

Work Programme 2017-18

June 2017

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Our vision

A market where everyone can access high quality and affordable legal services that meet their needs:

- **Responsive services**
- **High quality advice**
- **A diverse workforce that understands its diverse clients**
- **Quick, fair and cost-effective complaints-handling**
- **Consumers placed at the heart of regulation**

Foreword

As the new Chair of the Legal Services Consumer Panel I am pleased to be writing my first foreword for the Panel's annual Work Programme.

I have taken up appointment as Chair of the Consumer Panel at a very important time for providers and consumers of legal services. The Competition and Markets Authority's (CMA) recent assessment of the sector and its subsequent recommendations mean that in the future consumers might begin to enjoy what the Panel has consistently encouraged; access to pertinent information, presented in ways consumers can easily access, assess, and act on. At the same time, providers of legal services have an opportunity to better understand and respond to the needs of diverse consumers. This can have a positive effect on profitability and innovation.

Since 2011, the Panel has shone a light on the need for open data in the sector, starting with basic regulatory data. And as recently as 2016, the Panel published a report calling for more transparency, focusing on information around key choice factors for consumers e.g. price and quality.

Many of the Panel's recommendations are reflected in the CMA's report. There is now a real opportunity under my leadership to move beyond identifying the problems and be a part of the solution. This will be my focus in 2017/18. During this year we will also be working on our next three year strategy

I am keen to ensure that the consumer voice and interest are reflected in the solutions proposed. To support regulators in this task the Panel is ready to advice on the development of effective solutions. Indeed we have already begun to do this. Our recent advice to the Legal Services Board (LSB) on the effectiveness of information remedies draws on research from across many regulated sectors.

To be successful we will have to continue to strengthen our relationships with Approved Regulators, many of whom I have met. I have had insightful discussions which have highlighted much common ground including issues of mutual concern which I hope we can address, and areas for joint working. I am very much looking forward to being a part of new developments in the sector.

Dr Jane Martin CBE



Chair

About the Panel

Our purpose

- 1.1. The Legal Services Consumer Panel is a central feature of a regulatory framework in England and Wales, which is designed to transform the legal services market around the needs of its users.
- 1.2. Created by the Legal Services Act 2007 (The Act), we are an independent arm of the Legal Services Board (LSB). As a permanent, discrete champion for consumers, we have an essential responsibility to ensure that regulators are able to consider and act on the user perspective, putting the consumer interest at the heart of regulation.

Our vision

- 1.3. A market where everyone can access high quality and affordable legal services that meet their needs:
 - Responsive services
 - High quality advice
 - A diverse workforce that understands its diverse clients
 - Quick, fair and cost-effective complaints handling
 - Consumers placed at the heart of regulation
- 1.4. Our remit is to represent the interests of the many different consumers of legal services, including small

businesses and charities. A core emphasis is on the needs of vulnerable consumers.

How we work

- 1.5. The Panel provides high quality, evidenced-based advice and challenge to the Legal Services Board, in order to help them make decisions that are shaped around the needs of users.

Who we are

- 1.6. The Panel is made up of eight lay¹ members whose appointments are approved by the Lord Chancellor. Our members' varied experience and expertise include: charitable, private and public sectors; advice provision; consumer research; trading standards; and complaints handling. Panel members are not able to be practising lawyers. More information about the Panel members is at the back of this document.

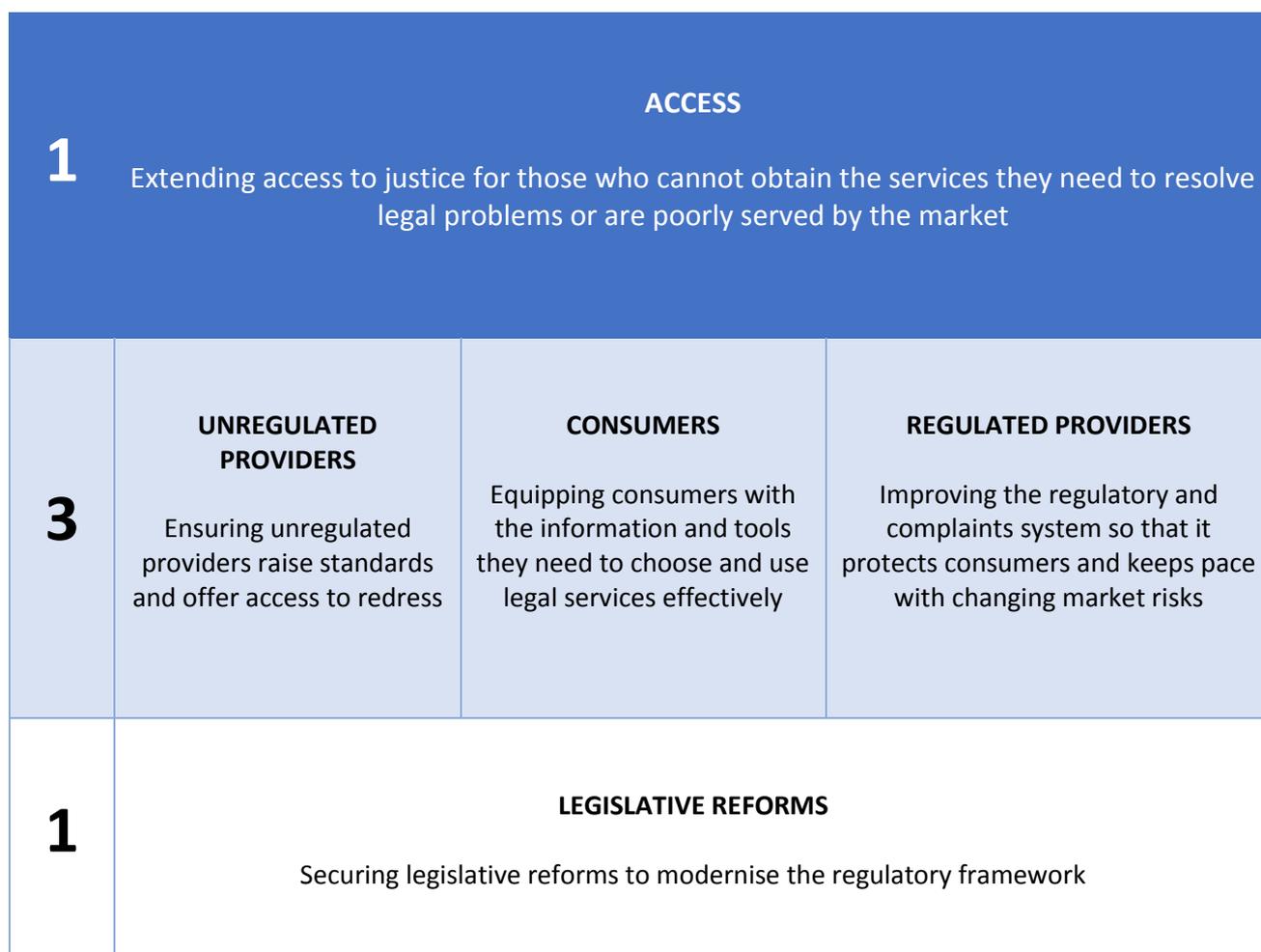
Our approach to regulation

- 1.7. Our core challenge is finding the right balance between access to justice and consumer protection. We seek to find the right amount of regulation to enable consumers to truly benefit from open and fair markets. Both too much and too little regulation harm consumers. We want to remove unnecessary restrictions that impede innovation.

¹ There are currently 8 panel members.

Overview

- 2.1. 2016 was an important year in legal services regulation. The Competition and Markets Authority assessed the sector and found a weak demand side hindering effective competition. This finding must now be the catalyst that reenergises providers of legal services, regulators, and consumer groups to reprioritise the consumer interest by improving transparency. This will be our focus in 2017/18.
- 2.2. In 2015, the Panel identified five strategic aims (see diagram below) to underpin the framework for our research and policy agenda. We are in the final year of this three year strategy². In 2017/18 we will consolidate the three year strategy by responding to external developments and building on our current work streams.



² Link to 2015-18 strategy here

Engaging with external developments and risks

- 2.3. In December 2016 the Competition and Markets Authority (CMA) published its much awaited assessment of the legal services sector. The Panel agreed with the overall finding that competition is not working well in this market because of a chronically weak demand side.
- 2.4. The CMA's findings that consumers are not empowered with the information to shop around or choose the most appropriate legal service provider chimed with evidence from the Consumer Panel's Tracker Survey. The tracker shows that the pace of change is slow. When we first commissioned the tracker in 2011, the incidence of shopping around was low, with just 19% of consumers stating they had shopped around. This had improved by 2016, but still only 25% of users of legal services said they had shopped around.
- 2.5. Providers of legal services are not responding quickly enough to consumers' needs for transparency and predictability, particularly around key choice factors e.g. price and quality. This is increasingly concerning because our evidence shows that in some areas of high consumer vulnerability, for example asylum and immigration law, consumers now consider price to be equally as important as reputation, which has traditionally been the key choice factor.
- 2.6. In our extensive meetings and correspondence with the CMA, the Panel called for robust regulatory intervention, because competition is failing, the demand side is disempowered, and there has been a history of inaction in the sector.
- 2.7. We argued strongly for intervention on price and quality. The need for transparency is particularly pressing at a time when more and more legal services consumers are self-funding, and the perception of high cost is a deterrent, fuelling unmet legal needs. A study³ by the Legal Services Board and the Law Society shows that 10% of people with a legal problem choose to deal with it themselves, because they feel it would cost too much to seek help from a lawyer.
- 2.8. The CMA has proposed a raft of transparency measures to tackle information deficiency with a focus on price and quality. We support these measures in full.
- 2.9. The CMA's report and remedies provide an important opportunity for providers of legal services, regulators, and consumer groups to work together to ensure that the proposed remedies are delivered efficiently. And more importantly, that the sector delivers good outcomes for consumers.
- 2.10. The remedies proposed are in the right direction. But success is not assured. Regulators will need to work together towards implementing these remedies, drawing on evidence of best approaches and criteria for success. We have consistently shone a light on the transparency problems in the sector, and now want to play our part develop the solutions to the problems.
- 2.11. In 2016, the Panel assessed how transparency measures have been used in other regulated sectors.

³ <https://research.legalservicesboard.org.uk/wp-content/media/Online-survey-of-individuals-legal-issues-REPORT.pdf>

Evidence in other sectors shows that transparency measures are difficult to implement. To get it right, regulators should adhere to good practices such as consumer testing, research, evaluation, monitoring, and segmentation.

- 2.12. The Panel will continue to support i the CMA's work. Our focus will now turn to influencing the solutions and proposals from the regulators at a strategic level. As a result, the Panel has decided to reprioritise its strategic aim of **'Equipping consumers with the information and tools they need to choose and use legal services effectively'**. This strategic aim will be the Panel's key focus in 2017/18.

Building on our current work stream

- 2.13. Given that we are in the last year of a three year strategy, the Panel will also concentrate on consolidation and building on what we have started. In our last work programme we emphasised the interrelations between our projects. We showed that our work on open data was linked to our work on segmentation because segmentation shows that different remedies, or indeed different data uses or formats, may work for different consumer groups. Regulators must therefore recognise varying needs, including the needs of vulnerable consumers.
- 2.14. We also showed how our work on segmentation is very much linked to the dialogue around solutions to access to justice – our overarching strategic aim. The Panel will continue to emphasise that the sector needs to accept that there is no universal solution to the problem of access to justice. Regulators must, for example, pursue remedies that target different

groups of consumers, where relevant based on either risks or needs.

- 2.15. We will continue to build on these interrelationships in 2017/18
- 2.16. In 2016/17, the Panel was able to collaborate with all the approved regulators to commission and publish qualitative consumer research into consumers' experience of Client Care Letters. We will seek out similar opportunities In 2017/18. Building on common ground and strategically influencing the landscape with evidence-based research.
- 2.17. In 2016/17 the delivery of the Panel's training on using our consumer vulnerability and principles toolkit has been successful and effective. We therefore plan to continue this approach in 2017/18, where resources permit. We will also explore opportunities for a teach the teachers approach.

Transition management

- 2.18. In January 2017, the Panel welcomed its new Chair, Dr Jane Martin CBE, to the Panel. Dr Martin has already embarked on an extensive programme of meetings with stakeholders. She has been clear that her initial priority is to listen and understand how the Panel can continue to add value to the landscape.
- 2.19. A new Chair is a significant change for the Panel. She will naturally require transitional support. Therefore Panel resources will be spent on induction and support to empower the Chair to carry out her role effectively.

Strategic aim	What we want to see during 2015-18	The Panel's contribution in 2017-18
<p>1. Extending access to justice to those who currently cannot obtain the services they need to resolve legal problems or are poorly served by the market.</p>	<p>Reduced levels of unmet need for legal services</p> <p>All sections of the population benefit from the liberalisation reforms</p> <p>Effective responses to the implications of the rise in self-lawyering</p> <p>Regulators equipped to recognise and respond well to consumer vulnerability</p> <p>Improved understanding of the needs and experience of different groups of consumers</p>	<p>Make and promote the case for consumer segmentation in the legal services sector and explore the possibility of hosting a cross sectoral roundtable.</p> <p>Maximise the impact of our consumer vulnerability and principles toolkit with regulators and explore how to incorporate the principles of segmentation and the criteria for successful transparency measures which the panel has developed.</p> <p>Inform and influence ongoing debates on the regulatory implications of litigants in person.</p> <p>Inform the LSB's vulnerability research.</p>
<p>2. Improving the regulatory and complaints system so that it adequately protects consumers and keeps pace with changing market risks.</p>	<p>Regulators equipped to deal with the commercial practices and digital detriments that are likely to be a feature of the modern market</p> <p>Improvements to regulatory arrangements which serve to enhance protection for consumers</p> <p>The Legal Ombudsman enhancing the service that it provides to its users</p> <p>An improved evidence base about the quality of legal work</p>	<p>Inform initiatives to review regulatory arrangements.</p> <p>Produce the seventh Annual Tracker Survey.</p> <p>Continue training the regulators on our consumer vulnerability and principles toolkit where resources permit.</p> <p>Support the Legal Ombudsman in finessing/developing its Key Performance Indicators.</p> <p>Support the development of the Legal Ombudsman's new service level principles.</p> <p>Work with the Ombudsman Association on standards</p> <p>Encourage the Legal Ombudsman to reassess third party complaints</p> <p>Encourage the Legal Ombudsman to adopt the recommendations set out in the Panel's Open Data Report.</p>
<p>3. Equipping consumers with the information and tools they need to choose and use legal services effectively.</p>	<p>Consumers given better tools to compare the quality of providers</p> <p>The fostering and development of information and public legal education to build public confidence and enable consumers to use the market effectively</p> <p>It made easier for consumers to understand their rights, protections and routes to redress</p> <p>Policy advanced on the opportunities and limitations of digital delivery as a solution to the access to justice challenge</p>	<p>Support Approved Regulators and the LSB to work together and coherently towards implementing the CMA review.</p> <p>Inform the work of the LSB and all Approved Regulators on the use of information remedies in legal services.</p> <p>Apply our work on consumer segmentation to the CMA remedies</p> <p>Inform the LSB's research on the availability of price information and encourage price transparency more generally.</p>

<p>4. Ensuring unregulated providers raise standards and offer access to redress.</p>	<p>A better understanding of the whole legal services ecosystem including the unregulated market</p> <p>Action to raise standards among unregulated providers</p> <p>Access to redress for consumers across the entire legal services market</p> <p>A review of the reserved activities in a future legislative reform programme</p>	<p>Support the Legal Ombudsman in its consideration of becoming an Alternative Dispute Resolution entity.</p> <p>Engage as appropriate in self-regulation initiatives such as the Professional Paralegal Register and McKenzie Friends.</p>
<p>5. Securing legislative reforms to modernise the wider regulatory framework.</p>	<p>Options for legislative change presented to the next government for a simpler regulatory and redress landscape based on a sound consumer protection rationale</p> <p>Regulatory arrangements harmonised and/or new ways found for regulators to deliver common functions, for example disciplinary arrangements and compensation systems</p>	<p>Inform the Government's consultation on independence between regulators and their representative bodies.</p>

Our work in 2017-18

Consumer Segmentation

- 3.1. As our research has focussed on more specific groups of consumers or methods of service provision, it has become increasingly clear that there is no single solution to increase access to justice. The focus must therefore be on which services are most likely to meet the needs of which groups of consumers. The Panel has long talked about nuanced problems requiring nuanced solutions.
- 3.2. In 2016/17 we published a paper which explored how consumer segmentation can be used by the frontline regulators in their work. We provided examples from our own research, and from other sectors, to demonstrate its value. We also incorporated advice on proportionality and practicality, recognising that the frontline regulators are not all sufficiently equipped to carry out large-scale or data-heavy modelling exercises. And this will not always be necessary. However, we would like to see even the smallest regulators begin to consider how segmentation applies in their sector, and where necessary pool resources with others to further their understanding and its applicability to their respective sector.
- 3.3. In 2017/18 the Panel will build on this work by showing how the principles of consumer segmentation should be built into the solutions originating from the CMA's report.

In 2017-18 we will:

- Promote our work on consumer segmentation and link its applicability to the CMA remedies.
- Explore how to incorporate segmentation into our Consumer Vulnerability and Principles toolkit.

Open Data

- 3.4. The Panel is pleased to see its key recommendations reflected in the CMA's report.
- 3.5. In 2017/18 we will advance the debate by articulating and showing how segmentation and the design of information remedies play a role in the effectiveness of transparency measures.
- 3.6. We are committed to working with the Approved Regulators on how they might take the CMA's recommendations forward in a way that delivers good outcomes for consumers. We will encourage regulators to adopt our criteria for successfully developing information remedies in the sector.
- 3.7. We will use the evidence we have gathered and what we have learnt to influence the implementation of the CMA remedies.

In 2017/18 we want to:

- Encourage Approved Regulators and the LSB to work together and towards implementing the CMA review.
- Promote our advice to the LSB and all Approved Regulators on the use of information remedies in legal services.
- Promote the applicability of the lessons from the Client Care Letter research to transparency measures

Tracker Survey

- 3.8. The Panel's annual tracker survey forms part of the evidence base for the Panel's focus. It has been commissioned for 2017 and we expect it to continue to provide robust data and reliable insight into how users of legal services are experiencing the sector.
- 3.9. The tracker survey is now in its seventh year, which makes it feasible to carry out analysis of progress in the sector.
- 3.10. The Panel remains of the view that the research continues to be a resource for the whole sector to draw on; as such we will continue to make the full data set available on our website. We will also explore with regulators how we might refocus some of the analysis for wider use.

In 2017/18 the Panel will:

- Recommission the tracker survey.
- Explore new ways to analyse and use the data.

Better redress

- 3.11. The Panel has had the opportunity to work closely with the Legal Ombudsman (LeO) over the years in important areas. We have provided advice and challenge where appropriate and wish to continue strengthening our relationship.
- 3.12. The Panel would like to support LeO in exploring how it can use its data or intelligence to drive up sectoral standards, including how its data can be linked with other pieces of information to give consumers a fuller understanding of the sector. This will be the key focus for the Panel in 2017/18.
- 3.13. The Panel notes that LeO recently consulted on its next three year strategy, in which it expressed a desire to explore with the Ministry of Justice if and how redress might be extended to the unregulated market. The Panel supports this explorative piece of work and will support its development.
- 3.14. LeO has also stated that it will further consider becoming an Alternative Dispute Resolution (ADR) entity. The Panel supports this.
- 3.15. The Panel would also like to see LeO consider third party complaints, under clearly defined criteria. We will continue to advocate for this.

In 2017/18 we want to:

- Advise and support LeO as it embarks on a new strategy.
- Engage with proposals it puts forward on opening up its data
- Support LeO's consideration to become an ADR entity.
- Encourage LeO to adopt the Panel's open data recommendation and specifically for it to publish its Ombudsmans decision in full.
- Engage with LeO further on how it deals with third party complaints.

Any other business?

- 3.16. The Panel is committed to engaging, advising and challenging the LSB on its various projects. We have engaged with the LSB on the projects it started in 2016/17 and will continue to do so for the lifespan of these projects – some of which continue into 2017/18.
- 3.17. Likewise, the LSB's new research projects for 2017/18 will feature in our work plan, mostly as projects we plan to feed into, shape and influence. In this regard we will continue to provide

appropriate advice and challenge to the LSB. Our objective will be to continue to seek to influence, from a consumer perspective, as early as possible.

Measuring success

Focused on impact

4.1. The Legal Services Consumer Panel has as its overriding purpose the goal of improving outcomes for consumers of legal services. As the discrete body created to champion the interests of consumers it is important that we measure the effectiveness of our contribution towards the delivery of these outcomes.

An effective Consumer Panel

4.2. The Consumer Panel uses six success factors as indicators of our effectiveness:

- We have intelligence that keeps us in touch with the consumer experience.
- We are respected for the quality of our advice which is timely, constructive and evidenced-based.
- We can demonstrate that our recommendations have influenced policy decisions.
- We are the first place that people go to learn the consumer perspective on legal services.
- We operate transparently by publishing our activities and involving stakeholders in setting our priorities.
- We deliver value for money.

4.3. The Consumer Panel has also put in place a series of measures to assess whether we are delivering against these criteria. We will:

- For each project, clearly identify the outputs, impact and outcomes that we want to achieve for consumers.
- Account for our activities in an annual report, which will include a record of policy and practice that has changed as a result of our work.
- Maintain a record of our meetings with stakeholders and invitations to address key audiences, for example in board meetings and on public platforms.
- Conduct regular surveys with colleagues at the Legal Services Board to test the usefulness of our advice.
- Conduct occasional reputation audits with selected stakeholders.

Biographies

Consumer Panel Members

Dr Jane Martin CBE (Chair)

Dr Jane Martin was the Local Government Ombudsman and Chair of the Commission for Local Administration in England. In that role she was also a non-executive member of the Board of the Parliamentary and Health Service Ombudsman. Her 7-year term of office as Ombudsman came to an end on 10 January 2017.

She has recently been appointed to the Committee on Standards in Public Life. In a career dedicated to understanding and promoting public service accountability, she has conducted research at the Universities of Birmingham and Warwick respectively and worked with local authorities across England. She was the first Director of the Centre for Public Scrutiny.

Andy Foster

Andy is Business Development Director for Capita plc based in London. Andy has over 20 years' experience delivering local, national and international consumer protection strategies for government agencies.

At Capita he is responsible for developing their local government portfolio by growing partnerships that help transform services, reduce operating costs and create social value. Andy was formerly Operations and Policy Director for the Chartered Trading Standards Institute during which time he was responsible for the commercial and

policy output of the Institute. This included leading for CTSI on the consumer landscape changes which led to the creation of the consumer code of practice approval scheme and the national business education resource 'Business Companion'. In his spare time Andy volunteers for a number of charitable organisations including the Princes Trust as a business mentor where he helps young people set up and grow their own enterprises.

Cathy Gallagher

Cathy leads on the delivery of Solicitors Regulation and Pro Bono Service development for the Law Centres Network of England & Wales. Through roles in local and central government and in new and existing Law Centres, she is experienced in promoting improvement in the quality, delivery and extension of public legal services.

Cathy delivered the start-up strategic management for the New South Wales Legal Assistance Forum, Sydney and the Asylum Seeker Support programme, Rochdale Council. Formerly a practicing solicitor, she worked as Principal Litigation Officer in both Commissions for Equal Opportunities and for Racial Equality. Cathy has particular interest in the advantages of alternatives to the litigation process and recently gained a Masters in Dispute Resolution. She is a Trustee of the North West Legal Support Trust.

Dr Michelle Goddard

Dr. Michelle is Director of Policy and Standards at the Market Research Society responsible for promoting and protecting the research sector's quality standards and ethical best practice. She also serves as the European Research Federation's Director of Policy and Communication. Michelle has over 20 years of experience in consumer market regulation gained in a range of academic, policy and enforcement roles. She held several senior executive and policy advisory roles with Caribbean governments and regulatory agencies. A non-practising barrister Michelle also spent time as a consumer lawyer at Which?, as an Inquiry Secretary at the UK Competition Commission and led on consumer advocacy and research in postal service policy at the statutory consumer body, Consumer Futures.

Frances Harrison

Frances is a specialist in consumer affairs. She sits on the Finance and Leasing Association's Code of Practice Monitoring Group and the Registry Trust's Consumer Panel. In addition to paid employment, Frances is Chair of Brighton and Hove Citizens Advice Bureau, a trustee of Brighton and Hove Emmaus and a policy adviser to the training organisation, Developing Youth Practice. Her career spans policy analysis with a number of national bodies as well as management of front line services for young people and consumer advice services. Her past roles include leading training and support in consumer law and practice for the National Association of Citizens Advice Bureaux, Consumer Editor of the Adviser Magazine, and Head of Policy Research and Development at the National Consumer Council. She has extensive experience in representing the interests of consumers on regulatory bodies, government working groups, and trade associations; and has

been the elected Chair of both Consumer Congress and the Institute of Consumer Affairs.

Mark McLaren

- 4.4. Mark McLaren is currently a council member of the Property Ombudsman. For nine years to Autumn 2015, Mark worked for Which? where he was directly involved in the work that led to all legal professionals (in 2010) and both estate agents (in 2008) and letting agents (in 2014) being required to join an independent redress scheme. At Which?, he also worked on a wide range of legal issues including reforms to the home buying process, private rented housing, will writing, power of attorney, consumer law reform as well as the Legal Services Act 2007.

Earlier in his career, Mark's previous roles included being public affairs adviser at Age UK, where he is now a pension fund trustee, and working in the House of Lords for a group of crossbench peers. He is now a freelance consumer policy and public affairs adviser.

Marlene Winfield OBE

Marlene has spent her career giving a voice to users of public services. She is on the Governance Board of a London-wide end of life care programme, Coordinate My Care. She is a Vice Chair of the Thalidomide Trust and is the Non-executive Director for Patient and Public Affairs on the Professional Record Standards Body for Health and Social Care. She was previously Director for Patients and Public in the Department of Health Informatics Directorate and Head of Policy Research and Strategy at the National Consumer Council. She was a lay member of the Civil Justice Council, the British and Irish Ombudsman Association Executive, and the National Information Governance Board. For 15 years she ran a support group that helped thousands of British

women obtain compensation for injuries from the faulty Dalkon Shield contraceptive device. In 2000, she was made an OBE for services to civil justice reform.



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