

Report of consumer engagement workshop 16 July 2010

What is consumer engagement?

Consumer engagement potentially covers a broad spectrum of activity. At its simplest level, regulators can provide information to the public about their work through their websites and publications. Engagement can also involve helping consumers to use legal services more effectively, for example by providing people with advice about choosing lawyers. Regulators can also engage consumers in developing policy, for instance by consulting on proposals and conducting research to find out people's preferences.

The Panel's workshop focused on the last of these types of activity. Participants discussed how to ensure the consumer interest is central to policy development, accessed through two routes: expert input from consumer representatives; and direct dialogue with the public through research.

5 benefits

Participants quickly agreed that consumer engagement is an essential regulatory activity providing a range of external and internal benefits:

- **Prioritisation:** a radar to spot emerging issues that might require a response, plus better targeting of resources around consumer priorities, which may differ from those of providers;
- **Better decisions:** improve the quality of decision-making by learning from the ideas and insight that consumers contribute and enabling a proper balance between consumer and producer interests;
- **Legitimacy:** produce the evidence to help make tough decisions and more generally provide legitimacy for the organisation and demonstrate openness and accountability;

- **Improve the regulator's own engagement with the public:** in a range of ways, including maximising the impact of external communications and using feedback to provide better customer service in areas such as internal complaints procedures; and
- **Motivation:** a tool to refocus your organisation on its primary purpose – that consumers are the ultimate beneficiaries of regulation – and showing staff why their work matters.

The story so far - a mixed bag

Looking across the economy, the view of Philip Cullum at Consumer Focus was that while most regulators have a role to advance the interests of people using regulated services, too often regulation is something that is done *for* consumers rather than *with* them. Many regulators think that simply publishing a 100 page consultation document – written in a language understandable only to a small number of experts – counts as engagement. More encouragingly, some regulators have lately made a greater investment in engaging consumers; good practice examples were identified in energy, food and postal services.

Harry Cayton, reflecting the experience of the Council for Healthcare Regulatory Excellence (CHRE), said the healthcare regulators' engagement approach had come a long way in the last few years. Their experience shows that well designed research can both engage successfully communities that can prove hard to reach and gather valuable perspectives on sensitive issues. For example, the General Medical Council went to hospices and care homes to talk directly with older people as part of its consultation on developing end of life guidance.

In legal services, the approved regulators openly acknowledged they were on a journey in developing their engagement capacities, but all present expressed a desire to do more. The regulators were at different stages: some were well underway in terms of having an agreed strategy and research exercises under their belts; some were actively exploring options with their boards; while others had yet to make a start, but had it on their 'to do' lists.

Myth-busting

A dialogue with the public does not tell the whole story of consumers' experiences of legal services. Clients were happy with the service provided by solicitors handling miners' compensation claims, but they were unaware, and could not possibly have known, about instances of serious misconduct that caused harm. More traditional forms of intelligence and monitoring will always be needed to fill the gaps.

Other objections to consumer engagement are less convincing. Consumer Focus drew on their experience across markets and public services to identify five myths:

- **Most people don't want to be involved and all you end up with is the usual suspects** – in fact, people are remarkably keen to get involved in issues that affect their lives, but the way regulators try to consult often puts them off;
- **People will be too demanding and engagement will give them unreasonable expectations** – in reality, people have got pretty low expectations of public bodies and so are remarkably undemanding. Furthermore, research reveals that people want regulation that works, not intervention for its own sake. Their instincts are in line with the better regulation principles, but their sense of fairness means they don't like the idea of big companies in particular profiting from bending the rules;
- **Issues are too complicated for non-experts to understand** – people are better at understanding complex issues than most professional decision-makers imagine – you've just got to spend the time to explain things clearly;
- **You already know what people think** – silence should not be taken as approval, and people don't approach regulatory issues with pre-set views – so they may be willing to take more radical stances than professional decision-makers who can be set in their ways; and
- **It's prohibitively expensive** – true, it's possible to spend a lot of money on consumer engagement, but you can also do it at low cost; the key is to be clear about what you want to achieve.

Nevertheless, there are some genuine challenges to overcome in legal services. There are many different types of consumer – in addition to individuals these include businesses of all sizes, inventors, charities and government. People use legal services rarely, so finding a sample of users can prove difficult; this is even harder in the referral professions. And some of the issues involved are very technical, notwithstanding the third myth above.

Limited resources are perhaps the biggest barrier. The regulators vary dramatically in size – in their own words, from ferrets to hippos in the animal kingdom – and the budget of even the largest approved regulator, the Solicitors Regulation Authority, still requires making some difficult choices about priorities.

It's important to address such barriers, but, equally, there is a danger that excellence can become the enemy of the good. The approved regulators were challenged to dip a toe in the water and learn from experience.

Engagement techniques

A wide range of engagement methods are possible – some are listed in the box below. The key is to choose the right method according to the desired outcome. What's more, it's important to integrate consumer engagement within the organisation's overall strategy; once a high-level vision has been agreed, the processes should flow from that.

Engagement methods

- Public members of boards
- Advisory groups
- Virtual networks
- Focus groups
- Public meetings
- Citizens' juries
- Mystery shopping
- Deliberative events
- Consultations
- Surveys

Harry Cayton suggested five principles of engagement:

- Inform – share relevant information in a form people can understand;
- Engage – go to where people are, both psychologically and physically;
- Listen – spend less time talking and more listening, and ensure consultation is meaningful;
- Respond – do something as a consequence of the research findings; and
- Report – explain what you have done, even when you disagree.

To date, across the approved regulators, in addition to having a website and consultation with consumer bodies, research methods had been limited to surveys and focus groups. However, such traditional survey tools, while useful to measure 'top of head' views, sometimes only can scratch the surface. In other sectors, regulators are experimenting with deliberative research techniques, which allow participants to consider relevant information, discuss the issues and options and develop their thinking together before coming to a view. This can lead to surprising results: attitudes change over the course of the research, and the public can end up displaying a more tolerant attitude than regulators do!

There was interest in virtual networks as a potentially cost-effective engagement tool. The CHRE operates a Public Stakeholder Network as one part of its engagement toolkit, alongside surveys, public meetings, consultations, monitoring of intelligence reports and meetings with patient representatives. The Network has 170 members who select activities with which they wish to be involved, on a no obligations basis. Members receive early prompts to participate in consultations, discussions or events, plus a bi-monthly electronic newsletter and email updates.

Reflections from the Consumer Panel

It was encouraging to hear enthusiasm from the approved regulators about the benefits of engaging consumers and a genuine commitment to do more.

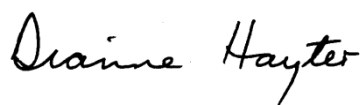
The Panel views consumer engagement as an essential part of being a credible regulator. Consumers are ultimately the intended beneficiaries of regulation in legal services and we think it is impossible to deliver effective regulation in their absence. As Philip Cullum reminded us: “if you’re not engaging consumers, how do you (and they) know you’re taking the right decisions on their behalf?”

Some genuine challenges for the sector were revealed, not least the resource issues facing the smaller regulators in particular. However, effective consumer engagement need not be expensive and there may be opportunities to combine efforts in order to stretch available funds. Indeed, regulatory boundaries are inevitably artificial and different legal professionals may deal with the same groups of consumers. Building on existing knowledge, rather than reinventing the wheel, is also important – the data review being undertaken by the Legal Services Board will assist with this.

Clearly, it is important that the regulators’ good intentions are translated into action. However, this must not be a tick-box exercise, but result in meaningful engagement capable of shaping policy thinking. Consumer engagement needs to be embedded within the culture and working processes of regulators.

We would like all the approved regulators to make engaging consumers an integral part of their organisations’ high-level strategies. Their engagement approaches should include both expert input from consumer representatives and direct dialogue with the public. This is not a choice between the two: experts cannot second-guess how consumers think and behave in the real world, while the public will struggle to analyse critically detailed regulatory issues through a consumer interest lens.

The workshop was the first step in the Panel’s contribution to helping the approved regulators in their efforts. As requested by the participants, we will run another seminar later this year, looking at the possibilities of modern technology. In the meantime, please stay in touch and share your ideas and plans with us.



Dr Dianne Hayter
Chair

Biographies of speakers

Philip Cullum

Philip is Deputy Chief Executive of Consumer Focus, the statutory body working to ensure government, businesses and public services deliver a fair deal for consumers. He has also worked at the National Consumer Council, Accenture, Opinion Leader Research and Which?. He is a member of the government's Regulatory Policy Committee, until recently chaired the Food Standards Agency's advisory committee on consumer engagement, worked on the Hampton review of the Financial Services Authority and was a member of the Risk and Regulation Advisory Council.

Harry Cayton OBE

Harry is Chief Executive of the Council for Healthcare Regulatory. He was formerly National Director for Patients & the Public at the Department of Health. From 1992 to 2003 he was chief executive of the Alzheimer's Society and from 1981-1992 Director of the National Deaf Children's Society.

Harry is chair of the National Information Governance Board for Health and Social Care, an advisor to The Health Foundation and to Macmillan Cancer Support and a trustee of Comic Relief. In 2009 he was Co-chair of the World Health Executive Forum. He is chair of the National Voices Advisory Panel.

Participating organisations

Association of Law Costs Draftsmen
Bar Standards Board
Chartered Institute of Patent Attorneys
Consumer Focus
Council for Healthcare Regulatory Excellence
Council for Licensed Conveyancers
Institute of Legal Executives
ILEX Professional Standards
Intellectual Property Regulation Board
Institute of Trade Mark Attorneys
Legal Ombudsman
Legal Services Board
Solicitors Regulation Authority
The Law Society