



Barristers' Clients Research

Expectations and Understanding

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EXECUTIVE SUMMARY

Introduction

In 2021, the Bar Standards Board (BSB) commissioned independent research agency IRN Research to undertake research to explore barristers' clients' expectations of, experiences of, and understanding of, the legal services they receive. The project's objective was to obtain feedback from barristers' clients to provide an evidence base to primarily inform the BSB's review of the Code of Conduct, and identify areas that need to be addressed and improved.

Methodology

A qualitative research approach was used involving individual in-depth telephone interviews with 50 individuals who had used the services of a barrister in the previous two years. The sample was selected using purposive sampling and included clients from a range of practice areas, both public access clients and referral clients, and clients using barristers before and after Covid-19. The overwhelming majority of interviewees were regular internet users but four interviewees were either non-Internet users (2), or not confident digital users (2).

The sample included a demographic mix by age, gender, socio-economic status, ethnic background, English/non-English speaking.

Categorisations of clients by legal confidence and vulnerable circumstances were applied after the fieldwork following consideration of the data from the interviewees' responses. Clients were not asked directly or screened for vulnerability or confidence at the outset.

Note that although this research was commissioned post-Covid-19, there were 31 interviewees who had completed their matter pre-Covid and 19 who had an ongoing matter and for whom Covid-19 changed the way their case was conducted, eg remote hearings rather than in-person. There were 14 interviewees that started the case before the Covid-19 outbreak but saw it continue after March 2020 and the other five started the case during Covid-19.

The research also included five in-depth interviews conducted at the start of the project with consumer support organisations invited by the BSB to provide additional insight on consumer needs and experiences with the legal system. Following the telephone interviews there were focus groups involving 12 participants and these groups explored issues raised in the interviews in more depth and considered some additional questions.

After the end of the core fieldwork noted above, all the interviewees were emailed to ask two additional questions – did they understand the legal process better now compared to when they started the legal matter – and to ask if their participation in the research had given them any additional insights. Of the 50 individuals interviewed, 28 emailed back with a response.

As part of the BSB's immigration thematic review¹¹ a four stage model of the journey that the legal consumer or client embarks upon, including the different stages in identifying and responding to their legal need, was defined. Whilst every consumer's experience will be individual to their circumstances, they can be categorised in general terms. The four stages are – identifying (first awareness of a problem and identifying it as a legal need); choosing (deciding upon a response to that problem and selecting a provider to assist); receiving (engaging that provider and receiving legal advice/representation); and follow up (satisfaction with service, escalation of any issues, and providing any feedback). This client journey model has been taken into consideration in the presentation and organisation of the research findings.

Key findings

- **Positive experience of using a barrister:** in almost every situation, including public access and being referred, many clients were able to access barristers' services effectively and most of the participants in the research had a positive experience of using a barrister. Despite initial expectations (feeling 'intimidated', 'daunted', not fully understanding the process etc) most felt that their barrister had an accessible and approachable manner and was able to reassure them as to their queries and concerns. The research also shows that very few clients are completely confident to deal with the legal matter when they use a barrister. The research heard from clients that they are not experienced in legal matters, intimidated by the process and don't know the right questions to ask. For most, it is a completely new experience, often stressful and with an uncertain outcome. The legal process itself can create anxiety and mental health issues.
- **Lack of awareness of ability to choose:** over six out of every ten interviewees were referred to their barrister by a solicitor and, in most cases, the solicitor only recommended one barrister to a client, rather than giving them a choice of barristers to select from. Only a few interviewees who were referred to a barrister by a solicitor then independently looked up information on their barrister before they agreed to use him/her. This is partly because they lacked the knowledge of what they needed or how legal services worked, and partly because authoritative information was hard to find. Clients did not seem to be aware that they had a choice of barrister, nor did

¹¹ Bar Standards Board (2016) *Immigration Thematic Review Report*

they feel able or equipped to make that choice. For most clients referred to a barrister, the solicitor was the key decision-maker.

- **Good conduct of barrister consistent throughout:** for most, the positivity of their experience with their barrister starts with the initial consultation and continues through the legal process. A common theme is that in the initial consultation the barrister gave them more confidence, reassurance, listened to their specific issues and seemed to understand their situation, providing a good standard of care and advice.
- **How clients understand quality:** when interviewees were asked if they had a good service overall from their barrister the overwhelming majority said yes. Clients assumed that their barristers met the qualifications to practise, were competent, and were subject to some kind of oversight in terms of being fit to practise.

It was clear that both interviewees and focus group participants identified some common themes regarding good service with phrases such as professionalism, approachability, and friendliness mentioned frequently. Competence in law did not appear as an indicator of good service: this could be because it was assumed by all. Interviewees were asked how they would measure a quality service and the top five quality indicators identified and in order of indicators mentioned most often were:

- Professionalism – explained the process clearly, clarity of advice.
 - Approachability, friendliness – the barrister listened, built a good rapport, and was patient.
 - Accessible – always available to talk or come back to a question quickly, in some cases a direct line or WhatsApp to the barrister was given.
 - Experienced/knowledgeable – understood the case and had experience of similar cases.
 - Price – some offered a fixed fee option; others offered staged payments, flexible pricing, or negotiated prices.
- **Barristers able to accommodate clients in vulnerable circumstances:** where clients were considered in the research to be in ‘vulnerable circumstances’ barristers were in the main able to make necessary accommodations although there may be scope for barristers to be given more information on how to identify and respond to client vulnerabilities.
- **Examples of good practice from barristers:** some of the positive steps that barristers made to engage effectively included talking to their clients in layperson terms rather than using complex legal terms, going through the options available to them, and explaining at the outset about pricing and billing. There was no material

difference either pre- or post-Covid in terms of levels of overall satisfaction with barristers' services.

- **Clients typically take a passive role:** once clients had engaged a barrister most felt satisfied to take a more passive role in the legal process. The passive role for many clients, which starts with the solicitor choosing a barrister, appears to continue in the legal process itself. Whether referred or public access clients, most interviewees played a limited role in the process once the barrister was involved. Apart from providing a barrister with any documents and other materials where relevant, such as photos or recordings at the start, they did not have to do much or were not asked to do anything. Most interviewees accepted this because they saw the barrister as the expert professional and the one that knew how to navigate the legal process and court system. Several felt that their involvement with their barrister was considerably less than with their solicitor.
- **The legal process:** a large majority – over eight out of every ten participants - felt that they were provided with enough details by the barrister about the legal procedures involved, the workings of the court, the steps involved, and possible outcomes. The reality for most clients, whether pre- or post-Covid, is that they only had a limited participation in the court hearings leaving virtually all of the preparation and talking to their barrister. The uncertainty of a court experience and being involved in contentious matters may contribute further to the passivity of the client. As reported by the supporting organisations, and verified in the interviews, clients were less familiar with using a barrister than with a solicitor and it is noted from the research that the relationship with the barrister is briefer and with less back-and-forth than with a solicitor (for example reviewing documentation) – making it more difficult perhaps to judge quality of service such as communication or advice given from a barrister when compared with a solicitor.
- **Public access clients typically have greater confidence and conduct more research:** in contrast to referred clients, there were 12 public access clients in the interviews and four in the focus groups and virtually all of these undertook research and compared barristers before making a choice. This may reflect the greater confidence of those who take the public access route when navigating the legal system.
- **Regulation:** most clients in the interviews had an understanding of what regulation means for barristers, with two themes mentioned in particular. The most often mentioned was a need to meet certain standards of conduct and accountability. The second most frequently mentioned point was that regulation should mean that they have the appropriate qualifications. Just three clients out of the 50 interviewed were able to name the correct regulatory body unprompted. Participants in the focus

groups were given a slightly different question – what does regulation mean to you? The most common responses included accountability, comeback if there is a problem, and opportunities for redress.

- **Expectations of barristers' conduct outside of work:** there was less consensus around the subject of regulation of the activities of barristers outside their day job. Everyone agreed that barristers should abide by the law and that serious crime, such as fraud and violence, should be punished. However, there was also the view that this would be punished by law anyway. Only 20 interviewees agreed that all conduct of barristers outside of work should be regulated but another 12 interviewees said that some conduct should but not everything. The latter figure reflects mixed views on what actually constitutes unacceptable behaviour: homophobic, sexist, and racist behaviour and comments were unacceptable across the board, as were any actions by a barrister that broke the law (theft, fraud, assault) and interviewees would expect regulatory powers to cover this. Other behaviours, such as drunken activities perhaps shown online, minor motoring offences and aggressive behaviour for example, drew mixed responses with some saying these should be regulated but others not.
- **Virtual hearings have been positive for most clients:** Covid-19 has led to some hearings being held virtually and these were a good experience for most clients (based on a sample size of 14 participants out of 50 interviews with experience of virtual hearings). Various reasons were given for this: there was no need for travel or childcare logistics; the hearing itself was less formal and intimidating for participants, especially in contentious situations when the client would rather not face the other side in person. Most clients were familiar with the technology; and most barristers were able to provide assistance when required.
- **Confidentiality:** when interviewees were asked if they were confident that the details they provided to their barrister were kept confidential, all but two said yes. Just over half of those interviewed said that this was explicitly stated by the barrister at the start of their relationship while the other group just assumed that their details would be kept confidential or could not remember if this had been mentioned at the start.
- **Impact of digitisation on non-digital users:** whilst the digitisation of justice may make the process more accessible and efficient for many users, it undoubtedly creates additional barriers for consumers who are not digitally confident or have no digital access and the impact on this group needs to be explored and understood. We were able to include four individuals in the research that were either non-Internet users (two participants) or were non-confident digital users (two participants). While this is a very small sample, three of the four did have some difficulties with their

barristers primarily around a lack of empathy and understanding, and problems with communication.

- **Digital comparison tools (DCTs):** there were no specific questions about DCTs in the interviews and only two individuals stated that they had looked at Trustpilot for reviews about barristers. Participants in the focus groups were asked to discuss DCTs in relation to legal services. No one had been asked to put a review of their barrister on a site but most – eight out of 12 - said that they would be happy to post a review if asked, while others would post a review anyway if they knew where to post it. Most participants – eight out of 12 - would be happy to use DCTs to look at reviews and ratings of barristers and would see this as part of their overall research when looking for legal advice.

1. INTRODUCTION

1.1 The Bar Standards Board

The Bar Standards Board (BSB) is the regulator for barristers in England and Wales. The Legal Services Board (LSB), established by the Legal Services Act 2007, oversees the activities of the BSB. The BSB is responsible for:

- Setting the education and training requirements for becoming a barrister;
- Setting continuing training requirements to ensure that barristers' skills are maintained throughout their careers;
- Setting standards of conduct for barristers;
- Authorising organisations that focus on advocacy, litigation, and specialist legal advice;
- Monitoring the service provided by barristers and the organisations we authorise to assure quality;
- Responding to concerns about barristers and the organisations we authorise and taking disciplinary or other action where appropriate.

The BSB's regulatory objectives are laid down in the Legal Services Act 2007 and are:

- Protecting and promoting the public interest;
- Supporting the constitutional principle of the rule of law;
- Improving access to justice;
- Protecting and promoting the interests of clients;
- Promoting competition in the provision of services;
- Encouraging an independent, strong, diverse and effective legal profession;
- Increasing public understanding of citizens' legal rights and duties; and

- Promoting and maintaining adherence to the professional principles².

The Legal Services Act 2007 requires the BSB to regulate in a transparent, accountable, proportionate, consistent and targeted way. The BSB also has a responsibility to base regulatory activities on risk and take an evidence-based approach to determine priority risks. To achieve this, the BSB allocates its resources where it thinks they would be most effective in addressing these priority risks and constantly monitor the market for barristers' and advocacy services.

Policy context

The BSB is required to be a risk-based, transparent and proportionate regulator, targeting its work at the areas of most need in relation to its regulatory objectives³. The [BSB Handbook](#) sets out the regulatory framework and includes the Code of Conduct, Bar Training Rules, Practising Regulations, Authorisation Regulations and essential guidance.

The BSB's Strategic Plan 2019-2022⁴ highlights its commitment to conduct a proportionate and targeted review of the BSB Handbook to ensure it remains fit for purpose, relevant and accessible. As part of this commitment, the BSB made a decision to focus primarily on the Code of Conduct. In this context, the BSB wishes to develop a deeper, up to date understanding of clients' expectations, experiences and understanding of the legal services they receive. This will inform the outcomes that it seeks to achieve in the Code of Conduct.

The outputs from this research will primarily provide evidence to inform the design of strategic outcomes for the Code of Conduct and will ensure the outcomes are based on an up to date understanding of the clients' expectations, experiences and understanding of legal services they receive.

1.2 Background to the research

The objective for this project is the production of a research report that provides an evidence base to inform the BSB's review of the Code of Conduct. The research therefore aims to provide insight into clients' expectations, experiences and understanding of barristers' services and identify areas that need to be addressed and improved both for public access and referral clients and vulnerable users of legal

² As defined in the Legal Services Act (2007), the "professional principles" are (a) that authorised persons should act with independence and integrity, (b) that authorised persons should maintain proper standards of work, (c) that authorised persons should act in the best interests of their clients, (d) that persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice, and that the affairs of clients should be kept confidential.

³ See Legal Services Act 2007 s1 and s28(3) and BSB [Risk Outlook](#), [Index](#) and [Framework](#).

⁴ The BSB Strategic Plan 2019-2022 is available [here](#).

services. It should be noted that the present research attempted to give a general overview of the barristers' clients consumer journey and did not focus on the experiences of any specific groups.

2. METHODOLOGY

2.1 Design of the study

The qualitative research was comprised of three phases.

i) Supporting organisations

Five semi-structured in-depth interviews were conducted by Zoom in the week of 25 January 2021. Semi-structured interviews are more participant-led than a structured interview when the interviewer follows a defined set of questions in order. With semi-structured interviews, there is still a set of question themes but the interviewer has discretion to focus more on specific questions than others depending on the experiences of the participant.

All participants were invited by the BSB to contribute and consented to allow their comments to be used anonymously. The questions were provided to the participants in advance and they were aware that the research was being conducted on behalf of the BSB.

The intention was to capture from stakeholder organisations their perspectives of the key issues and challenges facing clients when seeking and using a legal advisor and to ensure that the research identifies any evidence for these issues. See Annex B for the questions asked in the interviews.

ii) Telephone interviews

There were 50 one-to-one telephone interviews conducted during February and March 2021 with barristers' clients using purposive sampling. The research sought to identify a mixed sample that offered a range of views on the topic and issues of interest, including mixed levels of legal capability, a range of legal practice areas, vulnerability, public access and referred, pre-Covid-19 or during, clients with prior legal experience, and other factors. The sample included a demographic mix by age, gender, socio-economic status, ethnic background, and English/non-English speaking.

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See Annex A for a full breakdown of the sample and Annex C for the questions that were asked of participants. An incentive of a £40 voucher was given to each interviewee in recognition of the length of the interviews: interviews typically lasted between thirty and forty-five minutes.

There were 33 interviewees who were referred to a barrister by a solicitor, five who were recommended to use a barrister by another source (e.g. union, staff association, counsellor, women's refuge) and 12 that chose their barrister directly and independently.

The practice areas covered by the interviews are shown in Table 1. See Annex A for a detailed breakdown of participants by segment.

Table 1: Participants by practice area

Practice area	Interviews
Family law	12
Property	7
Employment	6
Immigration	4
Probate	4
Medical/dental claims	2
Criminal	2
Finance/tax	2
Fraud	2
Landlord/tenant	2
Civil litigation	2
Personal injury	2
Consumer rights	1
Intellectual property	1
Neighbourhood disputes	1
Total	50

Source: IRN Research In-Depth Interview Survey, February – March 2021

Most of those interviewed (31) had their case completed before the pandemic outbreak but the other 19 were still involved in the case during the pandemic: 14 of these started the case before the Covid-19 outbreak but saw it continue after March 2020 and the other five started the case during Covid-19.

iii) Focus groups

In April 2021, four focus groups were conducted with 12 participants to expand on the themes emerging from the interview phase. These topics were determined by reviewing

emerging findings from the interviews and selecting areas where additional detail or clarification would be most useful. There were also some new topic areas only discussed in the focus groups and not included in the interviews, and these are highlighted in bold in the bullet points below. Similar to interview stage, the sample included a demographic mix by age, gender, socio-economic status, ethnic background, and English/non-English speaking. The focus groups probed:

- how clients identify and choose a barrister
- views on quality indicators
- expectations of regulation and conduct
- experiences of in-person and virtual hearings
- **interest in digital comparison tools (DCTs), and**
- **to gather feedback on a selection of web sites from chambers.**

See Annex D for the focus groups discussion guide. Participants received information relating to chambers' websites and Trustpilot links to review before the sessions.

Key terms

Client – a person who uses a barrister to represent them in legal proceedings and to appear on his or her behalf in court⁵.

Consumer – individuals 'who use, have used or are or may be contemplating using' legal services⁶, who have rights and interests.

Legal service – assistance in the field of law including legal advice or representation in court⁷.

Legal understanding/capability – abilities (knowledge, skills and attitudes) that a person needs to deal effectively with law-related issues⁸ (see Table 4).

Quality indicator – an attribute of legal services to enable a client or consumer to evaluate legal services provided to them. To include during the provision of legal advice, after the matter is concluded and whilst evaluating services in advance. Examples of quality indicator may include overall client experience and client care, quality of advice given and outcome of the matter⁹.

Vulnerable – an individual whose circumstances and characteristics (eg mental health issues, non-English speaking, victim of a crime) create a situation where he or she has

⁵ <https://www.sra.org.uk/consumers/choosing/legal-jargon-explained/>

⁶ Legal Services Act 2007, s 207.

⁷ <https://www.sra.org.uk/consumers/choosing/legal-jargon-explained/>

⁸ Law for Life, Legal Capability Paper Nov 09.

⁹ <https://www.legalservicesboard.org.uk/wp-content/uploads/2021/02/Quality-Indicators-Discussion-Paper.pdf>

reduced ability to protect his or her interests and is more likely to suffer harm (see Table 3).

2.2 Ethical issues

The research was guided by the Social Research Association (SRA) ethical guidelines and the ESRC Framework for Research Ethics. IRN Research is a member of the Market Research Society and abides by the Market Research Code of Conduct.

All feedback provided in the interviews and focus groups was treated as confidential and all the comments were anonymous. All research participants signed a consent form before taking part in an interview or a focus group. Data collected were stored securely, safely by IRN Research and in accordance with the Data Protection Act 1998 and the GDPR (General Data Protection Regulation).

2.3 Limitations

This is a qualitative research project involving a relatively small sample of individuals who have used the services of a barrister in the last two years. The research has explored clients' experiences and individual perspectives on the services provided by the Bar. Since the research is qualitative in nature, and whilst many findings align with other research in this field, the findings should not be read as being statistically representative.

A relatively small sample size of 50 interviewees and 12 focus group participants limits the range of practice areas that can be covered in the survey and the BSB asked that specific areas should be covered with more interviews, in particular employment, family, and immigration, as these were seen as areas of law where there were a higher proportion of vulnerable consumers/clients. As a result, some other practice areas are not covered in detail.

Direct quotations from supporting organisations are anonymised. Verbatim client/consumer feedback is quoted with their given segment attributed, to include practice area, whether they were considered to be in vulnerable circumstances or not and their level of confidence (eg immigration, vulnerable circumstances, not at all confident).

3. RESEARCH FINDINGS

3.1 Supporting organisations interview findings

Given their position in the legal market, these supporting organisations deal on a day-to-day basis almost exclusively with vulnerable users of legal services (low income, homeless, clients with limited English speaking and understanding proficiency, litigants in person etc) so this perspective informs their responses. It is also important to highlight that these findings are derived from the impressions of the organisations given their interactions with clients, so these points raised are based on experiential rather than empirical data findings and/or primary research.

Table 2: Supporting organisations

Organisation	Description
Slough Immigration Aid Unit	Charity giving specialist legal advice and representation in UK immigration, nationality and refugee law.
Support Through Court	Charity offering support and guidance before, during, and after court. Preparation and support in accessing justice.
Advocate	Free legal help from barristers for people who cannot get public funding (legal aid) and cannot afford to pay. Registered charity.
Law for Life	Charity dedicated to ensuring that people have the knowledge, confidence and skills needed to secure access to justice.
Refugee Action	Charity supporting refugees in help and advice, accessing justice, campaigning.

The charities we spoke to acknowledged that there are some inherent challenges in the legal system, and it is those structural issues that can make inequalities worse and create challenges around access to justice for the most vulnerable. Respondents acknowledged the complexity of the legal services market and understood that there are no easy answers to issues such as quality indicators, unmet legal need, improving legal education and how to better help vulnerable people. Some of the situational challenges identified include:

- Nature of the system is challenging for people to understand (professions, structure, process, regulators...)
- Lack of public education around the legal system meaning it's more difficult to identify and meet legal needs

- Lack of funding within the system following cuts to legal aid and reduction in public funded Bar
- Pro bono work – the BSB was seen as generally supportive of pro bono work. However, the perception of ‘red tape’ puts off some barristers, the potential reputational and regulatory risks of these cases ‘going wrong’ can be a deterrent, and insurance for pro bono for employed barristers can be difficult to secure.

Several pointed out that legal advisors often ‘go the extra mile’ when it comes to ‘handholding’ and supporting vulnerable clients, especially so during the pandemic. There was recognition that it is not always up to the profession nor the regulators to redress these structural issues entirely, and there was an understanding and acceptance that charities and other grassroots/community organisations exist to bridge the gap between the practitioner and the vulnerable person seeking legal help.

General awareness of users of legal services

Respondents said that clients have a lack of understanding of the specific roles of solicitor/barrister – including what the difference is between the two, and what the responsibilities are of each profession – as well as a lack of understanding of legal process, and the court system as a whole. This lack of understanding and education is particularly concerning for first time users of the legal system and other vulnerable users who often feel intimidated and not empowered by the system. Respondents understood and described legal services as not only a distress purchase but a ‘credence good’ (a good whose qualities cannot be ascertained by consumers even after purchase eg motor vehicle repair, medical procedure). This was echoed in the findings from the interviews in which participants also showed limited understanding of the legal process, and by extension, a lack of confidence in it at the outset of their matter.

“People don’t have enough knowledge to understand whether what they are getting is good or bad. ... They are looking for a champion who will win their case and do everything that they tell him or her, and do everything that needs to be done. Some of that is reasonable, some isn’t.”

“A thoughtful user will use lawyers better. But you need to have had the experience that helps to guide it.... lawyers don’t always think of the right things to say, [or] express them in easily understandable way.”

Regulation

All respondents agreed there is a general lack of awareness around regulation as well as a lack of understanding of what being regulated actually means for the client.

“It’s not a question people would ask. People don’t think it’s important”

Although both the SRA and the BSB require solicitors and barristers to explain in an easy to understand way information about their regulatory status, and the regulatory protections available to them, respondents felt that client care letters from solicitors¹⁰ don’t really ‘spell it out in practical terms’ what it means for the client that their advisor is regulated or not. Having said that, it was acknowledged that the overall complex regulatory environment including the remits of different organisations is confusing even for professionals in the sector.

Impact of Covid-19

The organisations that we spoke to stated that the measures introduced since the pandemic have had a detrimental impact on the availability of legal advice at the local, community level. It has been harder for people to access the help they need with closure of law surgeries, MP surgeries, Citizens Advice Bureaux and public libraries. With the advent of social distancing, the lack of face-to-face contact has also made it much more difficult for clients to form a relationship with their legal advisor, whether solicitor or barrister. Lockdown has made it more difficult for clients to try to work out for example, which documents are going to be important – and the lack of home internet, scanning and printing facilities are a challenge for some. Simple challenges like having the court online and your barrister on your phone were difficult when clients may only have one device. Organisations we spoke to felt that these Covid-19 measures have had a greater negative impact on the most vulnerable users of legal services.

Respondents were concerned that Covid-19 has created court backlogs in many areas despite the courts trying to keep going with virtual hearings. At the same time, legal needs are potentially increasing with employers dismissing employees, people being forced to work in unsafe situations, landlord and tenant disputes – all of which are likely to have a longer-term impact.

However, in some instances it’s been easier to match a barrister pro bono with a client as geographical limitations are not relevant when justice can be conducted online and it has been reported that many barristers increased their volunteer commitment significantly since lockdown.

¹⁰ A client care letter summarises the key information which the client of a solicitor's firm needs to know about how their legal matter is going to be dealt with. It should be easy to understand and ensure the service takes account of the client’s attributes, needs and circumstances.

Complaints

In the same way as regulatory status, respondents felt that legal advisors could explain more about the trajectory of the case, the potential chances of success which may reduce complaints but even then ‘people don’t necessarily take that on board if it’s not what they want to hear’. In sensitive cases (domestic abuse, custody of children, asylum) clients can be traumatised and reluctant to recount their experiences, individuals become worn down by the legal process itself, so the experience reduces their energy, motivation and willingness to complain. When interviewees were asked about their propensity to complain, they also made this point. One respondent explained there is a very low number of complaints in immigration relative to the number of situations in which respondents know that migrants are exploited by less ethical solicitors – language and culture are barriers – which could possibly be explained by an inherent deference to the legal profession (barristers in particular). It was also felt that clients can be sceptical of free advice and legal aid if they come from a culture where they expect to have to pay.

Respondents also pointed to a lack of understanding of the regulatory and government landscape deterring people from seeking redress. For example, a worry that if you complain to the Legal Ombudsman that may influence the Home Office to turn down your application – ‘people don’t want to mess up their future’.

Conduct of barrister outside profession

In the view of the organisations that were interviewed, it was felt that clients in vulnerable circumstances were unlikely to check up or test the conduct of their barrister outside their profession – there is a tendency to trust especially if access to the barrister is via a solicitor. The findings from the interviews with clients supported this. It was felt by the organisations interviewed that clients in vulnerable circumstances would have limited expectations of how a barrister should conduct themselves outside professional life.

In the interviews, there was a stronger link between level of confidence and expectations rather than level of vulnerability. For example, individuals with more confidence in the legal system at the outset of their matter had clearer expectations of how a barrister should conduct themselves. Clients who were not at all confident were less able to articulate the level of conduct they expected from their barrister. For those clients in vulnerable circumstances, that adds ‘another layer of challenge’ to their ability to understand how a barrister should conduct themselves – this was noted by the supporting organisations and borne out in the interview findings.

Good service

Respondents said that the perception of ‘quality’ by clients tends to be closely linked to outcome – if the case is not successful, there is a tendency to blame their legal representative even though the advice was sound. In the client interviews, this was not borne out by the clients we spoke to who generally felt their barrister did their best despite the outcome not being favourable in some instances.

Respondents felt that a good service included treating people with respect, explaining clearly and in plain English the process and the potential outcomes, and what to expect. For example, ‘I may talk to the other side as part of seeking a settlement’. However, it was also acknowledged that as the barrister sometimes only meets the client on the day of the hearing, it can be difficult to establish a trusted relationship in this time and therefore the barrister may not be aware of all the background or be able to address any emotional concerns to the satisfaction of the client. To an extent this was supported by the interview participants some of whom felt they would have liked more time with their barrister (whether on Zoom or face-to-face) in advance of the court date. Clients recognised that it may not have made a difference to their legal outcome but some felt this would have been more reassuring to them.

“Being treated with respect. In a way that builds your confidence, helps you to understand the issues that are in play. A good legal representative will explain what they are doing. Reduce the opportunity for misunderstanding.”

“Feel that the barrister and solicitor [are] on their side - availability, responsiveness. Consistent, professional, being realistic with clients at the outset.”

“Clients will not win a lot of the time, but they are incredibly grateful to have their case heard in court. For barristers who give [help to] our clients who will never have access to justice outside pro bono help there is a lot of gratitude, for their voice to be heard.”

“[Barristers need to] have the time to understand the detail of the case as well as the legal expertise. To be able to relate to the individual and make sure the person understands what is going on.”

Client impressions after using a barrister

It was difficult for respondents to summarise how clients feel after using a barrister, as so much of the clients’ impressions depends on the barrister involved, the outcome of the matter, the nature of the case and the client’s experience of the entire legal process. Respondents found it difficult to answer the extent to which clients were satisfied/dissatisfied with their experiences. In some situations, respondents suggested

that clients appreciate the involvement of a barrister and were grateful, and several experienced a positive feeling after using a barrister, defined by one respondent as “a feeling that someone cares”.

Respondents felt that clients do not typically think too much about confidentiality and tend to assume that it is in place even if it is not mentioned explicitly, which was borne out with clients themselves when interviewed.

It was felt by respondents that on conclusion of their case, clients may not understand the legal system any better, given that many issues are multi-faceted eg mental health plus employment plus financial challenges which makes understanding the legal position relative to their case difficult. In the small email survey conducted with interviewees, however, it was found that the majority of clients who we asked – 16 out of 28 - agreed that “at the end of the legal matter I felt I understood the legal system better and would be able to navigate the legal system more successfully if there was a next time”.

Enabling access to justice

Although public legal education at grassroots community level is important - online guidance and advice does not support those who are not digitally able and respondents felt there is never enough specialist advice available to vulnerable users at the right time.

“The problems of the have nots are harder to reach.”

“Sectors of the profession are trying very hard with what they have. Not necessarily all but many are working their socks off. It's a matter of resources and legal aid. That's the only viable source to make the systemic difference.”

3.2 Interview and focus group findings

3.2.1 Sample – vulnerability

A review of the literature from the legal market and other regulated markets indicated that there are many different definitions of consumer vulnerability. Some characteristics fluctuate or can be short-term, for example internet access, mental health issues. Indeed, whilst we recognise that ‘vulnerable circumstances’ may not be quite the right terminology to capture the varied needs of individuals, it is hoped that it can act as ‘helpful shorthand to describe those consumers who are particularly susceptible to loss

or harm'¹¹ and those whom legal service providers and regulators need to consider. A respondent in the interviews, conducted at a specific point in time, may be understood to be in vulnerable circumstances (for example a victim in a domestic abuse case) but these are dynamic and may not stay the same over their lifetime of accessing legal services.

For the purposes of this research, we have interpreted a client's vulnerability to mean the personal circumstances as well as the characteristics of the client which combine with aspects of the market to create a situation where he or she may not be able to protect his or her interests and is more likely to suffer harm. In the legal market, this research and work done by the LSB has identified three factors that make all consumers of legal services particularly vulnerable:

- knowledge gap between the general public and legal advisors (information asymmetry);
- people often take legal advice at times of difficulty or stress; and
- it is often difficult for people to judge the quality of legal services, even after receiving them¹².

Considering the literature in this field, and in reviewing the responses of the participants in the interviews, participants have been categorised as 'not vulnerable' or in 'vulnerable circumstances'. Participants were not specifically asked screening or qualifying questions to ascertain their vulnerability, it was purely on their interview responses that their circumstances were identified and inferred eg 'my mental health was at breaking point'. Individuals who are defined as vulnerable under the statutory definition, due to state safeguarding (having been sectioned under the Mental Health Act, or in care homes, social housing, or in custody) were not in scope of this research. The barristers' clients participating in the interviews have been categorised into non-vulnerable and in vulnerable circumstances: see Table 3 for the working definitions here, for which we are indebted to work conducted by the LSCP¹³.

Table 3: Categorisation of vulnerability

Categorisation	Definition	Number in sample
Not vulnerable	Not technically vulnerable according to the definition but may be first time user of a legal advisor, exhibit a lack of legal confidence, with no experience or knowledge of legal process,	29

¹¹ Peter Cartwright, *The Vulnerable Consumer of Financial Services: Law, Policy and Regulation*, 2011

¹² https://legalservicesboard.org.uk/Projects/pdf/2017/20170718_Vulnerability_Paper_What_Has_Been_Done.pdf

¹³ <https://www.legalservicesconsumerpanel.org.uk/ourwork/vulnerableconsumers/Guide%20to%20consumer%20vulnerability%202014%20final.pdf>

	maybe accessing via an intermediary that is not a legal professional.	
Vulnerable circumstances	Defined by characteristics of individual which may be long-term or short-term, e.g. low income, single parent, low literacy, lack of Internet and/or digital proficiency, disability, medical need including mental health, non-English speaking etc. May also be defined by particular (and also potentially fluctuating) circumstances of individual, e.g. domestic abuse, childcare issues, deportation, victims of crime etc.	21

Even for those people who have some experience of the legal system, going through a contentious and/or complicated legal matter can be daunting and intimidating. Research also suggests that a lack of knowledge of rights and a lack of understanding of legal services is more common among disadvantaged or vulnerable groups¹⁴ which can make their experience of the legal process even more disadvantageous. The actions of legal services providers can potentially increase this vulnerability and there is evidence from this research that the legal process itself can exacerbate client vulnerabilities.

“I felt like a rabbit in the headlights. Half of the time I was upset and worried, it was a horrible thing to go through. I had some idea So difficult to look at it in a detached way. Finances were a real worry. I could hardly breathe.”

Family, vulnerable circumstances, not at all confident

“From the start I didn't think he [barrister] really understood how much the other side would make things difficult and how much I had been through already. And it didn't really improve as it went on. It got worse actually as I felt in the dark about what was being done and where I stood. Not good at all for my mental health which was already pretty fragile. It's tight knit community and I would really have like to talk to someone outside of it like the barrister but I just didn't feel he would listen seriously.

Property, vulnerable circumstances, somewhat confident

It could be argued that every consumer in the process exhibits some kind of vulnerability, being new to the process and having a limited understanding of the process (see Table 4 categories of legal confidence). Clients are already unclear on how to navigate the landscape of legal services and when their matter becomes a contentious court case that creates a further layer of anxiety and uncertainty. Most

¹⁴ Legal Services Research Centre (2010) *Knowledge, capability and experience of rights problems*

participants who showed a lack of legal confidence or a degree of vulnerability felt that their barrister was able to reassure them effectively, for example in allowing extra time in meetings, explaining complex legal definitions and being clear on potential outcomes.

Legal capability

Overlaid onto vulnerability, is the issue of legal capability or understanding, and the extent to which the position of a person entering the legal process and their own personal capability determines their experience. Law for Life defines legal capability as ‘the abilities that a person needs to deal effectively with law-related issues’¹⁵. So this is not about personal characteristics or circumstances but is reliant on the client or consumer having the knowledge, skills and confidence to get the best out of the legal process.

The LSB¹⁶ uses three standardised measures of legal capability based on the Organisation for Economic Co-operation and Development (OECD) guidance¹⁷ originally developed by Professors Pleasance and Balmer.

- 1 Legal confidence: confidence on the part of participants that they could personally achieve a fair and positive outcome in legal scenarios.
- 2 Legal self-efficacy: a belief on the part of participants that they could personally handle difficult situations in a legal context.
- 3 Accessibility of justice: the degree to which someone thinks the justice system is accessible.

Based on the work already conducted by the LSB and by Professors Pleasance and Balmer¹⁸ into the concept of legal capability - “*consideration of what capabilities are required for an individual to have an effective opportunity to make a decision about whether and how to make use of the justice system to try to resolve a problem*” - we have attempted to categorise participants in this research by three broad levels of legal capability or confidence. Again, this was not asked directly to clients at the qualifying stage but based on statements made in the interviews: ‘I didn’t know anything’, ‘I didn’t know who to ask’, ‘I felt I wasn’t able to ask questions’. The intention is to explore the relationship between legal capability and vulnerability, so that barristers can be better able to identify these clients and be aware of what kind of support needs to be extended to them, especially where these attributes combine (vulnerability and low legal confidence). Participants were also emailed follow up questions in which they were

¹⁵ <https://lawforlife.org.uk/wp-content/uploads/2013/05/legal-capability-plenet-2009-147-1-147.pdf>

¹⁶ <https://legalservicesboard.org.uk/wp-content/uploads/2020/02/PLE-Reshaping-Legal-Services.pdf>

¹⁷ P, 87. OECD. 2019. “Legal Needs Surveys and Access to Justice”. Available at: <https://www.oecd.org/governance/legal-needs-surveys-and-access-to-justice-g2g9a36c-en.htm>

¹⁸ *Legal Confidence & Attitudes to Law: Developing Standardised Measures of Legal Capability* by Professor Pascoe Pleasance and Professor Nigel J Balmer, 2018.

asked questions about their level of confidence and understanding going into the legal matter. The questions included in the email are given in Annex E.

Table 4: Legal understanding categories

Categorisation	Examples from the research	Number in sample
1 Confident	• Able to navigate, access and operate within the justice system to a reasonable extent. • Consider that courts, tribunals and legal advisors are fair and equal. • Self-sufficient, able to problem-solve independently with coping abilities and support mechanisms in place. • Good at finding and evaluating information objectively • Able to compare potential choices and make informed decisions – success rates, comparable cases, reviews and opinions • Able to ask questions of their legal advisors and of the process	4
2 Somewhat confident	• Have some experience of the legal system and in dealing with legal advisors, eg conveyancing, probate • Working with a supportive and qualified intermediary eg union, staff association, solicitor • Able to conduct some preliminary research, evaluate some elements and understand some of the steps in the process • Able to understand and maybe articulate some individual rights • A third of these clients had gone direct to their barrister	25
3 Not at all confident	• Limited or no previous experience of legal process • Worry about inability to express themselves and may stay quiet rather than querying matters • Avoid pressing for individual rights • Limited understanding of the different roles (barrister, solicitor, judge) and the process overall	21

All four 'Confident' clients interviewed were public access clients meaning that one third of public access clients were 'confident', whereas none of the referred clients were 'confident'. There was also a lower proportion of public access clients who were 'not at all confident' compared to referred clients. More clients in the 'confident' group conducted research and some form of evaluation on their options when selecting a barrister.

3.2.2 Confidence prior to starting process

It is worth stating at the outset that only a small amount of the clients we spoke to felt completely confident to navigate, access and operate within the justice system. Informed clients who routinely conduct online research describe how their first experience of the legal process can be daunting and overwhelming:

"I thought I knew a little bit about it but I was surprised, I was apprehensive and nervous."

Family, not vulnerable, not at all confident

For those respondents who had some experience of the system, this typically meant conveyancing or probate and these relatively transactional events had not prepared them or educated them for their current legal challenges. Respondents talked about being 'terrified', 'emotional' and facing a steep learning curve.

"I have used a barrister twice in recent years but different ones for different things. Both times I have been guided by a solicitor. But it still doesn't mean that I knew what to do ... I had no clue really what to do and was completely in the hands of the solicitor."

Probate, not vulnerable, not at all confident

Clients, who we describe as 'somewhat confident' may have had experience of the legal system but even so several felt they were underprepared for their experiences. Frequently, the situation was not of their own choosing and they faced anxiety over outcomes, the legal process and unforeseen costs. Before these clients met their barristers they expected a knowledgeable, professional figure, perhaps a touch unapproachable. However, at the first meeting (whether that was in person or virtually) almost all clients felt reassured that their barrister was experienced, capable and empathetic. This group were more able than those who were 'not at all confident' to describe the differences between solicitors and barristers.

“I get the difference, it’s a bit like GPs are the solicitors and the barristers are the specialist consultants.”

Probate, not vulnerable, somewhat confident

For the less confident clients, who we describe as ‘not at all confident’, expectations were similar in that barristers were pictured before that initial meeting as being aloof, professional and intimidating. At this stage clients don’t feel empowered or educated.

“You are asking me about my options in a world I know nothing about.”

Employment, vulnerable circumstances, somewhat confident

From the 21 clients who were classified as ‘not at all confident’, their apprehension about the process was greater than those who showed some degree of confidence in the process. Some of those who were ‘not at all confident’, described their feelings and concerns at the start of the legal matter.

Nearly a third of these clients described themselves as feeling daunted, nearly one in five said they felt worried or stressed and around one in seven described being frightened or scared. Others mentioned feeling overwhelmed (2), unprepared (2) and confused (1).

3.2.3 Regulation

Understanding of/expectations of regulation

Interview participants were asked if they knew what it meant for a legal professional to be regulated, and whether their barrister was regulated. Most had an expectation that regulation means that as a profession they need to meet certain standards of conduct and accountability, and/or that barristers have a commitment to keep up to date with the law. Several made comparisons to professions such as the police, civil service, teachers and magistrates in terms of the conduct they expected from barristers. Many expected it was to do with maintaining their professional expertise in terms of qualifications and competencies.

As well as in their professional work, interview participants were asked if they thought barristers should be expected to meet certain standards of behaviour or conduct outside of work, with a follow up question asking if certain behaviour or conduct outside work would affect a client’s choice and use of a barrister.

There were 20 interviewees that believed that a barrister’s behaviour or conduct outside of their working life should be regulated. However, another 12 interviewees answered

“maybe” or “possibly” reflecting the views noted above that some conduct outside work is more serious than other conduct.

There were 10 interviewees that took the view that barristers are entitled to a private life outside work and their conduct and behaviour outside work should not be regulated. The other eight interviewees were unable to offer an opinion either way.

The answers from respondents, unprompted, about what they thought it meant for a legal professional to be regulated can be grouped as below.

Table 5: Perceptions of regulation from interviewees

Comments	Number
Barristers need to adhere to required levels of professional conduct, standards and procedures	15
Barristers need to be appropriately qualified, at a certain level of competency, expertise and specialisation with approved credentials	13
Barristers need to stay within the law including boundaries and procedures	6
There is some sort of governing body (unprompted suggestions included Bar Council ¹⁹ , Law Society, SRA, BSB)	5
There are options for redress including making a complaint	5
There are checks in place and some form of oversight for the profession	4
Insurance is in place	1

Source: IRN Research In-Depth Interview Survey, February – March 2021

Clients’ expectations around regulation were primarily that it would cover how barristers conduct themselves professionally, and that they would have sufficient expertise and fitness to practice, which would be monitored and overseen by an external body. There was a sense that barristers need to follow certain procedures, rules and conditions, and they could be penalised, struck off or sanctioned for poor conduct at work and outside of work should they break the law.

Several said that they were informed about regulation by their barrister, barrister’s clerk, barrister’s website, or in correspondence - but they didn’t recall specifically what this

¹⁹ Note: The Bar Council is the representative body for all barristers in England and Wales but the regulation of barristers is the responsibility of the Bar Standards Board (BSB).

meant or who the regulatory body was. Many participants expected there would be a regulatory body and three mentioned unprompted the Bar Standards Board.

“In broadest terms, regulation means they are overseen, give the appropriate advice, deal with my case with respect, adhere to their guidelines and code of conduct. Regulation means I can complain to a governing body.”

Tax and property, not vulnerable, not at all confident

“I would expect [a] barrister, any profession to be regulated. To ensure they are doing what they are supposed to do and not going against rules and regulations that they need to uphold.”

Litigation, not vulnerable, somewhat confident

“It means there is a governing body that they have to be a member of, that body will look to see that they are complying with the standards set. They will be monitored.”

Property, vulnerable circumstances, not at all confident

“I know about solicitors and the SRA but a barrister has to be regulated as well and cover things like professional conduct, insurance to cover any payments that arise and things like that. I spoke to the clerk in his chambers and he told me about regulation but I can't remember exactly.”

Intellectual property, not vulnerable, somewhat confident

What regulation means for consumers

Focus group participants were asked a slightly different question – “what does regulation mean to you as a consumer”. This was intended to get more detail from participants on what they saw as the benefits to them of using a regulated provider than had emerged in the interviews. The answer mentioned most often was that it offers accountability. Comments included that it means the barrister is answerable to someone, that there is redress if something goes wrong, and that barristers are accountable for their actions.

Other comments mentioned by small numbers of participants in the focus groups which corresponded with feedback in the interviews were:

- means that they conform to certain professional standards
- means that there was a process to complain
- confirms that they were experienced.

“Assumed all barristers would be a part of the Bar Council. It also means they are accountable for their actions. There is somewhere to complain if something goes wrong.”

Family, vulnerable circumstances, not at all confident

“Exactly. I would say normally you are not that interested in the regulation side until there is an issue. I actually assume – before I didn’t ask about the regulation side I just presumed.”

Litigation, not vulnerable, somewhat confident

“If I had to look for myself I probably would [check] but if the solicitor has referred then you would assume.”

Probate, not vulnerable, not at all confident

“I would say that you have got comeback, he has got to follow let’s say internal rules and regulations that would clearly benefit his clients. I think it is vital that you have a regulatory body especially when it comes to the law and that he follows them.”

Employment, vulnerable circumstances, not at all confident

Criminal conduct

There was a clear consensus that barristers should stay on the right side of the law in their private life and a barrister convicted of most criminal activity would not be used by the interviewees. A general theme was that barristers have to abide by certain standards in both their professional and private lives and, for most interviewees, this meant being law abiding.

There was general agreement that serious offences such as fraud, theft, violence, should lead to serious consequences for a barrister, including being struck off or dismissed. However, there was some difference of opinion regarding other offences mentioned: for example eight interviewees mentioned alcohol-related offences with two saying that being drunk and disorderly and/or causing a fracas when drunk should be treated as a serious offence while another interviewee felt that this should be treated as a minor misdemeanour and should not lead to major sanctions; three mentioned drink driving offences with two suggesting that this was serious while another saying it was serious but it would depend on how long ago it happened. One other said that being drunk and then breaching client confidentiality to someone in a bar as a result, although not a crime, would definitely result in a complaint and seeking redress.

Most interviewees agreed that minor traffic offences like speeding or a minor accident should not be regarded as a reason for not choosing and using a barrister.

Focus group participants expressed the same views as interviewees, ie barristers committing serious criminal offences should face sanctions but some criminal behaviour could be acceptable such as low level driving offences. In one group, a participant

stated that he had found evidence of a criminal offence for a barrister on the Bar Council website but that the details were limited and he had to dig deeper in the news to find out more. He felt that this information should be freely available and transparent.

“I understand that life is a learning curve and we are not given a rule book on life so no I would not worry about what they do outside their professional life. People change anyway and I don't think a regulator should concern themselves with private lives. The only thing that would worry is if they had a serious criminal conviction but it would depend on how severe the crime was.”

Family, vulnerable circumstances, not all confident

“Yes they are senior professionals and probably seen as upholders of the law so yes they should behave accordingly in all the things they do. Not sure how I would know if they have behaved wrongly outside work but if I did I would think twice.”

Medical claim, vulnerable circumstances, somewhat confident

Non-criminal conduct

Those interviewees that mentioned conduct other than criminal activity had mixed views on whether this conduct should be relevant to their professional work. The general view was that it would depend on the exact nature of this conduct. Key themes were:

- Five interviewees compared barristers to the police or doctors saying that barristers should have high moral standards and not act in an offensive way in their private lives and in their actions outside work;
- Three interviewees said that inappropriate comments on social media, for example racist, sexist or homophobic remarks, should be a reason for not using a barrister;
- Four interviewees said that barristers should be allowed to post comments on social media on any subject they wanted to provided that they were not offensive;
- Three interviewees accepted that this was a difficult area and what might be offensive to one person may not be to someone else, e.g. political views;
- Five interviewees took the view that barristers should be allowed a private life outside of work and this should be completely separate from their professional life.

While there were a range of views noted above from the interviewees on conduct outside work, in the focus groups everyone was clear that certain behaviour outside their professional work was clearly not acceptable, for example sexist, racist, homophobic comments. However, there was some divergence on other areas that might impact on a consumer's decision to use a barrister:

Aggressive comments or behaviour generally would not be acceptable to some but two said that this might mean they can be aggressive in court for them.

Two participants said that barristers should only be making public comments or posting on social media if it related to their work.

There was some discussion on the impact of videos or pictures of barristers being drunk and disorderly. There were mixed views on this: one group felt that a barrister should not be penalised for this while others felt that this behaviour was not acceptable for someone in a barrister's position.

"In this day and age and with things like social media then yes I think they should be ready to be regulated outside their professional life. They are dealing with people and should be responsible about what they do in their everyday lives. How many people have been hauled up or lost a job because they said something on social media? And when someone is offering a job they look at things on social media about the person so yes same for barristers."

Probate, not vulnerable, not at all confident

"I notice that some of these websites. Some had a few lines on their back stories and I think that makes them more human. To be honest I checked out all my legal team on social media. I couldn't really find anything I wanted. Frankly If I found my solicitor drunk in Ibiza I am fine with that for myself but not fine with that for someone who is representing me and where I stand to lose a lot of money. So it is important and by their own professional standard they shouldn't have a social media presence that is anything but professional."

Litigation, not vulnerable, somewhat confident

"I think XX has made a really important point. Knowing now that I can do I would probably look even deeper than before. Let's say I was arrested for drink-driving then and I found out my barrister was done for that how could I trust him to fight my corner. It's fine if someone has got into trouble, everyone has a past, but it depends on what it is."

Family, not vulnerable, somewhat confident

3.2.4 Searching for/choosing a barrister

Approaches to choosing a barrister

A large majority of respondents from both the interviews and the focus groups were referred to their barrister by a solicitor, union, social worker or a friend and very few conducted any research or evaluation at this stage or made a personal decision to select a particular barrister for a relevant reason. 'Not at all confident' respondents were unclear on the differences between a solicitor and barrister, did not seem to be aware

what services a barrister can offer or that clients can go direct. Those clients who were 'somewhat confident', were more confident about the process, were able to conduct some preliminary research and choose between several options but even so, pointed out that it was difficult to find independent and authoritative information (objective data) on barristers.

"I googled IP rights and barristers and found some. I wanted to go for the top 5 in the business and ideally someone local in Birmingham. I rang a few round but they were not all helpful and I eventually picked one that I had gone for originally from his resume online, previous cases and things like that."

Intellectual property, not vulnerable, somewhat confident

The methodology section has noted that 33 of interviewees were referred to their barrister by a solicitor and the overwhelming majority of solicitors – 29 out of 33 - only gave their client one option for a barrister. Only four of the participants had a solicitor who provided a list of either two or three barristers for the client to review and choose from. Of the 29 clients that were referred to just one barrister, only six decided to undertake some research on these before a consultation with them, usually involving a Google search.

Four (out of seven) clients from minority ethnic backgrounds were referred to barristers by a solicitor and three of the four were given a choice of barristers. This is a very small sample but reflects a much higher percentage offered a choice compared to all the sample referred by a solicitor. All three given a choice did research the options in some detail and this may be partly explained by the fact that two of the three interviewees were dealing with legal matters that involved two different national jurisdictions: clients were looking for a barrister that could deal with a matter with these added complications so spent time researching this.

Eight of the 12 participants in the focus groups were guided by their solicitors who referred a barrister to them and all seemed comfortable with this approach. Only two of this group decided to check the barristers chosen and the main reason given for not checking – mentioned by three participants - was that they had instructed the solicitor at the start of the process and they expected him/her to then deal with the choice of a barrister if needed - these participants felt that was what they were being paid for.

This limited choice for clients may be a result of solicitors specialising in specific practice areas building up a relationship with one or a few barristers that they know are experienced in this area and selecting just one for a client to keep the process moving relatively quickly. However, this inevitably means that many barristers' clients have a limited role in the choice of their legal representative at this stage, and the solicitor is the key decision maker.

“She [solicitor] referred me to a barrister - actually she gave me three options but she chose the one in the end. I can't say I knew the process at all or what I had to do really.”
Family, not vulnerable, not at all confident

Focus group comments:

“I think I was aware that I could have gone direct. At the time the situation was fairly stressful. I don't know if the involvement depends on what you want to do. I don't mind sharing it. I was going through a divorce and it was something I didn't want to be engaged in so when the solicitor put up these names and they handle the arrangements take it on and get on with it. To have found someone else I think I would have been adding more work for me, getting in touch and so on. I would take the same route.”
Family, not vulnerable, somewhat confident

“I had recommendations via my solicitor on 2 or 3 occasions I needed a barrister. I feel I am instructing a solicitor so I should be guided by him. I met them in person which was quite daunting to start with. I didn't look them up, the only time I looked up was when I had to drop some document to their chambers and found where they were. After the initial daunting experience I found it really fine and on my side which was what I wanted. Although having seen the websites that you sent us I am quite impressed about the information that it available. Very impressed to be honest.”
Probate, not vulnerable, not at all confident

Clients who went direct to barristers (in our sample, these were exclusively clients who were 'confident' or 'somewhat confident') tended to conduct more evaluation of different barristers before making a choice as to who to represent them. Typically they used chambers' websites, looked at profile photographs and case history, looking for success rates and cases similar to their own. The profile photographs provided reassurance for individuals that barristers were “like everyone else”, “looked approachable” and would be able to understand their situation.

“I went and found my own [barrister]. Yes first time, but I had done a lot of research first, profiles of all the barristers. To find out who we wanted. We wanted someone who would be understanding. I felt comfortable in my research. I thought they would be scary, official. He was really nice”
Family, not vulnerable, confident

There were 10 of the 12 public access clients in the interviews that carried out an online search to find a barrister – two of these started by researching the legal process itself. Specific sites used were Clerksroom Direct (mentioned by two clients), Criminalbarristers.co.uk (one client) and Trustpilot (one client). Regarding the other two public access clients, one contacted five chambers in London by telephone and then made a choice, and one went back to a Chambers he had used before.

Four focus group participants were public access clients and all did an initial check on the barristers considered and then used. These checks mainly involved looking through the relevant chambers websites although two did a broader Google search. One participant contacted a clerk at a chambers and the clerk gave him a list of barristers to look at. Once these checks had been carried out, two mentioned that they then called the barristers they selected from the check to make their final choice.

Several interviewees who did seek to undertake comparative research felt it could be difficult to find an unbiased view of barristers, success rates, and what they are like to deal with as a person in order to inform their choice. The majority of clients did not always realise that they had a choice of barristers, or were reluctant to make a decision on this, preferring to stay with their solicitors' recommendation.

"Next time I would say maybe take more time to choose a barrister if you find yourself needing one. I did choose between two but maybe I should have thought of more but how do you decide when you have never used one before?"

Litigation, vulnerable circumstances, not at all confident

"I thought that the system might be a solicitor affiliated or work well with one or two barristers, so they would know each other. It doesn't seem to be like that. If you need a barrister you can choose who you want. They did have some recommendations but big gap between them. I felt like it was a stab in the dark from the solicitor. They gave me half a dozen first, I didn't know what I was looking for. Hard to tell who's right for you. It's not easy."

Family, vulnerable circumstances, not at all confident

"To be honest when I first conducted the research the information I found was quite in-depth. So I was quite happy for that barrister to assist me. I don't think they could have done anything better."

Property, not vulnerable, confident

Quality indicators

In the interviews clients were asked about the overall experience of using the barrister and whether interviewees felt that they had a good service from her/him. In the focus groups we were able to develop this further and ask participants specifically about quality indicators and their views on what would be important to them when they were choosing a barrister.

Before being given a list of specific quality indicators to comment on, focus group participants were asked to say how they defined good service and what they understand was meant by quality indicators.

The largest group – half of the participants – felt that these could only be measured once a client had spoken to the barrister and quality indicators were based on a good rapport between both, empathy, and whether the barrister listened and took the right action as a result. Two felt that you could start to see quality indicators in a barrister's profile on a website, while two also mentioned consumer reviews and recommendations.

Another two noted that even if you can look at indicators such as consumer reviews or profiles, it is still difficult to measure quality indicators on a personal level as each case and experience is different.

“In their profiles for example I think it is important to list their cases, those they have won, and if they have won any awards. Some barristers have industry awards.”

Employment, vulnerable circumstances, not at all confident

“I think it's very difficult to measure it on a personal level. You can measure on the success of chambers and the particular barrister that you are dealing with. But every case is unique, it's only how you feel and the rapport with that barrister. That will give you the initial confidence and how the case progresses. It is difficult to be a 100 per cent sure how you feel. It is something they have to earn and you have to learn.”

Litigation, not vulnerable, somewhat confident

“I think obviously you can hear them directly you can read them online but I think it is down to the individual to assess whether this barrister was really good they met my every need, they helped me every step of the way. Whereas others may have had the same barrister but a completely different experience.”

Family, not vulnerable, somewhat confident

Participants were asked to look at 10 quality indicators listed alphabetically and to choose up to four) as the most important. The indicators are below with the number of participants identifying as the most important and at the top of the list, mentioned by seven participants, were prices and fees quoted. Two other important factors relate to the experience of the barrister: experience in the legal area where you need advice and the length of time practising both mentioned by six. Examples of similar successful cases were mentioned by five.

The responses suggest that participants would look at a mix of factors if they had to find a barrister and would be comfortable with shopping around if they had to when choosing a barrister.

- *Price of services/fees quoted: 7*
- *Experience in legal area where you need advice: 6*
- *Length of time practising as a barrister: 6*
- *Examples of successful similar cases: 5*
- *Confidentiality – security of any information supplied by you: 3*
- *Physical location of barrister: 3*
- *Any customer reviews/star ratings of services: 2*
- *Website: 2*
- *History of complaints and disciplinary findings: 1*
- *Listing in legal directories, e.g. Chambers, Legal 500: 0*

Chambers website information

An additional area covered in the focus groups was an exploration of what content clients would find useful if comparing websites from chambers and barristers. Participants were asked to look at three websites in advance, and each of these offered some personal injury advice. In the groups, they provided feedback on the following areas:

Personal injury advice services – detail given, understanding of content

Details of barristers in personal injury – useful information, if so what did you like in particular, if not why not and what was missing?

Any details of prices – useful information or not?

Any information on public access/direct access – was this useful or not?

Did you find out anything about how barristers are regulated on the site? If so, what and was this useful? Easy to find?

Links to legal directories, e.g. Chambers, Legal 500 and useful?

General look of the website – inviting or not?

Everyone was satisfied that the services information on all the sites was detailed and clear and provided enough details on the general services available.

There was real enthusiasm for the details of the barristers given on the sites and the biographies included were seen as extremely useful particularly to identify experience (years of call) and expertise. Nearly everyone also liked the photos and the ability to put a face to a name. Overall, it made the barristers feel more human and accessible.

There was general agreement that some price information on the sites would be useful as a starting point, re-enforcing the feedback on quality indicators where price came top of the list of quality indicators. However, many participants found it difficult to find the price information. Unfortunately, some couldn't find any price information on the sites while others found it but they had to search around the site to find it. So there was a

general view that the price information given could have been highlighted more clearly on the sites.

The public access information given on the sites was seen as very useful and informative.

Only a few of the participants found any information on the regulation of barristers. Many couldn't find anything. Some participants said that they assumed that barristers would be regulated anyway. A number of participants said that regulation was not something that they would look at in the early stages but only think about it if they had to make a complaint later. What many did find relatively easily were details of the complaints procedure which most felt was clear and informative on all the sites.

On all three sites, there were links to legal directories, primarily Chambers and the Legal 500²⁰, but only a few noticed these. Almost everyone said that they would not look at these anyway as they were not a priority for them. Just one or two mentioned that at least inclusion in a directory reflects some credibility for the chambers and barristers.

A clear majority – eight out of 12 participants - chose one website as their favourite because the information was clearly set out, informative, and the site was the easiest to navigate.

“I thought the photos and bios was very useful information and quite clear that you could directly contact them. Also I felt that you were more in control that you could find a barrister yourself. It was a more personable approach really.”

Property, not vulnerable, confident

“It's good that you are actually from the word go able to put a face to the name. Rather than just speaking over the telephone, they could be anybody. So to actually have a visual of that person it puts you at ease that you are speaking to a real person rather than a computer.”

Probate, not vulnerable, not at all confident

“The one I looked at was their year of call because that gives an indication of how experienced they are and how long they have been around the courts system. I did like the fact that you could click and look into their CVs and see what they are doing.”

Litigation, not vulnerable, somewhat confident

²⁰ Chambers and Legal 500 are established directories of UK law firms, chambers, solicitors, and barristers

“Only on one were the prices easy to find. When I go on a website and there are no fees then I would probably think they would be more negotiable and maybe fixed fees. When you publish prices on the site you are bound to them.”

Litigation, not vulnerable, somewhat confident

“Prices quite thorough on the XXX site, other two quite vague and in fact I couldn’t find it on one of them. On XXX it was visible and in quite some detail. It was vague as well if that makes sense as each case is different and complex.”

Family, not vulnerable, somewhat confident

Digital comparison sites

Among the interview participants, hardly anyone used websites with digital comparison tools (DCT) when researching and choosing a barrister. No specific questions were asked about DCTs in the interviews but Trustpilot was mentioned as a source consulted by two interviewees. The focus groups did explore the perceptions of, and use of, DCTs to research barristers and post reviews.

DCTs – focus group feedback

Among focus group participants, no one had been asked to put a review of their barrister on a site but two participants had seen reviews on some general review sites. Most participants - eight out of 12 - would be happy to use DCTs to look at reviews and ratings of barristers and would see this as part of the overall research when looking for legal advice. Most said that they would be happy to post a review if asked, while others would post a review anyway if they knew where to post it. In total, eight would post a review.

Just two would not be interested saying that they mistrusted review sites and would never use them. Others had some mixed feelings saying that they would have to be more independent and offer more credibility than some of the existing commercial sites.

A follow-up discussion in the focus groups considered whether specialist legal comparison sites would be preferable to the general review sites currently operating. The moderator mentioned that some specialist sites already existed, and a number of participants saw these as more credible for this sector. Others mentioned that if they were licensed by a regulator or similar body in the legal sector then this would be even better.

“I think it’s the way to go. I think it’s going to happen. Would I use Trustpilot – I think I would. I think I saw some reviews of solicitors on Mumsnet which I guess you don’t use.”

.... And there is probably a difference between Trustpilot and a legal forum but everyone is entitled to post their own comments.”

Family, vulnerable circumstances, not at all confident

“Trustpilot might have a bit more credibility and I certainly do look at reviews of companies not people. I agree it is the way forward because people are going to expect it as the first contact and recommendations. You mention the legal sites that we may not be familiar with and I think they would have more credibility in my eyes.”

Fraud, not vulnerable, somewhat confident

“I must admit I have mixed feelings about this. I think it’s OK for everyday products and I do use [comparison sites for that reason]. For something like this I am not so sure because it’s such a serious thing. Technically the same purpose as what the others currently do but a more serious appearing website.....A bit more serious, not so commercialised that’s what I mean.”

Probate, not vulnerable, not at all confident

3.2.5 Initial engagement

Expectations

Most clients interviewed– 42 out of 50 - were coming from a place of little or no knowledge of the legal process in terms of what to expect, especially those categorised as ‘Not at all confident’ in the research. Many clients were inexperienced and were not clear on the difference between solicitor and barrister at the start of their legal matter and their impressions of barristers were often formed by fictional portrayals in the media (‘austere’, ‘intimidating’, ‘stuffy’, ‘educated’, ‘busy’, ‘knowledgeable’, ‘hoity toity and unapproachable’, ‘highly regarded individual’).

Another expectation mentioned by six interviewees was that the barristers would be expensive. Six interviewees admitted that they could not offer any thoughts on their expectations as they just did not know what to expect having never been through anything like this before. Seven interviewees had previous experiences of barristers but, for all but one of these, this experience had been many years ago, so they only had limited recollections of these experiences which offered little help to them on this occasion.

Initial meeting

Clients’ thoughts given in the interviews on their initial meetings with the barrister were broadly positive, and most participants felt barristers were able to create rapport and a

sense of understanding of the client's situation, even when the client was clearly less confident about the legal process. So although many clients were not fully aware of the legal process and low in confidence, barristers were generally able to put people at their ease. This is in contrast to the clients' previous expectations of barristers noted above.

Many barristers were able to clarify roles and responsibilities, and how the client should conduct themselves during the case for example on social media or in court.

"He was down to earth, approachable, he knew what was going on. Experienced. I felt confidence in him."

Criminal, not vulnerable, somewhat confident

"My solicitor recommended him and as soon as we met I knew. He handled the initial meeting so well. He had it all mapped out. I knew he was the right person. So approachable."

Property, not vulnerable, not at all confident

"He was really nice and supportive, he explained everything to us."

Litigation, not vulnerable, somewhat confident

The research indicates that aspects of barristers' conduct welcomed by clients included:

- Being friendly, approachable, empathetic, feeling like they are 'on your side'
- Asking questions that clearly demonstrate their understanding of the case and the case history
- Balancing the need for the client to 'tell their story' compared to identifying what is actually a legal point that can be used in court
- Giving specific and realistic advice even though it may not be welcomed
- Being clear on what evidence may be needed and how this is presented
- Provide clarity on potential outcomes
- Explain the court process, step by step, and what to do/not to do eg shouting out

Participants generally felt that the barrister made it clear what the legal process was. The format of the meeting doesn't seem to play a part - while some clients seem to prefer face to face, they also accepted that this was for personal reassurance rather than impacting positively on their legal outcome.

"He was very good - he was able to refer to many other examples of similar cases he had been successful with and that all helped to convince me that things would be as good as they could be."

Medical, vulnerable circumstances, somewhat confident

“I was impressed because although she will have been sent documents by my solicitor she still listened to me from scratch and it felt like she wanted get my experiences. It felt like she knew more about the issue than my solicitor, the intricacies of it all. ... The meeting felt like it would last as long as I wanted and if I had got what I needed.”

Probate, not vulnerable, somewhat confident

3.2.6 Delivery of services

Roles of barrister and client

The legal process can feel quite passive for most, even those who are more confident users of the legal system. Most interviewees played a limited role in the legal process once the barrister was involved: apart from providing a barrister with any documents and other materials where relevant, such as photos, recordings, at the start they did not have to do much nor were they asked to do anything. Most interviewees accepted this because they saw the barrister as the expert professional and the one that knew how to navigate the legal process. It could also be because they did not know what to ask, although this specific point was only mentioned by three interviewees.

The research suggests that the uncertainty of a court experience and being involved in contentious matters may contribute further to the passivity of the client. The clients were less familiar with using a barrister than with a solicitor and the relationship is briefer and with less back and forth than with a solicitor (for example reviewing documentation) in many situations – perhaps making it more difficult to judge quality of service compared with a solicitor.

“I felt slightly detached from the whole process by choice. I wanted them to advise me, I'll sign here, pay for that and not think about it.”

Family, not vulnerable, somewhat confident

“The actual process seems like a bit of a blur, but there was a lot of support. A lot of reassurance.”

Employment, not vulnerable, somewhat confident

“Yes...to an extent. They kept it quite basic so I could understand it. It's so complicated, they didn't want to confuse me. If I spent more time with them, that would become apparent but there is a cost factor. Getting everything I needed to know in a short time frame, I wanted to keep the timings short to minimise the cost.”

Family, not vulnerable, not all confident

“I think so. We both knew that it could be distressing and a difficult time but he reassured me again that he would lead the case and he would deal with most of it and I would probably not have to say much.”

Landlord/tenant, not vulnerable, somewhat confident

Information from the barrister

A large majority (40 of 50 interviewees) felt that they were provided with enough details by the barrister about the legal procedures involved, the workings of the court, the steps involved, and possible outcomes. How these details were provided to clients did vary with no one approach standing out. Examples included written documents at the start that provided details of each step in the legal process and possible outcomes, regular emails on next steps in the process, verbal communications on the steps involved.

Only a few barristers (12 out of 50) gave specific details of how long they thought the legal process might take and a small number of interviewees (8 out of 50) suggested that, although they had no indication of timescales from the barrister, they were expecting a quicker resolution of the legal matter.

Concerns expressed by eight interviewees were:

- Two only met their barrister on the day of the court appearance with limited contact before that and they felt that this was not enough time to cover all the details.
- Two said that their barrister did not give them enough advice on possible outcomes.
- Two felt that they only had brief details and expected more.
- Two did not get specific details from their barrister, ie one said that she was not informed that she had to come back to court at a later date, one said that some important documents had not been sent to her. The former was a public access client and the latter had been referred by a solicitor.

The other two interviewees thought that they had been given enough information but they pointed out that it was difficult to gauge never having been through the process before: “but I don’t know what I don’t know.”

Examples of good practice given by barristers’ clients in terms of managing their expectations of their legal matter were:

- Taking enough time at the first meeting to explain everything
- Providing a diagram at the start with all steps in the process detailed
- Being available for follow up emails, WhatsApp conversations
- Expressing themselves clearly in layman’s terms and avoiding legal jargon

- Taking time to build a rapport and understand their personal situation
- Explaining what may happen 'along the way' in terms of court process, hearing or mediation
- Providing clear information on pricing at the outset
- Advice on how to conduct themselves on social media and in court if necessary
- What documents, paperwork, photographs and any evidence to prepare
- Providing clarity on the legal position and potential outcomes/pitfalls.

Vulnerable clients

From this research, it appears that barristers are often able to recognise and deal with vulnerable clients effectively and clients therefore receive a level of service that is adapted and tailored to their particular needs. Respondents who expressed some kind of clear vulnerability felt in the main that their barrister was able to accommodate them, for example arranging meetings at a location close to home if the client is unable to travel. However, this does rely on the client being able to articulate this requirement and being empowered by the solicitor to contact the barrister directly which we found wasn't always the case.

It is when vulnerability is combined with a lack of confidence in the legal process that extra support can be needed. Respondents in this group, are the least confident going into the legal process. These clients require more time from their legal advisors, more provision of information and support and more practical explanation. Out of the nine 'vulnerable circumstances' clients, seven were also 'not at all confident'. Two clients in this group had a negative experience of their legal matter, which mainly came down to poor communication from the barrister in one instance, and a poor and expensive service from a solicitor in the other case.

"She was very sympathetic and I think she has gone beyond her professional requirement. Always there if I need to talk and has really been supportive. I can talk to her one to one easily."

Immigration, vulnerable circumstances, not confident at all

"He started off ok, but empathy was absent from the beginning, he was cold from the start. He didn't relate to how I was feeling. Kept saying I can't deal with you like this".

Employment, vulnerable circumstances, not confident at all

There was also an acceptance and understanding, by three respondents in the interviews and two in the focus groups, that the barrister is a qualified legal professional and not always required to provide emotional support and empathy.

“They are not there to be your friend, get you out of a big pickle, they are busy. They are providing such a unique service, professional courtesy is expected. I'm not going for counselling, I don't want them to hold my hand.”

Employment, vulnerable circumstances, somewhat confident

In one focus group the discussion moved on to a related area – awareness of and dealing with mental health issues. In other words, should barristers be expected to be able to deal in an empathetic way with client anxiety and stress issues, or do more? How do you know if a barrister is right for you and they can deal with any anxiety issues you might have? The general conclusion in the group was that barristers should be friendly and aware of any problems but they cannot be expected to act in the same way as, for example, carers or health professionals.

A handful of clients in vulnerable circumstances interviewed (five individuals) were also supported by qualified intermediaries as part of their legal process for example, social worker, counsellor, women's refuge workers, and the research indicates that these individuals can help vulnerable clients access legal services more effectively.

Confidentiality

When interviewees were asked if they were confident that the details they provided to their barrister were kept confidential, all but two said yes. Over half of those interviewed (27) said that this was explicitly stated by the barrister at the start of their relationship while the other 21 just assumed that their details would be kept confidential or could not remember if this had been mentioned at the start. As for the other two interviewees, one said the confidentiality issue had never crossed his mind and the other said that she did not care if it was confidential or not and might prefer the case to be made public.

Cost of using a barrister

Some participants (eight) mentioned the disproportionate expense of the legal process. Most felt it was a worthwhile spend in the end, considering their outcome and the service provided by the barrister. Several barristers were flexible on costs, for example by offering fixed fee pricing, and were sympathetic and flexible when faced with financial difficulty. Clients, however, felt they had to balance the need to get all their questions answered with a worry that the 'meter is running' on costs.

Non-internet clients

Not everyone has Internet access, or feels comfortable using digital services, and the research included four interviewees that fell into one of these categories (two in each category).

Of course, this is a very small sample but we felt that it was important to obtain some feedback from these categories although the results can only be a general guide to any issues that may have arisen.

All four individuals were 'not at all confident' and three of the individuals had some difficulties with the legal process and their barristers. Three of the four were referred to a barrister by their solicitor and one was a public access client. All four used barristers based in their local area. While this in itself was not seen as a disadvantage by the individuals, ie the lack of choice it might have created, they all wanted someone local to be able to meet in person.

For one individual (a referred client) the process ran smoothly, and more smoothly than expected, and this person was very satisfied with the details given by the barrister about the process and the understanding of the barrister. They therefore felt there were no problems with the process.

The other three individuals all had issues relating to the communications from their barrister, and either the lack of empathy or perceived lack of interest from the barrister. Two highlighted a lack of regular updates and a lack of response to telephone calls (one referred and one public access). The other person felt that it was impossible to build up a relationship with her barrister as the barrister was never available and failed to respond to messages. Just one individual continued the legal process during Covid-19 and had clearly struggled from a delay as she could only take part in a physical court hearing.

“Telephone, and face to face. We are still talking on the phone regularly but it's hard not knowing when it will be resolved especially as Covid-19 has stopped some court proceedings.”

Immigration, vulnerable circumstances, not at all confident

“I haven't got a laptop or an Internet connection at home - I did at work but couldn't use it for this and I am not that great anyway at these things. So it was all personal meetings which I preferred anyway and a couple of calls. It was finished just before Covid-19 and I would have hated that if I had to think about Zoom and things like that.”

Probate, vulnerable circumstances, not at all confident

“No, I felt completely out of the process and was very unhappy with the responses I was getting but I couldn't really do anything apart from storming into chambers! That wouldn't have worked - they would have said she was busy. I only saw her next at the

court when we had a meeting before we went into court but it was awkward for me but she seemed to not notice any problem.”

Litigation, vulnerable circumstances, not at all confident

3.2.7 Court hearings

Initial impressions and understanding

Of the 40 interviewees going to court or taking part in a virtual court hearing, 35 stated that they had enough information and guidance from their barrister in advance about the proceedings. In general, barristers outlined the court process and stated that they would deal with all the proceedings and that was the extent of the information provided. Detailed breakdowns of the barrister’s duties in court were not given.

There were five interviewees that felt that they did not have enough information or advice in advance of the hearing. More details are given later in this section when pre- and post-Covid 19 hearings are described.

Seven focus group participants had been through a physical court and the feedback mirrors the interview comments: comments such as “daunting at first” and “mind blowing” reflected the initial impressions of the hearing but everyone was happy with the way their barrister helped them through this and dealt with any questions they had.

“Yes he gave me a specific call before the hearing - asking me if I wanted to attend and told me what I could and couldn’t do and that was very helpful. The case has been going on so well, I felt included in the process. I want to hear the arguments and understand the positions. No more could be done to help me understand. There is a lot of information to take in, back and forth, before the hearing. A website of information would be useful provided by the court - guidance on what to expect, how to behave.”

Property, vulnerable circumstances, confident

“Yes she explained the court proceedings really well and then gave me a little brochure from the chambers that had questions and answers about the day in court which I thought was a good thing. It was written in a really simple way and friendly tone.”

Property, not vulnerable, somewhat confident

“He only went through what was likely to happen in the court on the day but he did spend a lot of time on this. He said he hadn’t done it before because he didn’t want to leave it with me to think about for too long. I was really nervous but he did say that it would be him that would be doing the talking. My solicitor was there as well and he said if I wanted to ask anything or check on anything to ask him. It felt like that they were really professional and on top of everything.”

Employment, vulnerable circumstances, not at all confident

“I did want to see him before the court date but I just couldn’t pin him down and he said that it would be enough to see him on the court day early. Again this did not make me feel great about the process as I had no idea what to expect at court and what I would have to say. It often felt like he was too busy to think about my case or even that he had more important cases to think about.”

Property, vulnerable circumstances, somewhat confident

Several clients – five interviewees - said that they would have preferred additional ‘face to face’ (in person or virtually) contact with their barrister before the hearing, mainly as extra reassurance. Although barristers didn’t always offer this additional support clients did recognise that it was purely for their own reassurance and wouldn’t necessarily have a bearing on their legal outcome or make a difference to their perceptions of the quality of service they received.

“I would have felt better if I’d been able to meet him earlier my solicitor has always been available, port of call, but there are some things that would have been better from the barrister. It wouldn’t change anything but give me more peace of mind. strength and reassurance.”

Criminal matter, not vulnerable, somewhat confident

Pre-Covid 19 and Post-Covid 19

The interview feedback was similar for those involved in a court hearing before Covid-19 and after the pandemic took hold in March 2020; both pre- and post-Covid respondents were generally satisfied with the support and information they received before their court appearance.

Pre Covid-19 (26 interviewees) – all but three were satisfied that they had enough information and guidance before the court appearances. Most were given details verbally by the barrister, with just one having some written details as well. In many cases, the guidance was relatively brief and clients were told to leave the talking to the barrister. Three interviewees felt that they did not have enough advance information and two said that this was because they only met their barrister on the day of the court appearance and their consultation was rushed. The other client felt that the barrister was expensive and had to keep her consultations in advance to a minimum.

Post Covid-19 (14 interviewees including those starting before March 2020 and those after) - all but two felt that they had enough information before a hearing including specific guidance on any virtual hearings, for example how the virtual proceedings would work, how to contact barrister during hearing if needed. One was

given a print-out in advance explaining the proceedings but all the others were given verbal guidance. The two that felt that there was not enough information in advance both stated that they needed more information on the technicalities of running a hearing virtually.

Most were comfortable with remote hearings compared with a physical court date, in fact most actually preferred a remote hearing because it was more convenient, logistically less challenging (parking, childcare, travel), more informal and less traumatic, despite the odd technical glitch. Several felt that legal professionals appeared more accessible by Zoom or in a home environment. Covid-19 did not seem to significantly derail the process - although it meant things took longer than originally intended in several instances. Most were familiar with Zoom and able to conduct their case remotely without difficulty, and their barrister was able to support them with this if necessary.

The focus group participants that had been through a virtual hearing or consultation were also comfortable with the way that these had been conducted. However, there were three participants that would not accept a virtual hearing and would expect to have their day in court. The reasons for this include the facts that the judge can see you directly and you can consult easily with your barrister.

Table 6: Virtual hearings – examples of useful and not useful features

Virtual hearings	Examples
Useful	Information booklets or PDFs on ‘what to expect’; Offers to go through technology with the client first or in advance of hearing; Having WhatsApp contact on a phone at the same time as online; Making the participant feel included; A consistent experience each time.
Not useful	Inability to pass a note or tap on the shoulder – replaced by WhatsApp or texting; Loss of body language/reaction indicators; Less confident clients found it more challenging to speak up in a Zoom call with solicitor and barrister than face to face.

Source: IRN Research In-Depth Interview Survey, February – March 2021

Pre-Covid 19 comments

“We had 3 court appearances in all and before each one he explained how the process would work. In the first time this was really reassuring as all I had seen before were court scenes on TV. It was definitely more in depth than that. He also said that if I needed a break at any time or concerns at any time to just ask. I wasn't expecting to have to do much in the court and this was true.”

Family, vulnerable circumstances, not at all confident

“We met and went through what the hearing looks like, who would be there, opening speeches, running order. On the day I was comfortable. I was grateful for that. he went into detail about legal stuff and case law - it went over my head. some of the stuff he had told me about in advance. human rights argument. he did explain that he would run through anything at the break. what may impact/not impact. the actual process seems like a bit of a blur, but there was a lot of support. a lot of reassurance.”

Employment, not vulnerable, somewhat confident

Post-Covid 19 comments

“During lockdown the Zoom has been good. Over the phone is ok but it's better to see a person's face to see how they are receiving you. The face to face in court is fearful. Zoom is much better, takes the fear away. [In court] everyone is going well out of their way to attend, logistical nightmare. More settled to do it from home.”

Family, vulnerable circumstances, somewhat confident

“As I was worried about the virtual court we had a run through before on my laptop and this went well so I felt much better after this. My barrister even talked around the things that he would say and might be said in court and asked if I felt comfortable with all that. I had been through the details of the case many times before so by then I think everything was covered.”

Personal injury, vulnerable circumstances, not at all confident

“Zoom was very good - we had started using it in the business quite a few months before Covid so I was comfortable with it and the barrister seemed comfortable too.... I couldn't have asked for more communications and updates - really good.”

Immigration, not vulnerable, somewhat confident

Focus group comments

“I don't mind a virtual hearing if my barrister and I are in the same location. If there is something we don't agree on that I could pass it on a post-it or a note to him there and then rather than wait for an adjournment.”

Family, vulnerable circumstances, not at all confident

“I think everyone should have a day in court. I think the judge gets the feeling for the people in the court and the judge gets a better sense of the people they are dealing with. There are delays and technical issues. If it’s something serious then everyone should be in court with their barrister.”

Family, not vulnerable, somewhat confident

Enforcement

A small number of clients (three) expressed surprise and disappointment that the court doesn't have more enforcement powers, for example when the other side doesn't follow a case management order. Some felt the courts could be more 'watertight' or for judgments to be 'locked in'. There were several situations when the client had a judgment in their favour but the other party was still not complying with or ignoring the judgement and this lack of consequence, after the whole process and the cost involved, was disappointing.

“I thought there would be more enforcement to it - that the court would insist on certain things. We are relying on [the other side] volunteering things and [they] ignore requests for information - there is no consequence for this. I was expecting a bit more enforcement. It's an absolute money pit.”

Family, vulnerable circumstances, not at all confident

“I have a judgment but nothing has happened. The [other side] has to review and produce by 29 October. They are not replying to letters, no contact whatsoever they have just left it. I am in limbo. It affects everything. I need to know in order to plan for the future. I wish there was a timescale, enforcement period would be needed. It seems to be the status quo in this country.”

Property, vulnerable circumstances, somewhat confident

3.2.8 Quality of service

Understanding and evaluation of service quality

Based on their overall experience of using the barrister, and trying to ignore the outcome of a case, interviewees were asked how they recognised a quality service and whether they felt that they had received a quality service from their barrister.

The majority of interviewees had a positive evaluation of their barrister, with seven people out of 50 describing a negative experience with their barrister. Personal qualities go a long way for clients, such as their barrister being approachable, not intimidating, friendly, responsive, with the ability to listen and instil confidence about the journey.

“If you didn't get on with him or he didn't like me then you couldn't do the job. He becomes a part of your life for the case....an extension of you in court.”

Property, not vulnerable, not at all confident

When asked about whether they felt that they had a good service, respondents were able to evaluate this separately from their outcome and talked about a range of indicators led by professionalism, approachability and friendliness, accessibility, and experience/knowledge. The ten indicators mentioned most often are listed in Table 7.

Table 7: Quality indicators mentioned most often

Quality Service Indicators	Number	Themes
Very professional	11	Explained the process, clarity of advice. Dealt with the legal process efficiently. Went beyond professional requirements
Approachable, friendly and empathetic	11	General themes from the interviews were: Clients felt that they were listened to and were included in the discussion about the case; the barrister built up a good rapport with the client; patience of barrister.
Accessible	7	Always available to talk to. Always there if needed. Direct line, mobile access in some cases. Close by.
Experienced & knowledgeable	7	Barristers understood their case, had experience of similar cases.
Prices	6	Fixed fee agreed at the start. Offered flexible payment options, staged payments. Some others helped to reduce price.
Timeliness	5	Legal matter completed quicker, more smoothly than expected.
Trustworthy	5	Clearly on your side, in good hands. Honest about progress and any issues.
Instilled confidence	4	At an early stage, made clients feel more confident. Some became more confident as the case developed.
Supportive	4	Barrister was comforting; discussed shared personal experiences.

Good representation in court	4	Main theme was barrister covered all key points in court and dealt effectively with any questions from the other party.
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Source: IRN Research In-Depth Interview Survey, February – March 2021

Three of the top four indicators listed below echo the results from the Legal Services Consumer Panel where consumers in three focus groups talked about professionalism, empathy and accessibility as central to their perception of quality in their own legal provider²¹. Recent LSB research, reporting on qualitative research with 69 consumers in online discussions and 19 in focus groups²², noted that “the more intangible quality of ‘rapport’ with an advisor was a key aspect of the customer experience. It was important that the chosen provider understands and shows empathy for their issue (particularly in emotional and high-stakes situations, such as divorce, employment and criminal issues). Participants also wanted to know that the legal advisor they chose would ‘be on their side’, would listen and would use language that was easy to understand.”

“I would say he did everything he could. And I said he was very professional and always available. I didn't get the outcome I wanted but I couldn't blame my barrister for that.”
Landlord & tenant, not vulnerable, somewhat confident

“Satisfied with his legal experience. Yes, we had a good service. He knows immediately what is going on. It is almost as if I am his only client and he knows everything...He makes us feel like we are his only clients.”
Property, vulnerable circumstances, not at all confident

“Yes most definitely. The arguments he raised, fell in line with my arguments. He picked up on other things that I wasn't aware of. Professional experience very good. My barrister had the background. He had read those points and understood and he was making sure that I felt comfortable. He was very clued up, I wasn't expecting that. I just relaxed from the first minute I met him. I felt very taken care of.”
Property, vulnerable circumstances, somewhat confident

“Yes very good. First, it was fixed fee - I was worried before this all started as I knew I had to do it but thought it would take all my savings but it was reasonable. And the payments were staged. As I said, he was professional and listened to everything and explained things really clearly. There were no extra costs or things brought up along the way so he kept to what he had said at the start. It just felt good to be in the right hands.”
Immigration, not vulnerable, not at all confident

²¹ Legal Services Consumer Panel (2020) *Consumer feedback on quality indicators in legal services*

²² Legal Services Board (2021) *Quality indicators in legal services*

“Yes good. He did everything he could to help my case and there was no hiccups or delays. I felt he knew his stuff from day one and always treated me as a human being that was going through a really bad time.”

Employment, vulnerable circumstances, not at all confident

For four of the seven interviewees that had a negative experience, the main issue was that their barrister did not engage enough or build up a relationship with them and, as result, they felt that he/she was not involved enough in the legal matter to be helpful. Two interviewees noted that at times the service they received was non-existent, ie no updates on progress, sometimes too busy to talk, missed important issues/documents. The other interviewee said that she had a feeling that her barrister did the minimum he had to but could have done more if he had been ‘enthusiastic’ about her case.

“Very poor. I don’t see how he can offer a good service if he doesn’t involve himself more in the case than he did. I am still angry about how he treated me as the client....He was actually OK when we got to court and represented me pretty well so I should say that but the service before that was not good enough.”

Property, vulnerable circumstances, somewhat confident

“It was almost non-existent and I still don’t understand why that was the case. I have tried to think about it before this call and for the life of me I just don’t get it. Wouldn’t it have been more effective to be communicating more? And on the few occasions I did talk to her she was just not that easy to talk to.... I just felt that she thought she had done her bit at the start and now it was all about an administrative process and let’s get it done.”

Litigation, vulnerable circumstances, not at all confident

Relationship with the barrister

Interviewees were asked to describe their relationship with the barrister and her/his approachability and empathy. The main answers mirror the leading answers given in the previous section on quality indicators, ie professional; friendly, empathetic, and approachable.

There were nine clients that described their barrister as ‘professional’ and eight that said their barrister was ‘friendly’. ‘Approachable/very approachable’ was a description mentioned by five. Other answers were ‘easy to talk to’ and ‘empathetic’ (each mentioned by four), and ‘went beyond what I was expecting/went the extra mile’, ‘gave the impression that he/she knew what they were doing’ and ‘supportive’, each noted by three interviewees.

A theme mentioned by 10 interviewees was that their barristers “talked to them on their level” and with no legal jargon. Some of these interviewees were genuinely surprised by this.

“Amazing, better than I thought or expected. He wasn't patronising or intimidating. He didn't make me feel like he was above me, on the same team. I respected him.”

Fraud, not vulnerable, not at all confident

“Excellent. She came across as human, talked on my level - you know my knowledge is still limited - and happy to spend time discussing anything that I brought up. She was a very warm person.”

Probate, not vulnerable, somewhat confident

The seven interviewees that had some negative experience (discussed in the ‘understanding and evaluation of service quality’ section) also expressed concerns about their relationship with their barrister. The main comment – mentioned by five clients – was that their barrister showed no empathy. Others felt that the process seemed transactional and no real relationship was created.

For the small minority of clients who did not have a positive experience the reasons were when the client felt that the barrister:

- was unable in the time available to create rapport or establish a sympathetic relationship, able to demonstrate an understanding of the history of the matter (2).
- was unprepared for the hearing, either late or disorganised (2).
- did not respond to client emails or communicate at a satisfactory level (2).
- did not keep details of financial matters confidential (1).
- was not clear enough on potential outcomes at each step of the process (1).
- was not being fair by sending a replacement barrister at the last minute (1).

“I didn't know I wasn't supposed to deal with barrister one on one. I don't really understand that protocol. I emailed them back with the questions I had and he did come back to me and say I have no problem with you approaching me directly, but it's not the correct protocol, it should be via the lawyer.”

Employment, vulnerable circumstances, not at all confident

A small number of clients in vulnerable circumstances (two) sometimes had a less positive experience with their barrister and felt they lacked the reassurance that they needed from their legal advisors. What perhaps is for the barrister, professional distance, for the client, especially those less confident or vulnerable, can be perceived as a lack of empathy.

Participants were not always clear on the nature of the relationship between solicitor, barrister and themselves and how to manage and respond to communications. In some instances the client was enabled by the solicitor to access the barrister freely and directly, in other situations the solicitor controlled access and managed the communications back and forth. For some clients this was confusing.

“We met initially via email, I was cc’d between solicitor and barrister. I didn’t know I wasn’t supposed to deal with barrister one on one. I don’t really understand that protocol.”

Employment, vulnerable circumstances, not at all confident

“Me, [the barrister] and two solicitors in their office... It was very intense. I asked for her email address and was told by the solicitors that it had to go through them.”

Family, vulnerable circumstances, not at all confident

“The solicitor has been the middle ground, barrister won’t talk to me. We have a WhatsApp group so when we are in court we can communicate simultaneously.”

Family, vulnerable circumstances, somewhat confident

Overall satisfaction and outcome

Most interview participants were satisfied with the level of service they received from their barrister and this was largely unrelated to whether they had received a positive or negative outcome for them personally in their legal matter. Although barristers didn’t necessarily conform to clients’ initial expectations in some instances, (mostly due to perceptions being shaped by fictional portrayals of barristers in visual media) most clients were pleasantly surprised by the capability and level of understanding shown by their barrister and the purpose they brought to the case.

A consistent theme emerging from the research is that going through the legal process itself is informative and educates people.

“Like anything as you go along you get less emotional, better equipped. It becomes less scary.”

Employment, vulnerable circumstances, not at all confident

“You learn so much about the law through the process.”

Employment, not vulnerable, somewhat confident

“Sometimes not everything went to plan. it was a learning experience. We got the knowledge afterwards.”

Property, vulnerable circumstances, somewhat confident

In the brief email survey sent to interviewees after the core fieldwork, 16 out of 28 replying agreed that “at the end of the legal matter I felt I understood the legal system better and would be able to navigate the legal system more successfully if there was a next time.”

Similarly, 14 clients agreed that participating in this research gave them new information about the legal process. The questions included in the email are given in Annex E.

3.2.9 Redress and complaints

Some aspects of the legal services market mean that clients can be reluctant to complain. Recent data from the latest Tracker Survey in 2021 from the LSCP²³ reports that 44 per cent of clients do not know or are not certain of how to make a complaint, and 36 per cent of clients dissatisfied with their legal service are unwilling to make a complaint. In this research, the majority of interview participants across all categories of confidence were satisfied with the service from their barrister and with the outcome of their legal matter.

“100 per cent good service and no complaints at all. Did everything he said he would and charged me a price that was agreed at the start and no add-ons. The best thing I can say is that I would recommend to others.”

Medical claim, vulnerable circumstances, somewhat confident

A small number of the less confident and more vulnerable clients felt the process was ‘stacked against them’:

“If I take the legal process from start to finish, I have a really negative view about it all. I know justice systems abroad in some places can be corrupt and I was expecting more here. The solicitor and first barrister were poor and not as professional as they should be - I am still considering a complaint. It feels like a game for rich people.”

Family, not vulnerable, not at all confident

Whilst supporting organisations indicated that clients worry that complaining might disadvantage them, for example by leading to a delay in the resolution of their case, this wasn’t evidenced in the small sample we engaged with (although our sample had few clients involved in immigration services which is an area where clients are much less likely to make a complaint according to comments from supporting organisations). What the research did identify is that there is some uncertainty about how to challenge a legal

²³ Legal Services Consumer Panel (2021) *Tracker Survey, How consumers are using legal services*

advisor in a formal or official complaint process. Those with low legal confidence, or who perceive the justice system as inaccessible, were more likely to do nothing in response to being dissatisfied.

“I am thinking of making a complaint about the solicitor but do I want more stress when I am not exactly sure what I am doing.”

Family, vulnerable circumstances, not at all confident

“I wouldn't gain anything by complaining. I don't want to be spiteful. No point logging a complaint. Might as well use that time to research someone else.”

Employment, vulnerable circumstances, somewhat confident

4. SUMMARY AND CONCLUSIONS

This research gives an insight into the experiences of clients using a barrister. A clear majority of clients in the research had a positive experience of using a barrister's services with just seven out of 50 interviewees expressing some misgivings on the services. For most, this positivity starts with the initial consultation with the barrister and continues through the legal process. A recurring theme is that in the initial consultation the barrister gave them more confidence, reassurance, listened to their specific issues and seemed to understand their situation.

It was also clear that both interviewees and focus group participants identified some common themes regarding good service with phrases such as professionalism, approachability, and friendliness mentioned frequently. Notably competence in law did not appear as an indicator of good service: this could be because it was assumed by all and consumers generally find it difficult to judge this aspect of quality, especially so as not all interviewees had concluded their legal matter.

Throughout the client journey there was limited client awareness of the choices available when selecting a barrister, the role of a barrister in the legal process, and a barrister's specific duties and responsibilities. More work is needed on educating many clients on the options for choosing a barrister and on barristers' specific roles and responsibilities.

Drilling down to some more specific responses on client experiences, the feedback offers some evidence to inform BSB's potential reform of Code of Conduct expected of Barristers. The Code of Conduct (Part 2 of the BSB Handbook)²⁴ sets out the Core Duties which all barristers are required to comply with, and these Core Duties underpin the BSB's entire regulatory framework. The Code of Conduct also sets out more detailed outcomes, rules about what barristers can and cannot do, and guidance for barristers.

The conclusions are described by referring to the consumer's client journey categorised in four stages as initially detailed in the BSB's immigration thematic review²⁵. The four stages are – Identifying (first awareness of a problem and identifying it as a legal need) Choosing (deciding upon a response to that problem and selecting a provider to assist) Receiving (engaging that provider and receiving legal advice/representation) and Follow up (satisfaction with service, escalation of any issues, and providing any feedback).

²⁴ <https://www.barstandardsboard.org.uk/the-bsb-handbook.html>

²⁵ Bar Standards Board (2016) *Immigration Thematic Review Report*

Stage 1- Identifying a legal problem and deciding on a course of action

The research has shown that very few clients are completely confident that they can deal with the legal matter when they start to use a barrister. For most, it is a completely new experience, often stressful and with an uncertain outcome. The legal process itself can create anxiety and mental health issues. The research therefore suggests that in these circumstances there is a case for treating every client as vulnerable to some extent or at least having a system where barristers can assess vulnerability. Barristers could use a checklist when they engage with a client for the first time to assess if the client is in vulnerable circumstances.

Clients do not have a great deal of knowledge and understanding about using a barrister and the role a barrister takes in the legal process. For example, interviewees admitted they weren't always clear on the differences between solicitors and barristers. Interviews highlight that many of those using a barrister are not experienced in legal matters certainly not at the stage where a barrister becomes involved, can be intimidated by the process and don't always know the right questions to ask barristers. This research therefore suggests that there is a clear need to increase awareness amongst clients of the role of a barrister in the legal process and, when referred, the relationship between the solicitor, barrister, and client.

Stage 2 – Choosing a barrister

Referral by a solicitor

Many clients who are referred by a solicitor are referred to just one barrister: a barrister is chosen for the client without any client input and many referred clients are not aware they have a right to choose from more than one barrister.

While the referral to just one barrister does not seem to have impacted on the efficiency of the advice given for most clients, there may be an opportunity to involve clients more in this early decision to select a barrister. The solicitor could do more to help clients understand barristers' duties and roles, and to make sure that the client is satisfied that they have a barrister that fits their specific needs. Solicitors could be asked to give at least two or three recommendations of barristers to their clients and direct them to some trusted information sources. This could encourage clients to undertake their own research and make an informed assessment of the quality or suitability of the barristers

they are recommended. This primarily relates to the code of conduct for solicitors but it may also be an area where the BSB and SRA can explore solutions together.

Quality indicators

Focus group participants were asked to identify the quality indicators they would consider when looking for and choosing a barrister. While experience and knowledge along with the length of time practising in a specific practice area were seen as important, a trade-off between these indicators and the price of the legal advice also emerged: the analysis of websites by participants showed that some barristers with less experience than others offered a lower fee option than more experienced barristers. Some mentioned that they had limited budgets and would have had to choose a less experienced barrister to stay within budget.

Both the interview and focus group responses show that DCTs are hardly used by those needing to find a barrister, partly because there are only a few DCTs around that have barrister reviews and also because, for focus group participants, they were not aware that these reviews exist. However, focus group feedback (although this consisted of a small sample) suggest they would be used if available and especially if they were operated or monitored by regulators.

Focus group results also show that when individuals look at chambers' websites, most find them really useful for barrister information (experience, previous cases etc), services information, and price details if available so there is a case for directing individuals to these sites as part of the decision-making process. Clients do not routinely look at these websites when making a choice of barrister.

The points above therefore suggest that if more is done to promote the use of barrister's websites by clients, and encourage and support the use of DCTs, this would help to promote the best interests of those using barrister's services at the early stages of the process. These options would help to create more transparency and encourage many clients to be more than just passive consumers and thereby potentially have a better outcome. This research offers some evidence that legal services clients would use DCTs so if legal services regulators decide to support the expansion of DCTs then there should be a clear emphasis by the BSB on helping barristers and chambers to embrace DCTs and manage their presence on these sites.

Regulation – client understanding

The research shows that many clients are unlikely to dwell too much on regulation and complaints procedures when they are starting an unexpected and sometimes stressful legal matter. This suggests that more work is needed on educating clients regarding regulation and redress at an earlier stage. Chambers and barristers should also ensure

that information on regulation and complaints procedures are prominent on their websites, in emails and printed materials.

When interviewees were asked what they understood regulation to involve, most associate regulation with a certain level of professional conduct and standards, plus the holding of appropriate legal qualifications. Hardly any interviewees mentioned that regulation could also offer an opportunity for client redress if a service is not acceptable. However, hardly any interviewees could recall any regulatory details given to them by their barrister but most assumed that barristers would be regulated.

A slightly different question was asked to focus group participants, ie what does regulation mean to you as a consumer – and responses here did emphasise the opportunity to make a complaint and to obtain redress.

Focus group participants said that in their analysis of the websites in advance of the groups, regulatory information was hard to find and, in some cases, nothing was found at all. This suggests that it could be valuable to make regulatory details should be more prominently displayed on websites from chambers, or do more to raise awareness of barrister's regulatory status among those using their services.

Regulation of conduct

One of the ten Core Duties in the Code of Conduct states that “You must not behave in a way which is likely to diminish the trust and confidence which the public places in you or in the profession.” A specific question in the interviews asked how far barristers' conduct outside of work should be regulated. Only twenty of the fifty interviewees felt that all conduct outside work should be regulated although another twelve said some should. However, there was consensus that serious criminal activity plus discriminatory comments and behaviour should be covered. Most clients are clear that these would have a negative impact on the trust and confidence that they would have in barristers.

Stage 3 – Receiving legal advice and representation

At the start of their engagement with a barrister, most clients have little understanding of a barristers' duties and how the relationship will work. The research suggests that most barristers are diligent in reassuring a client at an early stage, explaining how the legal process will work, and working in the best interests of the client.

However, there could be more clarity from some barristers in the area of client confidentiality. While over half of interviewees said that details about client confidentiality were explicitly given at the start by the barrister, and some barristers make this clear in documents or communications sent to clients, other clients have no

recollection of this being the case but make an assumption that their details will be kept as confidential.

Key indicators of a good service, according to interviewees, are: professionalism; approachability, friendliness and empathy; experience and knowledge; accessibility. The first three of these are the same indicators identified by the recent LSB research²⁶ and LSCP research²⁷ highlighted in Section 3.2.8 on quality of service.

It appears that a body of evidence is beginning to emerge regarding what clients perceive as key quality indicators and these indicators seem to be mentioned across all client groups. More information could be circulated about what indicators clients see as good service and this information could be passed to barristers and chambers to help monitor and improve their client services, supported by examples of best practice in this area.

The findings of the research indicate that the split of tasks between a barrister and their client means that the client is not asked to do much through the legal process: most clients are asked to provide all relevant documentation and information they have at an early stage and then the barrister takes over.

Court appearances

A large majority of those clients facing a court appearance, either a physical attendance or a virtual hearing, felt that their barrister gave them enough information and guidance about the protocols and procedures involved. A small group of interviewees felt that the advance advice and guidance given was not satisfactory, primarily because they did not have enough time with their barrister to discuss this, or because they only met their barrister on the day of the court appearance. These clients acknowledged that additional time with their barrister would be mainly for their own personal reassurance and would not necessarily lead to a different outcome in their legal matter.

With the impact of Covid-19 restrictions, as well as court reforms, requiring an increasing emphasis on online delivery, the majority involved in this approach felt it worked fine and had benefits, but also some concerns were raised and preferences expressed by some for in-person delivery of legal services. Comments from the small number of research participants who were not digitally confident suggest that increasing online delivery poses particular challenges for clients in similar circumstances.

²⁶ Legal Services Board (2021) *Quality indicators in legal services*

²⁷ Legal Services Consumer Panel (2020) *Consumer feedback on quality indicators in legal services*

Stage 4 – Follow-up

Client satisfaction with the way their barrister dealt with the legal process and court hearing in advance and during the court hearings is emphasised by the fact that most of those going through this expressed strong satisfaction at the end of the matter with their barrister's approach to, and performance at, the court hearings whether these were in person or virtual. Generally, the outcome of a case did not impact on how satisfied a client was with their barrister: clients were able to separate the outcome from the way their barrister took them through the legal process.

When interviewees who had had an unsatisfactory experience were asked about their propensity to complain, several expressed that they had been worn down by the legal process itself, so the experience reduces their energy, motivation and willingness to complain – even if they were aware of where to direct their complaint.

One of the respondents from the supporting organisations explained there is a very low number of complaints in immigration relative to the number of situations in which it is known that migrants are exploited by less ethical solicitors. Language and culture are seen as barriers – which could possibly be explained by an inherent deference to the legal profession (barristers in particular).

ANNEXES

Annex A: Sample details – segmentation grid

	Practice area	Referred by/ Direct	Confidence	Time	Non-Internet
1	Consumer rights	Solicitor	Somewhat confident	Covid*	
2	Crime	Solicitor	Somewhat confident	Covid*	
3	Crime	Direct Access	Somewhat confident	Pre-Covid	
4	Dental claim	Solicitor	Not at all confident	Covid*	
5	Employment	Staff association	Somewhat confident	Pre-Covid	
6	Employment	Law Society	Somewhat confident	Covid*	
7	Employment	Union	Not at all confident	Covid*	
8	Employment	Solicitor	Somewhat confident	Pre-Covid	
9	Employment	Solicitor	Not at all confident	Pre-Covid	Yes
10	Employment	Direct Access	Confident	Covid*	
11	Family - domestic violence	Womens' Refuge	Somewhat confident	Pre-Covid	
12	Family	Solicitor	Somewhat confident	Pre-Covid	
13	Family	Solicitor	Somewhat confident	Pre-Covid	
14	Family	Solicitor	Somewhat confident	Covid*	
15	Family	Solicitor	Not at all confident	Covid*	
16	Family	Direct Access	Confident	Pre-Covid	
17	Family	Solicitor	Not at all confident	Covid	
18	Family	Solicitor	Not at all confident	Pre-Covid	Yes
19	Family	Solicitor	Not at all confident	Covid	
20	Family	Solicitor	Not at all confident	Covid	
21	Family -child custody	Counsellor	Not at all confident	Pre-Covid	
22	Family	Direct Access	Confident	Pre-Covid	
23	Fraud	Solicitor	Not at all confident	Pre-Covid	
24	Fraud	Direct Access	Not at all confident	Covid*	
25	Immigration	Direct Access	Not at all confident	Pre-Covid	
26	Immigration	Solicitor	Not at all confident	Pre-Covid	
27	Immigration	Solicitor	Somewhat confident	Covid*	
28	Immigration/Employment	Solicitor	Not at all confident	Covid*	
29	Intellectual property	Direct Access	Confident	Pre-Covid	
30	Landlord tenant	Direct Access	Somewhat confident	Covid	
31	Landlord tenant	Solicitor	Somewhat confident	Pre-Covid	
32	Litigation	Solicitor	Somewhat confident	Pre-Covid	
33	Litigation	Direct Access	Not at all confident	Pre-Covid	Yes
34	Medical claim	Solicitor	Somewhat confident	Pre-Covid	
35	Neighbourhood dispute	Direct Access	Somewhat confident	Pre-Covid	
36	Personal injury	Solicitor	Somewhat confident	Pre-Covid	
37	Personal injury	Solicitor	Not at all confident	Covid*	
38	Probate	Solicitor	Somewhat confident	Pre-Covid	
39	Probate	Solicitor	Somewhat confident	Pre-Covid	
40	Probate	Solicitor	Somewhat confident	Pre-Covid	
41	Probate	Solicitor	Not at all confident	Pre-Covid	
42	Property	Solicitor	Not at all confident	Pre-Covid	
43	Property	Solicitor	Somewhat confident	Covid*	Yes
44	Property	Solicitor	Somewhat confident	Pre-Covid	
45	Property	Solicitor	Not at all confident	Covid*	
46	Property	Solicitor	Somewhat confident	Covid	
47	Property	Solicitor	Somewhat confident	Pre-Covid	
48	Property	Solicitor	Somewhat confident	Pre-Covid	
49	Tax	Direct Access	Not at all confident	Pre-Covid	
50	Tax/finance	Direct Access	Not at all confident	Pre-Covid	

* Started before March 2020 but matter continued past March 2020

Annex B: Interview topic guide – supporting organisations

1. What do you think clients expect in terms of how barristers conduct themselves before they actually engage a barrister? What is their view of the profession as a whole? Is there a difference do you think between the experiences of those who are more legally experienced compared with first time users?
2. Do you think people expect the behaviour and conduct of barristers to be regulated? And if so, by whom? When selecting a legal service provider, do you think that consumers consider whether they are regulated or not?
3. Do you think clients tend to make complaints and how much do you think they know about the complaints procedure?
4. Do you think clients have any expectations/views about barristers' conduct outside of their professional life? Do you think a barrister's conduct outside of their professional practice may impact a client's choice when deciding who to instruct?
5. What is perceived by clients as constituting a 'good service' do you think? Probe – quality indicators, role of the regulator? How do you think they define 'quality' and what more can be done to help them determine quality? Do their views on quality change over the course of using legal services?
6. How easy do you think it is for clients to understand what is expected of them as part of the legal process? Are clients clear on their main responsibilities vs the responsibilities of the barrister do you think? Query – would the role of the solicitor come into this? Expect there may be lack of clarity between solicitor/barrister?
7. How good do you think, is the clients' understanding of the legal process? Are they provided with sufficient explanation? [Suitable for non-English speakers? Vulnerable groups? Less digitally able?] What are the main barriers for people to understand legal protocols, procedures, implications, and outcomes, especially if they are complex?
8. Do clients trust their barristers to keep their affairs confidential? Are clients generally aware of any other responsibilities they have?
9. After using a barrister, do you think the client's perceptions are modified? If so, how?
10. Setting aside the outcome of their case, how satisfied/dissatisfied do you think people are with the conduct of their barrister? What could be done to meet their expectations better?
11. Does the profession do enough to enable access to justice for vulnerable consumers of legal services? (eg low income groups, disabled, unwell, BAME, less digitally confident consumers or other vulnerable categories – define). What else could be done to improve equality, diversity and inclusion?

12. What has the impact of Covid-19 on clients using barristers do you think? Probe – court closures, electronic justice, delay? Are there any groups that have been especially impacted?
13. Any other thoughts/comments/observations bearing in mind what we have discussed?

14. Is there anything in particular, from your perspective, that the research should be focusing on or helping to identify?
15. *[If not covered previously]* Are there any additional areas in which the BSB could make effective change *[bearing in mind the group they represent]* including the protection of public interest and advancing access to justice?
16. Any other thoughts or comments?

Thank you so much for your time and for your insights. We are very grateful for your input

Annex C: Interview topic guide – clients

Legal Process Early Stages

1. Was this your first time seeking legal advice? How much did you know about the legal process and procedures involved before you started to deal with the barrister? What were your perceptions and expectations of barristers before you started working with this barrister? *[Probe – differences between barristers/solicitors, knowledge of legal system, used legal system before? etc]*
2. Do you know what it means for a legal professional to be regulated? Would you expect a barrister to be regulated? *If they know barrister is regulated – do you know the name of the regulator? (Interviewer: if yes, ask what they think the role of the BSB is in improving services provided by barristers; if no, give name and then ask the same question). (probe – any information provided by barrister on regulation)*
3. Did you know if your barristers' behaviour and conduct was regulated? Would you expect barrister's behaviour or conduct outside of their job to be regulated? *(Probe – doctors/teachers have to adhere to certain ethical standards/standards of behaviour – do you think barristers should also be expected to meet certain standards of behaviour/conduct? Probe re. examples – e.g. criminal behaviour, dishonesty, media/public statements. Is their particular behaviour outside of their job that would impact on their trust in/willingness to use a certain barrister?)*
4. How did the initial contact with your barrister take place, and what were your initial impressions?
Did you get the information and advice needed that you expected in this initial contact? *Interviewer explore: The explanation of the process given to you, possible options, possible outcomes, the explanation of fees, complaints/redress, reassurance that the barrister understood your situation, the background to your case as well as the legal issue and what was needed, the explanation of next steps and who is doing what.*

Understanding of Legal Issues and Procedures

5. From the initial contact and as the legal process moved on, did you understand what was expected of you, and what your responsibilities were? Was it made clear to you by the barrister or someone else? If someone else, who? Were you clear about any documentation or information that you might have to provide? *(Interviewer: particularly important where clients take an 'unbundled' approach, where the lines of responsibility between the client and the barrister managed efficiently?)*
6. Can you explain briefly what your main responsibilities were and what you saw as the main responsibilities and duties of the barrister? *(Interviewer: probe if the interviewee was clear about the barrister's duty to court/judge, duties/responsibilities to clients, acting with independence, keeping affairs confidential, whether explanations were provided by barrister/solicitor throughout. Did the interviewee feel that barrister acted independently? Are you confident that the details you provided to your barrister were*

kept confidential and is this important to you? Would you expect this? Did the barrister give you any assurance that your affairs would be kept confidential?)

7. Did you feel that the services and advice you received from the barrister were based on a clear understanding of your legal issue and that they were tailored to your particular expectations? If not, what did you feel was the problem? Was there anything that the barrister could have done to better meet your expectations?

8. Were you provided with enough details by the barrister about the legal procedures involved, the workings of the court, the steps involved, and possible outcomes?

(Interviewer: if a complex issue ask if there were problems understanding and, if so, what the specific barriers to understanding were). Was there anything more that could have been done to help you understand the process and procedures, or make you feel more comfortable with the process? *(Interviewer to consider and depending on issue: For example...an interpreter, 'plain English' advice, direct contact details, more time etc)*

Services and Communications

9. How were services delivered to you by the barrister, i.e. face-to-face consultations, telephone/Zoom, email, post? *(Interviewer: particularly for those dealing with a barrister during Covid, explore which used).* Did these delivery methods work for you? If not, what were the issues?

10. Questions for those experiencing remote delivery of services, or virtual court hearings in the pandemic:

- Did you contact your barrister for the first time during Covid? Was this remotely? Were you referred by a solicitor or did you find the barrister yourself? How did you do this? How did the overall process of findings and contacting the barrister work in general for you during Covid?

- If using telephone, Zoom, or other online contact with the barrister, were you comfortable with this contact method and did you feel that you got all the information you needed this way?

- Did you feel that the barrister was familiar with these tools, did he/she or anyone else give you any advice on using tools like Zoom, or video calls?

- Were you able to contact your barrister remotely when you needed to? If not, what were the problems?

- If you were involved in a remote court hearing, did you feel that this worked for you? Were there any problems or issues with this?

11. Were there any surprises along the way when working with the barrister, i.e. changes in work done for you, demands on you, unexpected issues cropping up? Were there any serious issues or developments arising along the way that you feel your barrister should have dealt with better?

12. Were communications from the barrister or other staff involved (clerks, secretaries) as regular as you needed to keep you informed of progress? Did you have enough time in consultations with the barrister to get a clear picture of progress and any actions that needed to be taken? Did you feel that your expectations were dealt with effectively as

the process developed? Did you have enough time and support to consider any paperwork presented to you?

Overall Satisfaction with Barrister and Services

13. How would you describe your relationship with the barrister and her/his approachability, empathy with you?

14. Based on your overall experience of using the barrister, do you think that you had a good service from her/him? How do you recognise a quality service? For example: not just outcome of your case but the guidance and advice provided, their professional manner, were they approachable, trustworthy, did they get back to you when they said they would etc). Overall, how satisfied were you with the barrister's services?

(Interviewer: Ask them to explain why they gave the answer they did, i.e. what factors did they consider when assessing how satisfied they were; if not satisfied did they consider complaint/ redress options etc).

Outcome of the Legal Matter

15. Setting aside the actual outcome of your case for a moment, what were your expectations regarding the completion of the legal process? *(Interviewer: prompt to see if they understood the process that led to the outcome. If it did not meet expectations, ask why not. Any further steps or is the process completed?).*

16. Anything else that you would like to add?

Annex D: Focus group topic guide

1. Moderator Overview of the Session (incl. areas to cover, admin points, consent to recording) and Introductions **(5 minutes)**
2. Let's start with two general questions – based on your experience of using a barrister, did you check out and research the barrister before you used him/her? Looking back (for those who did) was it useful? Looking back (for referred and not checking out) would you have liked to have been given more choices, or would you make a more informed choice, knowing what you know now? Or would it not matter? *(aim is to compare referred to direct access).*
3. How many of you knew before you instructed a barrister that you could go direct to a barrister without using a solicitor first, or being referred to a barrister by a solicitor? For those who didn't – what do you think this means? Would you consider this option next time?

Ask each participant individually (10 minutes)

4. In advance of this session, you were sent links to a number of websites (3) from chambers and we asked you to look specifically at their personal injury advice services in particular so that you could comment on the following on each site:

Personal injury advice services – detail given, understanding of content

Details of barristers in personal injury – useful information, if so what did you like in particular, if not why and what was missing?

Any details of prices – useful information or not?

Any information on direct access – was this useful or not?

Did you find out anything about how barristers are regulated on the site? If so, what and was this useful? Easy to find? Did it explain the complaints procedure on the site?

Did you notice or follow the legal directory links? (Chambers or Legal 500)?

General look of the website – inviting or not?

If you had to choose a barrister just from what you have seen on the websites, which one would you go for and why?

(15-20 minutes)

5. As a consumer of legal services, why do you think it is important that your legal advisor should be regulated? Or is it not important? What benefits are there for you when using a regulated barrister?

Many barristers write about legal matters on the Internet, in the press, and on social media. Some will also comment on all kinds of things on social media, like many of us do. If you came across a comment from a barrister which you felt was just not acceptable would this influence you regarding his/her suitability as a barrister, or affect your perception of barristers in general? What would you consider to be an unacceptable comment and would this stop you instructing them? Where would you draw the line – what is acceptable and what is not?

Would you look at any public comments from a barrister when you were considering using them? (PROMPT IF NOT MENTIONED ALREADY – sexist, racist, homophobic comments and impact on your decision?)

(15 minutes)

6. Let's have a discussion on quality indicators – in other words what you look for when deciding that a barrister can offer a good service. Then, after you have dealt with barrister, what are the elements of their service that you would say were good or not?
7. OK, here is a list of things that could be indicators of service quality (LIST ON SCREEN AND MODERATOR WILL LEAVE ON SCREEN AND GO THROUGH LIST QUICKLY TO EXPLAIN. THEN ASK PARTICIPANTS TO PICK UP TO 4 THAT THEY WOULD SEE AS THE MOST IMPORTANT AS QUALITY INDICATORS
 1. Length of time practising as a barrister
 2. Confidentiality – security of any information supplied by you or about you whether digitally stored or electronically stored
 3. Experience in legal area where you need an advisor
 4. Any customer reviews of their services/star ratings of their services
 5. Price of services/fees quoted
 6. Physical location of the barrister
 7. History of complaints and disciplinary findings
 8. Website
 9. Examples of successful similar cases
 10. Listing in legal directories, e.g. Chambers

(10-15 minutes)

8. Some of you had a court appearance in person, others had a remote hearing and some may have had both. Ask participants who have been through one or the other to comment on other option – do they think it was better or worse? Some have experienced both – ask for comparison.

How easy was it to follow the proceedings (ASK FOR BOTH PHYSICAL AND REMOTE HEARINGS) and was the barrister able to help you follow the proceedings? Was the interaction with your barrister affected by having to have a virtual hearing? **(10 minutes)**

9. Now, let's have a discussion about legal comparison sites and how you think that they could work, or not, for barristers? If there were review sites with say star ratings and comments about the services of barristers would these be of use when looking for a barrister or not? Would you post a review on such a site as a matter of course, only if the barrister asked me to, or not at all? Were any of you asked to post a review by your barrister?

(SHOW TRUSTPILOT AND LAW SUPERSTORE EXAMPLES OF BARRISTER REVIEWS ON SCREEN, EXPLAIN A FEW SITES ALREADY EXIST AND ASK FOR ANY COMMENTS).

10. One of the things that came out of the online survey is that many individuals felt at the beginning of the legal process that they didn't know much about how it would work. In advance of this group we sent you links to the Clerksroom and MyBarrister sites and asked you to have a look at these. We are not going to go through these in detail but, thinking about research that some of you did, and some of the websites like these two and the comparison sites we just showed you, are these the sort of things that you would potentially find useful if you had to find a barrister again, or would have found useful if you had known about them before. Any in particular that would have helped and in what way?
(10 minutes)

11. Final summary
(5 minutes)

Annex E: Questions in follow-up email

To what extent do you agree/disagree with the following statements:

A question for you if you have completed the legal matter – if not just ignore this one.

1. At the end of the legal matter I felt I understood the legal system better and would be able to navigate the legal system more successfully if there was a next time:

- a) Completely agree
- b) Agree
- c) Disagree
- d) Completely disagree
- e) Unsure

Plus, a quick question on the research itself:

2. Did your participation in our research give you any new information about the legal process that you didn't know before:

- a) Yes
- b) No
- c) Unsure