

Tracker Survey 2016

Briefing note: experiences of Black and Minority Ethnic groups in legal services

In the last six years of running our Tracker Survey, one of the trends that has persisted is the difference in the knowledge and experience of Black and Minority Ethnic (BME) groups¹, compared to White British in relation to legal services. From trust and confidence in using a lawyer to satisfaction with the service, there has been a troubling disparity with BME users generally less empowered and experiencing a less positive or satisfactory service. This report looks at the experiences of this group of consumers in more detail, focusing on the elements of choosing and using services and highlighting key differences from a small base. Although our Tracker Survey is able to highlight the disparity, the quantitative approach makes it challenging to understand fully the underlying reasons for the difference. We have therefore drawn on a wider research and evidence base to assist in understanding and explaining the trends.

Key findings:

- BME users are less satisfied with both the service they receive and the outcome of their matter than White British users
- BME groups shopped around more and were less likely to use the same lawyer as before, but were less satisfied with the choice on offer and found it more difficult to compare
- Specialism and reputation were the most important factors when choosing a legal services provider for BME users, and a quality mark was significantly more important to BME groups than White British
- BME groups were less likely to use fixed fees, and more likely to receive a free service; similarly 9% BME used legal aid compared to 2% of White British
- Preparing a will was much less common amongst Pakistani and Black African users, and among BME groups as a whole, compared to White British
- Levels of trust remain lower among BME users than White British

¹ Included in this are: Mixed, Indian, Pakistani, Chinese, Black African, and Black Caribbean. Further information relating to weighted and unweighted sample sizes can be found on page 2.

The emerging picture is that the cultural variations between different ethnic groups have measurable impacts on the way in which people interact with legal services, from how they search for them to how they feel about them. The Bar Standards Board recently identified the importance of cross-cultural communication at a symposium², concluding that it is critically important for the legal profession. The Panel would strongly agree with this, and argue that there is much to be done to tailor legal services to users and to address current failings.

Recommendations for regulators and representative bodies

We recognise that some of the findings in this report result from societal inequalities in earning power and education levels, but there are several areas where the regulators can take action to ensure that legal services providers better serve all users:

- Consumer research should be undertaken to understand what drives the differences in choosing between ethnic groups – why do BME users find it harder to compare providers and why are certain ethnic minorities less satisfied with choice than others?
- The need for regulators to identify an accurate proxy for quality for consumers to use when choosing a service is evident: specialism is the most important choice factor among BME groups, and they are more likely to actively shop around.
- Regulators need to work towards price transparency given the limited availability of fixed fees in the areas of law BME groups are more likely to use.
- Representative bodies should consider ways to raise awareness in ethnic communities about the importance of preparing a will, particularly in the Black African and Pakistani communities.
- Regulators need to address the low levels of trust in lawyers across the population, but a part of this needs to focus on why BME users are less trusting, and what can be done to address this.

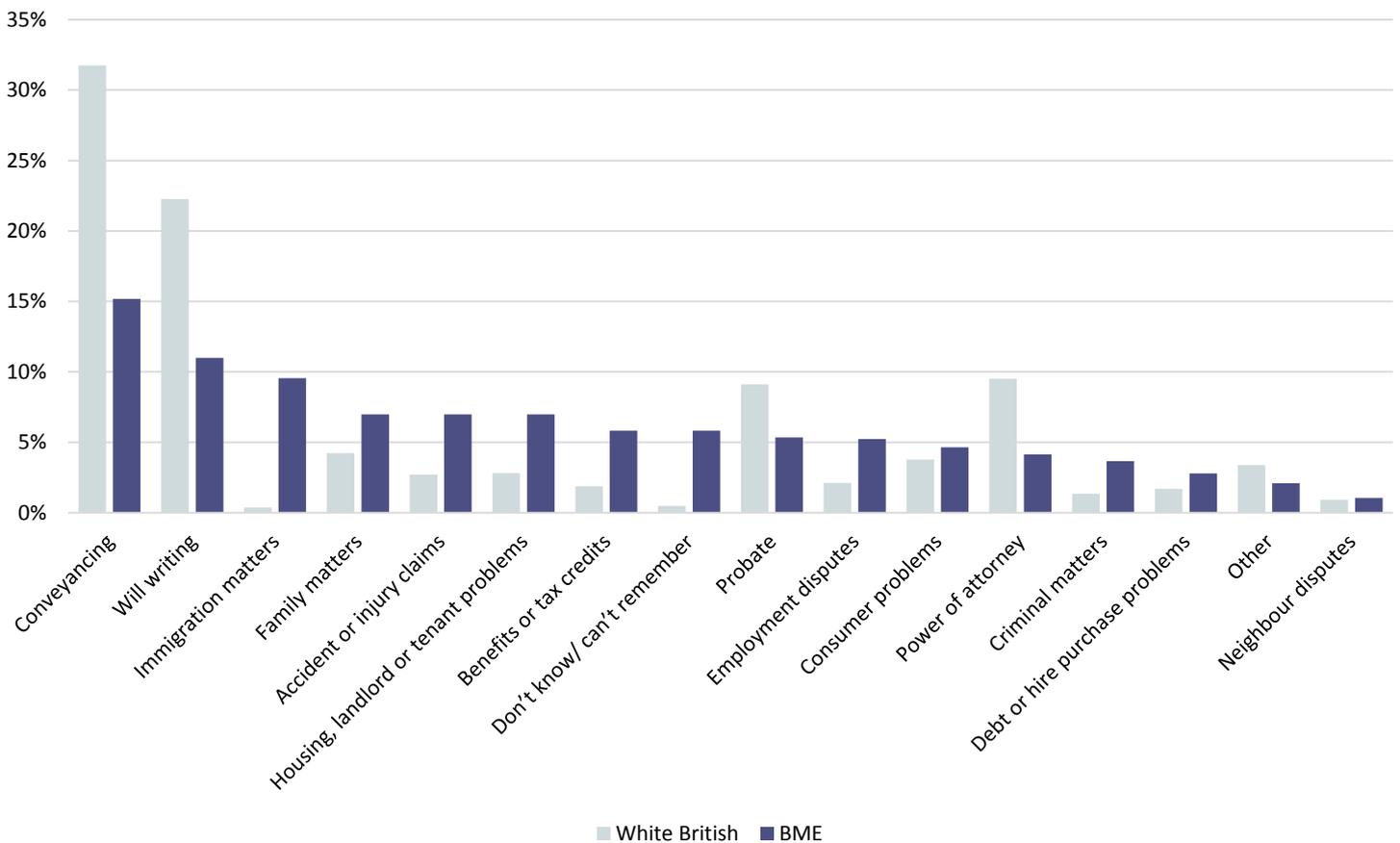
² https://www.barstandardsboard.org.uk/media/1750588/bsb_ccc_report_april_2016.pdf

Areas of law

One of the most notable trends in the Tracker Survey is the way in which BME groups access legal services and the areas of law they have dealt with. Fundamentally, the type of legal problem they are likely to face tends to differ from those faced by White British. BME groups are more likely to deal with immigration services, advice about benefits or tax credits, employment disputes, or housing problems, all areas of law which are less transactional, and provide less of an element of choice in terms of actively selecting a legal professional or other provider. For example, research into immigration cases has previously shown that use of the term ‘consumer’ was inappropriate as there was largely no choice present for many immigration clients, and even less so for asylum clients.³

The areas of law being accessed by BME groups are perhaps unsurprising considering the Equality and Human Rights Commission recent report, which showed that inequalities are experienced by ethnic minority communities across many areas of life in Modern Britain, including education, employment and the criminal justice system.⁴

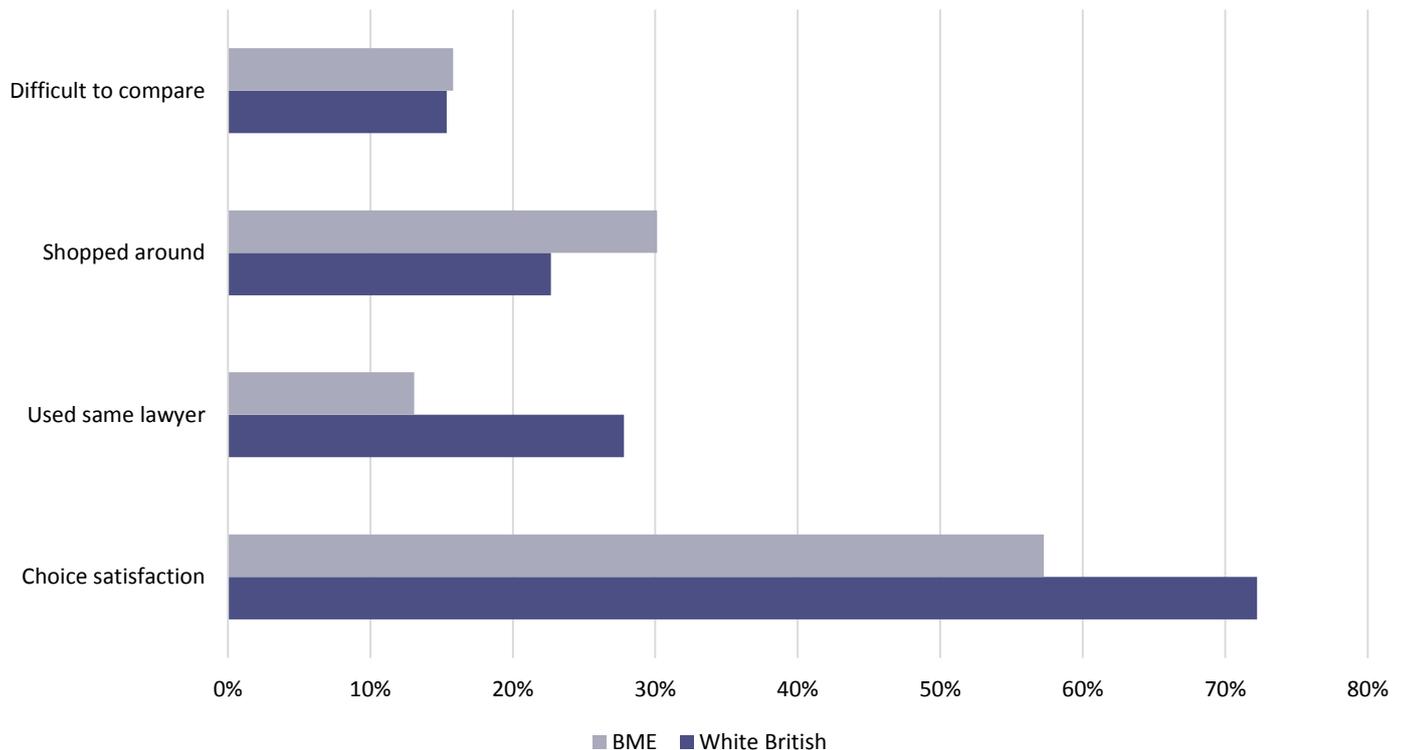
It is worth being mindful of the fact that the area of law BME groups access is likely to have an impact on other elements, such as billing methods and funding sources and in turn their experience. For example, in personal injury claims, which are accessed more by BME groups than White British, no win no fee is the most popular billing method and that is reflected in the proportions of each group using that method overall.



³ Bar Standards Board, Immigration Thematic Review Report, 2016

⁴ Equality and Human Rights Commission, Healing a divided Britain: the need for a comprehensive race equality strategy, 2016

Consumer behaviour



We look at a selection of metrics to explore how empowered consumers are in the legal services market. Generally, higher levels of shopping around and greater choice satisfaction signal more empowerment. While general population trends have been improving over the last six years, we can see that the experience of BME groups and White British varies.

While both groups found services fairly easy to compare, the BME group was more likely to have shopped around, and half as likely to have used the same lawyer as before. That being said, they were less satisfied with the choice on offer. In terms of searching methods, both groups were as likely to have relied on personal recommendations. However, the BME group was more likely to have searched the internet for a provider (11%) than the White British group (7%).

Looking at the ethnic groups in more detail, we find that Chinese people found it hardest to compare services (32%), whereas Indian and Mixed groups found it easiest⁵. Mixed, Pakistani and Chinese were the most satisfied with choice, whereas Indian and Black African were the least satisfied. Chinese were most likely to have shopped around (41%), Black Caribbean (26%), Black African, and Indian (27%) were least likely to have shopped around. Given the higher rates of Chinese people shopping around it is therefore unsurprising that they are least likely to have used the same lawyer (3%). White British were most likely to have used the same lawyer as before (28%).

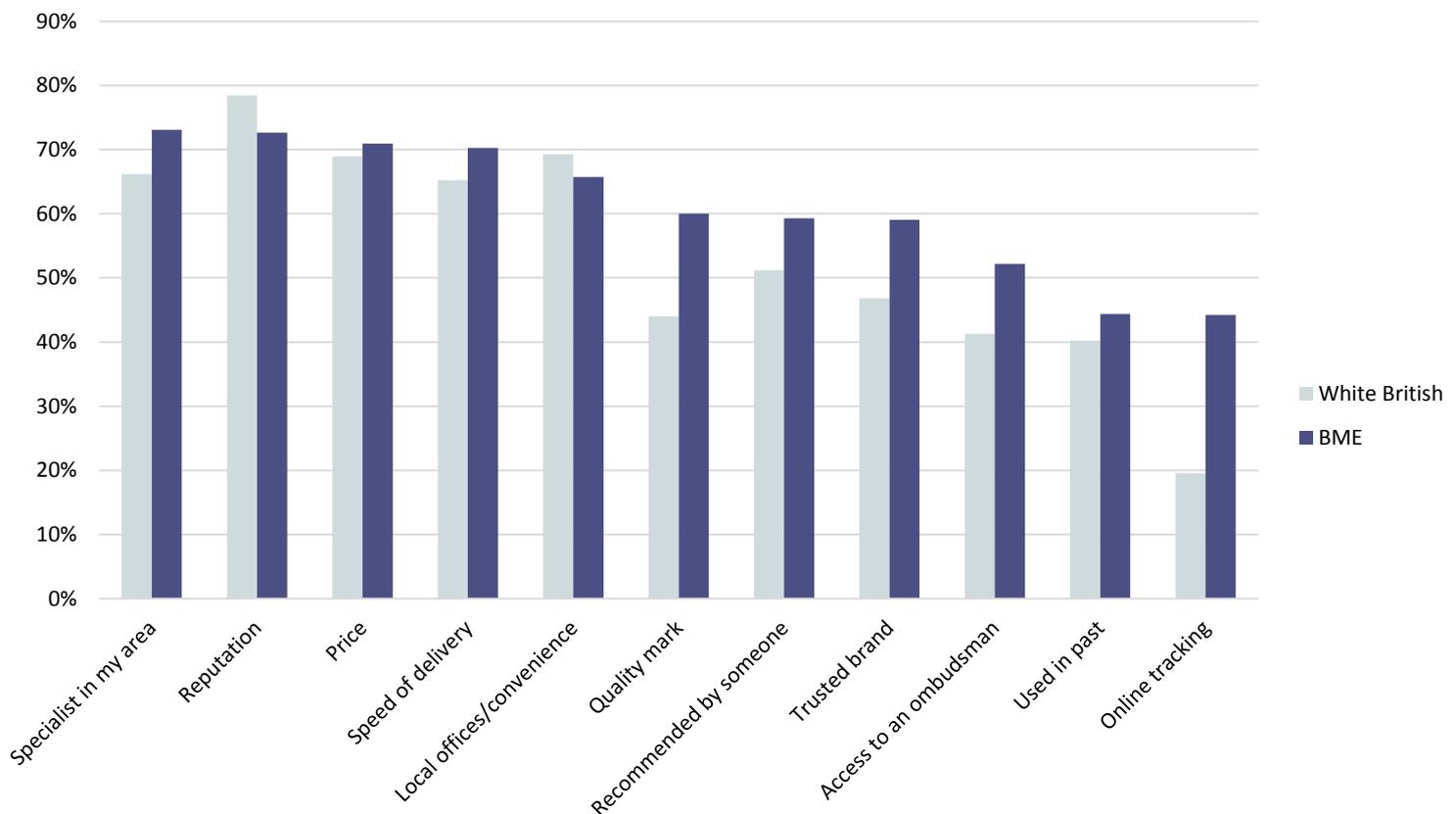
⁵ These base sizes are very small, and are therefore results are indicative.

Choice factors

Identifying what drives consumer decision making is critical for both providers and regulators. Across the broader population, reputation has tended to be the most highly valued factor when choosing a service, followed closely by price. Looking at the variations between ethnic groups, it is specialism which is valued highest by BME users, with reputation coming in close second, and price third. This is perhaps unsurprising given that BME users are ten times more likely to have dealt with immigration matters than White British, an area where specialism is required due to both the complexity of the law and the potential impact poor case handling can have.

Interesting variations include the weight given to online tracking by the BME group, who were twice as likely as White British to seek this out. This also reflects the search methods, where BME users were more likely to have searched the internet for a provider. When it comes to service delivery, BME users were less likely to have seen their service provider face to face (42%) than White British (47%). They were more likely to have dealt with their provider over the telephone (19%) than White British (15%).

There were further variations between different ethnicities. Black Africans saw price as the most important factor, and speed of delivery, specialist expertise and reputation as equally important factors. Pakistanis placed greater value on local offices, a quality mark and, by comparison, online tracking. Specialist in a particular area was in the top three factors for all ethnic minority groups.

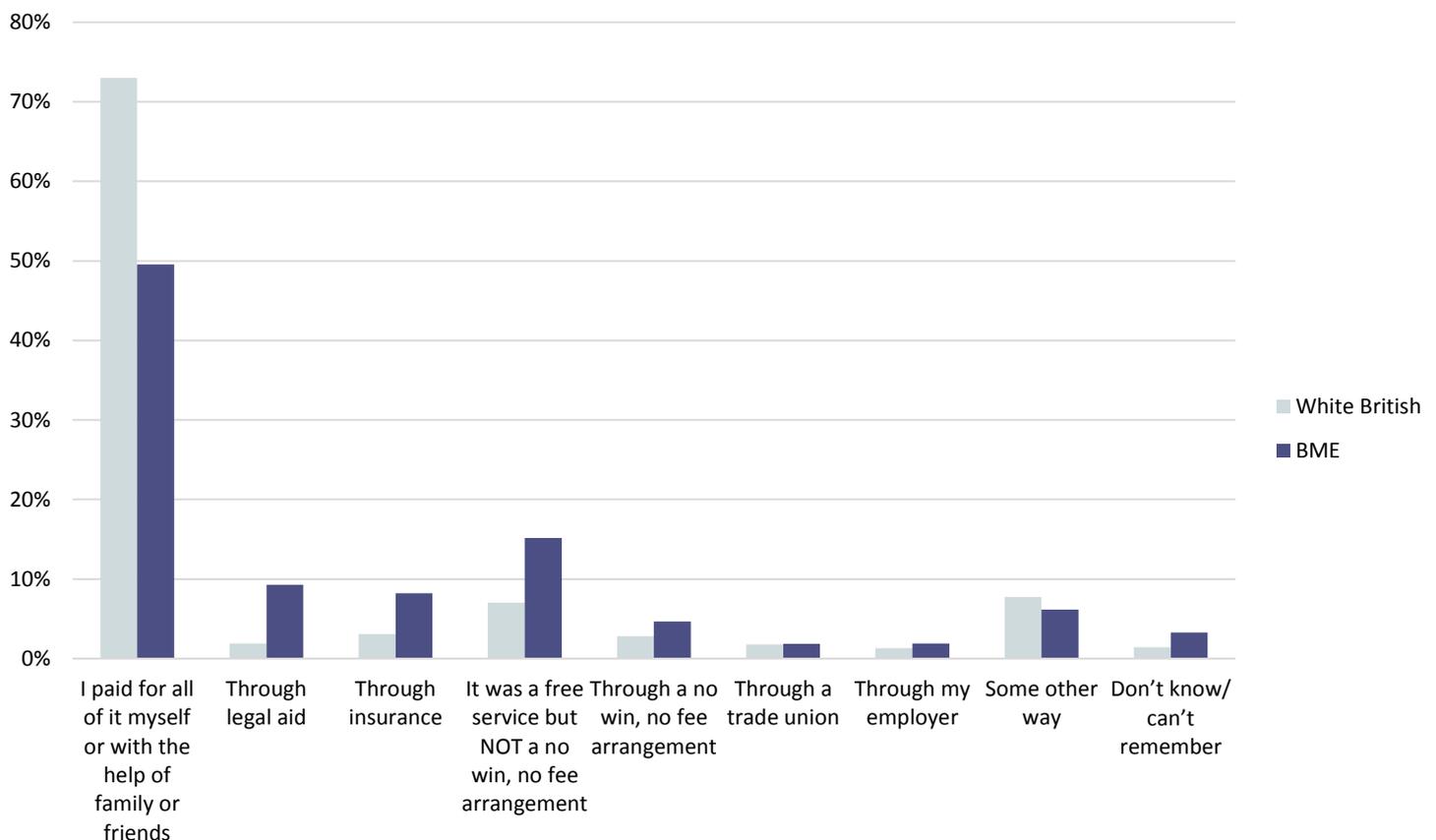


Billing methods and funding

The last six years of Tracker Survey data have shown the increase in popularity of fixed fees, particularly in areas such as will-writing, power of attorney and conveyancing, and increasingly immigration. This is a key development, one which the Panel has encouraged and called for greater transparency around. Fixed fees enable consumers to compare providers more easily, offers certainty and allows them to budget for what can be an expensive service.

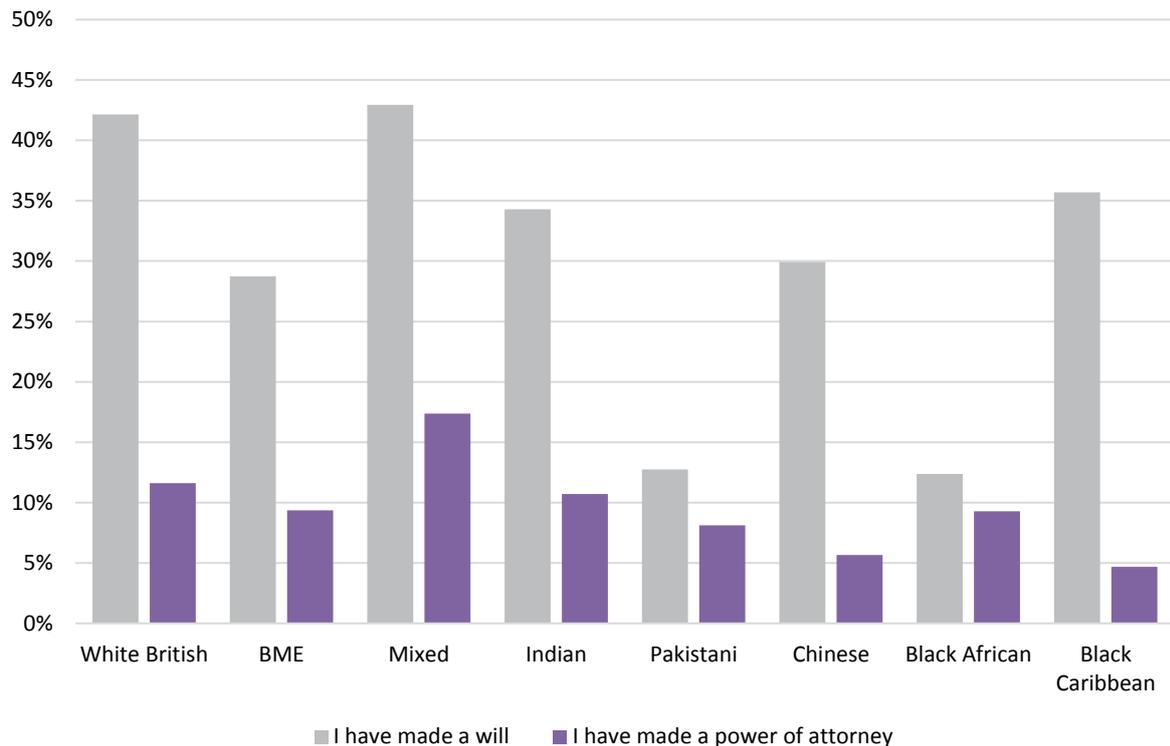
It is therefore interesting to see that BME users are less likely to use fixed fees. Although to some degree this reflects the fact that BME users were less likely to have used services in conveyancing, will-writing or probate; areas where fixed fees are most prevalent. BME groups were more likely to have dealt with legal problems relating to personal injury, family matters or housing matters than White British. These are all areas which are typically billed using percentage based fees, or hourly rates, and where legal aid is still available to some extent. 9% BME users relied on legal aid, compared to just 2% of White British.

Previous research has demonstrated consumer preference for fixed fees to provide certainty of costs. A clear and flexible approach to payment is vital, particularly when considering that poverty is up to twice as likely amongst ethnic minority groups as it is for white people.⁶ The tracker survey also shows that BME users were four times more likely to use a Citizens Advice Bureau than White British, and almost half as likely to have used a solicitor.



⁶ <http://www.jrf.org.uk/data/poverty-rate-ethnicity>

Preparing for the future – wills and probate



There is a significant difference in the proportion of BME users who have prepared for the future by preparing a will (29%) compared to White British (42%). Specifically, those from a Pakistani (13%) or Black African (12%) group were least likely to have made a will. Considering the importance of having a will, particularly as modern life incorporates more complicated family structures, increased home ownership and the need to plan for care in later life as the population ages, it is concerning to see these two communities falling behind in this area. Cultural variances may well be at play here.

Research from 2007 on consumer attitudes towards wills suggested that in addition to faith, other cultural factors included: joint ownership of assets among Asian families, and the need to be compliant with Sharia law⁷. Research from the Ministry of Justice on BME attitudes towards the civil justice system also found that participants preferred to resolve problems within the family or community. Solicitors Regulatory Authority (SRA) data from 2008 highlighted that just 3% of BME users chose solicitors for wills and probate services, compared to 14% among the wider population.⁸ While the data above is for all types of legal service providers, to see the issue remaining unresolved gives rise to concern.

⁷ <http://www.probate-solicitors.co.uk/resources/Nat%20Consumer%20Council%20Report%20on%20Wills%20Sep%202007.pdf>

⁸ <http://www.sra.org.uk/sra/how-we-work/consumer-research/summaries/experiences-of-black-and-ethnic-minority-people-using-solicitors.page>

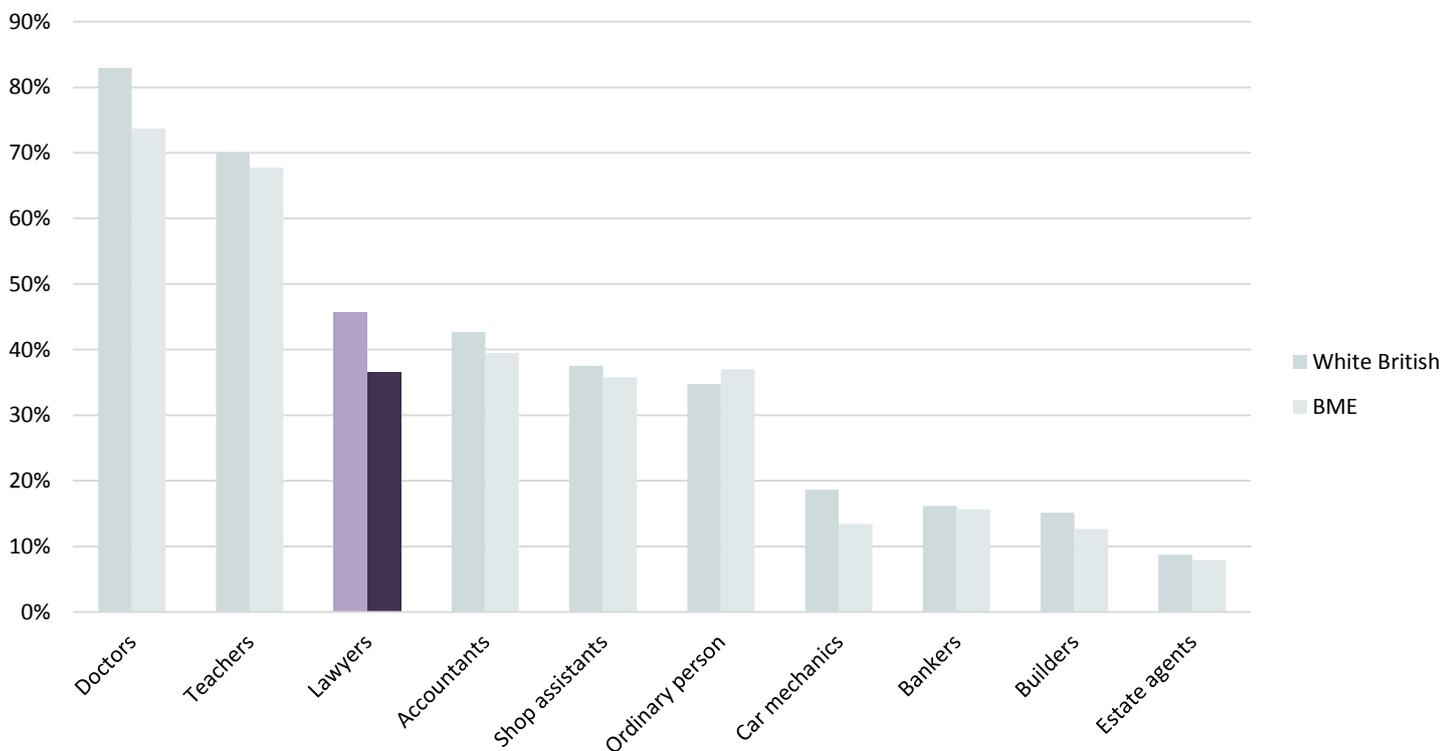
Perceptions – trust, confidence and knowledge

The Panel uses three measures to test public confidence: trust in lawyers to tell the truth, whether people feel their consumer rights would be protected when using lawyers, and confidence in complaining to a lawyer. These can all be factors in why consumers choose not to use a lawyer to handle a legal issue, or remain dissatisfied with the service.

Trust levels across the board have remained fairly low compared to other professions, with trust in lawyers in 2016 at the same level it was in 2011: 42%. But there has also been a persistent gap in trust between BME and White British users, with BME users being less trusting of lawyers in all aspects. Research has previously suggested that the experience of racism or disadvantage in one sector of society will have an impact on perceptions about the administration of justice as a whole, and so it is possible that this has had an influence.⁹

While trust was low among the general population though, satisfaction with the extent to which a lawyer acted in a professional manner can indicate that people trust their own lawyer, but not lawyers as a whole. However, in this instance although 83% of White British were satisfied that their lawyer acted in a professional manner, only 67% of BME users were. This figure is particularly low among Pakistani (60%) and Black African (60%) users. This suggests that rather than a broad distrust of lawyers as a profession, BME users have this distrust emphasised in the services they receive, although the reasons behind this remain unknown due to the quantitative nature of this survey. It does however point to a need to explore this issue – where people distrust lawyers, they are less likely to use one or to seek legal advice.

Chart 1 - Trust in professions



⁹ https://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/judicial-college/ETBB_Ethnicity_finalised_.pdf

Chart 2 - Confidence that consumer rights will be protected

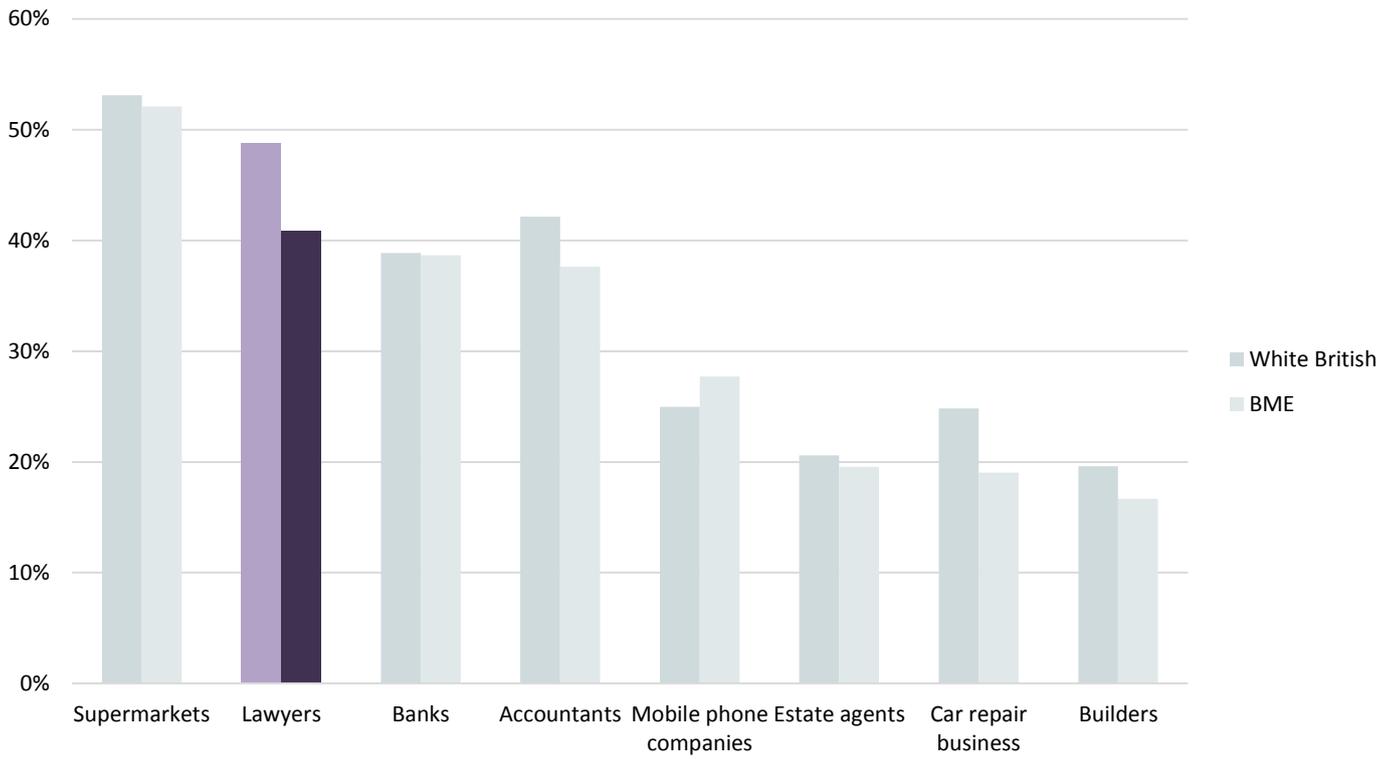
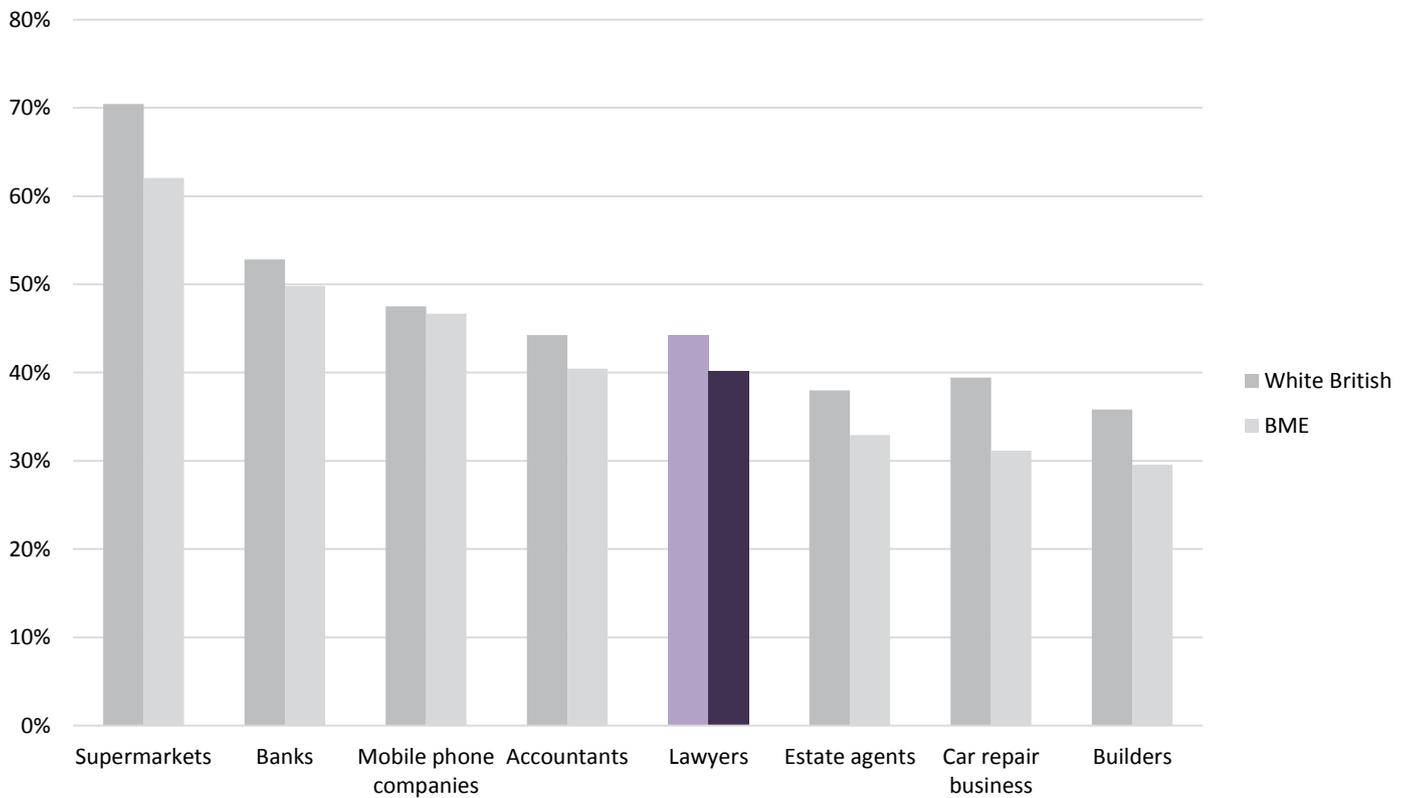
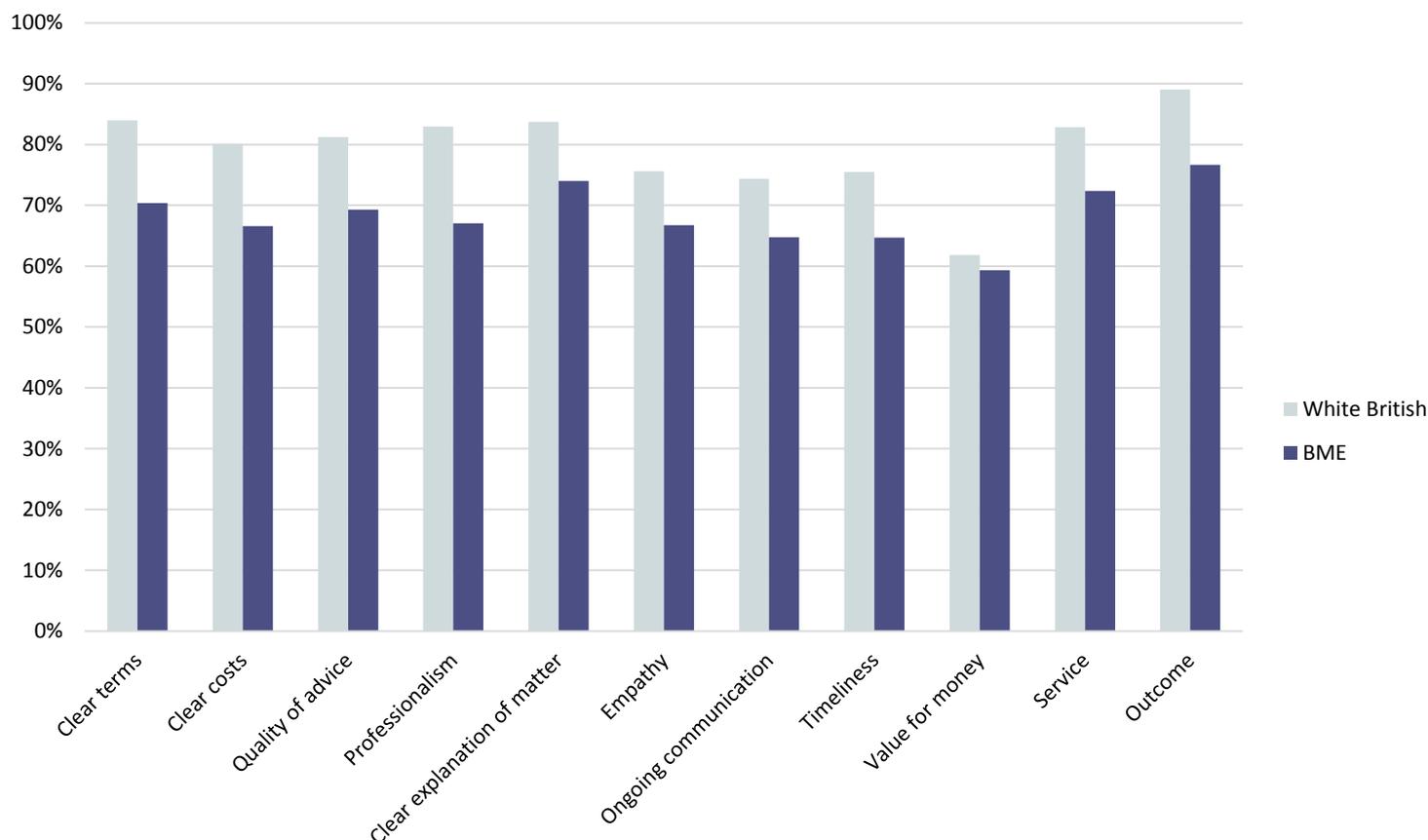


Chart 3 - Confidence in complaining



Satisfaction and complaining

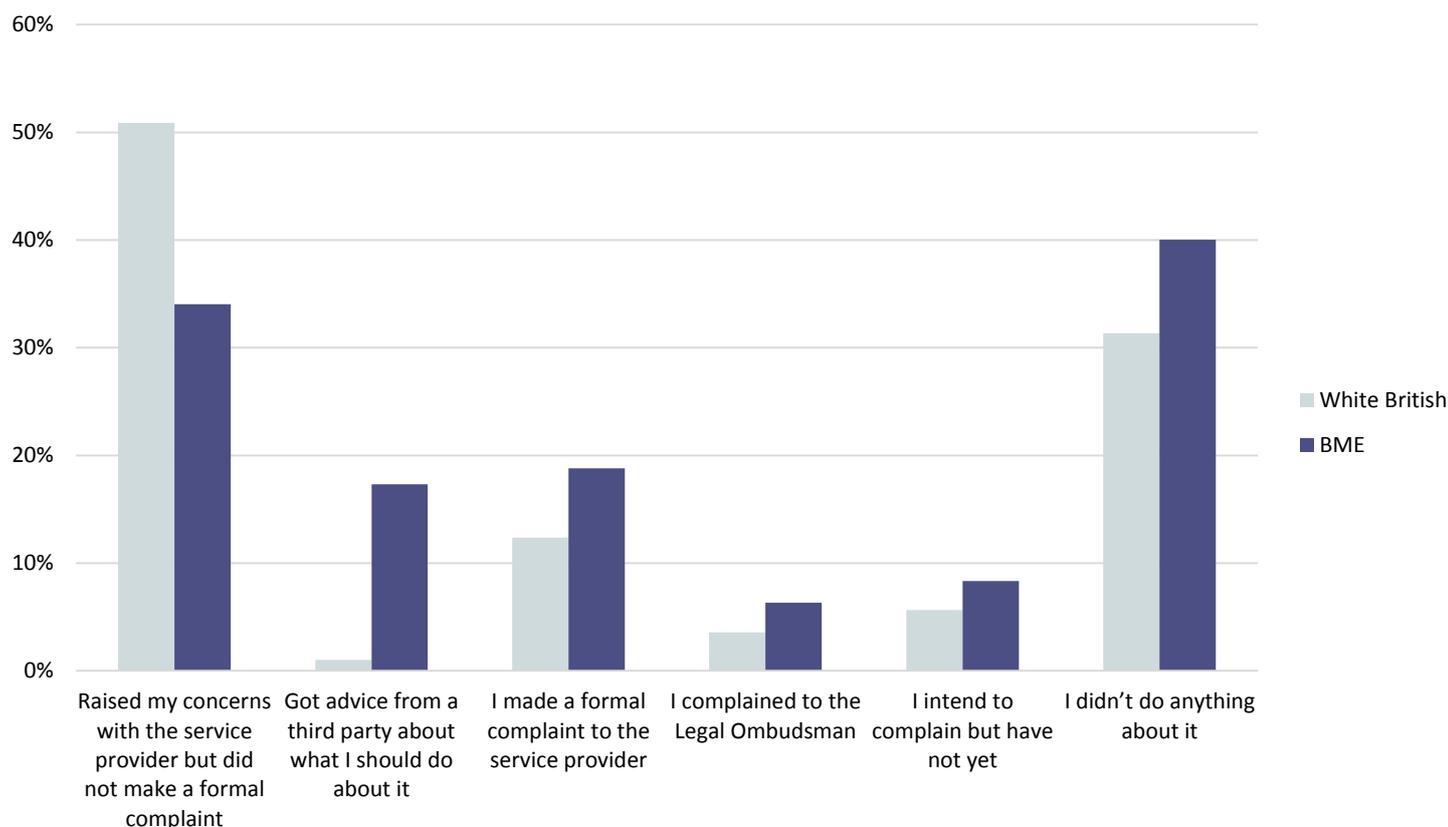
Satisfaction



Overall satisfaction with service and outcome remains high at 80%. Satisfaction with different aspects of service is another area where there has been a persistent gap between BME and White British, most notably in relation to professionalism and clarity of terms. Value for money has always been one of the lower scoring elements, and is also the only one where all users feel similarly in spite of any difference in funding methods (those who relied on legal aid or insurance perceived marginally better value for money than those who had a no win no fee agreement or paid for it privately). Value for money was the area of lowest satisfaction for all users, with the exception of Indian and Black Caribbean. These groups were least satisfied with the clarity of terms and timeliness than value for money.

We have also seen a persistent gap in satisfaction with outcome between White British and BME users. This is likely to be influenced to some degree by the areas of law each group experiences; BME users are more likely to have problems in contested areas where there is a clear 'winner' or 'loser' compared to more transactional areas.

Complaining



Where people signal that they were dissatisfied with the service they receive, the Tracker Survey explores people's knowledge of where to complain and what they did. While 68% of White British users identified the law firm itself as the first place to raise their concerns, only 41% of BME users did so. Instead BME users were more likely to approach a representative body (for example the Law Society or Bar Council) or a Citizens Advice Bureau. Pakistani users were least likely to approach the law firm itself (21%) and were instead likely to go to either a Citizens Advice Bureau or another solicitor or barrister firm¹⁰.

Of those that did take action, 51% of White British raised their concerns, but did not make a formal complaint, to their service provider. In contrast, only 34% of BME users did so. Instead, 40% of BME users didn't do anything about it, compared to 31% of White British. These groups are what we term 'silent sufferers' and over the last six years the number overall has remained too high, particularly when compared to other industries where the average is 25%. This is likely tied to the lack of trust in the profession.

¹⁰ These base sizes are very small, and are therefore results are indicative.

Recommendations for regulators and representative bodies

We recognise that some of the findings in this report result from societal inequalities in earning power and education levels, but there are several areas where the Approved Regulators and Representative bodies can and should take action to ensure that legal services providers better serve all users. There is likely to be scope for collaborative working across the different regulated communities and we would encourage this wherever possible in order to maximise the impact of any findings.

- Consumer research should be undertaken to understand what drives the differences in choosing between ethnic groups – why do BME users find it harder to shop around and why are certain ethnic minorities less satisfied with choice than others?
- The need for regulators to identify an accurate proxy for quality for consumers to use when choosing a service is evident: specialism is the most important choice factor among BME groups, and they are more likely to actively shop around.
- Regulators need to work towards price transparency given the limited availability of fixed fees in the areas of law BME groups are more likely to use.
- Representative bodies should consider ways to raise awareness in ethnic communities about the importance of preparing a will, particularly in the Black African and Pakistani communities.
- Regulators need to address the low levels of trust in lawyers across the population, but a part of this needs to focus on why BME users are less trusting, and what can be done to address this.

Note on methodology:

For the last six years the Panel has commissioned YouGov to conduct an annual survey in two parts: a nationally representative sample (1,864 adults); and a sample of people who have used legal services in the last two years (1,523 adults). Booster samples were obtained for Wales and BME groups. All the figures have been weighted and are representative of all GB adults (aged 18+). The results have been tested to the 95% confidence level – we are 95% confident that these findings are not due to chance. Fieldwork took place during 12 February to 4 March 2016.

	General public		Legal service users	
	Unweighted	Weighted	Unweighted	Weighted
White British	1131	1179	1149	1081
Mixed	129	122	57	65
Indian	121	107	53	63
Pakistani	102	106	56	71
Chinese	104	101	51	61
Black African	111	99	59	77
Black Caribbean	103	91	49	53