



Opening up data in legal services

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1 Summary

Information provision in legal services

- 1.1. The Legal Services Consumer Panel (the Panel) has been commissioned by the Legal Services Board (LSB) to assess what information regulators could collate and or publish to help consumers make informed decisions.
- 1.2. Information provision is now widely regarded as a regulatory tool. When used effectively it can enhance accountability, improve firms' behaviour, benefit consumer welfare and protection, and even promote innovation.
- 1.3. However, information is not a panacea for empowering consumers. Information Provision only works when there is a concerted effort to first understand what consumers need, present this information simply, and make it easily accessible at the point of need. Equally important, the information needs to be tested and then evaluated to ensure that the outcomes are the desired ones.
- 1.4. This report is the Panel's advice to the LSB. It compares the existing and assesses the additional information that can be given to consumers to empower them to make informed decisions.

The availability of basic data

- 1.5. The Panel has consistently called for improved data provision in the legal sector. In 2014, that call led to Approved Regulators agreeing to make basic information publically available; name/s, contact details, size, and the regulated status of individuals and firms. This information is now available on most Approved Regulator's websites, or provided to intermediaries on request. However, a key weakness of this information is that it is scattered and not easily accessible.
- 1.6. There is a clear need for improved access to basic data. Lessons can be learnt from other regulators outside of legal services. The Financial Conduct Authority has combined basic and conduct information to make it more user-friendly. The FCA's register is designed with a consumer focus. It is built on the premise that consumers need pertinent information in a simple manner; before they choose a service provider. As such, the register enables consumers to find an authorised individual or firm, and at the same time, find out whether the firm or individual has been subject to an enforcement sanction. The FCA encourages consumers to check its register before procuring services.
- 1.7. In the legal sector consumers are expected to go to multiple sites. For example a consumer searching for a

solicitor on the Solicitors Regulation Authority's (SRA) website will be re-directed to the Law Society's website. If the consumer finds a solicitor on the Law Society's website but wants to check whether the solicitor has had any enforcement action against him/her, the consumer will have to go back to the SRA's website, and to another section of the website. This situation is neither effective nor consumer-focussed and does not serve to reinforce independence between the regulatory and representative arm.

- 1.8. There is an increasing need for Approved Regulators to work together to produce one regulatory register for basic and conduct information. Approved Regulators should explore whether the Legal Choices website could be the host¹ of such a register.

What should be collated and published

- 1.9. The Panel's analysis of other sectors suggests that legal services are far behind other regulators. While the legal sector has distinctive features and challenges, this does not completely excuse the lack of transparency around important choice factors like price and quality of service.
- 1.10. Nevertheless, information provision comes at a cost which must be balanced against the benefits, especially for smaller regulators struggling with limited resources. In weighting the benefits of information, added credence must be given to information consumers actually use, as evidenced through research. To this end, we strongly advocate that

Approved Regulators provide consumers with the following information:

1. *First-tier complaints data*

At present none of the legal services regulators publish first tier complaints data, even though research shows that consumers and their representatives, including intermediaries, use it.

Also, it is well argued that the availability of complaint data acts as a deterrent against poor behaviour, helps to identify areas of high risk, and can guide decisions around prioritisation for Approved Regulators.

The Panel recognises that there are challenges with publishing complaints data. The biggest challenge appears to be how to contextualise complaints data so that it is meaningful for both consumers and businesses. Approved Regulators can learn from the solutions devised in other sectors. Consulting and engaging with regulated communities and consumer groups within the sector will stand regulators in good stead.

2. *Price*

Consumers cannot be empowered to fully participate and in turn drive competition without price transparency. The need for improved transparency is evidenced by the Panel's annual tracker survey which shows that an increasing number of consumers are self-funding and taking up fixed fee arrangements where available². Moreover, a significant number of disputes escalated to the Legal Ombudsman, 26%, are about cost issues.

That said, there are challenges with price transparency. The complex and

¹ <http://www.legalchoices.org.uk/>

² Legal Services Consumer Panel, Annual Tracker survey, 2015.

variable nature of legal work means that exact estimates may not always be possible. However, there is an unjustifiable imbalance of risk tilted towards the consumer; who may start off with an estimate that has no bearing on the final cost paid. This lack of transparency is exacerbated when one considers that consumers often have little bargaining power, at a time when they may be most vulnerable.

Firms and regulated individuals have a better understanding of the different directions cases might go in, along with the likely price implications. Also, there is an arm of the profession, Cost Lawyers, dedicated to understanding and advising on legal cost. Firms and individuals can draw on this expertise. Providers should give more accurate estimates by approximating what a case would cost depending on whether a litigation case (for example) was resolved by early settlement, mediation or at trial, to ensure clients had a “best and worst case scenario. Should the cost significantly exceed the estimate given, providers must bear the additional cost, unless there is an express agreement between the consumer and the provider for an additional uplift.

3. *Information on quality*

Price transparency and information on quality work hand in hand. Information on price is rarely efficient or optimal without information on quality. Without information on quality, price transparency could perpetuate consumers’ misconception that price equates or correlates with quality, with some consumers thinking higher-priced services are better. It is therefore imperative that quality and

price are seen as a package of information that consumers need.

According to previous Panel research quality is not strongly influencing consumers’ choice³. In the same research the Panel also found that Approved Regulators did little active monitoring of quality or did not publish assessments made. Consumers have a role to play in driving up quality standards but they cannot play this role if they do not have access to the information. There is scope for all the Approved Regulators to explore and consider how they might begin to gather and make information on quality openly available to consumers and their representatives.

Learning can be taken from how regulators in other sectors have gathered or mandated this information. There are challenges which must be acknowledged and tackled. Resource limitations may preclude smaller regulators from conducting extensive primary research like mystery shopping exercises. There is also a general challenge with attempting to articulate, measure, gather, and present information on quality in a meaningful way, not just for consumers, but also as a good practise tool that would improve standards in the sectors. Approved Regulators must however face the challenge and begin the journey, not least because the regulatory objectives place an obligation on them to promote the consumer interest.

4. *Data held by the Legal Ombudsman*

Other players outside the regulatory framework also hold important quality indicators. The information held by the Legal Ombudsman (LeO) could be

³ Legal Services Consumer panel, Quality in Legal Services, November 2010.

positioned and presented to help consumers, especially if said information is combined with basic regulatory and conduct data.

There is scope to improve the data published by LeO. LeO itself recognises this, and is currently reviewing its publication policy.

This isn't just about content but about design and accessibility too. We would suggest that LeO considers how it presents information on its website, as it is difficult to navigate, and the data headings are unclear and could be made simpler.

5. *Enforcement data*

Finally, consumers have the right to know about the shortcomings of the firms with whom they deal with, so they can protect themselves and be vigilant against unfair behaviour. Making information public could also encourage other firms to work with regulators to achieve speedy resolution and in turn minimize reputational risk. There should be a presumption to publish enforcement data by all Approved Regulators at the end of an investigation that leads to a sanction.

Recommendations

Publish collated data

1. Approved Regulators should do more to bring together regulatory information in a meaningful way. A starting point would be to link basic and conduct information.
2. The SRA should remove the restrictions it has placed on sharing basic data. At present, comparison websites need to sign up to the Consumer Panel's self-assessment standard before applying to the SRA for access. The Panel's standard was not intended for this.
3. Approved Regulators should make the collation and publication of first-tier complaints a regulatory requirement and mandate for its publication.
4. Approved Regulators should publish the full details of enforcement sanctions, including the names and location of firms or individuals reprimanded.
5. The Legal Ombudsman should publish all ombudsman decisions in full.

Collate additional data

6. Approved Regulators should commission research on quality of advice and publish this research in full. Lessons should be learnt from how other sectors have tackled comparable gaps in knowledge.
7. The SRA and BSB should carry out mystery or shadow shopping exercises on quality of advice in high risk areas and publish their research findings in full. This type of research has the potential to offer meaningful insight into quality of advice.
8. The LSB and Approved Regulators need to be more vocal about price disclosure and transparency.
9. Approved Regulators should require the publication of the average cost of legal services on the websites of approved firms and individuals, and mandate that they provide this information on request. This should also include the average cost of disbursements.
10. Approved Regulators should understand and research barriers to price transparency in their respective areas and publish the research/study in full.
11. If there are contractual provisions or gag clauses which create a barrier to the release of price information the LSB and the Approved Regulators should explore how this could be changed.
12. Approved Regulators should consult on how they might present and contextualise complaint data prior to its publication.
13. The quality of legal advice needs to be better understood and actively monitored. This should involve academic research and build on existing good practice techniques such as file review and peer review
14. The LSB should provide guidance on how the smaller Approved Regulators might gather and publish information on quality.
15. The Legal Ombudsman should publish a contextualised summary and analysis of cases decided informally.

2 Introduction

Open data in legal services

- 2.1. The Legal Services Consumer Panel (the Panel) was established by the Legal Services Act 2007⁴ to represent the interest of consumers in advising the Legal Services Board (LSB) on its policy development, practices and effectiveness.
- 2.2. Every year, the LSB commissions the Panel to consider an important area of policy or research which feeds into the LSB's strategic objective and work plan. Typically, the commission is in an area the LSB itself is exploring, and our advice contributes to the LSB's final output.
- 2.3. Since the Panel was established, we have worked closely with the oversight regulator in encouraging the Approved Regulators to make data more openly available.
- 2.4. In March 2014, legal regulators agreed, in principle, to publish, in a reusable format, a suggested dataset which consumers and intermediaries such as price comparison websites could use⁵:
 - Name and address
 - Contact details
 - Size of the firm and the number of regulated practitioners working there
 - Whether the person/firm is on the roll/regulated
 - Any disciplinary findings/conduct issues
- 2.5. Although minor gaps remain, we are pleased with the progress that has been made and now believe that the time is right to consolidate those efforts and to make strides towards empowering consumers with other pieces of information.
- 2.6. This year, the Panel was asked to advise the LSB on the type of information regulators could collect and publish to aid consumers' decision making. This request builds on the Panel's previous work on Open Data.
- 2.7. To examine this question, the Panel considered the information currently available to consumers of legal services. This was then compared with what consumers have access to in comparable sectors. Particular importance was ascribed to the information consumers actually use. This report has therefore been developed predominantly through desk research; assessing what information is currently available and how consumers use it.
- 2.8. The primary task was to consider how front line regulators could make data more available by publishing more, or by collating or mandating

for the collation of new data. However, the Panel also considered the role and linkages between organisations outside the regulatory framework e.g. Legal Ombudsman and firms. These bodies also hold significant and useable data that can be harnessed and utilised by consumers and or their representatives. We therefore consider this information too.

- 2.9. In carrying out this work the Panel has sought to balance a number of issues:
- the potential for information overload;
 - the dangers of over-simplification;
 - the ability of consumers to engage with and use information;
 - the regulatory burden of collating and or publishing information.
- 2.10. The Panel has also considered the reality that the effectiveness of disclosure cannot always be accurately predicted. This final point is important, because it means that regulators need to own the responsibility for testing and reviewing the impact of disclosure, maintaining the responsibility for making adjustments and tweaks where necessary.

Structure of the report

This report is in two parts:

- 2.11. **Part one** examines how other regulators have responded to opening up regulatory information as a means of empowering consumers and promoting competition. This section highlights the data sets available in other sectors and compares this against what is available to consumers of legal services.
- 2.12. Part one also examines the progress made in legal services where the publication of basic data is concerned. The need for improved access and presentation is however emphasised as at present basic data is scattered.
- 2.13. **Part two** outlines what information the Panel believes should be collated and published, drawing on evidence from other sectors. We make a case for the collation and publication of first-tier complaint data; and for improved information on price, quality, and enforcement actions. In this section we also acknowledge the difficulties with making these pieces of information available, and draw on learnings from other sectors.

Why open data matters

- 2.14. Transparency has been a key feature of government action in the United Kingdom since the establishment of an advisory Better Regulation Task Force in 1997. This governmental commitment has gained further credence in recent regulatory legislation. For example, the Financial Services and Markets Act 2012⁶ requires the Financial Conduct Authority (FCA) to have regard to two principles of transparency⁷.
- 2.15. Also, the Civil Aviation Authority (CAA) gained new information duties in the Civil Aviation Act 2012. This provided that the CAA ‘*must publish*

publish information and the FCA should exercise its functions as transparently as possible.

⁶ Section 6(1) of FSMA 2012

⁷ The desirability of publishing information about regulated firms/individuals, or requiring such persons to

*or arrange for the publication of, such information and advice as it considers appropriate for the purpose of assisting users of air transport services to compare airports and airlines' performance*⁸.

- 2.16. And Ofcom, the UK's communications regulator may 'arrange for the publication of information and advice for consumers'⁹.
- 2.17. It is now well established that information collated with consumers in mind, simply presented, and accessible at the point of need is especially important in markets that struggle with: information asymmetry, a complex regulatory landscape, disengaged consumers, and scattered information.
- 2.18. There is also a growing consensus that transparent information can improve regulatory compliance and complement traditional enforcement activities. If firms who circumvent the rules knew that information about their activities would be published, and used by consumers and their intermediaries to shun rule breakers, or favour compliant firms, this could have a positive influence on firms' behaviour, and incentivise them to improve.
- 2.19. Regulators across the economy are embracing, advancing and utilising information as a regulatory tool. Ofgem, the energy regulator, included reputational regulation in its 2012-2013 simplification plan¹⁰

explaining that it might deliver significant regulation benefits. It said '*Publishing data on regulated businesses performance can be an effective alternative to more traditional regulatory approaches, by allowing consumers, NGOs and the media to compare and contrast companies and hold them to account for their performance*'¹¹.

- 2.20. In 2013, the Financial Conduct Authority (FCA) published a discussion paper on transparency. The paper presented and sought ideas about what the FCA could disclose about its regulatory activities and what it should require the firms it regulates to disclose¹². In the paper, the FCA floated radical proposals like the publication of claims data on insurance products, arguing that it would improve consumers' decision making power if they better understood the value of products.
- 2.21. The Office of Rail Regulation (The ORR) has also added reputation regulation as an essential part of its transparency programme, opining that '*more transparency enables the performance of companies to be compared*'¹³.

Limitations of information provision

- 2.22. The evidence shows that regulators across the economy are increasingly disclosing information for consumers' use. However, evidence also suggests that information provision is not a panacea for aiding

⁸ Philip Cullum, The use of data publication to enable reputational regulation. A UK Regulators Network Consumer Working Group discussion paper, July 2014.

⁹ Section 26 of the Communication Act 2003

¹⁰ <https://www.ofgem.gov.uk/ofgem-publications/37060/ofgem-simplification-planweb.pdf>

¹¹ Philip Cullum, The use of data publication to enable reputational regulation. A UK Regulators Network Consumer Working Group discussion paper, July 2014.

¹² <https://www.fca.org.uk/static/fca/documents/discussion-papers/fsa-dp13-01.pdf>

¹³ Phillip Cullum, A UK Regulators Network Consumer Working Group discussion paper: The use of data publication to enable reputational regulation. July 2014.

consumer choice or education.

There is a growing body of research signifying when information provision has been effective as well as ineffective, including when it has had a detrimental outcome to the one desired¹⁴.

2.23. Research shows that the volume and density of information particularly matters. Sometimes the opportunity cost for engaging with complex information is simply too high for consumers. There is also a challenge for regulators to gather, simplify, and convey information meaningfully. And in some cases there is a danger of over simplification which could distort reality. These challenges are further compounded by the fact that it is impossible to predict how consumers will use information. Therefore, regulators must consider very carefully the efficiency of information remedies by investing in consumer research, testing, and learning from other sectors.

¹⁴ Oxera, Review of Literature on regulatory Transparency: Update on Recent development, September 2012.

3 The information consumers need

Learning from other sectors

- 3.1. Regulators across the economy have responded positively to opening up regulatory information, despite the challenges for regulators themselves and resistance from regulated businesses. Some regulators now require regulated businesses to publish quality or service level information or mandate that this information be provided to the regulator.
- 3.2. The evidence from across the regulated market shows that other regulators have been active in using information as a regulatory tool. That said, the Panel accepts that sectors differ in regulatory framework, context, size and resources at their disposal. This means that solutions may be different or need to be tailored. Regulators face a common challenge - consumers are less powerful and knowledgeable than the providers they deal with. While we have seen other regulators make advances in addressing this imbalance of power, partly through information provision, legal regulators appear to be lagging behind.
- 3.3. Nevertheless, learnings from across the regulated economy highlight the

need to consider and balance the benefits and risks of information provision, and importantly, to err on the side of transparency when the available data is imperfect. Consequently, we have observed that regulators have published information which has subsequently been refined, developed and improved. Outlined below are examples of information made available to consumers in other sectors.

The Financial Conduct Authority's register of basic information

- 3.4. In September 2015, the Financial Conduct Authority (FCA) and the Prudential Regulatory Authority (PRA) launched a new Financial Services Register¹⁵ to make it easier for consumers to find information on regulated firms, including fraudulent firms for the first time. The register has one search field which can be used to find a firm, individual or a collective investment scheme by looking up its name, reference number, or postcode. It is possible to filter the search results or click on a name for further information like the main contact details, trading names, the permissions a firm has or whether it is covered by the Financial Ombudsman Service and

¹⁵<https://register.fca.org.uk/>

Financial Services Compensation Scheme.

- 3.5. The new register also includes clearer language and help text to explain some important financial, technical and regulatory terms. Also included in the register are firms that the FCA has been told are providing regulated products or services without the required authorisation, or those knowingly running a scam. These firms are highlighted in search results by red text and a warning symbol included to make it clear that the FCA thinks the public should avoid dealing with them or the individuals involved. The register also includes consumer credit firms that have interim permissions¹⁶, so that there is no need to search the previous Consumer Credit Interim Permission Register separately.
- 3.6. The FCA's example goes beyond the collation of basic data, and particularly focuses on presentation for effective engagement. It brings together basic and conduct information in a way that is user-friendly for consumers.

Regulators publish first tier complaint data

- 3.7. There has been considerable progress with the publication of first-tier complaint data, that is the number and type of complaints received from clients, across a variety of regulated sectors. The road to publishing this data has not been easy for any of the regulators concerned. Such moves were often met with strong resistance from regulated businesses, countered by equally persuasive arguments from

consumer groups and their representatives.

- 3.8. Regulators have struggled with ensuring that this information is meaningful; contextualising data has been particularly challenging. In most cases the solution has been to refine data with time, and to address specific difficulties e.g. mandating thresholds, for instance the FCA only requires data from firms that have received 500 complaints or more.
- 3.9. In September 2010, the Financial Service Authority (now FCA) began to publish first-tier complaint data. Firms are required to report to the FCA every six months on the number of complaints they receive (500 and above) and how they handle them. Also, in 2010, the Office of the Rail Regulator started to publish quarterly information about train operators. Ofgem began to publish complaints data in 2013, and Ofcom started to publish regulatory complaints data in 2011.

Ofgem reports on performance

- 3.10. As part of energy provider licence conditions, Ofgem requires suppliers to release information on performance relating to their social obligations. This includes information relevant to their dealings with domestic customers: prepayment metering, and help for vulnerable customers. Most of this information is provided by suppliers on a quarterly basis, although some is provided annually. Ofgem states that by monitoring these statistics, it can identify areas of suppliers' policies and practices where improvements are needed. Ofgem has also

¹⁶ The FCA gave permissions to consumer credit firms who already had Office of Fair Trading licences to

continue carrying out consumer activities when the regulatory powers of the OFT transferred to the FCA.

attributed a reduction in disconnection rate to the publication of the information by the regulator¹⁷.

Ofwat established a league table

- 3.11. Ofwat previously published a league table report for service delivery by water companies called the overall performance assessment which it used as a reputational tool. Ofwat said this contributed to significant service improvements and the levelling up of performance across the sector. It stopped producing the league table when it felt that the limits of what the scheme could achieve had been reached¹⁸.

Ofcom reports on broadband speed

- 3.12. In 2008, Ofcom noticed a trend for internet service providers (ISPs) to advertise their products based on faster headline speeds which in reality were rarely achieved by the majority of consumers that bought the service. This disparity led to consumer frustration and confusion. To remedy this, Ofcom published primary research on broadband speeds which received wide media attention. According to Ofcom, this has had a positive impact for consumers in terms of more accurate claims. There is now a voluntary code of conduct in place to encourage ISPs to provide consumers with more information at point of sale on the speeds they could expect to obtain from their broadband service.

¹⁷ <https://www.ofgem.gov.uk/about-us/how-we-work/working-consumers/supplier-performance-social-obligations>

¹⁸ Putting water consumers first – how can we challenge monopoly companies to improve? Ofwat 2010

4 How legal services regulators compare

The need in legal services

- 4.1. A number of the LSB's statutory objectives have a direct bearing on the need to inform consumers:
 - to increase public understanding of the citizen's rights and duties;
 - to improve access to justice; and
 - to protect and promote the interest of consumers.
- 4.2. The LSB's first business plan 2009/10 stated '*We expect to see a shift in the power balance from the professional provider/client relationship to an empowered consumer/commercial provider relationship. We want to see consumers of legal services make the same demands of their legal services providers in terms of quality, price and customer care as they do in any of their many commercial transaction*¹⁹.
- 4.3. Five years on, there appears to be evidence of some progress, even though improvement is patchy. The Panel's 2015 annual tracker survey shows that over the last five years, more empowered consumers are taking advantage of what information

is available to them. The research shows an increase in shopping around and a decline in difficulties with comparing from 28% (2011) to 12% (2015). However, much of this improvement was confined to more informed groups of consumers. Those with greater knowledge of what a lawyer does had greater levels of trust – 52% among those who felt they had a lot of knowledge, against 36% among those who felt they had no knowledge. There is still progress to be made when it comes to opening up data in ways that empower the widest possible range of consumers, as consumer levels of those able to take advantage of developments remain stubbornly low²⁰.

- 4.4. More recently, the LSB has focused on the provision and transparency of performance information to help Approved Regulators manage quality risks. The LSB has made it clear that the success criteria in relation to transparency would include an assessment of whether²¹:
 - Regulators publish information held on quality issues directly and, where appropriate mandate business level publication, both in

¹⁹ The Legal Services Consumer Panel, Empowering Consumers; Background Paper 2: Learning from other sectors, January 2013

²⁰ Ibid

²¹

http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/Using_legal_services_000.pdf

terms of specific research and more granular routine information (including information on disciplinary action).

- Regulators make available information on individual and entity level authorisation, including details of specialism, panel membership and quality marks where applicable.
- Information sharing between Approved Regulators and providers of legal services “choice tools”, for example professional registers made available to price comparison websites.
- Regulators use consumer feedback information in assessment of quality risks where appropriate.

Availability of basic information in legal services

- 4.5. Where basic information is concerned there has been marked progress amongst legal services regulators as the table below demonstrates. The sector, to a large extent, now makes information available to intermediaries who are able to simplify data to aid consumer choice. Two comparison websites fed back positively²² about the availability of information compared to some four years ago. However, there were also calls for improvements around timeliness and the updating of data.
- 4.6. Progress has been made, but it is still often difficult for consumers to engage with this information because it is scattered. Consumers are expected to go to different

websites, find the information, piece it together, and then make sense of it. Approved Regulators must do more to bring together regulatory information in a meaningful way. A starting point would be to link basic information with conduct and complaints data. However, we note that the BSB’s website integrates disciplinary findings within a barrister’s profile, a progressive model worth mentioning and emulating by the others.

- 4.7. Although all the frontline regulators now publish basic information, as demonstrated above, this varies in format, frequency and detail. For example, the Solicitors Regulatory Authority (SRA) provides weekly lists of authorised solicitors to sites which have signed up to the Panel’s best practice standards, with details of license number, address, and constitution type. This information is however not published on the SRA’s own website for common access.
- 4.8. The SRA still redirects to the representative arm for a professional register. This is unnecessarily inconvenient for consumers, and sends unhelpful messages about how independent regulation works in practice.
- 4.9. Disappointingly, there is also a way to go yet with the likes of the Institute of Chartered Accountants in England and Wales (ICAEW) which publishes data in PDF, or the Costs Lawyer Standards Board which provide no assurances as to when the data will be updated.

²² Access Solicitors and Reallymoving.com

Table: summary of published data by regulator

	SRA	BSB	CLC	CILEx	CLSB	IPReg	Faculty Office	ICAEW
PURE REGISTER								
Publication date	Y	Y	N	Y	N	Y	N	N
First tier complaints incl	COL	COL	COL	COL	DC	COL	COL	UKN
Conduct investigation findings	SEP	Y	SEP	SEP	SEP	SEP	SEP	N
CSV Format	Y	Y	UKN	Y	Y	N	N	N
Update frequency	Weekly	When changes are made	UKN	Every three months	When changes are made	UKN	UKN	UKN
INDIVIDUAL DETAILS								
License number	Y	Y	N	N	Y	N	N	N
Date of registration	N	Y	N	N	Y	Y	N	Y
Practitioner name	N	Y	Y	Y	Y	Y	Y	N
Honours	N	Y	N	N	N	N	N	N
Public access	N	Y	N	N	N	N	N	N
Specialist language(s)	N	N	N	N	N	N	Y	N
Practicing conditions	N	N	N	N	Y	N	N	N
Regulation mark	N	N	N	N	Y	N	N	N
Removed from register	N	N	N	N	N	Y	N	Y
CONTACT DETAILS								
Email address	Y	Y	N	N	N	N	Y	N
Telephone number	Y	Y	N	N	N	N	Y	N
Postal Address	Y	Y	Y	Y	N	Y	Y	Y
Website	Y	N	N	Y	N	N	Y	N
FIRM DETAILS								
Employment status	N	Y	N	N	N	N	N	N
Status (manager/pupil)	N	Y	Y	N	N	N	N	N
Firm number	Y	N	N	Y	N	N	N	Y
Firm name	Y	Y	N	Y	Y	Y	N	Y
Firm type (ABS/entity)	Y	Y	SEP	N	N	N	N	Y
Office type (head / branch)	Y	N	N	N	N	N	N	N
Business type	Y	Y	N	N	N	N	N	N
Trading structure (LLP / SP)	Y	N	Y	N	N	N	N	N
Firm reserved activity	N	Y	N	Y	N	Y	N	Y
Firm activity approval date	N	Y	N	Y	N	N	N	N
Approved manager details	N	Y	N	Y	N	N	N	N
HoLF / HoFA details	COL	Y	COL	N	N	N	N	Y

COL	Collect, do not publish
DC	Do not collect
SEP	Published separately
UKN	Unknown

Improving the presentation of basic data

- 4.10. The FCA's model of combining basic and conduct information is one that ought to be emulated by regulators in legal services. Although consumers can access some details of disciplinary decisions on most regulators websites, this information is not linked to basic information. Linking basic and conduct data provides consumers with a choice of information which they may consider before choosing a provider, without having to trawl through different sections of websites or different sites altogether. To improve this further, the register should include a link to the Legal Ombudsman decisions.
- 4.11. There is a clear need for all the Approved Regulators to consider how their regulatory information could be pulled together for optimal consumer use. As noted above, evidence suggests that the presentation of information is as important as its availability. The current presentation of basic information across legal services needs improvement.

Action for regulators

- The SRA should remove the unnecessary restrictions it has placed on sharing basic data.
- Approved Regulators should consider and explore whether Legal Choice²³ could host a single register which mirrors, and improves on, the FCA's register; focusing on access and presentation. This does not place a burden on regulators to collate new data but instead to consider the presentation of its existing data.

²³ Legal Choice is the consumer interfacing website run by all the frontline regulators. www.legalchoices.org.uk

5 What should be collated and published

First tier complaints data

Where we are

- 5.1. At present none of the legal services regulators publish first tier complaints data, even though the majority, as noted in the table above, collate some data to varying degrees. For example, the SRA collates this information but does not publish. CILEx Regulation conducts a first tier complaints survey by seeking information from its members about complaints made against them, but does not publish this information. However, it is useful that CILEx Regulation uses the information to identify trends and publishes it in its annual report.
- 5.2. All the Approved Regulators should collate and publish first tier complaints data in line with what is now common practice in other sectors.

Benefits of publishing first tier complaints data

- 5.3. The publication of the volume and nature of first –tier complaints data has the potential to improve market transparency and to aid consumers in making informed decisions. In

research commissioned by the Financial Services Consumer Panel²⁴ it was noted that beyond aiding consumer choice, the publication of complaints data can also:

- Provide commentators with more complex information which they are better placed to repackage for consumers.
 - Act as a deterrent against poor behaviour even if consumers make little or no use of the information.
 - Help to guide or inform decisions around organisations prioritisation.
 - Provide a performance indicator for the organisation's own activities.
- 5.4. As far back as 2011 Ofcom published research which showed the benefits of publishing complaints data, showing that a fifth of consumers in each market would be likely to use information comparing complaints. In 2012 a survey for the Financial Services Authority showed that 38% of customers said they would be likely to use complaints data as a factor in making their

²⁴ Transparency as a regulatory tool (an international literature review) John Leston 2011

choice of financial services provider²⁵.

- 5.5. Equally important, complaints data has been used by consumer groups to create league tables to help consumers make better informed decisions²⁶.
- 5.6. The argument is no longer whether complaints data should be made available, but how to contextualise this information and improve access to it. The visibility of complaint information is important.
- 5.7. Also, the requirement to publish first-tier complaints data will provide valuable information and act as an incentive for firms to manage complaints better, especially as such data has no way of coming into the market without regulatory intervention.

Risks and issues with collating and publishing complaint data

- 5.8. The Panel is alive to the risks and issues around the publication of complaint data. It is important to note that a lot of these risks and issues have arisen in other sectors, and regulators have found ways to manage and overcome them. The issues are typically related to:

Consumers understanding and use of data: A common argument is that the publication of complaint data without appropriate contextualisation will confuse or mislead consumers. For instance, consumers may not be able to understand and link volumes of complaints to size of business i.e. larger businesses will have more complaints than smaller business.

Visibility: It has been argued that consumers are rarely aware of the data and so cannot engage with it meaningfully.

Regulatory burden: Regulators or regulated businesses often argue that they lack the human resource and technology to deliver in this area, or that the effort to produce the data potentially outweighs the benefits.

Unintended consequences: Some argue that businesses may game the system by not categorising complaints as complaints in order to keep numbers low.

Consistency in definition: Some have argued that the absence of a common definition may lead to an inadvertent advantage because some categories of complaints may be excluded from the data.

- 5.9. Some regulated businesses in the legal services sector will use similar arguments and protest against the publication of first tier complaints data. The Panel acknowledges that some of these arguments hold weight. There are challenges around capacity to collect, analyse, and contextualise information in a visible manner.
- 5.10. However, these challenges are not insurmountable. Others have successfully mitigated against similar risks and gone on to overcome comparable difficulties. Approved Regulators can draw on learnings and explore how others did it. For instance, Ofcom originally published complaints data by market share. Providers with 5% or more were required to submit data to Ofcom. In

²⁵ Review of Literature on Regulatory Transparency, Oxera September 2012

²⁶ In 2010 Consumer Focus, launched a complaints league table to help consumers make informed decision about their energy provider.

total, those providers accounted for 87% of the market covered.

- 5.11. In financial services, firms with 500 or more complaints are required to report to the FCA every six months. Its predecessor, the FSA, started off by providing aggregated data broken down by type, nature of complaint, and timeliness in handling and outcome. This type of data analysis allowed the FSA to identify trends and hot spots in complaints. Consumers were also able to use this information - albeit at a high level - to alert them about the types of firms that are less likely to perform well for specific products or on particular aspects.
- 5.12. The FCA has since moved to publishing the total number of complaints at firm level, with supporting context data, as well as overall aggregate. The FCA also has a firm definition of the meaning of complaint in its Handbook.
- 5.13. The need for complaints data outweighs arguments against its provision. In November 2015, Her Majesty's Treasury published a document²⁷ which outlined how the government proposes to boost competition across the economy. In this document, the government committed to investigating what could be done to ensure greater publication of complaint and customer satisfaction data by regulators and ombudsmen. Its raft of proposals will be consulted on in the New Year. Against the backdrop of what other regulators are doing and government's focus on competition and consumer empowerment, it will become even

more difficult to argue against or justify the denial of complaints data to consumers and their representatives.

Action for regulators

- Approved Regulators should make the collation and publication of first-tier complaints a regulatory requirement and mandate for its publication.
- Approved Regulators should take responsibility for publishing first tier complaints data on receipt.
- Approved Regulators should consult on how they might present and contextualise complaint data prior to its publication.

Price transparency

Where we are

- 5.14. Consumers need price transparency for three key reasons. First, it empowers their decision making process which in turn drives competition. Second, it can help to reduce unwarranted or unknown price variation. Third, it can help to contain the cost of legal services.
- 5.15. Despite these important motives for price information and transparency, there is limited published material about how regulated providers cost their services, and less still about what legal services are likely to cost a consumer outside of a fixed fee arrangement.
- 5.16. In 2011, the LSB analysed charging methods and the cost consumers pay for services as part of a broader

²⁷ HM Treasury, A better deal: boosting competition to bring down bills for families and firms, November 2015

analysis of the supply of legal services. The work drew on published sources of information and over 20 individual data sets²⁸. It is telling that the research found no published information on prices and little data on cost in general. Most of the available information was on hourly rates. However, hourly rate is insufficient for determining the cost of legal services because it does not take into account the additional cost of disbursements nor does it provide consumers or their representatives with information on the likely final cost. This is exacerbated when one considers that consumers have no way of judging how long a case might take.

5.17. Consumers cannot be prudent shoppers without adequate price information. At present only those offered services at a fixed fee rate can be confident in the final cost. But fixed fee is not universally available. Some areas of law are more likely to feature fixed fee billing e.g. conveyancing (68%), power of attorney (64%) and immigration (64%)²⁹.

5.18. The Panel's annual tracker survey show that 64% of users of legal services are privately funded. Our survey also highlights a dip in the reliance on legal aid and a decline in free services. At a time when an increasing number of consumers are self-funding there is a stronger argument for empowering them with as much information as possible about the cost of legal services.

5.19. Moreover, without knowing the full cost of legal services, or even the

average cost, it is impossible to assess changes in prices over time - an important indicator of effective competition.

5.20. Furthermore, the dissatisfaction with cost is a significant feature in the Legal Ombudsman's complaints data. Between 1 June 2014 and 31 January 2015, the Legal Ombudsman accepted 4307 cases, 1097 of these cases, or 26% involved perceived lack of transparency; these included instances where cost information was deficient, or where the cost information included 'excessive costs'.

5.21. The Ombudsman went on to identify common themes with these complaints:

- unrealistic cost estimates;
- unclear terms and conditions;
- mismatch between final bill and client care letter;
- structural weakness in the nature of agreements; and
- an imbalance of risks.

5.22. Consumers are often at their most vulnerable when needing legal support and also feel vulnerable when dealing with lawyers. Lack of price transparency adds to the feeling of vulnerability faced by consumers.

Benefits of price transparency

5.23. The Panel's annual tracker survey consistently shows that price comes second, behind reputation, as a key influencer in choosing legal

²⁸

<https://research.legalservicesboard.org.uk/reports/investigating-regulation/map-of-the-legal-services-market/rir-map-of-legal-services-supply-october-2011v2/>

²⁹ Legal Services Consumer Panel, Tracker Survey 2015: How consumers use legal services.

services³⁰. Knowing the cost of a service before contracting for it offers certainty, encourages shopping around, and helps consumers to plan.

5.24. Aside from the benefits highlighted above, there is a perception that legal services are expensive³¹. This perception acts as a barrier to accessing justice. Improved price information and transparency can alleviate some of this negative perception.

5.25. Also, our tracker survey found that only 47% of people expected lawyers to tell the truth. This is worryingly low when one considers that trust is essential for building and reinforcing demand. It has been suggested that this lack of trust may not necessarily relate to doubting the veracity of a lawyer's work, but rather, the mistrust over what their services will actually cost. Increased price transparency may therefore have a positive effect on trust levels.

5.26. The need for better pricing information is manifested in consumers take up of fixed fee arrangements. Again, our annual tracker survey shows that where fixed fee is offered, there is high take up³². The growth in demand for fixed fee and its increased offering is a positive market development, but does not go far enough. The front line regulators must do more on price transparency and price information, with robust encouragement from the oversight regulator.

5.27. In other markets interventions on price have led to direct improvements and made a difference to how markets operate. For Instance, the Office of Fair Trading's investigation into the care homes market in 2005³³ led to a recommendation for improved transparency and price information. At the time, the OFT said many people and their representatives lack information about fees, and that this information is needed '*quickly, prior to making a decision, and in an easily accessible and high quality format*'.

5.28. The OFT later commissioned an impact assessment. The assessment found that price transparency had contributed to an increase in improved quality.

5.29. Again in 2012, the OFT assessed airline fees and concluded that it was necessary to protect consumers in cases where customers were subject to 'drip pricing', with additional charges imposed for add-ons to the basic service. In these cases it was difficult for customers to process the total cost, and they were not able to use information effectively. The OFT concluded that transparency over total prices was important, but was not always sufficient; it proposed that charges which were presented as surcharges, but were in practice unavoidable by the end customer, specifically debit card payment surcharges, should no longer be permitted.

³⁰ Although these factors do differ between types of law: in conveyancing price is the most important factor, whereas in will-writing, probate and power of attorney, it's the convenience factor that matters most

³¹ Professor Pascoe Pleasence and Dr. Nigel J. Balmer, How People Resolve 'Legal' Problems, May 2014.

³² Some areas of law are more likely to feature fixed fee billing e.g. conveyancing (68%), power of attorney (64%) and immigration (64%).

³³ Care Homes for Older People in the UK – A market study, May 2005.

5.30. In research published in 2009 it was projected that disclosure of product-specific price information of life and pensions investment products, mandated by the Securities and Investments Board in 1995 in the UK, increased the extent to which consumers consider a variety of providers of these products before making purchasing decisions, as they made use of the newly disclosed information. The paper concludes that this is likely to have led to an increase in the efficiency of both consumers' consumption and firms' production³⁴.

5.31. In November 2015 the government declared its intention to tackle opaque and confusing pricing in dentistry, arguing that prices which are transparent and accessible empower patients to make the best choices. The government will consult in 2016.

Risks and issues with achieving price transparency

Complex and variable nature of legal work: Some suggest that it is impossible for legal professionals to cost services because of the variation in the work they do. But this argument disproportionately places the risks with consumers. It is also a less credible argument when one considers the experience and knowledge firms have in understanding the different directions cases might go in, along with the likely price implications. Also, there is an arm of the profession, Costs Lawyers, dedicated to understanding and advising on legal costs, including costs

budgeting – a resource for firms to draw on when costing services.

There may be legitimate difficulties with offering fixed fee or accurate estimates in all cases. For instance, there are wide ranging legal services. Cases can vary in complexity and there are also diverse players in the market that sometimes contract at different rates with different types of consumers (small businesses, government, large corporations and so on).

Despite these challenges, the sector can do more to improve transparency and disclose cost more accurately. That this is achievable is evidenced by the section of the market offering fixed fees. Fixed fees is the optimum solution especially in areas like family law and will writing where consumers are often at their most vulnerable. If fixed fees cannot be offered in these cases, then providers of services should be able to give clients a range of prices, using previous experience and professional expertise to cost appropriately.

As LeO suggested in its report³⁵ into disputes arising from costs, providers can give more accurate estimates by approximating what it would cost depending on whether a litigation case (for example) was resolved by early settlement, mediation or at trial, to ensure clients had a “best and worst case scenario”. In addition, should costs significantly exceed the estimate given, providers should bear the additional cost unless there is an express agreement between the consumer and the provider for an additional uplift.

Race to the bottom: There are concerns that price transparency

³⁴ Review of Literature on Regulatory Transparency; Update on recent development.

³⁵ Legal Ombudsman, Report under section 120 of the Legal Services Act 2007: Transparency of the costs of legal services, February 2015

without quality information could perpetuate consumers' misconception that price equates or correlates with quality, with some consumers thinking higher-priced services are better. Although standard economic theory suggests that price transparency leads to lower and less varied prices, some may argue that price transparency also has the potential to generate higher prices and anti-competitive provider behaviour. For example, a firm may raise the cost of its services if it knows that a similar firm seems able to charge more without sacrificing volume. However, the legal services market not display any of the characteristics of a market where this could conceivably happen. Moreover, these patterns and behaviours can and should be monitored by regulators to ensure that providers do not use data in an anti-competitive way.

We also note that there are intermediaries, such as price comparison websites, who are well placed to present consumers with quality indicators and other features to help them assess value. The Law Superstore,³⁶ which is about to enter the market in early 2016, will offer consumers information on quality, locality, complaint data, consumer feedback, and where available price (fixed fee). The price comparison websites we spoke to argued for increased price information and transparency.

Action for regulators

- Regulators, including the oversight regulator should be vocal about the need for full cost transparency,

including the cost of disbursements.

- Approved Regulators should require firms to publish the average cost of their services on their websites or make these available on request.
- Approved Regulators should research barriers to price transparency in their respective area and publish the full research.
- If there are contractual provisions or gag clauses which create a barrier to the release of price information – regulators should explore and consult on how this might be changed

Information on quality

Where we are

- 5.32. In legal services, quality is difficult to define. The Panel has previously settled on a definition that combines technical quality of advice (knowledge and skill) and service level advice i.e. good client care³⁷.
- 5.33. The Consumer Panel's research of 2010³⁸ showed that although consumers were able to judge whether providers offered good service, they were less likely to be able to judge technical quality. Consumers generally assumed that all providers will have an acceptable level of legal knowledge, and have all will have passed sufficient qualifications. Consumers tend to believe in the blanket competence of lawyers; and regulators role in

³⁶ The Law Superstore, is a new legal services comparison website.

³⁷ Consumer Panel, Quality in Legal Services November 2010.

³⁸ Ibid

ensuring continued competence through supervision.

5.34. Also, the Panel found then, as is still the case, that the technical quality of advice is unknown. Front-line regulatory bodies do little active monitoring of quality or do not publish assessments made.

5.35. In the same research consumers showed little appetite for assessing quality; evidence from other sectors show that while there might be an initial demand or appetite for specific pieces of information on quality. The subsequent provision of such information was met positively, and used by consumers³⁹.

5.36. Overall, the Panel identified two key challenges for regulators:

- Finding new ways to engage consumers so that they take a more active role in demanding quality standards appropriate for their needs and that they use lawyers aware of the potential risks.
- Employing regulation to ensure that legal advisors are properly trained and deliver competent legal advice.

5.37. The Panel went on to identify specific actions needed to address these challenges:

- Improved transparency and consumer information.
- Improved standards and credibility of quality marks.
- Regulatory oversight of technical quality of advice not just process.

- Ensuring consumers can distinguish between regulated and unregulated lawyers.
- Strengthening continued professional development programmes.

5.38. Progress has been made around strengthening continued professional development, and to some extent, there is improved transparency around regulatory information. However, there has been little advancement on some of the key recommendations made in 2010. These recommendations still hold weight and are set out below:

- Approved Regulators should harness consumer power to exert reputational pressure on lawyers to maintain quality standards. They should publish, in an accessible form, appropriate information about the quality of legal advice.
- The quality of legal advice needs to be better understood and actively monitored. This should involve academic research and build on existing good practice techniques such as file review and peer review.
- The LSB should lead a debate on more far reaching ways of ensuring competence across the sector including licencing by activity and periodic accreditation. This should take lessons from other sectors that have faced similar issues.

Benefits of information on quality

5.39. Information about quality becomes more important when price

³⁹ The Food standards agency noted this point in its publication of hygiene rating

transparency is also a key ask. It has been argued that price transparency devoid of quality data may result in consumers fixating on price at the detriment of other important considerations, or it may encourage a race to the bottom. The Panel is also conscious of potential consumer detriment if intermediaries solely use or focus on price information if other.

- 5.40. The Panel accepts that a rigid focus on price competition risks driving down quality. Information on quality is therefore essential to make transparency meaningful.
- 5.41. Consumers have a role to play in driving up quality standards but they cannot play this role if they do not have access to the information. The participation necessary for empowering consumers and improving competition will not manifest itself if consumers are unable to make informed choices and gauge the value of a service. Information on quality empowers consumers to do this.

Risks and issues with the provision of information on quality

- 5.42. There is scope for all the Approved Regulators to explore and consider how they might begin to gather and make information on quality openly available to consumers and their representatives.
- 5.43. There are lessons to be taken from how regulators in other sectors have gathered or mandated this information, although some of the good practice listed below may not be feasible for all the Approved Regulators. Resource limitations may preclude smaller regulators from conducting extensive primary

research like mystery shopping exercise.

- 5.44. There is also a general challenge with attempting to articulate, measure, gather, and present information on quality in a meaningful way, not just for consumers, but also as a good practice tool that would improve standards in the sectors. Approved Regulators must however face the challenge and begin the journey, not least because their regulatory objectives places an obligation on them to promote consumers interest.
- 5.45. Regulators are in the best position to decide the scope, focus and extent of their primary or secondary investigations into quality, including how they might credibly go about gathering and publishing this information. The LSB has a role to play here in offering guidance on how smaller regulators might meet this need. What is crucially important is for the findings of any research and or study be published and disseminated for wider learnings.
- 5.46. That being said, the SRA and BSB should lead the way by commissioning mystery shopping research in one or two areas of high risks. There is also scope for others to be proactive; e.g. the CLC could publish quality information on licenced conveyancers work. This could focus on speed, accuracy and registration timeliness of conveyancing transactions.

Actions for regulators

- All Approved Regulators should conduct research on quality of advice in their respective areas and publish this research in full.

- The SRA and BSB should lead the way by commissioning mystery shopping research in one or two areas of high risks.
- The quality of legal advice needs to be better understood and actively monitored. This should involve academic research and build on existing good practice techniques such as file review and peer review.
- The LSB should provide guidance on how the smaller Approved Regulators might gather and publish information on quality.

Information on quality: Examples from other regulators

Ofcom publishes factual service level data

Ofcom publishes factual service level data so that consumers can compare different aspects of telecoms services. From 2011 onwards, the research has reported on levels of satisfaction amongst consumers who have contacted customer services with a complaint. Over 6,000 people were interviewed in 2014, and consumers were asked to rate their customer service experience. The research scores various aspects of the providers customer service, the speed with issues were dealt with, the standard of advice given, and the attitude and ability of the advisor. The findings are aggregated and firm specific information is also provided. Ofcom emphasises that this type of monitoring is part of its wider statutory responsibility.

The Food Standard Agency's hygiene rating

The Food Standards Agency developed a star rating hygiene measure for eateries, as well as 'Red, Amber, Green' ingredient labelling for supermarket foods. Both schemes enable consumers to engage with previously 'hidden' information and make more informed decisions at the point of sale. It is particularly noteworthy that the FSA said there was no consumer demand for the star rating before its establishment.

The Financial Services Authority on quality of advice

In 2013, the Financial Services Authority (now FCA) published a mystery shopping review into whether firms in the retail banking sector were giving their customers suitable investment advice. The FSA assessed 231 mystery shops across six major firms, focusing on the quality of advice given to customers looking to invest a lump sum. The published findings did not name and shame providers, but outlined deficiencies in the quality of advice it observed. Importantly, the FSA encouraged firms to review the findings of the report and consider whether any of the issues identified applied to their own businesses. With firms found wanting, the FSA reached an agreement with said firms to take immediate action.

In July 2015, the FCA published a thematic review into the Consumer Credit Market. Amongst other things, the review covered quality of advice: assessing whether debt advice was suitable, in the customer's best interests and that recommended debt solutions were appropriate and sustainable. The review also looked at transparency and disclosure: assessing whether customers received clear, fair and not misleading information (including the 'small print') to enable them to make informed decisions relating to dealing with their debts.

The FCA found significant shortcomings in the market and responded by providing detailed feedback to firms. The FCA also requested for skilled persons under s166 of FSMA to review the past businesses of five firms. The reviews involved providing redress to consumers if they had lost out. Again the FCA did not name and shame.

Additional information for consideration

Provision of enforcement data

- 5.47. There appears to be no evidence to suggest that consumers use enforcement decisions to make informed decisions before choosing a legal service provider.
- 5.48. Evidence from other sectors suggest that consumers do not seek or use this information. This is understandable as consumers' awareness of the role of regulators, and what they do, tend to be low. That said, regulators could do more to ensure that enforcement decisions are visible to consumers; by amalgamating enforcement information with basic data. If individual consumers do not use this information, it will still be of immense value to consumer groups, representatives or intermediaries who may use data to profile or bolster what they know around risk for example.
- 5.49. Despite the importance of enforcement data, it is disappointing to note that some Approved Regulators do not release information even after the completion of formal proceedings leading to sanctions. This means that consumers could continue to be vulnerable to poor treatment.
- 5.50. Consumers have the right to know about the shortcomings of the firms with whom they deal with, so they can protect themselves and be vigilant against unfair behaviour. Making information public could also encourage other firms to work with

regulators to achieve speedy resolution and in turn minimise reputational risk.

- 5.51. Full disclosures of enforcement sanctions is firmly within the regulators objective of consumer protection and giving consumers the information they need to help themselves. There should be a presumption to publish enforcement data by all Approved Regulators at the end of an investigation that leads to a sanction.

Action for regulators

- Approved Regulators should publish in full the names and details of sanctioned individuals after an investigation

Information from other bodies: the Legal Ombudsman

- 5.52. Other players outside the regulatory framework also hold important quality indicators. The information held by the Legal Ombudsman could be positioned and presented to help consumers and businesses, especially if said information is combined with basic regulatory and conduct data. LeO's data could also contribute to the intelligence gathered by intermediaries before it determines the risk profile of a firm wanting to join its comparison website platform for example. The Panel would like to see improvement in what is published and how it is published.

5.53. LeO should consider the presentation of the information on its website. At present LeO's website is difficult to navigate and the data headings are unclear and could be made simpler. To aid consumers, their representatives, and intermediaries we recommend that LeO:

- Publish all Ombudsman decisions in full.
- Publish a contextualised summary and analysis of cases decided informally (i.e. by investigators) each quarter.
- Review its policy on the publication of public interest cases, especially the threshold for publication. LeO has only published one case of this nature since it was set up in this form.

6 Conclusion

- 6.1. Opening up data in the legal services sector is fundamental to equipping consumers with the tools they need to engage with legal services. This will promote competition and drive up standards. At present, the sector has a long way to go in using information as either a consumer engagement or regulatory tool.
- 6.2. The legal sector has some unique regulatory and market features which make strict comparisons with other sectors difficult. It is impossible to suggest a one size fits all solution. Nonetheless while solutions may differ, there is a common challenge across sectors; the inherent imbalance of power between providers and consumers. Other regulators have risen to the challenge by using information as a regulatory tool. Approved Regulators need to do the same.
- 6.3. The Information or data provided may not be perfect to start off with, but this should not impede its release. Regulators in other sectors have made strides by releasing imperfect data, then refining and developing it as dissemination matured.
- 6.4. There is such a thing as too much information. And there is inefficient and ineffective information. Again, the onus is on Approved Regulators to draw on learnings from other sectors, to commit to primary research, and to test and evaluate information remedies where appropriate. All this comes at a cost, and so regulators must actively weigh the pros and cons of gathering and publishing information.
- 6.5. However, Approved Regulators do not have to shoulder the burden of disseminating. In recent years, intermediaries, like price comparison websites, have come into the market. These intermediaries offer tools to help consumers choose appropriate providers.
- 6.6. Intermediaries can combine key choice factors and present these in ways that are accessible and assessable to consumers. But they need two essential pieces of information to be able to do this; information on price and quality. These are key choice factors for consumers in almost every sector and both are interlinked. It is impossible to judge value without quality. Otherwise data on price will not be optimal, it may distort the market or indeed drive down quality.
- 6.7. Approved Regulators must release sufficient information to enable consumers to make substantive comparisons. Information on quality (service and technical) complaints data, average price data and enforcement sanctions can be intelligently repackaged and released in a form that can be readily used by technology providers who would create platforms like Price Quality Comparison Websites.
- 6.8. There are clear advantages to using intermediaries as conduits. However, Approved Regulators must also remain vigilant to issues around consumer protection and perverse

incentives which have arisen in other sectors.

- 6.9. Finally, although the availability of information on first tier complaints data, price and quality can be benchmarked against what is available in other sectors, the unique features of the legal sector also means that there is scope for more sector specific information. For instance, information on litigation outcomes, success rate, as well as data on speed and accuracy of conveyancing and completion for

example. Providers need to get into the mind-set of assuring consumers that they provide good value and one of the best ways they can do this is through accurate and accessible information.

Recommendations

1. Approved Regulators should do more to bring together regulatory information in a meaningful way. A starting point would be to link basic and conduct information.
2. The SRA should remove the restrictions it has placed on sharing basic data. At present, comparison websites need to sign up to the Consumer Panel's self-assessment standard before applying to the SRA for access. The Panel's standard was not intended for this.
3. Approved Regulators should make the collation and publication of first-tier complaints a regulatory requirement and mandate for its publication.
4. Approved Regulators should publish the full details of enforcement sanctions, including the names and location of firms or individuals reprimanded.
5. The Legal Ombudsman should publish all ombudsman decision in full.
6. Approved Regulators should commission research on quality of advice and publish this research in full. Lessons should be learnt from how other sectors have tackled comparable gaps in knowledge.
7. The SRA and BSB should carry out mystery shopping exercises on quality of advice in high risk areas and publish their research findings in full. This type of research has the potential to offer meaningful insight into quality of advice.
8. The LSB and Approved Regulators need to be more vocal about price disclosure and transparency.
9. Approved Regulators should mandate for the publication of the average cost of legal services on approved firms and individuals websites, and mandate that they provide this information on request. This should also include the average cost of disbursements.
10. Approved Regulators should research barriers to price transparency in their respective areas and publish the research/study in full.
11. If there are contractual provisions or gag clauses which create a barrier to the release of price information the LSB and the Approved Regulators should explore how this could be changed.
12. Approved Regulators should consult on how they might present and contextualise complaint data prior to its publication.
13. The quality of legal advice needs to be better understood and actively monitored. This should involve academic research and build on existing good practice techniques such as file review and peer review
14. The LSB should provide guidance on how the smaller Approved Regulators might gather and publish information on quality.
15. The Legal Ombudsman should publish a contextualised summary and analysis of cases decided informally.

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

Consumer Panel Members

Elisabeth Davies (Chair)
Andy Foster
Cathy Gallagher
Dr Michelle Goddard
Frances Harrison
Dr Philip Marsden
Marlene Winfield OBE
Catherine Wolthuizen

Secretariat

Lola Bello
Stephanie Chapman



Legal Services Board
One Kemble Street
London WC2B 4AN

T 020 7271 0076

www.legalservicesconsumerpanel.org.uk