

# Consumer Impact Report

2014



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# 1. Foreword

Judging whether the legal services reforms have been a success was never going to be straightforward. There are too many different interests and perspectives to agree something definitive. Perhaps our Consumer Impact Report is so valuable because it measures progress against the original purpose of the reforms: delivering better consumer outcomes.

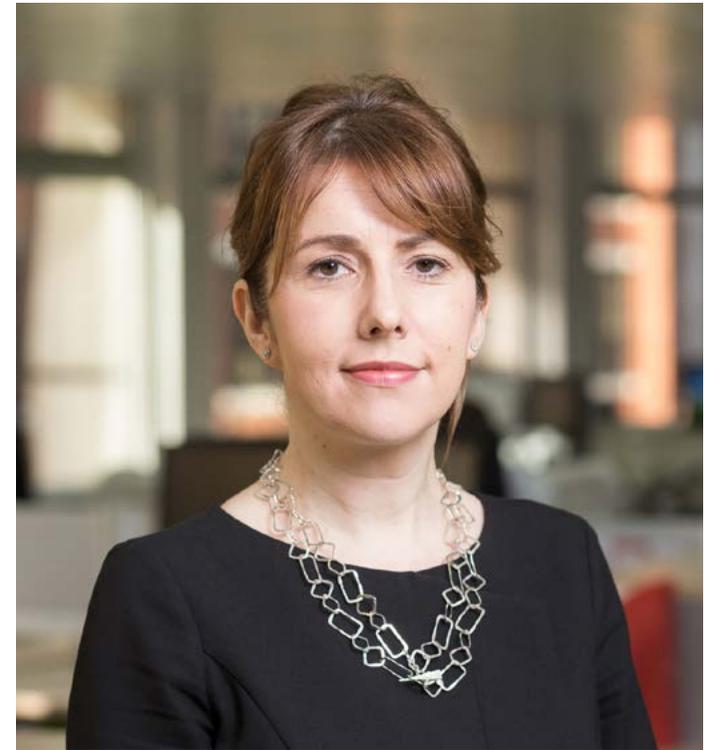
And when viewed from the consumer perspective there's no doubt that there has been significant progress. Consumers are happier with the choice available to them. They shop around more and they're more satisfied with value for money, perhaps due to the rise in fixed fee deals. They find it less difficult to compare lawyers and are less likely to go back to the lawyer they used for their previous transaction.

Yet the reforms can't be judged a success if these improvements only benefit the better off and leave the vulnerable behind. This third Consumer Impact Report draws on, amongst other sources, the richness of four years' worth of data from our tracker survey. And our evidence is all too clear that consumer experiences of legal services differ far too much across different sections of the population. Regulators need to do more to embed consumer vulnerability throughout their work in policymaking, their regulatory toolbox and contact with the public.

Access to redress and the ability to complain is a key indicator of the effectiveness of regulation, and of the success of the reforms, and yet we're still seeing 44% of dissatisfied consumers doing nothing. Why is there such low public confidence in complaining about lawyers and far higher numbers of silent sufferers in legal services than in other service sectors?

When we produced our first Consumer Impact Report back in 2011 ABSs were more a theory than a reality. In our second report the first ABSs had only just been licensed. So much has changed in this time but one thing that hasn't is the continued absence of evidence about quality and this is surely completely unacceptable. It's little wonder that consumers still find it so difficult to make informed comparisons when there is so little data published. By the time we complete the next report this has to have changed.

Whenever you report on progress it's not always going to be comfortable reading for everyone. But four years in we know how valuable this exercise is and recognise the growing commitment from the regulators to prioritise where action is needed most. I am confident that this third Consumer Impact Report will inform all the regulators plans for the future, influencing this crucial next stage of legal services reforms.



**Elisabeth Davies, Chair**

# 2. Overview

## Responsive services

- Some positive signs of consumers becoming more active and demanding of lawyers measured by increased levels of shopping around, a sharp rise in fixed fee deals and greater satisfaction with choice and value for money
- Making informed comparisons on the quality of legal services providers would appear very difficult for consumers due to a lack of data on lawyers' performance
- Many examples of innovation following the liberalisation measures, although no single transformative change and MDPs are yet to take off as has been hoped
- Deregulatory measures to widen consumer choice are blurring professional boundaries, which is creating tension about whether competition is working fairly

## High quality advice

- A continued absence of evidence about the technical quality of legal work. There are specific concerns about the quality of asylum advice and criminal advocacy
- Satisfaction with quality, service and professionalism is static since 2011
- The previous decline in trust in lawyers since 2011 has levelled off. In-house lawyers have been implicated in high-profile scandals and these events risk damaging the profession's reputation
- Sanctions and appeals processes were found to have system-wide problems

## A diverse workforce that serves its diverse clients

- There remain significant, although slightly narrowing, gaps in trust, confidence and satisfaction with legal services between population groups
- DIY law, unbundled provision and unregulated businesses are emerging as market solutions to make legal services more affordable, but these raise challenges around balancing access to justice and consumer protection
- Regulators need to do more to embed consumer vulnerability throughout their work – in policymaking, their regulatory toolbox and contact with the public
- The sector has won praise for its efforts to improve diversity where the trends are in the right direction. Progression and social mobility remain areas of weakness where there is much more to do

## Quick, fair and cost-effective complaints-handling

- There is low public confidence in complaining about law firms and far higher numbers of silent sufferers – those who do nothing when dissatisfied – in legal services than in other services sectors. However, there are some signs that the quality of complaints handling by law firms is improving
- Changes to the scheme rules mean the Legal Ombudsman can accept a wider range of complaints, although large numbers still fall outside of jurisdiction

- In the year following our benchmarking report the Legal Ombudsman is resolving cases more quickly, its unit cost has reduced and complaints about its own service are proportionately down. It is doing more to use complaints to raise standards in the sector, but there is scope for a more strategic approach
- The legal services experience has highlighted the need to rationalise the wider consumer redress landscape. The ADR Directive is likely to create important strategic choices for the Legal Ombudsman's future

## Consumers placed at the heart of regulation

- The independence of regulators from representative arms has been strengthened but a lack of cultural independence from the workforce is seen to have held back the pace of market reforms
- Transparency among the approved regulators has improved but there are still inconsistencies which are difficult to explain
- The investment in research by the LSB and Legal Ombudsman has strengthened the evidence base, but activity by the approved regulators remains minimal
- The existing regulatory framework does not provide a sustainable model in the long term to protect consumers or support a competitive market place

# 3. Introduction

# Measuring outcomes

## The starting point

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

The report is designed to serve a range of purposes: to provide a regular overview of the progress of the reforms; shape the future priorities of the regulators around consumer needs; and act as can-opener to identify issues which the Panel or others might investigate further. Over the years this report and its underpinning data has become a key reference source for anyone interested in legal services regulation.

This edition of the Consumer Impact Report follows the same format as the first two, although we have made some minor changes to the indicators. These changes, listed in Annex 1, were made to reflect current priorities and the availability of data. The range and quality of the available data has improved since the first edition of this report in 2011, but there are still gaps which frustrate us and to this extent the document is necessarily an exercise in the art of the possible.

## Constructing the report

Figure 1 shows how the Consumer Impact Report is constructed. The starting point is the five elements of the Panel's vision for legal services, which represent the high-level outcomes in this Report. Each high-level outcome is broken down into three intermediate outcomes, and, in turn, a series of indicators. By developing intermediate outcomes and indicators sitting under our vision, our intention is to identify some important staging posts towards enduring change. This allows us to highlight which elements are either nearer or further away from being realised.

The indicators are populated by regularly published data sources such as business plans, annual reports and board papers. As in previous years, we commissioned YouGov to conduct an omnibus survey with both a representative sample of the general population and recent users of legal services. The survey includes booster samples for Wales and six BME groups to allow deeper analysis of the survey data. Legal Ombudsman complaint trends data and various official reports are also used.

In addition to the statistics, a qualitative commentary interprets the data and makes wider observations of developments since the last edition in summer 2012.

The YouGov Tracker Survey data carries a confidence level of 95%, i.e. – we are 95% confident that these findings are not due to chance. Of course, margins of error will be greater where sub-samples are analysed.

Following the publication of the previous edition in 2012, we decided to publish the report every two years, rather than annually as before. This was based on feedback that the regulators wanted greater space to digest and act on the report's findings. Even so, where possible, we have continued to collect data on an annual basis so that we can provide a complete timeline and pinpoint when change occurs. With four years worth of data in the bank, we are now in a position where it is possible to discern some trends for some of the indicators. So in this report we also compare the 2014 data to that in the first edition, in 2011.

To help inform our analysis, we have shared the raw data with the regulators through the Regulators' Forum which we established in 2013. We know that the Consumer Impact Report may sometimes make for uncomfortable reading, but welcome the consensus about the value of this exercise.

## Scope

This report is limited to matters falling within the Panel's statutory remit, i.e. the regulation of legal services. Issues such as public funding of legal services and the administration of the courts are outside of scope. Reflecting the Panel's priorities, the Impact Report focuses mainly on individual clients.

The Institute of Chartered Accountants in England and Wales (ICAEW) became an approved regulator and licensing authority in July 2014. Since this report covers the period up to 31 March 2014 we have excluded ICAEW from scope but they will be included in the next edition, due in 2016.

The Legal Services Board (LSB) carries out a regular evaluation programme consisting of an overall analysis of the reforms, and special reports on competition and access to justice, on a three-year cycle. The first overall analysis was published in 2012 and the next is due in late 2015. This exercise focuses on the changes that have occurred in the legal market and the impact that can be attributed to the LSB.

The design of the document is to examine change from five perspectives: the profession; consumer; public; investor; and the market. The Panel and the LSB work closely to ensure our two initiatives are complementary. The LSB's report draws on the Consumer Impact Report as part of the evidence base, particularly in its analysis of the consumer perspective, while our report draws insight from the evaluation exercise and special reports.

Figure 1 – Our vision for legal services

## Outcomes

## Intermediate outcomes

### Responsive services

- A meaningful choice of providers and services
- Consumers are empowered when dealing with providers
- Consumers receive value for money

### High quality advice

- Advice is technically competent
- Consumers are satisfied with the service provided
- Providers behave ethically, and misconduct is dealt with swiftly and appropriately

### A diverse workforce that serves its diverse clients

- The workforce reflects the make-up of the population
- Providers understand and serve the diverse needs of consumers
- Regulators take proper account of consumers at risk of disadvantage

### Quick, fair and cost-effective complaints-handling

- Complaints are resolved by providers in-house
- A world-class ombudsman scheme
- Complaints intelligence is used to raise standards

### Consumers are placed at the heart of regulation

- Approved regulators are truly independent of the entities they regulate
- Regulatory bodies work transparently
- The regulatory system supports a market that works well for consumers

## 4. OUTCOME:

# Responsive services

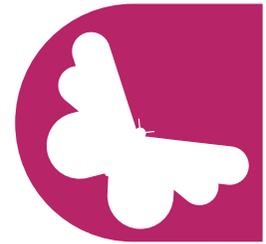
### Assessment of consumer impact

There are some positive signs of consumer behaviour changing in response to the reforms. Consumers are happier with the choice available to them, shop around more, and they are more satisfied with value for money, perhaps due to a rise in fixed fees. Use of choice tools, such as quality marks and comparison websites, has remained stubbornly low, however. The continued absence of information about the performance of lawyers is also leaving consumers in the dark. Referrals through commercial intermediaries, such as estate agents, lenders and insurers, are high and we remain concerned about practices which limit the exercise of free choice by consumers.

It is probably still too early to assess the level of innovation in the post ABS world. While there has not been a transformative change in how legal services are delivered to the public, the last two years have seen significant developments, including entry by well-known brands, major investment, new technologies and new types of business model. There have been concerns about the SRA's licensing process holding back new entrants, particularly multi-disciplinary practices.

Deregulation is giving greater freedom to barristers and chartered legal executives, which should widen choice and innovation further. Entry by accountancy firms, regulated by ICAEW, could prove significant, especially for SME consumers, where there is high latent demand. Deregulation is accelerating the blurring of professional boundaries and this is increasingly causing tensions; regulators will need to make sure there is fair competition in the consumer interest.

# Assessment Framework



## ▼ Intermediate outcomes

A meaningful choice of providers and services

## ▼ Indicators

- Consumer satisfaction with choice
- Number of Alternative Business Structures

Consumers are empowered when dealing with providers

- Consumer claimed knowledge about what lawyers do
- Shopping around: extent and ease of making comparisons
- Use of choice tools: price comparison websites and quality marks
- Availability of information about provider performance

Consumers receive value for money

- Consumer satisfaction with value for money
- Consumer satisfaction with transparency of offer
- Complaints to Legal Ombudsman about excessive costs
- Complaints to Legal Ombudsman about deficient cost information
- Consumers paying through fixed fees



### A meaningful choice of providers and services

#### What we want

Consumers have the opportunity to choose between multiple providers which compete vigorously and innovate in order to offer attractive services. The market contains services which are packaged to meet the varied needs and preferences of clients. Consumers find it easy to identify those providers able to deal with their matters and can make comparisons by researching information on the price and quality of different offers. The market should serve all consumers who potentially would benefit from legal help and should cater for the needs of people whose circumstances increase their risk of experiencing detriment.

There are no restrictions on who may provide legal services, or how, unless these controls are necessary to safeguard consumers. This is supported by a flexible system of regulation which applies different standards according to the risks. Wherever possible, the regulatory landscape is simple and consumers understand how they are protected when using different providers.

#### Commentary

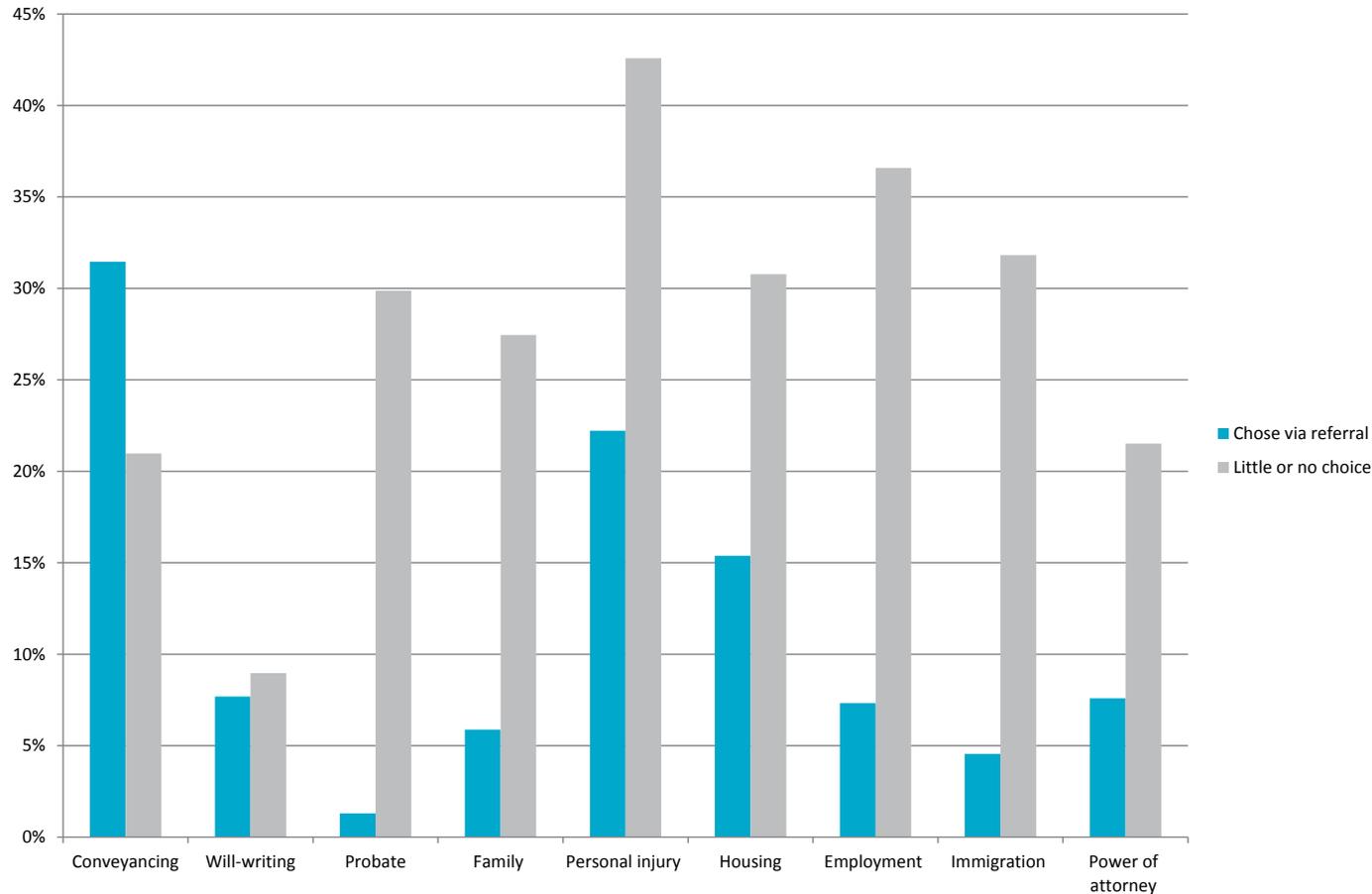
##### Choosing lawyers

In the Panel's Tracker Survey, 68% of recent users considered they had a great deal or fair amount of choice – up from 65% in 2011. Notably this rise has happened alongside consolidation within sections of the market. Therefore, even though the total number of law firms practising in certain areas of law has reduced, this does not appear to have altered negatively consumer perceptions of choice. Indeed, since last year choice satisfaction has increased in conveyancing and personal injury – two markets where consolidation has taken place.

As noted in previous editions of this report, in some sectors a significant minority of consumers perceive they have little or no choice. This is important because whereas 88% of consumers who felt they had good choice were also satisfied with the legal service they received, only 60% of those who felt there was poor choice were satisfied. Dissatisfaction with choice was found in conveyancing (21%), family matters (27%), probate (30%) and personal

injury (43%), among others. The reasons for this may vary in each market but we remain concerned about the role of middlemen such as estate agents, claims management companies, insurers and lenders suppressing free choice by consumers. In May 2014, the SRA issued guidance reminding solicitors drafting wills not to exploit clients by leading them to believe that appointing them as executor is essential or indeed the norm.

## Chart - Free Choice?



Survey questions: Which one of the following describes how you chose your provider? (Response: referral by another organisation, e.g. estate agent, insurance company) When you were deciding which provider to use, how much choice did you feel you had? (Responses: a great deal; a fair amount)

### Regulatory borders

Choice has widened as a result of the entrance of new licensing authorities and existing regulators extending practising rights and making rule changes which have lifted restrictions on forms of business structure:

- ICAEW has been approved as a probate regulator and licensing authority
- Chartered legal executives may soon set up independent businesses
- The CLC has a strategy to become a specialist property sector regulator, which includes regulating lawyers other than licensed conveyancers
- Restrictions on barristers accepting instructions directly and conducting litigation have been lifted – survey evidence suggests half of barristers will take part in public access by 2015 and 40% plan to offer litigation services. The BSB plans to regulate entities and become a licensing authority

These changes are blurring boundaries between branches of the legal profession and this is causing tensions in markets where there is insufficient work to go around. This was exposed in the Jeffrey Review of independent criminal advocacy. The report identified issues around unfair competition between barristers and solicitors. However, a key message was that winding the clock back on rights of audience would not be desirable



or feasible and the Bar must adapt to survive. In this context, the LSB has approved plans which would enable public access barristers to contract directly with the Legal Aid Agency and thus compete better with solicitors.

A generally overlooked feature of market is the large unregulated sector, which the LSB estimates accounts for 20-30% of the sector's annual £29bn turnover. New markets have emerged, for example, websites giving general legal advice on a question-by-question basis and McKenzie Friends serving a customer base that is no longer eligible for legal aid but cannot afford traditional legal advice. The Chartered Institute of Legal Executives (CILEx) has noted a 'paralegal uprising' and launched an enquiry to ask about the role of professional and regulatory bodies. A self-regulatory initiative to create a Professional Paralegals Register was launched. As unregulated firms make deeper inroads into the market, in our view this makes the reserved activities look ever more redundant and in need of urgent review.

**Indicator A1: consumers satisfied with choice**

**68%** (2013: 64%; 2012: 66%; 2011: 65%)

**Impact of ABS**

All types of law firm can deliver responsive services, but the growth in ABS matters given its implications for the diversity of supply and the benefits that external investment can bring. At the time of the last Consumer Impact Report, the very first alternative business structures had just been licensed. At the end of March 2014, the SRA and CLC had between them licensed 305 ABS; this number continues to rise.

Commentators are divided about the extent of the impact of ABS and it is difficult to separate the impact of the competition reforms from other drivers of change such as economic conditions, changes to legal aid availability and litigation funding reforms. The Panel is mindful of the Bill Gates maxim that people tend to overestimate the degree of change that will take place within two years of reform but underestimate what will happen within ten years. Looking back, there have been a wide range of striking developments – diversity of supply, technology, investment – that added together have the potential to make a significant impact, even if there hasn't so far been one change that has transformed the way in which people consume legal services. In many ways the level of innovation to date has been quite remarkable considering the relatively short timescale the reforms have been operating.

Even so, there has been frustration about the take up of ABS, particularly the small numbers of multi-disciplinary practices. There have been criticisms directed towards the SRA over the speed of its licensing process (although backlogs are now clear) and a cautious attitude towards unfamiliar business models like MDPs. The SRA has proposed deregulatory changes – for example, not applying SRA regulation where there is a suitable external regulator in appropriate circumstances – which are designed to make the legal services market seem more attractive to new entrants.

Many anticipate entry by some of the big accountancy giants will have a major impact on the market, especially if, as expected, ICAEW seeks to extend its powers to regulate litigation and other legal services. Whether accountancy firms will offer everyday household legal services is unclear. However, research has shown a large latent demand among SMEs; accountants are well placed to access this group of customers given the existing relationships they have with them.

Perhaps just as significant is that the dire predictions about a collapse in ethics and reduction in access to justice as a result of ABS have not materialised. There have been no major disciplinary failings by ABS firms or unusual levels of complaints in the Legal Ombudsman's published data. Our Tracker Survey isn't able to segment between ABS and non ABS firms, but does show that overall consumer confidence in the quality of work and professionalism of lawyers has held steady since 2011. The data indicates that service satisfaction reduces as the size of the law firm used increases, but this is a function of size rather than ownership structure.

**Indicator A2: Total ABSs at 31 March 2014**

	2014	2013	2012
SRA	265	135	3
CLC	40	24	2
<b>Total</b>	<b>305</b>	<b>159</b>	<b>5</b>

## Innovations and developments in legal services post ABS

- Entry by established retail brands
- Legal brand networks of traditional firms
- Heavy investment in TV advertising with high production values
- Overseas investors and entry by foreign companies
- Technological solutions, e.g. automated document services for wills, diagnostic tools and new markets like PAYG answers to specific questions
- Local authority ABS licences delivering savings on legal spend
- Accountancy giants entering the market
- Private equity investment and aggressive buying up of law firms
- In-house teams turning into freestanding practices
- NfP sector using ABS to reduce reliance on government grants
- Law firm and a charity combining to form an ABS
- Fixed-fee subscription models and technology serving business consumers
- Law firms offering white label services to others
- Direct access to barristers
- Trade unions combining to create an ABS
- Virtual law firms enabling a more flexible workforce



### Consumers are empowered when dealing with providers

#### What we want

Consumers are aware when the law can help them and find appropriate assistance quickly. This might involve using self-help materials or being signposted to the right source of help. Consumers shop around and demand more of providers, using their purchasing power to spur them to provide high quality and value for money services. They make use of reliable signals, such as quality marks and comparison websites, to inform purchase decisions.

Regulators and other bodies support consumers in making informed choices. For example, they publish information about the performance of providers that do not treat their customers fairly and ensure quality signals used by consumers are reliable. They require providers to disclose specific information, such as full pricing details, that consumers need to make informed decisions.

#### Commentary

##### Knowledge is power

The proportion of people who claim a fair or great deal of knowledge of what lawyers do is now 42%, slightly down from 44% in each of the last three years. This is not a statistically significant change so we conclude that knowledge levels are largely unchanged. As might be expected, whether someone has recently used a legal service impacts on knowledge – 54% who used legal services claimed knowledge compared to 37% who did not. Since 12% more respondents in social group ABC1 than C2DE used a legal service within the last two years, this may partly explain why claimed knowledge across these groupings is 50% and 32% respectively.

These figures are important in light of high levels of unmet legal need and research indicating that people are more likely to take action to resolve problems which they categorise as legal in nature. Low levels of public knowledge are also relevant to concerns about the confusing boundaries of legal services regulation.

In the last Consumer Impact Report, the Panel noted that the role of regulators in relation to public legal education had been underexplored. Regulators tend to see this as primarily the responsibility of government and point to the role of competition in raising awareness.

Certainly recent years have seen greater marketing of legal services, the entry of familiar retail brands and efforts to remove jargon, all of which may both help to raise awareness of legal services as a solution to life's everyday problems and change the profession's image so that lawyers seem more accessible.

The Low Commission, Law for Life and others have emphasised the importance of public legal education. The regulators have given this issue greater attention since our last report, although still view their role as limited. For example, the LSB asked for the Panel's advice on the role of the regulatory system in helping consumers to choose and use legal services. It also commissioned research showing public demand for a one-stop shop website for legal information, support and advice. The Legal Choices website – a collaborative venture involving all the frontline regulators which provides useful basic information about legal services – has been launched.

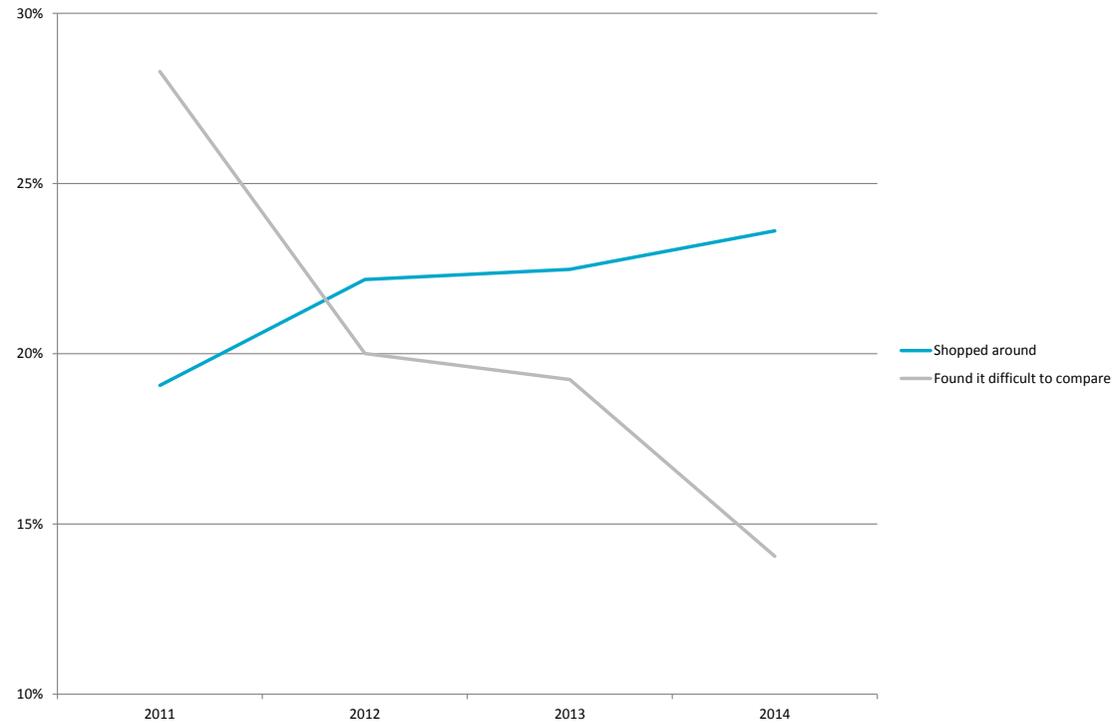
**Indicator A3: Consumers claiming a fair or great deal of knowledge about what lawyers do**

**42%** (2013: 44%; 2012: 44%; 2011: 44%)

## Exercising choice

Providers are more likely to design services that meet people's needs if consumers shop around for the best deal. The Tracker Survey shows that levels of shopping around have increased year on year, now at 24% compared to 19% in 2011. Moreover, the proportion of consumers who report they find it difficult to compare providers has halved over the same period – from 28% to 14%. These are encouraging signs that consumers are becoming more empowered.

## Indicator A4: Shopping around



Survey questions: Did you shop around for the provider you chose? (By shopping around we mean comparing services or prices from a number of different providers before selecting the provider you used); How easy or difficult was it to make comparisons between different providers? (Responses: Very easy; easy)

However, tools that would alert consumers to different options and help them compare offers, such as quality marks and comparison websites, still remain little used. Only 1% of the general public has used a price comparison website to choose a lawyer, 2% have used a customer review site and 5% a quality mark.

Even so, there has been a spurt of new comparison websites, some backed by serious money, which suggests entrepreneurs see this market as increasingly ripe to introduce such services. This includes interest from websites, such as Vouchedfor and Checkaprofessional, that are established in other markets. The Panel has also been encouraged by the interest in our voluntary standards as a means of avoiding some of the problems that have beset comparison websites in some other markets. One of the barriers to comparison websites is that the market is fragmented and it is resource intensive for them to build a good coverage of providers. However, this would be easier if they could access the professional registers in a machine readable format. The Panel recommended the regulators open their registers in this way in 2012 and this was quickly accepted by the LSB. To date the CLC, CLSB, Legal Ombudsman and SDT have published the requisite data, while the SRA, BSB and IPReg have made written commitments to do so. The SRA and IPReg have made written commitments to do so, while we await movement from the other regulators.

Accreditation schemes are the main other type of choice tool in legal services. Since the last edition of the Consumer Impact Report, the Law Society has rolled out major new schemes in conveyancing and will-writing. The Panel has reviewed the progress made by accreditation schemes since we assessed a selection of them in 2011. Overall we concluded the direction of travel is encouraging; a number of schemes had undertaken reviews and information provided to consumers has improved. Despite this we still found continuing weaknesses, especially in the lack of consumer feedback on lawyer performance, lay input in governance and complaints handling.

### **Harnessing consumer power**

Previous editions of the Consumer Impact Report highlighted a lack of transparency around the performance of lawyers, such as complaints and misconduct information, which could provide consumers with signals about service quality and allow them to be agents of competition in legal services. Since then the Legal Ombudsman has published quarterly updates naming the firms involved in the complaints it handles. It has yet to use powers to name lawyers or law firms

where there is a pattern of complaints or set of individual circumstances that indicate naming would be in the public interest.

More generally, aside from market signals such as customer review sites and quality marks, consumers are forced to take the competence of lawyers for granted given the lack of performance information. The Legal Services Board has committed to improving arrangements relating to the transparency of information held by regulators that could indicate past service quality.

The availability of information about misconduct continues to be mixed. The Panel found 5 out of 7 approved regulators' websites include details of disciplinary action (or a reference to the fact there had been no disciplinary actions). The LSB's recent review of sanctions and appeals arrangements concluded that it 'should be possible for approved regulators to be more transparent and open in publishing information about the sanctions and appeals decisions they make'. The LSB also suggested the regulators' current approach of rarely disclosing publicly the identity of lawyers or firms under investigation clearly favours the lawyer over the public.

### Indicator A5: Choice tools

Measures (%)	2014	2013	2012	2011
Use of price comparison websites	1	1	1	1
Use of customer review websites	2	1	-	-
Use of quality marks	5	4	4	5

### Indicator A6: Availability of provider performance data

Measures	Availability
Approved Regulators - misconduct cases	5 out of 7
Legal Ombudsman - service complaints	Yes
Legal Aid Agency - peer reviews	No

### Consumers receive value for money

#### What we want

Consumers are satisfied the service is worth the price they paid. Providers charge a reasonable fee for their work and their costs are transparent by clearly setting out fees and charges at the outset.

Regulators do not regulate price for privately-funded legal work, but support consumers to identify value for money by making useful information available. These activities might include providing educational materials or investigating allegations of poor practice, such as misleading advertising, that inhibit consumers from getting value for money. Regulators are alert to other factors that might prevent consumers from securing value for money, for example high pressure sales tactics that persuade people to purchase unsuitable services, or additional fees and charges hidden in the small print so consumers end up paying more than they intend.

#### Commentary

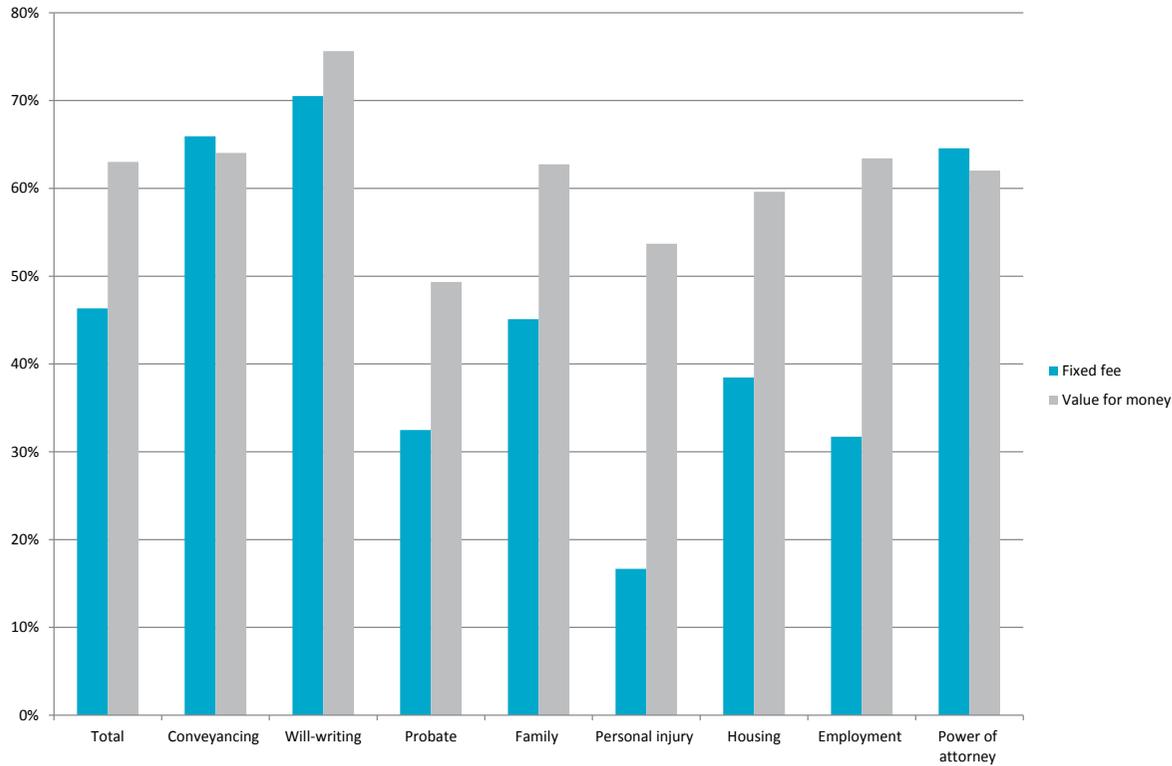
67% of consumers who paid for legal work privately considered they got good or very good value for money – this is a marked rise during the last twelve months and since the first edition of the Consumer Impact Report in 2011. Conveyancing, family and power of attorney are areas seeing some of the sharpest rises in satisfaction.

The Panel's Tracker Survey has also seen a rise in fixed fee deals, from 38% to 46% over the last three years. The hourly rate now accounts for less than 10% of deals. Fixed fees are a good indicator of competition: they may be more popular with consumers than lawyers since they offer certainty for the former, but less certainty for the profession as the work may take longer than they anticipate. Fixed-fee deals are considered by analysts to be more common where the work is more predictable. While our data backs this up, we are seeing such arrangements in a wide range of areas. Family law has seen one of the steepest increases in fixed-fee deals, accounting for a little over 1 in 10 transactions in 2012, but nearly half in 2014.

Satisfaction with transparency of offer has edged up, but we would like to see this figure improve. The Legal Ombudsman's data indicates a 13% increase in total complaints about deficient cost information since 2012.



## Chart – Value for money and fixed fees



## Indicators A7: Value for money

Measures	2014	2013	2012	2011
Satisfaction: value for money*	67%	55%	59%	55%
Satisfaction: transparency of offer	73%	72%	70%	-
Fixed fees	46%	42%	38%	-
Legal Ombudsman – complaints about excessive costs	1,507	1,395	1,415	-
Legal Ombudsman – complaints about deficient cost information	1,577	1,415	1,377	-



## 5. OUTCOME:

# High quality advice

### Assessment of consumer impact

Ensuring quality is one of the main justifications for regulating legal services but there remains barely any information on the technical quality of legal work. This situation must be improved.

Satisfaction with quality, service and professionalism has remained broadly the same since 2011. Trust in lawyers is far lower than we would want, but the trend has stabilised consistent with the pattern in other sectors indicating this is a reflection of wider public attitudes. There have been some high-profile cases where the behaviour of lawyers has come under scrutiny and could impact on the reputation of the profession, such as phone hacking and debt collection letters sent by in house solicitors working for major companies that appeared to be sent by external law firms.

A series of indicators relating to incompetence and enforcement action show a downward trend, in some cases quite marked. However, there have been concerns about the operations of individual disciplinary regimes and the LSB has identified system-wide problems with sanctions and appeals.

Financial protection arrangements have been a key policy issue with much concern among the profession about the size of premiums; radical proposals have been mooted to address these issues. Another major policy initiative was the Legal Education and Training Review. The Panel judged this a missed opportunity but welcomed that it put reaccreditation on the agenda. The Quality Assurance Scheme for Advocates has been frustrated by legal challenge; this episode has reflected badly on the profession's avowed commitment to scrutiny and raising standards.

# Assessment



## ▼ Intermediate outcomes

Advice is technically competent

## ▼ Indicators

- Consumer satisfaction with outcome of legal work
- Success rates in publicly-funded work
- Allegations of poor quality work

Consumers are satisfied with the service provided

- Consumer satisfaction with five elements of customer service: clarity of information, clear explanation, empathy, ongoing communication and timeliness

Providers behave ethically, and misconduct is dealt with swiftly and appropriately

- Consumer perception of trustworthiness
- Consumer perception of professionalism of lawyers
- Incidence of potential misconduct
- Performance of disciplinary procedures



## Intermediate Outcome



### Advice is technically competent

#### What we want

Legal advice helps consumers to achieve good outcomes, such as a will that divides their estate as intended or moving home in good time. Providers exercise skill and have comprehensive knowledge of relevant laws and wider issues relating to their practice areas, which they keep up-to-date. They apply this knowledge by helping clients understand the options available and relating this to their circumstances, in a way that helps them to make a decision and move forward.

Regulators have effective mechanisms to ensure advice is technically competent. Education and training mechanisms equip the workforce with the right levels of knowledge, skill and culture to meet the needs of their clients. Other requirements ensure providers remain competent throughout their careers. In addition, regulators are alert to and minimise market incentives that could drive down quality.

#### Commentary

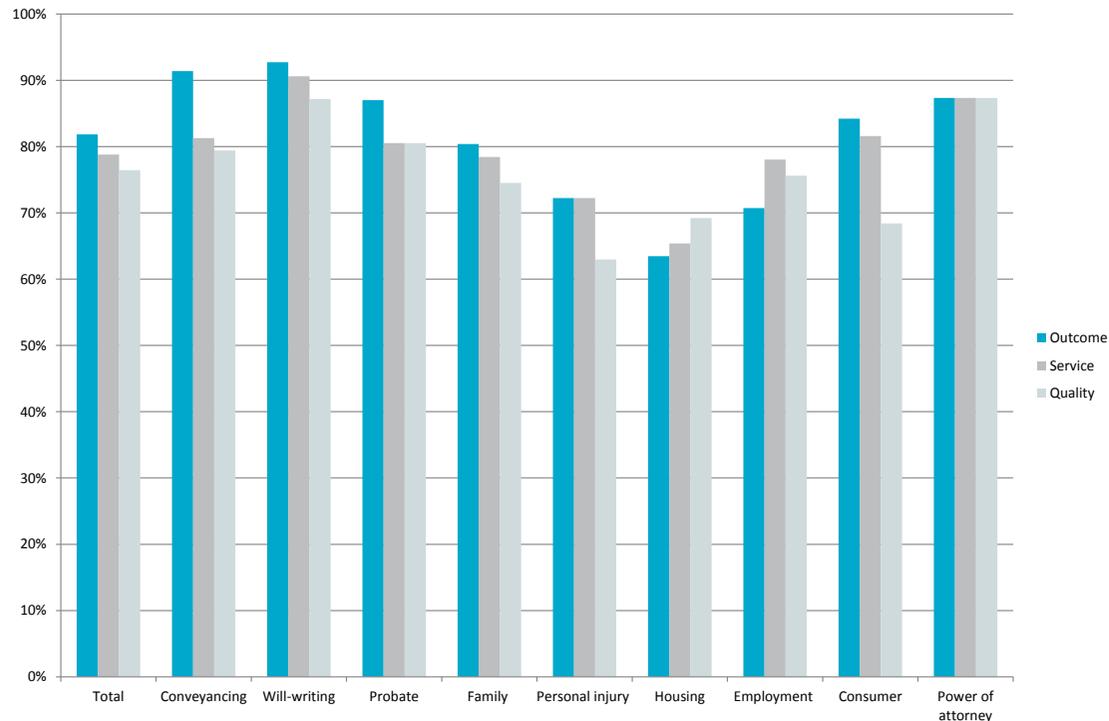
##### Outcomes, quality and service

Indicator B1 shows consumer satisfaction with outcomes is at 82%. While down from 84% in previous years this is within margins of error; so outcome satisfaction has remained constant

over the four years of our Tracker Survey. The nature of work partly explains differences in various elements of satisfaction across legal activities so how much work is done in each area in each year will impact on these figures. For example, process-driven services can be expected to have higher outcome satisfaction

ratings than contested work where there are winners and losers. The Chart shows there tends to be a positive relationship between outcome satisfaction and perceptions of the quality of work and service. Housing and employment are the only areas where satisfaction with quality and service are higher than with outcome.

#### Indicator B1 – Outcome and Quality satisfaction



Survey questions: Overall, how satisfied or dissatisfied were you with the...? (Outcome of your legal matter; Service you received from your provider; The quality of advice).

Responses: Very satisfied; satisfied



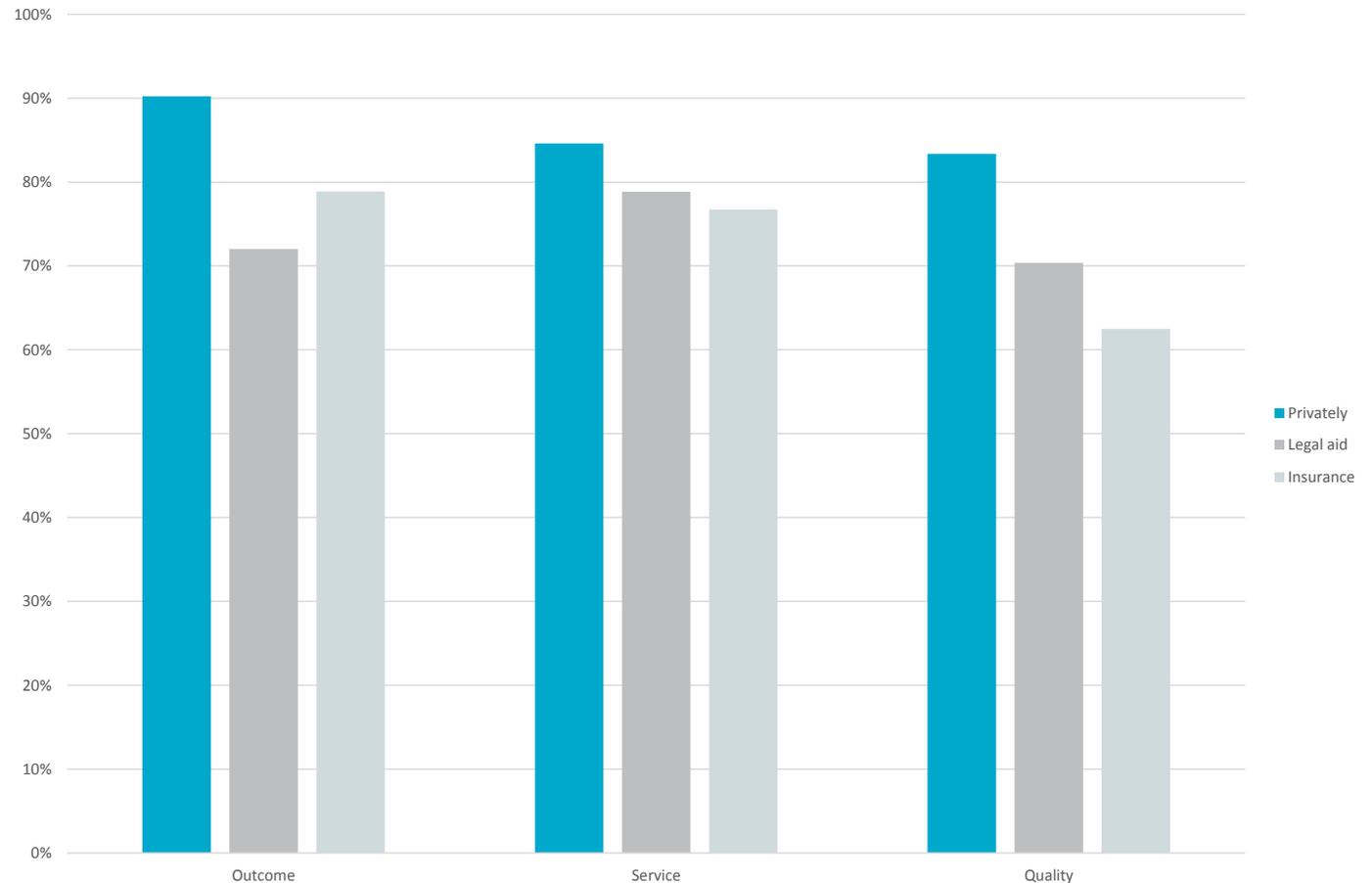
## Legal aid work

There remains remarkably little publicly available data about the competence of work carried out under legal aid contracts. Gaps in quality assurance was a feature of responses to the consultation on competitive tendering in criminal legal aid. The Government agreed to strengthen mechanisms to check quality following stakeholder feedback, but it is unclear whether greater transparency will also result.

Indicator B2 shows civil representation outcomes in work funded by legal aid measured by benefits received by funded clients. The figures offer a benchmark for future years, although the changing scope of legal aid will make yearly comparisons challenging. Overall 67% of cases in 2013-14 resulted in a substantive benefit to the client compared to 69% in the previous year.

The Tracker Survey provides some insight into legal aid cases. Consumers paying privately are happier with outcome, service and quality than legal aid clients, although legal aid clients are happier with quality and service than cases funded through insurance. However, mirroring the discussion above on the link between outcome and service satisfaction, privately and publically funded work is not directly comparable given the latter are often contested matters while the former are more typically transactional. Note that sample sizes for legal aid work are quite small.

### Chart – Funding method and satisfaction



Survey questions: Which one of the following best describes how the use of legal services was funded? Overall, how satisfied or dissatisfied were you with the...? (Outcome of your legal matter; Service you received from your provider; The quality of advice). Responses: Very satisfied; satisfied



## Indicator B2 – % Substantive benefit to client in legal aid funded cases

Success rates	2013-14	2012-13
<b>Family</b>	<b>67</b>	<b>69</b>
Domestic violence	80	80
Financial provision	78	83
Private law Children Act proceedings	73	74
Other public law Children Act proceedings	62	61
<b>Social Welfare</b>	<b>70</b>	<b>71</b>
Community care	71	66
Housing	70	71
<b>Low volume</b>	<b>54</b>	<b>51</b>
Actions against the police etc	62	67
Clinical negligence	51	46
Public law	51	50
<b>Tribunals</b>	<b>53</b>	<b>56</b>
Immigration	53	56
Mental health	54	56
<b>Overall Total</b>	<b>67</b>	<b>68</b>

\*Selected sub-areas based on volume/significance

## Allegations of poor quality

Indicator B3 relates to allegations of poor quality work. Negligence claims against solicitors and barristers have declined sharply, from 210 to 48 over four years. There were only nine external complaints opened by the Bar Standards Board alleging incompetence, down from 15 in the previous year.

There has been a process change in relation to how the Solicitors Regulation Authority records allegations about legal competence. The data now includes competence complaints signposted by the Legal Ombudsman (if this element was removed the figures would fall in line with the increases seen in overall allegations).

Since 2012, the Legal Ombudsman has experienced a 22% increase in complaints about failure to advise and 18% rise in complaints about failure to follow instructions.

Given that ensuring the quality of legal services is one of the primary justifications for regulating lawyers, the lack of proper data on the quality of work is extraordinary. The Panel remarked on this in our first Consumer Impact Report, but the situation has not improved since then. Instead policymakers must rely on individual studies, anecdotal evidence and consumer complaints – although even the latter is of limited value since consumers often lack the knowledge to assess the quality of work.

Multiple sources have expressed concerns about the quality of advocacy. The Court of Appeal's judgment on the Quality Assurance Scheme for Advocates (QASA) judicial review describes 'strong evidence of poor quality advocacy in the criminal courts'. The Jeffrey Review echoed these concerns based on interviews with judges. Two reports in 2012 by HM Crown Prosecution Service Inspectorate (HMCPSP) found the court performance of CPS advocates had shown an overall decline over two years. Lord Carlile's Inquiry into the Operation and Effectiveness of the Youth Court identified the court is often used as a place for lawyers to cut their teeth and advocates often lacked basic knowledge.

Against this backdrop, the resistance by sections of the legal profession to QASA, which we consider is quite a modest scheme, is very disappointing. In our view, the calls for a boycott and the judicial review and rounds of appeal, have reflected poorly on the profession's avowed commitment to scrutiny and quality. These actions have dragged out for even longer the introduction of a scheme first mooted in 2006.

The quality of asylum advice has also come under scrutiny. The SRA has started an investigation following a confidential dossier submitted by the Criminal Cases Review Commission reporting on overturned convictions of asylum seekers following references it made



to the appeal courts. The SRA said the report “identified an apparent failure by defence lawyers to advise genuine asylum seekers on the scope of the potential defences under the law”. A literature review conducted by the Panel had previously highlighted concerns in this area, which in turn followed the LSB’s assessment that the regulators’ approach was insufficient.

### Indicator B3 – Allegation of poor quality work

Measures	2014	2013	2012	2011
Complaints to Legal Ombudsman about failure to advise	3,545	3,068	2,772	n/a
Complaints to Legal Ombudsman about failure to follow instructions	3,212	2,723	2,642	n/a
High Court negligence actions against solicitors and barristers*	48	125	144	210
Allegations received by SRA about legal competence	2,206	700	961	1,323
Complaints to BSB about incompetence	9	15	11	20

\* Data is for last four available years 2009-2012

### Legal Education and Training Review

The headline finding of the joint regulators’ Legal Education and Training Review was that the current system provides, for the most part, a good standard of education and training enabling the development of the core knowledge and skills needed for practise across the range of regulated professions. At the same time the research identified a number of ways in which the quality, accessibility and flexibility of this system needs to be enhanced to ensure the system remains fit for the future.

There was much in the report that the Panel welcomed, for example, that lawyers’ training should include a greater emphasis on ethics, client care skills and diversity; revamping CPD; making voluntary quality schemes more robust; and ongoing consumer representation as the review is taken forward. However, overall we saw it as a missed opportunity to redesign legal education and training around the needs of consumers. In particular, we wanted to see a stronger push on activity based approaches and introducing periodic reaccreditation in high risk areas of law. Even so, the review has at least put these matters on the table.



## Continuing professional development

The approved regulators have moved at different speeds to implement the LETR research report findings. The SRA is undertaking a radical review of the skills and knowledge required to merit qualification as a solicitor and has produced a draft competence statement – encouragingly, they have tested this with consumers.

The LETR research report highlighted CPD as a weakness of current arrangements. The SRA went beyond the report to favour removing all specific regulations on CPD and relying instead on existing provisions requiring regulated entities and individuals to deliver competent legal services and train and supervise their staff. While the Panel supported a shift from static hours based regime to a model where individuals and entities reflect on development needs and plan and implement training accordingly, we had serious reservations about the SRA's proposals, in relation to individual accountability, monitoring the quality of work, sanctions and how CPD fitted within the SRA's wider quality assurance processes.

## Intermediate Outcome >

### Customers are satisfied with the service provided

#### What we want

Consumers receive the level of service they demand of providers. Providers display empathy to their clients, treating each person as an individual not a file. Their processes run efficiently so that things progress smoothly and in a timely way. They provide clear and useful advice which allows consumers to decide the course of action most likely to deliver their preferred outcome given the circumstances. Lawyers communicate effectively by explaining issues clearly and without jargon, signposting what should happen and when, and updating on key developments.

Consumers are free to negotiate differing levels of service with providers according to their needs, but regulators set and enforce minimum standards where necessary in order to safeguard the quality of advice. For example, codes of conduct define desired behaviours such as timeliness that if not met would support a complaint, or specify transparency requirements in relation to the terms of engagement that providers enter into with their clients.

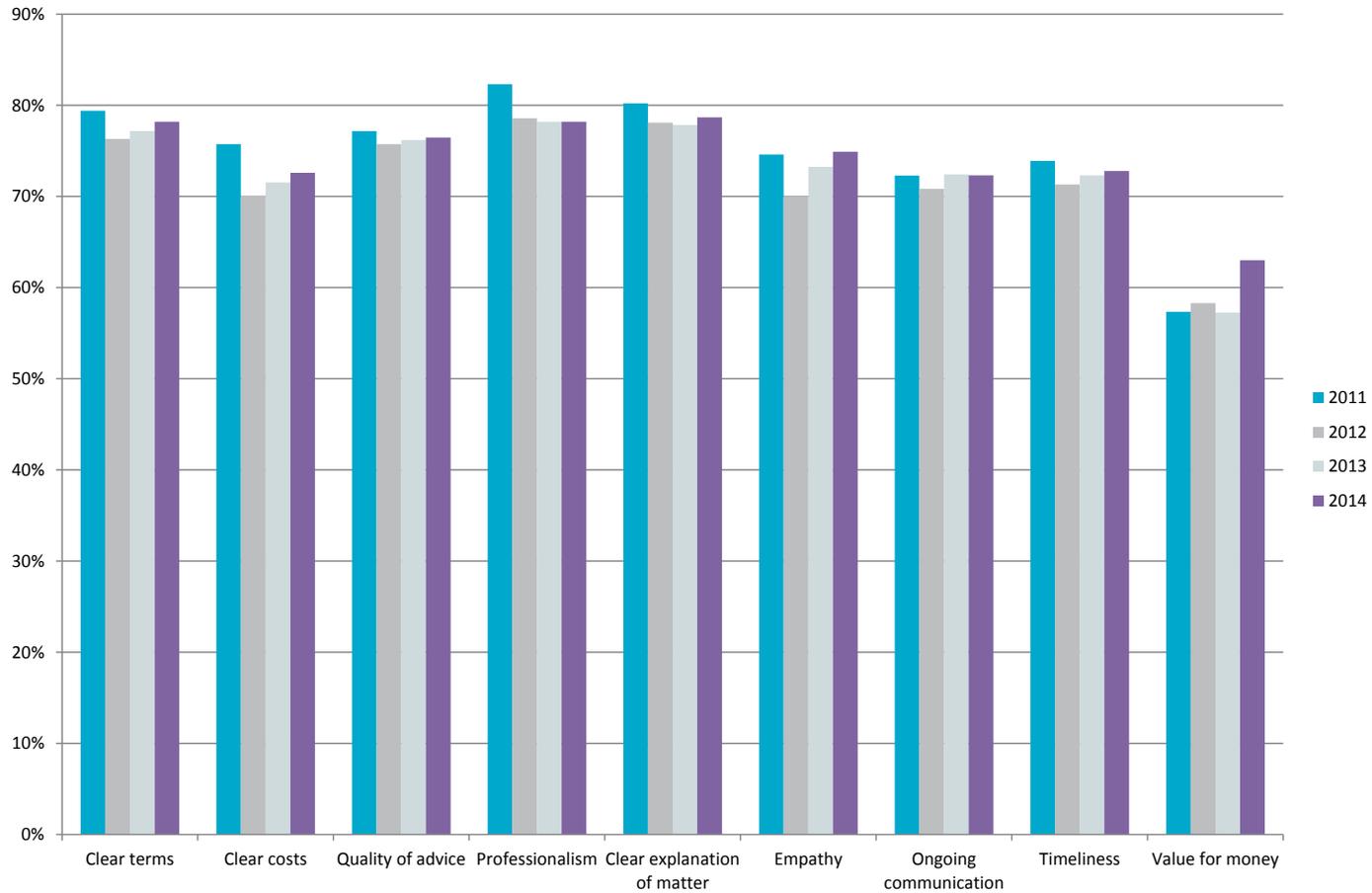
#### Commentary

The elements of service within Indicator B4 are based on surveys asking consumers what is important to them. Overall levels of satisfaction are 79% - this has remained static across the four years of our Tracker Survey. Consumers are happiest with the clarity over the terms of the work and explanation of their legal matter. However, there tends to be less satisfaction with timeliness and communication once the matter is in progress. Certain indicators, such as clear information on terms and costs, empathy and timeliness have edged upwards over the last three years.

There are a number of potential influences on service satisfaction, which also varies by area of law. Consumers are less satisfied when they feel there isn't much choice, they don't shop around, they are referred to the provider via a commercial introducer or where they do not pay for the work (i.e. it is funded through legal aid, insurers, no win no fee deals or unions).



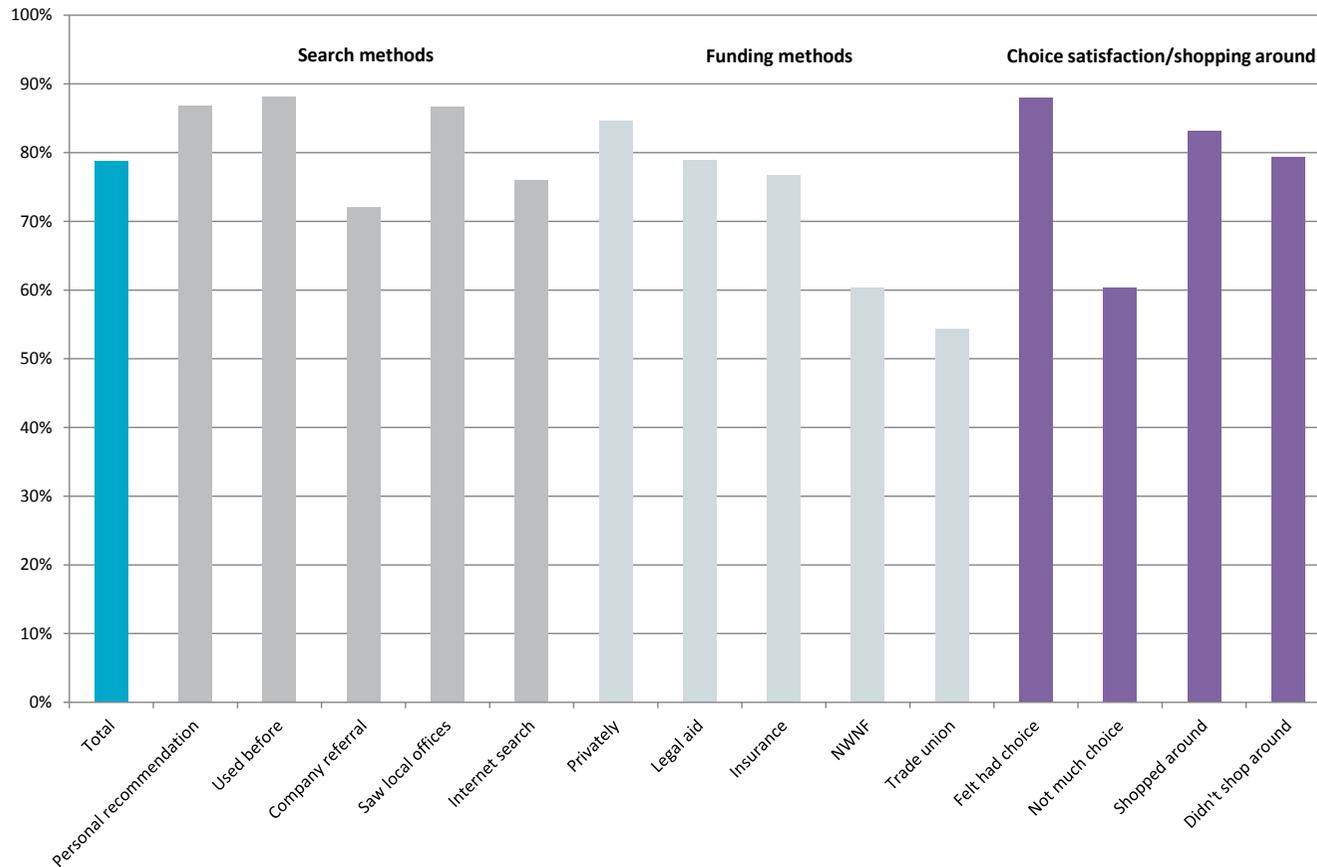
## Indicator B4 – Service satisfaction



Survey questions: We would like to get your views on different aspects of service provided by your legal services providers. For each aspect of service, please say how satisfied or dissatisfied you were with it... Overall, how satisfied or dissatisfied were you with the...? (Outcome of your legal matter; Service you received from your provider; The quality of advice). Responses: Very satisfied; satisfied



## Chart – Influences on service satisfaction



Survey questions: combination of questions from previous charts relating to selection method; funding source; satisfaction with choice; and shopping around.

## Intermediate Outcome >

**Providers behave ethically, and misconduct is dealt with swiftly and appropriately**

### What we want

Providers adhere to standards of ethical behaviour within and beyond their codes of conduct. At all times they put their duty to the court, and then to their clients, ahead of commercial interests. In his review of the regulation of legal services, Lord Hunt wrote: “What marks professionals out is a commitment to certain standards of behaviour, founded in ethics and best practice”. And, further: “legal professionalism provides the essential foundations for trust between provider and client”.

Through the market rules they set and their response to malpractice, regulators create positive incentives that keep instances of unethical behaviour and dishonesty to a minimum. This is supported by access to good intelligence, proactive cooperation with other agencies and effective monitoring processes. Regulators have a wide sanctioning toolkit at their disposal that acts as a strong deterrent. Disciplinary procedures deal with cases swiftly and justly.



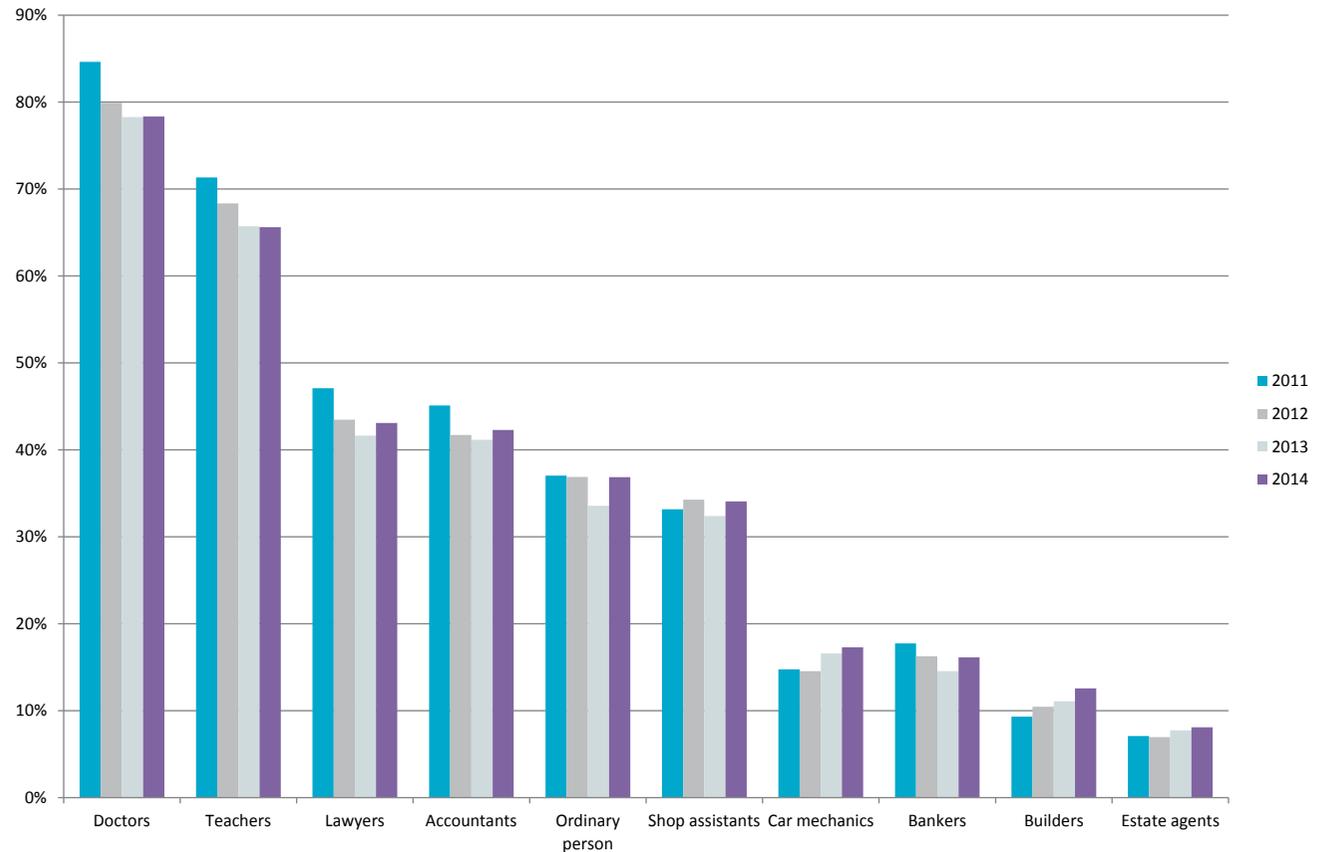
## Commentary

### Trust

Indicator B5 shows that levels of public trust in lawyers is now at 43%. This measure had been on a downward trajectory between 2011-2013, but levelled off this year. As the Chart illustrates, the trend for lawyers mirrors that for other professionals and the data should be interpreted with this in mind. Like previous years, there are some notable demographic differences. Trust is higher among White British (50%) compared to BME respondents (42%), and is far lower in the Pakistani population (30%). However, the ethnic gap has narrowed since 2013 (from 14% to 9%).

Trust doesn't vary much between recent users (47%) and non-users (42%). Yet there is a paradox that people think their own lawyer acted professionally but are less trusting of lawyers as a whole. The Panel worked with the LSB to undertake qualitative research on why some people do not trust lawyers. This found that specialism, local standing, friends and family, and personal experience are more likely to drive positive feelings of trust while media, service and cost are more likely to lead to a breakdown in trust. Most consumers' feelings of mistrust are not shaped by a single incident but by multiple incidents and underlying perceptions of the profession. The link between transparency over costs and poor service experience strikes us in light of the other findings in the 2014 Tracker Survey, reported above.

### Indicator B5 – Consumer perceptions of trustworthiness



Consumer views about the professionalism of their own lawyer remains at 78%. This has fallen slightly since 2011 (82%), although this is within margins of error. High-profile individual failures risk contributing to a loss of trust in the profession. A recent example widely reported in the national media is the misleading letters chasing debts sent by in-house lawyers working

for banks, utility companies and others that appeared to come from independent law firms. As the list of cases in the box below taken from the Lawyerwatch blog illustrates, lawyers have questions to answer concerning many of the recent major scandals in British public life.



## Five scandals highlighted in [lawyerwatch.wordpress.com](http://lawyerwatch.wordpress.com)

- Debt collection letters sent by in house solicitors working for major companies that appeared to be sent by external law firms
- The idea that lawyers within or connected to News Of The World may have conspired to encourage misleading evidence surfaced in the hacking trials.
- In the 'Nightjack' case where a journalist working for The Times newspaper unlawfully discovered the author of the Nightjack blog, the paper's former legal director was struck off after the SDT found he had failed to act with integrity and knowingly allowed the Court to be misled in the conduct of litigation
- The Public Accounts Committee criticised use of QC opinions as a reasonable excuse for non-disclosure when HMRC investigate tax avoidance schemes
- Lawyers are alleged to have assisted in one of the key mechanisms for the cover up by South Yorkshire Police over the Hillsborough disaster

### Incidence of potential misconduct

The Solicitors Regulation Authority's Compensation Fund handles applications for grants from people who have suffered financial loss due to a solicitor's dishonesty or failure to account for monies received. The sharp fall in the number of new claims to the Fund reported in the last edition of the Consumer Impact Report has continued; they are now just one-third of the volume in 2011.

The data shows there has been a 125% increase in allegations to the SRA about fraud, dishonesty and money laundering since 2011. The SRA told us this is due to their financial stability work and a general increase in relation to reports of fraud. It has also said the increases are in line with the rise in overall allegations. The number of struck-off solicitors has reduced during the last twelve months.

Nineteen barristers were disbarred in 2013-14, which is more than double than in the previous year. The number of complaints about dishonesty/discreditable conduct – a catch-all term for general conduct unbecoming of a barrister – is about unchanged.

In its regulatory standards exercise, the LSB gave a mixed report on how well the approved regulators analyse and assess risks. Six of the seven approved regulators got the lowest possible rating for risk-based regulation,

although the LSB noted many had significant plans to improve. However, we consider that the SRA's Risk Outlook, which explains the key risks that it has identified to the regulatory objectives, represents good practice. This document, which is regularly updated, has been supplemented by specific reports that look at current risks in more detail.

The Panel looked in detail at compensation arrangements in our June 2013 report. We found that overall the existing regimes cover the key risks consumers face when buying legal services, but we also identified a series of concerns and issues that the regulators need to address, including: scenarios where consumers could lose out due to gaps in coverage; opaque decision-making criteria on discretionary payouts; lack of information about the performance of compensation funds; a need for better information sharing between regulators and institutions such as insurers and banks; and little research with consumers about their experience of accessing the schemes.

Regulators have been reviewing these arrangements, partly in response to the pressure on the finances of law firms caused by high insurance premiums. The true regulatory cost is even higher; the SRA has suggested that over half their resources are spent on activities related to solicitors handling client money. To the extent that these costs

### Indicator B6: Satisfaction with professionalism of provider

**78%** (2013: 78%; 2012: 79%; 2011: 82%)



impact on the price of legal services, the design of financial protection measures may impact on access to justice. The SRA noted the need to balance cost and consumer protection when deciding to reduce the minimum required PII cover from £2m to £500,000. Like many stakeholders, the Panel opposed this change since we felt that consumers wouldn't benefit in practice from the reforms.

The bigger prize is how to reduce the frequency of solicitors holding client money since client accounts are seen as a particularly high risk area. Escrow accounts, such as that operated for barristers, could offer an alternative in some situations. The SRA has issued a call for evidence on potential wider reforms, although it has not sought evidence on whether solicitors should continue to hold client money.

## Effectiveness of disciplinary proceedings

### Solicitors

The Solicitors Regulation Authority aims to put together a case to place before the Solicitors Disciplinary Tribunal within six months, and it, in turn, aims to hear matters within six months. The performance data suggest the former timescale is quickening but the latter is lengthening.

At the Solicitors Disciplinary Tribunal determinations are taking place more quickly, although falling short of the organisation's KPI target of 70% within six months. Its annual report highlights the role of late adjournment applications, which are beyond its control, in causing delays. The data suggests a significant increase in the cost per court, which may reflect an increase in the complexity of hearings. The number of appeals against the Tribunal's decisions has also risen, although appeals are rarely successful; this indicates decision-making is generally sound. A feature of the most recent annual report is a significant increase in applications from consumers seeking certification of a case to answer. The Solicitors Disciplinary Tribunal suggests this is due to the consumer not understanding or knowing why their complaint has been rejected by the Solicitors Regulation Authority or Legal Ombudsman.

### Indicator B7 – Misconduct

Measures	2014	2013	2012	2011
New claims to Compensation Fund	1,233	1,321	2,018	3,694
Allegations about fraud/dishonesty/money laundering	1,812	1,379	806	847
Allegations upheld by SRA	769	489	1,328	1,531
Referrals to Solicitors Disciplinary Tribunal	113	119	297	301
Interventions due to suspected dishonesty	21	10	12	12
Struck-off solicitors	70*	75	52	79
Complaints to BSB about dishonesty/discreditable conduct	151	148	156	99
Complaints to BSB resulting in disbarment	19	11	14	9
Complaints to Legal Ombudsman about potential misconduct	1,250	1,086	1,315	n/a

\* Covers 16 month period from 1 May 2013 to 31 August 2014 as the organisation shifts into alignment with its financial and business reporting period.



## Barristers

The Bar Standards Board publish a detailed annual report on their enforcement work which combines KPI data with a user satisfaction survey. The KPI data on timeliness was met and this has improved on the previous year. Complainant satisfaction on timeliness has also increased, but remains quite low at 41%. The Board's analysis suggests the key issue is the time taken to come to a final decision which points to a more general dissatisfaction with the overall timescale of its enforcement procedure. The user satisfaction surveys indicate quite a high element of dissatisfaction, although satisfaction is closely linked to the complaint outcome. A report by the Bar Standards Board's independent observer, Isobel Leaviss, on its handling of complaints against barristers, praised the process as 'prompt, thorough and fair'.

Desmond Browne QC produced a report which found there were "systemic failures" in the administration of the disciplinary tribunals for barristers run by the Council of the Inns of Court (COIC). The concerns focused on irregularities over appointments to tribunal panels and led to an unsuccessful judicial review of the tribunals. COIC, which operated at arm's length from the BSB, has since been replaced by the Bar Tribunals and Adjudication Service.

The LSB reviewed regulatory sanctions and appeals arrangements and found that these are complex and in a number of ways do not meet best practice in relation to: transparency; consistent use of the civil standard of proof; consistency of powers and sanctions; and fair

and effective appeal arrangements. However, the LSB also noted that much of this complexity is driven by the regulators' underlying statutes.

Two regulators – the Solicitors Regulation Authority and ILEX Professional Standards – have consulted on increasing the maximum level of fine they can impose. In the former's case, they wanted to have the same level of fining powers for traditional law firms as for ABS - £250m for firms and £50m for individuals. However, this was blocked by the Ministry of Justice who advised that primary legislation would be needed. The regulator later made a revised proposal for a maximum fining power of £100,000, but following consultation is now seeking a limit of just £10,000.

## Indicator B8 – Performance of disciplinary procedures

Measures	2014	2013	2012	2011
Average time for SRA to issue case to SDT (months)	5.2	6.6	5.7	5
Average time for case to reach hearing (months)	13.8	11.3	12.9	10.5
SDT determinations with 6 months of proceedings issued	59%*	44%	55%	-
SDT – cost per court	£9,837*	£7,151	£6,505	-
Number of appeals against SDT decisions	39*	22	34	-
BSB complaints concluded or referred to disciplinary action within service standards	76.7%	64%	-	-
BSB complainant satisfaction with timeliness	41%	35%	40%	-
BSB complainant overall satisfaction with staff	50%	45%	56%	-
BSB complainants agree enforcement process is open and fair	33%	24%	33%	-
BSB complainants satisfied overall with handling of complaint	40%	36%	34%	-

\* Covers 16 month period from 1 May 2013 to 31 August 2014 as the organisation shifts into alignment with its financial and business reporting period.



## 6. OUTCOME:

# A diverse workforce that serves its diverse clients

### Assessment of consumer impact

New entrants to the workforce are more diverse than the overall population and there have been efforts on many fronts, such as occupational standards and apprenticeships, to widen access further. Government has praised the sector for its efforts here, although there remain issues with social mobility in some branches of the profession. The main historic weakness is progression, but compared to entry this has received far less policy attention. Even so the trend here is in the right direction. New data requirements are building a richer picture of workforce diversity, although the response rate varies considerably across professional groups; in some cases this is very low.

There are some wide differences in experience of legal services depending on socio-economic group and ethnicity. On measures of trust, confidence and satisfaction with various aspects of market conditions, service and outcomes of work, C2DEs report being less satisfied than ABC1s, and White

respondents report being less satisfied than those from BME groups. This social divide needs to be tackled and action taken to ensure the competition reforms do not leave some people behind. While caution is needed in interpreting the data, it is encouraging that, on some measures, the gap in experience between demographic groups has narrowed since 2011.

DIY law, unbundled service provision and entry by unregulated providers such as McKenzie Friends have emerged as market solutions to fill the gap left by legal aid. These are raising difficult questions about balancing access to justice with consumer protection.

There have been some positive steps by approved regulators where vulnerability considerations have been integrated within specific initiatives. However, regulators carry out very little research with vulnerable consumers and use of Equality Impact Assessments is rare.

# Assessment



## ▼ Intermediate outcomes

The workforce reflects the make-up of the population

## ▼ Indicators

- Diversity of workforce on entry
- Diversity of senior workforce
- Women on boards

Providers understand and serve the diverse needs of consumers

- Usage of legal services across population
- Consumer experience across population
- DIY law
- Discrimination complaints to Legal Ombudsman

Regulators take proper account of consumers at risk of disadvantage

- Consumer research reports with at risk groups
- Usage of Equality Impact Assessments
- Consumer vulnerability duties in codes of conduct



## Intermediate Outcome



### The workforce reflects the make-up of the population

#### What we want

Consumers deal with providers whose workforce reflects the diverse make up of the general population, enabling them to access the widest possible pool of talent. The workforce is diverse at all levels: high numbers of non-traditional aspirants are stimulated to enter the profession, progress to senior levels and are appointed to regulatory boards. The legal sector is a leader on diversity performance and is genuinely committed to removing remaining barriers to access.

#### Commentary

The LSB has issued guidance that approved regulators should collect data across a wide range of diversity strands. Unfortunately, collated data is not available, but we have gathered the information below ourselves from the websites of the regulators. The regulators have achieved highly variable response rates to their surveys and reporting conventions vary somewhat, which makes comparisons difficult. For the smallest regulators the sample sizes are low and so small differences to the responses in future years could impact on the percentages.

Nevertheless, the data below suggests some significant differences between the branches of the profession across a range of characteristics.

#### Diversity of workforce (%)

Regulator	Women	BME	Disability	Social mobility	State school	Child care	Care old/ill
SRA	47.2	14.7	1.0	-	-	-	-
BSB	35.1	12.3	1.0	-	55.4	-	-
CLC	69.4	10.9	2.0	27.1	82.6	25.3	10.1
IPS (SE)	65.7	10.8	7.5	66.2	86.4	34.3	30.8
IPS (SRA)	76.1	6.8	-	22.5	90.0	35.4	-
IPReg	33.0	-	-	-	-	-	-
MoF	25.4	6.8	4.0	48.6	53.9	16.4	15.7
CLSB	34.5	3.3	0.6	25.2	81.9	27.1	23.2

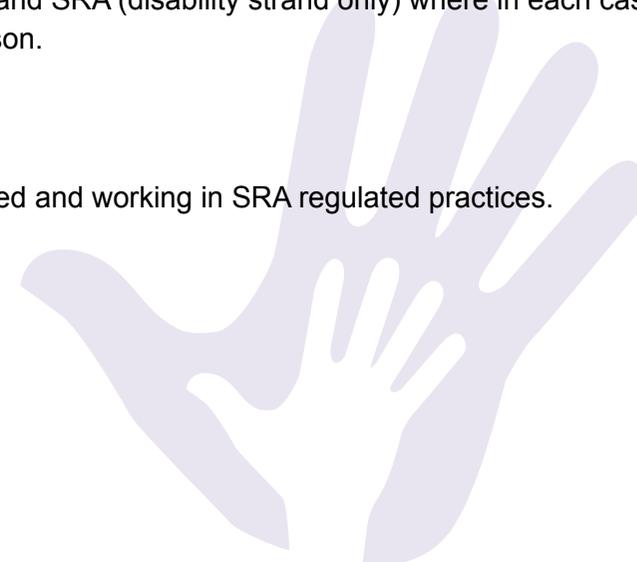
\*Data updated on 6 October 2014

Figures calculated when prefer not to say and non responses are excluded, except: the CLC (all figures); and the BSB (disability and state school strands only) and SRA (disability strand only) where in each case the raw data is not published to enable direct comparison.

BSB: figures based on data in 2012

IPS: data recorded separately for persons self-employed and working in SRA regulated practices.

MoF – data collected in 2011



## Entry

Indicator C1 suggests the diversity of entrants to the workforce is little changed since last year. Compared to 2011, there is a smaller proportion of new women barristers and the same proportion of women solicitors. More positively the BME profile has improved for both solicitors and barristers. Overall the diversity of new BME entrants continues to be well in excess of the make-up of the general population. However, some caution is needed as the legal sector principally attracts entrants from some specific BME groups but is underrepresented among other BME groups.

The Government's Social Mobility and Child Poverty Commission praised the profession for doing more than most to improve access. A key development was the second phase of a scheme that will create apprenticeships which for the first time will lead to qualification as a solicitor, while a new apprenticeship in conveyancing is also in development. These are positive developments, but as the table above shows, some branches of the profession still have a high proportion of individuals who were privately educated.

## Indicator C1 – Diversity of workforce on entry

% Women	2014	2013	2012	2011
Solicitors - New Admissions to Roll	59.1	60.3	59.4	59.1
Barristers - Called to the Bar	49.4	49.0	53.0	52.0
% BME				
Solicitors - New Admissions to Roll	24.1	23.8	21.8	21.1
Barristers - Called to the Bar	42.9	43.7	44.2	40.7

## Indicator C2 – Diversity of senior workforce

% Women	2014	2013	2012	2011
Partners in solicitor firms	27.2	25.4	25.8	24.8
QCs	12.4	11.8	10.9	10.9
Judiciary	25.3	24.3	22.6	22.3
% BME				
Partners in solicitor firms	11.9	9.0	8.9	6.8
QCs	5.5	5.2	4.8	4.3
Judiciary	5.8	4.8	4.2	5.1



## Senior workforce

While the senior workforce is still predominantly white and male, the trend among solicitors and barristers for gender and ethnicity make up is improving. For some measures, for example BME partners, the increase appears quite significant. However, clearly there is still some way to go before the senior ranks of the profession reflect the diversity profile of the workforce as a whole.

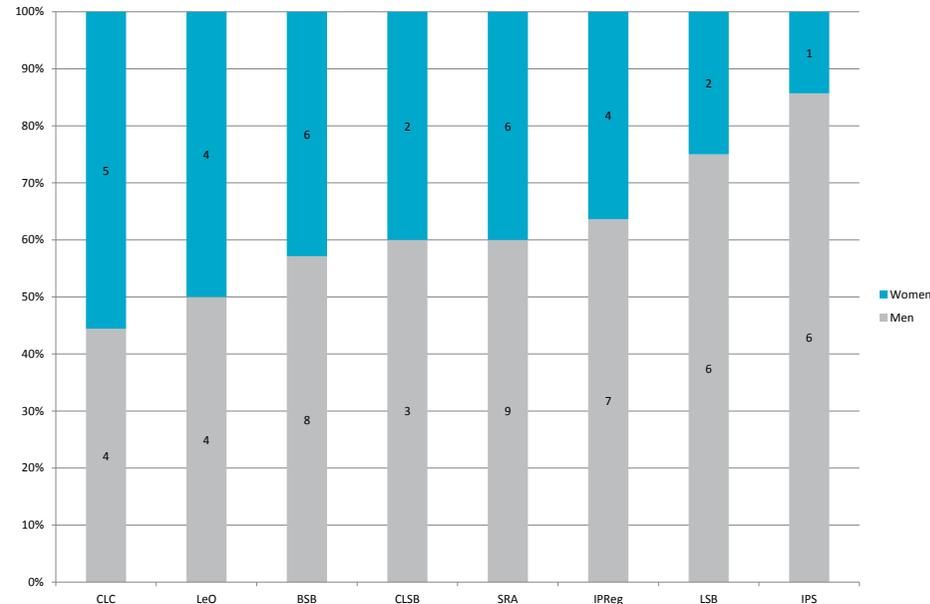
A LSB report on progress by approved regulators on diversity data has also noted that improvement is 'predominantly at the lower levels of the profession'. It suggested that regulators could make workforce diversity one of the factors when they rate the risk that firms present to the public and focus supervision on those with the worst records. Indeed, 'lack of diverse and representative profession' was identified as a current priority risk in the Solicitor Regulation Authority's Risk Outlook. This document also highlighted that the pay gap between male and female solicitors increased in 2013, and is larger (30%) than in the general working population (10%).

The statistics suggest a steady improvement in the diversity of the judiciary for both gender and ethnicity. A judiciary which reflects the overall make up of the population will not happen overnight since judges are drawn from a pool of senior lawyers. Even so the Judicial Appointments Commission has admitted patchy progress on its reforms. Some far-reaching options have been put forward by various bodies including proposals for career judges, quotas, restricting magistrates to 10 year terms and equal merit diversity preference. Encouragingly, during 2013-14 more women than men were recommended for judicial appointments for the first time.

## Regulatory boards

The gender balance of boards improved marginally in overall terms since the last edition of the Consumer Impact Report, up to 30 out of 77 total board members (39%) compared to 28 out of 78 (36%) in 2012. The chart below is ranked from left to right in order of the highest proportion of women, although some of the differences are small.

### Indicator C3: Women on boards



\* Correct as of 2 October 2014



## Intermediate Outcome

### Regulators take proper account of consumers at risk of disadvantage

#### What we want

Providers understand and respond to the diverse needs of their clients who receive a good service regardless of their personal circumstances. The BSI standard on consumer vulnerability makes clear that all consumers are different, with a wide range of needs, abilities and personal circumstances. These differences can put some consumers in a position of vulnerability or disadvantage during certain transactions and communications, potentially putting them at risk from financial loss, exploitation or other detriment. The standard identifies 'risk factors' related to a person's circumstances – such as bereavement, illiteracy, illness or disability – which could increase the likelihood of a consumer being at a disadvantage or suffering detriment. The BSI standard also makes clear that organisations and markets differ in the way that they provide services and interact with consumers. Organisations' policies and processes can contribute to, or increase the risk of, consumer vulnerability. The Consumer Panel's desire is for a market where providers acknowledge and respond to this definition of vulnerability.

#### Commentary

##### Usage of legal services across population

Indicator C4 measures usage of legal services across the general population. The table includes three 'life planning' legal services – a will, power of attorney and legal expenses insurance – which it may be advisable for people to have in place.

Overall usage of legal services is similar to previous years. As in previous editions of the Consumer Impact Report, there are differences between socio-demographic groups. In total, 34% of ABC1s used a legal service within the last two years compared to 22% of C2DEs. This may be because ABC1s have higher levels of economic activity more generally, e.g. buying a home. However, only 25% of C2DEs have made a will compared to 43% of ABC1s. Further, double the proportion of ABC1s (12%) have made a power of attorney than C2DEs (6%).

Research commissioned by the LSB has given us a richer understanding of how people respond to legal problems. In some situations consumers appear to be taking reasoned and, some might argue, rational decisions on whether to ignore problems, handle them alone or approach someone for formal legal advice. The key factors that determine how individuals respond to a legal problem are: whether or not

they perceive the problem to be legal and their own assessment of the cost of resolving the problem. Most people who obtained help from an advice agency rather than a lawyer said they did so because of the perceived cost. On the other hand people's perceptions of cost can be inaccurate, because of a lack of information and preconception of lawyers as expensive. As a consequence the authors conclude that making lawyers cheaper to access may not greatly change consumer behaviour.



## Indicator C4 – Usage of legal services across population

Measure (%)	2014	2013	2012	2011
Not used legal services in last two years	71	70	73	69
Made a will in last two years	7	7	7	8
Overall will ownership	35	37	35	-
Legal expenses insurance	9	10	10	-
Power of attorney	9	10	8	-

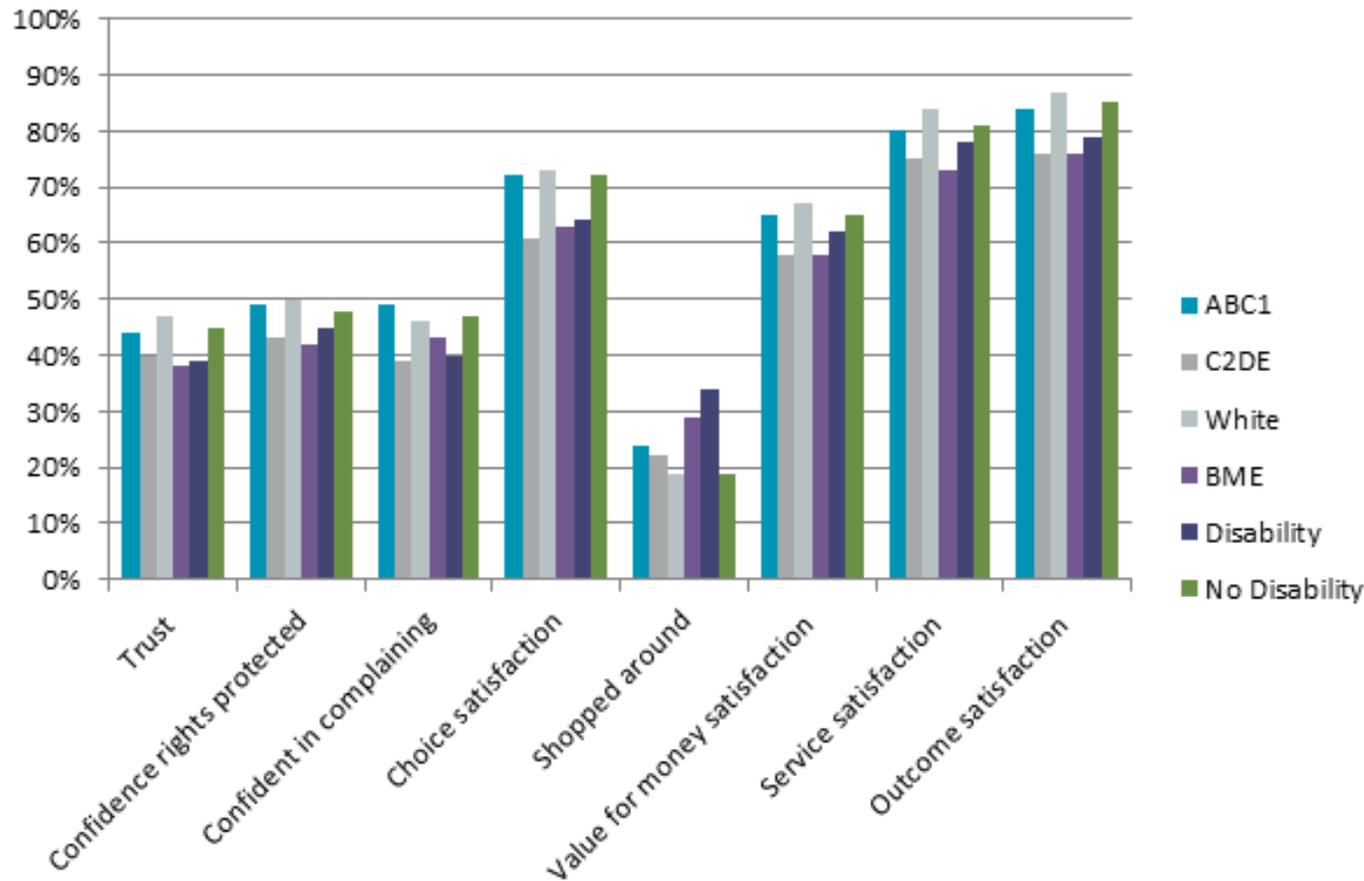
### Consumer experience

Indicator C5 indicates differences in attitudes and experiences between socio-economic groups across the indicators in this report. As in previous editions of the Consumer Impact Report, the C2DE group are less trusting of lawyers, feel less protected, less likely to complain, less empowered and less satisfied with outcomes, service and value for money. The same pattern emerges when comparing ratings between White and BME groups, with the exception that BME respondents were more likely than White respondents to shop around. This pattern repeats for disabled and non-disabled users – in all measures except shopping around, disabled users of legal services state they are less satisfied.

For the ABC1/C2DE and White/BME categories, we are able to measure whether the differences have widened or narrowed over time. Our analysis suggests the gap has narrowed in some areas but is unchanged in others. For example, ABC1s were 8% more likely to trust lawyers than C2DEs in 2011, but this gap was 4% in 2014. However, 10% more ABC1s than C2DEs said they would be confident in making a complaint in both 2011 and 2014. These gaps in confidence and experience are important to monitor as the competition reforms cannot be judged a success if they benefit the better off and leave more vulnerable groups behind. While the overall direction of travel is encouraging, clearly there is more to do to close these gaps.



## Indicator C5 – Consumer experience of legal services across population



Survey questions: combination of questions from previous charts relating to confidence; various elements of satisfaction; and shopping around

### Self-lawyering

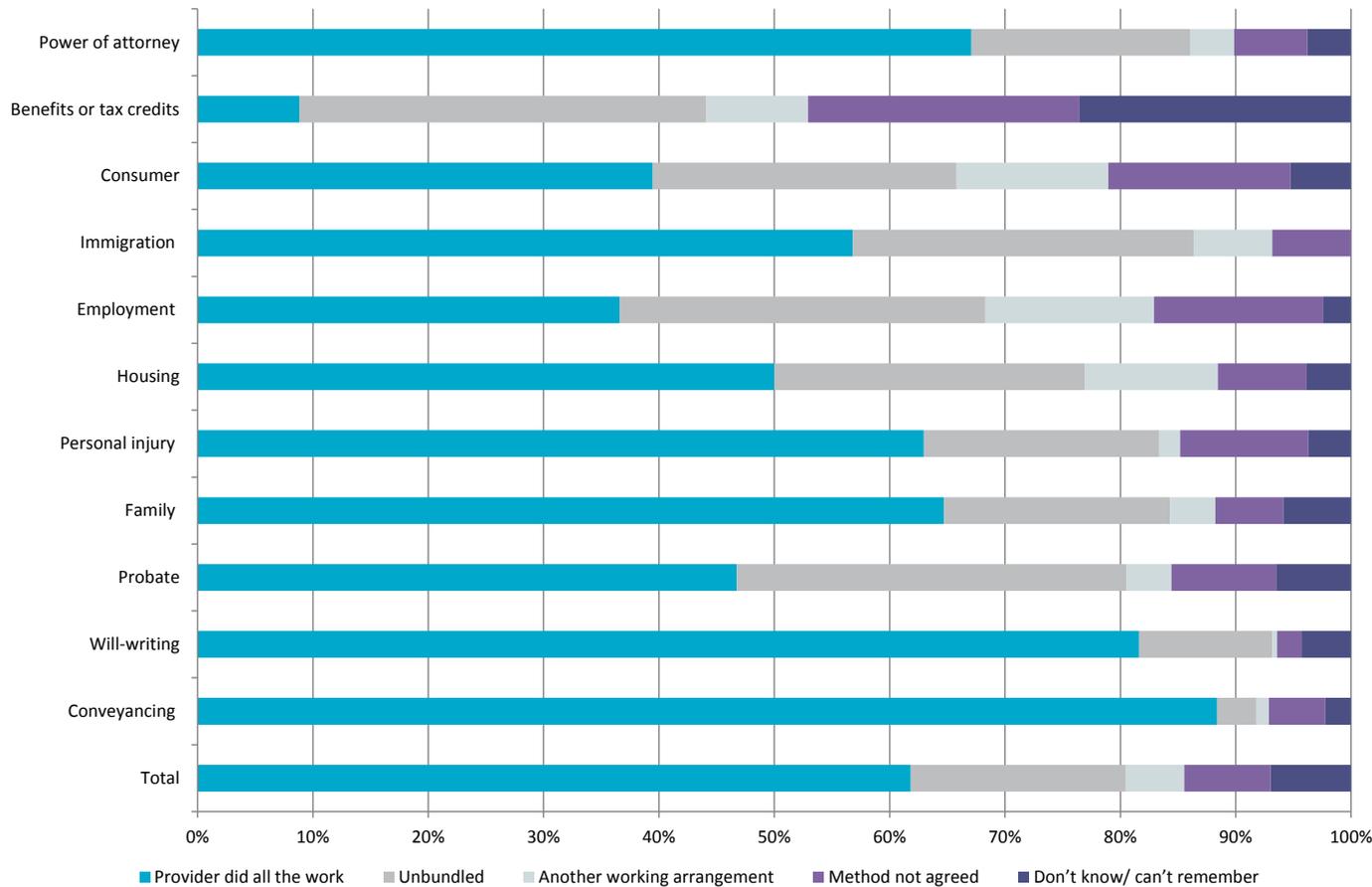
DIY law of various sorts – where the consumer does all or some of the work – is a growing trend. This may be the consumer’s preference and reflects growing empowerment, as with automated documents enabled by modern technology. Alternatively it may be driven by

affordability constraints and there may be a choice between doing it yourself or doing nothing at all. Recognising this development, we’ve added two new indicators to the Consumer Impact Report: unbundled service provision (where lawyers sell small amounts of their time or take on one or two defined pieces of work in the course of a case rather than the case as a whole); and the proportion of litigants in person in family cases.

Our data suggests that around 1 in 5 transactions involve some form of unbundling. It occurs most in probate, employment and immigration matters, whereas the provider is most likely to do all the work in conveyancing and wills. Demographic analysis suggests that unbundling is more common among social groups ABC1 and younger age groups so there may be work needed to promote this as an option for poorer and less confident consumers. The Panel is clear that an unbundled service must not be a second-rate service. Encouragingly, our service satisfaction data suggests only small gaps in satisfaction with a lawyer providing a full service (84%) and unbundled provision (81%). The LSB and the Panel have agreed to carry out joint research to explore the consumer experience in more depth.



## Chart – Unbundled legal services



Survey question: Before commissioning the work, did you agree with your legal service provider how the work would be carried out? (Response: Yes – we agreed the legal service provider would carry out some specific tasks on my case and I would do the other parts)

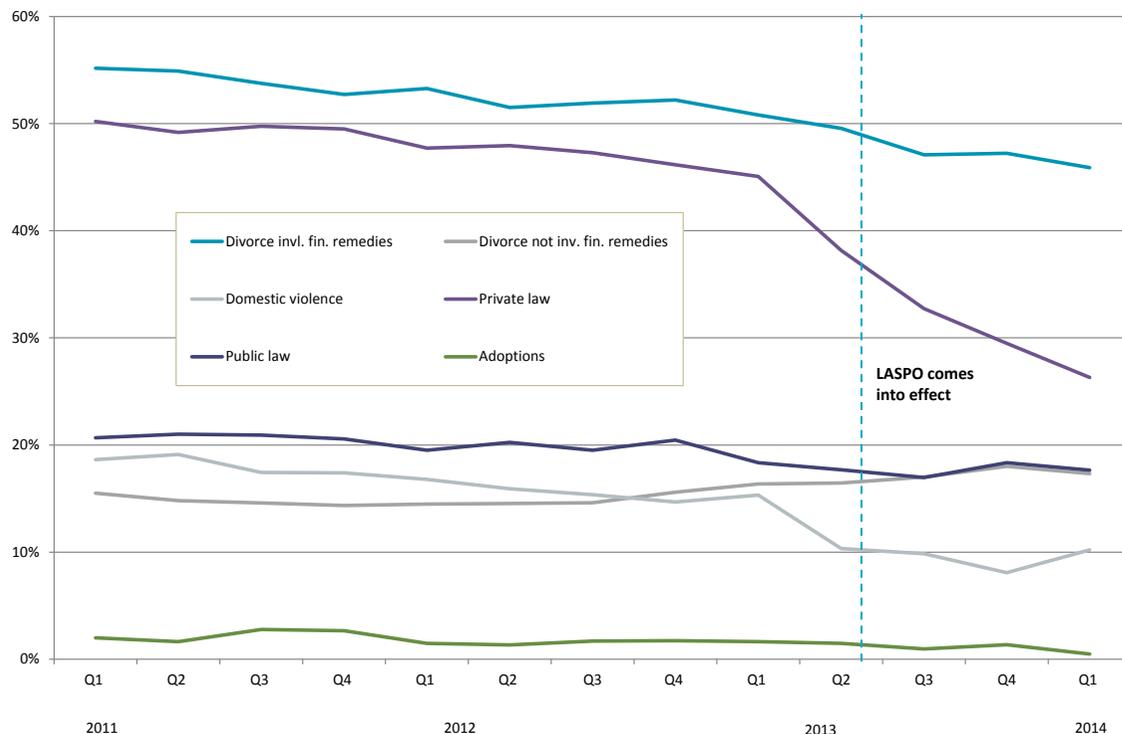
The Civil Justice Council's prediction that litigants in person will become the rule rather than the exception has already materialised in family cases following the withdrawal of legal aid. Around three-quarters of all civil and family

claims, including just over half of divorce cases involving financial remedies, involve at least one litigant in person. The sheer volume of initiatives, discussion and collaboration among a wide breadth of organisations about the small changes and larger reforms needed to help litigants in person has been impressive. However, the need for a more strategic approach that draws the strands together has been recognised. The scale of the issue is leading to consideration of more radical options, including interest by senior judges in moving to a more inquisitorial style of justice.

Reflecting our statutory remit the Panel's focus is on the regulatory implications of litigants in person. Our initial focus has been on fee-charging McKenzie Friends and our report exposed the difficult choices facing policymakers in terms of balancing access to justice and consumer protection. While the natural inclination is to regulate to protect consumers, in our analysis this would have led to reduced access and other tools could be tried to raise standards. We are pleased that a judicial working group has been established to examine this issue further and it should at least lead to clearer roles setting out the role and behaviour expected of McKenzie Friends. A trade association has also been established as a self-regulatory solution.



**Chart – Cases where both parties are represented**



**Indicators C6: DIY law**

Category	%
Usage of unbundled services	19
Litigants in person across all divorce cases	78.1
Litigants in person in private law cases	73.7

**Discrimination**

The Equality Act 2010 means that clients who use lawyers can expect to be protected from discrimination. Unlawful discrimination can take a number of forms, for example treating a person worse just because of one or more of their protected characteristics, or doing something to someone in a way that has a worse impact on them and people with a particular protected characteristic than on other people.

The Act also requires providers to make reasonable adjustments for disabled people. This may mean changing the way in which services are delivered, providing extra equipment and/or the removal of physical barriers. The duty is to make reasonable adjustments to ensure that a disabled person can use a service as close as it is reasonably possible to the standard usually offered to non-disabled people. When the duty arises, providers are under a positive and proactive duty to take steps to remove or prevent these obstacles.

During the 2013-14, the Legal Ombudsman received 35 discrimination complaints. This figure is similar to previous years.

**Indicator C7: Discrimination complaints to Legal Ombudsman**

**35%** (2013: 31; 2012: 32)

## Intermediate Outcome

### Regulators take proper account of consumers at risk of disadvantage

#### What we want

Regulators identify, understand and respond effectively to consumer vulnerability.

Vulnerability is embedded throughout their regulatory approach, through making policy, the regulatory toolbox and direct contact with the public. For example, they anticipate when the market may not adequately cater for consumers who have specific needs and, through good intelligence and engaging with the public and representative bodies, they understand the challenges these consumers face. Vulnerability considerations go to the heart of core functions – training, codes of conduct, risk assessment, supervision and enforcement – so that ultimately this will translate into law firms and lawyers acting in an inclusive and accessible manner.

#### Commentary

##### Understanding diverse consumer needs

As we highlight in the final section, the approved regulators have generally conducted very little consumer research. Nevertheless, the Bar Standards Board commissioned a study which directly engaged with consumers who had received immigration advice from barristers.

The Legal Service Board's regulatory standards framework stresses the role of consumer vulnerability in delivering effective risk assessment. To assist the regulators, the Panel has written a guide on consumer vulnerability aimed at the approved regulators, which is largely based on the British Standard on consumer vulnerability (BS18477). We have translated this into a legal services setting and illustrated it with examples from research that we've conducted with consumers.

Professional bodies also have an important contribution to make. The Law Society, with the assistance of specialist consultants, is currently developing a practice note for all solicitors entitled 'Meeting the needs of vulnerable clients'. The practice note is intended to be a useful guide for all solicitors (whatever their area of practice), helping them to identify and respond effectively to the needs of vulnerable clients accessing or seeking to access legal services. Likewise, the Bar Council has written a guide to help litigants in person represent themselves in court.

Equality Impact Assessments analyse potential or actual effects of policies, procedures, practices, criteria and functions to determine whether they have a differential impact on any groups. We noted whether consultation exercises starting between 1 April 2013 and 31 March 2014 included such assessments. Only the Solicitors Regulation Authority did so.

Indicator C8: Consumer research exercises with at risk groups published by approved regulators<sup>1</sup>  
(2013: 0 2012: 1 2011: 0)



## Indicator C9: Usage of Equality Impact Assessments

LSB	LeO	BSB	CLC	CLSB	IPS	IPReg	MoF	SRA
x	x	x	x	x	x	x	x	✓

### Obligations on providers

As in previous years, we examined codes of conduct for references to consumer vulnerability. The Panel's preference is for codes to include positive duties on providers in the mandatory sections of rulebooks as these are easier to enforce and it emphasises the importance of the issue. Six out of seven rulebooks reference consumer vulnerability, although the suitability of the wording varies.

The Intellectual Property Regulation Board's code includes guidance which comes the closest to the definition in the British Standard. It states: "Extra care should be taken when dealing with potentially vulnerable clients such as private individuals and in particular where there may be risk factors related to a person's circumstances (e.g. bereavement, illness or disability, etc.) which increase the likelihood of the client being at a disadvantage or suffering detriment".

There have been some positive steps by approved regulators where vulnerability considerations have been integrated within specific initiatives. For example, the Solicitors Regulation Authority is developing a competence statement which sets out what the baseline for being a competent solicitor is. This includes a reference to identifying and taking reasonable steps to meet the particular service needs of consumers in vulnerable circumstances, and to using plain English and providing information in a way that clients can understand. Alternatively, when consulting on setting the level of fine for regulatory breaches ILEX Professional Standards proposed "Vulnerable persons were taken advantage of" as an aggravating factor it would take into account.

## Indicator C10: Reference to vulnerability duties in codes of conduct

BSB	CLC	CLSB	IPS	IPReg	MoF	SRA
✓	✓	✓	✓	✓	x	✓



## 7. OUTCOME:

# Quick, fair and cost-effective complaints-handling

## Assessment of consumer impact

There are a far higher numbers of 'silent sufferers' in legal services compared to the services sector overall; approaching half of dissatisfied clients do nothing and confidence in complaining is low. More positively, there are some signs that standards of complaints-handling at first-tier are improving. Research has shown various barriers to complaining include confusion; being intimidated by complaining to lawyers; fear of the consequences; defensive responses by lawyers; and jargon.

The Panel's benchmarking exercise on the Legal Ombudsman found an overall picture of a relatively new scheme seeking to improve the service it provides as complaint patterns settle down. Timeliness has improved further since then and the unit cost is coming down. However, numbers of cases going to an ombudsman decision has continued to rise and complainant satisfaction has dropped, although this is closely related to the proportion of cases 'won' and 'lost'.

There are longer term debates on the future of consumer redress which could fill gaps in redress and lead to a much needed rationalisation of the ADR landscape. These developments create important strategic choices for the Legal Ombudsman's future.

The Legal Ombudsman's caseload is unchanged, although it remains too early to say if there has been a positive impact on standards. The Legal Ombudsman has a rich seam of data which it is now doing more to mine and feed back to the profession. It has also rolled out CPD courses nationally, improved the way it shares information with regulators and is introducing a new case management system that will allow more sophisticated analytics capabilities in future. These various strands need to be brought together into a clearly defined and coherent strategy with commitments to timelines.

# Assessment Framework

## ▼ Intermediate outcomes

Complaints are resolved by providers in-house

## ▼ Indicators

- Consumer confidence in making a complaint
- Dissatisfied consumers who do nothing
- Legal Ombudsman: premature complaints
- Complaints to Legal Ombudsman about failure to investigate complaint internally

A world-class ombudsman scheme

- Complaints falling outside of Legal Ombudsman jurisdiction
- Performance data: cases resolved within 3 months; overall user satisfaction score; complaints resolved by informal resolution; difference between C2DE dissatisfied consumers and C2DE users of Legal Ombudsman; and unit cost

Complaints intelligence is used to raise standards

- Cases investigated by Legal Ombudsman
- Providers with more than 3 complaints to Legal Ombudsman





### A world-class ombudsman scheme

#### What we want

Consumers who are unhappy with a service have the confidence to raise their concerns directly with the provider. They are aware of their right to complain and are clearly signposted to the procedure they should follow, including their option to complain to the Legal Ombudsman. Providers proactively acknowledge mistakes and put things right. They treat every complaint seriously and have procedures which are accessible, timely, fair and responsive to the unique circumstances of each client. When a remedy is warranted, providers quickly return the consumer to the position they were in before the problem occurred.

#### Commentary

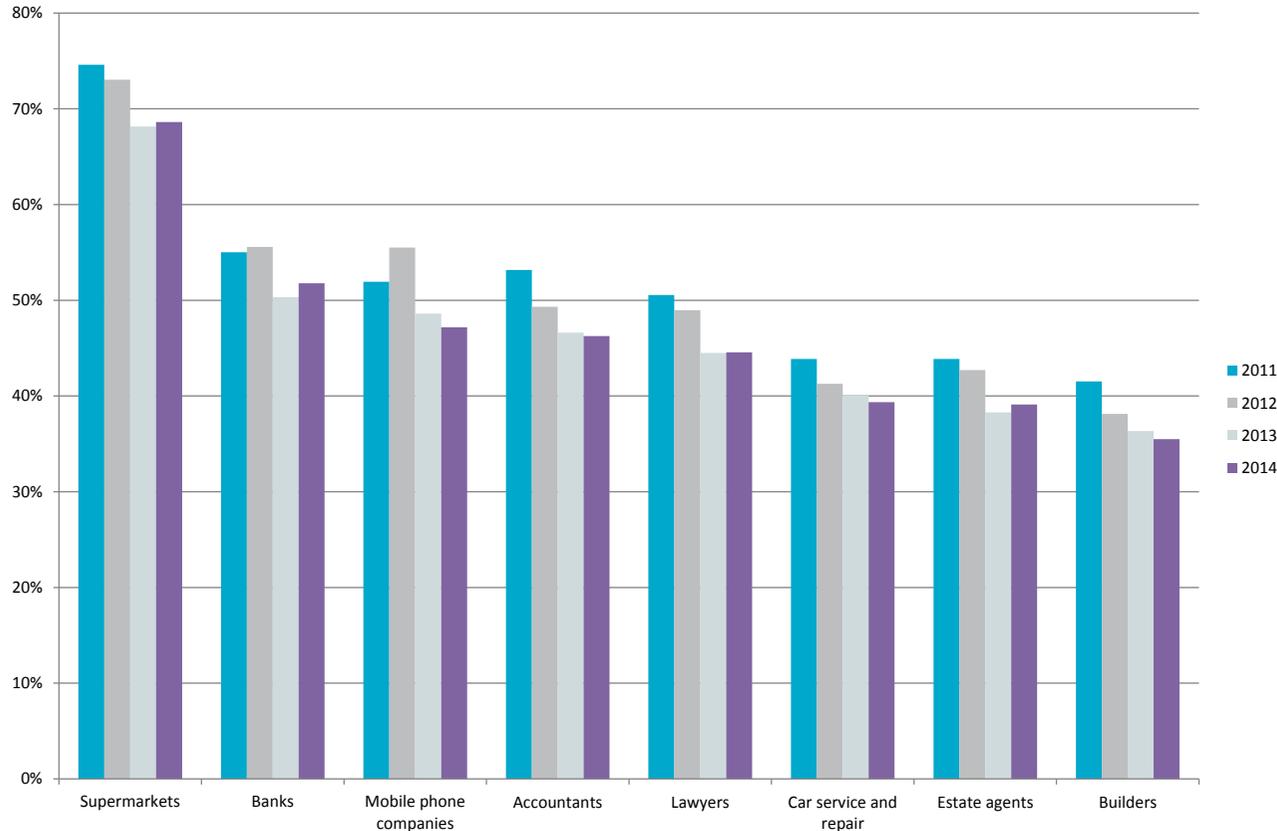
Barriers which prevent consumers from complaining about lawyers providing a poor service still remain a big problem in the sector. 45% of the general public say they would feel confident making a complaint about a lawyer – this is the same as last year but down from 51% in 2011. As the chart illustrates the pattern generally matches other sectors suggesting that wider consumer confidence factors are at play, but the figures again compare unfavourably with other major service industries. Confidence is slightly higher (48%) among recent users than non users (43%).

44% of consumers who were dissatisfied with a lawyer did nothing about it – the same as in 2013. This compares to 27% in the services sector overall according to research by the Institute of Customer Service. We are encouraged that Steve Green, new chair of the OLC, has said one of his top three priorities is ‘to make an even bigger impact on the willingness of consumers to raise issues and the responsiveness of service providers to those issues’.

Research jointly commissioned by the Legal Ombudsman and the Panel has provided some insights into the barriers that prevent complaints. This found that people find the overall process confusing and often intimidating and there is a perception that the process is either stacked against them or that the law firm will do nothing about it. There is also a worry that to complain might disadvantage them, for example by leading to a delay in the resolution of their matter, and there is also uncertainty about challenging a lawyer in a formal or official complaint process, which is perceived as akin to trying to beat lawyers at their own game. Furthermore, defensive responses or language used by providers can be interpreted as confrontational and threatening. Exacerbating this is the use of legal jargon which means many complainants do not understand the precise details of what is said.



## Indicator D1 – Confidence in complaining



Survey question: Please imagine that you were dissatisfied with the service provided by a business...How confident would you be making a complaint about the service provided by the following types of businesses?  
 - Lawyers, such as solicitors, barristers (Responses: Very confident; fairly confident)

## Indicator D2: Dissatisfied customers who do nothing

**44%** (2013: 44%; 2012: 43%; 2011: 35%)

## Awareness of Legal Ombudsman

Newly available data means we are able to add a new indicator on awareness of the Legal Ombudsman. This is important since the research above indicates that confusion about the process and perceptions about lack of independence are a barrier to complaining. Our Tracker Survey data suggests that 59% of the general public have heard of the Legal Ombudsman, which has decreased from 64% since 2012. In 2014, our data suggests awareness among recent users of legal services is 64%. The Legal Ombudsman's own data puts general public awareness at 66% and awareness among recent users at 78%.

Signposting rules require law firms to inform clients about their right to complain to the Legal Ombudsman both at the point of engagement and at the end of the internal complaints process. The Legal Ombudsman has previously voiced its frustration at the low numbers of people being told about them by their lawyer. They have published new guidance and provided a pack of information that lawyers can use on their websites, client care letters and other materials. The Legal Ombudsman's survey data suggests an improvement from 27% to 34% during the last 12 months, although this returns to the level stated in its 2011-12 annual report.



## Indicator D3 – Awareness/signposting

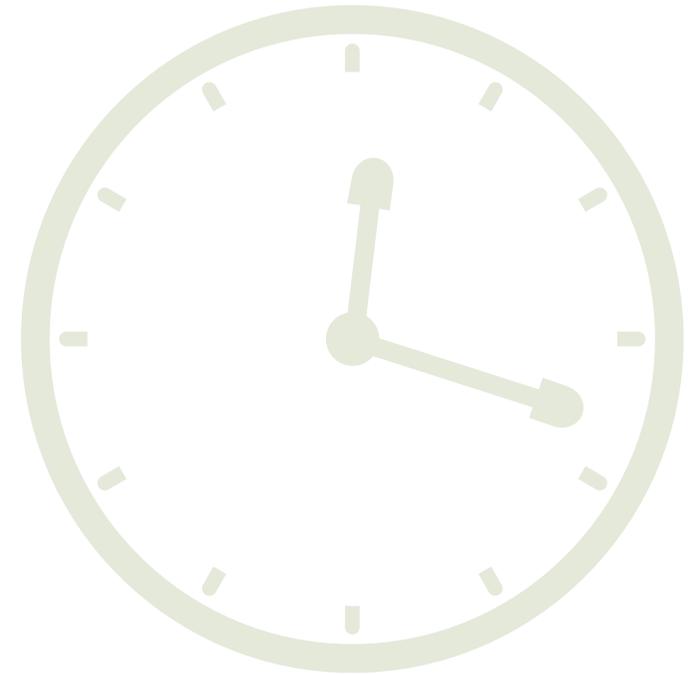
Measures (%)	2014	2013	2012
Public awareness of Legal Ombudsman	59	61	64
Recent user awareness of Legal Ombudsman	64	-	-
Complainants who recall being told about Legal Ombudsman by provider	34	27	34.5

### Diversity of complainants

Since the last edition of the Consumer Impact Report, the Legal Ombudsman has started to publish diversity data about users of its service. This indicates that over one fifth of complainants are from BME groups and almost one-third have an impairment. The Tracker Survey sample is not large enough to compare the diversity profile of dissatisfied respondents who reported they complained with complainants to the Legal Ombudsman. Moreover, the Legal Ombudsman's users must also have tried complaining first to the law firm and there could be different experience across demographic groups. However, our data does tell us that service satisfaction is lower among younger age groups, and among BME compared to White respondents, while there is not much difference between disabled and non-disabled users.

Figures on diversity are not included in the Legal Ombudsman's annual report, unlike other major ombudsman schemes. The Legal Ombudsman undertakes internal analysis of whether certain population groups might be under-represented among complainants. We would encourage the Legal Ombudsman to publish this analysis and to set out its plans for addressing any gaps where it has concerns.

Last year the Legal Ombudsman undertook a self assessment of its equality performance and since then has sought to embed equality in the organisational quality framework, using structured performance review systems to demonstrate significant improvements. This in turn aims to deliver enhanced improvements in respect of consumer access, experience and outcomes. Staff have been given specific training and a range of support materials for them to use in developing their understanding of equality and diversity and to promote equality.



## Indicator D4 – Diversity of complainants

Measures (%)	2014	2013	2012
Complainants: women	47.2	47.8	-
Complainants: BME	22.5	20.9	-
Complainants: impairments	32.7	-	-

\* Calculated based on excluding not stated responses

## Indicator D5 – In house complaints handling

Measures	2014	2013	2012
Premature complaints	10,541	9,594	13,533
Complaints: failure to investigate complaint internally	436	393	518
% of first-tier solicitor complaints escalated to LeO	16.7	15.4	17.7

### Quality of in-house complaints handling

The Legal Ombudsman has recorded 436 complaints about failure to investigate a complaint internally. This has reduced from 518 in 2012 – the Legal Ombudsman’s first full year of operational data.

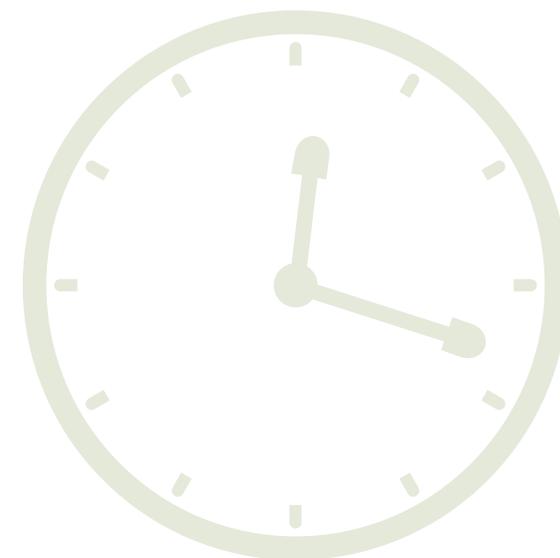
During the last twelve months there has been an increase in premature complaints – people who access the service without complaining to their lawyer first – although this is down since 2012. The Legal Ombudsman conducted joint research with the Panel with a sample of premature

complainants. As with those who do nothing, a lack of confidence in the complaints system explains why people do not complain directly to their law firm. They think the complaints process will not work objectively and fear that to complain will disadvantage them.

The Legal Ombudsman has innovated by commissioning economic analysis to demonstrate to the sector there is a business case for good complaints handling. The report, produced by independent consultancy Economic Insight, revealed that the legal sector could

expect to see net benefits of between £53m and £80m over 10 years if it took complaints more seriously, while individual law firms and other providers of legal advice could increase operating profits by up to 3%.

We have included a new indicator this year based on SRA data showing the percentage of complaints received by solicitor firms that are referred to the Legal Ombudsman. This suggests nearly 17% do so, or a ratio of one complaint to the ombudsman for every six received by firms. This figure follows the pattern for the other two indicators: an improvement in standards between 2012-13 but marginally dropping off between 2013-14.



### A world-class ombudsman scheme

#### What we want

The Legal Ombudsman provides an independent and impartial service to resolve service complaints when consumers and providers cannot agree on a fair outcome. The scheme may consider all instances when a consumer is dissatisfied with a legal service they purchase or which they are affected by. The Legal Ombudsman is easy to use and the service actively reaches out to parts of the population that are traditionally less likely to complain.

The Legal Ombudsman provides an efficient and consumer-focused service that meets the needs of its users. Consumers feel their complaint was investigated properly and treated fairly, even if they do not agree with the outcome. Complaints are handled in a timely way with most resolved informally, where this is what the complainant wants, so as to settle matters quickly and preserve relationships.

#### Commentary

The Panel carried out a benchmarking exercise of the Legal Ombudsman and we have refreshed the indicators to reflect this study and newly available data:

- Timeliness – the length of time it takes to resolve complaints, specifically the proportion

resolved within three months

- Quality – user satisfaction with the service; and volumes of service complaints
- Outcome – complaints resolved through the informal resolution process
- Accessibility – users of the service broadly match the socio-economic background of consumers who are dissatisfied with their provider
- Efficiency – unit cost

The conclusions of our benchmarking exercise were as follows:

- Timeliness – it compares well to its nearest comparators on resolution times and customer satisfaction. Formal ombudsman decisions are a key factor in extending decision-making times. Resolving more cases informally is seen as a priority, but it may not always be what consumers want. Although quicker and less stressful, people may want a full investigation and the outcome detailed in writing.
- Quality – perceptions of fairness among complainants are relatively high compared with other schemes, especially bearing in mind the Legal Ombudsman upholds fewer complaints. Less positively, in nearly 70% of cases where an ombudsman made a decision, the complainant rejected it; although this may reflect false expectations of the scheme. Overall advocacy rates – whether users would recommend the scheme to others – are lower than most other schemes, which is probably

due to differences in uphold rates. User survey data is consistent in highlighting the need to keep complainants informed of progress and a perceived weakness in staff understanding of complaints. The Legal Ombudsman receives higher proportions of complaints about its service and judicial review applications than other schemes.

- Cost – the Legal Ombudsman's unit cost is higher than comparable schemes and it is taking steps to reduce this. There are good reasons why legal complaints are costly to deal with – e.g. complexity, higher stakes mean more ombudsman decisions. However, the scheme's unit cost has implications for its case fee policy and ambitions to widen its jurisdiction. The Panel wants to see the unit cost reduced, but not at the expense of making savings on standards-raising work.

The benchmarking exercise covered the 2012-13 period. Since then timeliness has improved, unit cost has reduced and service complaints have fallen. Less positively, complainant satisfaction with the service has gone down, although the Legal Ombudsman has noted this matches almost exactly with the decline in the proportion of cases where it orders a remedy. The main areas of dissatisfaction among complainants are: staff understanding the nature of their complaint; the reasons for the recommendation being clearly explained; staff understanding the complainant's desired outcome; and the investigation process being fair and impartial.



## Indicator D6: Legal Ombudsman performance

Measures	2014	2013	2012
Cases resolved within 3 months (%)	67	57	50
Overall complainant satisfaction (%)	64	72	-
Service complaints as proportion of caseload (%)	2.0	3.3	-
Complaints resolved by informal resolution (%)	39	44	42
Unit cost (£)	1,950	2,168	2,281

### Jurisdiction issues

Consumers expect to be able to complain about any legal service. Since the last edition of the Consumer Impact Report, the Legal Ombudsman has changed its scheme rules so it may accept complaints from prospective customers, lengthened the time limits and increased the maximum compensation amount. Following pressure from the Panel it has established a steering group to work through issues related to third party complaints – individuals who are not the lawyer’s client.

The Legal Ombudsman has provided us with updated three year historic statistics on complaints which it was unable to accept because they fell outside of its jurisdiction. It is pleasing to see that a change to its scheme rules to widen time limits seems to have had a marked effect.

Given comments in the Responsive Services section on the growing unregulated legal services market, the ADR Directive could

be an important development. This will give consumers the right to access ADR for all legal services transactions, but the UK Government has decided to implement the Directive in such a way that it will be voluntary for businesses to participate. In consequence, therefore, the Directive may in fact make little difference to the availability of ADR for legal services. More positively, the Government has indicated it may initiate a longer-term review that would seek to rationalise the fragmented UK redress landscape and in the short term establish a complaints help desk to help consumers navigate the system.

In anticipation of the ADR Directive, the Legal Ombudsman issued a discussion paper outlining a future where it could broaden its remit to cover other professional services, such as architects and accountants. The paper also included proposals to create a voluntary scheme. A voluntary scheme would help to close gaps in redress, reduce confusion and enhance competition in the market. Progress was delayed while the ombudsman prepared to take on claims management activities, although the new OLC Chairman has stated it is a priority for the organisation to put in place. One of the barriers to a successful voluntary scheme is the organisation’s high unit cost. However, as part of its Business Transformation Programme, the Legal Ombudsman is exploring alternative models of dispute resolution which would make its service more affordable for unregulated legal businesses.

## Indicator D7: Complaints outside of Legal Ombudsman jurisdiction

Measures	2014	2013	2012
Total complaints not within jurisdiction	10,541	11,567	13,698
(Of which) Outside of time limits	865	1,963	1,903
(Of which) Premature complaints	9,676	9,604	11,795
Third party complaints*	1,680	2,165	1,529

\*Third party complaints are not coded within the outside of jurisdiction category



### Complaints intelligence is used to raise standards

#### What we want

Providers reflect on the underlying cause of each complaint and take steps to reduce the likelihood of the problem happening again. Where a problem reveals systemic issues, providers change their policies and procedures. The profession view complaints positively as an opportunity to improve levels of service. Regulators and the Legal Ombudsman create effective incentives to reinforce this learning culture.

There are excellent intelligence flows between regulatory agencies enabling risks to consumers to be swiftly identified and acted on. This includes both individual allegations of misconduct and common problems in the market. Based on this intelligence, changes are made which lead to reduced volumes of complaints, for example shaping training content, changing rules or taking disciplinary action.

#### Commentary

Everything being equal, the ultimate test of improving standards is fewer complaints. This statement has to be qualified since higher public confidence in complaining and greater awareness of the Legal Ombudsman can be expected to increase complaint volumes even if service levels and quality of internal complaint handling are static. It is still too early to assess trends and we do not have reliable transaction data to put the complaints data in context. However, we note the Legal Ombudsman has accepted similar volumes of complaints in each of its three full years of operations. Conveyancing, immigration and asylum, personal injury and social welfare cases have increased year on year since 2012, while consumer law, employment law and wills and probate complaints have decreased year on year.

The Legal Ombudsman has a rich seam of data to mine to analyse the causes of complaints and feed back to the profession. The Legal Ombudsman has extended the range of activities directed towards this aim. For example, it has published a series of thematic reports on key complaints areas, rolled out CPD courses nationally and improved the way it shares information with regulators who now benefit from richer reporting and intelligence rather than a simple summary of activity. Its new case management system will allow more sophisticated analytics capabilities in future. This greater activity is very welcome, although we repeat our previous call for the ombudsman to bring these various strands together into a clearly defined and coherent strategy with commitments to timelines.

Now the Legal Ombudsman is routinely publishing data about its decisions, we have modified our indicator in relation to 'repeat offenders'. While larger firms can expect to generate higher volumes of complaints and there will always be a few poor performers, we would wish the figure in D9 to reduce over the next few years.

**Table 1 – Resolved complaints by area of law**

Area of law	2014	2013	2012
Commercial law	108	121	103
Commercial conveyancing	139	108	152
Consumer Law	14	36	44
Conveyancing Residential	1,605	1,346	1,109
Crime	511	517	408
Employment Law	367	368	453
Family Law	1,381	1,375	1,413
Financial Law	101	168	130
Immigration and Asylum	318	288	249
Litigation	756	758	724
Personal Injury	805	731	722
Property	350	362	292
Social Welfare	309	227	193
Wills and Probate	1,021	1,056	1,117
Other	210	249	340
(blank)	-	-	8
<b>Grand Total</b>	<b>7,995</b>	<b>7,710</b>	<b>7,455</b>

**Indicator D8: Using complaints to raise standards**

Measures	2014	2013	2012
Volume of cases allocated for investigation by Legal Ombudsman	8,320	8,430	8,420
Number of firms with more than 3 decisions where a remedy is ordered following an ombudsman decision	51	-	-



## 8. OUTCOME:

# Consumers are placed at the heart of regulation

### Assessment of consumer impact

All the approved regulators now have lay majorities, the LSB has mandated for all future chairs to be lay and strengthened the independence of the re/appointments process for board members. While the regulators are more structurally independent of the professional bodies, specific incidents have caused concern and there remains a lack of cultural independence from the workforce. The LSB has suggested that a lack of independence has held back the pace of the market reforms.

There remains a mixed record on transparency with differences between regulators hard to justify. Gaps in transparency is a recurring theme in this report, for example in relation to sanctions.

The LSB should maintain its investment in research, a significant element of this should be targeted on market research with consumers. Over the years, the LSB, and indeed, the Legal Ombudsman, have contributed substantially to improving the evidence base. Consumer research by the approved regulators remains minimal, although the Legal Choices website has been a positive development.

Responses to the Ministry of Justice simplification review identified some deep flaws in the wider regulatory framework. The Panel concluded that the existing regulatory framework does not provide a sustainable model in the long term to offer consumers the best system of consumer protection or support a competitive market place. However, it was decided that the regulators must do what they can to make the current system work in the short term.

# Assessment Framework



## ▼ Intermediate outcomes

Approved regulators are truly independent of the entities they regulate

## ▼ Indicators

- Regulatory boards with lay majority
- Regulatory boards with lay chair

Regulatory bodies work transparently and have robust consumer engagement mechanisms

- Availability of information on strategic direction, activities and decision-making
- Legal Services Board research budget
- Consumer research reports published by approved regulators

The regulatory system supports a market that works well for consumers

- Consumer confidence in regulation
- Performance in LSB regulatory standards exercise
- Suitability of the wider regulatory architecture



## Approved regulators’ governance arrangements are truly independent of the entities they regulate

### What we want

Consumers have confidence that regulators are protecting and promoting their interests. A high level of consumer focus permeates these organisations, starting at the board and embedded across the staff team. Their genuine commitment to putting the interests of consumers at the heart of regulation is self-evident in corporate communications, for example in the language they use and their balance of priorities. This focus is translated into decisions that reflect the underpinning purpose of the Clementi reforms: putting consumers first.

Regulators have governance arrangements which are simple and truly independent of the entities they regulate. Boards and key committees have a majority of lay members, which work free from influence or control by representative bodies.

### Commentary

#### Independence rules

The Legal Services Board has made Internal Governance Rules specifying how the approved

regulators should achieve clear separation between their regulation and representation functions. The Rules cover all aspects of the relationship and are based on the principle that structures or persons with representative functions must not exert, or be permitted to exert, undue influence or control over the performance of regulatory functions, or any person(s) discharging those functions.

Crucially, regulatory boards must have a majority of lay members. This underpins public confidence that regulatory decisions will be taken in the public interest, rather than in sectional interests. Since the previous edition of the Consumer Impact Report, each of the approved regulators is now in compliance with this rule.

The Chair of the Board has a key influence on the tone and strategic direction of an organisation. In February 2014, the Legal Services Board, supported by the Panel, amended the rules so that all new appointments to the role of chair in the largest regulatory bodies must be lay persons. The LSB concluded that at present strong ties to the history, culture and rules of

the profession in general and professional self-regulation in particular can act as a significant drag on the better regulation principles and therefore put the regulatory objectives at risk. Currently, three of the seven chairs are lay persons. The LSB has subsequently moved to strengthen the role of regulatory bodies, rather than the representative arms, in relation to appointments and reappointments processes for board members and their chairs.

A specific episode which raised concerns about whether the system is working independently in practice was the LSB investigation into the Bar Council’s failure to comply with the Internal Governance Rules in its dealings with the Bar Standards Board. The investigation focused on the Bar Council’s behaviour in relation to the Bar Standards Board’s development and submission of an application for approval of a rule change. The Legal Services Board found that the Bar Council’s actions had undermined the principle of independent regulation. The Bar Council accepted all of the findings of the investigation and the outcomes required to remedy them and the matter was resolved without the need for formal enforcement action.

### Indicator E1: Regulatory independence

Measures	2014	2013	2012	2011
Regulatory boards with lay majority	7/7	7/7	4/6	3/6
Regulatory boards with lay chair	3/7	3/7	3/6	3/6

\*As of 6 October 2014





## Regulatory bodies work transparently and have robust consumer engagement mechanisms

### What we want

Regulators operate transparently, helping consumers to see how decisions that affect them are made and enabling them to hold decision-makers to account. By demonstrating a high level of transparency, regulators reinforce public confidence in the independence of their decisions. Information that the public can reasonably expect to be available is easily accessible and provided in a timely manner. As a minimum, consumers can find information on the standards of conduct that regulators demand of providers, details of regulators' forward plans and annual activities, and an account of regulatory decisions and how these were made.

Regulatory priorities and policies are shaped by meaningful dialogue with both individual consumers and representative bodies. Regulators develop effective and well-resourced consumer engagement strategies, which are reviewed regularly at board level. They make high quality evidence-based decisions informed by a rich understanding of consumer needs, experience and behaviour. This understanding

is demonstrated by selecting the right mix of engagement tools for the issue at hand, drawing on tried and trusted techniques, but also showing an appetite to innovate.

### Commentary

We identified information that consumers should be able to easily access on the websites of regulatory bodies, in three areas:

- Strategic direction and activities
- Decision-making
- Core regulatory dataset

Indicator E2 shows some improvement from previous years, although the Faculty Office continues to publish very little information. There is inconsistency in approach between approved regulators on publication of board papers and stakeholder submissions to consultations. On the former, we find it difficult to understand given the similar environments in which they operate, why some regulators feel able to publish board papers, redacted as necessary, but not others. The Legal Services Board's Regulatory Standards exercise also identified this as an issue. However, there is good practice too. For example, the Bar Standards Board publishes a full set of board papers in a timely fashion and the Solicitors Regulation Authority publishes a large amount of information about its regulatory activities.

We have added a new column on publication of the core regulatory dataset in a reusable format. As discussed in relation to indicator A6, to date only the Costs Lawyer Standards Board, Council for Licensed Conveyancers and Legal Ombudsman has carried this out. We would expect all the regulators to have done so well in advance of the next edition of the Consumer Impact Report.

This inconsistency on transparency contrasts with activity in other sectors where the importance of transparency has been recognised both as a means of accountability and a tool to inform consumer decisions and influence the behaviour of providers. As stated in a recent paper by the UK Regulators Network: *"There is a powerful agenda in the UK and internationally towards greater transparency and a recognition of the 'power of information'. Regulators are increasingly using their information powers to publish comparable data on the performance of regulated businesses, in areas ranging from broadband speed to energy disconnections. This is to create pressure to improve performance, drive compliance with regulation and allow consumers to choose between companies on the basis of service as well as price"*.



### Indicator E3: Transparency table

	Annual Report	Business Plan	Board Minutes	Board Papers	Consultation submissions	Management team	Regulatory community
LSB	✓	✓	✓	✓	✓	✓	n/a
LeO	✓	✓	✓	x	✓	✓	✓
BSB	✓	✓	✓	✓	✓	✓	x
CLC	✓	✓	✓	✓	x	✓	✓
CLSB	✓	✓	✓	x	*	✓	✓
IPS	✓	✓	✓	x	x	✓	x
IPReg	✓	✓	✓	x	x	✓	x
MoF	x	x	x	x	x	✓	x
SRA	✓	✓	✓	✓	x	✓	x

As of 6 October 2014

\*CLSB publishes verbatim responses in a consultation report via the LSB's website but not on its own website.

### Consumer engagement

The Legal Services Board's planned research budget in 2014-15 is £250,000. This has reduced from £300,000 in 2011 as this spend has taken its share of the overall budget cuts made by the organisation in the face of public spending constraints. It's actual spend in 2013-14 was £218,000 – less than half that of the previous year (£445,000).

It is important the Legal Services Board maintains its investment in research, and that a significant element of this is targeted on market research with consumers. The Legal Services Board, and indeed, the Legal Ombudsman, have contributed substantially to improving the evidence base in this respect. This includes some recent papers exploring behavioural economics, which the Panel had previously identified as a gap in understanding in this market.



LSB commissioned market research with/about consumer behaviour	Year
How people resolve 'legal' problems	2014
Helping legal services consumers make better decisions: methods to identify and respond to legal problems	2014
Small business legal needs survey	2013
Consumers value of regulation	2013
Understanding decision making in legal services: lessons from behavioural economics	2013
Understanding consumers who don't use, don't choose or don't trust legal services providers	2013
What happens when people with learning disabilities need advice about the law?*	2013
Consumer needs from legal information sources	2012
Individual consumers' legal needs	2012
Probate and estate management services surveys	2012
Literature review of consumer needs from legal information sources	2011
Understanding the consumer experience of will-writing services*	2011
First-tier complaints handling report	2011
Developing measures of consumer outcomes for legal services	2011
Small businesses legal needs	2010
Consumer omnibus survey	2009

However, this investment has not been matched by the approved regulators. Indicator E3 counts published reports; we hear about research that has been commissioned, but this must be put in the public domain so that others can use it and so that the public can see how the regulator has taken account of its findings. There are, of course, other types of consumer engagement apart from research. All engagement techniques have their value, but in this report we are concerned with exercises involving research with the public to inform policy development. The Panel's second background paper on consumer empowerment, published in January 2013, reviewed the approved regulators' broader engagement approaches.

The approved regulators published just a single consumer research report between them during 2013-14. This was the Bar Standard Board's immigration research referenced earlier. The year before, the Solicitors Regulation Authority published a summary of its 'Your Say' town hall style events which concluded in November 2012. In total there have been only five published reports since the first edition of the Consumer Impact Report in 2011. This is incredibly disappointing. The smallest approved regulators face genuine resource constraints and conventional consumer research is not feasible within their budgets. However, we do not regard consumer research as an optional extra and its absence raises issues about their



capacity and capability to fulfil the regulatory objectives they are charged with. The Solicitor Regulation Authority’s research to support the competence statement, which falls outside our reporting period, is the sort of thing the regulators need to do more of.

More positively, the Legal Choices website was launched during 2014. This is a joint initiative between all the approved regulators and this evidence of collaborative working is very welcome. The website is mostly aimed at information provision, but does contain polls, quizzes and surveys as means of consumer feedback.



### Indicator E3: Consumer engagement

Measures	2014	2013	2012	2011
LSB research budget (£000)	250	250	300	300
Consumer research reports published by approved regulators	1	1	2	2

\*Conducted jointly with the Panel





## The regulatory system supports a market that works well for consumers

### What we want

Consumers have confidence that regulation is protecting their interests in a market where they experience gaps in knowledge and power with lawyers and thus struggle to discipline the market through their purchasing behaviour. There should be the right and proportionate amount of regulation to allow consumers to truly benefit from open and fair markets. Since the cost of regulation feeds through to the price of legal services, this should be kept to the minimum level needed to ensure a fair allocation of risk between consumers and providers and deliver fully the regulatory objectives, including promoting and protecting the interests of consumers.

The overarching statutory framework can both enable and constrain regulators in supporting a market that works well for consumers. The ingredients of an effective regulatory system were set out in the Panel's submission to the Simplification Review. Of relevance to this section, these include a simple system that starts from a consumer journey perspective; a flexible regime better targeted at the risks facing consumers, one focused on the activity rather than the person doing the work; and a regime which is sustainably resourced and capable of delivering effective regulation.

### Commentary

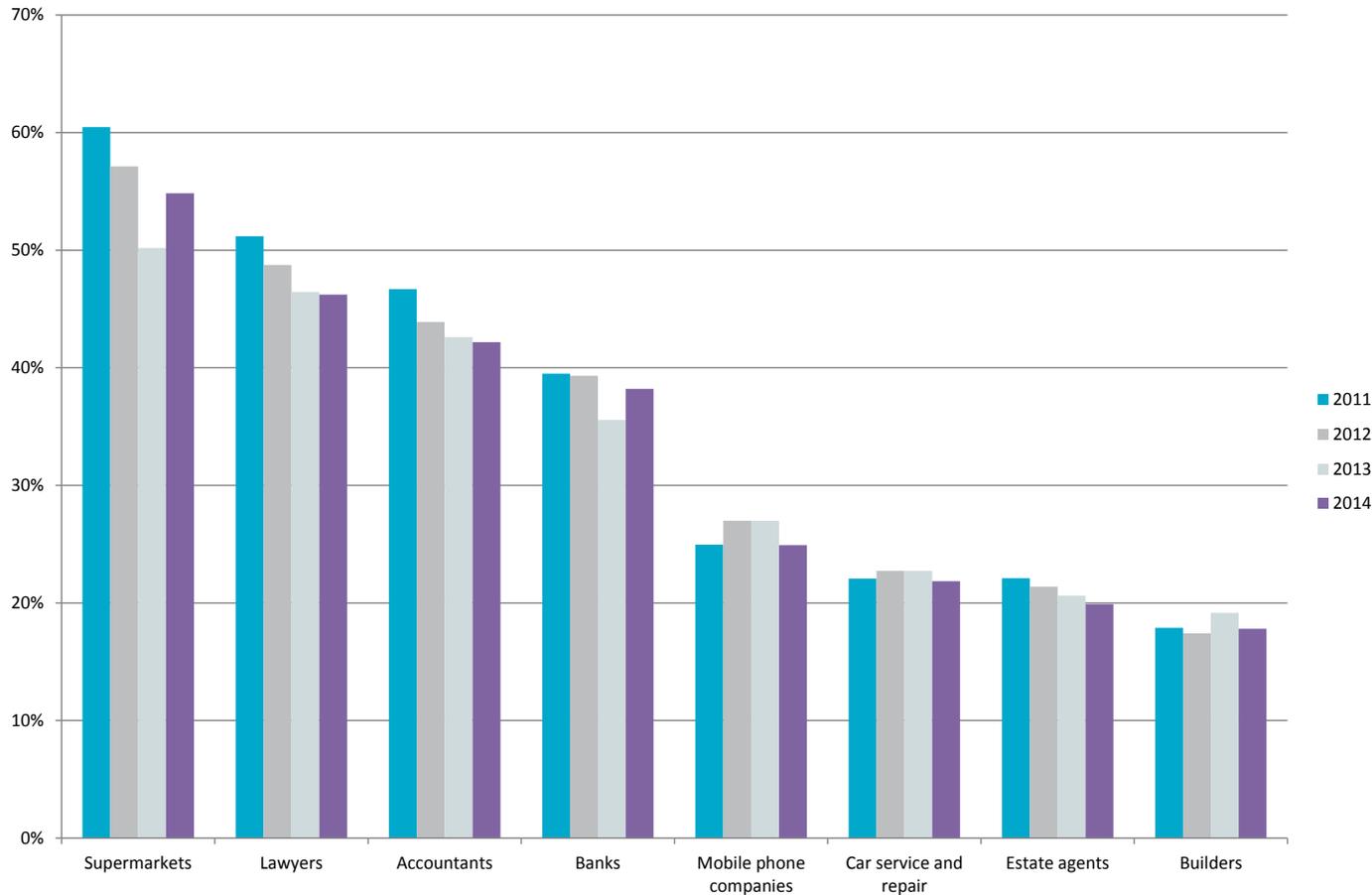
We have added a new section in this edition of the Consumer Impact Report which replaces the previous focus on effective consultation. This reflects the prominence given during the previous two years to issues relating to regulatory effectiveness and the continued suitability of the Legal Services Act regulatory framework.

Consumer confidence in regulation Indicator E4 was previously in the Responsive Services section of the report. 46% of respondents in our Tracker Survey are confident that their rights as consumers would be protected when using lawyers. This was the same as the previous year's figure but is down from 51% since the first edition of the Consumer Impact Report. The chart shows that the pattern in legal services mirrors other sectors so these figures are likely to reflect consumer confidence in the economy more widely than issues specific to legal services.

This indicator is important since research evidence for the economy overall suggests that consumers are most likely to have a satisfactory experience of a market if they believe there are strong consumer protections in the market. Therefore, before expecting legal services consumers to take risks and play an active role in shaping the market through their purchasing behaviour, they need confidence that the regulatory framework will protect them.



## Indicator E4: Confidence that consumer rights are protected



Survey question: How confident are you that the rights of consumers are protected when dealing with the following types of businesses? - Lawyers, such as solicitors and barristers (Responses: Very confident; fairly confident)

## Regulatory effectiveness

The Legal Services Board's regulatory standards work is designed to 'establish whether the approved regulators are acting in ways that are compatible with the statutory requirements they have under the Act and that they are not allowing, or risking, unacceptable consumer detriment in the markets they regulate'.

The Board considers that best regulatory practice for legal services regulation consists of four constituent parts. These are: an outcomes-driven approach to regulation that gives the correct incentives for ethical behaviour and has effect right across the increasingly diverse market; a robust understanding of the risks to consumers associated with legal practice and the ability to profile the regulated community according to the level of risk; supervision of the regulated community at entity and individual level according to the risk presented; and a compliance and enforcement approach that deters and imposes sanctions appropriately. In addition, the regulators' overall capacity and capability is assessed.

Indicator E5 suggests that, at the time of the assessments, the Board felt the performance of the regulators against its framework was far from satisfactory. Across the approved regulators as a whole, supervision and risk were the weakest areas, while there were also questions about capacity and capability in all of the regulators. The approved regulators are on a journey from representative professional bodies to independent professional regulators meeting modern notions of good practice. Clearly, there is a long journey to travel, some to a greater degree than others.

### Indicator E5 – Regulatory effectiveness

	Outcomes	Risk	Supervision	Enforcement	Capacity and capability	Total (/20)
BSB	1	1	0	2	1	5
CLC	2	1	2	2	2	9
CLSB	1	1	0	2	1	5
IPS	2	1	1	4	2	10
IPReg	2	1	0	1	2	6
MoF	0	0	0	0	0	0
SRA	2	2	2	1	1	8
<b>Total</b>	<b>10</b>	<b>7</b>	<b>5</b>	<b>12</b>	<b>9</b>	<b>43/140</b>

The Panel has converted the LSB's scoring mechanism into figures, as follows: Recognise this needs to be done but work has not yet started (0); Needs improvement and work has recently started (1); Undertaking improvement and work is well underway (2); Satisfactory (3); Good (4)

Assessment dates: BSB, May 2013; SRA, February 2013; Others, December 2012

We acknowledge that the assessments are now over a year old, in some cases two old, and that the regulators have since been implementing action plans agreed with the Board. For example, the Bar Standards Board has completed a major initiative, The Regulatory Improvement Programme (TRIP), aiming to achieve a 'Satisfactory' rating from the Legal Services Board by 2016. The Legal Services Board is due to undertake the next round of assessments due in October 2014 and these will be published in 2015 and included in our 2016 report.

### Cost of regulation

The cost of regulation is ultimately passed on to consumers through the prices they and others (the state, insurers etc) pay for legal services. Based on published financial data, the Panel estimates the cost of the regulatory bodies is £89.7m.

Of course, the true cost of regulation is much greater than this and includes the expenditure needed to comply with regulatory requirements, including among other elements, education and training, insurance premiums and Legal Ombudsman case fees. The Legal Services Board is currently embarked on a major project to 'examine the various components of regulation that place a burden on the legal sector to identify potential cost reduction and simplification measures'. Unfortunately, at this time, the Board's project will not seek to quantify the benefits of regulation.

More broadly, while the Panel is supportive of changes to remove unnecessary regulation as a means of decreasing the cost of legal services and thus promoting access, we are concerned that the recent emphasis on deregulation is being taken too far. There is a delicate balancing act between loosening controls to reduce burdens on incumbent firms and make the market more attractive to new entrants, while maintaining proper safeguards. There is a danger that well-intentioned measures designed



to improve access to justice and greater competition actually reduce protections for consumers too far. Each issue has to be treated on its merits, but there have been occasions recently – as with insurance cover and CPD – where the Panel has felt the Solicitors Regulation Authority has got the balance wrong.

### Indicator E6 – Cost of regulation

Organisation	Expenditure 2013-14 (£000)
LSB	4,266
LeO	15,709
BSB	8,911
CLC	2,078
CLSB	130
IPS	999
IPReg	492
MoF	291
SRA	56,800
<b>Total</b>	<b>89,676</b>

\* CLSB and SRA data on Year ending December 2012; MoF data based on budget

### Wider regulatory architecture

The continuing suitability of the Legal Services Act regulatory framework has come under close scrutiny. Respondents to the Ministry of Justice Simplification Review agreed that change is needed, but disagreed on what the current model should be replaced with.

Our analysis was that four years of evidence of the consumer experience has demonstrated that the existing regulatory framework does not provide a sustainable model in the long term to offer consumers the best system of consumer protection or support a competitive market place. Consumers have to find their way around a labyrinthine maze; the scope of regulation is not based on any consumer protection rationale; there are gaps and overlaps in redress; there is considerable duplication in regulatory structures that consumers ultimately pay for; regulation is not sufficiently independent of the profession; and there are serious doubts about the capacity and capability of the smaller regulators to do a good job.

In particular, various submissions to the Review highlighted the many wider problems caused by the current list of reserved activities. These include that the list is not targeted on the basis of risk; it creates consumer confusion; means firms inadvertently stray into reserved work or set up complex business structures to exploit loopholes; and leads to jurisdictional

uncertainties for the Legal Ombudsman. The Panel's analysis is not a criticism of the 2007 Act, which was always seen as a transitional piece of legislation that would need to be updated once the market took new shape following the competition reforms it introduced. This market change, while still in its reasonably early days, has exposed the flaws of the current model in sharper relief. While legislative reform is not feasible by the time of the Panel's next Consumer Impact Report in 2016, it should be possible for the LSB to work with the Regulators to set down quite precisely the change that is needed, seek to build consensus around this vision and secure political commitment on implementation.



## Changes to the indicators since last edition

Ref	New indicators
A5	Customer review websites – added
B2	Substantive benefit to client in legal aid cases – amended
B7	Struck-off solicitors – added
B8	BSB Professional Conduct Department indicators – amended
C2	Figures for diversity of the judiciary – added
C4	Power of attorney – added
C6	DIY law
D3	Awareness/signposting for Legal Ombudsman
D4	Diversity of complainants to Legal Ombudsman
D5	Escalation of solicitor complaints to Legal Ombudsman – added
D6	Legal Ombudsman service complaints
D9	Number of firms with three ombudsman remedies – amended
E3	Publication of core regulatory data in reusable format – added
E6	Confidence that consumer rights protected moved from A4
E7	Regulatory effectiveness
E8	Cost of regulation

Ref	Deleted indicators
A2	Number of Legal Disciplinary Practices
A4	Confidence consumer rights protected moved to E6
E6	Ratio of consultations lasting minimum of six weeks
E7	Feedback to consultations provided within six months



## OUTCOME A: RESPONSIVE SERVICES

Indicator	Code	Indicator	Source
Intermediate outcome	A1	Consumers satisfied with choice	Tracker Survey
	A2	Total Alternative Business Structures	Data provided by SRA and CLC
A meaningful choice of providers and services	A3	Consumers claiming a fair or great deal of knowledge about what lawyers do	
Consumers are empowered when dealing with providers	A4	Shopping around (a) Consumers who shop around (b) Consumers who find it difficult to compare providers	(a) Tracker Survey (b) Tracker Survey
		A5	Choice tools (a) Consumers using price comparison websites (b) Consumers using customer review websites (c) Consumers using quality marks
	A6	Performance data (a) Availability of information about misconduct cases (b) Availability of information about service complaints (c) Availability of Legal Aid Agency peer reviews	(a) Website of each approved regulator (b) Website of Legal Ombudsman (c) LAA micro-site on <a href="http://www.justice.gov.uk">www.justice.gov.uk</a>
Consumers are satisfied with the value for money provided by their lawyer	A7	Value for money (a) Consumers satisfied with value for money (b) Consumers satisfied with transparency of offer (c) Consumers paying through fixed fees (d) Complaints to Legal Ombudsman about excessive costs (e) Complaints to Legal Ombudsman about deficient cost information	(a) Tracker Survey (b) Tracker Survey (c) Tracker Survey (d) Data provided by Legal Ombudsman (e) Data provided by Legal Ombudsman



## OUTCOME B: QUALITY

Indicator	Code	Indicator	Source
Advice is technically competent	B1	Consumers satisfied with outcome of legal work	Tracker survey
	B2	Substantive benefit to client rates in legal aid funded cases	Ministry of Justice Statistics Bulletin, Legal Aid Statistics in England and Wales 2013-14
	B3	Allegations of poor quality work (a) Complaints to Legal Ombudsman about failure to advise (b) Complaints to Legal Ombudsman about failure to follow instructions (c) High Court negligence actions against solicitors (d) Allegations received by SRA about legal competence (e) Complaints to BSB about incompetence	(a) to (b) Provided by Legal Ombudsman (c) Court Statistics Quarterly (d) Data provided by SRA (e) BSB Enforcement Statistical Report 2013/14
Consumers are satisfied with service provided	B4	Consumers satisfied with elements of service: clarity of information, clear explanation, empathy, ongoing communication and timeliness	Tracker Survey
Lawyers make ethical decisions and dishonesty is identified and dealt with swiftly and appropriately	B5	Consumers who would generally trust lawyers to tell the truth	Tracker Survey
	B6	Consumers satisfied with professionalism of their provider	Tracker Survey
	B7	Incidence of potential misconduct (a) New claims to SRA Compensation Fund (b) Allegations about fraud/dishonesty/money laundering (c) Allegations upheld by SRA (d) Referrals to Solicitors Disciplinary Tribunal (e) Interventions due to suspected dishonesty (f) Struck-off solicitors (g) Complaints to BSB about dishonesty/discreditable conduct (h) Complaints to BSB resulting in disbarment (i) Volume of complaints to Legal Ombudsman about misconduct	(a) to (e) SRA Regulatory Activities Report, December 2013 (f) SDT Annual Report (g) to (h) BSB Enforcement Annual Report 2013/14 (i) Legal Ombudsman website



Indicator	Code	Indicator	Source
Lawyers make ethical decisions and dishonesty is identified and dealt with swiftly and appropriately	B8	Performance of disciplinary procedures (a) Average time for SRA to issue case to SDT (b) Average time for case to reach hearing (c) SDT determinations within 6 months of proceedings issued (d) SDT – cost per court (e) Number of appeals against SDT decisions (f) BSB complaints concluded or referred to disciplinary action within service standards (g) BSB complainant satisfaction with timeliness (h) BSB complainant overall satisfaction with staff (i) BSB complainants agree enforcement process is open and fair (j) BSB complainants satisfied overall with handling of complaint	(a) to (b) SRA Regulatory Activities Report, December 2013 (c) to (e) SDT Annual Report (f) to (j) BSB Enforcement Annual Report 2013/14



## OUTCOME C: DIVERSITY

Indicator	Code	Indicator	Source
The workforce reflects the make-up of the population	C1	Diversity of workforce on entry (women/BME) (a) Solicitors – New Admissions to Roll (b) Barristers – Called to the Bar	(a) Law Society Annual Statistical Report (b) Bar Barometer, March 2014
	C2	Diversity of senior workforce (women/BME) (a) Solicitors that are partners (b) QCs (c) Judiciary	(a) Law Society Annual Statistical Report (b) Bar Barometer, March 2014 (c) Judiciary website
	C3	Women on boards	Websites of LSB, OLC and approved regulators
Providers understand and serve the diverse needs of consumers	C4	Usage of legal services across socio-economic groups (a) Not used legal services in last two years (b) Made a will in last two years (c) Overall will ownership (d) Legal expenses insurance ownership (e) Power of attorney	(a) to (e) Tracker Survey
	C5	Consumer experience of legal services across population	Tracker Survey
	C6	DIY law (a) Usage of unbundled legal services (b) % litigants in person in divorce cases involving financial remedies (c) % litigants in person in divorce cases not involving financial remedies	(a) Tracker Survey (b) Court statistics quarterly (c) Court statistics quarterly
	C7	Discrimination complaints to Legal Ombudsman	Legal Ombudsman website
Regulators take proper account of consumers at risk of disadvantage	C8	Consumer research reports with at risk groups published by approved regulators	Websites of approved regulators
	C9	Usage of Equality Impact Assessments	Websites of approved regulators
	C10	Reference to vulnerability duties in codes of conduct	Approved regulators' codes of conduct



## OUTCOME D: REDRESS

Indicator	Code	Indicator	Source
Complaints are resolved by providers	D1	Consumers who are confident in complaining	Tracker Survey
	D2	Dissatisfied consumers who do nothing	Tracker Survey
	D3	Awareness/signposting to Legal Ombudsman (a) Public awareness of Legal Ombudsman (b) Recent user awareness of Legal Ombudsman (c) Complainants recall being told about Legal Ombudsman by firm	(a) Tracker Survey (b) Tracker Survey (c) Legal Ombudsman Annual Report
	D4	Diversity of complainants to Legal Ombudsman (a) Women (b) BME (c) Impairments	(a) to (c) Legal Ombudsman website
	D5	Quality of in-house complaints handling (a) Premature complaints to Legal Ombudsman (b) Complaints to Legal Ombudsman about failure to investigate complaint internally (c) Proportion of first-tier complaints escalated to Legal Ombudsman	(a) Provided by Legal Ombudsman (b) Legal Ombudsman website (c) Provided to LSB by SRA
A world-class ombudsman scheme	D6	Legal Ombudsman performance data (a) Complaints resolved within 3 months (b) Overall complainant satisfaction (c) Service complaints as a proportion of caseload (d) Complaints resolved by informal resolution (e) Unit cost	(a) to (b) Legal Ombudsman Annual Report (c) Provided by Legal Ombudsman (d) to (e) Legal Ombudsman Annual Report
	D7	Complainants falling outside of Legal Ombudsman jurisdiction (a) Complainant not within jurisdiction (b) Third party complaints (c) Outside of time limits	(a) to (c) Provided by Legal Ombudsman
Complaints intelligence is used to raise standards	D8	Using complaints to raise standards (a) Volume of cases allocated for investigation by Legal Ombudsman (b) Number of firms with more than 3 decisions where a remedy is ordered following an ombudsman decision	(a) Legal Ombudsman Annual Report (b) Provided by Legal Ombudsman



## OUTCOME E: CONSUMER-FOCUSED REGULATION

Indicator	Code	Indicator	Source
Approved regulators' are truly independent of the entities they regulate	E1	Regulatory independence (a) Regulatory boards with lay majority (b) Regulatory boards with lay chair	(a) to (b) Websites of approved regulators
Regulatory bodies work transparently and have robust consumer engagement mechanisms	E2	Availability of following on websites (a) Annual Report (b) Business Plan (c) Board Minutes (d) Board Papers (e) Consultation submissions (f) Names of senior management team (g) Regulatory data	(a) to (g) Websites of LSB, Legal Ombudsman and approved regulators
	E3	Consumer engagement (a) LSB research budget (£) (b) Consumer research reports published by approved regulators	(a) LSB Business Plan 2014-15 (b) Websites of approved regulators
The regulatory system supports a market that works well for consumers	E4	Confidence that consumer rights are protected	Tracker Survey
	E5	Regulatory effectiveness	LSB Regulatory Standards reports
	E6	Cost of regulation	Annual reports of LSB, Legal Ombudsman and approved regulators



**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.**

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