregulated services<sup>10</sup>.

### **Litigants in Person (LIPs)**

The removal of legal aid from many consumer legal advice areas, plus the financial costs associated with regulated legal advice, has led to more individuals dealing with their legal matter themselves. These unrepresented individuals are usually referred to as LIPs.

MoJ statistics show that in some areas of family law, for example, LIPs deal with the majority of cases. The latest *Family Law Quarterly Statistics*<sup>11</sup> for England and Wales shows that 96% of parties in adoption cases were unrepresented, 67% in Private Law Childrens' Act cases, 58% in domestic violence cases, and 43% of one of the parties in divorce cases.

While traditionally LIPs referred to unrepresented individuals taking on the task of representing themselves in court, the emergence of digital legal services has created a new group of LIPs dealing with the online submission and processing of cases and claims in some practice areas. This has been encouraged by the MoJ with the

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<sup>8</sup> Competition & Markets Authority 2023, Investigation of Will-Writing and Other Legal Services

<sup>9</sup> Competition & Markets Authority 2024, Unregulated legal services – guidance on consumer protection law: Helping unregulated providers of will writing, online divorce, and pre-paid probate services to comply with their consumer protection law obligations

<sup>10</sup> Financial Conduct Authority 2023, Claims Management Companies Portfolio Letter

<sup>11</sup> Ministry of Justice 2024, Family Law Quarterly Statistics Quarter 1

development of more digital services accessible to individuals as well as legal professionals. The services include online probate, online divorce, and an online personal injury claims service (Official Injury Claims portal). 40% of probate applications are now from private individuals rather than legal professionals but the use of the Official Injury Claims (OIC) portal by private individuals is nowhere near the level envisaged by the MoJ when the OIC was set up three years ago: only around 10% of claims are from private individuals.

## McKenzie Friends

LIPs may be allowed to have someone to help them in court by taking notes and giving advice and these are known as McKenzie Friends. They cannot: speak for a LIP; interfere with proceedings; sign documents on a LIP's behalf. The judge decides whether a LIP can have a McKenzie friend with them in court.

Most research around the use of McKenzie Friends has expressed some concerns over their use given that they are often unqualified in legal matters, not subject to any disciplinary measures and are uninsured.<sup>1213</sup>

Other research has focused on McKenzie Friends that charge fees for their services. In 2016, the Judicial Executive Board<sup>14</sup> proposed a ban on McKenzie Friends charging fees but after a consultation this proposal was dropped. Bar Council sponsored research in 2017 (footnote reference 12) found that many fee-charging McKenzie Friends were completing most of their work outside court proceedings and were passing on their clients to legal professionals to take on the courts process. However, the researchers concluded that "there is enough that is concerning in relation to fee-charging McKenzie Friends to merit efforts to tackle the worst of the sector and a more detailed evaluation of their services than this study afforded would also be welcome".

## Consumer Choice and Risks

The SRA research on unregulated providers in 2023 noted that the growth of this sector had increased choices for consumers but it had come with some risks, in particular a lack of some consumer protection with some providers. It recommended that better information should be made available enabling consumers to differentiate between different levels of protection.

Recent research from IRN Legal Reports<sup>15</sup> on the will writing sector raises some concerns given that over 40% of respondents that have a will assume that all will writers are regulated.

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<sup>12</sup> Bar Council 2017, A Study of Fee-Charging McKenzie Friends and their Work in Private Family Law

<sup>13</sup> Child & Family Law Quarterly Volume 31, No 1, McKenzie Friends and LIPs – Widening Access to Justice or Foes in Disguise?

<sup>14</sup> Judicial Executive Board 2016, Reforming the Courts Approach to McKenzie Friends – A Consultation

<sup>15</sup> IRN Legal Reports 2024, UK Wills & Probate Consumer Research Report



The SRA research also found that many unregulated providers planned to increase their use of legal technology re-enforcing a finding in the LSB 2022 research on unregulated providers that they are often more innovative than other providers.

Finally, the emergence of AI tools is likely to open up another unregulated providers frontier, for example unregulated AI content used in courts and other legal matters<sup>16</sup>. In 2023, the Courts & Tribunal Judiciary published guidance<sup>17</sup> on AI for judicial office holders noting that much of this AI content submitted could come from unregulated sources.

### **3. SOURCES FROM LEGAL SERVICES BODIES**

#### **Legal Services Board**

##### **Mapping Unregulated Legal Services**

In June 2022 the LSB published Mapping Unregulated Legal Services based on LSB research. This work primarily aimed to establish the size of this sector and its characteristics, as well as identify consumer benefit and detriments from the provision of unregulated legal services. The research had a secondary aim to develop an appropriate means for mapping the unregulated sector in the future, to support the LSB's further work in this area.

To explore the size of the market and its characteristics, the research used a framework approach to group unregulated providers into 13 broad areas of law and identify a sample of 550 providers across these areas using keyword searches online. This was supported by data from past LSB surveys and surveys of professional associations in will-writing, McKenzie Friends and the Institute of Paralegals, which are areas where existing evidence shows that unregulated providers are more prevalent. To explore consumer benefits and detriments, the LSB searched Citizens Advice case notes (relating to the 1.6 million queries between 2019 and 2021); a survey linked from the Legal Ombudsman (LeO); Trustpilot.co.uk review data; and meetings with specialist committees at the Law Society and Bar Council.

Key findings – size and characteristics of the sector

- The survey data and desk research suggests that unregulated businesses have between approximately 0.5% and 9% share of the overall legal services market serving individual consumers. In some areas, these providers have a much larger share: injury (22% of issues using an unregulated provider); conveyancing (19%); will-writing, trusts etc (16%).
- The survey data suggests that unregulated businesses have between approximately 37% and 39% share of the legal services market serving SMEs. The most common areas where unregulated providers are operating

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<sup>16</sup> Law Society Gazette 27<sup>th</sup> December 2023, Unregulated AI Legal Advice Putting the Public at Risk

<sup>17</sup> Courts & Tribunals Judiciary 2023, Artificial Intelligence Guidance for Judicial Office Holders

include: tax (28% of issues using an unregulated provider); trading (22%) and employee issues (16%).

- Office of National Statistics (ONS) data suggests that of the 2.43 million companies, sole proprietors and partnerships in England and Wales (across all industries), there could be as many as 207,535 that are unregulated providers and the LSB notes this method does not include sole proprietors not registered for VAT or PAYE “which are likely to be significant in number”.
- The coverage of legal services is diverse, in the areas of law covered (from family to intellectual property to employment), and in how services are offered and priced.

### Characteristics of the sector

The research identified common characteristics shared by unregulated providers, including:

- The desk research suggested legal services are frequently offered alongside non-legal services. Legal services may be offered infrequently, particularly where legal services are offered as an ancillary service.
- The small scale of some unregulated providers means that introducing any form of regulation could impact on the viability of these businesses.
- The survey data suggests that unregulated providers are 1.5 times as likely to have undertaken innovative activities as other providers and among those groups most likely to have introduced ‘radical service innovation’ (services new to market).
- The desk research suggests that two-thirds of unregulated providers in the sample provided some information about pricing, despite not being subject to price transparency requirements that apply to regulated providers.

### Key findings – consumer benefits and detriments

#### Consumer protections

- The desk research found that some unregulated providers are subject to statutory regulation for the non-legal services they provide, which may mean some of the benefits of that regulation extend to the unregulated areas of their business, including legal services.
- The desk research suggests that approximately two-thirds of unregulated providers in the sample belong to a membership body that may afford some consumer protections (such as mandatory professional indemnity insurance or qualifications).

#### Satisfaction and complaints

- While a majority of people were satisfied with the service provided by all different types of providers, those using unregulated providers were most likely to report dissatisfaction with the service that they received.

- Data from Trustpilot.org.uk shows that both unregulated and regulated providers scored highly in consumer reviews (although regulated providers did have higher levels of 'very satisfied' ratings).
- Data from LeO (from a very small sample) suggests that issues with unregulated providers had negative impacts on consumers, including reported lost time, lost money or worse health or wellbeing.
- Data from CAB suggests that complaints about unregulated legal services such as will-writing or employment focused on negative impacts to consumers such as costs, failing to make progress and poor advice.
- Case studies confirmed instances of consumer detriment including poor advice e.g. errors in documents and unexpected costs from upsold or mis-sold services.

As well as the final report, the research results delivered Scorecards for the following sectors and summary data from the Wills, trusts, probate, estate administration Scorecard is shown below as an example.

Business structures  
Consumer trading issues  
Crime, rights of individuals, immigration  
Employment  
Family law  
Housing, business premises issues  
Intellectual property services  
Legal costs  
Regulation services  
Tax, finance services  
Wills, trusts, probate, estate admin

### **Will writing and probate services**

An estimated 16% of all use of will writing and probate services in the UK was use of unregulated providers. In scope for the research were only for-profit unregulated providers. Part of the research included membership surveys involving members of the IPW and SWW conducted by the LSB. Key findings included:

- The most common headcount total was one employee (40%) and, overall 51% employed between one and four employees.
- Most firms had low annual turnovers: more than three quarters expected to generate turnovers of £99,000 or less for the current financial year. Just three firms (out of 109) expected to achieve turnovers of £1 million or more during the same period.
- The most popular charging mechanism was fixed fees – including fixed price per document. This charging method – mentioned by 69% - was more popular than all alternatives combined.
- The most popular form of governance was the private limited company (60%) followed by sole proprietor/ sole trader (35%).
- Around one-third of providers offered non-legal, as well as legal services.
- Word of mouth, referrals, and non-digital print media continue to play a significant role in helping practices to obtain new instructions – far more so than radio and TV, or comparison websites / customer review websites. That said, many providers promote their services via multiple distribution channels, both offline and online.

The LSB said its research suggested the unregulated market is ‘sizable’ and has a significant market share in some areas, but “evidence obtained does not provide a ‘compelling case’ for a full statutory review of the sector at this time. Further work will go into whether a targeted review is warranted for a specific area where problems are identified”.

Instead, in the short term, the LSB proposes to enter voluntary arrangements for unregulated firms to sign up to a register of accredited providers. The organisation will also push access to alternative dispute resolution in the unregulated sector.

“There is merit in further exploring the feasibility of pursuing voluntary arrangements”, the LSB stated. “We propose to engage with other regulators (such as the Professional Standards Authority) to discuss their approaches to similar powers. We also propose to engage further with those in the unregulated sector to test whether there is appetite for the LSB to provide assistance in the development of voluntary arrangements funded by unregulated providers”.

Annex A in the report provides an analysis of self-regulated schemes in various groups across professional services.

<https://legalservicesboard.org.uk/wp-content/uploads/2022/06/20220616-Mapping-unregulated-legal-services-FINAL-1.pdf>

### **Unregulated Legal Services Providers: Understanding Supply-side Characteristics**

The above 2022 research followed previous research in 2016 to understand more about unregulated services. The project involved an internal mapping exercise and externally commissioned research involving provider and stakeholder interviews, a review of provider websites, analysis of legal need surveys and desk research. The research looked in detail at will-writing, online divorce and intellectual property.

#### Key findings:

- For profit unregulated providers make up a small proportion of the legal services market. In the individual legal needs survey, they represented 4.5-5.5% of cases in which consumers paid for advice or representation. In contrast, not for profit providers, most of whom will be unregulated, accounted for approximately 37% of all legal problems where advice was sought.
- Benefits for consumers include lower prices and greater price transparency compared to regulated providers, innovation and service differentiation, and competitive impact on regulated providers.
- The main risks to consumers relate to consumers not making informed choices and misleading advertising claims. The research did not assess the technical quality of work.
- Consumer satisfaction with customer service is broadly comparable across regulated and unregulated providers – 84% versus 81% respectively.
- More than half of consumers who instruct for profit unregulated providers are aware of their regulatory status. Of those who don't check, a significant proportion do not do so because they assume that they are regulated.
- There is a limited potential market for voluntary regulation beyond existing trade associations given the size of the market and low appetite for such initiatives among providers.

The LSB concluded that:

“The for profit unregulated sector is smaller than expected, although in some segments these providers have gained a significant market share. Based on the evidence of benefits and risks to consumers and limited potential market for voluntary regulation beyond existing trade associations, the LSB will monitor developments but will not pursue a voluntary arrangement under the Legal Services Act. Consumers should be encouraged to check whether or not providers are regulated”.

<https://legalservicesboard.org.uk/reports/unregulated-legal-service-providers>

### **Legal Needs of Individuals in England and Wales**

Published jointly by the LSB and the Law Society in April 2024, one question in the survey asked respondents to give details of the most frequently used main adviser for contentious legal issues in England and Wales (5,144 sample). Solicitors are the main source used at 19% but this is down from 21% in 2019. Licensed conveyancers and barristers are each used by 2% and regulators by 3%. That leaves another 19

advisers used led by doctors (10%), insurance companies (8%), friends/family (6%), another person or organisation (6%), Citizens Advice (5%), another professional (5%).

Full survey report at: <https://legalservicesboard.org.uk/wp-content/uploads/2024/04/LN2023-Summary-report-18.04.24-updated.pdf>

### **Small Business Legal Needs**

A 2022 report based on a survey of 1,027 SMEs presented results on the main source used when a legal issue arose. Accountants are the main source, i.e. most are not LSA-regulated businesses, and not-for-profit advice agencies plus membership bodies/trade associations are also important. Of course, all of these may have passed some legal inquiries onto regulated firms but not all. Key sources and percentage using are:

- Accountants – 22%
- Solicitors/law firms – 16%
- Not-for-profit advice agencies (e.g. Citizens Advice etc) – 10%
- Membership body/trade association – 8%
- Government Advice Service – 7%
- Tax/financial adviser – 5%
- Business consultant/other consultant – 4%
- Another legal adviser (e.g. conveyancer, costs lawyer) – 3%
- Barrister – 2%
- Other – 14%

<https://legalservicesboard.org.uk/wp-content/uploads/2022/05/20220406-Small-business-legal-needs-FINAL.pdf>

## **Professor Stephen Mayson**

### **Reforming Legal Services: Regulation beyond the Echo Chambers**

Following a two-year independent review into the regulation of legal services in England and Wales, which was supported by the Centre for Ethics & Law at the University College London, this report was published in June 2020. The report concludes that the legislative framework under the LSA is outdated and not sustainable in the long-term and proposes wholesale reform in the future.

Central to Mayson's framework is a move away from the current title-based regulation towards risk-based regulation of all legal practise areas, whether reserved or non-reserved. All providers of legal services would be regulated to a various degree depending on the nature of work they undertake and brought within the Legal Ombudsman (LeO) jurisdiction.

Recommendations include:

- High risk practice areas such as the conduct of litigation, advocacy and others would be subject to 'before' and 'during the event' authorisation, and

opened up to all individuals meeting the authorisation conditions, beyond the current title-holders.

- All legal services providers would be overlooked by a single, sector-wide regulator, which would replace the Legal Services Board (LSB), the Solicitors Regulation Authority and other frontline regulators. The single regulator would set the conditions for authorisation for various activities and the award and removal of titles, but professional bodies could play a role in education and training and promotion of higher professional standards.
- Title would no longer be the only entry to practise—solicitors, barristers and other title holders would co-exist alongside other providers authorised by the single regulator.

Mayson argued that his framework would bring within regulation unregulated providers which are currently outside the regulatory remit, such as lawtech, McKenzie Friends, will-writers, paralegals and others, and offer more protection and choice to consumers. Mayson did say that he had not carried out a cost-benefit analysis of the proposals, and whether they are likely to deliver better outcomes than the current framework.

#### Short-term solutions

In addition to long-term proposals for the wholesale reform, Mayson calls for more immediate short-term solutions to deal with the current Covid-19 crisis, with the prospect of some law firms leaving the market and many people turning for help to unregulated providers. These include a public register of unregulated providers, including paid McKenzie Friends, created by the LSB, with Leo's jurisdiction extended to complaints against providers on the LSB register.

Responding to the proposals, the MoJ indicated that it was not the time for a review of the Act.

**Selected quotes from the Mayson report:**

*Regulating lawyers – the ‘law of lawyering’ – has the almost inevitable effect of restricting regulation to those who are qualified lawyers. It focuses on the process and conditions for qualification and for practice.*

*However, there are circumstances in which the legal knowledge and practical experience of a will-writer, paralegal, social worker, employment adviser, planning consultant, and so on, can be much more accurate and current than that of a qualified lawyer.*

*The application of technology has also been shown to be quicker, more accurate, and more cost-effective in certain circumstances than a human being.*

*Seeking help from regulated lawyers accounts for a little under only one-third of all sources (with solicitors taking 22%). With those numbers, it is difficult to justify a regulatory framework that is built around the expectations and practices of a minority group of providers.*

*It is time to move regulation from the law of lawyering to the law of legal services*

[https://www.ucl.ac.uk/ethics-law/sites/ethics-law/files/irlsr\\_final\\_report\\_final\\_0.pdf](https://www.ucl.ac.uk/ethics-law/sites/ethics-law/files/irlsr_final_report_final_0.pdf)

**Consumer Harm and Legal Services – from Fig Leaf to Legal Well-being**

In a follow-up to his independent review of legal services regulation, Professor Mayson published an update report in 2022 which said that bringing unregulated providers within the scope of regulation and promoting the concept of “legal well-being” would reduce unmet need and improve competition.

The findings are consistent with the first report which said all providers of legal services, whether legally qualified or not, should be registered and regulated by a single regulator.

Mayson said that, since the first report, a significant issue that arose in discussing his findings was the nature of the consumer harm that regulation was supposed to be protecting against. The supplementary report looks specifically at this question and the extent to which the current regulatory framework can deal with it.

Professor Mayson identified two significant types of consumer harm in legal services. The first was structural and arose from millions of people not being able or willing to access legal advice, documents and representation when they have a legal need. This was driving people either to do nothing or use unregulated providers.

The second arose when people do access legal services and then suffered harm because, for example, of the provider’s dishonesty, incompetence, over-charging or poor service.



Professor Mayson said the belief that lawyers were more effective was “for the most part, an assumption advanced by those who have a clear professional and economic interest in doing so”. He said there were many voluntarily regulated individuals, such as paralegals, will-writers and mediators, as well as staff in law firms, who were “not necessarily legally qualified but whose competence and practical experience in legal matters is often at least as good as – and sometimes better than – that of their fully qualified counterparts or colleagues.”

The report argued that, whether harm arose from the regulated or the unregulated, neither the sector-specific remedies under the Legal Services Act 2007 nor the general consumer law were designed to offer much meaningful redress directly to the client who suffered harm – as opposed to a regulator taking action against the provider.

[https://www.ucl.ac.uk/ethics-law/sites/ethics\\_law/files/irlsr\\_supplementary\\_report\\_2022\\_final\\_220413.pdf](https://www.ucl.ac.uk/ethics-law/sites/ethics_law/files/irlsr_supplementary_report_2022_final_220413.pdf)

## **Solicitors Regulation Authority (SRA)**

### **Understanding the Unreserved Market**

The SRA commissioned Frontier Economics, The Data City, and BMG Research to research the unreserved market, primarily that conducted by the unregulated providers. To understand the size of the market they focused on providers that offer tailored legal advice to individuals and businesses rather than broader legal services. This was to exclude organisations that only provide generic information and services. The findings, published in June 2023, are based on:

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

### Key findings:

- The volume of tailored legal advice providers that are not regulated by an LSA-regulator ('unregulated') is growing but is currently a fairly small portion of all legal services. The estimated proportion of the unregulated legal market is approximately 6-8% of the total legal market turnover, similar to that found by the Legal Services Board.
- Most of these services are provided to individuals and small businesses. A quarter of the unregulated providers are concentrated in will and estate administration work followed by family (12%) and employment (11%) work.

- Some unregulated providers are regulated by non-LSA regulators such as the Financial Conduct Authority. And many are members of professional bodies such as the Society of Will Writers. Some providers are not regulated at all and/or are not members of professional bodies.
- Small business consumers were slightly more satisfied with the quality of advice and the service from regulated compared with unregulated providers. However, satisfaction was high for both types of providers. But some research participants had concerns about the quality of advice and service from unregulated providers that are not subject to any regulation or professional membership.
- Most small business consumers view regulation as important for the market and said that they knew whether their providers were regulated or not. Most preferred using a regulated provider even if they were more expensive.
- Many unregulated providers thought regulation is important too, especially those providing wills and trusts services. About half of unregulated providers thought that people do not understand the difference between regulated and unregulated services. And 14% said they would become regulated if they had to disclose their regulatory status.

#### Potential future development of the market

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

#### Potential implications for consumers

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

One of the key conclusions is that better access to information on the different levels of protection offered by different providers would help consumers when choosing between regulated and unregulated organisations.

The SRA stated that “These findings will also inform how we and others help consumers to understand regulation, for example, by encouraging consumers to use the public legal education resources provider by the regulators, for example Legal Choices, and through our engagement with consumer bodies. And we will continue to engage with other regulators and self-regulatory bodies to build on this evidence and consider how we can support consumers to access justice”.

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

<https://www.sra.org.uk/sra/research-publications/understanding-unreserved-market/>

### **Standards and Regulations – One-year Evaluation of SRA reforms**

The report authored by Centre for Strategy & Evaluation Services, published in December 2021, provided results from a survey of 150 solicitors. The relevant chapter is Practising flexibly reform: solicitors in non-regulated organisations.

Another set of reforms introduced in November 2019 aimed at providing greater flexibility for solicitors and firms by allowing solicitors to provide non-reserved services to the public by practising in an unregulated provider. The reforms were introduced in part to address concerns that the previous regulations may have been adversely impacting on competition and consumers, by restricting choice and not allowing consumers to access the services of a solicitor outside a regulated organisation. In addition, the regulations limited the opportunities for solicitors to choose to work in a range of different organisations. The SRA also considered that the existing arrangements created an unnecessary and restrictive ‘artificial entity’ model around solicitors operating as individuals.

The chapter explores the following: potential benefits and risks; clarity of reforms; take-up of the reforms; motivation; profiles of firms taking up the reforms; type of clients served; ability to compete; benefits and drawbacks; consumer and client expectations. A survey of 809 solicitors were asked questions on some of the above topics and feedback on the impact of these specific reforms was obtained from the Law Society, National Association of Licensed Paralegals, Institute of Paralegals, and the Association of Consumer Support Organisations.

<https://www.sra.org.uk/globalassets/documents/sra/research/evaluation-of-star-reforms.pdf?version=4af4ed>

## **Law Society**

### **Solicitors Offering Legal Services to the Public from Unregulated Entities**

The SRA Standards and Regulations, introduced on 25 November 2019, allow solicitors to deliver non-reserved legal services to the public from within a business

not regulated by a legal services regulator. This practice note offers support to solicitors who work, or are considering working, in this environment and outlines the regulatory requirements.

<https://www.lawsociety.org.uk/topics/business-management/solicitors-offering-legal-services-to-the-public-from-unregulated-entities>

### **Litigants in Person: Guidelines for Lawyers**

The guidelines published in 2015 offer practical advice for lawyers facing litigants in person in the civil courts and tribunals. The guidelines discuss the:

- relationship between the client's interest and the interests of the administration of justice
- extent to which a lawyer can properly help a litigant in person
- role of McKenzie Friends

<https://www.lawsociety.org.uk/topics/civil-litigation/litigants-in-person-guidelines-for-lawyers>

## **Bar Council**

### **A Study of Fee-charging McKenzie Friends and Their Work in Private Family Law Cases**

Research in 2017, sponsored by the Bar Council, studied fee-charging McKenzie Friends and their work in private family law cases. The research was undertaken by legal academics Leanne Smith (Cardiff University), Emma Hitchings (University of Bristol) and Mark Sefton (independent legal researcher). The research revealed that paid McKenzie Friends vary in their motivations, ranging from 'business opportunists', through 'good Samaritans' to 'family justice crusaders' and 'rogues'. It also reports evidence of a growing body of 'redirected professionals', who are switching from traditional legal practice to unregulated McKenzie Friend work.

The research found that most paid McKenzie Friends prefer not to represent their clients in court. Instead, they predominantly offer legal advice and personal support to clients before a case goes to court. In some cases, paid McKenzie Friends, many of whom, according to the study, run their schemes from their home, opt to pass the case on to a direct access barrister when the client needs the specialist assistance of a qualified lawyer.

In revealing the practices of some of those observed, the researchers reported: "We were told that many McKenzie Friends refer clients to other family justice professionals, particularly direct access barristers, for specialist assistance when it is required and several client interviewees also suggested that this was the case. That said, in the court observation stage of the research we saw some evidence of McKenzie Friends whose active efforts to exercise rights of audience presented difficulties".

Among the McKenzie Friends in the study, the report explains that there was evidence of a strong orientation towards settling cases outside court, and a majority had gleaned some knowledge and procedural awareness from their experience to enable them to mitigate the difficulties experienced by many unassisted litigants in person. However, the study also found that McKenzie Friends vary in their perceptions of which tasks fall beyond the boundaries of their proper role.

The researchers also concluded that "there is enough that is concerning in relation to fee-charging McKenzie Friends to merit efforts to tackle the worst of the sector and a more detailed evaluation of their services than this study afforded would also be welcome".

Chair of the Bar, Andrew Langdon QC, said: "The risks of McKenzie Friends being able to seek payment for representing their clients in court, despite being unqualified and offering no disciplinary process and no requirement to have insurance, are considerable and so vulnerable clients have little protection. The research suggests that the number of paid McKenzie Friends seeking judges' permission to represent clients in court at present is smaller than many feared, and one view is that it can and should be nipped in the bud without impacting on access to justice.

The research is focused on McKenzie Friends who are making money from the service they sell to clients. It must be viewed against the wider backdrop of the good work the traditional McKenzie Friends, who do not charge for their services and act as a support to litigants in person in our courts, provide. This original concept of the McKenzie Friend is a helpful part of our justice system".

<https://www.barcouncil.org.uk/resource/new-research-shows-paid-mckenzie-friends-operating-mostly-outside-the-courtroom.html>

## **Judicial Executive Board (JEB)**

### **Reforming the Courts Approach to McKenzie Friends – Consultation**

A consultation document from the JEB in 2016 proposed that England and Wales should follow the example of Scotland in banning McKenzie Friends from charging fees. The JEB also said that McKenzie Friends should be renamed "court supporters".

On fees, the JEB said a ban would protect the public interest, while providing protection to "vulnerable litigants" who would otherwise be exposed to "unregulated and uninsured individuals of varying and generally unverifiable competence carrying out otherwise reserved legal activities before the courts". The JEB went on: "Reform should prohibit recovery of expenses and fees incurred by McKenzie Friends".

"It should do so through providing that the provision of reasonable assistance in court, the exercise of a right of audience or of a right to conduct litigation should only be permitted where the McKenzie Friend is neither directly nor indirectly in receipt of remuneration."

<https://www.judiciary.uk/wp-content/uploads/2016/02/mf-consultation-paper-feb2016-1.pdf>

### **Reforming the Courts Approach to McKenzie Friends – Consultation Response**

A report from the Lord Chief Justice and the Judicial Executive Board (JEB) in February 2019 following a consultation on the role and activities of McKenzie Friends in courts. The conclusions were:.

- The question of the reform of the courts' approach to McKenzie Friends is one on which, as the consultation demonstrates, there are varying strongly held views. The growth in McKenzie Friends has coincided with the period following the enactment of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. The government has been reviewing the impact of the changes to the availability of legal aid. JEB conclude that the growth in reliance on McKenzie Friends, and particularly fee-charging ones, should be considered in the context of the impact of those changes. It is for the government to consider appropriate steps to be taken to enable LIPs to secure effective access to legal assistance, legal advice and, where necessary, representation.
- The role of the judiciary is to apply the law concerning the provision of legal assistance, the right to conduct litigation and rights of audience according to the law established by the Legal Services Act 2007, the common law and precedent.
- The JEB remain deeply concerned about the proliferation of McKenzie Friends who in effect provide professional services for reward when they are unqualified, unregulated, uninsured and not subject to the same professional obligations and duties, both to their clients and the courts, as are professional lawyers. The statutory scheme was fashioned to protect the consumers of legal services and the integrity of the legal system. JEB's view is that all courts should apply the current law applicable to McKenzie Friends as established by Court of Appeal authority.
- Question 7 in the consultation paper concerns the provision of a Plain Language Guide for LIPs and McKenzie Friends. JEB support the view that a plain language guide could be produced by a non-judicial body for the assistance of LIPs. The judiciary continues to support the promotion of public legal education which would be aided by such a guide.
- Finally, the Lord Chief Justice and JEB note that the current Practice Guidance on McKenzie Friends has not been revised or updated since it was issued in 2010. To ensure that it properly reflects the current case law, it should now be updated and re-issued.

<https://www.judiciary.uk/wp-content/uploads/2016/02/MF-Consultation-LCJ-Response-Final-Feb-2019.pdf>

## Legal Services Consumer Panel

### Legal Services Consumer Panel Tracker Survey 2024

The annual tracker survey details the legal services providers used by the sample of consumers in the survey (3,633 adults). The report notes that 90% use regulated providers and only around 10% use unregulated providers.

**Table 1**      *What type of organisation was it that provided legal services?*

Provider	%
Solicitor	63%
Licensed conveyancer	5%
Citizen Advice Bureau	4%
Barrister	4%
Insurance company	3%
Bank/building society	3%
An internet-based business	2%
An accountant/financial adviser	2%
Notary	2%
Cost Lawyer	2%
Council Advice Service	1%
Trade Union/professional body	1%
National or local charity	1%
Patent Attorney	1%
Trade Mark Attorney	1%
Other	4%
Not sure	3%

<https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2024/07/24.07.15-How-consumers-are-using-legal-services-report-FINAL.pdf>

### Fee-charging McKenzie Friends

A report from 2014 classifying McKenzie Friends into four types. The report states “This is important as we think the policy response to each should differ, in particular volunteer initiatives present a lower risk profile:

- The family member or friend who gives one-off assistance
- Volunteer McKenzie Friends attached to an institution/charity
- Fee-charging McKenzie Friends offering the conventional limited service understood by this role
- Fee-charging McKenzie Friends offering a wider range of services including general legal advice and speaking on behalf of clients in court

The focus of this report is on the last two categories, although it also draws parallels with voluntary schemes to inform assessment of risk.

Key highlights:

- Vast majority are sole traders; some engaged on a commission basis
- Most interviewees decided to become a McKenzie Friend following own negative experience of courts during divorce or child contact case. Others have relevant previous career experience. Few have legal qualifications.
- Services Two types: i) conventional role based on moral support and lay assistance with mechanics of case; ii) wider role including: legal research; legal advice; case management; drafting documents; completing forms; quite commonly seeking a right of audience, which is often granted.
- Most specialise in family law, although other quite common areas include employment tribunals, consumer disputes and housing issues.
- Hourly rate of £15-89, but typical range is £35-60. Day rate range £100-400, but typical range is £150-200. Some other charging models exist.
- Insurance Majority are not insured. Some report difficulty in sourcing insurance

The report makes 15 recommendations and the top five are:

1. Fee-charging McKenzie Friends should be recognised as a legitimate feature of the evolving legal services market.
2. The training course on litigants in person which the Judicial College has been asked to consider should include content on McKenzie Friends.
3. Guidance notes issued by professional bodies on litigants in person should include content on McKenzie Friends.
4. The Practice Guidance (issued by the senior judiciary) should be reviewed and amended to portray McKenzie Friends in a more positive way.
5. Education and advice directed towards litigants in person should set out the benefits of using a McKenzie Friend as one form of support available to them.

[https://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/2014%2004%2017%20MKF\\_Final.pdf](https://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/2014%2004%2017%20MKF_Final.pdf)

## Ministry of Justice (MoJ)

### MoJ Considers Register of Unregulated Providers

In September 2020, The MoJ announced that it was considering whether to create a register of unregulated providers of legal services and give their clients access to redress if things go wrong. Peter Rowlinson, head of UK legal services policy at the MoJ, said “it doesn’t seem to make sense at a fundamental level that while the client of a lawyer advising on a will, for example, had the protection of regulation, indemnity insurance and access to the Legal Ombudsman, the client of an unregulated provider did not”.

The suggestions of a register and expanding redress were short-term fixes proposed by Professor Stephen Mayson in June 2020 in his independent review of legal



services regulation (see later entry), in which he highlighted how the public did not generally understand the difference between regulated and unregulated providers.

This review also proposed a longer-term radical rewrite of legal regulation, moving to regulation of services rather than lawyers, with all providers, whether legally qualified or not, registered and regulated by a single regulator.

<https://www.legalfutures.co.uk/latest-news/government-eyes-regulating-the-laws-unregulated-providers>

### **Interim Report on the Legal Support for Litigants in Person**

In April 2020, the Access to Justice Foundation and Ministry of Justice (MOJ) launched the Legal Support for Litigants in Person (LSLIP) Grant, a 2-year programme funding a range of earlier intervention services for litigants in person. LSLIP is funding 11 grant projects across England and Wales that deliver advice to litigants in person at different stages of their problem within several areas of civil and family law. Partnership working and earlier intervention is at the core of all these activities, to achieve improved outcomes for clients.

To build up a collective evidence base of the benefits the programme is delivering, each grantee has collected and reported a range of quantitative and qualitative data regarding the advice they have provided, the clients reached and the impact this advice has had on improving client outcomes.

This interim report published in 2022 draws together the data and evidence collected so far, to report on progress towards the grant objectives. These findings are based on initial analysis and therefore are not necessarily an accurate indicator of performance at this stage or reflective of the positions that will be reached in the final report.

The report's key findings are:

- LSLIP grantees have provided a range of legal advice, practical support and procedural information to thousands of people across England and Wales with civil and family problems. The grants have enabled around 10,000 people to receive one to one personalised support on their civil and family problems, and significantly higher volumes to access public legal information and guidance.
- Most advice provided by local and regional grantees has been initial generalist advice (68% of advice) on family, employment and housing problems (nearly 75% of problems). However substantial volumes of casework and pre-court advice has been provided.
- Broadly speaking, local and regional grantees appear to be reaching a similar cohort of users to other advice services. Most clients are female (62%), between 25 and 55 (65%), and white (91%). At least a quarter of clients have a disability, but there is evidence to suggest this is an underestimation and

that a high volume of clients have poor physical and mental health alongside other indicators of vulnerability.

- Partnership working has been key to LSLIP and the enhanced support available for litigants in person. Formalising referral pathways between services and sharing specialist resources have enabled organisations to expand advice across wider geographical areas and areas of law, to provide a more holistic service that can address the entirety of a client's problem.
- Early evidence suggests that the advice and support provided is improving client outcomes, including increasing client understanding of how to resolve their problem and increasing client confidence to take action promptly. This is helping to resolve problems at an earlier stage, before they reach court or tribunal.

Further data will be collected throughout the lifetime of LSLIP and these trends will be report

<https://www.gov.uk/government/news/interim-report-on-the-legal-support-for-litigants-in-person-grant-published--2>

### **Legal Support for Litigants in Person Grant (LSLIP) Final Report**

Published in November 2023, the report concluded that grantees delivered substantial levels of support during the funding period whilst managing complex economic and social challenges associated with the Covid-19 pandemic and the Cost of Living situation. During the onset of the pandemic, organisations adapted their service delivery to ensure that advice and support remained available for those in need. This included the development and use of remote, face-to-face provision and blended delivery models.

Grantees expressed that they would continue to utilise these different models of support in order to cater to the differing needs, capabilities and vulnerabilities of their client base.

There was a large increase in client volumes as services bedded in with LSLIP local and regional grantees. An average of 1,200 clients per quarter were supported in the first six months, after which trends stabilised and an average of 6,100 clients per quarter were advised for the rest of the grant programme. This suggests that organisations need a period of around six months to set up their partnerships, recruit staff, agree and set up new processes and become familiar with the reporting requirements. The majority of advice and support (85%) provided by the local and regional grantees was on family, employment, housing and welfare benefits issues.

The majority of advice provided by local and regional grantees was at the earliest stage of initial generalist advice and support (72%). There were also considerable volumes of advice sessions at the casework stage (stage 2). This continued focus on early intervention suggests that the grant met its objective of increasing access to earlier advice. The programme also enabled some provision of pre-court (stage 3a)

and at-court (stage 3b) support for individuals at the later stages of their legal journey.

National grantees continued to deliver a blend of legal advice, practical support and procedural information to people across England and Wales. Between July 2020 and June 2022, LawWorks and the partnership between Support Through Court and Royal Courts of Justice (RCJ) Advice provided advice and support to 4,200 clients. The LSLIP grant also supported the delivery of Support Through Court's National Helpline, which gave information and guidance to around 4,400 clients; supported Law for Life's Advicenow website, which had over 1.6 million visitors; and supported Affordable Advice, which received 670 requests for an appointment with a solicitor from 450 individual clients.

The majority of support provided by the national grantees was on family, housing and welfare benefits issues, with the exception of Free Legal Answers, which had a high proportion of clients with consumer issues.

The protected characteristics of clients recorded by local and regional grantees remained similar throughout the duration of the grant. Excluding those that preferred not to disclose this information, most clients were female (61%), between 25 and 55 years of age (63%) and white (92%). The proportion of clients with a disability slightly increased to 31%, however this is likely an underreporting as a high number of clients preferred not to disclose this information.

<https://www.gov.uk/government/publications/legal-support-for-litigants-in-person-grant-final-report>

### **Survey of Not for Profit Legal Advice Providers**

Published in 2015, this report presents the findings from a survey of 718 Not for Profit (NFP) organisations providing legal advice in England and Wales. The report describes the profile of NFP legal advice service provision, the clients they work with and the matters they advise on, their funding and funding sources, their workforce, details of partnership working, the ways in which their organisations have changed since implementation of the Legal Aid, Sentencing and Punishment of Offenders Act in 2013 and their perspectives of changes required in the future.

- A total of 1,462 organisations were identified as NfP legal advice providers. The survey was disseminated to all the identified providers and 718 responded, representing a 49% response rate.
- The majority of responding organisations (76%) provided advice on specific subjects, to specific client groups or in specific locations. Twenty-two percent provided a wider range of 'general' advice services.
- Most organisations were well established; 83% reported that they had been providing legal advice for more than ten years. There was also evidence of new organisations emerging as nine percent had entered the sector within the last five years (however this is likely to also include some formed through mergers of pre-existing organisations).

- The use of digital services over and above email was limited, with only 10% offering online services such as Skype or live chat and just 8% reported offering web-based automated programmes with no advisor input.
- The categories of law in which advice provision was most commonly offered by responding organisations – welfare benefits, debt and housing – are areas that have largely or partly been removed from legal aid scope under LASPO.

<https://assets.publishing.service.gov.uk/media/5a80bccae5274a2e87dbb884/not-for-profit-la-providers-survey.pdf>

## MoJ Statistics for LIPs

### *Family law*

There are high numbers of LIPs in adoption, private law, and domestic abuse cases. One concern is that in a family court system that is already suffering from backlogs, LIPs can take up more court time as they are not experienced in dealing with the court system and procedures.

Figures for the full year 2023 are available for most categories of family law, except divorce where the data is only published up to 2022. In adoption cases almost all parties are unrepresented and a majority of parties in private law Children Act cases are unrepresented. In domestic violence and public law cases, it is mainly respondents rather than applicants that have no representation. In 2023:

- 96% of parties in adoption cases were unrepresented (97% in 2022).
- 67% in private law Children Act cases decreasing from 68% in 2022.
- 58% in domestic violence cases (57% in 2022) but only 29% of applicants represented themselves compared to 88% of respondents.
- 27% in financial remedy cases (26% in 2022).
- Just 19% in public law Children Act cases (23% in 2022)
- Data for divorces is available up to 2022: 43% of cases involved LIPs, the same as 2021.

### *Probate*

At the start of 2019, the MoJ launched an online probate portal allowing both private individuals and probate professionals to apply digitally for a grant of representation. There were 76,178 applications made for grants of representation in January to March 2024. 62,642 (82%) of these were for probate grants, of which 91% were made digitally.

Probate grants also make up the majority (85%) of all grants issued. In January to March 2024, 60% of the grants issued were applied for by legal professionals and 40% were personal applications.

<https://www.gov.uk/government/statistics/family-court-statistics-quarterly-january-to-march-2024>

## Official Injury Claim

### OIC Service Data June 2024

Since its launch in May 2021 the aim has been to encourage individuals to use the portal themselves. Three years on there is still little use by individuals.

Since May 2021 and up to the end of March 2024, 771,012 claims have been submitted to the OIC with 221,253 settlements (closed) and 25,262 settlements (closed). 90% of claims had representation and just 10% were submitted by unrepresented individuals.

Between April and June 2024, it is still only 10% of claims that are submitted by unrepresented individuals.

[https://www.officialinjuryclaim.org.uk/media/1461/oic-april-june-2024-data-publication\\_final.pdf](https://www.officialinjuryclaim.org.uk/media/1461/oic-april-june-2024-data-publication_final.pdf)

## Personal Support Unit (PSU)

### Legal Language and its Impact on Litigants in Person

A report published in March 2018 based on 303 clients responding to a survey from across the PSU network (142 over the summer collection and 161 in the autumn).

- Just under a quarter (72/24%) of respondents said English was not their first language – which reflects the percentage among overall users of PSU services.
- Just over half of respondents (155/52%) were involved in legal proceedings for the first time when they completed the survey.
- Just over half of respondents (52%) said that finding what they needed in the court building was very clear. Nearly a third (30%) said this was partially clear and 17.6% said it was not clear at all.
- 127 respondents (43.4%) said that the language used in court letters and forms was very clear, while 112 (38%) said partially clear, and 54 (18.6%) said not clear at all.
- Almost half of respondents (137/48%) used guidance notes when completing their court forms. Of the 136 respondents who answered the following related question, 18 (13%) said they could not understand the notes enough to proceed with the court form.
- A range of legal terms from the common to uncommon were mentioned by respondents as causing confusion to them during their proceedings. A large number of respondents said ‘everything’, ‘many’ and ‘most’ terms caused them confusion. When asked to select the correct meaning of the term ‘file and serve to all parties’, 168 (60%) respondents identified the correct meaning, with 89 (32%) saying they didn’t know, and 23 (8%) selecting the wrong meaning.

LIPs responding to this survey showed a range of experiences through the progress of court proceedings: 30-60% of people responding found most of the language to be very clear at some stages in proceedings, while between 8% and 19% appear to have been confused at most stages of proceedings, leaving 20-60% with partial standing at different stages. Recommendation: continue to review all legal material aimed at court-users, and simplify language.

Many respondents mentioned how useful a glossary of terms or leaflet about legal terms would be. These are available but LIPs don't appear to be making good use of them. Recommendation: while language is reviewed and modernised, provide glossaries of terms with court letters, forms and in court buildings.

About half of our clients used Guidance notes to help with forms, with about a third using websites - indicating that support material is not used as much as it could be. Material on .GOV.UK is clearer to users than that on HMCTS sites (which supports the imminent migration of Form finder to .Gov.uk).

Recommendations: promote use of support material to decrease the number of mistakes made by LIPs to save court time. Simplify guidance notes and incorporate them within court forms, to increase use by LIPs.

<https://www.supportthroughcourt.org/media/1414/legal-language-and-the-impact-on-lips-march-2018.pdf>

## 4. OTHER BODIES

### Child and Family Law Quarterly

#### **McKenzie Friends and Litigants in Person: Widening Access to Justice or Foes in Disguise?**

*Child and Family Law Quarterly*, Vol 31, No 1.

Article from Kerry-Ann Berry from University of Salford. The removal of legal aid from the majority of civil and family matters has led to the emergence of a new entrant to the legal services market. Fee-charging McKenzie Friends are reportedly extending their traditional role of assistance to litigants in person in court proceedings to incorporate legal advice and representation. Concerns about the access to justice implications for litigants in person of introducing a new branch to the legal profession has culminated in a judicial consultation advocating a prohibition on fee recovery. Smith et al's recent report (*IRN Legal note – see Bar Council entry*), however, casts doubt on the appropriateness of this recommendation suggesting instead that regulation may be a more proportionate response. This paper considers the debate on the future of McKenzie Friends by analysing the existing empirical evidence as well as the findings of the author's qualitative research on the experiences of litigants in person in the civil and family courts. Whilst McKenzie Friends who are inimical to the access to justice needs of litigants in person exist, evidence from litigants in person suggests that in the absence of legal aid, fee-charging McKenzie Friends can provide a more flexible and affordable alternative to

the legal profession. Overall, this paper highlights the importance of listening to the experiences of litigants in person to provide them with a voice before making the important access to justice decision of introducing a fee prohibition. Adopting a litigant in person focussed approach may indicate a system of regulation, education and court supervision.

[https://www.familylaw.co.uk/news\\_and\\_comment/mckenzie-friends-and-litigants-in-person-widening-access-to-justice-or-foes-in-disguise](https://www.familylaw.co.uk/news_and_comment/mckenzie-friends-and-litigants-in-person-widening-access-to-justice-or-foes-in-disguise)

### **Changing Landscape of Advice Provision: Online Forums and Social Media Run by McKenzie Friends**

*Child and Family Law Quarterly* 4: 397-420.

McKenzie friends are providing 'worrying' advice which is biased against courts and solicitors, a university study has found.

According to Leeds Law School and Birmingham City University, McKenzie friends – individuals who support (but must not represent) litigants on a paid or voluntary basis – have advised people to ignore or act against the advice of their lawyers and have suggested that courts are institutionally unfair.

The study, conducted by Dr Tatiana Tkacukova and Professor Hilary Sommerlad, looked at online advice provided on 170 Facebook threads by 30 McKenzie friends. It found that online advisers often delivered biased suggestions reflecting personal anti-court and anti-social services views.

McKenzie friends described family courts as 'gender-biased' and a 'disgrace' and, of all the material analysed, only one positive description of a judge was found. On three occasions parents were advised to write their own statement instead of following specialist legal advice.

Dr Tkacukova, the project's principal investigator and senior lecturer in English literature at Birmingham City University, said: 'While there are many positive experiences, the unregulated environment online means that our research found several instances of worrying, biased and misleading advice.

'To help protect the many vulnerable people in these cases, we need to see a move towards a more regulated environment with increased transparency to make sure that people know the information they are accessing and the legal qualifications of those advising them.'

<https://www.open-access.bcu.ac.uk/10679/1/McKenzie%20Friends%20CFLQ%20for%20depository.pdf>

## Competition & Markets Authority (CMA)

### **CMA investigates will-writing and other legal services**

In July 2023, the CMA launched a consumer enforcement investigation into the unregulated legal services of will writing, online divorce, and pre-paid probate to address concerns involving potential risk to customers and possible breaches of consumer protection law.

Initial research by the CMA identified three main areas of concern involving potential risk to customers and possible breaches of consumer protection law:

**Will-writing** - anyone can legally write a will and, although many are drafted by regulated lawyers, will-writing itself is not a regulated service. Concerns include:

- consumers being misled by advertising which offers an extremely low initial fee for advice but does not indicate that final costs can increase significantly
- the use of potentially unfair contract terms, such as exclusions of liability, failure to provide cancellation rights, and terms which automatically appoint the firm as executor (often for a fee).
- reports of pressure selling and coercion of vulnerable customers.

**Pre-paid probate plans** - a new development in the market where customers pay set fees upfront for probate (which is the legal process of managing someone's estate when they die). They do so in the hope that, following their death, their families will not be required to pay anything else. Concerns include:

- pressure selling techniques being used on elderly and other vulnerable people
- lack of transparency about what costs are covered
- plans that are unnecessary or fail to serve their purpose, leading to delays in the probate process and bereaved relatives being left unable to settle bills or sell property
- lack of customer awareness that their money may not be adequately protected, even if held in trust.

**Online divorce** - these so-called 'quickie' divorce services have grown in popularity since the covid-19 lockdown (plus arrival of no-fault divorce). Concerns include:

- misleading claims about both the simplicity of the process and prices, which leave customers unclear about what they can be helped with or what they are paying for
- inadequate quality of service, including the firms using the wrong forms, entering incorrect details, sending papers to the court late, and not communicating efficiently with customers.

The CMA is also concerned that, if a company ceases to operate, there is a risk that customers' money or important documents, such as their will, may be lost.



For its investigation, the CMA wrote to an unspecified number of firms to gather information about their practices. Interested parties were also invited to email the CMA by September 2023.

**Unregulated legal services – guidance on consumer protection law: Helping unregulated providers of will writing, online divorce, and pre-paid probate services to comply with their consumer protection law obligations**

On the 30th April 2024, the CMA launched a consultation on draft consumer protection law compliance guidance for unregulated businesses providing will writing, online divorce, and pre-paid probate services in the UK. The consultation ended at 5pm on 13th June 2024.

To support the consultation the CMA published a draft guidance document for unregulated providers. The CMA plans to publish the final version of the compliance guidance, and an anonymised summary of the responses that fall within the scope of the consultation together with a list of all respondents (save for individuals), later in 2024. The draft guidance document is available at:

<https://www.gov.uk/government/consultations/draft-consumer-protection-law-compliance-guidance-for-unregulated-providers-of-will-writing-and-other-legal-services>

**Review of the legal services market study in England and Wales - An assessment of the implementation and impact of the CMA's market study recommendations**

The above report published in 2020 was an assessment of changes in the legal services sector since its market study in 2016. It found some positive developments but concluded that further progress was needed.

Regarding regulatory issues, the report states that “A number of the CMA’s recommendations, including its initial call for a regulatory review of the Legal Services Act 2007, have yet to be progressed. The CMA considers that the case for reform remains pressing, particularly as there are signs of growth in the unregulated sector, and therefore remains of the view that wholesale reform of the Act is necessary. In the meantime, the CMA considers there is merit in taking shorter term steps which deliver such reform in stages – including, that:

- The MoJ establish a mandatory public register of unregulated providers, requiring them to provide appropriate redress;
- The LSB review the activities that are reserved to certain legal services providers to ensure that such restrictions are necessary and proportionate.

Responding to the review the Law Society of England and Wales president David Greene said in a statement: “With regard to unregulated legal service providers, consumers are undoubtedly at greater risk without the regulatory protections and robust professional indemnity insurance provided by solicitors. A review of the unregulated sector could identify high risk areas and specific harms to inform the development of workable and effective regulatory interventions. The current legal regulatory framework is sufficiently flexible for improvements to be made where there is evidence of consumer harm, including through regulation”.

[https://assets.publishing.service.gov.uk/media/5fd9e53cd3bf7f40ccb335e1/Legal\\_Services\\_Review\\_-\\_Final\\_report.pdf](https://assets.publishing.service.gov.uk/media/5fd9e53cd3bf7f40ccb335e1/Legal_Services_Review_-_Final_report.pdf)

## Courts and Tribunal Judiciary

### Artificial Intelligence (AI) Guidance for Judicial Office Holders

The guidance refers to the need to verify content from AI sources which are primarily unregulated particularly when used by LIPs in court.

<https://www.judiciary.uk/wp-content/uploads/2023/12/AI-Judicial-Guidance.pdf>

## Financial Conduct Authority (FCA)

### CMCs Warned over Using FCA Badge to Boost Unregulated Work

Claims management companies (CMCs) were warned in March 2024 to stop using their FCA authorisation to lend credibility to their unregulated activities. The regulator also urged them to be clear with consumers about which of their products and services are regulated and which are not.

The FCA regulates six areas of CMC activity: financial services and products, personal injury, housing disrepair, specified benefit, criminal injury and employment.

In January 2023 (see next item), the FCA told CMCs that it planned to carry out “proactive work” to identify CMCs conducting both regulated and unregulated services and “use our powers to remove them”, minimising the potential for unregulated businesses to benefit from the ‘halo’ effect of FCA authorisation.

It followed this with substantive information requests – and in some cases visits – to 26 CMCs offering unregulated claims services for matters such as tax, timeshare, diesel emissions and flight delay claims. This sample included all the FCA-authorised CMCs that were submitting tax claims.

The FCA found that some of the CMCs had undertaken very little or no regulated claims management activity. As a result, some had applied to cancel their FCA permissions, and around 70% stopped unregulated claims activity.

Other concerns were non-compliant financial promotions, inadequate systems and controls to differentiate between regulated and unregulated claims activity, and significantly higher fees for unregulated claims activity.

The FCA said firms must regularly review their regulatory permissions to ensure these are up-to-date “and apply to us to remove them if they are not needed”. The FCA has the power to cancel a firm’s permission if it has not carried out regulated activity for at least a year. FCA rules say that CMCs must not indicate or imply that they are authorised by the FCA for business they are not authorised for.

The latest advice said: “Where CMCs offer unregulated claims services, we expect them to be clear with consumers about which of their products and services are regulated and which are not. Under CMCOB 2.1.1R, CMCs must act honestly, fairly and professionally in accordance with the best interests of its customer.”

The consumer duty, which the FCA introduced last July, also came into play here – it requires firms to act in good faith, and to give consumers the right information to make properly informed decisions.

The FCA said: “CMCs should pay particular attention to how clear they have made it to consumers that the service they are agreeing to use is not regulated.

“This should include reviewing all communications with consumers, including financial promotions. CMCs should also review the terms and conditions of their unregulated claims services to ensure contractual documentation is clear and fair.”

Further, where fees for unregulated claims exceeded those charged for regulated claims services, “we strongly urge CMCs to keep in mind the spirit of the consumer duty, and whether the services they are providing represent fair value for the consumer”.

Turning to its strategy for the next three years, the regulator said it would carry out “proactive work” to identify CMCs conducting both regulated and unregulated services and “use our powers to remove them”, minimising the potential for unregulated businesses to benefit from the ‘halo’ effect of FCA authorisation.

<https://www.legalfutures.co.uk/latest-news/cmcs-warned-over-using-fca-badge-to-boost-unregulated-work>

### **Claims Management Companies Portfolio Letter**

In January 2023, the FCA stated that claims management companies (CMCs) were still producing “misleading, unclear and unfair advertising”. The regulator also accused some CMCs of using FCA authorisation to “legitimise” unregulated services.

In a letter to CMCs, the FCA said consumers, particularly vulnerable ones, could be misled by “poor-quality promotions”, often produced “as a result of poor-quality internal processes and sign-off procedures”. The FCA said CMCs must make clear to consumers whether products were regulated or not, to ensure that consumers were not “harmed by any non-regulated services” they provide. “The way in which regulated firms carry on unregulated activities can affect our overall view of the fitness and propriety of individuals and firms, and we will act where necessary.”

The FCA also stated that some CMCs had a “poor attitude to regulatory obligations” and did not take a proactive approach or deal with the FCA in an “open and co-operative” way.

<https://www.fca.org.uk/publication/correspondence/claims-management-companies-portfolio-letter-2023.pdf>

## House of Commons Library

### **Litigants in person: the rise of the self-represented litigant in civil and family cases in England and Wales**

Published in 2016, the briefing notes that the available evidence indicates that the proportion of litigants appearing before the civil and family courts without legal representation (litigants in person, also sometimes called self-represented litigants) has increased since the Legal Aid, Sentencing and Punishment of Offenders Act 2012 took many civil and private law children and family cases out of scope for legal aid in England and Wales from 1 April 2013.

It adds that “Reliable data on LIPs are scarce and the National Audit Office (NAO) has been critical of the limitations of the MoJ’s data. Most of the data that are available concern LIPs in the family courts, although the NAO has said that the legal aid reforms are likely also to have increased the number of LIPs in civil law courts”.

The NAO has reported a 22% increase in cases involving contact with children (Children Act 1989 private law matters) and a 30% increase across all family court cases (including those that remain eligible for civil legal aid) in which neither party had legal representation.

In its own inquiry into the impact of the changes to civil legal aid, the Commons Justice Committee looked in some detail at the effects of the changes on the numbers of LIPs and their experiences. The Committee heard evidence to suggest that not only were there more LIPs, they were now qualitatively different. In the past, LIPs had been in the courts by choice but now they were there because they could not get legal aid. The Committee voiced concern that some LIPs might have difficulty in presenting their case.

<https://commonslibrary.parliament.uk/research-briefings/sn07113/>

## IRN Legal Reports

### **Will Writing and Probate Consumer Research Report**

The latest annual report, published in Spring 2024, has results from one question to respondents (600 with a will) asking sources used to complete their will. Around one-in-five use unregulated will writing services.

- Law firms and solicitors remain the most popular source of advice but their use has been falling in recent years. In 2024, 50% used law firms and solicitors but this is down from 54% of adults in 2023, 56% in 2020 and 55% in 2019. Specialist will writing services and will writing individuals continue to be the second most popular source used by 21% in 2024. Use has stayed around just over one-in-five adults over the last few years: 23% in 2023 from 19% in 2020 and 2019 respectively.

- There are more options now for a DIY will but numbers adopting this approach are still relatively low perhaps because a relatively low fee can engage a legal professional. Or perhaps because consumers are concerned about not completing their will correctly – recently, there has been more publicity around the dangers of completing a DIY will without legal advice.
- Another factor impacting DIY wills may be the opportunity for individuals to start the will writing process themselves then at a later stage engage a legal professional to complete the will, i.e. will checking and completing any complicated elements. Use of this option, although still low, has grown to 7% in 2024 from 4% in previous years.

**Table 2 Options for preparing the will, 2019-2024 (%)**

Base: 427 adults (2019), 755 adults (2020), 606 adults (2023), 676 adults (2024)

	2019	2020	2023	2024
I used a law firm/solicitor or barrister for the whole process	55%	56%	54%	50%
I used a specialist will writing service/will writing individual for the whole process	19%	19%	23%	21%
I completed all the will myself (using DIY template online or hard copy)	12%	9%	8%	11%
I used a bank, building society, accountant, or other financial adviser for the whole process	4%	5%	5%	4%
I completed the first part of the will myself (using DIY template online or hard copy) then had this checked and completed by a legal professional	4%	4%	4%	7%
I used the legal services of a membership body for the whole process (e.g. trade union, employers' body, or groups such as AA, Saga)	4%	4%	2%	2%
Used the services of another legal services provider	1%	2%	3%	4%
Don't know	0%	0%	1%	1%

Another question explored understanding of regulation in the market and of some concern is that 41% of respondents thought that all will writing services were regulated. Only 45% were aware that some will writers were not regulated.

**Table 3 Understanding of will writing regulation, 2024 (%)**

Statement	Strongly agree	Agree	Neither	Disagree	Strongly disagree	Don't know
All will writing services have to be regulated to operate	19%	22%	11%	24%	21%	3%

<https://www.irnlegalreports.com/store/UK-Wills-&-Probate-Consumer-Research-Report-2024-p528505810>

## LexisNexis

### Litigants in person and McKenzie friends - public law

A practice note published in October 2023 sets out guidance and best practice in cases where a party is acting in person or via a McKenzie friend in public law children

proceedings, including the courts' approach to reasonable assistance to be offered to a litigant in person in putting their case and on the appointment of a McKenzie friend.

<https://www.lexisnexis.co.uk/legal/guidance/litigants-in-person-mckenzie-friends-public-law>

### **McKenzie Friends – private law**

A practice note published in May 2024 including: definition of McKenzie Friends; procedures; conducting litigation and rights of audience; practice points including remuneration.

<https://www.lexisnexis.co.uk/legal/guidance/mckenzie-friends-private-law>

## **News items**

### **“Unregulated” moniker unhelpful for consumers**

Today's Wills & Probate, 28<sup>th</sup> June 2024

News item stating that the debate around the terminology used to describe unregulated will writers has been reignited by an article published in an article on Today's Wills and Probate entitled “The Impact of an Inaccurate Will on the Probate Process” written by Zoe Pearse, an Associate at London-based Seddons Solicitors.

Since being published on social media, the comments have sparked backlash in the will writing community, many of whom have since commented on the post, and reached out to Today's Wills and Probate. The sentiment is clear; the terminology simply reinforces the idea one is a moniker of better quality.

“In general, the tribalism of the “regulated/unregulated” is a detriment to the industry as a whole. And one I find incredibly tiresome. Personally, I believe there should be regulation, but that doesn't mean there should be the negativity we see between the different areas.”

Says Nicola Combe, Director of Morecambe Bay Wills and Estate and a member of SWW Professional Standards Board.

We all know there are regulated firms who do an amazing job and regulated firms that don't! And exactly the same applies to those who are unregulated, the vast majority of which belong to the 3 main organisations which provide a form of “voluntary regulation” – SWW, IPW and Best. Their many thousands of member firms are meeting entrance criteria, adhering to strict codes of conduct, ensuring they have proper insurance in place, undergoing annual audits and completing a huge amount of ongoing training.

Kieran Osborne of Squiggle Consult agrees

Using the terms “regulated” and “unregulated” as blanket indicators of quality can be misleading. There are several key factors clients should consider when choosing a will writing professional, and regulatory status is just one of them. Voluntary affiliations with reputable organisations such as The Society of Will Writers, the Institute of Professional Willwriters (IPW), Best Foundation, and STEP can provide significant assurances of quality and professionalism.

He also points to the level of focus, experience and expertise developed through specialising in a single area of law as an important indicator of credibility for consumers. Comments acknowledge poor practice exists in both spaces; there are poor practices and practitioners in the solicitor community as there are within the will writing.

<https://todayswillsandprobate.co.uk/unregulated-moniker-unhelpful-for-consumers/>

### **Unregulated AI legal advice puts the public at risk**

Law Gazette, 27 December 2023

Dr Natalie Byrom explores recent problems with the use of AI generated legal advice.

### **LSB parks review of reserved legal activities**

Today’s Family Lawyer, 23<sup>rd</sup> March 2023

The LSB has announced it will not be conducting a review of the list of reserved legal activities in the imminent future.

### **What’s reserved?**

New Law Journal, 12<sup>th</sup> August 2022

Article arguing that definition of “reserved activities” needs changing as boundaries between regulated and non-regulated are becoming blurred. “Most services which look legal are not regulated, and neither are those who provide them. With increasing numbers of non-regulated providers, the boundaries of what they can and cannot do are ever more important. Yet these boundaries are not impenetrable barriers, but rather a zone of jeopardy within which an unauthorised entrant may either find that they can enjoy commercial success, or else be guilty of a criminal offence”.

### **What to do about unregulated legal services providers**

Law Gazette, 30<sup>th</sup> September 2019

Opinion piece by Jonathan Goldsmith reporting on a working group within the International Bar Association exploring regulation options.

<https://www.lawgazette.co.uk/commentary-and-opinion/what-to-do-about-unregulated-legal-services-providers/5101577.article>

### **LeO rules out investigating complaints about unregulated providers using lawyers' money**

Legal Futures, 7<sup>th</sup> February 2018

The Legal Ombudsman (LeO) has ruled out investigating complaints about unregulated legal services, or collecting data about them, without a new source of funding. Responding in full to the CMA report, which recommended that both steps should be considered, LeO said it would be “inappropriate” to use money raised by a levy on the profession. LeO said extending redress “to a whole new range of users of legal services” would help ensure a “much greater level” of consumer protection. “However... it would be inappropriate to use our current funding streams to work on expanding our jurisdiction. We are also aware that now is not the right time to pursue legislative change on the scale that this would require.

<https://www.legalfutures.co.uk/latest-news/leo-rules-investigating-complaints-unregulated-providers-using-lawyers-money>

### **Lawyers in the wild west**

New Law Journal, 6<sup>th</sup> October 2017

The Law Society accused the Solicitors Regulation Authority (SRA) of seeking to create a ‘Wild West marketplace’ in legal services

In particular, The Law Society said it was ‘gravely concerned’ about the first consultation, which would cut 300 pages from the Handbook, including the ‘qualified to supervise’ rule, and free up solicitors to provide reserved legal services on a freelance basis. Law Society president Joe Egan said: ‘A new tier of solicitors, working in unregulated outfits, wouldn’t have to have the same insurance, wouldn’t pay into the solicitors compensation fund and wouldn’t inevitably afford their clients legal professional privilege.

<https://www.newlawjournal.co.uk/content/lawyers-wild-west>

## **5. BIBLIOGRAPHY**

Barry, K. A. (2019) McKenzie Friends and LIPs – widening access to justice or foes in disguise? *Child & Family Law Quarterly*. 31 (1)

Byrom, N. (2023) Unregulated AI legal advice putting the public at risk. *The Law Society Gazette*. <https://www.lawgazette.co.uk/commentary-and-opinion/unregulated-ai-legal-advice-puts-the-public-at-risk/5118241.article>

Centre for Strategy and Evaluation Services. (2021) *Standards and regulations – one-year evaluation of SRA reforms*. Solicitors Regulation Authority

Competition and Markets Authority. (2024) *Unregulated legal services guidance on consumer protection law: Helping unregulated providers of will writing, online divorce, and pre-paid probate services to comply with their consumer protection law obligations*. CMA



- Competition and Markets Authority. (2023) *Investigation of will writing and other services*. CMA
- Competition and Markets Authority. (2020) *Review of the legal services market study in England and Wales*. CMA
- Courts & Tribunals Judiciary. (2023) *Artificial intelligence guidance for justice office holders*. Courts & Tribunals Judiciary
- Financial Conduct Authority. (2023) *Claims management companies portfolio letter*. <https://www.fca.org.uk/publication/correspondence/claims-management-companies-portfolio-letter-2023.pdf>. FCA
- Frontier Economics. (2023) *Understanding the unreserved market – a report for the Solicitors Regulation Authority*. Solicitors Regulation Authority
- Goldsmith, J. (2019) What to do about unregulated legal services providers. *The Law Society Gazette*. <https://www.lawgazette.co.uk/commentary-and-opinion/what-to-do-about-unregulated-legal-services-providers/5101577.article>
- Gould, J. (2022) What's reserved? *New Law Journal*. Issue 7991
- Grimwood, G.G. (2016) *Litigants in person: the rise of the self-represented litigant in civil and family cases in England and Wales*. House of Commons Library
- IRN Legal Reports. (2024) *UK wills & probate consumer research report*. IRN Legal
- Judicial Executive Board. (2019) *Reforming the courts' approach to McKenzie Friends, consultation response*. JEB
- Judicial Executive Board. (2016) *Reforming the courts' approach to McKenzie Friends, a consultation*. JEB
- Law Society. (2019) *Practice Note – solicitors offering legal services to the public from unregulated entities*. Law Society
- Law Society. (2015) *Litigants in person, guidelines for lawyers*. Law Society
- Legal Services Board. (2024) *Delivering a Pro-innovation Approach to AI Regulation – An Outline of the LSB's Approach*. <https://legalservicesboard.org.uk/wp-content/uploads/2024/04/Legal-Services-Board-update-on-AI-approach-April-2024-pdf.pdf>
- Legal Services Board. (2022) *Mapping unregulated legal services*. LSB
- Legal Services Board. (2022) *Small business legal needs*. LSB

Legal Services Consumer Panel. (2024) *Legal services consumer tracker survey: how consumers are using legal services*. LSCP

Legal Services Consumer Panel, (2014) *Fee-charging McKenzie Friends*. LSCP

Lennox, J. (2023). *LSB parks review of reserved legal activities*.

<https://todaysfamilylawyer.co.uk/lsb-parks-review-of-reserved-legal-activities/>

LexisNexis. (2024) *McKenzie Friends – private law practice note*. LexisNexis

LexisNexis. (2023) *Litigants in person and McKenzie Friends - public law practice note*. LexisNexis

LexisNexis. (2017) *Lawyers in the wild west*. *New Law Journal*. Issue 7764

Mayson, S. (2022) *Consumer harm and legal services: from fig-leaf to legal well-being*. Centre for Ethics & Law, University College London

Mayson, S. (2020) *Reforming legal services: regulation beyond the echo chambers. Final report of the independent review of legal services regulation*. Centre for Ethics & Law, University College London

Ministry of Justice. (2024) *Legal representation status of applicants and respondents in cases in with at least one hearing in family courts in England and Wales*. *Family Court Statistics*. January to March 2024, Table 11

<https://www.gov.uk/government/statistics/family-court-statistics-quarterly-january-to-march-2024>

Ministry of Justice. (2023) *Legal support for litigants in person grant (LSLIP) final report*. MoJ

Ministry of Justice. (2022) *Interim report on the legal support for LIPs grant*. MoJ

Ministry of Justice. (2015) *Survey of not-for-profit legal advice providers in England and Wales*. MoJ

Official Injury Claim. (2024) *Official Injury Claim service data June 2024*. OIC

Personal Support Unit. (2018) *Legal language and its input on LIPs*. PSU

Rose, N. (2020) *Government eyes regulating the law's unregulated providers*.

<https://www.legalfutures.co.uk/latest-news/government-eyes-regulating-the-laws-unregulated-providers>

Rose, N. (2018) *LEO rules out investigating complaints about unregulated providers using lawyers' money*. <https://www.legalfutures.co.uk/latest-news/leo-rules-investigating-complaints-unregulated-providers-using-lawyers-money>

Smith, L., Hitchings, E., and Sefton, M. (2017) *A study of fee-charging McKenzie Friends and their work in private family law*. University of Bristol/University of Exeter

Solve Legal. (2024) "Unregulated" moniker unhelpful for consumers.  
<https://todayswillsandprobate.co.uk/unregulated-moniker-unhelpful-for-consumers/>

Tkacukova, T. (2020) The changing landscape of advice provision: online forums and social media run by McKenzie Friends. *Child & Family Law Quarterly*. 32 (4) 397 - 420

YouGov. (2024) *Legal needs of individuals in England and Wales*. Law Society/Legal Services Board