

The Chairman's Office
Legal Services Board
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The logo for the Legal Services Consumer Panel is a blue circle containing the text "LEGAL SERVICES CONSUMER PANEL" in white, stacked vertically.

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21 June 2016

Dear Mike,

Thank you for your letter dated 26 April in which you welcomed the Legal Services Consumer Panel's (the Panel) report on Open Data and provided a response to the recommendations directed at the Legal Services Board (LSB) and the Approved Regulators.

As you rightly noted, this report builds on the joint work started by the Panel and the LSB in 2012. It has been an arduous but gratifying journey. Consumers now have access to basic data and their experiences of choosing and using legal services providers is improving. Progress has been made, but the pace of change and the potential for further advancement continues to propel the Panel's work in this area.

Our report on Open Data is ambitious. The recommendations are challenging and robust because they are rooted in our vision to see a market where consumers are empowered to make informed decisions. It is important to emphasise that the Panel does not purport to have all the answers. The report goes to great lengths to explain that a one size fits all approach cannot be transposed from elsewhere and adopted in the legal services market; sectoral differences, and the quirks and complexities of the legal services landscape require careful reflection. These are challenges for the Approved Regulators and the LSB, but the challenges cannot undermine the real need for more information and where necessary regulatory intervention.

The report also accepts that information provision may not start out perfectly. We have to be pragmatic. We will accept and urge others to release information that can be improved and refined over time, and this includes complaints data.

Overall, we are pleased with the LSB's reaction to the recommendations directed at the LSB. We are pleased that you agree to be more vocal on price transparency. We welcome your support for our recommendation on

gag clauses, and we will continue to explore how you might support the need for more information on quality.

Aside from the recommendations directed at the LSB, your letter also addresses the Panel's recommendations to the Approved Regulators. Again we welcome most of the LSB's reflections. It is however important that I address three areas where I think further clarification and explanation around our thinking and position may be helpful. I have outlined these below.

Price: Our assessment of the need for regulatory intervention on price is bolstered by the LSB's own recent research. The LSB found that only 17% of providers advertise their price, and that those who do are generally cheaper than those who do not. 17% of the market is an unsatisfactorily small pool to shop from.

Information on price is directly connected to the ability of consumers to shop around. Our annual tracker survey consistently tells us that price is a key choice factor for consumers yet we know that shopping around is a weakness in the sector, with only a quarter of consumers doing so.

The slow pace of change in the legal services market has led us to conclude that regulatory intervention is needed. We therefore recommended that Approved Regulators should mandate for the publication of average cost of legal services. We accept that the average cost is not an indicator of actual price. We also agree that it may not be useful to all consumers. However, we are strongly of the view that it will be a useful indicator for some consumers, consumer groups or advisory bodies. Moreover, it could be the catalyst needed for consumers to make detailed enquiries about cost, thus forestalling the significant number of cases currently referred to the Legal Ombudsman Service on cost complaints.

Moreover, such an indicator may begin to address negative perception that legal advice is expensive. We know that the perception of high cost acts as a barrier to accessing legal advice. According to the LSB's recent legal needs survey, 10% of consumers fail to seek legal advice because of their perception of high cost.

We have decided to be pragmatic in our request for additional information because the demand side is desperate for more. Finally, we do not share the LSB's worries that this information will place an undue burden on providers. Providers of legal services run businesses dependent on this information.

Information on quality: The Panel is of the view that if price transparency is to be meaningful, pricing information needs to be balanced with information on quality. We see a role for Approved Regulators and the LSB here. However, the report emphasized that the Approved 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.

We recommended that the Solicitors Regulation Authority and the Bar Standards Board should lead the way by commissioning mystery shopping research in one or two areas of high risks. We were also keen to acknowledge that this was not feasible across the board. We are already seeing the type of research we envisaged here with both the SRA and the BSB conducting and publishing primary research into Asylum and Immigration matters. With respect to smaller Approved Regulators we said that although primary research of the nature described above may be out of their reach, they could explore other options and be more proactive e.g. the Council for Licensed Conveyancers could publish service level information on licensed conveyancers work.

The Panel does not disagree with the principle that the Approved Regulators should not directly oversee practitioners when they serve their clients. However, Approved Regulators must have an understanding of the type of service or advice consumers are receiving particularly in high risk areas. Indeed we expect this to be part of their supervisory tools, not dissimilar to the tools accepted and used by other regulators in the wider economy.

Complaints Data: We remain concerned that none of the legal services regulators publish first tier complaints data, even though research shows that consumers and their representatives, including intermediaries, use it. The Panel recognises that there are challenges with publishing complaints data, we outlined these in the report and charted the journey of other regulators to publishing complaints data. Your letter appears to suggest that we are advocating that Approved Regulators should publish complaints data at firm level, we are not. We would like to see all Approved Regulators consider what is most appropriate for their regulated communities, to consult on options, and then decide on how to make this information available. This may be at firm level or the data could be aggregated by the individual regulator.

Open data and in particular the areas we highlighted above will remain key priority areas for the Panel for the foreseeable future. We therefore look forward to continued dialogue with the LSB, the Approved Regulators and the Legal Ombudsman Service on how we can collectively effect change for improved consumer outcomes.

Yours sincerely,



Elisabeth Davies
Chair, Legal Services Consumer Panel