



Annual report 2016

May 2016

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1 About us

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 we are an independent arm of the Legal Services Board. 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. We want to see:
 - 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

How we work

- 1.4. The Panel provides high quality, evidenced-based advice on the consumer interest in legal services regulation issues. We aim to help the Legal Services Board and others to make regulatory decisions that are shaped around the needs of users.

Who we are

- 1.5. The Panel is made up of eight lay members whose appointments are approved by the Lord Chancellor. Our members' varied experience and expertise includes: charitable, private and public sectors, advice provision, trading standards and complaints handling. The Panel members are not able to be practicing lawyers. You can find more information about the Panel members at the back of this document.

Our approach to regulation

- 1.6. 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.
- 1.7. Too much and too little regulation harms consumers. We want to remove unnecessary restrictions that impede innovation and increase the price of legal services. Yet consumers will have the confidence to drive competition only if they think regulation will protect them, so a strong, effective and fair consumer protection framework is also needed.

2 Chair's Foreword

- 2.1. Over the last year we've seen more evidence of the consumer voice in policy making than at any time in the Panel's existence. This is the year in which it has finally felt that we have moved away from the outdated notion of consumerism versus professionalism. We still have some way to go before we have anything like a consumer-focussed culture - or indeed a market that puts the needs of its consumers at the heart of everything it does - but progress has definitely been made and it feels fair and right for the Panel to claim some credit for this.
- 2.2. As a Consumer Panel we have always said that we can both hold to account and be part of the solution. To deliver better outcomes for consumers we know we need to do more than just tell the regulators when they're not doing the right thing. We need to enable them to get better. This year we've really put this into action by developing and delivering training in consumer principles and dealing with consumer vulnerability. The Bar Standards Board should be praised for their confidence and willingness to identify consumer champions, work with us in training every member of their staff. And running a session for their Board too. This has ended up being just the start. We've also run the session for CILEx Regulation and have plans to do the same for the CLC and LSB colleagues during 2016.
- 2.3. From our inception, access to data has been at the heart of our focus and priorities. It has to be. It's fundamental to consumer choice and at the heart of changing the way consumers both choose and use legal services. This is about getting the right information to consumers, in the right way, at the right time. Our Open Data report, published this year, was a chance to follow on from our previous work with the regulators. Basic data is out there. It's a start but it's nowhere near enough. And when you look at other sectors we do not compare favourably. Our report called for regulatory intervention to guarantee that information becomes available to consumers, so they can make informed decisions and be active participants in the market. It's particularly important to get more information out there on price and quality; two important choice factors for consumers. Our report has the potential to significantly change the legal services market, provided our recommendations are adopted.
- 2.4. Over the last year the Panel's work has highlighted the emerging role of consumer segmentation. Our joint research with the LSB on 'Unbundling of Legal Services' shone a light on the need for the sector to accept that different problems require different solutions. If the solutions are to be effective, then there must be prior understanding of who the targets are. We have begun to refer to these varying needs and solutions as consumer segmentation. This may not yet be a phrase that is common in legal services, but its meaning and relevance should not be in doubt. Consumer Segmentation recognises that consumers are not one homogenous

group – not just by saying they are not, but by taking appropriate actions to understand the need of the different groups.

- 2.5. Segmenting consumers in this way offers a new approach to tackling unmet need and addressing the problem of access to justice. This is the way we can ensure groups of consumers don't get left behind in the future. Because some are being left behind and we know this through our annual tracker survey. Last year's tracker survey showed some continuous improvements in how consumers are experiencing legal services, but the data is also telling us that some consumers are not benefitting.
- 2.6. As with previous Annual Reports, it's difficult to do justice to the areas where the Panel contributes to wider change as distinct to those specific things that can be attributed to our reports and outputs. Some Panels describe themselves as critical friends, others as

responsive challenge functions. What's clear is that our positioning has changed. Our advice is now sought earlier in the process, we receive advance notice of changes and we're invited to sit around the table as equal partners on an increasingly frequent basis. This change in position has been thanks to the skills and experience of our Panel members, along with those of our dedicated Panel staff. Through their ongoing support and commitment the Panel will continue to transform the legal services market around the needs of users.



Elisabeth Davies

Chair

3 Responsive services

What we would like to see

- A meaningful choice of providers and services.
- Consumers are empowered when dealing with providers.
- Consumers receive value for money.

Our Tracker Survey shows

- 3.1. Five years of findings from our annual Tracker Survey shows clear trends in changes in consumer behaviour when choosing legal services.
- 3.2. Consumers are responding positively to the choice available to them and they are shopping around more. There is a decline in difficulties with comparing providers, from 28% (2011) to 12% (2015).
- 3.3. However, challenges remain. 75% of consumers are not shopping around at all. Also, a careful assessment of who is benefiting from the improvements shows that benefits are not universal. Much of the improvements observed are confined to the more informed group; those with greater knowledge of what a lawyer does, 52%, against 36% of those who felt they had no knowledge. Some groups of consumers are in danger of being left behind.

What the Panel did in 2015/16

Major report: Highlighting the underuse of information in the legal sector

- 3.4. Opening up data is an essential step towards responding to consumer needs; providing consumers with the information they need so that they can easily compare providers, and make informed decisions.
- 3.5. Approved Regulators have made progress where the provision of basic data is concerned. However, much of the information available is scattered, posing difficulty for access. For example, some Approved Regulators hold complaints data, as does the Legal Ombudsman. Approved Regulators and representative bodies hold information on who is regulated. And individual websites may hold information on reviews or prices. It is difficult for consumers to navigate and link pertinent information.
- 3.6. Basic data aside, the Panel remains concerned with the dearth of regulatory information on price and quality in particular. These are important choice factors that empower consumers to participate, and in turn encourages responsive services. As recently as April 2016, the LSB's own research¹ on price found that only 17% of firms display their prices on their websites. Those who displayed their prices were generally cheaper than those who did

¹ Prices of Individual Consumer Legal Services, LSB, OMB research, April 2016.

not. Shopping around is beneficial for consumers. But there is another, more significant message, and that is a need for more information and transparency on pricing. Shopping around from a pool of 17% is not good enough for competition.

- 3.7. In 2016 we responded to the LSB's request for advice², highlighting the need to empower consumers and encourage them to make informed decisions. We specifically made recommendations for more Information on price and quality. We also made the wider point that information simply presented, at the time of need, is one tool that should be used by Approved Regulators.
- 3.8. Furthermore, we emphasised that information as a regulatory tool has been adopted successfully in other sectors. That said, we recognised the challenges, especially for some of the smaller regulators.
- 3.9. In the coming months we will continue to press for the adoption of our recommendations. We want regulators to rise to the task and begin the journey towards more transparency and effective engagement. We are already seeing progress, the Solicitors Regulation Authority has adopted two of our recommendations.

Major report: Understanding the role of unbundled services in improving access to justice

- 3.10. In 2015, our Tracker Survey suggested that one in five of all legal transactions involved some element of unbundling. 'Unbundling' separates a package of legal services into parts, and the client and lawyer agree to which parts of the package each will do.
- 3.11. The Panel considered the potential for providers to respond more effectively to consumer needs by offering unbundled

services. In our view this could widen access to legal advice for those who cannot afford full service representation.

- 3.12. In 2015, we collaborated with the LSB and commissioned qualitative research³ on the perception of unbundling; with the view to understanding its usage from the perspective of consumers, providers and the judiciary. We also wanted to understand its limitations along with whether and how it might be promoted.

Key findings of this research:

- Consumers choose unbundled services primarily to reduce cost and exercise control over the case.
- Consumers who choose to unbundle feel confident to take on tasks themselves, feeling they have transferable skills or some knowledge which would assist them to complete tasks.
- Providers offer unbundled services in response to: Legal aid changes, providing an affordable option for middle-income consumers, attractions of the business model, a more competitive market place, and demand from clients.
- Providers see the principal benefit for consumers as reduced cost and access to expertise where this is needed most; they primarily serve those consumers who wish to save money, rather than those for whom money would be a barrier to accessing legal services.
- Providers suggest that clients need to have a certain level of literacy and capability to be able to cope with unbundling.
- All of the judges interviewed agreed that on balance, litigants in person tended to struggle with court or tribunal proceedings.

² The LSB often commissions the Panel to assess an area of policy development or thinking. Our submission to the

LSB then feeds into a wider piece that the LSB is focusing on at the time.

³ Reference research here

- 3.14. Shortly after the publication of the unbundling research, the Panel hosted a stakeholder workshop on unbundled legal services, bringing together regulators, advice providers, representatives and academics. We were pleased with the overall engagement, challenge and commitment to continued dialogue.
- 3.15. The work on ‘unbundling’ shines a light on the increasing need to target solutions to specific groups of consumers. It reinforces the idea that solutions to the problem of access to justice is nuanced, and so consumers should be targeted appropriately.
- 3.16. We are continuing to encourage representative bodies, regulators, and other relevant stakeholders to support service providers who wish to offer ‘unbundling’ by assessing and or improving current regulatory guidance. We also aim to work with others to raise awareness of unbundled services where appropriate. This aim is bolstered by a recent finding of Citizens Advice which showed that consumers were not often aware of the provision of unbundled services⁴.
- 3.17. The work the Panel did on unbundling is already having an impact. At the Approved Regulators Forum meeting, regulators agreed to consider whether joint guidance might be appropriate in this area. Also, in response to concerns about how the Legal Ombudsman might deal with complaints on ‘unbundling’, the Legal Ombudsman has agreed to consider publishing guidance, and when it becomes appropriate, case studies, on how ‘unbundling’ cases might be dealt with.
- 3.18. We were also pleased that CILEx Regulation committed to holding a roundtable discussion to explore the issue in more detail. They’ve also sought clarification on the risk factors

with an insurer, putting them in a good position to provide their regulated community with appropriate and relevant information.

Impact: Tracking changes through our unique annual consumer survey

- 3.19. Every year the Consumer Panel commissions a Tracker Survey to measure the views of those who have recently used a legal service, and gauge how services are responding to consumer needs. The Tracker Survey also measures wider public attitudes towards lawyers. In this way we have built up a rich picture of what it’s like to be a consumer of legal services, and we can track changes over time. The evidence from these surveys continues to influence and inform ours and other’s policy development and thinking.
- 3.20. In 2015 the Panel commissioned its fifth annual Tracker Survey. This shows that, over the last five years, more empowered consumers are taking advantage of what information is available to them. Using this information, they are able to make better choices, which has led to increased satisfaction.

Key findings of the 2015 tracker survey:

- Reputation is the most important factor when choosing a legal service (75%), followed closely by price (68%).
- The most relied upon funding method is increasingly private funding (64%), and there is a continued decline in free services (down to 9% in 2015 from 11% in 2013).
- Public confidence in lawyers has increased again and has returned to 2011 levels – a trend seen across much of the economy – but it remains low overall at 47%.

⁴ Standing Alone – Going to the Family Court without a lawyer, Citizens Advice, November 2015.

- The Panel also looked at the trends in Wales. Consumers in Wales are less likely to trust lawyers, though feel equally confident in their ability to complain and that their rights are protected. They are also less likely to shop around, and tend to use small, local law firms with face-to-face service rather than using online services.
- A key concern for the Panel is that market improvements are not benefitting all consumers. Some consumers are still being left behind, and the gap between the empowered and disempowered is only getting wider. What is clear is that those consumers who are better informed tend to have more trust in using a lawyer, and tend to see increased choice, ultimately leading to increased satisfaction.

What next?

3.21. Over the next year the Panel will:

- Undertake an LSB commission on information remedies, enabling us to assess how information remedies have been used in the legal services sector and advance our work on Open Data.
- Feed into the LSB's project to encourage market entry by comparison websites.
- Undertake the sixth annual Tracker Survey, building on the evidence base of previous years and using the intelligence to explore segmentation or differences in consumer experiences.
- Consider the interest in and value of hosting another roundtable on unbundling to assess progress.

4 High quality advice

What we would like to see

- Advice is technically competent.
- Consumers are satisfied with the service provider.
- Providers behave ethically and misconduct is dealt with swiftly and appropriately.

Our Tracker Survey/wider research shows

- 4.1. Although consumers find it difficult to judge the technical quality, we know from our Tracker Survey that most users of legal services say they are satisfied with the quality of advice received. 78% said they were satisfied with quality, and the same percentage said they were satisfied with the service.
- 4.2. Safeguarding quality, especially in high risk areas is one of the main justifications for regulating legal services, but there remains little information on the technical quality of legal work before or after using a service provider. This situation must be improved and must be a priority area for the sector as a whole.
- 4.3. According to previous Panel research⁵ quality is not strongly influencing consumer choice. In the same research the Panel also found that Approved Regulators did little active monitoring of

quality or did not publish assessments made.

- 4.4. Consumers have a role to play in driving up quality standards but they cannot play this role if they do not have access to the information. In our recent report on Open Data we noted that there is scope for all the Approved Regulators to explore and consider how they might begin to gather and make information on quality available, especially in high risk areas.
- 4.5. In January 2016, the SRA published research on the quality of legal advice provided to asylum seekers. This research and the context behind its commission (previous LSCP research had identified this area as high risk) is to be commended and emulated where feasible by other Approved Regulators. Naturally we are also interested in the next phase of how the SRA uses this information to improve the market. What the Panel did in 2015/16

Major report: Highlighting the need for information on quality of advice

- 4.6. In our 2016 report on Open Data, the Panel argued for more regulator information on quality, especially in high risks areas. This is in line with the research the SRA undertook and published above. The Panel argued that information on price is rarely efficient or optimal without information on quality. Without information on quality, price

⁵ Legal Services Consumer Panel, Quality in Legal Services, November 2010

transparency could perpetuate consumers' misconception that price equates or correlates with quality, with some consumers thinking higher-priced services are better.

- 4.7. The Panel accepts that resource limitations may preclude smaller regulators from conducting extensive primary research like mystery shopping exercises. However, on balance the Panel believes that Approved Regulators will not be meeting its regulatory objectives of consumer protection if there are no clear means for it to test quality issues, especially in high risk areas.
- 4.8. The general challenge with attempting to articulate, measure, gather, and present information on quality is noted, but Approved Regulators must begin the journey, not least because the regulatory objectives place an obligation on them to promote the consumer interest.

Impact: Contributing to policy development on Legal Education and Training

- 4.9. The Panel has consistently fed into consultations, workshops and meetings on the future direction of legal education and training. This is arguably the first stage in assuring quality. We have been involved in the development of the Bar Standards Board's 'Future Bar Training programme' and we specifically responded to its consultation on the Professional Statement for Barristers – Consultation on Threshold Standard and competences. Our engagement with the BSB's Professional Statement resulted in the inclusion of an amendment which now recognises vulnerability and awareness of the wider legal services landscape as crucially important.

- 4.10. We also responded to an extensive consultation on the future education and training for the Bar. In that response, we raised concerns around the idea of moving towards a minimum 2:1 classification degree, as we believed this may have a negative impact on the pool of talent at a time when the profession is seeking to widen access.
- 4.11. In addition to these written responses, we also participated in the BSB's roundtable on the future of education and training. Alongside this we presented at the Westminster Legal Policy Forum on Legal Education and Training.
- 4.12. We hope to continue to influence this debate. Our aim is to shape the direction of legal training pre and post qualification to ensure that it is sufficiently focused on the consumer, and crucially delivers good outcomes.

Impact: Influencing the debate around Unregulated Providers.

- 4.13. The Panel continues to recognise that with adequate consumer protection there is a place for unregulated providers in the legal services market. It is therefore right that there continues to be a focus on whether the services provided by unregulated providers are delivering good outcomes for consumers.
- 4.14. There is also a need to ensure that consumers are aware of the difference between providers. Consumers must know if their consumer protections are reduced depending on which service provider they choose.
- 4.15. The Panel's previous considerations and policy position on the unregulated market, has put it in good stead for providing early advice to the Judicial Executive Board's assessment of McKenzie friends. Likewise, in 2015 we

fed into the LSB's work on understanding the unregulated market in greater depth.

- 4.16. The Panel will continue to particulate in ongoing debates about the right balance between competition, consumer protection and indeed access to justice.

What next?

- 4.17. Over the next year the Panel will:

- Encourage the Approved Regulators to adopt the Panel's recommendations for more information and where applicable research on the quality of legal services.
- Continue to participate in the debate around the role of McKenzie Friends and the wider Paralegal market.

5 Diversity

What we would like to see

- The workforce reflects the make-up of the population.
- Providers understand the diverse needs of consumers.
- Regulators take proper account of consumers at risk of disadvantage.

Our Tracker Survey/wider research shows

- 5.1. There are some differences in the experiences of those using legal services, depending on socio-economic group and ethnicity. Our concern is that no one group is left behind.
 - Outcome satisfaction is lower among BME groups compared to White British respondents (88% compared against BME 74%). This trend is reflected in service satisfaction too.
 - 77% of ABC1s are satisfied with their service compared to 74% of C2Des.
- 5.2. Although consumer satisfaction with choice has increased, our data shows that much of this improvement is confined to the more informed group and those with greater knowledge of what a lawyer does.
- 5.3. The Panel recognises that new entrants to the workforce are increasingly more diverse, and additional efforts to widen access such as apprenticeships should help further. It is also encouraging that

in 2015 more top firms reported proportions of LGB employees that are close to estimates of LGB individuals in the population as a whole (between 5% and 7%)⁶. But issues with progression within the profession remain. Black lawyers and Barristers make up only 0.5% of Partners and 1% of QCs. Women make up only 12% of QCs in Chambers and 27% of partners in firms. That said, the gender balance of regulatory boards has improved up to 30 out of 77 total board members.

What the Panel did in 2015/16

Introducing the consumer segmentation narrative into policy discussions

- 5.4. In 2015, the Panel began to describe the real need for segmenting consumers in the legal services market. Put simply, understanding consumer differences in order to recognise their needs, and tailoring or targeting solutions appropriately.
- 5.5. Our narrative around consumer segmentation goes to the heart of understanding the diversity of consumers and their varying needs. It shaped and helped us position our messaging around 'unbundling services' for instance where we emphasised that unbundling works for some consumers but not all. In the ever challenging and changing landscape, it

⁶ Diversity Data and Publication Roundtable, 2015, Professor Peter Urwin

will become increasingly important to know what works, and in particular for whom it works.

Major impact: Training regulators and changing the way they recognise and respond to consumer vulnerability

- 5.6. Our research shows many lawyers struggle to adapt their services to cater for consumers with specific needs. Regulators carry out little research with vulnerable consumers and use of Equality Impact Assessments is rare.
- 5.7. To address these problems the Panel produced a guide for regulators to help them recognise and respond to vulnerability. The guide is based on British Standard BS18477 on Inclusive Service Provision, but translated into a legal services setting. The Panel also produced a simple consumer principles toolkit for regulators to help them think about the consumer interest in a structured way. The toolkit is based on seven core principles used by consumer organisations for working out how particular issues or policies are likely to affect consumers. They are:
- Access – can people get the goods and services they need or want?
 - Choice – is there any?
 - Safety – are the goods or services dangerous to health or welfare?
 - Information – is it available, accurate and useful?
 - Fairness – are some or all consumers unfairly discriminated against?

- Representation – do consumers have a say in how goods or services are provided?
- Redress – if things go wrong, is there a system for putting them right?

- 5.8. In 2015 the Panel merged the consumer vulnerability guide, with the consumer principles toolkit to deliver training to the entirety of the Bar Standards Board Staff, including their Board members. We are pleased that this training is now becoming integrated into their policy development framework and will be included in new starter training.
- 5.9. It is also worth noting that previous work on consumer learning and disability has been used by the Law society in providing a guide to consumers.

What next?

- 5.10. In 2016/17 the Panel will:
- Explore how ethnic minorities experience legal services through our tracker survey.
 - Continue training the regulators on our vulnerability guide and consumer principles toolkit. Sessions are already planned with the Council for Licensed Conveyancers and the Legal Ombudsman.

6 Access to Redress

What we would like to see

- Complaints are resolved by providers in-house.
- A world-class ombudsman scheme.
- Complaints intelligence is used to inform standards.

Our Tracker survey shows

- 6.1. There are high numbers of ‘silent sufferers’ in legal services compared to the services sector overall; nearly half of dissatisfied clients do nothing and people’s confidence in making a complaint is low.
- Only 48% of people would feel confident complaining about their lawyer.
- 42% of consumers who were dissatisfied with a lawyer did nothing about it – consistent with 2014 figures.

What the Panel did in 2015/2016

Impact: Working with the Legal Ombudsman.

- 6.2. The Panel has maintained a good working relationship with LeO in 2015-2016. During this time the Panel responded to LeO’s consultation on its Key Performance Indicators and its proposed change of scheme rules.
- 6.3. In the Panel’s response to LeO’s consultation on its Key Performance Indicator we said that as LeO had

become more established, challenging, albeit realistic KPIs ought to replace the existing measures. The Panel also said it would expect to see KPIs which focused appropriately on quality, fairness and diversity. We asked for further consideration on how LeO would keep individual users up-to-date if quality or timeliness targets are not delivered. Going forward we have committed to working with LeO to continue to develop its KPIs.

- 6.4. LeO’s decision to withdraw its application to become an approved Alternative Dispute Resolution (ADR) provider under the EU Directive⁷ was a disappointment to the Panel. It has led to consumers being signposted to multiple providers, leaving room for confusion. Arguably, it has also had an impact on LeO’s role in handling complaints from unregulated legal services providers.
- 6.5. The Legal Ombudsman is unable to investigate complaints when the people losing out are not the lawyer’s client – these situations are known as third party complaints. There are lots of situations when this can happen, for example:
 - Delays or mistakes by the other side’s lawyer in a conveyancing transaction.
 - Disputes over legal fees when someone agrees to pay the costs of the other side.
- 6.6. The Panel considers that, in certain situations, third parties should be able to complain to the Legal Ombudsman

⁷ Directive 2013/11/EU on alternative dispute resolution for consumer disputes and amending

Regulation (EC) No 2006/2004 and Directive 2009/22/EC

and obtain a remedy for the harm they suffer. The Panel has been advocating for this since 2012, and has actively ensured that the issue stays on LeO's agenda. The Panel remains a member of LeO's steering group on the subject where we continue to influence action in this area. We are pleased that LeO will again consider the issue in the new financial year.

Major report: Highlighting the need for First-tier complaints data.

- 6.7. At present none of the legal services regulators publish first tier complaints data, even though research shows that consumers and their representatives, including intermediaries, use it.
- 6.8. Also, it is well argued that the availability of complaint data acts as a deterrent against poor behaviour, helps to identify areas of high risk, and can guide decisions around prioritisation for Approved Regulators.
- 6.9. The Panel recognises that there are challenges with publishing complaints data. The biggest challenge appears to be how to contextualise complaints data so that it is meaningful for both consumers and businesses. Approved Regulators can learn from the solutions devised in other sectors. Consulting and engaging with regulated communities and consumer groups within the sector will stand regulators in good stead.
- 6.10. In 2015, our report on Open Data recommended that Approved Regulators should make the collation and publication of first-tier complaints a regulatory requirement and mandate for its publication.

What next?

- 6.11. Over the next year the Panel will:
 - Continue to push the Legal Ombudsman to establish a voluntary scheme without further delay and accept third party complaints in certain circumstances

- Encourage LeO to apply to become an Alternative Dispute Resolution Body.
- Work with LeO to further develop its Key Performance Indicators and its wider programmatic approach to measuring and understanding performance.
- Work with Approved Regulators on the publication of first tier complaint data.

7 Consumers at the heart of regulation

What we would like to see

- Approved Regulators are independent of the entities they regulate.
- Regulatory bodies work transparently.
- Regulators have robust consumer engagement mechanisms.

Our Tracker survey/wider research shows

- 7.1. All the approved regulators now have lay majorities, the LSB has mandated for all future Chairs to be lay and strengthened the independence of the re/appointments process for Board members. While the regulators are more structurally independent of the professional bodies, there are concerns around the lack of cultural independence from the workforce. The LSB has suggested that a lack of independence has held back the pace of the market reforms.
- Since 2013 all seven regulatory boards have had a lay majority
 - Only two of the Approved Regulators publish Board papers

What the Panel did in 2015/2016

Ongoing influencing of the debate on the future legal services regulatory landscape:

- 7.2. In 2013 the Ministry of Justice set out a call for evidence, with a view to potentially reforming the Legal Services Act 2007. The Panel has since been

engaged in internal and external debates about the future shape of this regulatory reform agenda.

Report: Influencing how regulators should prepare for the future.

- 7.3. In 2015, the LSB commissioned the Panel to consider “Which areas of law should be the priorities for the LSB’s work on enabling the demand for legal services to be met?”
- 7.4. The Panel’s advice in response to this commission is likely to influence the LSB’s projects on understanding affordability, supporting increased accessibility, and helping consumers to make informed choices. It may also be a useful input to the LSB’s on-going projects to understand different types of providers (including unregulated providers) and emerging market risks.
- 7.5. The Panel has identified three areas of law where there is high demand, high impact on those affected, and where there are possible regulatory interventions: Family and relationships, housing, and immigration and asylum services. These are also areas where there is disproportionate detriment among more vulnerable groups.
- 7.6. In some instances these areas are open to possible regulatory interventions, albeit not always by the LSB but rather the individual Approved Regulators. In other instances scope for intervention is more the remit of the representative bodies. This report therefore acknowledges the challenges that exist for the LSB to both effect

significant change for consumers in these areas whilst respecting its statutory remit.

Impact: Improving and influencing the quality of regulation.

- 7.7. The Panel has also contributed to a wide range of specific regulatory issues throughout the year. In 2015 we engaged extensively with the Solicitors Regulatory Authority on the regulation of consumer credit, and on the policy development of Separate Business Rules (SBR). We were pleased to secure updated guidance which reflected our advice that the SRA needed to consider issues around affordability as well as creditworthiness.

- 7.8. We were also pleased that the SRA took on board our recommendation that accompanying guidance on the SBR should suggest that individuals or entities operating under a SBR become a member of an Alternative Dispute Resolution Scheme. The SRA's agreement, on the Panel's advice, to test whether or not informed consent in this area is working was also welcomed.

What next?

- 7.9. Over the next year the Panel will:
- Engage with initiatives by the regulators to review their regulatory arrangements.
 - Continue training the regulators on our consumer principles and vulnerability guide.

BSB Case Study

Overall, the Panel's relationship with the BSB has been an exemplar in 2015. From the development and delivery of the Consumer Panel's training for staff and Board members, to the positive engagement and dialogue across many areas of policy development. We are keen to further our relationship with the BSB and all the Approved Regulators, striking the right balance between advising, challenging and being a critical friend, as and when appropriate.

We also commend the creation of two consumer focused roles, designed to build on the work the BSB has done so far and to extend learnings across all their communications. Based on the work of a consumer consultant, it is clear the influence of that investment has no doubt influenced the regulatory agenda and direction. This influence manifests itself in some of the progressive policy development and outlook at the BSB. For example, in April 2016, the BSB published its first Risk Outlook. This document references the Consumer Panel's Vulnerability toolkit as well as its Consumer Principles. BSB's extensive use of these tools shows a clear assimilation and understanding of their application to regulatory practices that deliver good outcomes for consumers.

8 Priorities for 2016/17

Strategic aim	What we want to see during 2015-18	The Panel's contribution in 2016-17
<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>Understand the implications of and make the case for consumer segmentation in the legal services sector.</p> <p>Undertake secondary analysis of the LSB's forthcoming legal needs survey.</p> <p>Maximise the impact of our consumer vulnerability toolkit with regulators.</p> <p>Engage with and influence ongoing debates on the regulatory implications of litigants in person.</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>Engage with initiatives to review regulatory arrangements.</p> <p>Produce the sixth Annual Tracker Survey.</p> <p>Continue training the regulators on our consumer principles toolkit.</p> <p>Train the Legal Ombudsman on our consumer principles toolkit.</p> <p>Review the Memorandum of Understanding between the Panel and the Legal Ombudsman.</p> <p>Support the Legal Ombudsman in finessing and honing its Key Performance Indicators.</p> <p>Support the development of the Legal Ombudsman's new service level principles.</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>Undertake the LSB commission on the use of information remedies in legal services.</p> <p>Engage in the LSB's research study on the availability of quality and price information.</p> <p>Encourage Approved Regulators and the LSB to adopt the recommendations as set out in the Panel's Open Data Report.</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>Continue to push the Legal Ombudsman to establish a voluntary scheme.</p> <p>Encourage the Legal Ombudsman to apply to become an Alternative Dispute Resolution entity.</p> <p>Respond to the LSB's research study to map unregulated providers</p> <p>Engage as appropriate with 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>Contribute to the Competition and Market Authority's review into Legal services.</p> <p>Engage with the Government's consultation on independence between regulators and their representative bodies.</p> <p>Respond to LSB work on legislative reform.</p>

9 Transparency

Committed to transparency

- 9.1. The Legal Services Consumer Panel is committed to transparency. Below we list details of our expenditure and outputs for the past year.

Expenditure

- 9.2. 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 2016 were £180,008. Actual expenditure for this period was £204,319. (See Table 1 overleaf for a breakdown).
- 9.3. Details of members' expenses are available on the Panel's website.

Attendance

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

Elisabeth Davies – 6/6

Andy Foster – 5/6

Cathy Gallagher - 5/6

Dr Michelle Goddard - 5/6

Frances Harrison – 5/6

Dr Philip Marsden - 5/6

Marlene Winfield - 6/6

Catherine Wolthuizen – 4/6 (Catherine left the Panel in December 2015)

Activities and outputs

- 9.5. A list of the Panel's activities can be found at the back of this document. This can be summarised as follows:
- Consumer policy / research reports – 7
 - Consultation responses – 12
 - Speeches/presentations – 9
 - Events hosted by the Panel – 9
 - Ongoing committees and working groups – 4
 - News releases – 5
 - Blogs – 7
 - Stakeholders met by members – 25

Table 1 – Breakdown of Panel expenditure in 2015-16

Category	2014/15	2015/16
Panel Fees and Secretariat	175,620	148,874
Research	21,078	27,744
Travel	2,608	1,672
Training	1,261	150
Subscriptions/office costs	2,468	770
Catering/room hire	1,284	798
Total	204,319	180,008

Consumer Panel activities

Policy and consumer research reports

16 February 2016	Opening up data in Legal Services
27 November 2015	Tracker Survey 2015 - data tables for recent users
27 November 2015	Tracker Survey 2015 - data tables for general public sample
17 November 2015	Tracker Briefing 3: Wales
17 November 2015	Tracker Briefing 3: Wales (and Welsh language version)
17 November 2015	Tracker Briefing 2: How consumers use legal services
17 November 2015	Tracker Briefing 1: How consumers choose legal services
6 November 2015	Unbundling legal services – Roundtable write-up
17 September 2015	Qualitative research on perceptions of unbundling

Consultation responses

04 March 2016	SRA – Training for Tomorrow: assessing competence
01 February 2016	Legal Ombudsman consultation on 2016/2017 draft budget and draft key performance indicators
31 December 2015	QC Appointments – Queen’s Counsel Application and Appointment Fees
27 November 2015	MoJ - Preserving and Enhancing Quality in Criminal Advocacy
13 November 2015	MoJ and HMT - Review of Claims Management Regulation: terms of reference
30 October 2015	LeO - Proposed ADR scheme rules
29 October 2015	BSB - Future Bar Training Consultation: Academic, Vocational and Professional stages of training
02 September 2015	BSB - Continuing Professional Development
07 August 2015	SRA - Regulation of consumer credit - the SRA's regulatory arrangements
24 June 2015	BSB - Future Bar Training Consultation: The Professional Statement
11 June 2015	SRA - Improving regulation: proportionate and targeted measures
24 April 2015	LSB - Are regulatory restrictions in practising rules for in-house lawyers justified?

Speeches and presentations

- 14 March 2016 **Legal needs and legal capability: lessons for legal services from the Civil and Social Justice Panel Survey's:** Elisabeth Davies spoke as a panellist on the needs of consumers and how to respond.
- 8 December 2015 **Westminster Legal Policy Forum on Legal Education and Training:** Michelle Goddard spoke on meeting professional training and development needs, and ensuring the right quality and culture in doing so.
- 4 December 2015 **Civil Justice Council national forum on access to justice for litigants in person:** Elisabeth Davies presented our work on unbundled legal services
- 26 November 2015 **Welsh legal roundtable event:** Frances Harrison highlighted the Panel's Tracker Survey and 2020 report in Cardiff
- 25 November 2015 **Welsh legal roundtable event:** Andy Foster highlighted the Panel's Tracker Survey and 2020 report in London
- 9 July 2015 **Westminster Legal Policy Forum on innovation in legal services:** Andy Foster spoke about the Panel's 2020 report and on the importance of innovation
- 15 May 2015 **Ombudsman Association biennial conference:** Marlene Winfield presented on helping consumers navigate the maze of consumer redress landscape
- 14 May 2015 **Law Society President's Dinner:** Elisabeth Davies highlighted key points of our 2020 report
- 28 April 2015 **Legal Futures Regulation and Compliance conference :** Elisabeth Davies spoke as a panellist at the Legal Futures conference

Ongoing committees and working groups

Legal Services Board Research Strategy Group
Legal Regulators Research Forum ⁸
Regulators' Forum ⁹
Consumer Panel Chairs regular meetings

Events hosted by the Panel

17 December 2015	Consumer principles and consumer vulnerability training/workshop: BSB Board members session
26 November 2015	Joint stakeholder event with LSB and LeO in Leeds
23 November 2015	Consumer principles and consumer vulnerability training/workshop: BSB
12 November 2015	Consumer principles and consumer vulnerability training/workshop: BSB
11 November 2015	Consumer principles and consumer vulnerability training/workshop: BSB
29 October 2015	Tracker Survey telephone briefing for regulators' forum
26 October 2015	Consumer principles and consumer vulnerability training/workshop: BSB
7 October 2015	Consumer principles and consumer vulnerability training/workshop: BSB

⁸ A forum for all the legal regulators to meet and discuss the research each organisation is undertaking. It is focused solely on research.

⁹ A forum for discussion of common issues between regulators, LSCP, and LeO. This meeting is broader than research.

26 September 2015	Consumer Panel workshop on unbundled legal services
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News releases

02 February 2016	Regulators must empower consumers with information
13 January 2016	Reaction to CMA announcement of review into competition in the legal services market
17 November 2015	Tracker Survey: Legal services improving, but inequality between users prevails
16 September 2015	Unbundle legal services and make them more accessible
24 June 2015	Reaction to UK Supreme Court QASA judicial review judgement

Blog posts

27 November 2015	What to do about innovation? Elisabeth Davies
6 November 2015	Unbundled legal services Cathy Gallagher
22 October 2015	The blind truth about informed consent Andy Foster
29 September 2015	Complaints and confusion Elisabeth Davies
4 August 2015	The quality commodity Elisabeth Davies
16 July 2015	2020: Where are we now? Elisabeth Davies

9 July 2015	<p>Can advice be good for your health?</p> <p>Marlene Winfield</p>
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Stakeholder meetings attended by Panel members

Bar Standards Board
Bar Council
Chartered Institute of Legal Executives
CILEx Regulation
Civil Aviation Authority Consumer Panel
Civil Justice Council
Council for Licensed Conveyancers
Communications Consumer Panel
Competition and Markets Authority
Financial Conduct Authority
Financial Services Consumer Panel
Food Standards Agency Consumer Advisory Panel
Law for Life

Law Society
Law Works
Legal Education Foundation
Legal Ombudsman/Office for Legal Complaints
Legal Services Board
Low Commission
Master of the Rolls
Personal Support Unit
Professional Paralegal Register
Richard Moorhead
Solicitors Regulation Authority
Stephen Mayson
Welsh Government

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

Elisabeth Davies (Chair)

Elisabeth Davies became the Legal Services Consumer Panel's second Chair in the summer of 2011. Elisabeth's career, combining professional and voluntary commitments, has centred on consumer engagement and a deep-seated belief in developing services that are truly consumer-focused. She has worked across the charitable and public sectors with a particular focus on the needs of health and social care users. She is currently Deputy Chief Executive at Arthritis Care and a Board Director at the Parliamentary and Health Service Ombudsman.

Within the NHS, Elisabeth has combined executive and non-executive roles. She was Head of Policy, Planning and Partnerships at the NHS National Patient Safety Agency, leading on patient and public reporting. Non-Executive roles include former Deputy Chair of Wandsworth Primary Care Trust and prior to this Joint Chair of South West London Community NHS Trust.

Elisabeth has also worked across the advice giving sector. She was previously Director of Policy and Development at the Refugee Council and is a former Trustee of the Immigration Advisory Service. She is also a former Chair of Wandsworth Citizens Advice Bureaux.

Andy Foster

Andy is Business Development Director for Capita's Local Government, Health and Property business 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 (CTSI) 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'.

Andy is a regular advisor to the UK government on consumer matters and played a key role in recent institutional reforms of the consumer protection landscape in the UK and during the horsemeat investigation of 2013. Andy also has extensive international experience having represented the UK on European food law enforcement matters and has worked extensively with emerging European Union candidate nations as they implement and review their own regulatory regimes. Andy was previously a member of the British Board of Film Classification Consultative Committee.

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

Michelle is currently Director of Policy and Standards at the Market Research Society responsible for promoting and protecting the research sector's quality standards. She also serves as the European Research Federation (EFAMRO) Director of Policy & Communication.

With experience in consumer market regulation gained in a range of academic, policy and enforcement roles over the last 20 years, Michelle most recently led on consumer advocacy in postal services policy and research at Consumer Futures, the statutory consumer body. She was the first Chief Executive of the Barbados Fair Trading Commission and held several senior public policy advisory roles with Caribbean governments and agencies. A non-practicing barrister, Michelle also spent time as a consumer lawyer at Which? and as an Inquiry Secretary at the UK Competition Commission.

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.

Dr Philip Marsden

Philip is Deputy Chairman of the Competition and Markets Authority, sits on the Enforcement Decisions Committee and Case Decisions Committee at the Financial Conduct Authority, and he is a Professor at the College of Europe, Bruges. He is also Non-Executive Director of the Channel Islands Competition and Regulatory Authorities. He is General Editor of the European Competition Journal and of the Oxford Competition Law series. He advises various governments on effective enforcement of competition and consumer protection regimes, and has written extensively on consumer detriment. Previously a competition lawyer and official, he has a particular interest in abuse of dominance, innovation incentives, and consumer welfare issues.

Marlene Winfield OBE

Marlene has spent her career giving a voice to users of public services. She advises the London-wide end of life care programme, Coordinate My Care. She is Vice Chair of the Thalidomide Trust and is a Non-executive Director of 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 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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