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NEW RESEARCH: DON'T TRANSFER MORE RISK TO CONSUMERS WHEN CHOOSING A LAWYER IS ALREADY HARD ENOUGH

New research has thrown a spotlight on consumer attitudes towards risk and safeguards in cases where law firms are shown to be negligent, dishonest or become insolvent.

Consumers want to retain existing financial protection measures such as professional indemnity insurance and compensation funds in their current form. Because of the high financial and emotional stakes involved in legal work, they would not swap less comprehensive safeguards for lower legal fees. Nor would they want the option of purchasing insurance themselves in each transaction (should the rules change so that law firms would no longer be required to obtain insurance).

This is not about consumers making 'lazy' choices because they believe they will somehow be protected. The strong message is that choosing a lawyer is already hard enough, so putting the onus on them to purchase cover would be a step too far – they would likely reject law firms who didn't self-insure. Consumers also fear that insurers would seek to wriggle out of their obligations should they need to make a claim on their policy.

The study used focus groups to explore views on the division of risk and responsibility between consumers and providers in the legal services market, with a particular focus on financial protection arrangements. The key findings include:

- There is little concrete knowledge about the various consumer protections. Nearly everyone assumes *something* is in place, but few can describe what;
- When the main financial protections are explained consumers feel reassured and see the associated costs as reasonable;
- Consumers are clear that the existing levels of compulsory protection should not be taken away. There is a view that legal services are different to other sectors (it's a profession, dealing with the law, and life-changing events), and that there *should* be sector-wide protections in place;
- Consumers strongly resist the idea of purchasing their own insurance. However, if forced to manage their own risks, many said they would look for lawyers offering protection or insurance as part of the service as a default;
- Ultimately consumers felt unable to make fully informed choices around the appropriate shouldering of risks and would simply revert to what their legal advisor suggested – they see the issue as more likely to result in a transfer of costs onto the consumer, than a transfer of risk.

Commenting on the findings, Elisabeth Davies, Chair of the Legal Services Consumer Panel, said:

“At the heart of this research is understanding how consumers perceive and assess risk and what trade offs – if any – they’re prepared to make. Protection against risks of fraud, negligence and insolvency shouldn’t be an optional extra, but guaranteed for all consumers. These are risks that consumers can’t reasonably foresee or control so they should be taken care of by the regulators.

“There’s a danger that removing compulsory safeguards would hit vulnerable consumers the hardest. As household budgets continue to be squeezed, there’s a real danger that some consumers might be tempted to save on costs by forgoing insurance cover today, but end up paying a heavy price tomorrow.”

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Notes to editors

1. The Legal Services Consumer Panel was established under the Legal Services Act 2007 to provide independent advice to the Legal Services Board about the interests of consumers of legal services in England and Wales. We investigate issues that affect consumers and use this information to influence decisions about the regulation of legal services.
2. Vanilla Research was commissioned to conduct research to explore consumers’ views on the division of risk and responsibility between consumers and businesses in the legal services market. The research consisted of 12 focus groups, with 6-8 participants per group. In order to explore these issues, consumers were asked about scenarios to test if they would prefer to either:
 - a. Lighten regulation, shift responsibility to individuals, reduce costs
 - b. Retain current protections
 - c. Strengthen regulation, shift responsibility to authorities, increase costs
3. Vanilla’s report can be found here:
http://www.legalservicesconsumerpanel.org.uk/publications/research_and_report_s/documents/Vanilla%20Research%20Risk%20and%20Regulation%20final.pdf
4. The research was commissioned as part of a wider Consumer Panel project on the adequacy of current financial protection arrangements following a request for advice by the Legal Services Board. For more information about the project see:
<http://www.legalservicesconsumerpanel.org.uk/ourwork/financialprotectionarrangements.html>