

## STUDIES ON OBTAINING LEGAL ADVICE FROM CERTIFIED PEOPLE WHO ARE NOT LAWYERS

Article	Study Referenced	Summary of Study	Findings of Study
Rebecca L. Sandefur, <i>Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms</i>	Leanne Smith et al., Cardiff Univ. & Univ. of Bristol, <i>A Study of Fee-Charging McKenzie Friends and Their Work in Private Family Law</i> , Cases 5-6 (2017).	Interviews were conducted with McKenzie Friends, clients of McKenzie Friends, and court-based observation and linked interviews.	A wide range of different kinds of providers offer legal advice, which means that consumers have a much broader choice of authorized sources than in the United States.  The study finds that people choose to work with McKenzie Friends because they are “cheaper than lawyers,” “flexible, available and informal,” and seen as “allies.”
Rebecca L. Sandefur, <i>Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms</i>	Pascoe Pleasence et al., <i>What Really Drives Advice Seeking Behavior? Looking Beyond the Subject of Legal Disputes</i>	The online study surveyed 1031 people between the ages of 16 and 66 and compared how consumers reporting civil justice problems in the areas of money and housing handled them in the United States in 1992 and in the United Kingdom in 2004.	People were more likely to recommend lawyers for problems that they judged to be more severe and that they understood to be legal in nature.
Rebecca L. Sandefur, <i>Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms</i>	Hazel Genn & Yvette Genn, <i>The Effectiveness of Representation at Tribunals</i> , 243-44 (Lord Chancellors Department and Queen Mary College, University of London 1989).	The U.K. study explored the impact of lawyer and nonlawyer representation in four types of tribunals through analysis of hundreds of tribunal files, observation of hundreds of hearings, and interviews with tribunal staff, representatives, appellants and applicants.	Most interviewees believed that specialization and experience, rather than a legal degree, were the most important qualifications for good representation.  Evidence shows that nonlawyer advocates can perform as well or better than lawyers in . . . a range of government tribunals in the United Kingdom.

<p>Rebecca L. Sandefur, <i>Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms</i></p>	<p>Legal Servs. Consumer Panel, <i>Regulating Will-Writing</i>, tbl.7 (2011).</p>	<p>The study surveyed 500 people who had recently purchased a will from a solicitor or will-writing company.</p>	<p>The study found similar rates of error in both groups: both solicitors and will- writing companies had a failure rate of about twenty percent.</p>
<p>Rebecca L. Sandefur, <i>Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms</i></p>	<p>Introduction to Citizens Advice Service, <i>Citizens Advice</i>, <a href="https://perma.cc/YLW4-MS8K">https://perma.cc/YLW4-MS8K</a> (last visited May 26, 2020).</p>	<p>In England and Wales, consumers have a wide range of choices of legal advice providers, including a national network of Citizens’ Advice offices staffed by trained volunteers who provide legal advice about a range of issues, as well as the McKenzie Friends.</p>	<p>A comparison of consumer behavior in these two contexts reveals that even when lawyers are free, if legal advice from nonlawyers is available, people are more likely to use these advice services-- than the services of fully qualified attorneys.</p> <p>Consumers sometimes prefer the services of nonlawyers even when traditional lawyers’ services are free. One of the most striking findings about demand for legal advice comes from a comparative study of how people handle justice problems in jurisdictions where legal advice is widely available from nonlawyers, while lawyers’ services are at the same time free or greatly subsidized. In such contexts, consumer choice is less constrained by cost.</p>
<p>Rebecca L. Sandefur, <i>Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms</i></p>	<p>Richard Moorhead et al., <i>Quality and Cost: Final Report on the Contracting of Civil, Non-Family Advice and Assistance Pilot</i> (The Stationery Office 2001).</p>	<p>A landmark U.K. study comparing nonlawyer and solicitor providers of legal advice across a range of civil case types, including benefits, housing, debt, personal injury, immigration, and employment, assessed the quality of services provided through peer review of closed case files.</p> <p>The findings reflect 867 responses to a survey sent out in November 1999 to clients in a sample of cases closed during the last week of August in 1999.</p>	<p>Nonlawyers and solicitors were equally likely to receive failing grades for their work: a quarter of the case files prepared by each failed the quality review. However, nonlawyers were six times more likely than lawyers to produce work that reviewers rated as excellent. Nonlawyers can not only perform as well as lawyers, but they can also perform better.</p> <p>77% of will-writers’ clients were satisfied with the quality of their will, while 84% of solicitors’ clients were satisfied. Consumers appreciated that the will-writers provided a more flexible and accessible service, including visits to consumers’ homes. Clients of will-writing companies “were more likely [than clients of solicitors] to have spent over an hour discussing their personal circumstances.” 47% of will-writing clients responding to a survey reported spending at least an hour with their advisor, compared with only 16% of the clients of solicitors. “Respondents who spent longer” talking with advisors “tended to be more satisfied with the overall quality of their will.”</p>

<p>Rebecca L. Sandefur, <i>Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms</i></p>	<p>Avrom Sherr &amp; Alan Paterson, <i>Professional Competence: Peer Review and Quality Assurance in England and Wales and in Scotland</i>, 45 ALTA. L. REV. 151 (2008).</p>	<p>Peer review audits of the quality of legal work in individual attorneys' casefiles in Scotland</p>	<p>Findings: about a tenth (9.7%) were inadequate.</p> <p>A parallel review of case files from private law firms participating in the England and Wales legal aid scheme found that about 20% received a failing grade from at least one reviewer.</p>
<p>Rebecca L. Sandefur, <i>Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms</i></p>	<p>Hazel Genn &amp; Yvette Genn, <i>The Effectiveness of Representation at Tribunals</i>, 243-44 (Lord Chancellors Department and Queen Mary College, University of London 1989).</p>	<p>A U.K. study exploring the impact of lawyer and nonlawyer representatives in social security appeal tribunals, immigration adjudication hearings, industrial tribunals, and mental health review tribunals</p>	<p>Only in industrial tribunals did fully qualified lawyers lead all forms of lay specialists in terms of their positive impact on a case; in the other settings, nonlawyers were as positively impactful or more impactful than lawyers.</p>
<p>Avrom Sherr and Alan Paterson, <i>Professional Competence Peer Review and Quality Assurance</i></p>	<p>Pleasence, Buck &amp; Balmer (eds), <i>Transforming Lives: Law and Social Process</i> (LSRC 2007).</p>	<p>The papers, drawn from three continents, provide an insight into how people experience the law, the extent of impact of legal problems, the reasons people sometimes take no action to resolve problems, and methods of service delivery.</p>	<p>In the United Kingdom in the last few years anecdotal evidence has begun to emerge suggesting that in some parts of the country, particularly in rural areas, a shortage of private lawyers is occurring who are willing to undertake work for legal aid clients because of the low rates of remuneration from the state for such work.</p>
<p>Avrom Sherr and Alan Paterson, <i>Professional Competence Peer Review and Quality Assurance</i></p>	<p>[Data in this section is available to the author from his participation in the QAC and his role as research adviser to SLAB, which entailed the training of the peer reviewers and monitoring the</p>	<p>By mid-November 2006, 98 peer reviewers had carried out reviews of 1016 civil legal aid providers in England and Wales. In the three years of the cycle a total of 26,132 files were reviewed. On average the reviewers had assessed 10.37 Providers each (although the number of reviews conducted by individual</p>	<p>Of the 1016 reviews conducted since August 2003 only 207, or 20.37%, received a failing grade. Of these only 16, or 1.57%, received the worst grade of failure in performance. Four-hundred and seventy-six, or 46.85%, satisfied the minimum expectation of threshold competence. A substantial 296 providers, or 29.04%, received grades of competence plus. However only 38, or 3.74%, were recognized as having attained excellence. Crime was also considered over the same period in England and Wales.</p>

	consistency of their marking.]	peer reviewers ranged between 1 and 53).	What has emerged is that the overall quality of the service provided, and of the providers themselves is reassuringly high, with less than 10% of files and providers failing even their routine reviews.
Richard Moorhead, Avrom Sherr and Alan Paterson, <i>Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales</i> , 37 Law and Society Review 765-808, (2003)	Lord Chancellor's Department (1986) <i>Legal Aid Efficiency Scrutiny</i> . London: Lord Chancellor's Department.	In England and Wales, policy interest in nonlawyer agencies was heightened in 1986, when the government suggested an almost wholesale transfer of state-funded legal advice functions from solicitors to lay advisers.	These policy papers thus suggested three main benefits of allowing lawyers and nonlawyers to contest the delivery of legal help services. Nonlawyers would be cheaper than lawyers, together nonlawyers and lawyers would maximize quality and access, and they would each contribute something “different” to the range of legal help services available to the public. This suggests that, from judgments on cost, quality, and access, it may be possible to infer positions about the relative value for money for a particular type of service. If a service is cheaper and provides higher levels of access and better quality, then it is obviously better value for money.
Richard Moorhead, Avrom Sherr and Alan Paterson, <i>Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales</i> , 37 Law and Society Review 765-808, (2003)	Bogart, William A., & Neil Vidmar (1989) <i>Report to the Ontario Task Force on Independent Paralegals: An Empirical Profile of Independent Paralegals in the Province of Ontario</i> . Windsor, Ontario: Windsor Law School.	Their assessment is based principally on interviews with paralegals, lawyers, judges, and clients.	Clients felt that paralegals were cheaper and more responsive/attentive to their problems, and tribunals, justices of the peace, and prosecutors were supportive of paralegals appearing in their cases, particularly if they were properly trained and regulated.  There was evidence of poor quality from some paralegals but also evidence that they may not be better or worse than lawyers practicing in the same areas.
Richard Moorhead, Avrom Sherr and Alan Paterson, <i>Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales</i> , 37 Law and Society Review 765-808, (2003)	Richard Moorhead, Avrom Sherr and Alan Paterson, <i>Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales</i> , 37 Law and Society Review 765-808, (2003)	[author’s own study]	NFP agencies had clients with slightly higher satisfaction ratings and got significantly better results, and their work on cases was more likely to be graded at higher levels of quality by experienced practitioners working in their field. Put alongside the findings on quality, the “justice on the cheap” presumption about nonlawyer services is turned on its head. Nonlawyers provided significantly improved quality (for about 10 to 20% of clients), but at significantly increased cost (about double). The payment regimes of different contract types may have had a significant impact on this. However, it was possible to control for the extra time spent per case

			<p>on nonlawyer clients in the multivariate analysis discussed above. Nonlawyers still did better.</p> <p>The results show that it is possible for nonlawyer agencies to perform at the same or higher levels of quality than lawyers, and that in itself undermines a key claim of the profession to exclusive knowledge.</p> <p>These findings point to an intriguing possibility in the context of the legal aid scheme of England and Wales: Where supply of lawyers is high and legal services are cheap, the introduction or encouragement of nonlawyer competition has increased cost and reduced access (but also increased quality). Thus, any contest between lawyers and nonlawyers is not simply determined by a battle between the apparent evils of professional power and the naïve interests of the innocent consumer in more choice. It is a complex process of interacting markets, institutions, and histories.</p>