



Accreditation schemes – progress report

April 2014

CONTENTS

1	Summary	1
2	Introduction	3
3	Progress review	8
4	Wider issues	19
5	Recommendations	22

1 Summary

The right direction of travel, but still more improvements to make

- 1.1. In 2011 the Legal Services Consumer Panel assessed voluntary accreditation schemes in legal services. We found many examples of good practice but other areas requiring improvement before consumers could have justified confidence in the schemes' credibility.
- 1.2. The LSB then asked us to revisit the schemes two years later and review progress. Overall the direction of travel is encouraging. Our 2011 report has prompted a number of changes, while some schemes, such as APIL and Resolution, have undertaken significant reviews. However, while a couple of the schemes meet nearly all our criteria in full, as a whole many still have a long way to go to become credible signals of quality for consumers of legal services.
- 1.3. In 2011 it was the inward-facing elements of the schemes that performed strongly and this has continued. The area to have improved most since 2011 is the information provided to consumers about the schemes. Other areas, such as entry requirements and a structured re-accreditation process have improved too. However, we also found continuing weaknesses:
 - Schemes continue to fail to incorporate consumer feedback in either their design or operation.
 - There remain few instances of lay input in the schemes' governance.
 - Complaints processes are not clear or accessible enough in many cases.
 - Diverse and ongoing competence checks category have got better, but improvements here are still needed.
 - Some schemes have been reviewed or reviews are planned, but this needs to be more widespread.
- 1.4. See Table 1 below for an overview of the characteristics schemes need to have in order for consumers to have confidence that they will work well, and for our overall assessment of schemes against these criteria.
- 1.5. The detailed assessment sheets for each scheme have been published separately on the Panel's website.

Table 1: Performance against essential characteristics

CHARACTERISTIC	RANKING IN 2014	CHANGE FROM 2011
Relevant and transparent entry requirements	59	+1
Structured re-accreditation	52	+3
Structured sanctions and disciplinary process	52	+4
Targeted, understandable and easily available scheme information for consumers	51	+18
Scheme effectiveness monitored/periodically reviewed	44	+5
Diverse and ongoing competence checks	43	+4
Clear/accessible consumer complaints & feedback process	43	+4
Use of lay input	32	+4
Incorporates consumer needs and views	30	+1
Adequate resourcing	N/A	N/A

*Figures for 2014 exclude WIQS scheme to allow year-on-year comparison

Recommendations

In order to improve the effectiveness of accreditation schemes for consumers of legal services:

- The ‘consumer interface’ could be improved in many cases by:
 - Increased lay input into scheme design in order to make sure the consumer interest is represented;
 - Making sure that consumers are able to give their feedback and this is gathered and analysed in order to inform scheme operation;
 - Making sure there is a mechanism for consumers to complain to schemes, and that this data is gathered and analysed.
- Checking ongoing competence needs to be improved, in particular to make sure that scheme members are and continue to be technically competent.
- Independent validation by a third party should be explored further by schemes to see if this would increase consumer confidence. This might underpin credibility of the schemes from the perspective of the approved regulators.
- Communication between schemes and the approved regulators and the Legal Ombudsman is an area which could be further improved. Information sharing could help to inform scheme operators, as well as helping to inform risk-based regulation.

2 Introduction

Background

- 2.1. In 2011 the Panel produced a report on voluntary accreditation schemes in legal. These are an optional form of accreditation which lawyers can obtain to show they meet particular quality standards or have specialist expertise. As they are optional, accreditation schemes provide a standard which is over and above that set by the minimum regulatory requirements. Such quality marks can help lawyers to differentiate and show consumers they have specialist expertise and/or are providing a particularly good service. For consumers on the other hand, quality marks are a ‘choice tool’, something which can be used to help them make informed choices about which lawyer to select and drive competition with their feet.
- 2.2. The 2011 report came about in answer to a commission from the Legal Services Board (LSB), which asked the Panel to:
 - Identify the characteristics accreditation schemes need to have in order to give consumers confidence that they are a reliable indicator of quality
 - And to measure a selection of schemes against these criteria
- 2.3. We used consumer research and best-practice in self-regulation to identify ten essential characteristics. We grouped these under three headings:
 - Scheme operation, such as entry requirements and ongoing competence checks
 - Consumer information and feedback, such as consumer-facing publications and complaints processes
 - Scheme development, such as review processes and lay input
- 2.4. We then assessed 13 schemes against these ten characteristics. We found that schemes performed well on day-to-day operations, with strong elements such as entry requirements and reaccreditation. However, there was less success in other areas. We found few practical checks on technical competence, a lack of lay input into the design and operation of schemes and a lack of collection and use of consumer feedback. Schemes were not validated and could not offer proof that they deliver on their quality claims. In addition, the information available to consumers, and the ease with which it could be found, was poor.

Essential characteristics

- 2.3. We used consumer research and best-practice in self-regulation to identify ten essential characteristics. We grouped these under three headings:

Table 2: Characteristics to give consumers confidence

CHARACTERISTIC	DESCRIPTION
SCHEME OPERATION	
Relevant and transparent entry requirements	<ul style="list-style-type: none"> • Entry requirements need to reflect what the scheme claims to deliver. Accreditation requirements should be transparent, objective and closely related to the scheme focus. • As a signal of higher quality, entry requirements should demand more than the regulatory obligations already placed on providers. • Whilst specific entry requirements will vary between practice areas, both technical and softer client care skills should be covered. • The assessment process should require robust evidence, ideally independently verified, with scope for applicants to fail.
Structured re-accreditation	<ul style="list-style-type: none"> • Membership should not last indefinitely. • Members should need to renew their membership to demonstrate that they continue to meet the required standards.
Diverse and ongoing competence checks	<ul style="list-style-type: none"> • Consumers need to be sure that scheme participants were not only competent at entry but continue to be competent as long as they hold accreditation. • Proactive and reactive competence checks should occur throughout membership. • Whilst these could be undertaken in a range of ways, checks should ideally involve some independent review of cases or advice.
Structured sanctions and disciplinary process	<ul style="list-style-type: none"> • Schemes need a transparent and structured disciplinary framework. • Schemes need to provide an incentive for maintaining high standards and loss of accreditation should be a real risk for participants. • There should be clear communication pathways with regulators. If a scheme operator becomes aware of serious issues which affect not only eligibility for membership, but wider breaches of regulatory standards, this needs to be raised with regulators.
CONSUMER INFORMATION AND FEEDBACK	
Targeted, understandable and easily available scheme information for consumers	<ul style="list-style-type: none"> • Schemes need to be promoted to consumers; consumers can only make an informed choice about whether to use a scheme member if they are aware of the scheme and understand what membership means. • Schemes need to be accountable and transparent about their operations. • Consumers must be able to easily access plain English information about the

	<p>scheme, its membership and what they can expect from accredited members.</p>
<p>Clear and accessible consumer complaints and feedback processes</p>	<ul style="list-style-type: none"> • Consumers need clear mechanisms for complaining or providing other feedback. • Consumers should be encouraged to raise issues about members who fail to meet the expected standard. • Consumer concerns should be investigated and addressed if required (see sanctions and disciplinary processes). This is distinct from regulatory complaints rules or access to the Legal Ombudsman.
<p>SCHEME DEVELOPMENT</p>	
<p>Use of lay input</p>	<ul style="list-style-type: none"> • Whilst most voluntary schemes will be industry run, lay input is important and can be an important signal of independence. • Different, non-industry viewpoints should be incorporated at various stages, particularly during reviews.
<p>Incorporates consumer needs and views</p>	<ul style="list-style-type: none"> • Schemes need to reflect what is important to consumers when they choose lawyers. • The mechanisms for considering this are likely to vary, depending on the size and resources for each scheme, but could include taking account of published research or cost-effective consumer feedback mechanisms.
<p>Scheme effectiveness monitored and periodically reviewed</p>	<ul style="list-style-type: none"> • Schemes need to make sure that their processes and systems deliver the calibre of legal service providers they claim. Cost-effective testing of whether there are differences between members and non-members (e.g. in terms of advice quality, complaints, etc) would help validate schemes. • Schemes may need to adapt to a changing market or to changing consumer needs and expectations. Periodic review should assist with ensuring this is the case, and could consider any, or all, of the criteria in this framework.
<p>Adequate resourcing</p>	<ul style="list-style-type: none"> • Schemes need the resources to be implemented effectively. • Schemes need to have adequate staffing and support to enable them to undertake scheme management, including assessments, checks and monitoring, administration and disciplinary processes.

LSB request to review schemes

- 2.5. Our 2011 recommendations to the LSB are shown in the box below.
- 2.6. Following consultations on quality risks and suggested regulatory interventions, the LSB accepted our recommendations in September 2012 and identified a number of next steps which they expected regulators to take. These included the use of accreditation schemes as a source of information when regulators assess risk. Issues around developing an independent accreditation of schemes were also considered, and the LSB indicated an interest in any areas where, following review, credibility issues might persist.
- 2.7. In their subsequent paper on Approaches to Quality the LSB again

focused on accreditation schemes, pointing out for example that regulators should make information on specialism, panel membership and quality marks available, and that regulators could liaise with quality schemes to conduct research and improve the assessment of risk. The paper recognises the important role of market-led approaches such as accreditation schemes in driving up quality standards.

- 2.8. The LSB asked the Panel to review the accreditation schemes we assessed in 2011 and see what progress had been made since our original report. We did this by collecting information two years on from our original assessment, which we consider is a fair period to allow for improvements to be made.

The Panel's recommendations in 2011

The Panel's advice to the LSB in 2011 was:

- Scheme operators should undertake a detailed self-assessment against the essential characteristics set out in this report. In particular, there are four main elements of schemes which need attention:
 - Measures that assess actual competence, such as spot checks or mystery shopping, should be used to ensure ongoing competence;
 - Clearer consumer information, which should be made more easily available;
 - Lay input and consumer feedback should be included to a greater extent into scheme development and review; and
 - Data should be collected, analysed and published to validate scheme claims and inform ongoing review processes.
- Regulators should collect data on scheme membership and examine how membership of credible schemes could be recognised within risk-based regulation.
- Scheme operators and the LSB should consider the advantages and drawbacks of developing an independent accreditation scheme for Voluntary Quality Schemes.

Methodology

2.9. In order to review progress the Panel carried out the following steps:

- We asked all the schemes which were assessed in 2011 to carry out a self-assessment against each of the ten criteria, describing where aspects had changed since the 2011 report
- Information was also collected through the schemes websites and literature
- The Panel led a seminar attended by representatives of all the schemes we assessed, where over-arching issues were discussed
- We conducted a literature review to collect information on wider policy issues around voluntary accreditation schemes

2.10. We are very grateful to the scheme operators for their co-operation and especially for the time taken to provide self-assessments.

2.11. The schemes we assessed are:

- The Association of Personal Injury Lawyers (APIL)
- Action against Medical Accidents (AvMa)
- Queen’s Counsel (QC)
- Resolution
- The Society of Trust and Estate Practitioners (STEP)
- The Law Society Children Law
- The Law Society Criminal Litigation
- The Law Society Clinical Negligence
- The Law Society Conveyancing Quality Scheme (CQS)
- The Law Society Family Law

- The Law Society Immigration Law
- The Law Society Mental Health
- The Law Society Personal Injury
- The Law Society Wills and Inheritance Quality Scheme (WIQS)

New scheme

2.12. This year we have included a new scheme; the Wills and Inheritance Quality Scheme (WIQS), run by the Law Society. This is an important new scheme, developed after mystery shopping research commissioned by the Panel and others found significant problems with wills during a exercise. The proportion of wills which were not up to standard were the same for those drawn up by solicitors as by unregulated providers. WIQS claims to provide a best practice quality mark for wills and estate administration advice that consumers can trust.

3 Progress review

How accreditation schemes are used

- 3.1. Every year the Consumer Panel runs a tracker survey with two representative samples; one of the general population and one of recent users of legal services. The 2014 survey shows 24% of our sample of recent users of legal services shopped around for a legal service provider. 63% of recent users said specialist expertise was an important factor when choosing a provider. 31% said a quality mark itself was an important choice factor.
- 3.2. Our recent users sample also showed that slightly less than a third of people recalled using a quality mark when choosing a provider. The most recognisable quality mark was the Law Society's CQS scheme, but these figures should be treated with caution as the base for this question was small.
- 3.3. Meanwhile our general public sample showed 66% of respondents were aware of quality marks in the economy but usage when comparing legal services to other sectors was quite low. Only 5% of respondents in the general public sample had used a quality mark to help choose a legal provider, while in contrast 27% had used one for electrical goods, 21% for toys and 19% for holidays. This may be because these other types of goods and services are more commonly purchased than legal services, which tend to be one-off purchases and are often bought at times of distress. However, the rate is still quite low, especially since 29% of the general public sample said they had used a legal service in the past 2 years.
- 3.4. The findings have been consistent since our first tracker survey in 2011: although quality and specialist expertise are important to buyers of legal services, but awareness and use of accreditation schemes is low.
- 3.5. Accreditation schemes are not only used by individuals to help them choose a lawyer. Some larger buyers, such as banks and intermediaries who select or recommend lawyers for their clients, may also use them. This means that even where individual usage of accreditation schemes is low, bulk purchasers may deliver equivalent benefits to end users. One important change since 2011, however, is that the Legal Aid Agency (LAA) no longer operate the Specialist Quality Mark or the Mediation Quality Mark. In the past some schemes required these as part of their entry or re-accreditation requirements, meaning that the LAA helped to set the standard for many consumers who used lawyers with an accreditation mark.

Overall findings

- 3.6. Below are tables showing how the schemes were assessed in 2011 and how they are performing now. There is also an overview table showing the rankings of each characteristic in 2011 and now. Currently a number of the schemes are undertaking reviews or

are planning to implement changes. We have acknowledged upcoming amendments, but have not factored these into our assessment.

3.7. As in the previous report, it should be noted that the purpose of the assessments was to identify shared features and highlight strengths and weaknesses across the schemes as a whole, rather than undertake a full-scale review of each scheme or to provide endorsement for any particular schemes.

3.8. Whilst some comparison inevitably occurs, the purpose is not to rank the schemes in relation to each other. The Panel does not attempt to determine the ‘best’ way of meeting the criteria, recognising it is likely the desired outcomes could be achieved in different ways, provided scheme systems are robust. Moreover, although we are able to assess whether or not schemes have a certain process (e.g. sanction systems), we face limitations in the extent to which we can assess how effectively these processes are implemented. Further, although many schemes have dedicated resource we are not in a position to be able to assess whether this is adequate.

3.9. In summary:

- Most improvement has been made in consumer information, while many schemes have been reviewed since our 2011 report or are in the process of making changes
- Entry requirements and re-accreditation continue to be strong areas
- Areas remaining in need of improvement are consumer feedback, lay input to schemes’ governance, complaints processes,

diverse and ongoing competence checks, and scheme reviews.

We discuss each in turn below

3.10. An overview of the assessment against characteristics in 2011 and 2013 is shown on the following pages.

Table 3: Achievement of characteristics in 2011 and 2014

CHARACTERISTIC	2011	2014	CHANGE
Relevant and transparent entry requirements	58	59	+1
Structured re-accreditation	49	52	+3
Structured sanctions and disciplinary process	48	52	+4
Targeted, understandable and easily available scheme information for consumers	33	51	+18
Scheme effectiveness monitored and periodically reviewed	39	44	+5
Diverse and ongoing competence checks	39	43	+4
Clear and accessible consumer complaints and feedback processes	39	43	+4
Use of lay input	28	32	+4
Incorporates consumer needs and views	29	30	+1
Adequate resourcing	N/A	N/A	N/A

*Figures for 2014 exclude WIQS scheme to allow year-on-year comparison

Table 5: Scheme Assessment in 2014

	Relevant and transparent entry requirements	Structured re-accreditation	Diverse and ongoing competence checks	Structured sanctions and disciplinary process	Targeted, understandable and easily available scheme information for consumers	Clear and accessible consumer complaints and feedback processes	Use of lay input	Incorporates consumer needs and views	Scheme effectiveness monitored and periodically reviewed	Adequate resourcing
APIL	Green	Green	Light Green	Green	Green	Green	Green	Light Green	Green	Not assessed
AvMA	Green	Green	Green	Green	Green	Green	Green	Light Green	Green	Not assessed
QC	Green	Red	Red	Red	Orange	Red	Green	Red	Yellow	Not assessed
Res.	Light Green	Green	Yellow	Green	Yellow	Yellow	Orange	Yellow	Green	Not assessed
STEP	Light Green	Yellow	Orange	Green	Light Green	Light Green	Green	Orange	Yellow	Not assessed
TLS Children	Green	Green	Light Green	Light Green	Light Green	Yellow	Orange	Orange	Yellow	Not assessed
TLS Crim. Litigation	Green	Red	Orange	Light Green	Light Green	Yellow	Red	Red	Yellow	Not assessed
TLS Clin. Neg.	Light Green	Green	Yellow	Yellow	Light Green	Yellow	Red	Orange	Yellow	Not assessed
TLS CQS	Light Green	Green	Light Green	Green	Light Green	Yellow	Orange	Yellow	Yellow	Not assessed
TLS Family	Light Green	Light Green	Yellow	Light Green	Light Green	Yellow	Red	Orange	Yellow	Not assessed
TLS Immigr.	Green	Yellow	Light Green	Light Green	Light Green	Yellow	Red	Orange	Orange	Not assessed
TLS Mental Health	Green	Green	Yellow	Yellow	Light Green	Light Green	Red	Orange	Yellow	Not assessed
TLS PI	Light Green	Green	Green	Light Green	Light Green	Yellow	Red	Orange	Yellow	Not assessed
TLS WIQS	Light Green	Light Green	Yellow	Green	Light Green	Yellow	Orange	Light Green	Yellow	Not assessed

Table 6: Assessment scale

	Scheme fully meets criteria
	Scheme mostly meets criteria but is missing a couple of key aspects
	Scheme partly meets criteria
	Scheme meets very few aspects of criteria
	Scheme does not meet criteria

Most improved area – consumer information

3.11. One area which received relatively low scores in 2011 was targeted, understandable and easily available information for consumers. Information is key so that consumers are able to make informed choices about schemes, and so they can have confidence that the schemes are credible and are not just marketing ploys. This area has seen the biggest improvement since 2011. Examples of good practice include:

- APIL have a dedicated website which contains help and guidance, fact sheets, leaflets and a ‘find a lawyer’ facility where consumers can search for APIL accredited lawyers. APIL also run campaigns, work with charities and Citizens Advice Bureaux, and publish booklets and leaflets which are distributed (for example to libraries) to raise awareness of the scheme
- The Law Society have made significant changes to the consumer facing element of their schemes, including by developing a section of their website on accredited specialists which shows all the accreditation schemes run by the Law Society and allows consumers

to click on each individual scheme for further information

- The Law Society have also re-launched the ‘find a solicitor’ facility. This now has improved search functionality, allowing consumers to find accredited members
- Some Law Society schemes, for example CQS, provide members with marketing materials such as allowing use of the logo on stationary and providing window stickers, to improve awareness of the scheme

3.12. However, although consumer information has improved markedly there is still room for improvement:

- On the Resolution website, for example, the Panel does not think it is made very clear to an ordinary consumer that there is a difference between general members of Resolution and accredited specialists.
- Other stakeholders have commented on information provision as well. For example some lenders have commented that CQS is not particularly transparent because it does not publish the criteria used to assess applications or the number of firms being turned down for accreditation or re-accreditation, and that the majority of information on the Law Society website appears to be targeted at solicitors rather than the consumers of their services

3.13. Some schemes are still implementing changes:

- AvMA is working on developing a new website, and are currently consulting their members on running a panel promotion

- STEP is in the process of making changes to their website to make it more consumer friendly. The text has been simplified and a dedicated consumer page has been added. Key information includes information about the services offered by STEP members and a glossary of key legal terms
- Resolution intend to publish information on their website and in hard copy format including FAQs, so the public will know what to expect from all Resolution members

Weaker areas

- 3.14. Below we focus on those areas where there is most scope for improvement. These tend to be the outward-facing elements of the schemes, and we have called this the ‘consumer interface’. The spotlight here is on consumer input to the schemes, in the form of: incorporating consumer feedback, lay input to scheme design, and the ability for consumers to give input on the performance of accredited lawyers through the complaints process. Input from consumers will not always focus on the technical quality of advice, which they may not have sufficient expertise to judge. However, consumers will be able to report about whether or not the quality of service was what they expected, and will be able to feed in their experience of using an accredited lawyer, whether good or bad.
- 3.15. Two inward-facing elements are also discussed: diverse and ongoing checks on competence once lawyers are members of a scheme, and reviews of schemes to enable a process of ongoing improvement.

Incorporating consumer needs and views

- 3.16. The single weakest area is that of incorporating consumer needs and views. We recommended that schemes reflect what is important to consumers when they choose lawyers and that such mechanisms could include looking at published research on consumer facing issues or using cost-effective consumer feedback mechanisms. However, most schemes are meeting these characteristics only partially at best:
- AvMA told us they operate from the consumer perspective and their assessment process focuses on those areas most likely to impact on clients
 - Resolution recently undertook a review to identify relevant research and have also incorporated feedback from their members and from the public. They are proposing to start collecting comments and views directly from consumers
 - STEP told us they are exploring improving the channels for consumer communication on their website, but more information about this development was not available when we were due to publish this report
 - Some schemes, such as the Law Society Criminal Litigation scheme, were designed to meet the requirements of the Legal Aid Agency and so were not developed with consumer requirements in mind
 - Many other Law Society schemes, as well as QC Appointments, do not incorporate any form of consumer feedback at all

3.17. At the seminar on voluntary quality schemes, hosted by the Panel, we probed the issue of collecting and using consumer feedback. There was a noticeable lack of enthusiasm for incorporating consumer feedback from some of the scheme operators present. Part of the discussion focused on managing consumers' expectations. It was agreed that schemes need to be clear about what they do and don't provide. However, since the schemes are supposed to be marks of excellence which can be clearly identified and used by buyers of legal services the Panel cannot see any justification for failing to collect and analyse consumer feedback in some form. Online review mechanisms are now quite common in self-regulatory schemes in other parts of the economy.

3.18. Most of the schemes had not carried out research into what consumers desire or expect from quality schemes. Although the Panel's tracker survey indicates that public awareness of schemes is quite low, as yet no other research has been commissioned on levels of awareness, why they might be low, or how they could be improved.

Lay input to scheme design

3.19. Lay input has been identified as an important way of making sure schemes work in the consumer interest by a range of bodies including *Which?*, the Office of Fair Trading and the former National Consumer Council. In 2011 we found this characteristic had been met to the least extent, although there were some examples of good practice. Lay input languishes near the bottom of the table, although some improvements have been made:

- In particular, since 2011 APIL has set up a consumer panel which includes representatives from injury-

related charities like Headway, the Royal Society for the Prevention of Accidents and the Spinal Injuries Association. APIL also has a dedicated section for consumer feedback on their website and has heard the perspective of an injured person at each of their consumer panel meetings so far

- AvMA is a consumer organisation rather than a practitioner-focused organisation, and their work with injured patients feeds directly into their work with lawyers. This includes client care training and understanding the issues which are most important to patients and their families when they are involved in a legal action. AvMA operates a casework service, an inquest service and a helpline. Staff from all of these departments are represented on the committee that manages AvMA's panel of accredited lawyers.
- QC Appointments has an independent selection panel which normally consists of four 'professional lay members', and a retired senior judge, and is chaired by a lay member. Most of the client assessments sought throughout the process come from professional clients but one of the matters they comment on is the applicant's ability to work well with individuals such as witnesses
- Resolution plan to put in place an independent practice standards panel to oversee consumer feedback, concerns and complaints. This is not yet in place, but it is proposed to also include an independent moderator for the specialist accreditation scheme

3.20. A distinction needs to be drawn between schemes which can be described as consumer-facing and those which target practitioners or other expert groups. Schemes such as AvMA, APIL and Resolution tend to fall into the first category while QC Appointments and some of the Law Society schemes such as the children law scheme and the mental health scheme fall into the latter. Other schemes like CQS and STEP may be said to have a foot in both camps – lenders as well as individuals may use CQS as a quality mark, while some law firms may look at the STEP qualification as a prerequisite when hiring.

3.21. Many of the scheme operators which are more practitioner-facing told us they target what might be termed 'lay specialists' for input. These include the judiciary, specialist charities, intermediaries such as Cafcass guardians and the Institute of Legacy Providers, and mental health tribunals. Incorporating feedback in this way means individual consumers may reap the benefits of using accredited practitioners though indirect routes. However, the perspective of individual consumers is still important and can bring fresh and useful insights.

Complaints

3.22. The final area which relates to the consumer interface, and which again scored poorly in 2011, is a clear and accessible complaints and feedback process. Complaints are interlinked with consumer feedback and lay input. Taken together, these areas could prove to be a mine of data which could be used to show where things are going wrong and how problem areas might be improved, but currently such information is often not even collected.

3.23. Again, we did find a number of examples of good practice:

- In particular APIL has a clear process for complaining about an accredited lawyer, as do Resolution and STEP
- AvMA not only has a complaints process but advises clients when they are signposted to solicitors that if they have any problems they should report back to the scheme
- While we were completing our review the Law Society updated their website and changed the information available to consumers on complaining. Where a consumer has a complaint about a member of one of the Law Society accreditation schemes it is now possible for the consumer to report their complaint directly to the Law Society. The Panel is supportive of this, but considers that more improvements could also be made here: for example there is currently no information available on what will happen once the consumer has reported the complaint, how the information might be used, or what process will be followed
- The Law Society have told us that where consumers do make a complaint about an accredited member this information is logged in a searchable database, which is positive. Complaints data is also checked on the Legal Ombudsman website, and consumers using the CQS quality mark can use the Society's helpline to report issues

3.24. Of greater concern, there were also examples of poor practice:

- QC Appointments told us the process for complaints is the same as for re-accreditation and a

structured disciplinary process. That is to say there are no additional requirements on QCs over and above those imposed by the regulators. If QC Appointments receives information alleging misconduct or incompetence on the part of a QC, it advises the complainant to take the matter up with the regulatory body or the Legal Ombudsman. QC Appointments does not look into complaints itself.

- 3.25. Where it looks to a member of the public as if there is no way for them to complain to the scheme operator it seems very unlikely the unhappy consumer will be able to find their way to making that complaint. For this reason, schemes which do not have a way for consumers to complain to them easily have scored poorly in our assessments. Schemes need to be open to receiving intelligence from members of the public.
- 3.26. The Legal Ombudsman is meant to be the single post box for all legal services complaints and it is important not to introduce confusion by adding further layers. Accreditation schemes cannot award redress to consumers, but they need to know if their members are providing poor service. The strongest sanction available to accreditation schemes is expulsion, but this requires knowing when things are going wrong – and complaints are a useful intelligence source. In addition, especially where there is a pattern of complaints, this can be used to inform and develop scheme design and alert consumers to things they should look for.
- 3.27. However, it seems some schemes are cutting themselves off from useful data, either by not investigating concerns raised directly by consumers or failing to take account of complaints made to the ombudsman or regulators. Where

schemes appear dismissive of attempts to raise concerns, this undermines consumer confidence in claims their members are a cut above the rest.

- 3.28. The Panel therefore regards best practice as being the following:
- Schemes should have a clear, easy and accessible complaints process;
 - Concerns should be logged by scheme operators and followed up where necessary;
 - When a consumer makes a complaint to a scheme they should be informed that their complaint will be followed up by the scheme operator;
 - At the same time the operator should refer the consumer to the Legal Ombudsman so their complaint can be dealt with in the usual way;
 - Members of accreditation schemes should be required to send in annual returns to scheme operators detailing complaints made against them.
- 3.29. Ideally, there would be information sharing between accreditation schemes and the Legal Ombudsman. Some schemes do check published decisions, but these are only cases that are settled by an ombudsman; the majority of cases are informally resolved and this is not published. However, we also recognise that the Legal Ombudsman can more easily share information with statutory regulators than with voluntary bodies. This is an area we plan to discuss further with stakeholders.

Ongoing checks on competence

- 3.30. The first inward-looking area in need of improvement relates to ongoing checks on competence.

3.31. Ongoing checks are vital because our previous research has shown that consumers expect these already take place, and are particularly supportive of ongoing checks. Additionally, the Legal Education and Training Review report, as well as the proposed LSB statutory guidance in this area, both underline the importance of ongoing competency requirements for lawyers. Some of these good practices below have continued since our 2011 report, while others are new developments. Such good practices include:

- APIL carry out monitoring visits to accredited firms. These are made by an independent assessor who is accompanied by a retired practitioner or a senior fellow of APIL
- AvMA conduct detailed interviews with applicants and subject a proportion of applicants to follow-up review. They also target ongoing monitoring at firms where issues have been identified. AvMA also temporarily suspend membership pending reselection when practitioners change firms or a firm merges

3.32. On the other hand, there is certainly still room for improvement:

- QC Appointments do not have any provision for re-accreditation or ongoing competence checks
- Resolution has stated that independent monitoring of family law cases is difficult due to confidentiality around family cases, but scheme claims cannot be backed up without some level of monitoring. Accredited members do need to provide evidence of continuing specialist knowledge, and a reference. Re-accreditation currently takes place every five

years but it is proposed that it be moved to every three years once Resolution have implemented the changes they are making to their scheme

- The Law Society schemes tend to focus on CPD points for re-accreditation, and although CPD can be a useful indicator it should not be used in isolation. Some Law Society schemes, such as CQS, also require members to report complaints or adverse regulatory interaction every six months and firms may also be subject to random monitoring visits. As a result a number of Law Society scheme members have failed ongoing checks and had their membership revoked since 2011

3.33. We stress here that ongoing competency checks should check not only service quality but also the technical quality of the work being carried out. The Panel's previous work on will-writing revealed, for example, that 1 in 5 wills prepared by both solicitors and non-solicitors were sub standard. This underlines the importance of schemes periodically checking that their members work is up to scratch. Competency could be checked through random checks, mystery shopping or file review for example.

Scheme development and review

3.34. Periodic review of schemes is important in order to make sure that schemes are in line with current best practices and are up-to-date. The Panel is aware that a number of the schemes assessed have undertaken reviews since 2011, while other reviews are currently underway:

- APIL have carried out a large scale review and developed a new competency framework which was introduced in April 2012
- The AvMA application process was reviewed in September 2012
- STEP have introduced a new code of practice for wills in England and Wales
- Resolution has undertaken a root and branch review of the scheme carried out by an independent consultant, resulting in changes which they plan to launch in the first half of 2014
- The Law Society Children Law scheme was reviewed in 2011 by an independent education consultant and a new assessment will be made in the first quarter of 2014
- A review of the marking and assessment process of the Law Society Mental Health scheme was carried out in November 2013
- CQS will be reviewed in the first half of 2014

3.35. A number of schemes have told us that changes such as the Jackson Reforms means they are keeping their operations under review until the impact of these changes becomes clearer. AvMA, for example, is keeping a watch on the transparency of information given to clients on funding and how to challenge costs. The requirements for the Law Society criminal litigation scheme may need to be reassessed depending on the outcome of the Ministry of Justice consultations on criminal legal aid.

4 Wider issues

4.1. This report is aimed primarily at operators of accreditation schemes to share good practice and highlight areas where further improvements could bolster consumer confidence. However, some wider issues emerged from the seminar the Panel hosted with scheme operators, which are briefly discussed here.

Independent validation

4.2. In 2011 the Panel identified independent validation of schemes by a third party as one way to tackle consumer scepticism about their credibility and recommended that the advantages and disadvantages of independent validation should be considered. However, discussion on this topic during the seminar showed views do not appear to have developed over the intervening period and it seems that almost no research into this issue has been carried out.

4.3. There was concern that voluntary schemes would become too expensive for practitioners, particularly when many legal services providers may try to lower their prices following the changes to legal aid. Independent validation would add an extra layer of bureaucracy to schemes and would likely raise their cost. However, some schemes are weighing up the possible advantages of independent validation.

- For example Resolution is looking at an external accreditation of their specialist accreditation by an

academic institute. This would provide external validation of the scheme. However, they are currently working on the business case for whether or not to take this forward

- Some of the Law Society schemes, such as Criminal Litigation, require members to take examinations which are marked by external bodies. This could help to validate the claims made by the schemes
 - The Trading Standards Institute Consumer Code Approval Scheme (CCAS) was discussed but most of the schemes were not enthusiastic about applying for external validation through this. Some said that it could push up the cost of voluntary schemes and make them unviable. In general there was also reluctance to add another layer of bureaucracy to scheme design
- 4.4. Overall the Panel can see both advantages and disadvantages to independent validation. Undeniably an extra layer of validation for the scheme operators themselves would add both cost and complexity. On the other hand it could prove decisive in encouraging consumer confidence in the independence of the schemes – consumers need to be confident that accreditation schemes are not simply a marketing tool which do not actually add any extra value.
- 4.5. Our 2011 report also recommended that regulators should collect data on

scheme membership and examine how membership of credible schemes could be recognised within risk-based regulation. The LSB followed up the Panel's recommendation by encouraging regulators to explore how use of accreditation schemes could assist regulatory decisions. Of course this is dependent on regulators being confident that schemes are credible. Independent validation could therefore also be a way for schemes to demonstrate their credibility to regulators.

Reliance on CPD

- 4.6. The Panel posed a challenge to the group on the effectiveness of using continuing professional development (CPD) as a means of checking specialist expertise. Many regulators, including the SRA and IPS are starting to move away from an hours-based, input model of CPD. The ongoing discussion on legal education and training has opened a debate on the effectiveness of CPD, and it is generally accepted that CPD has failed. However, most schemes felt that CPD was still an effective way of checking expertise: it can be used to screen out 'dabblers' who don't have enough CPD points to join a scheme, and can be useful when combined with other tools such as file review. Some participants said a common reason for rejection from schemes is that applicants do not have sufficient CPD hours in a particular area to gain accreditation. The watchword here was 'proportionality' – CPD can be good when it is used in conjunction with other tools, and when checking expertise is also combined with other checks such as ongoing intelligence to see there are not problems cropping up

with complaints about a practitioner for example.

Communication with approved regulators

- 4.7. One of the Panel's recommendations in 2011 was that regulators should collect data on scheme membership and examine how membership of credible schemes could be recognised within risk-based regulation. The LSB supported this stance and encouraged regulators to set up a greater programme of engagement with voluntary quality schemes.
- 4.8. It seems that some progress has been made in this area. A number of the schemes we spoke to said they check the Legal Ombudsman's complaints data, for example at re-accreditation. Others make use of information from regulators, such as reviewing disciplinary findings and reporting relevant information to regulatory bodies. These developments are very positive. The Panel believes accreditation schemes (where they work effectively) do provide important quality information which regulators could take into account.
- 4.9. More generally we would like to see information on accreditation schemes being used in a more proactive way to help consumers make informed choices when searching for a lawyer. This encompasses choice tools such as comparison websites – these could incorporate quality marks along with other information to aid consumer empowerment and is something the Panel strongly supports.

Research

- 4.10. Finally, the Panel was struck by the lack of original research carried out by schemes. Other than the Panel's

tracker survey, which includes several questions on quality marks in legal services, there does not seem to be any evidence of whether consumers trust or use the schemes, or how such usage might be improved. In addition to this we did not find evidence of research into whether providers find the schemes effective or not – obviously many do since they continue to use them but it would be useful to try to quantify the costs and benefits of schemes to providers. We understand that some schemes have carried out research into existing consumer needs and this is encouraging, but the Panel would really expect to see serious schemes carrying out more systematic and regular research to demonstrate their effect and to drive improvements if needed.

5 Recommendations

Recommendations

In order to improve the effectiveness of accreditation schemes for consumers of legal services:

- The ‘consumer interface’ could be improved in many cases by:
 - Increased lay input into scheme design in order to make sure the consumer interest is represented;
 - Making sure that consumers are able to give their feedback and this is gathered and analysed in order to inform scheme operation;
 - Making sure there is a mechanism for consumers to complain to schemes, and that this data is gathered and analysed.
- Checking ongoing competence needs to be improved, in particular to make sure that scheme members are and continue to be technically competent.
- Independent validation by a third party should be explored further by schemes to see if this would increase consumer confidence. This might underpin credibility of the schemes from the perspective of the approved regulators.
- Communication between schemes and the approved regulators and the Legal Ombudsman is an area which could be further improved. Information sharing could help to inform scheme operators, as well as helping to inform risk-based regulation.

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

Secretariat

Steve Brooker
Harriet Gamper



LEGAL
SERVICES
**CONSUMER
PANEL**

Legal Services Board
One Kemble Street
London WC2B 4AN

T 020 7271 0076

www.legalservicesconsumerpanel.org.uk