

# Unbundled services pilot: final report

15 June 2023

## Executive summary

### Why is unbundling important?

Unbundling describes the process of dividing tasks in a service between the consumer and provider. This can, among other things, make them more affordable and accessible.

We conducted a pilot exercise in family law to see if the availability of unbundling in legal services could be increased, allowing more consumers to get the legal help they need.

We engaged law firms, the public, other legal regulators, technology innovators and professional indemnity insurers to discover any barriers to unbundling legal services, to make sure the benefits were genuine and to assess any risks to consumers and the profession.

### What we did

We surveyed 114 firms, and obtained detailed information on the work they have done through interviews and roundtables. We also commissioned a YouGov survey of nearly 700 members of the public about their experiences. We looked at case law surrounding unbundling issues and spoke to indemnity insurance providers to discuss issues of cover.

### Key findings

We found that unbundling does have the potential to increase access to justice as it makes some legal services more affordable.

Some consumers told us they would have not engaged a legal service provider had the option not been available. We found no significant difference in the level of satisfaction between consumers who used unbundled legal services and those who used an end-to-end service.

Law firms could attract more clients as those clients knew they could in fact afford an unbundled deal. Some consumers also wanted to have more control over their case.

There are low levels of awareness of what unbundling is and how widely available it is, even though a number of providers already offer this. Some providers would like to expand what they do but there are concerns around the impact on firms' insurance premiums and the



possibility of legal action if things go wrong which they were not responsible for.

## Next steps

The report sets out a path towards increasing awareness and availability of unbundled services, and the opportunities made possible by technological innovation. One of the key pieces of this work is to explore an alternative to the term 'unbundling' itself to increase understanding for both the public and legal services providers.

We will also be:

- Exploring with advice agencies and charities how to help consumers ask their legal services provider about unbundling if appropriate.
- Working with professional indemnity insurers to build a better understanding of their perception of risk in unbundled services and what actions firms can take to mitigate these risks.
- Developing guidance for law firms on key points to consider when providing unbundled legal services.
- Supporting and showcasing technological solutions and good practice in unbundling.

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## Introduction

Unbundling is the term used to describe the process of dividing a set of tasks that make up a legal service between the consumer and legal service provider. The two parties agree which tasks each will undertake. We conducted a pilot in family law to better understand whether increasing the availability of unbundling in legal services might increase access to justice, and what the barriers to unbundling are for both legal service providers and consumers. The purpose of this report is to share the findings of our pilot.

In 2015 commissioned by the Legal Services Consumer Panel (LSCP) found that for some consumers, unbundling meant they could access legal advice when otherwise they would have been unable to and so unbundling has the potential to increase access to justice.

Consumers also reported that they felt they had more direct control over an issue that was of huge importance to them and typically had very positive experiences with unbundling (service satisfaction for this approach was 81 per cent compared to 84 per cent for a full legal service).

In that year (2015), the use of unbundling as a percentage of legal services delivered was 19%. By 2018, the use of unbundling had fallen to just 13% and in a [report](https://www.legalservicesconsumerpanel.org.uk/wp-) [\[https://www.legalservicesconsumerpanel.org.uk/wp-](https://www.legalservicesconsumerpanel.org.uk/wp-)



<content/uploads/2021/03/LSCP-Unbundling-paper-Final-Draft-1.pdf>, published in March 2021 (with unbundling only having risen to 16%), the LSCP encouraged regulators to explore unbundling as a potential form of innovation that could help to meet the needs of the public, predominantly by lowering cost.

We developed a pilot in family law to explore unbundled services in more detail. The pilot was designed to enhance our understanding of the benefits and risks of unbundling for consumers and legal service providers and what our role as a regulator should be in this space.

For the pilot we chaired a working group, which also had representation from the Law Society and the LSCP. There was also a pilot delivery cohort which included 20 organisations who volunteered to take part, and included 18 SRA-regulated law firms, a charity, and a start-up company working in employment law with an innovative digital unbundling solution.

## **Pilot activities**

We engaged with internal and external stakeholders including regulated law firms, consumers, legal regulators, technology innovators and professional indemnity insurers to understand the underlying barriers and assess benefits and risks to consumers and legal service providers of unbundled services.

Through our pilot we have:

- Conducted a survey of SRA-regulated firms which received 114 responses.
- Obtained detailed information from firms taking part in the pilot through information requests, interviews and roundtables.
- Commissioned a consumer survey via YouGov which received 674 responses, 337 responses from those who had unbundled.
- Reviewed case law related to unbundling.
- Engaged with professional indemnity insurers to understand how firms can address Professional Indemnity Insurance implications and mitigate premiums.

## **Legal service providers views**

To help us learn more about the barriers, challenges and benefits law firms feel they face in offering unbundled services, we carried out interviews with pilot participants, held round-table discussions with the pilot participants, discussed issues through our working group, reviewed relevant case law, and conducted an online survey through our monthly newsletter, SRA Update.



We had 114 respondents to our survey, although not all respondents completed every question. Law firms of varying sizes from across England and Wales took part in the survey.

We found just over a third of respondents had heard of the term unbundling and just over a quarter offered unbundling for one or more of their legal services. However, 40 per cent of respondents said that the survey was 'the first I've heard about unbundling legal services'.

Three quarters of law firms offering unbundling that responded to the survey felt offering unbundling provided benefits to legal service providers. The benefits mostly related to attracting more clients due to lower charges and a more flexible service, with 82 per cent of respondents stating that their unbundled service offers cost savings which could enable people who may not otherwise be able to afford legal services to get advice. And 36 per cent of respondents who are already offering unbundling wanted to expand unbundling within their business.

Firms currently offering unbundling and those that do not have shared concerns which are:

- Professional identity insurance implications.
- Implications if the client does not carry out their activity correctly or on time.
- Determining a client's capability to do the work.
- Agreeing how to apportion the work.
- Regulatory implications.

In firms which unbundle services:

- 82 per cent of respondents cited gathering information and documents as work carried out by the client.
- 82 per cent did not use technology to support the provision of unbundled services.
- 83 per cent of those who do not have a system in place to agree with clients which tasks they will undertake faced difficulties in this area.

In order to understand the inner workings of unbundled services we issued a data request to all pilot participants and followed this up with a series of in-depth interviews where we discussed matters surrounding unbundling. We have highlighted some of the trends that we found.

We found that firms would like to scale up their unbundled services offering. They told us that a lack of funds and resources are the main barriers limiting them from doing so:

- 'We would love to use tech as this is the best way to scale up unbundling but we cannot find the resources and budget for it.'



- 'A lot of cost is baked into the professional model, thus profit-making is very difficult if you are not relying on tech or very junior staff.'

Firms do not publicise or clearly specify whether they offer unbundled services on their website. Consumers tend to ask for unbundling, or the legal services provider suggests unbundling only when the usual end to end service does not fit the customer's needs:

- 'We do not advertise unbundling but if a client requests ways to save money we can offer it.'

We found that unbundling was generally aimed at more readily standardised legal matters and that firms tended to deal with clients who were looking for specific support on a certain part of their case. This can create time pressures and burdens on the legal services provider to check and verify work they may not have been involved in. However, firms also explained that unbundling is a volumes-based business which could be profitable:

- 'Unbundling legal services is the future for the readily standardised end of the legal market. The client requesting representation a week before puts huge pressure on the lawyer to ensure the paperwork is compliant because different standards immediately apply in comparison to self-representation.'

Firms also expressed a general concern over business models which claimed to include legally trained staff to guide consumers through their unbundled legal matter. They believed that there were no solicitors or barristers involved in these types of business structures and that this could mislead consumers who expected access to legally trained professionals such as a solicitor or barrister.

- 'Legally-trained should only refer to a solicitor or barrister as that's what the public expect - this is not always made clear to customers hence we believe certain business models are not robust.'

We also hosted a round-table with the working group and the pilot participants.

Many of the views expressed through our survey of the regulated sector and interviews with pilot participants were echoed in this roundtable. This included confirmation that law firms wanted more support from PII insurers to know specifically how they can address risks and mitigate premiums. It was suggested that we could help to facilitate this.

The discussion also emphasised our role in increasing awareness of unbundled services with both consumers and law firms.

## **Consumer views**



We commissioned YouGov to conduct a consumer survey involving 674 respondents. The respondents lived in England and Wales and had purchased a legal service (other than conveyancing) in the past two years.

Half of the sample had used unbundling for their legal service. We did not stipulate demographic criteria because we know the offering and uptake of unbundled services is limited and wanted to ensure a viable sample of respondents that had used unbundled legal services. Consequently, the sample fell out naturally and overrepresents respondents with high levels of education, older age groups and white ethnicity. We were therefore unable to use this piece of research to understand the differences in views and experiences of different demographic groups.

We did find that respondents earning more than £60,000 a year are significantly less likely to unbundle. This might be because they are more able to afford traditional legal services when compared to those on a lower income.

We found evidence that unbundling had worked well for those consumers who had purchased this type of legal service. Respondents who had unbundled their legal matter are significantly more likely to ask about unbundling in the future than those that did not unbundle - 68 per cent of respondents who had unbundled said they were likely to do this compared to 37 per cent of those who had not.

There is also no significant difference in the satisfaction of respondents who unbundled compared to those who did not. Moreover, respondents that unbundled are more likely than those that did not to recommend their legal services provider to a friend.

We also found evidence that for some consumers unbundling is key to accessing legal services. Almost three quarters of respondents who would unbundle would do so to keep costs down. They felt capable of doing some of the work themselves and did not want to pay for those elements. Of those respondents who had unbundled:

- A quarter did so because they could not afford for a law firm to do all the work.
- Just over a fifth (21%) would not have engaged a legal services provider had unbundling not been available.

There were also other good reasons to unbundle. Among respondents that unbundled:

- Over half of respondents (56 per cent) wanted professional legal support for parts of their matter and were happy to do the rest themselves.



- Over a third (38 per cent) felt their matter would progress more quickly if they did some work themselves.
- Just under a third (31 per cent) felt it important to feel in control of their case.

Respondents that had unbundled were significantly more likely to indicate strong agreement that it was important for them to feel in control of their case than those that did not unbundle.

We found data to indicate that legal services providers are able to successfully divide responsibility for tasks and provide clarity as to costs. Among respondents that unbundled:

- Just over three quarters of respondents that had unbundled reported it being easy to agree how the work would be divided.
- Almost three quarters gathered information/documents and over half of respondents indicated their legal services provider checked their work.
- Over three quarters of respondents were confident at the start of the legal process that they had the necessary skills, seven per cent were not confident.
- Almost 90 per cent of respondents were clear as to which tasks they were completing, and which tasks the legal services provider was completing.
- 80 per cent of respondents were clear about the costs for the tasks the legal service provider was completing and 10 per cent were unclear.

Among respondents who did not unbundle their legal issue within the past two years, 80 per cent had not heard of this possibility prior to this survey. 37 per cent of this group indicated they are likely to ask their legal services provider in future whether they can do some of the work themselves. 31 per cent would be unlikely to ask about it for future legal matters, while 23 per cent felt it would depend on the legal matter.

The reasons given for not wanting to unbundle legal services included lack of confidence in handling the activity and being happy to pay for the work.

## **What we found**

From the evidence gathered through this pilot, we think that unbundling has the potential to increase access to justice through the provision of legal services to those who would not have otherwise engaged a legal service provider.

There are also other consumers who can benefit from unbundled legal services, such as those who want more control of their case. Moreover, there are potential benefits of undertaking unbundling for legal service providers because they have the opportunity to attract more consumers.



We would like to harness the potential of unbundling to broaden access to legal services and increase consumer choice within legal services. Our pilot findings indicate that increased awareness, transparency and clarity could encourage more unbundling.

## **Barriers and our work**

Review of data and information obtained through the pilot helped us to identify the current barriers faced by consumers and legal service providers and consider potential work we can undertake to improve access to legal services through unbundling.

We have grouped our findings into key themes and summarised our plan of work on what we could do to tackle these barriers.

## **Awareness**

The majority of consumers and legal service providers do not understand or know about the term and concept of unbundling and so they do not look for or offer such services.

Data from our consumer survey indicates that there is much room for improvement in awareness of unbundling with 80 per cent of those that had not unbundled responding that they had not heard of this possibility prior to our survey. Respondents suggested that they would like clearer information about unbundling as a potential cost saving option when purchasing a legal service.

Forty per cent of respondents to our firm survey had not previously heard of unbundling in legal services. Pilot participants also highlighted that we could do more to increase awareness of unbundled services with both consumers and law firms.

We found that even legal services providers who offer unbundling do not advertise its availability as a matter of course and this has an impact on consumer awareness of unbundling. We can help with improving awareness of unbundling among consumers and legal service providers through various mechanisms. In the first instance we will publish information for consumers to raise awareness of unbundling as an option that they might want to consider.

We will also explore the feasibility of targeted advertising to help raise awareness of unbundling with consumers. We have already hosted a [webinar \[https://www.youtube.com/watch?v=v2xICCjVc3o\]](https://www.youtube.com/watch?v=v2xICCjVc3o) aimed at legal service providers that focused on the concept of unbundling, barriers and the findings from our pilot. We will continue to explore options to raise awareness of unbundling and its potential benefits with legal service providers.





We will work with the Law Society, LSCP and others to seek to agree an alternative to the term unbundling that is more understandable to consumers and legal service providers. We will explore with advice agencies and charities, how they can help consumers to ask their legal services provider about unbundling where it is appropriate to their needs.

We will explore options for firms to advertise the availability of unbundling more routinely to consumers. As a first step, we will conduct consumer testing to understand the impacts of legal service providers advertising unbundling as a service they would consider offering to consumers.

## **Professional indemnity insurance implications**

Legal service providers are concerned that offering unbundling will lead to an increase in their PII premium and this is a key barrier to legal service providers offering unbundled services.

Information from our survey of legal service providers, including firms currently offering unbundling and those that do not, have shared concerns about Professional Indemnity Insurance implications. This was echoed at round-tables and through in-depth interviews we had with pilot participants. Legal service providers told us they would like toolkits to assist them to navigate Professional Indemnity Insurance implications.

We spoke to some insurers, and we learned that risk can be reduced through firms having clear systems in place to evidence the scope of the retainer. Technology can help with this in terms of keeping transaction records and audit trails. If anything goes wrong for a firm, having records of what was agreed, what actions were taken, by whom and when, can help to lower risks and shorten investigations. However, we currently do not have objective data on whether firms using technology for unbundling have lower Professional Indemnity Insurance premiums than those that do not.

Our discussions highlighted the need to continue our engagement with insurers to build a better understanding. To do this effectively we will seek to work with insurers to understand how they perceive risks in unbundled services, discuss actions firms could take to address those risks and whether there are ways that firms could mitigate implications to their premiums. We are also working in collaboration with the Legal Services Board in their review of financial protection arrangements for consumers which may be relevant to this work.

## **Legal action if things go wrong**

Legal services providers have told us that a related key barrier to insurance implications is the risk of legal action against them if a client



does not do their part correctly or on time. They also had concerns with determining a client's capability to undertake work and agreeing how to apportion the work as this could lead to negligence action against them.

We reviewed case law related to legal action in unbundling cases. We found that there are very few reported cases. This could be due to matters being settled before reaching court. Nonetheless we have reviewed these cases to understand the reasons behind the decisions taken by the court.

To help firms, we are developing guidance on key points to consider when providing unbundled legal services. This will include how to minimise the risk of legal action

## **Technology**

Some legal services providers struggle to scale their workload due to challenges in validating and verifying consumer information. Although we have seen legal services providers who have invested in online portals to help them with this, others report that a lack of resources hinders their investment in technology.

We continue to see growth in new platforms that allow consumers to create and manage casework themselves. Some start-ups allow users to build an online evidence pack for employment tribunal claims before submitting it to a solicitor. These platforms enable scale because the customer takes on the evidence curation and some of the administrative workload.

To help firms, we will support and showcase technological solutions and good practice in unbundling.

## **Overcoming barriers to unbundling**

The pilot helped us to identify and understand a number of key barriers to increasing the take-up of unbundled legal services. Given the clear benefits for both consumers and legal services providers, we have considered how we might be able to help overcome these barriers.

### **Awareness**

Consumers and legal services providers lack awareness of the existence of unbundling which means that few providers offer unbundling as an option and few consumers request it. In September 2022, we held a webinar for legal service providers which was in part to raise awareness of unbundling and its potential benefits. As of the end of January 2023, there have been 374 views of the webinar. Our next steps to overcome this barrier include:



- Working with stakeholders to seek to agree an alternative to the term unbundling that is more understandable to consumers and legal service providers.
- Exploring with advice agencies and charities how they can help consumers to ask their legal services provider about unbundling where it is appropriate to their needs.
- Publishing information for consumers to raise awareness of unbundling as an option that consumers might want to consider.
- Exploring the feasibility of targeted advertising to raise awareness of unbundling with consumers.
- Continuing to explore options to raise awareness of unbundling and its potential benefits with legal service providers.
- Exploring options for firms to advertise the availability of unbundling more routinely to consumers.

### **Professional indemnity insurance implications**

Offering unbundled services can lead to an increase in professional indemnity insurance premiums. This is one of the biggest barriers to legal service providers offering unbundling. Our work to overcome this barrier includes:

- Working with professional indemnity insurers to build a better understanding of their perception of risks in unbundled services and what actions firms could take to address those risks. This will help us to understand whether there are ways in which firms could mitigate any impact on their premiums.
- Continuing to collaborate with the Legal Services Board in their review of financial protection arrangements for consumers, which may be relevant to this work.

### **Potential legal action**

Another key barrier to firms offering unbundling is the perceived risk of a client taking action against them if something goes wrong with the work that the client is responsible for. To help overcome this barrier we will develop guidance for law firms on unbundling which will include how to minimise the chances of things going wrong when providing unbundled services.

### **Technology to scale up**

We found that legal services providers struggle to scale their workload due to time spent validating and verifying consumer information. Although we have seen legal services providers who have tackled this barrier through investing in online portals, others report that a lack of resources hinders their investment in technology.



Our work to overcome this barrier includes supporting and showcasing solutions and good practice. We have seen growth in new online platforms that allow consumers to create and manage casework themselves. These platforms enable businesses to scale up unbundled services work because the client takes on the evidence curation and some of the administrative workload, creating efficiencies.

## **Next steps**

The report sets out a path towards increasing awareness and availability of unbundled services, and the opportunities made possible by technological innovation.

Our next steps include:

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- Continuing to explore options to raise awareness of unbundling and its potential benefits with legal service providers.
- We will explore options for firms to advertise the availability of unbundling more routinely to consumers. As a first step, we will conduct consumer testing to understand the impacts of legal service providers advertising unbundling as a service they would consider offering to consumers.
- Working with professional indemnity insurers to build a better understanding of their perception of risk in unbundled services and what actions firms could take to address those risks, in order to understand whether firms could mitigate any impact on their premiums.
- Continuing to collaborate with the Legal Services Board in their review of financial protection arrangements for consumers.
- Developing guidance for law firms on key points to consider when providing unbundled legal services.
- Supporting and showcasing technological solutions and good practice in unbundling.