

# LEGAL OMBUDSMAN & LEGAL SERVICES CONSUMER PANEL

## Identifying Law Firms Subject to Consumer Complaints to the Legal Ombudsman

### Research Report

Prepared for:

The Legal Ombudsman  
PO Box 15870  
Birmingham B30 9EB

and

The Legal Services Consumer Panel

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## 1. EXECUTIVE SUMMARY

### Background & Purpose

This research was jointly commissioned by the Legal Ombudsman and the Legal Services Consumer Panel to inform a consultation which aimed to explore attitudes to publication of case results.

The Legal Ombudsman and the Consumer Panel were seeking to generate evidence regarding general public attitudes towards the publication of names of lawyers or law firms subject to consumer complaints to the Legal Ombudsman. The overall purpose of the research was to explore and establish consumers' perceptions of the likely advantages and disadvantages of publishing names of lawyers subject to complaints, and to get a better understanding of what information would be most useful for consumers.

### Research Objectives

- i. To explore and establish perceptions of the likely and possible advantages and disadvantages of identifying law firms subject to complaints to the Legal Ombudsman.
- ii. To investigate the likelihood of any published information derived from complaints to the Legal Ombudsman being used by consumers, and possible ways this information might be used.
- iii. To explore and examine responses to and likely levels of understanding of the language and terms used by the Legal Ombudsman when describing case outcomes.
- iv. To obtain views about the types of cases that should or should not be published, namely:
  - all cases or just those involving a remedy;
  - cases resolved through informal resolution or just Ombudsman decisions.
- vi. To obtain views about alternative ways of presenting complaints information: tables vs. case summaries vs. full text of decisions.
- vii. To find out what, if any, contextual information might help to make reports more understandable: size of firm, number of transactions, area of legal work.

### Method & Sample

A qualitative methodology was adopted involving a series of 12 mini-group discussions. Ten mini-groups were conducted with a broad-based general public sample which included recent and intending users of solicitors, as well as others who indicated that they might use solicitors in the more distant future. In addition to the standard exclusions (marketing/market research, journalism, PR), we excluded from the main general public sample those:

- *who say they would never be likely to use a solicitor* on the grounds that their level of interest in the issues was likely to be very low;

- *who have recently been in dispute or are dissatisfied with a solicitor on the grounds that they might hijack the group discussion seeking to gain support for their hostile viewpoint; and*
- *who regularly dealt with solicitors as part of their work/business (such as police, estate agents, other legal professionals, court officials, etc.) on the grounds that they would have a 'professional' perspective on the issues.*

Two mini-groups were conducted with those who identified themselves as very dissatisfied with solicitors. A total sample of 58 consumers were interviewed. The exact sample structure is set out in Appendix 1.

Fieldwork was conducted between 18<sup>th</sup> November and 8<sup>th</sup> December 2010 in the South East, the Greater London area, the West Midlands, the North West and South Wales.

### **Main Findings**

*n.b. This was a small scale research study. Consequently, the findings should be seen as indicative rather than definitive. Nevertheless a fairly consistent pattern of findings emerged across the sample.*

For most consumers, word of mouth recommendation was still an important factor when buying goods or services. This was particularly so when what they are buying was expensive or when they were treading in unfamiliar territory. There were indications of a growing tendency, especially amongst younger consumers, to use the internet both to locate and buy services, and to use sites such as Trip Advisor to provide them with a rating of hotels, etc.

Word of mouth recommendation was a very important factor when selecting a solicitor. Even when other methods have been used to select a solicitor, a recommendation from family, friends or colleagues, was useful in endorsing that selection. A minority were using sources such as press/TV advertising or the internet to locate and select solicitors for fairly uncomplicated cases such as no-win-no-fee accident claims or relatively straightforward conveyancing.

To a large extent, solicitors are held in a degree of respect, bordering on awe, that is awarded to few professionals other than perhaps doctors. Because the legal world and the language it uses is foreign territory to most consumers, they feel they have to trust their lawyer to do the right thing for them. Thus, when the solicitor-client relationship breaks down for whatever reason there is a sense of having been let down.

That having been said, there were signs of a strong degree of reluctance to complain about a solicitor. This partly reflected consumers' fear that the solicitor will always be able to outsmart them and partly their feeling that solicitors are "a law unto

themselves” and one solicitor will always back up another. Even amongst those recruited to the study as being very dissatisfied with their solicitor, only a few had taken their grievance beyond grumbling and complaining to their solicitor or the senior partner in the firm.

Although there was very limited awareness of the Legal Ombudsman it was often assumed, in the context of other Ombudsmen and Regulators, that there was a similar body for the legal profession. When shown the ‘Legal Ombudsman’ name, it became clear that few knew what its role was or what it did. But the idea of a body to oversee solicitors was welcomed, and it was anticipated that the Legal Ombudsman would help consumers achieve a fair resolution should they have cause to complain about a solicitor. It was hoped that the Legal Ombudsman would be approachable, preferably by phone, and would not involve lengthy form-filling.

However, there were concerns about whether the Legal Ombudsman would be really impartial (if it were one solicitor overseeing another), and how independent it would really be if it were government funded. The fact that the service would be free gave rise to some concerns about whether it would be over-subscribed and under-resourced (c.f. Citizens’ Advice Bureaux). Given the low levels of awareness of the Legal Ombudsman, it was often suggested that it should be signposted on communications from solicitors.

Levels of interest in the issue of publication of Legal Ombudsman case results were relatively low. There was little sign of consumers visiting other Regulators’ websites for case report information, and almost none knew whether or not Regulators published such information. Thus there was little expectation that the Legal Ombudsman would publish.

The idea of publishing information about cases *without* naming law firms was of little relevance and interest. All it would do would be to show that the Legal Ombudsman had investigated a certain number of complaints and to provide profile data on the firms. This had relatively little significance for customers, whose primary interest was the performance of solicitors in their area that they might use.

Once reassured that the complainant would not be named, most considered that lawyers who had been subject to complaints which had been upheld by the Legal Ombudsman should be named. Many felt that if a solicitor had provided a ‘bad service’ then he/she should be “named and shamed”.

Possible advantages of the Legal Ombudsman identifying law firms against whom a complaint had been made included:

- encouraging firms to improve their service provision;
- enhancing solicitor accountability; and

- identifying firms providing less satisfactory service and assistance in identifying “good” solicitors.

Consumers often sought to position any published list of solicitors subject to complaints as a **checklist** of potential providers. Furthermore, many anticipated that the published information would provide them with a starred rating system on the level of service provided.

With regard to the alternative ways of presenting information there was a fairly clear cut preference for a **tabular format** listing the firms against whom complaints had been made. It was assumed that this would be available on the Legal Ombudsman website and allow users to investigate cases in more detail by clicking on a ‘more information’ link. Most seemed content with short accounts of cases in the expectation that they could drill down for more detail if they wanted. It was felt that the table would be more informative if it included information on size of firm.

Encouragingly the language used in case descriptions was considered appropriately easy to follow and understand.

## Conclusions

The findings of this small scale research indicate that consumers broadly support publishing the names of solicitors against whom a complaint has been made. Consumers feel that consideration might be given to:

- listing solicitors only when it had been established that the solicitor had been at fault in a certain number of cases in a finite period (around three cases in 12 months attracted widespread support). This approach would avoid penalising the occasional lapse and it would also be relatively less onerous on smaller firms;
- updating the list on a regular, possibly quarterly, basis so that a law firm’s past failings are ‘spent’ after a defined period;
- not listing firms where the Legal Ombudsman found after investigation that the solicitor had done nothing wrong.

However, there are signs that consumers are likely to use the published information in a way that may be at odds with the Legal Ombudsman’s reasons for publication: in particular, the likelihood that they will use the information as a checklist or to see the table as an inclusive rating of solicitors in their area. However, this would be an erroneous use and misuse of the information because those solicitors not subject to complaints would not be featured in the list.

Therefore it is essential that the list should be clearly positioned as **only** containing the names of firms against whom complaints had been filed.

## **2. INTRODUCTION**

### **2.1 Background & Purpose**

This research was jointly commissioned by the Legal Ombudsman and the Legal Services Consumer Panel to inform a consultation which aimed to explore attitudes towards publication of case results. This research was conducted by Acute Insight Market Research.

The Legal Ombudsman was set up by the Office for Legal Complaints under the Legal Services Act 2007. It is to be an independent, impartial, 'single point of entry' scheme for all consumer legal complaints, and started receiving complaints on the 6<sup>th</sup> October 2010. The Legal Ombudsman's remit covers problems with the service provided by lawyers; issues concerning conduct are dealt with by relevant regulatory bodies.

The Legal Services Consumer Panel is an independent arm of the Legal Services Board (LSB) created to provide high quality, evidenced-based advice to the LSB and others on the consumer interest in the regulation of legal services. The LSB has been set up to reform and modernise the legal services market place in the interests of consumers, enhancing quality, ensuring value for money and improving access to justice across England and Wales.

The Legal Ombudsman and the Consumer Panel were seeking to generate evidence regarding general public and lawyer attitudes towards the publication of names of lawyers or law firms subject to consumer complaints to the Legal Ombudsman. The Legal Ombudsman has commenced a consultation with lawyers, other stakeholders and the general public with regard to publishing case outcomes. This consultation raises the following issues:

- whether information on cases should be published;
- what types of case should be published;
- what level of decisions should be published;
- whether lawyers and legal firms should be identified by name; and
- what form publication should take.

The Legal Ombudsman and the Consumer Panel wished to explore and establish consumers' perceptions of the likely advantages and disadvantages of publishing names of lawyers subject to complaints. They wanted to make sure there was some independent evidence available in the public domain to ground the debate and get a better understanding of what information would be most useful for consumers.

### **2.2 Research Objectives**

The following objectives of this study were identified:

- i. To explore and establish perceptions of the likely and possible advantages and disadvantages of law firms subject to complaints to the Legal Ombudsman being identified.
- ii. To investigate the likelihood of any published information derived from complaints to the Legal Ombudsman being used by consumers, and possible ways this information might be used.
- iii. To explore and examine responses to and likely levels of understanding of the language and terms used by the Legal Ombudsman when describing case outcomes.
- iv. To obtain views about the types of cases that should or should not be published, namely:
  - all cases or just those involving a remedy;
  - cases resolved through informal resolution or just Ombudsman decisions.
- vi. To obtain views about alternative ways of presenting complaints information: tables vs. case summaries vs. full text of decisions.
- vii. To find out what, if any, contextual information might help to make reports more understandable: size of firm, number of transactions, area of legal work.

### **2.3 Method & Sample**

A qualitative methodology was adopted for this study involving ten mini group discussions with the general public and two mini-groups with those who identified themselves as very dissatisfied with solicitors.

It was felt that this qualitative approach would be most appropriate for this study which was seeking to explore and understand the range of attitudes and beliefs that might exist amongst the general public. It allowed for an investigation, in a controlled way, of basic attitudes and beliefs, and how these are affected by disclosure of additional information about how the Legal Ombudsman's reporting system might operate.

A total sample of 58 respondents were interviewed in 12 mini-group discussions each attended by 4-6 respondents. Sessions lasted around 90 minutes and were audio recorded for subsequent analysis. It was decided to interview the 'Dissatisfied' separately from the main body of the general public sample. This allowed us to explore whether the views of those more antipathetic to solicitors were different from the main body of the general public.

The main general public sample was broadly based and included recent and intending users of solicitors, as well as others who indicated that they might use solicitors in the more distant future.

In addition to the standard exclusions (marketing/market research, journalism, PR), we excluded from the main general public sample those who:

- *say they would never be likely to use a solicitor* on the grounds that their level of interest in the issues was likely to be very low;
- *have recently been in dispute or are dissatisfied with a solicitor* on the grounds that they might hijack the group discussion seeking to gain support for their hostile viewpoint; and
- *regularly dealt with solicitors as part of their work/business* (such as police, estate agents, other legal professionals, court officials, etc.) on the grounds that they would have a 'professional' perspective on the issues.

The mini-group discussions were structured to represent a broad cross-section of the population in terms of age, gender, socio-economic grade and area. The exact sample structure is set out in Appendix 1.

Locally based recruiters were used, and they had a contact questionnaire designed to assist in the screening and identification of suitable respondents. Those invited to attend the group discussions were provided with a bland description of the subject matter along the lines of "a matter of public interest". In order to get a good spread at each general public group, recruiters were instructed to recruit people with different occupations, living in different streets, etc. Loose quotas were imposed to ensure minimum numbers (e.g. at least half the group had recent experience of using a solicitor in the last 5-10 years).

At least four group discussions were convened in areas where there was a high ethnic minority population and recruiters were instructed to ensure a proportion of BME respondents were invited to attend. Across the sample as a whole, we achieved just under 10% ethnic minority representation. Four respondents had a disability. At least two group discussions were convened in a rural/small town area to enable us to explore the likely and possible impact of small town scenarios. Two mini- groups were conducted in Wales.

Discussions were led by experienced moderators using an agreed topic guide; concept boards were used to explain the role of the Legal Ombudsman and provide initial prompts for possible reporting options<sup>1</sup>.

Fieldwork took place between 18<sup>th</sup> November and 8<sup>th</sup> December 2010 in the South East, the Greater London area, the West Midlands, the North West and South Wales.

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<sup>1</sup> The contact questionnaire, topic guide and concept boards are included as Appendices to this report

### 3. MAIN FINDINGS

#### 3.1 Approaches to buying services

The standard approach when in doubt about buying a product or service of any significance was still to ask around amongst family, friends or at work looking for word of mouth recommendation to “someone good.” The need to cast around for help and advice was greater for services which were less familiar and everyday and where the consumer found it harder to judge on the likely quality of delivery. Services likely to fall into this category included financial advice, accountancy, architecture, building works, and legal services.

*“Word of mouth. A plumber, central heating engineer - he’s due [to start] next week. That’s come from word of mouth from a friend who’s used the same guy.”*

*(North West, C2DE 25-44)<sup>2</sup>*

*“A friend of a friend recommended a financial advisor so we went through that. My step-mum’s a financial advisor as well, so we were able to cross-check a few things with her.”*

*(South East, BC1 25-44)*

Services that seemed relatively less problematic to purchase were those where the consumer felt they had sufficient experience and knowledge to know what was what. Into this category fell items that were part of everyday shopping such as food and clothing, and products that were well covered by guarantees.

Notwithstanding that for many, especially older respondents, asking around was a main method of locating services, there were indications that the internet was increasingly also being used to source potential suppliers when other known alternatives did not readily present themselves. Amongst the younger age group especially there were references to using the internet to make travel and holiday arrangements and to getting ratings of hotels via Trip Advisor. Likewise there were references to using the internet to shop for items and services and to identify products that had a good star rating as well as good prices.

*“I’d look on the internet and I’d check out reviews. If I wanted an architect I’d ask my dad. He used to do building plans for years so he knows architects personally and I’d rather go by personal recommendation.”*

*(S. Wales, BC1 25-44)*

With regard to services some felt that the internet could be used to throw up some possible options that could then be checked out by asking around amongst family and friends.

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<sup>2</sup> Throughout this report, verbatim quotes are ascribed to the relevant group discussion by location, socio-economic grade and respondents’ age band. This is standard practice for market research reports.

### 3.2 Approaches to complaining about services

*“We’re British. We don’t really like complaining.”*

*(Greater London, BC1 65+)*

*“I don’t think the British public are very good at complaining. Often it’s not worth your breath.”*

*(W. Midlands, C2DE 25-44)*

There were some indications that consumers were often initially reluctant to complain about services/products fearing that the process might become too drawn out, demanding and frustrating. People generally only got engaged with the process of complaining when they felt that there was no alternative. Some gave up when they found they would not get satisfaction fairly easily. Others were reluctant to let go when they felt their complaint was justified.

*“I had a problem with the surveyor. They said the survey they’d done was adequate but it wasn’t what I had asked for. I had wanted a full survey and they had done one just for the mortgage ... Initially I complained to the surveyor but they weren’t interested. I rang up the Ombudsman and they said it would cost me a lot of money ... so I gave up.”*

*(Greater London, BC1 65+)*

*“To whom do you go? I was not happy with the architect but I did not know who I could go to to help me get out of it.”*

*(South East, BC1 25-44)*

Respondents’ experiences of complaining about services/products were quite mixed and varied. Retailers and restaurants seemed the most willing to reach some accommodation with the consumer relatively quickly. There were also a couple of examples of consumers getting a satisfactory solution when they complained to mobile phone companies. Complaints about financial organisations such as banks, building societies and insurance companies seemed generally more drawn out and less likely to be resolved quickly. A few respondents had, however, taken matters to the Financial Ombudsman with mixed results.

*“I had a problem with my gas and electricity reading. It was done on estimates, which I didn’t realise, and then they wanted something like £1,000 which they said I owed them. So I complained to Ofsomething-or-another. And between us we reached a compromise and they gave me three years to catch up.”*

*(Greater London, BC1 65+)*

*“I’ve actually complained to B&Q and I’ve had a really good result with that ... far more than I expected. We had bought a door for £500 and it had a 10 year warranty. After a couple of years some of the lead dropped on it and I couldn’t get the manufacturer to come out. So I*

*gave up on that. Not long ago the lock froze so you couldn't turn so you couldn't turn the key. B&Q said the company had gone broke, 'so your 10 year warranty we'll have to take it over. You got your statutory rights for 6 years'. So they came out and they've actually supplied a new door."*

*(W. Midlands, Dissatisfied)*

*"The Financial Ombudsman ... I complained about my endowment policies and we won ... You first write a letter – there's a specific department you have to write to and then they send you the forms and the forms are unbelievably difficult and then everybody tells you to keep every bit of paperwork. And you have to go back through all your accounts for your mortgage and stuff and fill out things and the questions are really, really geared to make you make mistakes, and it took me about 2-3 days to go through this and we did it and we won, which was quite handy."*

*(South East, BC1 45-64)*

There were some hints that the process of getting satisfaction when complaining about the actions of local and central government could be particularly difficult and frustrating when the powers that be simply refused to acknowledge or take appropriate action.

*"Really I should have complained to the council, but I could not face the hassle it would involve, even though it was a lot of money to pay."*

*(South East, BC1 45-64)*

*"HMRC wouldn't stop [payments for student loan] unless I sent them all my payslips and we get paid weekly and it was the end of our tax year. So they said they could wait for a few months for my P60, but then I'd carry on paying them. It was really bad, really poor communication between agencies."*

*(South East, BC1 25-44)*

### **3.3 Attitudes to solicitors**

Experience of using solicitors varied widely. Some had used solicitors for one or more of the following: conveyancing, family and divorce, wills and probate, personal injury, employment, and motoring and litigation. A minority, mainly younger had no first-hand experience and inevitably adopted a more passive role and had less to say.

As respected professionals solicitors had a position alongside doctors as people who were trusted to behave properly and do what is right and in their clients' best interests. They were seen as highly educated, well informed and knowledgeable about the mysteries of the law and clever with words. Because for most ordinary people the world of law was unfamiliar and seemingly complicated they felt they *had*

to trust their solicitor to do what was right for them and to give them best advice, in much the same way that patients have to trust doctors to give them the best advice and treatment.

*“Solicitors are the experts, especially at the law, whereas you aren’t.”*

*(Greater London, BC1 65+)*

*“Solicitors are there to help you as much as they can, it’s like the police... You don’t expect a solicitor to do you a wrong turn ... whether you are paying him or whether you are not, because he is professional and very high up.”*

*(W. Midlands, Dissatisfied)*

*“Solicitors are high up in the ranks aren’t they? You would think you could trust them... I would think (whatever they do) they are just doing their job.”*

*(North West, C2DE 25-44)*

A more upmarket minority, especially those that included solicitors in their social network, seemed rather less over-awed by solicitors’ status and legal expertise.

When things went wrong in the solicitor-client relationship clients could all too easily feel that their trust had been betrayed and they had been let down and their interests had not been looked after. The once trusted solicitor became an ordinary mortal who was “money minded”, “talked down to you”, sought to “bamboozle you with words”, and solicitors in general were seen as a “law unto themselves” who used language and terminology that many struggled with.

*“I believe that among the professions today, solicitors are just not accountable, so if they give you advice, say about your divorce and you lose out... if you go back to them they can just say, it was the right thing at the time.”*

*(South East, BC1 25-44)*

However, from respondents’ accounts of where and how things had gone wrong, there were some indications that in part this had happened because the client had not fully grasped or taken on board the advice given and/or the circumstances of their case. It should also be noted that the circumstances requiring the need for a solicitor were quite often fraught. People tended to need a solicitor when confronted by a legal problem that had to be resolved and they felt anxious and under pressure. This was particularly the case with family law where personal relationships had broken down.

### **3.3.1 Choosing solicitors**

Most tended to adopt a fairly conservative and cautious approach to the process of choosing a solicitor. The first inclination would be to ask around family and friends to

get a recommendation. Often not really knowing how to assess whether a solicitor was good or not, it made sense to rely on the experiences of others who could vouch for the quality of service provided.

*“I went with the one my mum used, just for security. I knew if she had used them it would be OK.”*

*(S. Wales, BC1 25-44)*

*“With a solicitor you stick around with the same one you’ve had for years. It’s simpler to stay with the same one because mine has the deeds to my house. He may be more expensive but I wouldn’t know because I don’t shop around.”*

*“I got my solicitor through my sister-in-law. She rang the Law Society and asked for an expert – she was drawing up her will. It was all very satisfactory so when I was changing my will I went to the one she used.”*

*(Greater London, BC1, 65+)*

*“After a car accident the police advised me to go to a solicitor. Where I live there is a local firm. So I went to those and sought their advice. It’s got a good reputation. It’s advertised in the local paper. Word of mouth from people who have used them. It is always very busy.”*

*(North West, C2DE 25-44)*

Beyond word of mouth recommendation, other factors that could influence consumers’ choice of solicitor included price, tone of voice/response when the consumer first made contact, proximity and area of expertise; some used a combination of one or more of these factors. There was also a minority who were locating no-win-no-fee solicitors through advertising and the media and the internet.

*“For something like conveyancing you just want the cheapest price. The last time I rung round on prices and went with the cheapest one.”*

*(S. Wales BC1 25-44)*

*“I saw a solicitor about three weeks ago. The CAB gave me four or five and the one I chose was because of his attitude on the phone to me. If they’re stern or blunt I don’t want to know. I’ll go with the one who’s sympathetic and prepared to listen and not too pushy about money.”*

*(Greater London, C2DE 45-64)*

*“I had to get a solicitor. I fell over in a bar in Altrincham on someone’s spilt wine and broke my ankle in three places. ... So I entered in a search ‘no win no fee’ and that is how I got mine... I asked around as well though.”*

*(North West, C2DE 25-44)*

*“You get half an hour’s free advice with solicitors and you get a gut instinct. It’s how they deal with you. If you don’t like it you go somewhere else.”*

*“It was an industrial injury. I found a solicitor off the telly and everything was done over the internet. It was fantastic. He let me see all the letters they sent and all the letters they got back, it was all open.”*

*(W. Midlands, C2DE25-44)*

For most, the idea of locating/appointing a solicitor via the internet seemed a bridge too far. There was some feeling that because the relationship with a solicitor was very personal it was important to meet face to face before finally appointing them. However, there were signs, especially amongst the younger age group, of the internet being used to generate a shortlist:

- a BC1 man in the South East located a divorce solicitor on the web – and then checked out the firm by asking around;
- a C2DE man in the North West located a solicitor for an employment law issue when he was accused of racial abuse at work. His employer agreed to pay but told him to appoint a solicitor. He went on Google and appointed the second firm on the listings;
- a C2DE woman in the Midlands located a conveyancing solicitor in London because she was offered the most competitive price;
- a C2DE woman in the Midlands located a No-win-no-fee solicitor via the internet for her husband’s accident at work claim. She was very pleased with the transparent way the firm operated, allowing her and her husband to see all the communications.

*“I went on the internet for a solicitor. Because it was simple conveyancing I went for the cheapest. And it was brilliant. She was in London and I was up here but there was no problem. It was the only good experience I’ve had with a solicitor!”*

*(W. Midlands, C2DE 25-44)*

Perhaps surprisingly, there was a quite widespread awareness that solicitors specialised in different fields and that this could be a factor when making a choice.

*“Go to a firm [of solicitors]. They will employ someone who specialises in whichever subject. They guy who does conveyancing won’t do wills. [With a firm] there’s always someone who will do what you need.”*

*(Greater London, BC1 65+)*

*“With solicitors you’ve got different ones for different specialisms. You’ve got estate agent ones that do conveyancing and buying and selling homes. You’ve got the ones that do the Courts and the Family, so there’s all different ones. Well you might go to a solicitor’s place and he might not know much about what you are asking him about.”*

*(W. Midlands, Dissatisfied)*

### 3.3.2 Complaining about solicitors

The idea of making a complaint about a solicitor prompted varying degrees of anxiety and fear, especially amongst the less educated/sophisticated who felt that they would be on a hiding to nothing.

*“They’d just use loads of fancy words and make you look stupid, make out you’re in the wrong. That is their game not our game – you’d probably have to employ a solicitor to take on [a claim against] a solicitor...”*

*(North West, 25-44 C2DE)*

*“I wouldn’t do it [complain] with a solicitor because they’d do you for something.”*

*(Greater London, BC1 65+)*

*“They [solicitors] stick together. The one is going to back the other to the hilt all the way, it’s like a big clique. ... They know the laws better than you so they’re always going to come up and bite you on the bum.”*

*(W. Midlands, C2DE 25-44)*

Amongst the sample recruited as ‘dissatisfied with solicitors’ there were indications of often high levels of frustration about their perceived mistreatment. In the course of these group discussions it was, not surprisingly, quite difficult to sort out the exact causes of the problem but it was clear that usually there had been a breakdown in trust and confidence. Reasons for this included:

- change of solicitor and a less satisfactory relationship with the new solicitor;
- unspecified, unexpected delays in the progress of the case;
- higher than expected bills;
- lack of effective communication between solicitor and client; and
- failure by the solicitor effectively to manage the client’s expectations.

*“I had a will drawn up being a widow and retired. It just took weeks to draw it all out for us and when it came it wasn’t what I wanted. It was all overcomplicated; and ‘you can’t do this’ and ‘you gotta do that’ and this went on for two or three weeks... So I wasn’t very happy with that. I got them from the local paper. I wanted someone in our area. The longer they stretch it out the more they charge you. Because it was £25 for a phone call and £35 for a letter... I can’t see any justification in charging that much for a letter and a phone call. I think it cost £150 for the two wills when they advertised it at £40.”*

*“I was buying a house and where the estate agent was there was two solicitors so I just went to the nearest. But I’ve not been happy because there has been an upheaval between themselves and someone walked out and everything. I should be in my home by now. I’m not happy at all.”*

*(W. Midlands, Dissatisfied)*

However, any complaints made had been informal. They had complained to the solicitor at first instance; some had gone on to complain to the senior partner. They had also voiced their dissatisfaction by telling friends/acquaintances about the poor service they had received (a form of negative word of mouth). Only two claimed to have taken the matter further and made a formal complaint to a third party (they claimed they had gone to the Legal Ombudsman, but it is probable they confused the Legal Ombudsman with the Legal Complaints Service).

*“I didn’t have to wait long. The guy came on the phone. He asked me straight away what my situation was... he was even prompting me with questions. ‘Have they returned your calls or answered your letters?’ He told me if they don’t return your calls after two days that is a point against them. He told me to record when I made calls, when I left messages...”*

*(South East, Dissatisfied)*

### **3.4 Responses to the Legal Ombudsman**

As yet, spontaneous awareness of the Legal Ombudsman was very limited. A couple of respondents in the North claimed to have heard of the Legal Ombudsman, and a couple in the South claimed to have used it (and been satisfied with the service received). However, in the context of the existence of other Ombudsman schemes and Regulators, it was often expected that there would be a similar scheme to oversee the legal profession. Some made references to the Law Society, others to an Ombudsman. The Law Society was believed to be involved in dealing with disciplinary cases involving solicitors. Awareness of the Law Society sometimes came from reports in the local press of solicitors who had been reported to the Law Society for various misdeeds.

*“Law Society... I don’t really know what happens, on all your letters from the solicitors it says Law Society on the bottom... You read things in the newspapers where solicitors haven’t maybe acted correctly and have got struck off.”*

*(S. Wales, C2DE 65+)*

*“There must be some sort of body you can go to...”*

*(North West, C2DE 25-44)*

When the Legal Ombudsman name was introduced it became clear that respondents were not aware that the Legal Ombudsman had been recently set up, and did not really know what its role was or what it did. They were aware that Ombudsman schemes existed for other areas (financial services, insurance, possibly telecoms) and so assumed that there had to be one for legal services. Given the special respect solicitors held in the general public’s eyes, the idea of a Regulator or an overseeing body was appealing.

*“Ombudsman, I wasn’t 100% sure what the word meant. I thought it was just a group of people... I’ve heard of the Financial Ombudsman ... Someone who will take up your fight for you ... impartial like Oftel and Ofwat.”*

*(North West, C2DE 25-44)*

*“With a solicitor it’s more important because decisions are legally binding. It’s not like my deciding I’m not going to go to John Lewis any more. They should be accountable so it’s important that there is a place to go if they’re not behaving.”*

*(Greater London, BC1, 65+)*

When shown the stimulus material, it was anticipated that the Legal Ombudsman would provide consumers with the chance of a fair resolution should they complain about their solicitor. The possibility of getting their bill reduced and/or receiving compensation was an added bonus.

*“It’s actually going to get sorted out in a fair way. ... You have a chance of winning if you know what I mean...”*

*(W. Midlands, Dissatisfied)*

Even so some expressed doubts as to how easy it might be to get their case over to the Ombudsman.

*“It would be quite a difficult task. I’m sure they would want all the dates and times, the proof... you would not do it like that.”*

*(North West, C2DE 25-44)*

However, some saw the ‘Legal Ombudsman’ as a person rather than an office. There was some concern that he would be a solicitor (and might therefore take the side of his brother solicitors). There were also concerns about how the Legal Ombudsman would be funded and thus how independent it really was.

*“The Legal Ombudsman and the Law Society ... I wouldn’t take them on! I don’t think you’d get very far with them. It’s like the doctors, they’ll all band together.”*

*(Greater London, BC1 65+)*

Given the low levels of awareness, it was suggested that there should be signposting on documents coming from lawyers advising clients of the availability of recourse to the Legal Ombudsman in cases of complaint.

More generally it was suggested that the launch of the Legal Ombudsman needed to be publicised.

*“Let people know about it ... People have to be informed ... on the internet, TV advertising, in doctors’ surgeries.”*

*(S. Wales, C2DE 65+)*

*“What’s the point of setting up something like this if you don’t tell people how to use them? ... There should be a signpost in solicitors’ offices or a leaflet in any documentation you get.”*

*(Greater London, BC1 65+)*

*“Solicitors can make clients aware of the Legal Ombudsman by putting up a sign in their office, set out the complaints procedure.”*

*(W. Midlands, C2DE 25-44)*

### **3.4.1 Perceptions of the Legal Ombudsman service**

The Legal Ombudsman service, as described in the concept material, was welcomed by respondents and especially those who felt that their experience of some solicitors had been less than satisfactory. Significantly awareness of the Legal Ombudsman service seemed to make some in the general public as well as the dissatisfied sample feel that they might have had a valid complaint about the service they had accepted and put up with in the past.

*“It’s got to be brilliant, because if you are having issues with your solicitor, they will out-talk you and out-manoeuvre you in the legal field of which we have little understanding ... If you can go to an organisation like that, it’s just fantastic. It’s a win-win situation!”*

*(North West, BC1 45-64)*

*“In a roundabout way they’re there fighting your cause.”*

*(W. Midlands, C2DE 25-44)*

The fact that the Legal Ombudsman was independent from the legal profession was reassuring. Some respondents felt that solicitors were part of an almost Masonic brotherhood and would stick together to protect their own. It was important that the Legal Ombudsman was seen as apart from and not beholden to solicitors.

*“It’s always the impartial part. You always think how impartial are they? They are going to have to be legally trained to understand so are they going to be inclined towards their own kind? My solicitor, when I went to court for that thing, I found it really weird that in the break she was having her dinner with the other solicitor who had screamed at me!”*

*(North West, C2DE 24-45)*

However, the fact that the Legal Ombudsman would be free, whilst attractive, led to some expectation that it would be over-subscribed, under-resourced and difficult to get hold of (c.f. the Citizens’ Advice Bureaux). Likewise, some wondered how approachable the Legal Ombudsman would be and how easy it would be to get it to represent them; there was fairly widespread anticipation that involving the Legal Ombudsman would entail a lot of impenetrable forms and the process itself could take a (very) long time. Some hoped that contact could be made via telephone rather than in writing.

*“How can they do all that for nothing? Is it like the Citizens’ Advice or do you have thirty minutes free and they push you on to someone else?”*

*(Greater London, BC1 65+)*

*“I somehow think it will be more of a hassle ... it depends what your complaint is but you always think it would need to be something really major.”*

*“How would Joe Bloggs put his case against a solicitor? A solicitor knows what to say.”*

*(North West, C2DE 24-45)*

In South Wales it was observed that there was some reluctance to take local matters to *English* authorities. It would be preferable if the Legal Ombudsman had an office in Wales.

*“I think Welsh people will tend to do things locally – we tend to do everything in our area rather than go to London.”*

*(S. Wales, C2DE 65+)*

There were some concerns about whether the Legal Ombudsman would be able to enforce their decisions. A minority adopted a rather more cynical attitude to the remedies available from the Legal Ombudsman.

*“Decisions should be binding. There should be sanctions on a solicitor that he obeys the [Legal] Ombudsman’s findings or decisions.”*

*(Greater London, BC1 65+)*

*“Asking a solicitor to do something isn’t like making him do it ... and apologising – ‘Oh, okay, I did wrong’. Big deal! ... Dodgy solicitors will just go bankrupt so that’s your compensation sorted then!”*

*(Greater London, C2DE 45-64)*

*“An apology is not always enough.”*

*(W. Midlands, C2DE 25-44)*

### **3.5 Responses to the idea of published information identifying law firms against whom a complaint had been made**

It should be appreciated that, by and large, consumers took a rather parochial attitude to publication. There was little abstract interest in accessing information about solicitors in other parts of the country. For the majority of respondents, their need for a solicitor required local contact. Only a small minority with straightforward, almost routine, cases such as accident claims on a no-win-no-fee basis or an uncomplicated property sale/purchase, felt able to deal with a solicitor long range over the internet. Thus, for most respondents, the primary focus would be to check whether the information published contained the names of solicitors *in their area* against whom a complaint had been made.

Across the sample, there was very little evidence, if any, of respondents visiting Regulators' websites. There was some limited recall of information about complaints to the Financial Ombudsman being reported in the press. There were also references to high profile instances of regulatory interventions such as endowment mortgages and TV phone in scams which had been widely reported in the media.

There was no knowledge that other Regulators published information about complaints made to them. Thus, spontaneously, there was little or no expectation that the Legal Ombudsman would be any different and publish information about complaints. Initially, amongst the general public sample there was little spontaneous expectation that the *names* of the solicitors would be published. In part this may have reflected a belief that both the Complainant and the Solicitors' names would be published and many had reservations about the possibility of their private affairs being bought into the public domain. However, once consumers understood that this would not happen, their concerns largely evaporated.

*"When I went to the Financial Ombudsman they told me I had won and that was it. I was happy with that. No one else needs to know why should they?"*

*(South East, BC1 45-64)*

*"They'd publish them anonymously. They wouldn't be allowed to publish other people's business."*

*(S. Wales, C2DE 65+)*

*"There's always the risk that there's somebody that knows what's been going on and can relate the story to you."*

*(W. Midlands, Dissatisfied)*

A minority recalled seeing reports in the papers about solicitors who had been charged with wrongdoing. However, this was taken as the media picking up on a newsworthy story rather than the regulatory body (the Law Society) publishing its own investigations.

There was considerable uncertainty about who should be named. There was some feeling that if a solicitor had "done something wrong" then he/she should be named and shamed, although amongst some mainly older respondents, there was a degree of reluctance to support publication on the grounds that it could have a disproportionately adverse impact on the law firm.

In smaller communities cases of conflict between solicitor and client did sometimes get reported in the local press and word spread like wildfire. It was also acknowledged that whilst the consumer's point of contact was with the solicitor, the actual cause of the problem which had led to the dissatisfaction could be due to other factors outside the solicitor's ken or control. For instance, delays or

letters/telephone calls not being answered could be due to the other party's solicitors not responding or messages not being passed on promptly. Thus, there was some acceptance that the solicitor's firm should take corporate responsibility, and thus the firm should be named rather than individual solicitors.

*"If they are working on behalf of the company, it is the company's duty to take the fall."*

*(South East, BC1 45-64)*

*"Publishing the numbers of naughty solicitors would draw attention to him [the Legal Ombudsman] as an individual and what he does. ... The Ombudsman should publish that x are doing this and y [doing] that, say the percentage who are overcharging ... but I wouldn't expect them to publish the solicitors' names."*

*(Greater London, BC1 65+)*

Likewise, where firms have several branches, it was suggested that it would be necessary to identify the branch(es) complained about for the information to be meaningful. This would enable consumers to see which branch was not coming up to scratch, and would also avoid the risk of tarnishing the reputation of other branches.

The content of publication generated conflicting views. Respondents sometimes felt that publishing names of firms and/or individual solicitors where the complaint was dismissed was somewhat unfair. This could potentially stigmatise a firm or a solicitor who had been found not to have done anything wrong. Others felt that only publishing names where the complaint had been upheld could create the impression that the Legal Ombudsman was setting out to name and shame "bad" solicitors. Thus, consumers felt that in the interests of impartiality and fairness, the Legal Ombudsman should also publish the names of solicitors against whom no complaints had been made; in effect, providing a directory of solicitors in the area.

*"It's got to be fair. To be impartial it must list other solicitors in the area who have no complaints against them."*

*(Greater London, BC1 65+)*

It was widely suggested that publishing information about complaints that did not include the names of solicitors' firms would be fairly meaningless except to show that the Legal Ombudsman was conducting a certain number of cases.

*"It's pointless."*

*(North West, C2DE 25-44)*

*"It's proof that they are doing something."*

*(S. Wales, C2DE 65+)*

*"No because it'll all be hush hush if they do that."*

*(South East, BC1 45-65)*

### **3.5.1 Consumers' likely and possible usage of published information**

Consideration also needs to be given to the way consumers might use published information identifying law firms against whom a complaint had been made. Depending on the extent and detail of any contextual information, consumers might interpret the list as the Legal Ombudsman providing a ranking and rating of solicitors in terms of number of complaints, area of law, etc. This anticipated usage reflects the growth in popularity of consumer rating and ranking forums as a means of assessing services and products.

*“My opinion is that if they are going to have the bad stuff they should have the good stuff. They should have every company showing what they have on every company like Trip Advisor. Like a rating with the best at the top.”*

*(North West, C2DE 25-44)*

*“Would it be like a step ladder, a league table? You can see if a solicitor is five star or three star so you know how good they are.”*

*(Greater London, C2DE 45-64)*

Across the sample, respondents often talked of using published information as a ‘checklist’ to help them when choosing a solicitor.

*“It would help you to choose...not having used one. Say it was a divorce you would want to know what kind of solicitor you are taking up. You always want it to be the best. Because solicitors are the elite aren’t they?”*

*(North West, C2DE 25-44)*

*“You could check up on Joe Bloggs & Co – if there are no complaints then you know you’re going to a reputable firm ... And it will tell you what they specialise in.”*

*(Greater London, C2DE 45-64)*

*“One investigation is neither here nor there but several investigations and I wouldn’t touch them [a law firm] with a bargepole.”*

*(W. Midlands, C2DE 25-44)*

Others spoke of using the information as a ‘blacklist’ to help them avoid choosing solicitors who had had complaints made against them. If the list is going to be used as a checklist, then firms *against whom there have been no complaints* would not appear; there is some feeling that this would be neither fair nor impartial on the Legal Ombudsman’s part. Those assuming that the list contained all solicitors in the area would not see the names of those against whom no complaint had been made. If the information is used as a ‘blacklist’ there was a feeling it could have a disproportionately negative effect on the firm. There were also some concerns voiced that identifying firms in published information could provide a way for (ex-)clients bearing a grudge to besmirch a firm’s name.

*“The only thing is some people might deliberately try and trip up the solicitors, or they might just complain to get a double claim or something.”*

*“If they were labelled as being a bad firm nobody is going to get any work. They would certainly go bust. Nobody is going to use them ...”*

*(North West, C2DE 25-44)*

### 3.6 Advantages and disadvantages of publishing names of law firms against whom a complaint had been made

Extrapolating from the findings across the groups, the perceived advantages and disadvantages to publishing names of solicitors/firms against whom a complaint had been made to the Legal Ombudsman can be summarised in the following table:

<b>Advantages</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"> <li>▪ It will help to encourage firms/individual solicitors to improve their service provision.</li> <li>▪ It raises solicitors’ accountability.</li> <li>▪ It will “name and shame” firms that provide an unsatisfactory service, especially persistent ‘offenders’.</li> <li>▪ Publication will, at some level, enable the consumer to select a “good” solicitor.</li> </ul>	<ul style="list-style-type: none"> <li>▪ It could be unfair to name firms where the complaint was dismissed.</li> <li>▪ Only publishing names where the complaint has been upheld could create the impression that the Legal Ombudsman was setting out to “name and shame” “bad” solicitors.</li> <li>▪ To show impartiality/fairness, Legal Ombudsman should publish names of solicitors against whom no complaints have been made.</li> <li>▪ Consumers might use the list as a:               <ul style="list-style-type: none"> <li>• checklist;</li> <li>• blacklist;</li> <li>• way to besmirch solicitors.</li> </ul> </li> <li>▪ Consumers might interpret publication as the Legal Ombudsman providing a ranking and rating of solicitors.</li> </ul>

*Table 1: Advantages and disadvantages of law firms being identified*

*“It’s a driver for them to raise their level of service. Raise their game.”*

*(South East, BC1 25-44)*

*“The public know that there is a body out there to look after the public.”*

*(North West, C2DE 25-44)*

*“Publishing [his name] might encourage a solicitor to clean up his act ... it will make him less complacent. ... [But] You always get a percentage*

*of people who will complain about anything so you have to take that into account ... It could mean a loss of business for some [solicitors].”*

*(Greater London, BC1 65+)*

*“If you don’t name and shame then someone else is going to suffer.”*

*(South East, BC1 45-64)*

### 3.7 Responses to alternative methods of publishing case outcomes

Overall, respondents felt that there needed to be a context to enable consumers to interpret the published information. Suggestions for this contextual data included number of solicitors in firm; number of complaints made against the firm; areas of legal specialism (conveyancing, family, etc.).

There was also widespread agreement that it would be inequitable to publish names of firms on the first complaint. It was felt that a fairer system would be to publish names where a few complaints had been made within a certain period, for example, three within 12 months. Group discussions are an iterative process in which views expressed by respondents are tested amongst other respondents in other groups. In this way, a consensus can be identified. There was resistance to reporting a firm for its first infringement and acceptance that after around three infringements within a certain period then reporting was justifiable. Likewise, there would need to be some system for removing names after a certain period and not leave them on indefinitely. (For this system to be effective, the published list would need to be updated on a monthly basis so that the information would remain up-to-date.)

*“Everyone makes mistakes so you don’t expect them to get punished first time. But if someone is persistently doing something wrong then yes. If a solicitor is consistently being charged with certain complaints, say, three or five complaints in two years, then yes, publish his name.”*

*(Greater London, BC1, 65+)*

It was anticipated that consumers would be able to search for solicitors in their locality.

There was consistent support for the home page to show a table similar to:

Consumers could then click on individual firms for more information about the nature of the complaint, area of legal specialism, etc.

However, a minority found the headings a bit too dense and hard to disentangle.

Firm	Number of complaints accepted by the Legal Ombudsman in 2011	Percent of cases where the lawyer agreed, or was made, to do something to put things right	Percent of cases where the lawyer was not thought to have done anything wrong
Bloggs & Co, Birmingham	4	25%	75%
Brooker & Co, Birmingham	7	100%	0
Ferrenmore LLP, Birmingham	1	100%	0
Smiths Solicitors LLP, Birmingham	3	100%	0
Brown & Jones, Birmingham	2	50%	50%
Watkins, Birmingham	10	80%	20%
Midlands Conveyancing Services, Birmingham	19	50%	50%
Jukes Solicitors, Birmingham	1	100%	0
RF LLP, Birmingham	1	0	100%

Fig. 1: Table setting out basic complaints information

*“People are going to be totally confused with all these numbers and percentages. You have to use reverse logic to understand it.”*

*(W. Midlands, C2DE, 25-44)*

It was sometimes suggested that the table would benefit from the inclusion of information about the size of the law firm named (e.g. number of solicitors) and, possibly, grounds of complaint.

Overall, the basic information box was seen as a starting point. However, there was some feeling that it was a bit too schematic and interested consumers would need to be able to drill down to get more information by clicking into the different report levels.

Case number: 1234567
Date: September 2010
Lawyer: Bloggs & Co., Birmingham
Area of law: Conveyancing (buying and selling property)
Complaint: Lawyer did not follow instructions
Result: We required the lawyer to apologise and pay compensation

Fig. 2: Basic information box

*“You want lots of links going into greater detail, giving you more information about the solicitor.”*

*(Greater London, BC1 65+)*

The anticipated sequence of actions is illustrated below:



Fig. 3: Example of how consumers could drill down for more information on named law firms

For most, the full report was felt to be unnecessarily detailed and few showed any interest in reading it.

*“This is more satisfactory from the client’s perspective, but I wouldn’t read through hundreds of these.”*

*(Greater London, BC1 65+)*

*“You don’t need the whole shebang in front of you. It’s too long-winded.”*

*(Greater London, C2DE 45-64)*

Date: September 2010  
Lawyer: Bloggs & Co., Birmingham  
Area of law: Conveyancing (buying and selling property)  
Result: Lawyer agreed to apologise and pay compensation  
We investigated the solicitors firm Bloggs & Co and found that they did not manage the purchase of a house property. Mr and Mrs. A bought their house in 2005 and asked Bloggs & Co to manage the conveyancing. When they came to sell last year, they discovered that they didn't actually own their home. We found that Bloggs & Co had failed to transfer Mr and Mrs. A's names to the Land Registry documents. We weren't able to help Mr and Mrs. A and Bloggs & Co to come to an agreement about how to put things right, so we made a formal decision about the case. Deputy Chief Ombudsman Gary Garland decided that Bloggs & Co should apologise and pay Mr & Mrs. A an amount of compensation.

Fig.4: Full report

### 3.7.1 Comprehension of language and terms used by the Legal Ombudsman

Across the sample, respondents were impressed by the language used on the stimulus material. They saw it as easy to understand and surprisingly straightforward, given that it was about legal matters.

*“For lawyer-speak, it’s in layman’s terms.”*

*(S. Wales, BC1 25-44)*

Respondents understood the gist of the terms used. By and large they were not especially concerned about whether the Legal Ombudsman reached the resolution formally or informally.

## 4. CONCLUSIONS

This research indicated heavy reliance on word of mouth recommendation as a means of selecting solicitors. Even when solicitors were located by other means, consumers would typically ask around as well to confirm their choice.

Solicitors were positioned as trusted professionals and as such were expected to adhere to very high standards and protect their clients’ best interests at all times. It was assumed that there was a body that regulated solicitors and there were some references to the Law Society probably fulfilling this role. Over and above consumers’ general reluctance to pursue complaints, there was an additional angst about trying to bring a complaint against a solicitor. There was a sense that a solicitor would always have the advantage over the layman.

As yet there was almost no awareness of the Legal Ombudsman. Most found it reassuring to learn of its existence and to discover that it was government backed, fair, impartial and free. It was hoped that it would be fairly approachable, preferably by phone.

Levels of interest in the issue of publication of Legal Ombudsman case results were not very high amongst the general public. There was no very well formed expectation as to how and in what way case results should be published, if at all. We found almost no evidence of people referring to or searching the websites of other Regulators for case report information.

Invited to speculate on possible publication approaches, views were initially quite mixed. The idea of publishing information about cases *without* naming law firms was of little relevance and interest. All it would do would be to show that the Legal Ombudsman had investigated a certain number of complaints and to provide profile data on the firms. This had relatively little significance for customers, whose primary interest was the performance of solicitors in their area that they might use.

If the plan was to publish cases identifying law firms then there was some initial minority concern about the possibility that customers as well as solicitors might be identified. Furthermore there was a belief that such information was “confidential” and should not be put in the public domain. Once reassured that there was no possibility that personal customer information would be published most respondents were willing to consider and accept the publication of the names of lawyers who had been subject to complaints which had been upheld by the Legal Ombudsman. Many felt that it was justifiable for solicitors who had provided a bad service to be “named and shamed”.

Possible advantages of the Legal Ombudsman identifying law firms against whom a complaint had been made included: encouraging firms to improve their service provision; enhancing solicitor accountability; identifying firms providing less satisfactory service and assistance in identifying “good” solicitors.

However, the underlying broad support for “naming and shaming” was qualified by various concerns and potential disadvantages:

- listing both the cases where the law firm was found not to be to blame as well as those where the Legal Ombudsman came down on the side of the customer risked punishing innocent solicitors (“there’s no smoke without fire”). At worst, it could prompt the malign to bring unfair complaints;
- if law firms were named it could be that good solicitors’ reputations would be tarnished by the failures of one bad apple in the firm; consequently some suggested that the list should highlight individual solicitors;
- most felt that it would be unfair to name publicly a law firm for a first offence, especially if it was minor or a technical breach;
- there was a risk that sometimes published cases might inadvertently identify individual customers responsible for making the complaint;
- some customers may make baseless complaints vindictively and thus blame-free solicitors might be unfairly stigmatised;
- it would be important that the list was kept up to date otherwise there was a risk that solicitors who had been named and who had then sharpened up their act would go on being stigmatised for past failings.

In order to make the system fair, consumers suggested the following:

- listing solicitors only when it had been established that the solicitor had been at fault in a certain number of cases within a finite period with around three cases in a 12 month period attracting broad acceptance. This approach would avoid penalising the occasional lapse and it would also be relatively less onerous on smaller firms;
- updating the list on a regular quarterly basis so that a law firm’s past failings are ‘spent’ after a defined period;

- not listing firms where the Legal Ombudsman found after investigation that the solicitor had done nothing wrong.

With regard to the alternative ways of presenting information there was a fairly clear cut preference for a **tabular format** listing the firms against whom complaints had been made. It was assumed that this would be available on the Legal Ombudsman website and allow users to investigate cases in more detail by clicking on a 'more information' link. Most seemed content with short accounts of cases in the expectation that they could drill down for more detail if they wanted. It was felt that the table would be more informative if it included information on size of firm.

Encouragingly the language used in case descriptions was considered appropriately easy to follow and understand.

It was notable in this research that customers often sought to position any published list of solicitors subject to complaints as a **checklist** of potential providers. As a checklist, respondents envisaged that it would enable them to search solicitors by area and specialisation. However, unless the list included the names of law firms not subject to complaints it would be incomplete. Users would have to be encouraged to check that their solicitor was not on the list – a somewhat confusing injunction.

Furthermore, many anticipated that the published information would provide them with a starred rating system on the level of service provided. In reality it is likely that any information published by the Legal Ombudsman could not fulfil either role because it would not include firms against whom there were no complaints and so there might be a risk that consumers could get confused.

Therefore it is essential that the list should be clearly positioned as **only** containing the names of firms against whom complaints had been filed.

# APPENDICES

## A. Sample Structure

	Total	South	Midlands/North
<b><i>Core general public</i></b>			
BC1, aged 25-44	2	1	1
C2DE, aged 25-44	2	1	1
BC1, aged 45-64	2	1	1
C2DE, aged 45-64	2	1	1
BC1 aged 65+	1	1	-
C2DE, aged 65+	1	-	1
<b><i>Dissatisfied/Complainers</i></b>			
Mixed ages and socio-economic groups	2	1	1
<b>Total mini groups</b>	<b>12</b>	<b>6</b>	<b>6</b>

Table 2: Sample structure

### Definitions of socio-economic groupings<sup>3</sup>

- A Professional people, senior managers in business or commerce, top civil servants, and retired people previously grade A and their widows
- B Middle management executives in large organisations with appropriate qualifications, principal officers in local government, civil service top management or owners of small business concerns, educational and service establishments, and retired people previously grade B and their widows
- C1 Junior management, owners of small establishments and all others in non-manual positions, and retired people previously grade C1 and their widows. Jobs in this group have very varied responsibilities and educational requirements
- C2 All skilled manual workers and those manual workers with responsibility for other people, and retired people previously grade C2 with pensions from their job and their widows
- D All semi-skilled and unskilled manual workers, apprentices and trainees to skilled workers, retired people previously grade D with pensions from their job and their widows
- E All those entirely dependent on the state long-term through sickness, unemployment, old age or other reasons, those unemployed for a period exceeding six months (otherwise classified on previous occupation), casual workers without a regular income

<sup>3</sup> Market Research Society (1991) *Occupation Groupings - A Job Dictionary (4<sup>th</sup> Edition 1991)*



C2	4
D	5
E	6

---

*Aim to get a spread of occupations*

---

Q3. And which of the following age bands Close	Under 25	1	
do you come into?	-----		
READ OUT / SHOW CARD B	25-30	2	
	31-34	3	
	35-40	4	
In each group aim to get a spread of ages	41-44		5
Check	45-50	6	
	quota		
	55-54	7	
	then		
	55-60	8	
	Q4a		
	61-64	9	
	65-70	10	
	71-74	11	
	75-80	12	
	-----		
	Over 80	14	
	Close		

Q4a. Which of the following have <b>you yourself</b> ever consulted? READ OUT / SHOW CARD C	Medical specialist	1	
	Dentist		2
	Solicitor	3	See
*	Estate/Letting agent	4	
	New car dealer	5	
	-----		
	None of the above	6	
	Q4b		

\* AT LEAST TWO THE RESPONDENTS IN THE GROUP SHOULD CODE 3.  
CHECK QUOTA THEN Q5.  
IF 3 NOT CODED, CHECK QUOTA THEN Q4b.

Q4b. And which do you think <b>you yourself</b> might consult in the future? READ OUT / STILL CARD C	Medical specialist	1	
	Dentist		2
	Solicitor	3	See
**	Estate/Letting agent	4	
	New car dealer	5	
	-----		
	None of the above	6	Close

\*\* IF 3 CODED, CHECK QUOTA THEN Q11.  
IF 3 NOT CODED, CLOSE.

**Q5-Q8: Ask if respondent has used a solicitor (Code 3 at Q4a)**

Q5. How long ago did you consult a solicitor?	1-2 years ago
1	

See \* *READ OUT / SHOW CARD D* 3-5 years ago 2

-----  
More than 5 years ago 3 Close

\* *AIM TO GET A SPREAD OF RESPONDENTS CODING 1 OR 2.  
CHECK QUOTA THEN Q6.*

---

Q6.	And did you consult the solicitor for ... <i>READ OUT / SHOW CARD E</i>	Personal reasons	1	Q7
		-----		
		Business reasons	2	Close

Q7.	And, in broad terms, why did you consult 1 a solicitor? <i>READ OUT / SHOW CARD F</i>	Conveyancing		
	<i>Aim to get a spread of different types of cases</i>	Divorce/Family law	2	
		Employment issues	3	
		Motoring offence	4	Q8
		Personal injury	5	
		Criminal law	6	
		Civil litigation	7	
		Wills	8	
		Immigration	9	
		Other ( <i>write in</i> )	10	

Q8.	Can you tell me how satisfied you were with 1 the service you received from your solicitor? 2 See * <i>READ OUT / SHOW CARD G</i>	Very satisfied	
		Quite satisfied	
		Quite dissatisfied	3
		Very dissatisfied	4

\* IF 1 OR 2 CODED, CONSIDER FOR **GENERAL PUBLIC GROUPS ONLY**  
CHECK QUOTA THEN Q14.

**IF 3 OR 4 CODED, CONSIDER FOR DISSATISFIED SAMPLE ONLY.**  
EXCLUDE FOR GENERAL PUBLIC GROUPS.  
CHECK QUOTA THEN Q9.

**Q9-Q10: Ask only if respondent qualifies for 'Dissatisfied' sample**

Q9.	Which of the following roughly explains why you were dissatisfied with your solicitor? <i>READ OUT / SHOW CARD G</i>		
	I felt I was over-charged	1	
	I did not like my solicitor's manner		2
	See *		
	I felt the service was poor, e.g. there were delays or they didn't communicate well with me		3
	I did not get the outcome I wanted		4

\* IF ONLY 4 CODED, CLOSE. CHECK QUOTA THEN Q10

Q10.	What, if anything, have you done about your dissatisfaction? 2 <i>READ OUT / SHOW CARD H</i>	Complained verbally Complained by letter	1
See *		Complained by email Done nothing	3 4

\* *AT LEAST TWO RESPONDENTS IN THE 'DISSATISFIED' GROUP SHOULD CODE 2 OR 3.  
ALL OTHER RESPONDENTS, AIM TO GET A SPREAD CODING 1,4, OR 5.  
CHECK QUOTA THEN Q14.*

**Q11: Ask if respondent is intending to use a solicitor (Code 3 at Q4b)**

Q11.	When do you think you will be likely to consult a solicitor? <i>READ OUT / SHOW CARD I</i>	In the next 1-2 years In the next 3-5 years -----	1 2
-----		More than 5 years from now <i>Close</i> Don't know/Not sure	3 4

\* *AIM TO GET A SPREAD OF RESPONDENTS CODING 1 OR 2.  
CHECK QUOTA THEN Q12.*

Q12.	And will you be consulting a solicitor for ... Q13 <i>READ OUT / SHOW CARD E</i>	Personal reasons ----- Business reasons	1 2	<i>Close</i>
------	--	---	--------	--------------

Q13.	With regard to choosing a solicitor, which of the following statements best applies to you? <i>READ OUT / SHOW CARD J</i>	I will be the sole decision maker Q14 I will share decision making with someone else ----- I will leave the decision to someone else	1 2 3	<i>Close</i>
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**Q14: Ask all**

Q14.	Finally, have you taken part in any market research group discussion in the last ----- 6 months? <i>Recruit</i>	Yes ----- No	1 2
------	--	--------------------	--------

***If respondent fits quota, give him/her an invitation card confirming date, time and location of the interview. Make sure that respondent's name, address and telephone number, and the date and time of the interview is clearly recorded***

**on the front of the questionnaire so that you can telephone him/her with a reminder to attend.**

*I hereby declare this questionnaire has been completed according to the instructions and the Market Research Society's Code of Conduct, and that the respondent was unknown to me at the time of recruitment.*

RECRUITER'S NAME: \_\_\_\_\_

SIGNED: \_\_\_\_\_

DATE: \_\_\_\_\_

## C. Topic guide

### 1. Introduction/Warm up (5 mins)

- Introduce ourselves and thank respondents for attending and explain about the process: similar groups being conducted across the country, we want everyone to have a say, no right or wrong answers, fully anonymous, audio recording, etc.
- Invite respondents to introduce themselves: first name, length of time living in the area, occupation, interests, children, grandchildren etc.

### 2. Approach to buying services (10mins)

- Invite each respondent to talk about services they have bought recently:
  - how did they set about locating and choosing the supplier;
  - what things influenced their choice;
  - is the process different for different types of service supplier;
- Why is this?
- (If not already mentioned) What about solicitors? How have they/would they go about choosing a solicitor?
- How do you know if they are any good?

### 3. General approach to complaining about businesses/services (10mins)

- Invite respondents to talk about the last time that they complained about any business/service. What did they do?
- Who did they go to for help?
- Where else could they go for help?
- What would they like to see happening when they complain?
- How does this vary for different types of business/service?

### 4. Awareness, understanding and reactions to Legal Ombudsman and what it does (10mins)

- If not already mentioned, where would they go if they had a complaint about Legal Services?
- Where else?
- Show [Legal Ombudsman](#) name board
- Invite respondents to say what they think it does, what it is responsible for, how it works etc?
- Show Boards [describing Legal Ombudsman role and service as necessary](#) and invite spontaneous responses/ observations.
- Show [example stories](#) as necessary to illustrate scope of Legal Ombudsman activity

### 5. Attitudes towards the Legal Ombudsman publishing information about complaints (10 mins)

- Does the issue of the Legal Ombudsman publishing case findings come up spontaneously?
- What, if anything, is expected?
- What is prompting people's spontaneous ideas?
  - (awareness of what other regulators do)
  - (general drift towards openness/transparency)

- (assistance in finding good providers/avoiding bad ones)
  - etc.
  - What do they see as the benefits/advantages of publication?
  - What do they see as the disadvantages?
  - Would they look for/use this information in practice and if so, how/where?
  - What if Legal Ombudsman did not publish information about outcomes of consumer complaints? How would they feel about that? What, if any, problems are envisaged?
- 6. Attitudes towards Legal Ombudsman identifying solicitors when publishing results of complaints (20 mins)**
- If information about complaints were published how would they expect this to be done?
  - What are the spontaneous expectations for publication of cases?
  - What do they see as the possible benefits/advantages of identifying solicitors who have been subject to complaints?
    - helping choice of lawyers/double check on lawyer's record/identifying lawyers to avoid
    - encouraging improved service by lawyers
    - helping to raise overall standards
    - other
  - Would they personally look for/use this information in practice and if so, how/where?
  - Do they see any possible problems/disadvantages of identifying solicitors subject to complaints?
- 7. Responses to alternative ways of reporting complaints (15mins)**
- Use stimulus material to get responses to different approaches to reporting case results
  - Seek to obtain consensus from the group on key issues such as:
    - types of case to be published?
    - need for identification?
    - identification of all solicitors subject to complaints? Or only if remedy is imposed?
    - full reports, summaries or tables?
    - what information is missing?
    - which words/terms are helpful
    - which words are confusing/hard to understand?
- 8. Summary (10 mins)**
- Invite respondents individually to set out their position on publication, identification of solicitors and their expectations regarding reporting.
  - If pro publication, would they look for/use the information in practice.
  - Where would they expect to look for/find information
  - Thank for their contribution, etc.

## D. Stimulus material

## 1. Concept boards

### Legal Ombudsman

#### What is the Legal Ombudsman?

- ❖ The Legal Ombudsman is an independent, consumer-focused organisation which handles consumers' complaints about legal services.
- ❖ It has powers to resolve complaints about legal services when these have not been resolved between an individual customer and their lawyer.
- ❖ When it receives a complaint the Legal Ombudsman looks at the facts to reach a fair outcome for everyone involved.
- ❖ It is independent, impartial and it does not take sides.
- ❖ The service is free.

#### What does the Legal Ombudsman do?

- ❖ It deals with complaints about the **service** provided by legal professionals including solicitors, licensed conveyancers, barristers, etc.
- ❖ The types of complaints that the Legal Ombudsman will look at include:
  - solicitor did not do what he was instructed to
  - there were unreasonable delays caused by the solicitor
  - solicitor gave inaccurate and incomplete information
  - solicitor failed to reply to phone calls and letters
  - solicitor failed to give enough information about charges at the outset
  - solicitor failed to provide enough information about what was going on

### **Resolving complaints**

- ❖ If the Legal Ombudsman finds that the solicitor's service is unsatisfactory he can ask them to:
  - apologise
  - return any documents
  - put things right if more work can correct what went wrong
  - refund or reduce fees
  - pay compensation if the client has lost out or been badly treated

### **If the complaint is about misconduct rather than service**

- ❖ Lawyers should adhere to professional rules.
- ❖ Breaking these rules represents misconduct.
- ❖ Examples of misconduct:
  - solicitor keeps money that belongs to his client
  - solicitor cannot account for money that he owes his client
  - solicitor discriminates against his client on grounds of race, religion, sex, sexuality, disability or age
  - solicitor does not declare a conflict of interest
  - solicitor releases confidential information about his client without permission
- ❖ The Legal Ombudsman does not investigate conduct matters and will refer these to the appropriate regulatory bodies such as the Solicitors Regulation Authority or the Bar Standards Committee.

## 2. Case stories

### **Case 1: home sweet home**

Mr and Mrs A bought their house in 2005 – or so they thought. When they came to sell last year, they discovered that they didn't actually own their home. The solicitor for the people who wanted to buy the house discovered that Mr and Mrs A's names had never been transferred to the Land Registry documents. On the face of it, this looks like a serious oversight by the solicitor who managed the original purchase on their behalf.

Mr and Mrs A were not able to sort things out with their solicitor and so complained to us.

### **Case 2: money matters**

Ms B is divorced now but has been left feeling dissatisfied with the service her lawyer provided at the time of the divorce. She had asked that the decree absolute should not be signed until all outstanding financial matters with her husband had been resolved. She realised that if it was signed before then, she'd be left in a sticky financial situation. When she was asked to sign the document herself, she did so believing her lawyer had followed her wishes. Unfortunately, as it turned out, a number of money matters had not been dealt with beforehand, as she had asked. So she is feeling let down by her lawyer and unhappy that they hadn't made this clear.

### **Case 3: where there's a will**

The lawyer acting on his behalf had the task of selling his mother's house and closing her two bank accounts. Mr C is also a beneficiary, so once these things are done, he will receive some money from the estate. A year down the line, and the lawyer has done nothing. And Mr C hasn't heard from him for two months, despite chasing him on several occasions.

Mr C hasn't been able to resolve things with the lawyer himself and so brought his complaint to us.

### **Case 4: just the job**

Ms D was sacked from her job, but had the right to appeal against the decision. So she instructed a lawyer to act on her behalf, but they missed the deadlines required for her case to be heard in court. This meant she couldn't go ahead with her appeal at all. She complains that she's been let down by the person she employed to help her.

**Case 5: a clean break**

Mr E contacted us to complain about the lawyer who had been dealing with his elderly mother's case. She'd fallen badly and damaged her ankle while out shopping. The 'no win, no fee' solicitor involved has taken three years to conclude that the case is not worth pursuing. Mr E believes that this timescale is unacceptable and has left his mother very distressed. She was under the impression that the case was nearing conclusion. Had she been told about this sooner, we were told, she would have employed another lawyer to deal with her case.

**Case 6: rising damp**

Mr F bought a property in London six years ago, knowing that there were problems with damp. He asked his solicitor at the time to make it a condition of sale that the damp would be fixed. His solicitor said it was all fine and so Mr F went ahead with the purchase. When he came to sell, however, a survey carried out for a potential buyer found the problem was still there. It seems that the work had not been done after all. Now Mr F wants to sell up and is insisting that his solicitor pays to sort out the damp and refund the fees that have already been paid to him.

**Case 7: lost in transition**

Mrs G's family has used the same solicitor for generations, looking after the deeds to her house and her will. She contacted the firm a couple of weeks ago as she wanted to make some changes to her will, only to be told that the documents had been lost. The original firm has merged with another one and now nobody at the new place is accepting responsibility for the loss.

As a result, Mrs G brought her complaint to us.

**Case 8: stop rambling**

Mr and Mrs H are finding it hard to sell their home. They bought the house 10 years ago, but they say their solicitor failed to tell them about the public right of way that runs across the back of the house. This is putting potential buyers off. Mr and Mrs H say they wouldn't have bought the house, or would have paid less, if they'd known that people had the right to walk through their garden. They didn't know anything about this until they put their house on the market.

Their solicitor says he made the situation clear to them at the time, but the couple have brought their complaint to us.

**Case 9: page turner**

Mr I is in prison. He has been asking his solicitor to forward a few items of personal property for the past two months, but has heard nothing back. These things are really important to Mr I – religious books that he needs to have with him while he’s in prison. All he wants is his belongings to be sent to him as soon as possible.

He has complained to us that something so straightforward really shouldn’t take so long.

**Case 10: the French connection**

A complainant from France, who dealt with an English lawyer, bought a 1940s property. She decided to make some improvements to her new home, including changing all of the windows. She then received a letter from the local council telling her the property was listed and she’d need to put it back to its original condition. She’s annoyed because her lawyer had failed to mention the fact she was buying a listed building, and she’s now faced with the costs of putting the matter right.

**Case 11: trouble and strife**

One very distressed caller wants to complain about the solicitor who has been dealing with her acrimonious divorce. As part of the settlement, the marital home had to be sold. Her solicitor told her that she must be present with her husband when the valuation was carried out. She told him that she didn’t want to do this, explaining that there had been domestic violence in the relationship and she wouldn’t feel comfortable. Despite her protests, she told us he convinced her that she had to be there. The solicitor joined her for the valuation and her husband also turned up ... with his new girlfriend. The trouble that followed meant the police had to be called and the complainant has told us she has been under a great deal of stress ever since. She wants action taken against her solicitor for the distress caused.

**Case 12: first case closed!**

A caller wants to complain about the lawyer dealing with his tribunal. The lawyer had taken it upon himself to adjourn the case on four separate occasions – without letting his client know. The latest hearing was scheduled for 29 October, and the lawyer wanted to delay that hearing until December. This was an adjournment too far for our caller, who told the lawyer he wanted his file back and money returned. He heard nothing back following his request. We called the solicitor involved and upon hearing that the Legal Ombudsman was involved, the lawyer agreed to return his client’s file and any money owed within the next three days.

### 3. Alternative formats for published information

Firm	Number of complaints accepted by the Legal Ombudsman in 2011	Percent of cases where the lawyer agreed, or was made, to do something to put things right	Percent of cases where the lawyer was not thought to have done anything wrong
Bloggs & Co, Birmingham	4	25%	75%
Brooker & Co, Birmingham	7	100%	0
Fennemore LLP, Birmingham	1	100%	0
Smiths Solicitors LLP, Birmingham	3	100%	0
Brown & Jones, Birmingham	2	50%	50%
Nortons, Birmingham	10	80%	20%
Midlands Conveyancing Services, Birmingham	19	50%	50%
Ashas Solicitors, Birmingham	1	100%	0
RF LLP, Birmingham	1	0	100%

### *Basic information*

**Case number:** 1234567  
**Date:** September 2010  
**Lawyer:** Bloggs & Co., Birmingham  
**Area of law:** Conveyancing (buying and selling property)  
**Complaint:** Lawyer did not follow instructions  
**Result:** We required the lawyer to apologise and pay compensation

**Case number:** 1234566  
**Date:** September 2010  
**Lawyer:** Fennemore LLP, Birmingham  
**Area of law:** Personal injury  
**Complaint:** Costs were higher than originally explained  
**Result:** We found the lawyer hadn't done anything wrong

### *More detailed report*

**Date:** September 2010  
**Lawyer:** Bloggs & Co., Birmingham  
**Area of law:** Conveyancing (buying and selling property)  
**Result:** We told the lawyer to apologise and pay compensation

We investigated the solicitors firm Bloggs & Co and found that they did not manage the purchase of a house properly. Mr. and Mrs. A bought their house in 2005 and asked Bloggs & Co to do the conveyancing. When they came to sell last year, they discovered that they didn't actually own their home. We found that Bloggs & Co had failed to transfer Mr. and Mrs. A's names to the Land Registry documents. We weren't able to help Mr and Mrs. A and Bloggs & Co to come to an agreement about how to put things right, so we made a formal decision about the case. Deputy Chief Ombudsman Gary Garland decided that Bloggs & Co should apologise and pay Mr. & Mrs. A an amount of compensation.

**Date:** October 2010  
**Lawyer:** Fennemore LLP, Birmingham  
**Area of law:** Personal injury  
**Result:** We found that the lawyer had not done anything wrong.

We investigated the solicitors firm Fennemore LLP, and found that they had not done anything wrong. Mr. R had an accident at work in 2009 and asked Fennemore LLP to help him make a claim against his employer. When the case was finished, Mr R felt that the final bill from Fennemore LLP was far higher than he had expected. However, we found that Fennemore LLP had written to Mr R at the beginning of the case and had explained the expected costs accurately. We helped Mr. R to understand what had happened and explained that Fennemore LLP were not at fault.

## *Full report*

**Date:** September 2010

**Lawyer:** Bloggs & Co., Birmingham

**Area of law:** Conveyancing (buying and selling property)

**Result:** Lawyer agreed to apologise and pay compensation

We investigated the solicitors firm Bloggs & Co and found that they did not manage the purchase of a house properly as the conveyancers. Mr. and Mrs. A bought their house in 2005 and asked Bloggs & Co to manage the transaction. At the time, Bloggs & Co sent them a clear letter explaining what they would do and how much it would cost, and this list included transferring the names of Mr. and Mrs. A. to the Land Registry. However, when Mr and Mrs A came to sell their house last year, they discovered that they didn't actually own their home.

Mr. & Mrs. A. complained to Bloggs & Co as soon as they discovered the problem. Bloggs & Co. sent a letter back explaining that they had done everything they had been asked to do and that the problem was the fault of Mr. and Mrs. A. Mr. & Mrs. A weren't satisfied with this response and so they complained to us.

We investigated this complaint and found that Bloggs & Co had failed to transfer Mr. and Mrs. A's names to the Land Registry documents. Mr. and Mrs. A did contribute to this problem by not sending back signed copies of some important documents by the deadline that Bloggs & Co had given them. However, we judged that Bloggs & Co were aware of this and could reasonably have been expected to remind Mr. and Mrs. A. about it as they knew Mr. and Mrs. A. were elderly and not experienced in dealing with solicitors.

We weren't able to get M and Mrs. A and Bloggs & Co to come to an agreement about how to put things right, so we made a formal decision about the case. Deputy Chief Ombudsman Gary Garland decided that Bloggs & Co should apologise and pay Mr. & Mrs. A an amount of compensation