

Minutes

Legal Services Consumer Panel Meeting

Date: 27 November 2009

Time: 10:30 – 14:15 pm

Venue: Victoria House, Southampton Row, London WC1B 4AD

Present:

Dianne Hayter	Chair
Jeff Bell	Member
Carol Brady	Member
Elisabeth Davies	Member
Emma Harrison	Member
Paul Munden	Member
Neil Wightman	Member
Karin Woodley	Member
Steve Brooker	Consumer Panel Manager
Alanna Linn	Consumer Panel Associate
Chris Kenny	Legal Services Board (item 4)
Julie Myers	Legal Services Board
Pascoe Pleasence	Legal Services Research Centre (item 5)

Item 1 – Welcome and apologies

1. The Chair welcomed the Legal Services Consumer Panel ('the Panel') to its first meeting.
2. Apologies were sent by Graham Corbett.

Item 2 – Introductions and declarations of interests

3. The Chair invited all members to introduce themselves and their backgrounds.
4. There were no declarations of interest.

Item 3 - Chair's report

5. The Chair presented her report.
6. In addition to the written report, the Chair advised that the Legal Services Board (LSB) would be asked to approve an amended Code of Practice suitable for the Panel. This would be an interim measure as the entire Code of Practice is to be reviewed next year.
7. The Consumer Panel Manager provided an update on the development of the Panel's visual and online identity. The Panel noted that the LSB has approved funding for the development of a basic website. A meeting with designers was

planned and it was hoped that the website would be in place in the early New Year. It was intended that the website should include a secure area for accessing Panel documents.

8. The Chair sought Panel members' views on whether future Panel papers should be circulated electronically or in hard copy. The Panel agreed that papers should continue to be sent in hard copy, with electronic versions available on the secure section of the website, once completed.
9. The Panel agreed to the sharing of their email addresses and mobile phone numbers.

Action

Consumer Panel Associate to circulate list of email addresses and mobile numbers to all members.

The Panel noted the paper and additional items raised.

Item 4 - Welcome from LSB

10. Chris Kenny, Chief Executive of the LSB, welcomed the new Panel.
11. The Panel noted the LSB Chief Executive's comments, including that:
 - it was up to the Panel to define its agenda and that it should not feel fettered in any way regarding its areas of investigation;
 - the Consumer Panel Manager was to have a seat in the team developing and delivering the LSB's research strategy, with scope existing for a Panel member to also become involved at governance level. This should assist in avoiding any duplication of work; and
 - The LSB ideally wanted to involve the Panel in every iteration of plans, and in early stages of projects.

Item 5 - Objectives for the Panel

12. The Chair led discussion on Panel members' views of what the Panel should be seeking to achieve.
13. Panel discussion focussed on a number of issues, including consumer knowledge and understanding of legal services, the need for quality assurance and professional standards, the challenges in capturing the views of different consumers, and the accessibility of current complaints systems. A summary of points raised by Panel members is appended to the Minutes in Annex 1.
14. Professor Pascoe Pleasence gave a presentation and took questions on the English & Welsh Civil and Social Justice Survey.

Action

Consumer Panel Secretariat to consider the points raised when developing a work programme for the Panel

Item 6 - Terms of reference

15. The Consumer Panel Manager presented a paper on draft Terms of Reference (ToR) for the Consumer Panel.
16. The Panel agreed that as the Office for Legal Complaints (OLC) had no consumer panel of its own, the ToR should include specific reference to the OLC as well as the LSB. The Panel noted that this was likely to have implications for the Panel's work plan.
17. Panel members also proposed a number of minor changes to the document:
 - Emphasis should be on the Panel being the 'guardian of consumer interests', rather than representing anybody.
 - The list of Panel key activities should indicate that they were not listed in any order of importance.
 - The ToR should note that the Panel acts independently of the LSB and the OLC.

Action:

The Consumer Panel Manager to revise Terms of Reference in line with the Panel discussion.

The Panel agreed to draft Terms of Reference, subject to the minor changes above.

Item 7 - Memorandum of Understanding

18. The Consumer Panel Manager presented a paper on a draft Memorandum of Understanding (MoU) between the Panel and the LSB.
19. The Panel noted and supported the draft principles contained in the paper.
20. The Panel noted that the LSB's preference was to consider the MoU at its December meeting, and the subsequently tight timeframe for finalising the MoU content.
21. The Chair requested that the Consumer Panel Manager circulate a draft MoU, with comments to be sought from Panel members by a specific deadline. Should the feedback require substantial redrafting, it was agreed to defer its submission until after the January meeting.

Action:

The Consumer Panel Manager to prepare a draft Memorandum of Understanding and circulate for comment, noting that no comment by the deadline will be taken as agreement.

Item 8 - Ways of working

22. The Chair presented a paper proposing how the Panel could work.

23. The Chair presented a draft list of Panel member leads, drawing on their expressed areas of interest, for different work areas, which was developed further during the meeting:

Wales	Elisabeth and Karin
Diversity	Graham and Paul
Police	Karin and Jeff
Research	Neil and Jeff
Young people	Neil and Karin
Redress	Neil, Elisabeth and Carol
Magistrates	Paul
Unions	Graham
Local government	Neil and Jeff
Business	Paul
Voluntary Orgs	Emma, Karin and Elisabeth
ARs	Emma
ABS	Emma and Paul

24. The Panel agreed in principle to the above list, noting that there needed to be further discussion once more work on the Panel priorities had been completed.

The Panel noted the Paper and agreed to the proposed ways of working.

Item 9 - Referral arrangements

25. The Consumer Panel Associate made a presentation on referral arrangements and the Consumer Panel Manager presented a paper on the proposed Referral Arrangements project.
26. The Panel noted that the LSB had formally written to the Chair, in order to seek the Panel's advice on referral arrangements.
27. The Panel agreed that the scope of the project should include referrals between lawyers as well as between lawyers and non lawyers.
28. In discussing the issues, the Panel noted there were arguments both for and against referral arrangements and it would be important for the research to identify evidence of both benefits and costs for consumers. The terms of reference, incorporating comments raised at the meeting, are appended to the Minutes in Annex 2.

Action

The Consumer Panel Manager to provide a copy of the research tender documentation to Jeff Bell and Neil Wightman for comment.

The Consumer Panel Secretariat to issue the call for evidence.

The Panel approved the proposed approach to the referral fees project, subject to inclusion of considerations outlined above.

Item 10 - Consultation responses

29. The Chair presented a paper on consultation responses that had been prepared prior to the Panel being formally constituted.
30. The Panel noted the previous responses and raised a number of comments regarding the definition of 'small charity' in the OLC consultation on scheme rules. The Consumer Panel Manager agreed to include this in the Panel submission.
31. The Consumer Panel Associate provided members with a copy of the LSB's current Consultation Paper on Alternative Business Structures, and advised members that response were due by 19 February 2010.

The Panel noted the Paper.

Item 11 - Any other business

32. No other business was raised.

Item 12 - Draft agenda for January meeting

33. The Chair presented the Draft Agenda for the next meeting in January 2010.

The Panel approved the Draft Agenda for the January 2010 meeting.

Item 13 - Dates of 2010 meetings

34. The Chair presented the proposed dates for the 2010 meetings:
 - 14 January
 - 10 March
 - 12 May
 - 14 July
 - 6 October
 - 8 December

The Panel approved the proposed dates for the 2010 meetings.

Annex 1 – Key points raised by Panel members in discussing Panel objectives

- Transparency in how the market operates
- Improve people's understanding of legal services
- Empowered consumers
- Price
- Quality of service
- Vulnerable consumers
- Identifying good lawyers
- Choice: a mixed blessing?
- Closing the complaints loop/learning from complaints
- Consumer Panel should have a focus on class difference and the impact this has on purchasing legal services at a time of distress
- What is the DNA of complaints?
- It's difficult for consumers to judge the quality of service received
- People worry about an 'old boy network'
- Consumer engagement should include talking to people who will never complain
- Talking in Latin!
- Education of lawyers so they treat people properly
- Capture good practice as well as criticise bad practice
- Recognise business incentives to improve
- Access to justice, including a definition of access to justice from the consumer perspective
- Use of mediation/other alternatives to lawyers
- Individual interests of consumers versus collective interests of consumers
- Quality assurance for legal advice
- Increased awareness of what consumers can expect
- Public legal education: rights
- Understanding the unregulated market and the role of intermediaries
- Outcomes and impact-led process

Annex 2 – Referral Arrangements Terms of Reference

LEGAL SERVICES CONSUMER PANEL – INVESTIGATION INTO REFERRAL ARRANGEMENTS

Investigation Scope

The Consumer Panel is defining referral arrangements 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, insurance companies and estate agents. Referral arrangements are often characterised by payment in return for referral of business, but fees do not need to be involved.

The Consumer Panel will be examining the use of referral arrangements by authorised persons across the whole legal profession, although we will prioritise areas that have the greatest consumer impact. In considering different types of referral arrangements, the Panel will be looking at both the payment and the receipt of referral fees by lawyers under a number of different models, as well as non-monetary arrangements that are linked to the introduction of clients, such as the provision of free or below-cost services in exchange for the referral of other business.

Keys Areas of Investigation

The Panel is specifically seeking views and evidence from stakeholders on the following topics:

- a) Demonstrable positive and negative outcomes for consumers due to referral arrangements, such as the impact on access to justice, consumer choice of lawyer, quality of legal advice and independence of legal advice.
- b) Feasibility and effectiveness of possible consumer safeguards, such as consumer education, disclosure, consent, standardised referral agreements or a cap on referral fees.
- c) The role of referral arrangements in driving or inhibiting competition in the legal services market.
- d) Degree to which referral fee size reflects equivalent marketing/other costs.
- e) Feasibility and effectiveness of alternatives to referral fees as a means of obtaining work, such as direct advertising by law firms, the establishment of legal firm marketing alliances, non-paid referral networks and/or quality assurance schemes.
- f) Risks and benefits for different stakeholders of a reintroduced ban on referral fees, including consumers, the legal profession, and non-legal stakeholders, such as claims management companies.
- g) Relevant parallels with referral and commission arrangements used in other sectors in relation to customer introduction.

We would also appreciate information on any other areas that we have not included, but which you consider would be relevant to our investigation.