

ICLR 2019
Modernizing Regulation
Edinburgh, Scotland

Workshop A1

Consumers and clients in the
modern age

Presenters

- Kerri-anne Millard, Director Policy & Outreach, Victoria Legal Services, AU
- Carol Brennan, Honorary Reader in Consumer Policy at Queen Margaret University, Scotland, UK
- Steve Brooker, Head of Policy Development and Research, LSB, England and Wales, UK
- Jerry Larkin, Administrator, Illinois ARDC, USA, Moderator

Illinois Market Shortcomings for Clients

- Prevalence of self-represented litigants (SRL)
 - 93 out of 102 counties
 - > 50% of civil cases had at least one SRL
 - Over half of 24 judicial circuits
 - 70% or more of civil litigants were SRL
 - Dissolution, Municipal, Orders of Protection
 - 50% or more SRL
 - Small claims and family matters
 - Defendants = 2/3 SRL
- Lack of transparency of legal needs, cost/value of legal services

Market Shortcomings for Clients

- Choice not to seek legal assistance
 - Self-help (46%) most common “solution”
 - Most common reason = did not see the need
- Lack of awareness that matter is legal
 - 56% were “bad luck”
 - 21% were “private” or “family/community”
- More likely to use/consider lawyer when believe situation is legal

Intermediary Services Framework

- Expand available means to market to and connect with potential clients
- Permit participation in **registered and regulated** for-profit intermediary services
- Permit payment of a fee for every connection that results in potential client hiring lawyer
- Require disclosure of basis or rate of the lawyer's fee

References

- Milan Markovic, *Juking Access to Justice to Deregulate the Legal Market*, 29 Geo. J. Legal Ethics 63 (2016), <https://scholarship.law.tamu.edu/facscholar/730/>
- Rebecca L. Sandefur, *Accessing Justice in Contemporary USA: Findings from the Community Needs and Services Study*, American Bar Foundation, at 12-14 (Aug. 8, 2014), available at http://www.americanbarfoundation.org/uploads/cms/documents/sandefur_accessing_justice_in_the_contemporary_usa_aug_2014.pdf
- Advancing Access to Justice in Illinois: 2017-202 Strategic Plan, Illinois Supreme Court Commission on Access to Justice, at 1, 13 (May 2017), available at https://courts.illinois.gov/SupremeCourt/Committees/ATJ_Comm/ATJ_Comm Strategic Plan.pdf
- Administrative Office of Illinois Courts, ATJ Commission Strategic Planning Committee, Updated Proof of Concept Memo for Self-Represented Litigant Coordinators Program (Dec. 8, 2016), *available in Advancing Access to Justice in Illinois*, at 45.
- Ed Finkel, *The Pro se Revolution*, Illinois Bar Journal, Vol. 105, No. 10 (Oct. 2017), <https://www.isba.org/ibj/2017/10/proserevolution>
- *Report and Recommendations on the Future of Legal Services in Utah*, Futures Commission of the Utah State Bar (July 29, 2015)

Getting to know Consumers of Legal Services

Kerri-anne Millard

Director, Policy and Outreach, Victorian Legal Services Board + Commissioner

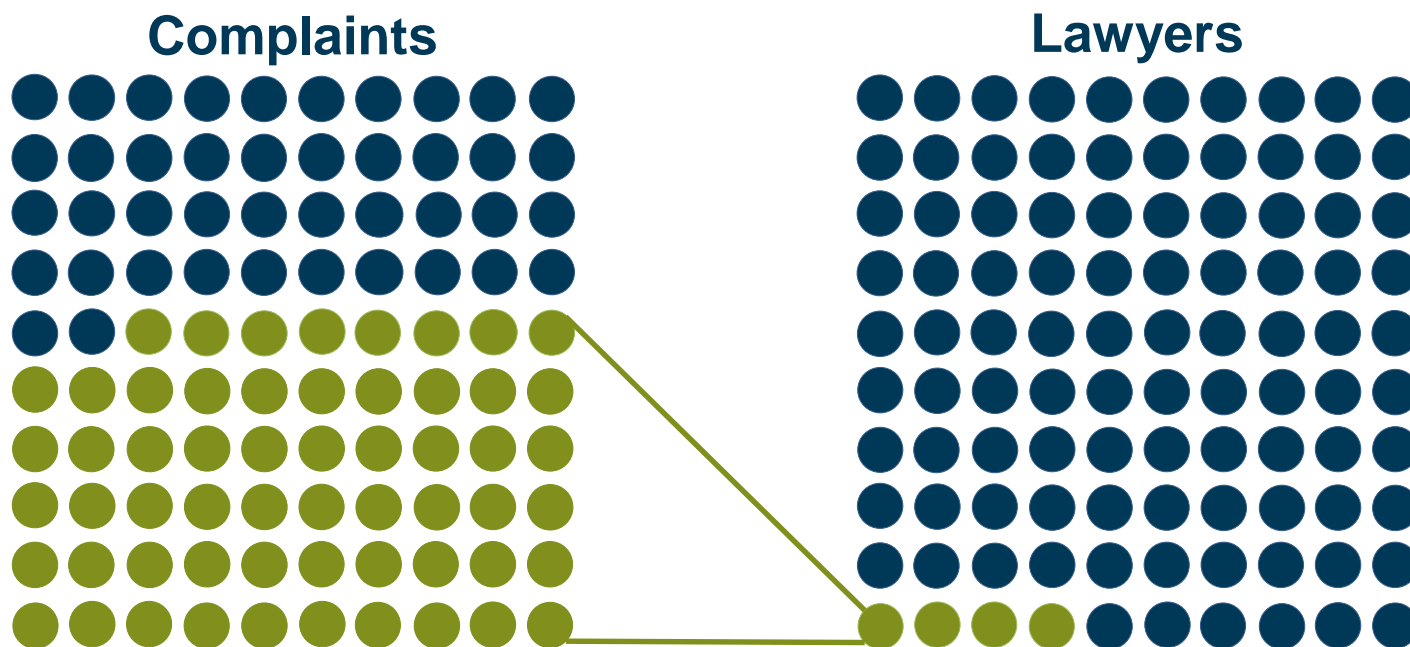
International Conference of Legal Regulators, 5 September 2019

Overview of today's presentation

Embarking on a new direction: a more holistic understanding of the lawyer-client relationship.

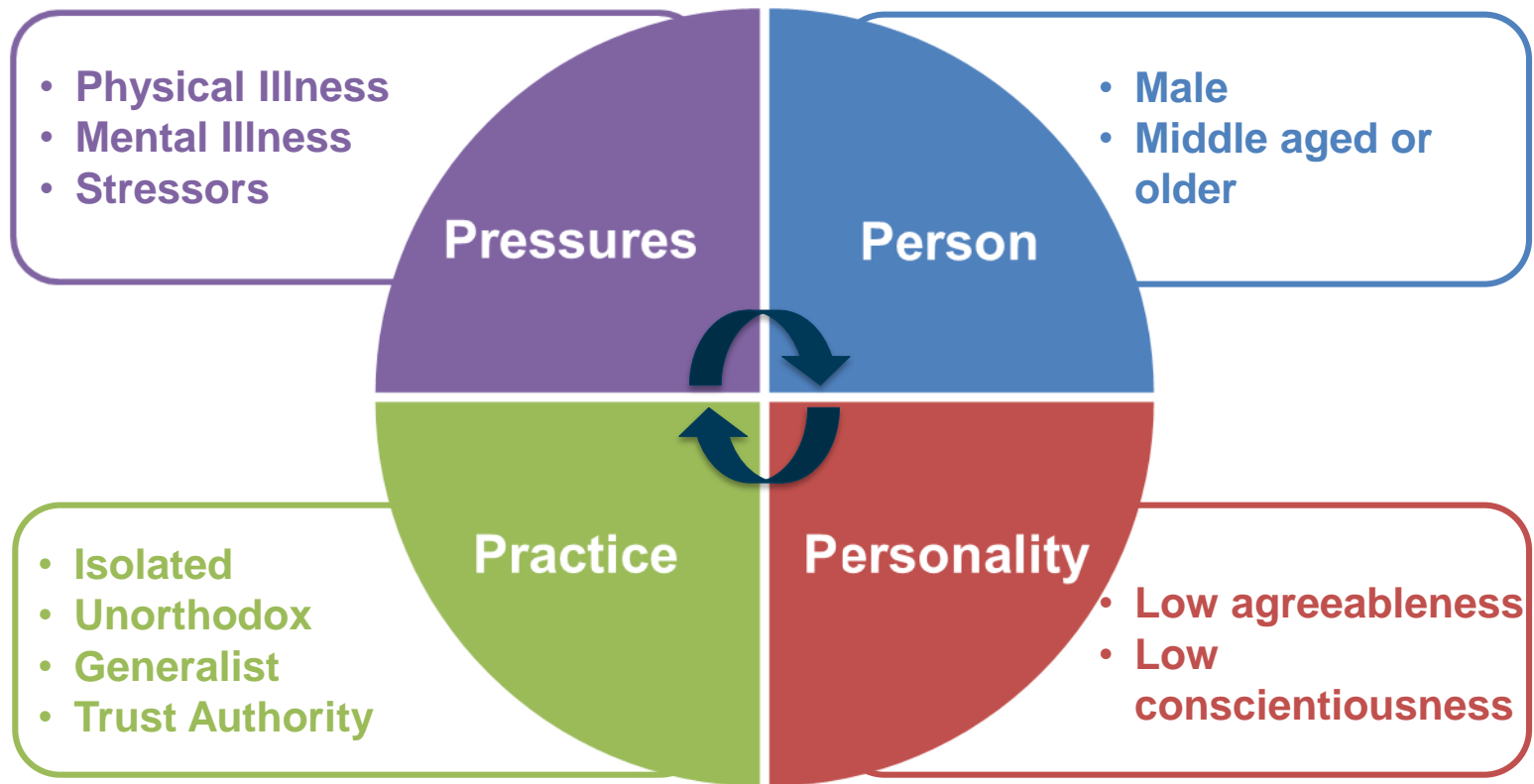


What we know about lawyers



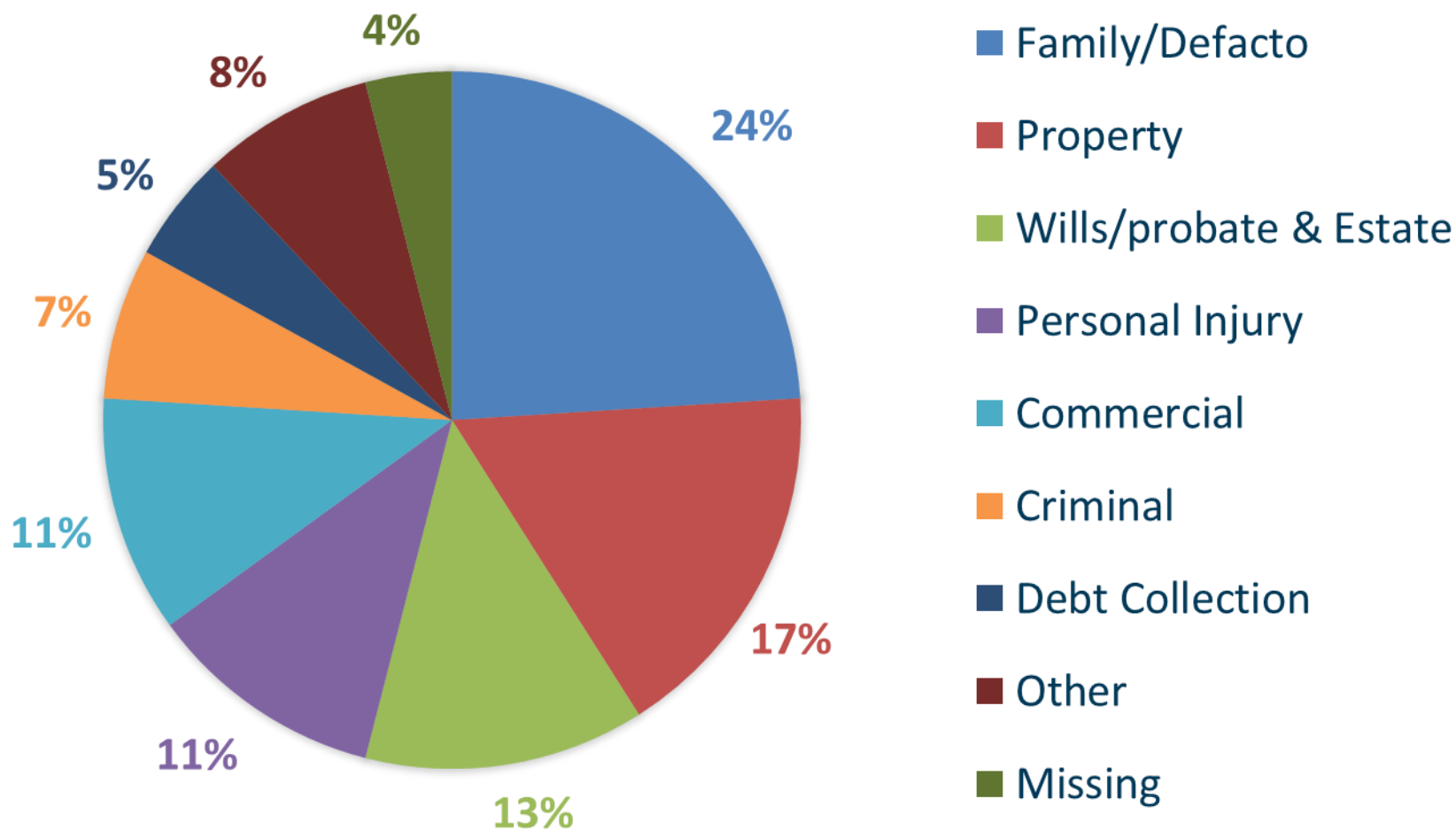
What we know about lawyers

High Complaints History – Common Traits

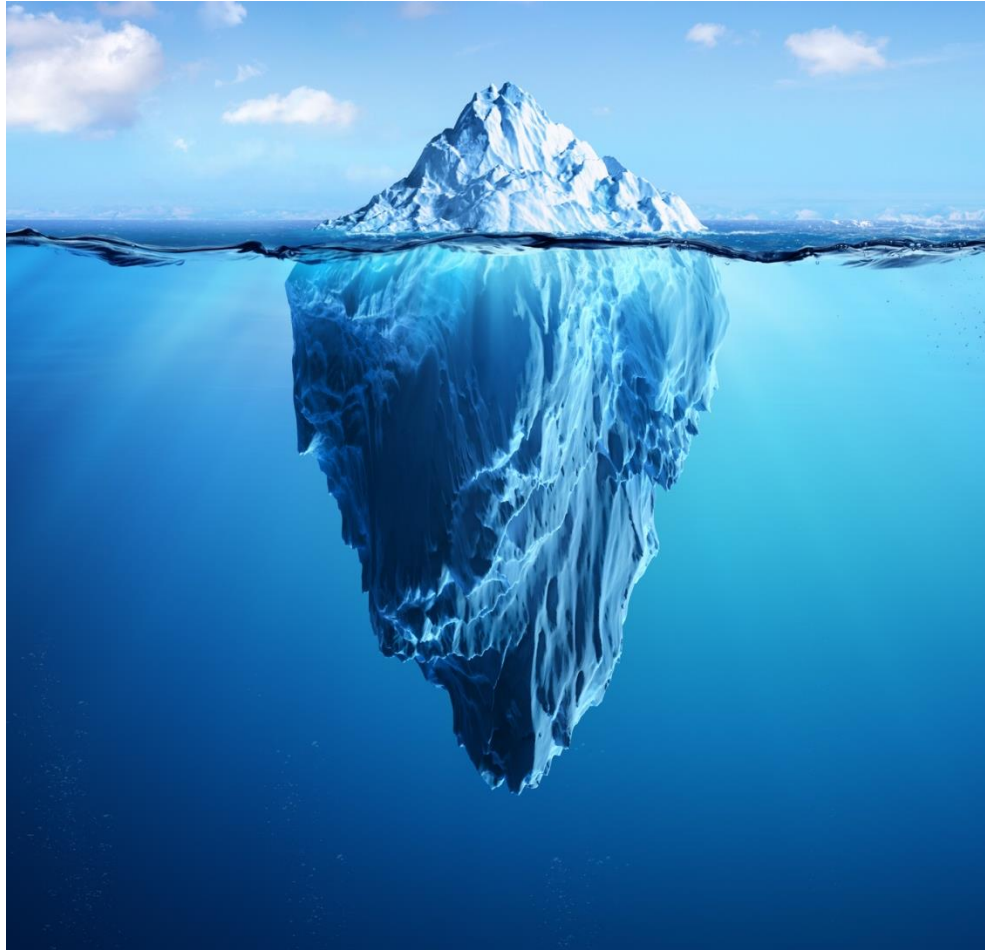


What we know about complainants

COMPLAINTS BY AREA OF LAW



What we don't know about consumers



What we're doing



What we'll do with the information once we have it



CONSUMERS AND CLIENTS IN THE MODERN AGE

Carol Brennan



WHAT I WILL COVER

Scottish Legal Complaints Commission Consumer Panel

role of the panel

Consumer Principles

a useful framework for analysis of
consumer need

Complainants at risk of vulnerability

who is at risk



the consumer journey



Power imbalance?





Queen Margaret University
CONSUMER DISPUTE RESOLUTION
CENTRE



SLCC CONSUMER PANEL

ABOUT THE SLCC CONSUMER PANEL



The diagram features three white circles arranged vertically on the left side, connected by a thin dark blue line. Each circle is positioned to the left of a horizontal rectangular box with a light blue-to-white gradient. The boxes contain text describing the functions of the SLCC Consumer Panel. The background is a solid blue color with some white diagonal lines on the right side.

Make recommendations for improvements to SLCC's policies and procedures

Make suggestions to the SLCC of consumer-related research topics

Express views on matters relevant to the SLCC's functions as the SLCC directs

consumer principles



COMPLAINANTS AT RISK OF VULNERABILITY

| | | | |
|------------------------------|---------------------|------------------------|----------------------|
| Age | Inexperience | Low income | Low literacy |
| Learning disability | Physical disability | Cultural barriers | Mental health issues |
| English as a second language | Location | Health problems | Being a carer |
| Lack of internet access | Lone parent | Leaving care | Bereavement |
| Loss of income | Living alone | Relationship breakdown | Release from prison |

Consumer Perspective

A shift in mindset is required...
which requires service providers
to ask not *What is wrong with
this person?* but *What is wrong
with my service if this person
cannot access it?*

(Legal Services Consumer Panel 2014)

DOCUMENTS

<https://www.scottishlegalcomplaints.org.uk/about-us/consumer-panel/consumer-principles/>

<https://www.scottishlegalcomplaints.org.uk/about-us/consumer-panel/vulnerable-consumers/>

A series of white diagonal lines of varying lengths and thicknesses, located in the bottom right corner of the slide, extending from the right edge towards the center.

REFERENCES

BRENNAN, C., SOURDIN, T., WILLIAMS, J., BURSTYNER, N. and GILL, C., 2017. Consumer vulnerability and complaint handling: challenges, opportunities and dispute system design *International Journal of Consumer Studies*

BSI. 2010. *BS18477:2010 Inclusive service provision. Requirements for identifying and responding to consumer vulnerability*. London: British Standards Institution.

BSI. 2019. *Standards*. Available from:
<http://www.bsigroup.com/en-GB/standards/>

LEGAL SERVICES CONSUMER PANEL. 2014. Recognising and responding to consumer vulnerability: a guide for legal services regulators. London: LSCP.