



Our role and work 2010-2011

March 2010

Contents

1	Foreword	3
2	Who we are	4
3	How we work	8
4	Our work in 2010-11	11
5	Measuring success	17
	Terms of reference	18
	Biographies	20
	Delivery plan	22

1 Foreword

Our challenge

- 1.1 I am delighted to introduce the Legal Services Consumer Panel and our first work programme. We have a statutory responsibility to represent the interests of all those who need legal advice to solve life's problems. This document describes who we are, how we work, the medium-term changes we want to achieve for consumers and our detailed plans for the coming year.**
- 1.2** Most of us will come into contact with the law at some point during our lives. Individuals may need access to legal advice when buying a home, injured, accused of a crime or going through divorce. Inventors need legal advice to protect their ideas from being stolen. Businesses may need legal advice to draw up a contract or resolve a dispute with a former employee. Putting in place effective regulation of those who provide legal services is therefore crucial to ensuring that consumers get the right outcomes in these critical situations.
- 1.3** Encouragingly, surveys show high levels of satisfaction with lawyers. The vast majority provide work of high quality. Our justice system is rightly admired the world over.
- 1.4** However, there are some serious problems to address. The England and Wales Civil Justice Survey reveals significant unmet legal need. The Legal Complaints Service receives one complaint for every six solicitors, whilst the miners' compensation scandal exposed shocking practices. Sir David Clementi's independent review found a regulatory maze that was too close to the

profession, complaint mechanisms that were not fit for purpose and restrictions on business models that stifled competition.



- 1.5** The Legal Services Act 2007 provides a solid foundation on which to meet these challenges. Good progress has already been made by the Legal Services Board and others. The architecture to support alternative business structures is rapidly being built, a new ombudsman scheme will shortly begin work and new governance rules will help to reform the front-line regulators from the inside.
- 1.6** The role of the Legal Services Consumer Panel is to ensure that the new regulatory regime for legal services is shaped around the needs of its users. We will shine a spotlight on the problems that consumers face and propose practical solutions. Our advice will be evidence-based and draw on the breadth of expertise and experience that the Panel Members can offer.
- 1.7** The Consumer Panel looks forward to working with our partners to help deliver our vision for a market where everyone can access high quality and affordable legal services that meet their needs.

Dianne Hayter

Dr Dianne Hayter
Chair

2 Who we are

About the Panel

2.1 The Legal Services Consumer Panel was established under the Legal Services Act 2007 to provide independent advice to the Legal Services Board about the interests of consumers of legal services in England and Wales. We investigate issues that affect consumers and use this information to influence decisions about the regulation of legal services. We explain our role and remit below.

2.2 The Consumer Panel is a central feature of a new regulatory framework 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 important responsibility to ensure that regulators are able to consider the user perspective alongside the interests of providers of legal services.

Our role

2.3 The Legal Services Consumer Panel is the first statutory consumer panel in the professional services arena and operates much like similar bodies in the financial services and communications sectors.

2.4 Our role is to provide expert evidence-based policy advice on the consumer interest. We cannot help individual consumers resolve their legal problems or recommend a legal adviser. However, we are interested to learn about the problems that individual consumers face, in order to promote change that will benefit

consumers as a whole. We mainly do this by conducting consumer research and by building links with complaint bodies and other organisations which deal directly with consumers on a daily basis.

2.5 We differ from traditional consumer organisations by being located inside of the regulator we advise. This allows the Legal Services Board and its staff to access expert consumer insight “on tap” from the earliest stages of its policy thinking through to its development and implementation. By sitting on the Legal Services Board’s shoulder, acting as a critical friend, we aim to help colleagues “get things right first time”. Our early experience is that colleagues at all levels have embraced this challenge in the right spirit and we can already see evidence of the impact of our input on their work.



The board has to listen to the panel. It cannot just put it in a corner and ignore it.

Baroness Ashton¹



2.6 Our “insider” status is a key strength, but we are acutely conscious of the need to be, and be seen to be, independent in all we do. Our independence is bolstered by statutory powers that enable us to make representations on any issue within our remit and to publish our advice. Should the Legal Services Board disagree with the advice we publish, it has a legal duty to publish its reasons.

2.7 Finally, as the Legal Services Board itself has pointed out, the Consumer

Panel should not be the only source of information from a consumer perspective. For example, conducting surveys of consumers and seeking the views of external consumer bodies are both important complementary tools to understand the consumer interest.

The Panel Members

- 2.8** The Consumer Panel consists of eight lay people who were appointed following open competition by the Legal Services Board with the approval of the Lord Chancellor. They bring rich expertise from a range of professional backgrounds and user perspectives, including the third sector, local government, trade unions, small business and consumer affairs. Biographies of the Panel Members are provided at the back of this document.
- 2.9** The Consumer Panel meets formally six times a year. In addition, unlike some governance boards, Panel Members are actively involved in developing and articulating policy advice on an ongoing basis. This embraces a wide range of activities, from sitting on project teams to speaking on public platforms.
- 2.10** The Consumer Panel is supported by a small policy secretariat and is funded by the Legal Services Board.

Who we represent

- 2.11** The legal services reforms were primarily designed to benefit individual consumers. Consumers are increasingly demanding more from businesses across the economy. However, the specialised nature of legal services, combined with the fact that people need legal advice rarely but often at times of distress, means consumers suffer from an imbalance of power in their dealings with lawyers. The Consumer Panel helps to rebalance the scales by ensuring

the consumer voice is heard loud and clear by decision-makers.

- 2.12** However, individuals are not the only consumers who face this problem. Small businesses, charities and others all spend vast sums on legal services each year from a similar position of vulnerability. It was the clear intent of Parliament that the Panel should represent the interests of different types of consumer. The Consumer Panel's membership reflects this wide user base.
- 2.13** Government, big business and bulk purchasers of legal services (including those acting on behalf of individual users) are also consumers. However, they possess greater knowledge and purchasing power than other consumers, and so have less need for our help. Therefore, the Consumer Panel will generally prioritise the interests of those consumers who are less able to give voice to their own interests.
- 2.14** We have received representations from some parts of the legal profession that lawyers are also consumers – for example, when solicitors instruct barristers – and that we should also represent their interests. Lawyers, in one sense, do receive services from other lawyers and have an interest in the outcome of the work they provide. However, this is perhaps better described as an “agency relationship” in which one lawyer is contracted to work on behalf of another on behalf of the end consumer. Likewise, whilst all lawyers rely on the expertise and ethics of their peers to function, this does not make them “consumers” of each other's output.



This is deliberately designed to be about the role of the consumer, not the consumer as a lawyer talking about legal services.

Baroness Ashton²



2.15 Whilst the interests of “sophisticated consumers” and “professional consumers” are important, the legal services reforms, and the Consumer Panel in particular, were set up to benefit the end user. Indeed, the Consumer Panel is specifically prevented by statute from having practising lawyers among its membership. As the Hansard extract above makes clear, ministers firmly rejected giving the Consumer Panel such a role during the passage of the Legal Services Act.

Our policy boundaries

2.16 Our policy boundaries reflect the framework set out in the Legal Services Act (*see box on page 7*). The Consumer Panel’s focus therefore is on the regulation of legal services, rather than on every aspect of legal services. Issues such as the funding of the justice system or the administration of courts, except where they touch on regulatory matters, lie outside of our remit.

2.17 Not all legal services are “reserved”, that is ones that can only be carried out by regulated lawyers. For example, legal advice provided by willwriters, trade unions, local authorities and others falls outside of the regulatory net. This may be entirely appropriate as reserving activities to lawyers can restrict competition. However, it is important to know whether users are getting fair treatment and, where necessary, for regulators to step in to improve consumer protection. The Consumer Panel has specific powers under the Legal Services Act to trigger an investigation by the Legal Services Board to alter the scope of “reserved activities”.

2.18 The Consumer Panel has decided, with the agreement of the Legal Services Board, that it will also advise the new

complaints body for legal services – the Legal Ombudsman. We have started this role by giving feedback on its draft scheme rules and by helping to “consumer proof” its business processes to ensure the complainant’s journey through its services is smooth and effective.

2.19 A series of “approved regulators” are responsible for the day-to-day regulation of the different types of lawyer. As they make and enforce the rules that lawyers must follow, their work has a significant impact on consumers. The Consumer Panel is not sufficiently resourced to advise each of the approved regulators across the breadth of their activities. We will engage selectively with major policy initiatives, but it is essential the approved regulators develop their own robust consumer engagement mechanisms. A key priority for us will be to help the approved regulators further develop this capacity.

Working in Wales

2.20 One of our Panel Members, Elisabeth Davies, leads our work in Wales. We are determined to ensure that our advice is sensitive to any differences in the experiences and needs of consumers in Wales compared to those in England. In this context, we have set ourselves two objectives for the work programme:

- To ensure our remit and priorities are clearly understood across Wales; and
- To ensure we understand and can take account of issues specifically facing consumers in Wales.

2.21 As an early priority for 2010-11, we will be hosting a stakeholder seminar in Wales to spread awareness of our role and to learn how we can best meet our objectives.

1 During Committee stage of the Legal Services Bill

2 During Report Stage of the Legal Services Bill

The Act – in a nutshell

The Legal Services Act was passed in 2007 following an independent review by Sir David Clementi.

The review criticised a confusing regulatory maze; too close a connection between representational and regulatory functions within the professional bodies; a failing complaints system; and unnecessary restrictions on business structures which inhibited competition.

The Act contains three central elements:

- The creation of the Legal Services Board as the single oversight regulator. The LSB oversees approved regulators who authorise and regulate persons to carry on reserved legal activities. The Act passports the existing professional bodies into this role, but requires them to separate their representation and regulation functions. The LSB has made a rule requiring regulatory boards to be formed of a lay majority.
- The creation of an ombudsman scheme to deal with all escalated complaints by consumers about the service provided by regulated lawyers or other persons falling within the voluntary jurisdiction of the scheme. The approved regulators continue to deal with conduct cases.
- The facilitation of alternative business structures, removing restrictions on the type of business structures through which legal services may be provided. A new licensing regime to be switched on in 2011 will allow different types of lawyer to practise together, and lawyers and other professionals to offer legal and other services under one roof. External ownership of law firms will also be permitted.

There are eight regulatory objectives which all these bodies must work towards:

- Promoting and protecting the public interest
- Supporting the constitutional principle of the rule of law
- Improving access to justice
- Promoting and protecting the interests of consumers
- Promoting competition in the provision of services
- Encouraging an independent, strong, diverse and effective legal profession
- Increasing public understanding of the citizen's legal rights and duties
- Promoting and maintaining adherence to the professional principles

3 How we work

Our toolkit

3.1 The Legal Services Consumer Panel is focused on making a positive difference by influencing decision-makers and providers to make changes that will deliver our vision for consumers. These objectives, together with the tools that we use in seeking to achieve them, are described in this section.

Working from the inside

- 3.2** Some of our greatest gains are achieved by influencing the Legal Services Board before their thinking reaches the public domain. Our location inside the regulator provides the opportunity for constant dialogue, enabling colleagues to seek out our advice from the very start of projects and at critical stages thereafter.
- 3.3** On occasion, the Legal Services Board will formally request our advice. The Consumer Panel will then investigate the issue by applying a set of consumer principles to the intelligence we gather about the experience and preferences of users, and will publish our conclusions. It is then for the Legal Services Board to reach a decision about a course of action. Our investigation into referral arrangements is an example of this.

Our mission

To ensure the regulation of legal services is shaped around the needs of consumers by influencing decision-makers and the behaviour of providers.

Our vision

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

- A competitive legal services market where consumers are empowered and have easy access to high quality legal services at a fair price
- All consumers have an equal access to legal services regardless of their personal circumstances
- Regulatory bodies have processes enabling them to take decisions which are in the consumer interest
- Consumers receive legal services from a diverse and competent workforce
- Consumer complaints are resolved quickly, fairly and cost-effectively

Statutory responsibilities

3.4 The Legal Services Act recognises the Consumer Panel as a vital participant in key decisions about the regulation of legal services by giving us a series of specific responsibilities:

- **Consultation** – certain bodies have duties to consult us:
 - The Legal Services Board on applications from bodies to become approved regulators, and licensing authorities for the alternative business structures regime
 - The Legal Services Board on proposals to apply certain sanctions against approved regulators
 - The Office of Fair Trading on relevant competition investigations
- **Initiate change** – the Consumer Panel can ask certain bodies to examine an issue that might lead to change:
 - The Legal Services Board in relation to the scope of reserved activities
 - The Legal Ombudsman in relation to the jurisdiction of its scheme
 - The Legal Ombudsman in relation to the maximum compensation limit

3.5 The Consumer Panel is not under any duty to participate in such exercises. The Act leaves it to us to decide the best use of our available resources to advance the interests of consumers.

Working proactively

3.6 As well as providing advice to regulatory bodies and the Legal Ombudsman, the Consumer Panel also has a role to set the

policy agenda where we identify an issue that may require regulatory attention. This work might involve market investigations, consumer research, stimulating debate by providing fresh thinking, or bringing people together to help find solutions to a problem.

- 3.7** Where possible, we prefer to prevent problems rather than fix them later. An example of this is our project on price comparison websites, which have the potential to improve consumer choice but are open to manipulation, as has been seen in utilities and financial services. Such websites are only just emerging for legal services, but by examining them now we hope to prevent some of the problems that have happened elsewhere.
- 3.8** Similarly, addressing systemic weaknesses in the regulatory architecture is more likely to deliver a lasting consumer impact than tackling individual problems alone. For example, we are concerned that the approved regulators could be making poor decisions because they do not carry out sufficient research among users. Helping these bodies to develop their own consumer engagement capacity will be a key focus for us over the coming year.

Intelligence gathering

3.9 The Consumer Panel needs to be in touch with the consumer experience to identify problems that require attention and to ensure that our advice is informed by the needs and preferences of users.

3.10 This is no easy task. We represent the interests of many different types of consumers whose experiences will relate to their own unique circumstances. Legal advice is provided by a wide variety of individuals and organisations operating in very different environments. The law also underpins most relationships in society – personal, commercial, between individuals

and the state. A great many people and organisations therefore have an interest in the services provided by lawyers and could hold information that we would find useful or would benefit from access to the knowledge we hold.

- 3.11 A key source of intelligence will be complaint trend data held by the Legal Ombudsman. However, this will not be a sufficient source of information about the consumer experience. Many people choose not to complain, whilst the specialised nature of legal services means it can be difficult for consumers to judge the quality of work they receive.
- 3.12 The Consumer Panel does not have its own research budget, but shares that of the Legal Services Board. One of the Panel Members, Neil Wightman, sits on the Board's Research Strategy Group, which provides oversight of its research activities. The Panel is represented on steering groups responsible for commissioning individual items of consumer research.
- 3.13 Our limited access to financial resources, whilst perhaps not ideal, is nevertheless a helpful prompt to come up with creative solutions and to work in partnership with others. We are committed to working collaboratively and would welcome proposals for joint research projects from those who share an interest in our agenda.

Transparency

- 3.14 The Legal Services Consumer Panel demands transparency from regulatory bodies about their working methods, decisions and performance, to enable effective scrutiny of their work.
- 3.15 We are conscious of the need to live out our values in this respect. The Consumer Panel is therefore committed to working

transparently. Details of our research, advice, Panel meetings and more are published on our website:

www.legalservicesconsumerpanel.org.uk

Public duties

- 3.16 The Legal Services Consumer Panel is not a separate legal entity, but is part of the Legal Services Board. In relation to the statutory duties that fall on public bodies, such as equality and freedom of information laws, the Consumer Panel will follow and support the same rules and processes that the Legal Services Board operates.
- 3.17 Details of these can be found on the Legal Services Board website.

4 Our work in 2010-11

A defining year

- 4.1 In 2010-11, the final building blocks of the new legal services landscape will be put in place as the Legal Ombudsman opens for business and the design of the licensing regime for alternative business structures is completed. These changes have the potential to transform the way in which legal services are delivered and to provide an improved safety net for consumers when things go wrong.**
- 4.2 The Consumer Panel will be closely involved in influencing these developments. During the year ahead, we will also complete our investigation into referral arrangements and begin groundbreaking work of our own in new areas of policy.

Putting together our work programme

- 4.3 We collected ideas for our first full work programme from a range of sources, including: an analysis of the business plans of the Legal Services Board, the Legal Ombudsman and the approved regulators; feedback from stakeholders; news reports; and available consumer research. We are grateful to everyone who contributed ideas.
- 4.4 Inevitably, there were too many suggestions for one year's work. We have developed a set of prioritisation principles drawing on those used by other organisations, including Consumer Focus and the Office of Fair Trading. For every project idea, we ask ourselves the following questions:

Work programme highlights in 2010-11

- Completing our major market investigation into referral arrangements
- Ensuring the right safeguards are in place to support the launch of alternative business structures
- Developing a Consumer Welfare Index to measure outcomes achieved by the reform agenda
- Examining the credibility of the new breed of price comparison websites in the legal services market
- Promoting good practice in consumer engagement among regulators

- Does it fit with our strategic objectives?
- Is there evidence of significant consumer detriment, an emerging threat or an area that would benefit from fresh thinking?
- Is consumer detriment likely to continue or increase?
- Is the Consumer Panel best placed to carry out this work?
- Is there a realistic prospect that our work will have an impact?
- Are resources available to deliver the work effectively?

- 4.5 We have deliberately chosen not to plan all of our time. In legal services, like other consumer markets, the unexpected can happen and we need the flexibility to respond to emerging areas of consumer detriment. There will also be a general election before the summer and it is possible that the new government, of whatever hue, will unveil initiatives to which we should respond.
- 4.6 The Legal Services Board endorsed this work programme in March 2010. Consistent with our memorandum of understanding, the Consumer Panel will ask the Board to endorse any significant new areas of work not included in this document.

Responding to the policy agenda

- 4.7 Our core role will be to provide advice to the Legal Services Board and others about their developing policies. The Legal Services Board has indicated that 2010-11 will mostly see a continuation of existing activity, including areas where there is a shift from policy design to implementation. However, there will also be some new areas of focus with a long-term strategic emphasis. We do not have the resources to respond to every possibility and will consider each request for advice against our prioritisation principles.
- 4.8 The Panel's level of engagement with policy areas will vary according to our assessment of its priority, expertise and available resources, as follows:
- **No activity** – the issue is of little or no relevance to the consumer interest.
 - **Watching brief** – we will monitor developments, but not engage directly.
 - **Regular engagement** – we will contribute by offering advice through responding to consultations, membership of steering groups and similar activities.
 - **Significant engagement** – we will take a lead or partnership role and our activities might include consumer research, running events or providing detailed written advice.

Alternative business structures

- 4.9 Alternative business structures promise great benefits for consumers. New forms of corporate structures and the possibility of external ownership have the potential to promote competition and unlock innovation, leading to models of service delivery that are better suited to consumer needs.

4.10 Putting in place the appropriate consumer safeguards is critical if the potential of these changes is to be fully realised. This requires licensing authorities that are fit for purpose plus an effective regulatory framework to manage the key risks, including adequate remedies for failing firms. The prospect of lawyers joining forces with other professionals under one roof raises new policy questions that will need to be carefully thought through. The impact of these changes on access to justice will also need to be closely monitored.

4.11 The design of the regulatory architecture is well underway and this process will continue until the first licenses are issued from 6 October 2011. The Consumer Panel will remain fully engaged with this programme, working to help ensure appropriate consumer protection safeguards which do not unnecessarily fetter competition.

Complaints

4.12 Lawyers and firms have a poor track record in dealing properly with complaints. This is a double whammy: consumers are left dissatisfied and potentially out-of-pocket; and lawyers fail to learn from client feedback and thus improve their services.

4.13 The Legal Services Board is taking a range of steps in this area, including consulting on a rule that would require providers to inform consumers about routes to redress and developing a set of outcomes against which it will expect all arrangements to deliver. The Consumer Panel considers this is a key priority and we will input to these proposals.

4.14 The Consumer Panel has already started to help the Legal Ombudsman develop its scheme rules, business processes and communications that will ensure consumers can easily access the service and have their

complaint speedily and fairly considered. This activity will continue as the Legal Ombudsman prepares to receive its first complaints towards the end of 2010.

Governance rules

4.15 A key plank of the new regulatory regime is the requirement for approved regulators to separate their representation and regulation functions. An early success for the Panel was the new Legal Services Board rule requiring regulatory boards to contain a majority of lay members. The approved regulators are now putting together action plans to put the rules into effect. The Consumer Panel will closely monitor these developments to ensure the changes happen without undue delay.

Reserved legal activities

4.16 There are a number of activities that can be classified as “legal” but which can be provided by anyone (i.e. a lawyer or otherwise) and are unregulated outside of general consumer law. These include will-writing and many probate-related services.

4.17 This situation raises some tricky consumer protection issues about when it is best to regulate. On the one hand, regulating such activities may fix a problem that does not exist, impose costs that drive providers out of the market and reduce access to justice. On the other hand, these services come with less consumer protection, particularly access to the Legal Ombudsman and mandatory insurance cover. Another challenge is how to explain these distinctions to consumers who are likely to expect all legal advice to be regulated.

4.18 There may also be some areas of legal advice that currently only lawyers are able to provide which unnecessarily create a closed shop and should be derestricted.

- 4.19 The Legal Services Board will be mapping this landscape and developing its approach during the course of the year. The Consumer Panel will take a keen interest in these developments and look for opportunities to contribute our views.

Rewriting the rule books

- 4.20 Both the Solicitors Regulation Authority and the Bar Standards Board – the regulators of solicitors and barristers respectively – have embarked on major changes to their codes of conduct. There are two significant shifts in approach: moving away from regulation of the individual practitioner to regulation of the business entity; and changing from a rule book consisting of a detailed set of rules to a more principles-based approach.
- 4.21 The Consumer Panel supports both of these shifts in emphasis. In particular, our investigation into referral arrangements has shown that lawyers have become adept at finding loopholes in, or routes-around, prescriptive rules. A principles-based approach should offer consumers a catch-all safety net which is responsive to a rapidly changing market and which requires providers to focus on consumer needs. However, such an approach also presents challenges for regulators in terms of enforcement and helping consumers to understand their rights.
- 4.22 The approved regulators must submit proposals for rule changes to the Legal Services Board. Rule change applications must demonstrate how the consumer interest has been considered. The Consumer Panel will provide advice on proposals that carry significant competition or consumer protection implications.

Setting the policy agenda

- 4.23 Here, we set out the projects where the Legal Services Consumer Panel will have a major role in driving the policy agenda. These include responding to formal requests for advice from the Legal Services Board, providing fresh thinking on old policy areas and investigating issues where there is evidence of consumer detriment.

Consumer engagement

- 4.24 In order for regulators to design and enforce rules that benefit the users of legal services, they must know what problems consumers are facing, develop a good understanding of consumer attitudes and behaviour, engage with expert consumer representatives and have the capacity to analyse issues through a consumer interest lens. Regulators can also provide information to help users find appropriate legal advice that meets their needs and even harness consumer power to drive up standards, by providing information to help consumers identify high quality legal advice and spot signs of malpractice.
- 4.25 Whilst there are some examples of good practice, our impression is that this critical area of regulatory capacity suffers from underinvestment. The legal sector presents some unique challenges, not least for smaller regulators with limited resources and which supervise firms that deal with a relatively small pool of clients who are not accessible through traditional survey techniques.
- 4.26 We are committed to helping the approved regulators develop robust capabilities for consumer engagement. As a starting point, we will host a seminar in summer 2010, drawing on the input of leading experts and practitioners from other fields, to explore how best practice can be applied to the legal sector.

Consumer Welfare Index

- 4.27** The success of the regulatory reforms should ultimately be judged on whether they make enduring positive change for consumers of legal services. Having a reliable process for measuring outcomes is important to maintain focus on these long-term goals and avoid the risk of this vision being lost in the daily grind of regulation.
- 4.28** The Consumer Panel has defined the high-level outcomes it wants to see for consumers through its vision for legal services. The Consumer Welfare Index will consist of a basket of indicators that, taken together, and tracked over time, could act as reliable proxies for whether these outcomes are being achieved. The index will be compiled using a mixture of published data and original research.
- 4.29** Measuring outcomes is not easy and we will spend the bulk of this first year developing our methodology. We are keen to do this in partnership with others, in order to build an index that reflects a true picture of the consumer experience and whilst avoiding the creation of perverse incentives.

Price comparison websites

- 4.30** Price comparison websites increasingly are used by consumers to help choose suppliers for their energy, communications, financial services and other needs. Research³ has indicated enthusiasm for similar services in the legal services arena and the first of these websites are beginning to emerge.
- 4.31** The Consumer Panel views this as a positive development. However, in some sectors, concerns have been raised about businesses “gaming” the sites and a lack of transparency about how these services operate. Regulators have needed to take a closer look in order to ensure a fair playing field and restore consumer confidence.

- 4.32** The Consumer Panel is keen to ensure that the new breed of comparison websites in legal services do not fall into the same traps. We will draw up a set of good practice standards building on experience from other arenas and assess the extent to which the services meet the needs of users.

Quality assurance

- 4.33** The specialised nature of legal services makes it difficult for consumers to judge the quality of advice they have received, even after the event. This is problematic given the serious consequences that can occur as the result of poor legal advice. A range of quality assurance schemes and titles exist aimed at giving consumers some level of confidence in the competence of their legal adviser.
- 4.34** However, there is little understanding of how consumers view quality and what they make of the existing quality schemes. A Government study⁴ suggested that consumers need better information than is available about the quality of legal services providers. The Legal Services Board will ask for the Consumer Panel’s advice on this during 2010-11.

Referral arrangements

- 4.35** The Consumer Panel launched a major investigation into referral arrangements in December 2009 following a formal request by the Legal Services Board.
- 4.36** Referral arrangements can be defined as any arrangement under which business is received from, or referred to, a third party. In the legal services sector, the third party may be another lawyer, but it may also involve introducers such as claims management companies, insurers and estate agents. Referral arrangements are often characterised by payment in return for referral of business, but fees do not need to be involved.

4.37 This issue sharply divides opinion. Opponents of referral arrangements take a principled view that they compromise a lawyer's independence and duty to act in the client's best interests. They allege that introducers make easy money for little effort adding costs that law firms, their clients or the public purse pick up in the end. Supporters of referral arrangements, on the other hand, claim introducers provide a convenient route to law and, in the case of personal injury, alert people of their right to make a claim and so promote access to justice. They further argue that paying referral fees to an introducer is more cost effective than advertising directly, and that such fees are no different to payments made to introducers to acquire business in other parts of the economy.

4.38 The Consumer Panel is analysing this issue from a resolutely consumer perspective, taking an evidence-based approach. Our findings, to be published in the summer, will be informed by consumer research, data sets, economic analysis and the views and evidence submitted by stakeholders in response to our call for evidence.

3 Legal Services Board Omnibus Research, published 29 December 2009, showed 42% consumers wanted see such sites in the market

4 Ministry of Justice, *Legal Services Market Study: Final Report*, November 2007

5 Measuring success

Focused on impact

5.1 The Legal Services Consumer Panel has as its overriding purpose the goal of improving outcomes for consumers of legal services. We are an advisory body; it is for others to make the decisions. Nevertheless, we are the discrete body created to champion the interests of consumers and so it is important that we measure the effectiveness of our contribution towards the delivery of these outcomes. Below we explain how we will measure our success.

5.2 The Consumer Welfare Index, described in the previous section, will be the primary tool to measure our policy impact. Our success will depend on the quality of our advice and on how effectively we use the statutory powers and other tools at our disposal to influence those who make change happen.

An effective Consumer Panel

5.3 The Consumer Panel has identified six success factors that we will use as proxies for our own effectiveness:

- We have intelligence that keeps us in touch with the consumer experience
- We are respected for the quality of our advice which is timely, constructive and evidenced-based
- We can demonstrate that our recommendations have influenced policy decisions

- We are the first place that people go to learn the consumer perspective on legal services
- We operate transparently by publishing our activities and involving stakeholders in setting our priorities
- We deliver value for money

5.4 The Consumer Panel is also putting in place a series of measures to assess if we are delivering against these performance measures:

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

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

Dianne Hayter (Chair)

Dianne is Chair of the Property Standards Board, and Chair of the Actuarial User Committee of the Financial Reporting Council. She is also a member of the Board for Actuarial Standards, the Insolvency Practices Council, and the Determinations Panel of the Pensions Regulator. She was previously Chair of the Consumer Panel of the Bar Standards Board, Vice Chair of the Financial Services Consumer Panel, and on the National Consumer Council.

Prior to that she was the Chief Executive of a number of organisations, including Alcohol Concern, the European Parliamentary Labour Party and the Pelican Cancer Centre, as well as Director of Corporate Affairs at the Wellcome Trust. She served for a year as Chair of the Labour Party's National Executive Committee, is a trustee of a number of charities and was a JP for over a decade.

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 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.

Elisabeth Davies

Elisabeth is Head of Public Engagement at Voluntary Service Overseas. She is also a Trustee of the Immigration Advisory Service, the Chair of Wandsworth Citizens Advice Bureaux, and was previously Deputy Chair of Wandsworth Primary Care Trust. Her career includes a series of senior roles in the health arena including at the NHS National Patient Safety Agency, where she led on patient safety in Wales and worked closely with the Welsh Assembly Government. She is the former Chief Executive of the UK Breast Cancer Coalition and was also previously Director of Policy at the Refugee Council.

Emma Harrison

Emma is Director of External Affairs at 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 Deputy Head of Housing Needs at the London Borough of Camden 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 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.

Alanna Linn

Alanna was formerly a Policy Analyst at the Royal College of Midwives. Prior to this, she worked on regulatory policy for government departments in New South Wales, Australia – at the Department of Water and Energy, and Department of Premier and Cabinet. Before this, she was a Project Officer at the Australian Mekong Resources Centre based at the University of Sydney.

Delivery plan

Quarter 1 April-June 2010	Quarter 2 July-September	Quarter 3 October-December	Quarter 4 January-March 2011
Publish report on referral arrangements	Host consumer engagement roundtable	Host stakeholder workshop on methodology for Consumer Welfare Index	Publish first Consumer Welfare Index
Hold roundtable in Wales	Respond to Solicitors Regulation Authority consultation on revised code of conduct	Publish research report on consumer understanding of quality assurance measures*	Publish report on price comparison websites
	Publish consumer research on publication of decisions by the Legal Ombudsman	Respond to Legal Services Board consultation on reserved legal activities	Agree Legal Services Consumer Panel Work Programme for 2011-12

The main outputs of our own-initiative work are provided above. The delivery plan does not include responses to public consultations, proposed rule changes and other external activity where the timing is unknown.

* Subject to Legal Services Board asking the Consumer Panel to carry out this research



Legal Services Board
Victoria House
Southampton Row
London WC1B 4AD

T 020 7271 0076

www.legalservicesconsumerpanel.org.uk