

1. Overview

About the Consumer Impact Report

This is the second edition of the Panel's Consumer Impact Report, which uses a basket of indicators approach to assess the legal services reforms from a consumer perspective. The report measures the direction of travel towards the Panel's vision for the market: responsive services; high quality advice; a diverse workforce that understands its diverse clients; quick, fair and cost-effective complaints-handling; and where consumers are placed at the heart of regulation.

Last year's report found evidence of some positive changes for consumers, but that many existing problems had persisted in the four years since the Legal Services Act. The main theme was a stark imbalance of power between

consumers and lawyers, with BME and lower socio-economic groups worse off across many of the indicators.

Trends take time to appear and so we are cautious about drawing firm conclusions about the overall direction of travel after two years data. Nevertheless, there are groups of indicators which have moved in parallel and these allow us to tentatively draw out some key themes. It is hard to know whether to attribute these to the wider economic picture or changes specific to the legal services market, although of course the two are inextricably linked.

Consumers are becoming more active purchasers

It is pleasing to see evidence of consumers beginning to exert their buying power. This is witnessed in increased levels of shopping around – up from 19% to 22% – and people finding it easier to compare providers – up from 51% to 57%. 38% of deals are fixed fees; this is a substantial proportion and is a healthy sign of providers responding to consumer preferences. A small rise in satisfaction with value for money may be linked to these other trends.

Yet no-one should be carried away with this progress. Consumers continue to mostly rely on personal recommendation or referrals by third parties when choosing providers, with choice tools such as quality marks and comparison websites still having little impact on shopping behaviour. A high proportion of complaints to the Legal Ombudsman are about overcharging and deficient information about costs, while our Tracker Survey shows a large fall in satisfaction with the transparency of costs information – from 80% to 70%. Escalating fees and unclear pricing have long been a bane of the market and the economic picture means this is a time when affordability and certainty over expenditure makes this more important than ever to tackle. The Legal Ombudsman's thematic report on this subject is a welcome start.

Action needed by regulators:

- Ensure tools that will help people to make good choices are credible
- Target price transparency as a key regulatory problem

What the Panel is doing:

- Providing advice to the Legal Services Board on the extent to which the respective parts of the regulatory system do currently, and should, help consumers to choose and use legal services
- Supporting the development of comparison websites and voluntary quality schemes

Consumer confidence is falling

Another group of indicators suggest a fall in confidence. The public is even less trusting of lawyers than they were a year ago, now only 43%. They are less confident that their rights as consumers will be protected when buying legal services or to complain should something go wrong. In fact, 43% of consumers who were dissatisfied with the service they received did nothing about this – a rise of 8% from 2011. The available evidence suggests a mixture of psychological and structural reasons for inaction, including non-compliance by lawyers with rules on signposting to the Legal Ombudsman. The economic climate may help to explain some aspects of this drop in confidence, as the downward trend is also seen in other sectors. The adversarial nature of the law

may also contribute towards low levels of trust compared to other service industries. However, this just makes it more important for the sector to work harder to improve measures that can boost public confidence in the profession. This includes making faster progress in improving diversity at its senior ranks, and, indeed, on the boards of the sector's regulators.

On the broad theme of confidence, we were pleased to note falls in claims on the solicitors Compensation Fund and other indicators relating to misconduct, although of course high-profile individual failures inevitably will have a greater effect on shaping attitudes towards lawyers. We hope to see these numbers fall further, with providers individually and collectively taking actions to achieve a more positive response from consumers in relation to this measure in the future.

Action needed by regulators:

- Grasp the issue of trust head on
- Improve the quality of complaint handling by providers

What the Panel is doing:

- Conducting research in partnership with the Legal Ombudsman on first-tier complaints
- Assessing the adequacy of financial protection arrangements

Inequalities persist for consumers

The gap in experience across the population – in trust, confidence, purchases of key services such as wills, shopping around and satisfaction – is striking. This especially resonates in the context of the economic picture, the narrowing scope of legal aid and cuts to third sector advice provision. In fact, the gap between socio-demographic groups has narrowed somewhat since 2011 and we hope this trend will continue. However, this year the Panel has been able to focus on the experience of specific consumer groups and the findings are disturbing. For example, our Tracker Survey shows wide differences between ethnic groups, with the Pakistani and Black African communities having very low levels of trust in the profession.

Another study, commissioned by the Panel in partnership with the Solicitors Regulation Authority and Action on Hearing Loss, has shown that legal services are often inaccessible to people with hearing loss. People often feel like they are in a battle to be understood by their legal advisor and as a result can feel vulnerable to being mistreated. The needs of other vulnerable consumers need to be better understood and inform the policymaking process.

There are also persistent inequalities in the make-up of the profession. While women and BME lawyers are joining the workforce in large numbers, they are under-represented in its senior ranks. Our impression is that the majority of effort to address diversity is at the entry level, whereas progression is the biggest problem.

Action needed by regulators:

- Increase effort to improve diversity at senior levels of the workforce
- Develop a better understanding of the needs of vulnerable consumers

What the Panel is doing:

- Urging bodies to adopt a British Standard on vulnerable consumers
- Commissioning research on specific consumer groups in vulnerable positions and identifying practical steps to tackle barriers to access

Quality has been the dominant policy theme of the year

Customer service is anticipated to be the battleground for competition in the liberalised market place. Our Tracker Survey suggests that service satisfaction has remained almost constant overall at 79%, but consumers are reporting reduced satisfaction with individual elements of service. In particular, people feel less treated like individuals rather than just another file – down from 75% to 70%.

At a policy level, quality issues have been at the forefront of the next phase of the reforms. There continues to be a dearth of evidence about the technical quality of advice, but the limited available information is concerning. The Panel's investigation on will-writing, in which mystery shopping revealed one in five wills prepared by solicitors and will-writers was substandard, has been well documented. However, there has also been evidence that one-third of probate applications are initially rejected, reports suggesting the court performance of CPS advocates has shown an overall decline over two years and wider concern about other advocates. The Quality Assurance Scheme for Advocates is designed to raise advocacy standards in criminal work, although the

protracted bickering between different branches of the profession which defined negotiations on the scheme hardly instils confidence. Even one leading participant conceded that the process had been 'tortuous'.

More broadly, the Legal Education and Training Review is now well underway and some consider this will have more significant ramifications than the ABS reforms. Certainly, there seems to be a growing view, as held by the Panel, that the current system is not fit for purpose and is in urgent need of a radical overhaul.

Action needed by regulators:

- Embrace radical options in the Legal Education and Training Review
- Make full use of complaints intelligence to raise standards

What the Panel is doing:

- Providing detailed input on the Legal Education and Training Review
- Pursuing our recommendations to make will-writing, probate and estate administration reserved activities

Failure to engage consumers

Finally, the Panel continues to be disappointed by the almost complete absence of consumer engagement activity. The Solicitors Regulation Authority was a partner in two consumer research exercises, but this was the limit of activity across all the approved regulators. At a time when major decisions are being made about the future of legal services regulation, little is being done to ask consumers what they think of these changes or how they will be affected by them. Regulation is being designed to benefit consumers, but with scant regard to their views.

This was a theme of last year's Consumer Impact Report, but we make no apology for repeating ourselves. There are signs of progress by some approved regulators. The Legal Services Board has recognised the importance of consumer engagement within its regulatory standards work, meaning each of the front-line regulators will have to assess their own performance on this. Most encouraging, the Solicitors Regulation Authority has launched a new strategy to educate, engage with and empower consumers. Some other regulators have made commitments to do more. This is an area where we wish to see significant improvement in future.

Action needed by regulators:

- Develop consumer engagement strategies
- Combine efforts to make best use of potentially limited budgets

What the Panel is doing:

- Being ready to work in partnership with regulators and others on research
- Continuing our own consumer engagement programme