



Annual report 2012

June 2012

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1 Introduction

Our challenge

- 1.1. **This second year of the Legal Services Consumer Panel has been a period of change and challenge in legal services, society and the economy. Our work programme has needed to reflect and respond to these. It's also been a year marked by reviews: the Department for Business, Innovation and Skills consultation on the consumer landscape and the Ministry of Justice Triennial Review into the Legal Services Board and Office for Legal Complaints. It is right that such reviews have required us to be held to account for the actions we have taken, the recommendations we have made and the impact of our work.**
- 1.2. We've had high expectations of ourselves in this second work programme and you'll see this theme running throughout this report – a clear focus on the impact we have had and the difference we have made for consumers.
- 1.3. And this has not been just about one group of consumers. Consumers of legal services are diverse and it has been essential to reflect this in our work. Throughout the year we addressed the varying needs of a range of consumers including those with specific vulnerabilities, such as the deaf and hard of hearing, small charities and small businesses. This diversity has been reflected in the breadth of our impact, as detailed in the boxes opposite and overleaf.

Understanding our impact

Will-writing, probate and estate administration

Our comprehensive and evidence-based review of will-writing, probate and estate administration, established the clear case for the Legal Services Board's announcement of plans to regulate these three activities

Publishing complaint decisions

We were instrumental in persuading the Legal Ombudsman to publish the names of lawyers and firms in complaints leading to formal ombudsman decisions.

Consumer Impact Report

Our pioneering report was the first assessment of the legal services reforms from a consumer perspective, providing an annual benchmarking tool that will help track changes in consumer attitudes, experiences and policy developments

Voluntary quality schemes

Our assessment of accreditation schemes has already led to promises of change from the Law Society and Association of Personal Injury Lawyers

Regulatory standards

The Panel's feedback strengthened draft performance standards for the approved regulators that are now more consumer-focused and include consumer engagement within these

Research with deaf consumers

This research project addressed head on the needs of a specific group of consumers through an innovative three-way partnership: the Solicitors Regulation Authority is producing guidance for solicitors; Action on Hearing Loss is producing guidance for consumers; and the Panel has pushed for clarity on who pays for interpreters

Voluntary jurisdiction

We successfully called on the Legal Ombudsman to prepare to switch on the voluntary jurisdiction built into the Legal Services Act, encouraging unregulated businesses to signal a strong commitment to consumer protection

Comparison websites

Some websites are already making improvements in direct response to our report, which exposed poor practice and called on them to adhere to the good practice standards that we developed

- 1.4. This is clearly just the start and there is no doubt that we have a long way to go. What is all too clear from our Consumer Impact Report is that consumers lack power in their dealings with lawyers; they generally do not shop around; they approach lawyers with trepidation and lack the confidence to complain; and they cannot find information about the quality of different providers. Then there's the unknown nature of alternative business structures. Whilst the growth in fixed-fee pricing and marketing collectives is welcomed, the real impact of

the reforms will only truly start to be seen in 2012 and beyond. This will be an area we will be monitoring very closely in the future.

- 1.5. It's these ongoing challenges and other changes, including those taking place outside legal services, which have influenced our work programme in 2012/2013 when our key themes will be: equality of access; unleashing consumer power; and enhancing the safety net. You can find out more about our plans on page 13 of this document.
- 1.6. As ever, I marvel at what we have been able to achieve with such a small and dedicated Secretariat staff of two and through a Panel of just seven deeply committed members. On a personal level I owe sincere thanks to Steve Brooker and Panel members alike for their patience and support and enabling the change of Panel Chair to happen so seamlessly.
- 1.7. With this in mind I must finish by paying tribute to the work of our founding and former Chair, Baroness Dianne Hayter. Dianne established us as a Panel willing to question the status quo, address the power imbalance between consumers and providers and ensure the legal services reforms can deliver on their ultimate promise to consumers. We constantly hold ourselves to these high standards and remain in her debt for the start that she gave us. I believe this report demonstrates that we have been able to live up to this.



Elisabeth Davies
Chair

2 Themes

Putting the consumer first

- 2.1. **During the last 12 months, the Consumer Panel has championed consumers, driving change on those issues that matter most to them and striving to ensure consumer needs are put at the heart of decision-making.**
- 2.2. The Panel is a central feature of a regulatory framework which is designed to transform the legal services market around the needs of its users following centuries of self-regulation by lawyers. 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.
- 2.3. Our role is to provide expert evidence-based advice on the consumer interest. We cannot help individual consumers resolve their legal problems nor recommend a legal advisor. However, we are interested to learn about the problems that individual consumers face, in order to promote change that will benefit all consumers.
- 2.4. There are five areas where our advice has made a real difference this year:
 - **Better choice**
 - **Consumer vulnerability**
 - **Getting redress**
 - **Marking progress on the reforms**
 - **Re-drawing regulatory boundaries**

Better choice

- 2.5. Whilst we have highlighted 'Better Choice' as a key area of impact for us in 2011/12, it is arguably the single theme that has informed our work the most.
- 2.6. The Consumer Panel wants consumers to have a meaningful choice of providers and services. This requires the opportunity to choose between providers offering service packages that fit people's preferences and tools which help consumers to make easy comparisons. Choice is also supported by the removal of anti-competitive restrictions on who may provide legal services, or how.
- 2.7. Our Consumer Impact Report exposed that consumers are not driving competition. Fresh survey evidence commissioned for this initiative found that the vast majority do not shop around and many find it difficult to compare rival offers. In some areas of law, consumers felt they had no choice at all. The report also identified that "choice tools", such as quality marks and comparison websites, which could alert consumers to different options, were under-developed. We said this bleak picture of consumer power contrasted poorly with other sectors.



**This bleak picture of consumer power contrasts poorly with other sectors.”
(Consumer Impact Report)**

Comparison websites

Some websites are already making improvements in direct response to our report, which exposed poor practice and called on them to adhere to the good practice standards that we developed

- 2.8. Comparison websites could help consumers to play a more active role to drive competition. Last year we published a report which looked at the benefits and risks to consumers. We looked at why they could soon really take-off in the sector. The Panel developed some good practice standards and published the results of a small mystery shopping exercise measuring actual practice against these standards.
- 2.9. Comparison websites are a healthy development overall due to their potential to enhance access and boost competition on price and quality. However, the view among some industry experts is that legal services are not a good fit for comparison websites, whilst a series of other factors – a fragmented supplier base, lawyers’ cultural aversion to marketing and consumers not shopping around – are also barriers to their growth. Despite this, alternative business structures and technological advances are likely to break down some of these barriers. One specific blockage which ought to be easy to remove is to open up the professional registers, so that comparison websites can access basic yet reliable information about providers.
- 2.10. Our mystery shopping exercise produced some mixed findings. Encouragingly, there was no evidence of commercial influence on the presentation of information in ways that sought to unfairly manipulate consumer choice – a problem which has dented trust in other sectors. However, there was a lack of transparency around ownership, funding streams and on market coverage, which we inferred from search results was often low. Moreover, often websites, and sometimes

different providers on the same website, priced their services in different ways making comparisons difficult. Performance was particularly poor around the use of personal information – users’ personal details were often being passed to third parties without consent, whilst opting out of receiving unsolicited marketing could sometimes prove impossible. Finally, we were very surprised to find many lawyers refusing leads for wills and conveyancing work because they did not consider these to be financially worthwhile.

- 2.11. Significantly, some websites featured in the report have already signalled their support for our good practice standards and indicated improvements they plan to make to their websites in response to our findings.

Voluntary quality schemes

Our assessment of accreditation schemes has already led to promises of change from the Law Society and Association of Personal Injury Lawyers

- 2.12. A second choice tool that we examined in depth was voluntary quality schemes. These are an optional form of accreditation that lawyers can obtain to demonstrate that they meet specific quality standards or have specialist expertise. We produced a report following a request from the Legal Services Board asking us to identify the desirable characteristics of such schemes that would give consumers confidence that they are robust, and to measure a selection of existing schemes against these criteria.



It’s very difficult to compare them. They’re all members of this or that association. Unless you have a personal recommendation, one solicitor or one will-writer is as good as another.”
(Participant in will-writing research)

- 2.13. Voluntary quality schemes are not currently being used by individual consumers, although they are used by some larger purchasers, such as insurers. If this is to change, consumers need to be confident that the schemes are truly credible signals of quality and not just marketing ploys. Our analysis of existing schemes found that many did well around entry requirements, reaccreditation and having systems in place to deal with poor practice. However, there were few practical checks on technical competence, little lay input and minimal use of consumer feedback. Moreover, schemes were not validated and so offered no proof they were delivering on their quality claims. Finally, consumer information about the schemes was overall quite poor.
- 2.14. The report also raised wider issues to be taken forward by regulators. One risk is that scheme participation becomes mandatory in order to access parts of the market, as is developing in conveyancing. Another key challenge is that the schemes face an uphill battle to win consumer trust because they are industry-run. Consumers are looking for a seal of approval from a trusted source, so third-party accreditation of schemes should be kept on the table.
- 2.15. We have already secured public promises of reforms from some schemes. For example, the Law Society has committed to introducing reaccreditation and greater lay consumer input in the governance of all its schemes. The Association of Personal Injury Lawyers is to introduce reaccreditation based on its new competency framework, improve the consumer facing elements of its website and consider greater lay input.

Consumer vulnerability

BS18477 – Inclusive service provision

We've adopted the new British Standard on consumer vulnerability and we're now expecting the Approved Regulators and others to do the same

- 2.16. One element of our vision for legal services is a diverse workforce that understands its diverse clients. This requires that providers understand the diverse needs of consumers and that regulators take proper account of consumers at risk of disadvantage. To help us think through these issues, the Panel has adopted a new British Standard on consumer vulnerability, which has been developed with the help of organisations representing people in vulnerable positions.
- 2.17. The Standard makes clear all consumers are different, with a wide range of needs, abilities and personal circumstances. These differences can put some consumers in a position of vulnerability or disadvantage during certain transactions and communications, potentially putting them at risk from financial loss, exploitation or other detriment. The standard identifies 'risk factors' related to a person's circumstances – such as bereavement, illiteracy, illness or disability – which could increase the likelihood of a consumer being at a disadvantage or suffering detriment. The BSI standard also makes clear that organisations and markets differ in the way that they provide services and interact with consumers. Organisations' policies and processes can contribute to, or increase the risk of, consumer vulnerability.

Deaf consumers

We've addressed head on the needs of a specific group of consumers through an innovative three-way partnership: the Solicitors Regulation Authority is producing guidance for solicitors and Action on Hearing Loss is producing guidance for consumers. The Panel has pushed for clarity on paying interpreters

- 2.18. Our work on consumer vulnerability is wide, but also focuses down on particular groups, with the aim of shedding light on consumers whose voices are often not heard. This year we conducted a pilot study on the needs of deaf consumers, working in partnership with Action on Hearing Loss and the Solicitors Regulation Authority.
- 2.19. The research found the legal needs of deaf and hard of hearing people do not tend to differ greatly from other consumers, but there are significant obstacles in accessing legal services, with the outcomes of seeking legal advice complicated by communication barriers. Key themes included a lack of deaf awareness and adjustment within the legal profession, from ways of communicating to lack of office processes; limited choice of legal advisors; frustration and complications associated with reliance on intermediaries; a lack of consumer knowledge about the legal system and processes; and a lack of clarity around responsibility for obtaining and paying interpreters.
- 2.20. Our work in this area must lead to practical help for consumers and the profession. Action on Hearing Loss is producing a British Sign Language video summary of the research and preparing tips on choosing and using lawyers for deaf and hard hearing consumers. Equally pleasing, the Solicitors Regulation Authority has agreed to develop guidance for solicitors on dealing with this consumer group. The Panel has also written to the Equality and Human Rights Commission to seek clarity on the issue of payment of interpreters.



The mouse taking on, not the lion, but the whole jungle.” (Participant in deaf consumers research)

Small businesses and charities

We've captured the evidence base of the issues facing these consumers; leading the call for changes to simplify and improve experiences including certainty over costs

- 2.21. Individuals are not alone in lacking buying power when dealing with lawyers. Others who lack knowledge about the law and use legal services infrequently are also at a disadvantage and need a strong consumer advocate to represent their interests. Small charities and businesses can fall into this category, and this year we have developed our knowledge about their legal needs.

We commissioned MVA Consultancy to carry out the first ever detailed research with small charities as legal consumers – defined as having an income under £1 million. This research found that small charities are struggling to keep up-to-date with knowing their legal obligations, putting themselves at risk of serious problems. Half had limited or no understanding of laws applying to them and took a reactive approach to dealing with legal issues. There was strong reliance on the Charity Commission and umbrella bodies for access to free information and support, but there was concern that funding cuts may reduce the ability of these organisations to maintain this provision. Furthermore, while pro bono work was greatly appreciated, the smallest charities found it difficult to obtain this or attract legally trained trustees. Cost was the main barrier to accessing solicitors, with small charities wanting fixed fees so

Case study: Deaf consumers

The Panel, Action on Hearing Loss and the Solicitors Regulation Authority commissioned the Deaf Studies Trust to conduct interviews with 49 deaf and hard of hearing consumers about their experiences of using legal services. There were five themes in the research:

- Expectations and access – no one in the study had received or found materials which had been prepared or adapted for their use. Very often Deaf and hard of hearing people did not understand who they were dealing with and as a result were unaware of the extent of the legal expertise of their chosen advisor. Deaf and hard of hearing people suffer no cognitive impairment as a result of their hearing loss but they were often made to feel dependent and ignorant by their own legal team because of insensitivity and lack of preparation. Deaf people felt unhappy at continually having to rely on hearing people in order to negotiate the system.
- Choice – opportunity to exercise choice of legal advisor was limited. People usually relied on a recommendation from someone they knew or from a Deaf club.
- Deaf awareness – There is a view that if advisors are engaged in legal matters and tribunals with Deaf people, then they have a professional responsibility to prepare for their client's specific needs and to be more "deaf aware". Deaf and hard of hearing people reported a battle for understanding with their own advisor and said they often feel misunderstood. This was particularly frustrating in an adversarial process as they need to feel confident their advisor is fully on their side and co-operating closely with them. This was most apparent in the perceived refusal of solicitors to provide interpreting services and the perceived reluctance of solicitors to make the necessary adjustments in a face-to-face interaction.
- Communication choices – people did not understand much of the text information provided whether this was in letters sent by the solicitor or in other documents. This meant they needed a third party to explain the text and a consequent loss of privacy. Some participants would try to speak and for many people this was unproblematic; however, there is a sub-group among hard of hearing people whose speech is not clear and this often meant they were not understood when speaking to solicitors. Loop systems can be a convenient adjustment tool for courts or firms, but for it to be effective it needs maintaining and for staff to be trained. The use of voice and loudspeakers in court waiting areas even when it is known that the person does not hear, puts deaf or hard of hearing people at a disadvantage. Interactions with Law Centres were more positive their being more able to deal with deaf and hard of hearing people, quick to act and effective.
- Sign Language Interpreting – many people complained that interpreters were not supplied by the solicitor when requested and there were considerable doubts over who should pay. Interpreters are meant to be independent and work for both the hearing and deaf parties. In practice, solicitors do not think an interpreter is needed to assist with their own communication needs - only those of the 'disabled' client – resulting in interpreters being treated as 'add-ons'.



To be honest we are actually drowning in information.” (Participant in small charities research)

they could have certainty about what they have to pay. The better news was that 96% of small charities who got formal legal advice from solicitors found this useful.

- 2.22. The research was warmly welcomed by the chief executives of the Charity Commission and the Small Charities Coalition. We held a roundtable bringing together lawyers, small charities, representative bodies and regulators to discuss the findings and next steps. An early action was to send the report to Lord Hodgson of Astley Abbots who is leading a review for the Government of charity law, as small charities told us that simplifying the charity and company laws would make the biggest single difference to making their work easier.
- 2.23. The Panel also increased its engagement on small business issues in 2011-12. We jointly commissioned research with the Legal Services Board on a framework to track the small business experience of legal services. Like with charities, we said small businesses often lack knowledge of their legal obligations and opt to muddle through, risking more serious problems down the line. This is a problem, but also an opportunity for legal services providers to tap into this latent demand. However, to succeed law firms need to understand the needs of small businesses and address the barriers which are currently holding them back. In particular, as well as high quality advice, value for money and certainty over costs are their key demands of this group.

Getting redress

Widening access to redress

We successfully called on the Legal Ombudsman to prepare to switch on the voluntary jurisdiction built into the Legal Services Act, encouraging unregulated businesses to signal a strong commitment to consumer protection

- 2.24. A key part of our vision is quick, fair and cost-effective complaints-handling. However, the Legal Ombudsman has highlighted how the complex regulatory landscape is leading to consumer confusion and expressed its frustration about being unable to help many people who deal with firms which fall outside of its jurisdiction.
- 2.25. Complaints about all legal services should be brought within the Legal Ombudsman’s remit, as this would give consumers access to fair and fast redress, deter poor practice and provide a more level playing field in the market as a whole. It is clearly unsatisfactory that consumers are choosing unregulated legal businesses under the false, yet legitimate impression they could access redress should things go wrong. Proposals being taken forward at EU level could bring about just this scenario, and we engaged with government to inform the UK negotiating position. However, we also highlighted some dangers in the measures, especially giving traders the right to complain about consumers. We argued strongly this would be a disastrous move, as it would be a recipe for counterclaiming and dissuade people from complaining.
- 2.26. The Panel urged the Legal Ombudsman to initiate steps to switch on the voluntary jurisdiction regime provided within the Legal Services Act and we plan to work with them further on this. The Legal Ombudsman has since announced its intention to actively pursue this in 2012-13. This will offer a

helpful stop-gap en route to regulation, especially in areas such as will-writing where there is strong evidence of consumer detriment but regulation will take time to implement. In addition, we have called for responsibility for handling complaints about immigration and claims management activities to be transferred to the Legal Ombudsman as the current bodies lack powers to order firms to pay compensation to consumers.

Publishing decisions

We were instrumental in persuading the Legal Ombudsman to publish the names of lawyers and firms in complaints leading to formal ombudsman decisions

2.27. A major success for the Panel was the Legal Ombudsman's decision to publish the names of lawyers and law firms involved in complaints subject to formal ombudsman decisions. From July 2012, it will publish tables summarising the numbers, outcomes and areas of law involved in such cases. Also, from April 2012 it will identify lawyers or law firms involved in cases where there is a pattern of complaints or set of individual circumstances that indicate it is in the public interest that the firm or individual should be named. This decision doesn't go as far as we wanted – for example, we also thought that cases concluded through the informal resolution process should also be published – but it is a good start.

2.28. Since this decision was made, we have been working with the Legal Ombudsman and stakeholders to support the roll out of this information. Information like this will assist consumers in making informed choices and harness consumer power, making good use of the commercial importance of a good reputation to encourage lawyers to maintain standards and respond appropriately to complaints.

First-tier complaints

We've exposed non-compliance with internal complaints-handling rules

2.29. One of the Panel's first successes was to influence the Legal Services Board's policy approach on first-tier complaints-handling arrangements. This culminated in a rule requiring providers to alert consumers at the outset of their right to complain to the Legal Ombudsman.

2.30. Two independent research reports, commissioned by the Legal Services Board and the Solicitors Regulation Authority respectively, have exposed some major issues, including a perception among solicitors that the majority of complaints are unjustified and apparent widespread failure to comply with the signposting rules. It is outrageous to see that that 16% of lawyers may have charged clients who complained about the bad service they received, in clear breach of professional rules. We demanded the profession's regulators clamp down on this rip-off practice and penalise any rule-breakers.

Marking progress on the reforms

Consumer Impact Report

Our pioneering report was the first assessment of the legal services reforms from a consumer perspective, providing an annual benchmarking tool that will help track changes in consumer attitudes, experiences and policy developments

2.31. It is now five years since the Legal Services Act was passed. The period has seen a great deal of institutional change and it is important to know whether this is delivering the intended benefits to consumers. As the statutory body representing consumers in the sector, the Panel decided to develop a tool – the Consumer Impact Report – to help measure the direction of travel towards

our vision for the legal services market. It incorporates our annual Tracker Survey – an omnibus survey conducted by YouGov – as we think the success of the reforms should ultimately be judged by how consumers experience legal services. The report uses a basket of indicators approach to paint an overall picture of the strengths and weaknesses of the market, but data used in the report is also a ‘can-opener’ enabling us to investigate particular issues separately. Our aim is to provide a tool for the profession and its regulators to identify areas to improve.

- 2.32. The first report identified some key areas where consumers have benefited from the reforms. These included improved codes of conduct, greater diversity among new lawyers and vital rules to ensure independent regulation. The research also showed the large majority of consumers were happy with the outcome of their legal work. But there were also areas of concern, such as implementation of rules requiring lay majorities on regulatory boards; rising claims on the solicitors’ compensation fund; poor diversity at higher levels of the profession; and slow and little consumer engagement by regulators. However, as previously described, the major theme is that consumers lack power in their dealings with lawyers as they generally do not shop around, cannot find information about the quality of different providers, approach lawyers with trepidation and lack the confidence to complain. There is also a social divide: consumers in lower socio-economic groups have less market power, are less trusting of lawyers and are more likely to feel they got poor value for money.



The key theme running through this first Consumer Impact Report is the imbalance of power between consumers and lawyers.” (Consumer Impact Report)

Re-drawing regulatory boundaries

Scope of regulation

We ensured the Legal Services Board set performance standards for the approved regulators that are consumer focused and include consumer engagement within these.

- 2.33. The Legal Services Board has started a project that could result in major changes to which legal activities are regulated, and how regulation would work in practice. Consumers assume that all legal services are tightly regulated, but in fact anyone can set up a business to provide legal advice in areas such as employment law, getting a divorce or writing a will. There is consensus that the existing regulatory landscape is an accident of history and needs reform.
- 2.34. The Panel made a detailed submission to the Legal Services Board’s consultation on these issues. The best way of achieving our vision for consumers is to empower them through their buying power to drive competition in a diverse market, but regulation is sometimes needed to support consumers in playing this role. The imbalance of power between consumers and lawyers will often mean that some form of regulation is needed, but should rarely require restricting provision of certain legal services to the traditional professions.
- 2.35. We want to see a shift in the way that regulators carry out their work. In particular, regulation should be centred on the legal activity in question with requirements on providers and the supervision of these being adjusted depending on the risks to consumers, rather than continuing with an approach which applies the same measures to everyone. We also want a change of focus towards regulating at entity level, although retaining a strong focus on individual responsibilities and ethics. Finally, our response laid down a gauntlet to the approved regulators: unless they

demonstrate the appetite, capacity and capability to change, there will be increased pressure to rip up the Legal Services Act and start afresh with a single regulator entirely independent of the profession.

- 2.36. This year, the Legal Services Board also set out the standards that it expects the approved regulators to meet. Our feedback to its consultation helped to ensure that the performance standards are consumer focused, including in areas such as risk assessment, taking proper account of consumers in vulnerable positions and transparency. There is now a clear expectation that approved regulators have mechanisms for consumer engagement in policy making processes.

Will-writing, probate and estate administration services

Our comprehensive and evidence-based review of will-writing, probate and estate administration, established the clear case for the Legal Services Board's announcement of plans to regulate these three activities

- 2.37. The Panel completed our major investigation into will-writing following a request for advice by the Legal Services Board. The comprehensive evidence that we built with the help of the public, lawyers and our stakeholders – including 400 case studies, consumer and business research, complaints data and a call for evidence – enabled us to make a compelling case for the need to regulate this activity. The Legal Services Board decided to immediately begin a statutory investigation in response to our report, the first official step on the road to regulation.
- 2.38. Our case for regulation highlights: the risks to consumers due to innate features of the market; the potential severity of harm, including to vulnerable clients; and strong evidence of consumer detriment in relation

to quality, sales practices, storage and the existence of a rogue element in the sector. We were disappointed to find that one in five wills prepared by both will-writing firms and solicitors in a mystery shopping exercise were failed by expert assessors, pointing to the need to raise standards in both the regulated and unregulated sectors. We argued that any business able to satisfy the regulatory requirements should be able to sell wills; there should be no monopoly for the existing professions. The core ingredients for regulation should include suitable person checks, training, a code of practice, financial protection and access to the Legal Ombudsman.



“It was constant pressure. He just felt like a salesman pitching that they were the safest people to do it, and it would save me money in the long run.”
(Participant in will-writing research)

- 2.39. The Legal Services Board's statutory investigation is also considering whether probate and estate administration services should also be regulated. Again, we built an evidence base including an analysis of complaints to the Legal Ombudsman and assisted in the commissioning of consumer research. We recommended these activities should also be regulated due to the risk of fraud and evidence of service problems around delay and cost, which could potentially cause severe detriment to the estate's beneficiaries.
- 2.40. The Legal Services Board has since consulted on proposals to regulate will-writing, probate and estate administration services in line with our recommendations.

Case study: Will-writing

In September 2010, the Legal Services Board asked the Panel to provide advice about the provision of will-writing services. Evidence was requested on the problems, both current and potential, experienced by consumers wishing to write a will. They wanted to know the size of each problem, its cause and the impact on the testator, executors and beneficiaries. We were asked to consider whether existing consumer protections were capable of addressing consumer harm or whether new solutions were needed, including the advantages and disadvantages of various ways of regulating will-writing.

The Panel collected evidence from a range of sources: a shadow shopping exercise (a form of mystery shopping) with 101 wills; a survey of 500 recent will purchasers; nearly 400 case studies from members of the public, lawyers and others; submissions to a call for evidence from a range of organisations; interviews with providers; and complaints data from the Legal Ombudsman.

The evidence raised the following areas of concern:

- **Quality** – one in four wills in the shadow shops were failed. The same proportion – one in five – of wills prepared by solicitors and will-writing companies were failed. Wills were almost just as likely to fail when the client had simple or complex circumstances. Key problems where the will was not legally valid or did not meet the client's stated requirements were: inadequate treatment of the client's needs; the client's requests not being met; potentially illegal actions; inconsistent or contradictory language; insufficient detail; and poor presentation. Key problems relating to poor advice included: cutting and pasting of precedents; unnecessary complexity; and use of outdated terminology.
- **Sales practices** – there was an undercurrent of sales pressure that plays on people's fears and a lack of transparency about what consumers are committing to and the costs. The case studies demonstrated that consumers can end up paying enormous sums for services they do not need or which they could find far cheaper elsewhere. There were specific concerns – relating to quality, value and pressure selling – about trusts which claim to protect a surviving spouse from selling their home in order to pay for the costs of care home fees.
- **Storage** – a recurring theme in the case studies was beneficiaries being unable to trace wills due to will-writing companies becoming insolvent and disappearing without trace. There are no safeguards where such companies are not part of a self-regulatory scheme.
- **Rogue minority** – a rogue element in the unregulated sector which is engaged in sharp practices including very aggressive selling, gross overcharging and fraud. Solicitors and will-writing companies interviewed were both of the view that a rogue minority operated in the sector.

The Panel published its report recommending regulation of will-writing in July 2011 and the Legal Services Board immediately opened a statutory investigation.

3 Priorities in 2012-13

A year of milestones

- 3.1. This report clearly demonstrates that there is still much to do. The Consumer Panel's plans for 2012-13 need to address these challenges and we have set these out in detail in a separate Work Programme document, which is available on our website. These initiatives are listed opposite.
- 3.2. The work programme was endorsed by the Legal Services Board in March. Our plans were informed by a range of sources, including an analysis of business plans, our Consumer Impact Report and intelligence on the consumer experience including research, complaints and news reports. In addition, in November 2011 we conducted an online stakeholder survey to gather ideas for work areas.
- 3.3. Our work in 2012-13 is underpinned by three key themes. These reflect the wider socio-economic context, the strengths and weaknesses of the reforms and the priorities of the Legal Services Board and other key decision-makers.
- **Equality of access** – by ensuring that all consumers, especially those in a position of vulnerability, have access to affordable and high quality advice;
 - **Unleashing consumer power** – by giving people the choice tools to drive greater competition in the market; and
 - **Enhancing the safety net** – through improving quality assurance, better financial protection and redress, and consumer-focused regulators

Work programme highlights in 2012-13

- Assessing the adequacy of financial protection arrangements
- Examining how far the regulatory system does currently, and should, help consumers to choose and use legal services
- A programme of advocacy on behalf of small charities as consumers
- Influencing decisions on regulating non-commercial providers
- Commissioning consumer research on expectations and experiences of complaining in partnership with the Legal Ombudsman
- Focused studies with potentially vulnerable consumer groups
- Continuing our work on will-writing, probate and estate administration
- Working with the Legal Ombudsman to explore a voluntary jurisdiction
- Commissioning research on the theme of consumer responsibility
- Influencing the Education and Training Review and taking forward our work on quality assurance

4 Transparency

Committed to transparency

- 4.1. **The Legal Services Consumer Panel demands transparency of others and is keen to lead by example in order to allow consumers of legal services to see how we have represented their interests. Below we report on measures relating to our operations and effectiveness. Details of the Panel's policy work can be accessed on our website.**

Expenditure

- 4.2. The Consumer Panel is supported by a small policy secretariat and is funded by the Legal Services Board as part of its annual levy on the approved regulators. Our budgeted costs for the year ending 31 March 2012 were £204,000. Actual expenditure for this period was £183,524 (see Table 1 overleaf for a breakdown).
- 4.3. Details of members' expenses are available on the Panel's website.

Attendance

- 4.4. The Consumer Panel held seven formal meetings this year. The attendance of each Panel Member was as follows:

Elisabeth Davies – 7/7

Emma Harrison – 5/7

Graham Corbett – 6/7

Jeff Bell – 7/7

Karin Woodley – 6/7

Neil Wightman – 7/7

Paul Munden – 6/7

- 4.5. In addition, the Panel was represented on these committees and working groups:

Conveyancing Forum

Joint Regulators' Education and Training Review reference group

Legal Ombudsman Stakeholder Advisory Panel

Legal Services Board – Research Strategy Group

Ministry of Justice – Transition and OLSO Closure Project Board (and sub-groups)

Solicitors Regulation Authority – Financial Protection Arrangements Reference Group

Activities and outputs

- 4.6. A list of the Panel's activities can be found at the back of this document. This can be summarised as follows:
- Policy reports – 5
 - Consumer research reports - 3
 - Consultation responses - 14
 - Speeches/events - 6
 - News releases - 12
 - Stakeholders met by members – 12

Table 1 – Breakdown of Panel expenditure in 2011-12

Category	2011/12	2010/11
Panel Fees and Secretariat	160,009	165,259
Research	20,628	13,500
Travel	1,641	3,049
Training	299	2,738
Printing and Publications	-	195
Refreshments for meetings	307	180
IT Software	640	61
Total	183,524	184,983

Activities list

Policy Reports/Formal advice to LSB

19 March 2012	Probate and estate administration
7 February 2012	Comparison websites
24 November 2011	Voluntary quality schemes
14 July 2011	Regulation of will-writing
24 June 2011	Consumer Impact Report 2011

Consumer Research Reports

29 March 2012	Legal Choices, Silent Process: Engaging legal services when you do not hear
6 December 2011	Study into the provision of legal services to small charities
21 June 2011	Tracker Survey 2011

Consultation responses

29 March 2012	Ministry of Justice Triennial Reviews of the Legal Services Board and the Office for Legal Complaints
19 March 2012	Legal Services Board call for evidence on will-writing, probate and estate administration (final submission)

8 March 2012	Bar Standards Board's consultation on its public access rules
14 February 2012	Solicitors Regulation Authority's consultation on regulating international practice
24 January 2012	Department for Business, Innovation and Skills call for evidence on EU proposals on Alternative Dispute Resolution
10 January 2012	Legal Ombudsman's consultation on its proposed Strategy 2012-2015 and Business Plan 2012-2013
4 November 2011	Legal Services Board's consultation: Enhancing consumer protection, reducing regulatory restrictions
1 November 2011	Legal Services Board's call for evidence on will-writing, probate and estate administration (interim submission)
24 October 2011	Bar Standards Board's review of Continuing Professional Development
27 September 2011	Department for Business, Innovation and Skills consultation: Empowering and protecting consumers
18 August 2011	Bar Standards Board's consultation on its Public Access Scheme
19 July 2011	Law Commission's consultation on misleading and aggressive practices
28 June 2011	Legal Ombudsman's consultation on publishing its decisions
31 May 2011	Solicitors Regulation Authority's consultation on its draft Equality Framework and Engagement Strategy
4 April 2011	Legal Services Board's consultation on the Solicitors Regulation Authority's application to become a Licensing Authority

Speeches and presentations

15 March 2012	Legal Services Board and University of Westminster – Education and Training seminar
13 March 2012	Law Society Regulatory Affairs Board
17 October 2011	Legal Futures Conference
6 September 2011	Westminster Forum
9 June 2011	Birmingham Law Society Conference
11 April 2011	Legal Futures Conference

News releases

29 March 2012	New guidelines on providing legal services to people with hearing loss
19 March 2012	Regulate probate and estate administration, says Consumer Panel
7 February 2012	Comparison websites should adopt voluntary standards to build consumer trust
6 December 2011	Half of small charities have limited or no understanding of laws applying to them
24 November 2011	Legal 'quality marks' need strengthening before consumers can use them with confidence
7 November 2011	Consumer Panel's reaction to Legal Ombudsman publishing complaints announcement

14 July 2011	Regulate will-writing, Consumer Panel tells LSB
24 June 2011	Panel publishes first 'consumer health check' of legal services reforms
21 June 2011	Public trust in lawyers - less than 50%
9 June 2011	Lawyers bill clients for handling complaints
27 May 2011	Consumer Panel welcomes referral fees decision
11 April 2011	Panel publishes second work programme

Ongoing committees and working groups

Conveyancing Forum
Joint Regulators' Education and Training Review
Legal Ombudsman Stakeholder Forum
Legal Services Board Research Strategy Group
Ministry of Justice Transition and OLSO Closure Project Board and sub-groups
Solicitors Regulation Authority Financial Protection Arrangements Reference Group

Stakeholder Meetings involving Panel members

Bar Standards Board
Council for Licensed Conveyancers
Department for Business, Innovation and Skills
ILEX Professional Standards
Law Society
Legal Ombudsman/Office for Legal Complaints
Ministry of Justice
New Zealand Legal Complaints Commission
Nick Smedley
Radar
Russell Jones & Walker
Solicitors Regulation Authority

Terms of reference

Purpose

1. The Legal Services Consumer Panel ('the Panel') is established by the Legal Services Act 2007. The Panel contributes towards the achievement of the regulatory objectives by representing the interests of consumers of legal services. The Panel acts independently of the Legal Services Board ('the LSB') and the Office for Legal Complaints ('the OLC').
2. The Panel is deliberately comprised of members who are able to provide evidence of the experience of the wide range of consumers of legal services. The Panel will prioritise its work around those consumers who it considers are less able to give voice to their own interests. The Panel will have particular regard to the interests of consumers who may be in a position of vulnerability when using legal services.
3. The principal focus of the Panel will be on activities falling within the jurisdiction of the LSB and the OLC. However, the Panel will also have a remit on legal services matters that do not fall within the remit of the LSB or the OLC.
4. The Panel has an advisory role and does not have decision-making responsibilities. The key activities of the Panel are (in no order of importance):
 - (a) To help the LSB and the OLC to understand fully, and take account of, the interests of consumers in its policy development and decisions;
 - (b) To respond to relevant consultations as appropriate;
 - (c) To carry out research, as agreed with the LSB, and gather other intelligence and evidence to understand the consumer experience of the legal services market;
 - (d) To provide the LSB and the OLC with feedback from a consumer perspective on the effectiveness of its policies and practices;
 - (e) To help the approved regulators develop their own approach to consumer engagement to inform their work;
 - (f) To speak out publicly on behalf of consumers as appropriate in order to positively influence outcomes for consumers of legal services; and
 - (g) To maintain an overview of developments in the legal services market, and related developments affecting consumers in other markets, in order to best deliver the other activities listed above.

Procedure

5. Panel members are appointed by the LSB, with the approval of the Lord Chancellor, in accordance with Nolan principles, to represent the interests of consumers.
6. The Panel shall determine its ways of working, and may appoint sub-committees and make other arrangements for regulating its procedure. Sub-committees may include persons drawn from outside of the Panel, but all sub-committees shall include at least one member of the Panel.
7. The Panel and the LSB shall agree an annual programme of work for the Panel. The Panel may carry out such additional work, as agreed with the LSB, in response to developments in the legal services market.

8. The Panel shall ordinarily publish its representations, advice and research. However, it may choose not to publish its representations, advice and research if it considers that to do so would be likely to impact adversely on the interests of consumers.
9. The Panel shall publish the agenda and minutes of its meetings.
10. The Panel shall publish an Annual Report on its work.
11. The Panel and LSB shall review the Panel's terms of reference annually.

Biographies

Consumer Panel Members

Elisabeth Davies (Chair)

Elisabeth became the Panel's second chair in the summer of 2011. Elisabeth is Director of Partner Relations at Age UK, where she works closely with around 170 local Age UKs across England and supports the work of Age Cymru, Age Northern Ireland and Age Scotland. Her career includes a series of senior management and non-executive roles in the health arena including at the NHS National Patient Safety Agency, where she worked closely with the Welsh Assembly Government, as Chief Executive of the UK Breast Cancer Coalition and as Deputy Chair of Wandsworth Primary Care Trust. She was also previously Director of Policy and Development at the Refugee Council and is a former Trustee of the Immigration Advisory Service. She has recently stood down as Chair of Wandsworth Citizens Advice Bureaux.

Jeff Bell

Jeff is a Trading Standards Consultant based in Stockton-on-Tees. Formerly, he was Chief Trading Standards Officer at Redcar and Cleveland Unitary Council, and worked as a Trading Standards Officer at local authorities in Cleveland, Northumberland, Tyne & Wear, and Durham. In these roles he brought three major projects to the North East: Consumer Direct; the Scambuster Team and the Illegal Moneylending Team, managing the latter two through their inception, recruitment and foundation period. He was also Chair of the

North East Trading Standards Association and a Member of the North East Electricity Consumers' Committee.

Graham Corbett

Graham is a member of the Employment Tribunal Panel and was working as a Senior National Officer at the Public and Commercial Services Union (PCS) before taking voluntary redundancy at the end of 2009. Formerly he was Deputy Head of Legal Services at the PCS and a civil servant at the Department of Environment and Transport. He previously chaired the Departmental Trade Union Side for negotiations and was a senior lay representative at the Civil and Public Services Association.

Emma Harrison

Emma is Director of Public Engagement at Action on Hearing Loss (formerly the Royal National Institute for the Deaf.) She brings experience of working in the consumer movement as former Principal Public Affairs Officer at Which? and Campaign Manager at Consumers International. She was also previously a Research Manager and Political Advisor at the European Parliament.

Paul Munden

Paul is an experienced general counsel and chartered director. Over the last ten years he has held a number of senior board posts at the Business Link operation in London.

He is an accredited tutor with the Institute of Directors leading a number of their board development courses designed to provide an in-depth view of the key duties, roles and legal responsibilities of directors and corporate governance. He has also served as non executive chairman of a Bafta award winning educational software house and a founder non executive director of Customer First UK, which is responsible for the national Customer First quality accreditation framework. He is currently on the board of NHS Mid Essex and the National Youth Music Theatre.

Neil Wightman

Neil is Head of Housing Needs at the London Borough of Lambeth and is Joint Chair of the Association of Housing Advice Services. He was a member of the Beacon Advisory Panel between 2003 and 2009 and a Trustee Director of Kilburn Youth Service for 10 years. He has worked in local government for over 20 years and before that worked as an advice worker at Sheffield and Clapham Citizens Advice Bureaux.

Karin Woodley

Karin is the Chief Executive of ContinYou having ended her role as Chief Executive of the Stephen Lawrence Charitable Trust in 2009. Formerly, she was Director of the Tabernacle Trust; Deputy Director of the Arkwright Arts Trust; Partner, Keya Associates; and Chief Executive of Minorities Arts Advisory Service. She was also previously Chair of Kensington and Chelsea Metropolitan Police Independent Advisory Group on Race, and Adviser to the Scotland Yard Gold Task Group for the Notting Hill Carnival Policing Strategy.

Secretariat

Steve Brooker

Steve was formerly Head of Fair Markets at Consumer Focus where he managed a policy and public affairs team working on a wide range of issues including financial services, the digital economy, consumer law and sustainable consumption. Prior to that, he led the National Consumer Council's policy work on regulation and civil justice. His previous career was in university administration with roles at Keele and the London School of Economics.

Harriet Gamper

Harriet Gamper was previously a consultant at Civic Consulting, an economic and public policy consultancy based in Berlin. Here she focused on consumer policy and had responsibility for pan-European evaluations in the areas of e-commerce and unfair commercial practices. Prior to this she worked for the European Commission (DG SANCO), the Office of Fair Trading, and the UK Home Office. Harriet holds a postgraduate Masters in consumer affairs.



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