



Sent by email only to [betterinformation@sra.org.uk](mailto:betterinformation@sra.org.uk)

20 December 2017

Dear Sir/Madam

**Looking to the Future: better information, more choice.**

The Legal Services Consumer Panel (Panel) welcomes the opportunity to respond to the Solicitors Regulation Authority's (SRA) consultation on its transparency measures.

The Panel would like to start by commending the SRA for a progressive collection of proposals. These proposals have the potential to address transparency deficiency in the sector. We are particularly pleased with the SRA's leadership role in a number of important areas e.g the Legal Choices website and the publication of complaints data. More importantly, we welcome the SRA's plans to apply the learnings from consumer research and testing to these proposals.

Overall, the Panel found the SRA's transparency measures to be well considered. However, there is an undisputable shortcoming with regards to information on quality. In our Open Data report<sup>1</sup>, the Panel highlighted the need for quality information to sit alongside price transparency. The need for quality measures has not been addressed sufficiently in our view. We would like to see the SRA address our concern on this issue.

We also believe that the SRA's proposals would benefit from a clear communication and compliance strategy, both of which are missing from the consultation document.

We hope our reflections on the questions aid in the finalisation of your decisions.

**Reflecting on the consultation questions**

**Question 1: In which of the services suggested do you think we should proceed initially with requirements for price publication and are there other additional categories that we should consider?**

We broadly accept the SRA's arguments for opting to focus on specific areas of law in the first instance. We are particularly pleased that these areas include a mix of

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<sup>1</sup> [Open Data in Legal Services, LSCP, 2016](#)

commoditised and non-commoditised areas. Nevertheless, we are of the view that the SRA's proposals should include an area of high consumer vulnerability. The lack of transparency in areas of high consumer vulnerability e.g. immigration services, could have a disproportionate effect or compound the challenges faced by consumers navigating these areas. We note the SRA's arguments against including some of these high consumer vulnerability areas in its first phase. The SRA has said that the role that price transparency can play in asylum, housing problems and or mental health law is limited, because these services are more likely to be provided by the not-for-profit sector or at legal aid rates. While the Panel broadly accepts this position for some areas e.g. asylum or mental health, this argument does not readily apply to immigration services. In May 2016, the Panel published a report<sup>2</sup> identifying asylum and immigration, family relationships, and housing, as areas for regulators to prioritise. Therefore, we would like to see both family and immigration services included in the transparency requirements.

**Question 2: Do you agree with the proposed principles of price transparency?**

Yes.

**Question 3: Is there a need for any specific exemptions from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?**

The Panel is not convinced by the argument that price transparency 'serves little use' for corporate clients. On the contrary, we believe that every well run business should want or demand price transparency for the services it procures. We accept that the Competition and Markets Authority's (CMA) recommendations focus on whether the market is working for ordinary consumers, as well as small businesses. However, for the sake of consistency, we believe that the SRA should ensure that its requirements apply across the board.

Moreover, the Panel believes that the long term success of these proposals would require a significant shift in culture. It would therefore be counterproductive if a different culture exists amongst solicitors in larger corporate firms.

**Question 4: Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?**

Yes. The Panel is in full support of the approach outlined by the SRA. That said, the consultation document is silent on how the SRA proposes to use consumer testing to inform and strengthen these specific requirements. In its consultation document, the SRA referenced the Panel's publication on information remedies<sup>3</sup>. In that report, as well as in our Open Data report,<sup>4</sup> we explained the importance of consumer testing

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<sup>2</sup> [Priority Areas of Law, LSCP, 2016](#)

<sup>3</sup> [The Development of Information Remedies in the Legal Services Sector, LSCP, 2016](#)

<sup>4</sup> [Open Data in Legal Services, LSCP, 2016](#)

for the presentation of information. We noted that the volume and density of information particularly matter, and that it is difficult to predict how consumers will react to, or use, information. Therefore, regulators must consider very carefully the efficacy of information remedies by investing in consumer research, testing and evaluation. While we are assured that the SRA's pricing requirements will be informed by consumer research and testing, it is unclear if, and how, these important criteria would be applied to service information.

The SRA proposes to limit the requirement for service information to the same areas it will mandate price transparency in. The SRA proposes to do this with little explanation as to why service information should not readily apply to all areas of law. In our view the consumer need identified by the CMA warrants the SRA to mandate service information in all areas as soon as practicable.

**Question 5: Do you agree with our proposal to introduce an “SRA regulated” logo and digital badge?**

The Panel acknowledges that a logo can be a useful and easily recognisable visual symbol for consumers, where there is high awareness of the logo. However, we would like to warn against the proliferation of logos in the sector. Legal services regulation is already a complicated landscape with multiple regulators. Therefore, there is a danger of multiple logos adding to consumer confusion, especially if other regulators decide to develop their own logos. And we know that others are consulting on this exact proposal.

The Panel however acknowledges the SRA's reasons for moving away from a logo and using a digital smart badge on websites. This digital smart badge would provide a live feed to the regulator's website, confirming the regulatory status of the individual or firm. In principle we have no objection to this approach.

**Question 6: Do you have any suggestions as to how we can best increase consumer awareness of the logo?**

Communicating to increase consumers' awareness of the logo (bearing in mind our caveats about logo confusion) should be part of a wider exercise in communicating to key stakeholders. Its aim should be to increase awareness and understanding more generally and include pricing, quality, making comparisons, rights privileges, etc. Communication should be approached as a coherent whole.

**Question 7: Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund and a voluntary logo?**

The Panel does not agree with the proposal to introduce another logo to denote the existence of a Compensation Fund, in addition to the logo denoting regulatory status. The SRA has acknowledged that logos are generally ineffective unless accompanied by high consumer awareness. Any logo would therefore require a concerted effort, and resources to raise consumer awareness. The expectation that consumers will

learn and be empowered to engage with multiple new logos is unrealistic in our view. Our view is given in the context of other regulators' plans to introduce logos, which means that within a short space of time consumers could be asked to grapple with at least seven logos.

The SRA acknowledges that respondents to its discussion paper<sup>5</sup> were split on the usefulness of such a logo, it some expressing the view it would exacerbate consumer confusion. The Panel shares that concern. Moreover, we are not convinced that such a logo would help consumers understand their legal protection, especially when this protection is not an automatic right of access to the fund. We also note that this idea has not, to our knowledge, been tested with consumers.

Finally, all the legal services regulators operate a compensation fund. We have therefore suggested to the SRA, and elsewhere, that a single logo denoting this fact may be more useful than various logos highlighting the point.

**Question 8: Do you agree with our proposals on the publication of PII details?**

Yes. The Panel agrees with the SRA's proposals as outlined in the consultation document.

**Question 9: Do you agree with the proposal for firms to publish details of how to complain?**

Yes. The Panel fully supports the SRA's proposal.

**Question 10: Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?**

Yes. The Panel fully supports the SRA's proposal.

**Question 11: What are your views on the proposed content for the digital register?**

The Panel commends the SRA's progressive proposal with regard to combining regulatory history data with conduct information. In our Open Data report<sup>6</sup> we noted that although regulatory data is available across the sector, a key weakness is that it is scattered and not easily accessible. In that report, we recommended that regulators should do more to bring together regulatory information in a meaningful way. A starting point would be to link basic and conduct information. We are therefore pleased to see the SRA doing this, to some degree, in its proposed digital register.

In our Open Data report,<sup>7</sup> we also said that there is an increasing need for regulators to work together to produce one digital register for basic and conduct information across the sector. We said regulators should explore whether the Legal Choices

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<sup>5</sup> Where this idea was first floated.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

website could be the host of such a register. The Panel would like to see the SRA take a leadership role by galvanising other regulators towards a sector wide digital register, hosted on the Legal Choices website.

**Question 12: Do you agree with our proposal to publish annual information about areas of work and to do so separately from the digital register.**

The Panel agrees with the SRA's proposal to publish first-tier complaints data and annual information about areas of work. However, it would be a missed opportunity if these pieces of relevant information were published outside the digital register. While the Panel notes the SRA's argument that the purpose of the register is to provide 'real time' information, we take the view that the register does not need to be restricted in that way. We know that complaints data and areas of practice can directly inform a consumer's choice, and while this may not be 'real time' information, it is nevertheless relevant to the overall picture of a firm. A clickable tab explaining that the information is not 'real time' information would be sufficient for most consumers.

**Question 13: Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?**

The Panel agrees with the SRA's proposed approach to publishing complaints data. As it stands, none of the legal services regulators publish complaints data and the sector is far behind other regulated sectors. We therefore welcome the leadership role the SRA has taken in this regard. We are particularly pleased with the SRA's determined effort to engage and work through the challenges of contextualising this information.

**Question 14: If we do publish first-tier complaints data, what (if any) context should be provided?**

The Panel has consistently said that contextualisation of complaints data is important for consumers and businesses. We accept that it is a challenging task, which may not be perfect at first try. We are therefore reassured by the SRA's commitment to evaluate all its proposals at the appropriate time.

We agree that publishing information at firm level is optimal. There is a wealth of experience from other regulated sectors which the SRA should start with. Our report on Open Data<sup>8</sup> highlights how complaints data can be contextualised, drawing on learning from other sectors. This learning can be adapted to the legal services sector with additional input from legal services providers, consumer groups, and intermediaries.

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<sup>8</sup> Ibid.

**Question 15: Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?**

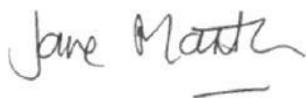
The Panel agrees with this proposal. We would however emphasise that it is important for consumers to get this information at the pre-engagement stage. It is also important that the possible implications for the consumer are clearly spelled out.

**Question 16: Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?**

The Panel agrees with this proposal. Again, we would ask that this is mandated at the pre-engagement stage. It is also important that the possible implications for the consumer are clearly spelled out.

If you would like to discuss any aspect of this response in more detail please contact Lola Bello at [lola.Bello@legalservicesconsumerpanel.org.uk](mailto:lola.Bello@legalservicesconsumerpanel.org.uk).

Yours sincerely

A handwritten signature in black ink that reads "Jane Martin". The signature is written in a cursive style with a horizontal line underneath the name.

Dr Jane Martin

Chair