



# Annual report 2017

June 2017

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# 1 About us

## Our purpose

- 1.1. The Legal Services Consumer Panel is a central feature of a regulatory framework in England and Wales which is designed to transform the legal services market around the needs of its users.
- 1.2. Created by the Legal Services Act 2007 we are an independent arm of the Legal Services Board. As a permanent, discrete champion for consumers we have an essential responsibility to ensure that regulators are able to consider and act on the user perspective, putting the consumer interest at the heart of regulation.

## Our vision

- 1.3. A market where everyone can access high quality and affordable legal services that meet their needs. We want to see:
  - Responsive services
  - High quality advice
  - A diverse workforce that understands its diverse clients
  - Quick, fair and cost-effective complaints handling
  - Consumers placed at the heart of regulation

## How we work

- 1.4. The Panel provides evidenced-based advice on the consumer interest in legal services regulation issues. We aim to help the Legal Services Board and others to make regulatory decisions that are shaped around the needs of users.

## Who we are

- 1.5. The Panel is currently made up of 7 lay members whose appointments are approved by the Lord Chancellor. Our members' varied experience and expertise includes: charitable, private and public sectors, advice provision, trading standards and complaints handling. The Panel members are not able to be practicing lawyers. You can find more information about the Panel members at the back of this document.

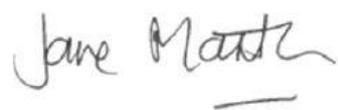
## Our approach to regulation

- 1.6. Our core challenge is finding the right balance between access to justice and consumer protection. We support proportionate regulation to enable consumers to truly benefit from open and fair markets.
- 1.7. Too much and too little regulation harms consumers. We want to remove unnecessary restrictions that impede innovation and increase the price of legal services. Yet consumers will only have the confidence to drive competition if they understand the benefits of regulation, so a strong, effective and fair consumer protection framework is also needed.

# 2 Chair's Foreword

- 2.1. I am delighted to present the Consumer Panel Annual Report 2017, which demonstrates once again the impact and influence made to effect best practice through regulation. Elisabeth Davies, my predecessor, whose term of office came to an end in December 2016, should be thanked for consistently highlighting the market deficiencies which have hampered consumer engagement in the legal services market.
- 2.2. Under her leadership, the Panel successfully maintained that regulators should publish basic data about providers of legal services.
- 2.3. In 2016, the Panel advanced this work with the publication of a report which made bold calls for the publication of information on price and quality amongst other things. Despite resistance from the sector, the Panel was unwavering in its position that consumers needed access to information in order to engage with the market and make informed decisions.
- 2.4. I have joined the Legal Services Consumer Panel at an opportune time; a time for reflection and action following the Competition and Markets Authority's (CMA) scrutiny of the sector. More importantly, I have arrived at a time when all the approved regulators pick up the pace to improve competition and ensure good consumer outcomes, with a focus on information provision.
- 2.5. I am pleased to be playing my part in this work; devising solutions to long standing problems.
- 2.6. There is now an opportunity for all the regulators to promote greater transparency and provide information that consumers can understand and use. However, information provision is not a panacea to all the problems highlighted in the CMA report.
- 2.7. Evidence gathered in the course of our recent publication on information remedies suggests that in some circumstances other remedies may be needed to bolster or accompany the provision of information.
- 2.8. Over the next few months, approved regulators will begin to implement the remedies recommended by the CMA.
- 2.9. The Panel will continue to seek to influence this work at a strategic level. We are keen to work with approved regulators and others outside the regulatory family to ensure that consumers get access to the information they need.
- 2.10. This year we will begin to look at our three year strategy and plans for short and long term goals from 2018. I have had insightful introductory meetings with approved regulators and representative bodies and wish to collaborate and work in partnership wherever we can to achieve mutually beneficial goals.
- 2.11. The Panel has been very effective by making best use of limited resources and we are grateful for the excellent support from the secretariat.
- 2.12. My challenge, and our focus, will be to continue to have an impact by prioritising key issues and concerns which support effective regulation in the consumer interest.

Chair

A handwritten signature in black ink that reads "Jane Martin". The signature is written in a cursive style. Below the name "Martin", there is a short horizontal line.

Dr Jane Martin

# 3 Responsive services

## What we would like to see

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

## Evidence of a slow changing market

### The CMA assessment of the sector

3.1. On 13 January 2016, the CMA launched a market study into the provision of legal services in England and Wales. The CMA's final report<sup>1</sup> found that the legal services sector is not working well for individual consumers and small businesses. Mainly because of a lack of transparency and an information deficit, which precludes consumers from engaging with the market. Therefore, the market was hampered in delivering our vision as outlined above.

### Our Tracker Survey shows

- 3.2. In addition to the CMA report, six years of findings from our annual Tracker Survey<sup>2</sup> shows that the pace of change in the sector is slow. Although consumers are shopping around, the overall figure remains small with just one in four actively comparing.
- 3.3. Also, a careful assessment of who is benefiting from the improvements shows

that benefits are not universal. Much of the improvement observed is confined to the more informed group: those with greater knowledge of what a lawyer does (52%) against of those who felt they had no knowledge (36%).

### Minority groups are not benefiting from wider market improvements

- 3.4. In 2016, the Panel published a briefing document highlighting the difference in the knowledge and experience of Black and Minority Ethnic (BME) groups<sup>3</sup> compared to consumers from a White background. From trust and confidence in using a lawyer to satisfaction with the service, there has been a troubling disparity, with BME users generally less empowered and experiencing a less positive or satisfactory service.
- 3.5. Our report looked at the experiences of this group of consumers in more detail, focusing on the elements of choosing and using services and highlighting key differences. We made specific recommendations to regulators asking them to undertake research to understand the disparity for BME consumers. We also asked them to work towards price transparency given the limited availability of fixed fees in the areas of law which BME groups are more likely to use.

<sup>1</sup> CMA's Assessment of Legal Services Market, December 2017

<sup>2</sup> The Consumer Panel's Tracker Survey

<sup>3</sup> Experiences of Black and Minority Ethnic groups in legal services

## What the Panel did in 2016/17

### *Major impact: influencing the CMA's assessment of the legal sector*

- 3.6. The Panel successfully informed and influenced the CMA's assessment of the legal services sector. Using evidence from numerous past reports, including our annual Tracker Survey we were successful in our calls for regulatory intervention on price and quality information.
- 3.7. Of significant relevance to the CMA's report was our own publication 'Opening up data in legal services'.<sup>4</sup> This report highlighted the need for pertinent information to enable consumers to make an informed choice. Although there was widespread opposition to our calls for regulatory intervention on price and quality, the CMA affirmed our concerns and prescribed remedies to address the deficiencies we highlighted.
- 3.8. The Panel welcomes the CMA's recommended remedies as they have the potential to reduce barriers to search and comparison for consumers, and in turn improve competition. However, we are acutely aware that the effective implementation of these remedies are crucial for good consumer outcomes.
- 3.9. The implementation phase of the CMA's remedies will not be easy. Multiple regulators, with varying resources, may feel compelled to move in different directions. Should this happen, consistency, a crucial part of the benefits of information provision, may be lost. To this end, the Panel has committed to being a part of the solution. We will continue to seek to influence the implementation of the CMA's remedies at a strategic level, and attend the Programme Board meetings

when appropriate to offer insight and expertise.

### *Report: the development of information remedies in legal services.*

- 3.10. In 2017, the Panel responded to the Legal Services Board's (LSB) request for advice<sup>5</sup> on 'the effectiveness of information remedies in legal services regulation, and how these could be improved'.<sup>6</sup>
- 3.11. The commission was timely because information remedies are about to feature more considerably in the legal services market as a direct result of the CMA's report.
- 3.12. Overall, we found that information remedies are not a panacea for consumer engagement. There is now a growing body of research signifying when information provision has been effective, as well as when it has been ineffective, including when it has had a detrimental outcome to the one desired.
- 3.13. The Panel highlighted that the volume and density of information particularly matters. And the challenge for regulators was to gather, simplify and convey information meaningfully.
- 3.14. We advised that regulators must consider very carefully the efficacy of information remedies by investing in consumer research, testing, evaluations, monitoring and learnings from other sectors. The report outlined nine specific criteria for success. We will continue to encourage the usage of these criteria. The Panel will also draw on them when engaging on this topic with relevant stakeholders or Approved Regulators.
- 3.15. Every year the Panel commissions an annual Tracker Survey to measure the

### *Impact: tracking changes through our annual consumer survey.*

to the LSB then feeds into a wider piece that the LSB is focusing on at the time.

<sup>4</sup> [Opening up Data in Legal Services](#)

<sup>5</sup> The LSB periodically commissions the Panel to assess an area of policy development or thinking. Our submission

<sup>6</sup> [The development of information remedies in legal services](#)

views of those who have recently used a legal service and to gauge how services are responding to consumer needs. The Tracker Survey also measures wider public attitudes towards lawyers. In this way we have built up a rich picture of what it is like to be a consumer of legal services, and we can track changes over time. The evidence from these surveys continues to influence and inform ours and others policy development and thinking.

In 2016, the Panel commissioned its sixth annual Tracker Survey.

### *Key findings of the 2016 Tracker Survey:*

- Overall, reputation is the most important factor when choosing a legal service. However, price is equally as important as reputation in some areas of law. For example, in conveyancing and immigration price was as important (81% and 74% respectively) as reputation (82% and 74% respectively)
- The popularity of fixed fees continues and is seen increasingly in areas such as will-writing, power of attorney and conveyancing. This is a key development and one which we have tracked closely; a fixed fee enables consumers to compare much more easily, and is an indicator of improved competition in the market
- The use of free services remains on a downward trend, a worrying sign particularly given that these are more frequently used by BME groups (15%) than those from a white background (7%). They are also more frequently relied upon by younger users, 18-24 year olds (20%) than those likely to be nearing or post retirement, 55 years and over (8%).
- The most relied upon funding method is increasingly private funding (66%).
- There is a persistent trend of lower levels of trust and confidence among BME groups, with only 37% trusting lawyers to tell the truth against 47% of those from white backgrounds. This figure drops further still with Indian (29%) and Black African (30%) having the lowest levels of trust within the BME group. Looking at confidence that consumer rights are protected when dealing with lawyers, the BME group have less confidence in their rights being protected (41%) than those from a white background (49%). This gap had begun to narrow in 2014, but in the last two years has slowly grown again.
- The Panel also looked at the trends in Wales. We observed Welsh consumers are less likely to trust lawyers, though they feel equally confident in their ability to complain and that their rights are protected. They are also less likely to shop around, and tend to use small, local law firms with face-to-face service rather than using online services.
- A key concern for the Panel is that market improvements are not benefitting all consumers. The gap between the empowered and disempowered is getting wider. What is clear is that those consumers who are better informed tend to have more trust in using a lawyer, and see increased choice, ultimately leading to increased satisfaction.
- Email and online service delivery is used by one in four consumers, most frequently when dealing with licensed conveyancers and solicitors
- The number of silent sufferers, people who had a complaint but did nothing about it, has dropped from 42% in 2015 to 35% in 2016. While a welcome drop, this remains higher than the average across other regulated sectors of 25%.

### **What next?**

3.16. Over the next year the Panel will:

- Engage and support key stakeholders on the implementation of the CMA's remedies designed to

improve consumer engagement and market transparency.

- Advance our work on Open Data.
- Encourage the approved regulators to incorporate the lessons from our Information Remedies report into their consideration of how to disseminate information to consumers.
- Undertake the seventh annual Tracker Survey, building on the evidence base of previous years.

# 4 High quality advice

## What we would like to see

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

## Research shows lack of information on quality indicators

- 4.1. According to previous Panel research<sup>7</sup> quality is not strongly influencing consumer choice. In the same research the Panel also found that Approved Regulators did little active monitoring of quality or did not publish assessments made. Our report on Open Data also called for more information on quality and quality indicators. We asked each Approved Regulator to give considered thought to what was feasible and proportionate within their respective communities
- 4.2. The Panel highlighted its concerns to the CMA, as part of their assessment of the sector, at various meetings and at roundtable events. We called for direct interventions and remedies in this area.

*Major impact: highlighting the need for information on quality of advice.*

- 4.3. The Panel was pleased to see some of the recommendations in its Open Data report reflected and advanced in the CMA's final report.

- 4.4. We were also pleased to see the Solicitors Regulation Authority's (SRA) discussion paper which drew heavily on the Panel's Open Data report. The Panel welcomed the SRA's consideration of how it might publish complaints data as a quality indicator, as well as exploring other ideas e.g. the publication of indemnity insurance claims.

*Impact: contributing to policy development on Legal Education and Training.*

- 4.5. The Panel continues to feed into consultations and meetings on the future direction of Legal Education and Training (LET). We believe that this is the first stage in assuring quality. We also believe that the pursuit of quality must recognise diversity in routes to qualifying. We continue to believe that more can be done to improve flexibility in routes to qualifying into the professions (solicitors in particular), thus improving quality through diversity.
- 4.6. We were pleased to note that the Bar Standards Board (BSB) decided against moving towards a minimum 2:1 classification degree. We argued against this position as we believed this may have a negative impact on the pool of talent at a time when the profession is seeking to widen access.
- 4.7. We also welcomed the opportunity to respond and engage with the SRA's consultation on the Solicitors Qualifying Examination (SQE). In March 2016, the Panel responded to the SRA's initial

<sup>7</sup> Legal Services Consumer Panel, Quality in Legal Services, November 2010.

consultation on the subject, and raised concerns about the appropriateness of publishing a consultation document with little supportive evidence or analysis. We were therefore pleased to respond with the SRA's subsequent consultation which referenced more evidence and undertook better analysis.

- 4.8. However, we have continued to express concerns that Approved Regulators need to join up their efforts in this area. Regulatory changes to training and education might impact students' choices very early on in their academic careers, particularly if decisions made could limit their ability to move within the profession. Close working between the SRA and the BSB and indeed with any other Approved Regulator embarking on similar considerations would be important for overall standards across the professions.
- 4.9. Our overall aim is to shape the direction of LET pre and post qualification to ensure that it is sufficiently focused on the consumer, and crucially delivers good consumer outcomes.

*Impact: influencing the debate around unregulated providers.*

- 4.10. The Panel continues to recognise that with adequate consumer protection there is a place for unregulated providers in the legal services market. The reality of unmet legal needs, and the cost of legal services, mean that the Panel often has to balance access to justice and consumer protection. These are not always easy deliberations, and at times trade-offs and concessions have to be made.
- 4.11. However, there is a need to ensure that consumers are aware of the differences between regulated and unregulated providers. Consumers must know if their consumer protections are reduced depending on which service provider they choose.

- 4.12. The Panel's previous work on the unregulated market has put it in good stead for engaging on this topic. In 2016 we were able to provide the CMA with our considered position based on evidenced reports and policy positions.
- 4.13. In 2016, we also contributed and engaged with the SRA's proposals to remove the restrictions on solicitors delivering non-reserved legal services to the public through an alternative legal services provider (unauthorised), while using the solicitor title.
- 4.14. We accepted that the proposals were designed to improve flexibility of practise for solicitors, and encourage more diverse delivery methods of reserved and unreserved legal activity, potentially benefiting many consumers. We remain supportive of a move towards greater flexibility and can see advantages, particularly where solicitors work with Law Centres or charities. However, we raised concerns around consumer confusion and protection issues, and we hope the SRA will address these.
- 4.15. The Panel will continue to participate in ongoing debates about the right balance between competition, consumer protection and access to justice.

### What next?

- 4.16. Over the next year the Panel will:
- Encourage the Approved Regulators to adopt the Panel's recommendations for more information, and where applicable research on the quality of legal services.
  - Continue to engage in discussions on the role of the unregulated sector and greater consumer awareness about the differences.

# 5 Diversity

## What we would like to see

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

## Our Tracker Survey/ wider research shows

- 5.1. In 2016, the Panel focused on the experiences of BME consumers in more detail, assessing the elements of choosing and using services, and highlighting key differences from a small base.
- 5.2. Although our Tracker Survey is able to highlight the disparities, the quantitative approach to this research makes it challenging to understand fully the underlying reasons for the differences. We therefore drew on a wider research and evidence base to assist in understanding and explaining the trends.

## Key findings from our research were

- BME users are less satisfied with both the service they receive and the outcome of their matter than White British users.
- BME groups shopped around more and were less likely to use the same lawyer as before, but were less satisfied with the choice on offer and found it more difficult to compare.
- Specialism and reputation were the most important factors when choosing a legal services provider for BME users, and a quality mark was significantly more important to BME groups than White British.
- BME groups were less likely to use fixed fees, and more likely to receive a free service. For example, 9% of BME used legal aid compared to 2% of people from a white background.
- Preparing a will was much less common amongst Pakistani and Black African users, and among BME groups as a whole, compared to White British.
- Levels of trust remain lower among BME users than White British.

## What the Panel did in 2016/17

### *Made recommendations to address the disparity between BME and White consumers*

- 5.3. In our assessment of the disparity between BME groups and White consumers, the Panel recognised that some of its findings were as a result of societal inequalities in earning power and education levels. Nevertheless, we believe there are several areas where the regulators can take action to ensure that legal services providers better serve all users. Specifically, we called for:
- Regulators to understand what drives the differences between ethnic groups – why do BME users find it harder to compare providers and why are certain

ethnic minorities less satisfied with choice than others?

- Representative bodies to consider ways to raise awareness in ethnic communities about the importance of preparing a will, particularly in the Black African and Pakistani communities.

### *Introducing the consumer segmentation narrative into policy discussions*

5.4. In the past, we have said that it is increasingly apparent and accepted that the problem of access to justice and unmet legal need is significant and nuanced. In our view there is no single solution that will benefit all. In 2016, we published a report which outlined the process of identifying varying needs, as well as how solutions might be tailored, we referred to it as consumer segmentation.

5.5. We have applied consumer segmentation to our own work. We have delved into our own tracker survey data to show that there has been a gap in satisfaction between BME users and White British shown as explained above.

5.6. Also, in our information remedies report, we highlighted the need for regulators to ensure that information remedies are beneficial to all groups of consumers, or where necessary tailored to different needs.

### *Major impact: Training regulators to change the way they recognise and respond to consumer vulnerability*

5.7. Over the last year, the Panel has been pleased to note an increase in consumer vulnerability research by Approved Regulators and the LSB. The dearth of research in this area is a concern we have raised in the past.

5.8. Our own research on vulnerable consumers<sup>8</sup> shows that many lawyers struggle to adapt their services to cater

for consumers with specific needs. To address these problems the Panel produced a guide for Approved Regulators to help recognise and respond to vulnerability. The guide is based on British Standard BS18477 on Inclusive Service Provision, but translated into a legal services setting.

5.9. The Panel also produced a simple consumer principles toolkit for regulators to help them think about the consumer interest in a structured way. The toolkit is based on seven core principles used by consumer organisations for working out how particular issues or policies are likely to affect consumers. They are:

- Access – can people get the goods and services they need or want?
- Choice – is there any?
- Safety – are the goods or services dangerous to health or welfare?
- Information – is it available, accurate and useful?
- Fairness – are some or all consumers unfairly discriminated against?
- Representation – do consumers have a say in how goods or services are provided?
- Redress – if things go wrong, is there a system for putting them right?

5.10. In 2015, the Panel merged the consumer vulnerability guide with the consumer principles toolkit and we now deliver training to regulators using both together.

5.11. In 2016, we delivered training to LSB staff, Council for Licensed Conveyancers (CLC), and separately the staff of the CLC. We also trained the Board of Cilex Regulation, and Cilex Regulation Staff.

<sup>8</sup> Reference to be added here.

### *Influencing the debate on the need for a diverse and competent workforce*

5.12. One of the strands in the Panel's vision for the future noted above is that consumers '*receive legal advice from a diverse and competent workforce*'.

We recognise that the sector has made significant inroads at entry level, where new entrants are more ethnically diverse than the population as a whole and there is a positive gender split.

5.13. While there has been a focus on gender and ethnic diversity, social mobility must not be overlooked. In 2016 we responded to the LSB's consultation on revised guidance for regulators for encouraging a diverse profession. We said it was important for regulators to begin to communicate how diversity benefits not just businesses, juries and

team performance, but also service users. We asked regulators to prioritise those areas where action could lead to service improvement or remove unfair entry barriers into legal services provision

### **What next?**

5.14. In 2017/18 the Panel will:

- Explore with representative bodies the feasibility of a campaign targeted at BME groups less likely to have made a Will.
- Continue training the regulators and using our vulnerability guide and consumer principles toolkit, incorporating our work on consumer segmentation.

# 6 Access to Redress

## What we would like to see

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

## Our Tracker survey shows

- 6.1. Public awareness levels of the Legal Ombudsman (LeO), the dispute resolution body for legal services, is currently at a high of 68%, a slight improvement over time (2012: 64%). The number of people who had a complaint but did nothing, 'silent sufferers', has dropped from 42% in 2015 to 35% this year. This is a big step change compared to previous years and it is possible that this is an anomaly, as such we will have to wait to see what the 2017 Tracker Survey data reveals. Otherwise this appears to be a positive step, bringing it closer in line with the average across other sectors that stands at around 25%.

## What the Panel did in 2016/2017

### *Impact: Working with the Legal Ombudsman.*

- 6.2. The Panel has maintained a good working relationship with LeO.
- 6.3. In the last reporting year we have responded to LeO's consultation on its draft budget and Key Performance Indicators (KPI), and we have had extensive meetings to assist in the development of its KPIs

- 6.4. We also presented to the Office for Legal Complaints (OLC), LeO's Board, on how they might address future challenges.

- 6.5. In 2016, the Panel responded to the Government's Tailored Review on the OLC and the LSB, acknowledging that the OLC continues to work towards raising industry standards, a key ask of the Panel. The Panel will continue to work with the OLC and LeO for improved focus and attention in this area.

- 6.6. At present LeO is unable to investigate complaints when the people losing out are not the lawyer's client – these situations are known as third party complaints. There are lots of situations where this can happen, for example:

- Delays or mistakes by the other side's lawyer in a conveyancing transaction.
- Disputes over legal fees when someone agrees to pay the costs of the other side.

The Panel considers that, in certain situations, third parties should be able to complain to the LeO and obtain a remedy for the harm they suffer. The Panel has been advocating for this since 2012 and has actively ensured that the issue stays on LeO's agenda.

### *Highlighting the need for improvement in First-tier complaints data.*

- 6.7. In 2016 we responded to the Legal Services Boards consultation on first tier complaints handling.
- 6.8. We noted that evidence from our annual Tracker Survey consistently (with a drop in numbers in 2015) shows high levels

of 'silent sufferers': those who have a complaint about the service they received. This unwillingness to complain indicates that consumers are not confident in the ability of the profession to meet the consumer outcomes prescribed by the LSB<sup>9</sup>: *'to deal comprehensively and swiftly with complaints, and have procedures that safeguard consumers' interests.'*

- 6.9. One of our key messages to the LSB was for it to consider defining minimum standards for first tier complaints handling and place a requirements on Approved Regulators to use them to assess performance. We said there is a wealth of information, research and best practice in this area not just from LeO, but from other dispute resolution schemes and standards setting bodies. For example, the British Standards Institution best practice on complaints handling (BS ISO 10002).

Although the Panel continues to support the LSB's overall outcomes where first-tier complaints are concerned, we also suggested that there ought to be an additional focus on quality and use gathered intelligence to improve service.

At present none of the legal services regulators publish first tier complaints data, even though research from other sectors shows that consumers and their representatives, including intermediaries, use it in other sectors.

The Panel recognises that there are challenges with publishing complaints data. The biggest challenge appears to be how to contextualise complaints data so that it is meaningful for both consumers and businesses. We are, however, pleased to see that the SRA has published a discussion paper on how it might publish meaningful information that does not unnecessarily prejudice businesses.

## What next?

6.10. Over the next year the Panel will:

- Work with Approved Regulators on the publication of first tier complaint data.
- Work with LeO on how to use its intelligence to raise sector wide standards in complaint handling.

<sup>9</sup> The LSB expects approved regulators to achieve the following outcomes when regulating first-tier complaints:  
(i) Consumers have confidence that: complaints handling procedures provide effective safeguards for them; and

(ii) Complaints will be dealt with comprehensively and swiftly, with appropriate redress where necessary.

# 7 Consumers at the heart of regulation

## What we would like to see

- Approved Regulators are independent of the entities they regulate.
- Regulatory bodies work transparently.
- Regulators have robust consumer engagement mechanisms.

## What the Panel did in 2016/17

- 7.1. For the first time in 2016, the Panel, in conjunction with all the Approved Regulators, commissioned qualitative research to understand how consumers engage with Client Care Letters (CCLs). The aim was to improve communication and engagement with consumers.
- 7.2. CCLs are usually the first written communication a consumer receives after taking up legal advice. It is not compulsory for providers to send CCLs, but they are often used to fulfil a mandate such as providing written information about the complaints process.
- 7.3. A key finding of the CCLs research was that information provision to consumers could be improved. And that providers and even Approved Regulators information priorities do not always align with that of consumers.
- 7.4. Consumers themselves suggested that alternative means of conveying information may be more effective, for example including information about complaints handling in a separate leaflet.

## Ongoing influencing of the debate on the future legal services regulatory landscape

*Report: Priority areas of law for regulators.*

- 7.5. In 2015, the LSB commissioned the Panel to consider 'Which areas of law should be the priorities for the LSB's work on enabling the demand for legal services to be met?'
- 7.6. Using multiple sources of information, the Panel devised four criteria for prioritisation:
- Is it an area in which further work will have a high impact?
  - Does it feature issues of affordability, accessibility and/or information asymmetry?
  - Has there been a recent policy change in the area?
  - Could regulatory intervention address issues relating to affordability, accessibility and/or information asymmetry?
- 7.7. Adding to this, the Panel considered the effects on more vulnerable consumers that may make the area more or less in need of prioritising.
- 7.8. Based on the information gathered by the Panel, we advised the LSB to focus on the following areas:
- Family and relationships
  - Housing
  - Asylum and Immigration

- 7.9. We are pleased that our research is informing Approved Regulators work, for example, the BSB and the SRA's work in the family law space.
- 7.10. We are pleased that this work has also informed content on the Legal Choices website with a commitment to focus attention on the areas we highlighted.

*Impact: Improving and influencing the quality of regulation.*

- 7.11. The Panel has also contributed to a wide range of specific regulatory issues throughout the year. In 2016 we engaged extensively with the SRA, CLC and Cilex Regulation on plans around their professional indemnity insurance and compensation funds. Our overall message remains that there is a continuing need to minimise consumer confusion and gaps in consumer protection as regulators work towards changing their Professional Indemnity Insurance obligations, or make it easier for providers to move between Approved Regulators.

- 7.12. Overall, we believe that the time is right for the LSB and Approved Regulators to revisit our call for a single scheme for improved consumer protection and outcomes. We accept that this may take some time, but in the interim the LSB may wish to consider the merit in brokering a set of principles that bind the regulators together with a duty to avoid consumer confusion, and reduce fragmentation and gaps in protection.
- 7.13. In 2016, we responded to the SRA's consultation on flexibility within its regulatory ambit. We also provided a robust response to its proposals to change its Accounts Rule.

**What next?**

- 7.14. Over the next year the Panel will:
- Engage with initiatives by the Approved Regulators to review their regulatory arrangements.
  - Continue training the Approved Regulators on our consumer principles and vulnerability guide, and now our segmentation report.

# 8 Transparency

## Committed to transparency

- 8.1. The Panel is committed to transparency. Below we list details of our expenditure and outputs for the past year.

## Expenditure

- 8.2. The Consumer Panel is supported by a small policy secretariat and is funded by the LSB as part of its annual levy on the approved regulators. Our budgeted costs for the year ending 31 March 2017 were £192,388. See Table 1 overleaf for a breakdown).
- 8.3. Details of members' expenses are available on the Panel's website.

## Attendance

- 8.4. The Consumer Panel held six formal meetings this year. The attendance of each Panel Member is outlined based on the number they were eligible to attend:

Dr Jane Martin CBE - 2/2 (joined in January 2017)

Elisabeth Davies – 4/4 (left in December 2016)

Andy Foster – 3/6

Cathy Gallagher - 6/6

Dr Michelle Goddard - 6/6

Frances Harrison – 6/6

Dr Philip Marsden - 5/6 (left in March 2017)

Marlene Winfield OBE - 6/6

Mark McLaren - 2/2 (joined in January 2017)

## Activities and outputs

- 8.5. A list of the Panel's activities can be found at the back of this document. This can be summarised as follows:
- Policy and research reports - 12
  - Consultation responses – 11
  - Speeches and presentations – 9
  - Events hosted by the Panel – 1
  - Ongoing committees/working groups – 4
  - News releases – 10
  - Blog posts – 2
  - Stakeholders met by members – 22

**Table 1 – Breakdown of Panel expenditure in 2016/17**

<b>Category</b>	<b>2015/16</b>	<b>2016/17</b>
<b>Panel Fees and Secretariat</b>	148,874	159,394
<b>Research</b>	27,744	30,107
<b>Travel</b>	1,672	2,419
<b>Training</b>	150	0
<b>Subscriptions/office costs</b>	770	359
<b>Catering/room hire</b>	798	109
<b>Total</b>	<b>180,008</b>	<b>192,388</b>

# Consumer Panel activities

## Policy and consumer research reports

29 March 2017	Consumer Segmentation
22 March 2017	Information Remedies
16 November 2016	Tracker Survey 2016 - data tables for recent users
16 November 2016	Tracker Survey 2016 - data tables for general public sample
16 November 2016	Tracker Briefing 4: Wales
16 November 2016	Tracker Briefing 4: Wales (and Welsh language version)
16 November 2016	Tracker Briefing 3: experiences of Black and Minority Ethnic groups in legal services
02 November 2016	Research into client care letters
19 July 2016	Legal Services Consumer Tracker 2016 Insight Report
19 July 2016	Tracker Survey Briefing 2: How consumers are using legal services
19 July 2016	Tracker Survey Briefing 1: How consumers are choosing legal services
19 May 2016	Priority Areas of Law

## Consultation responses

27 January 2017	Discussion Paper on Regulatory Data and Consumer Choice in Legal Services
10 January 2017	A new route to qualification: The Solicitors Qualifying Examination (SQE)
02 December 2016	LSB - Consultation on revised guidance for regulators on creating a diverse profession
24 November 2016	MoJ - Tailored Review of the Legal Services Board and the Office for Legal Complaints call for evidence
21 September 2016	SRA - Looking to the Future: Flexibility and Public Protection
21 September 2016	SRA - Looking to the Future: Accounts Rules Review
19 August 2016	CMA - Legal Services Market Study Interim Report
14 July 2016	SRA - Removing barriers to switching regulators
24 May 2016	JEB - Reforming the courts' approach to McKenzie Friends
20 May 2016	CLC - Professional Indemnity Framework
26 April 2016	LSB - First Tier Complaints Handling: Guidance for Regulators

## Speeches and presentations

8 March 2017	<b>Modern Law</b> the annual Conveyancing Conference 2017
December 2016	<b>National Forum on Litigants in Person</b>
24 November 2016	<b>Access to justice:</b> Who is afraid of comparison websites?
October 2016	<b>Compliance Conference</b> at the Solicitors Regulation Authority
October 2016	<b>Legal Wales Network Conference</b>
September 2016	<b>The Legal Services Market – Regulation, Innovation and the Future of the Legal Services Act</b> held by the Westminster Legal Policy Forum
July 2016	<b>All Party Parliamentary Group on Customer Service</b>
July 2016	<b>ALL Party Parliamentary Group on Legal Expenses Insurance</b>
April 2016	<b>Professional Paralegal register Spring Conference</b>

## Ongoing committees and working groups

Legal Services Board Research Strategy Group
Legal Regulators Research Forum <sup>10</sup>
Regulators' Forum <sup>11</sup>
Consumer Panel Chairs regular meetings

## Events hosted by the Panel

24 November 2016	Joint stakeholder event with LSB, LeO and the Manchester Law Society in Manchester.
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## News releases

29 March 2017	Consumer Panel calls for consumer segmentation to improve regulatory outcomes
22 March 2017	Consumer Panel calls for smarter communication in legal service
15 December 2016	CMA backs Consumer Panel's call for more transparency
16 November 2016	Legal services failing to provide for ethnic minorities
02 November 2015	Research shows room for improvement on Client Care Letters
12 September 2016	The future of the legal services regulatory landscape
19 August 2016	Consumer Panel calls for regulatory intervention to address market failings

<sup>10</sup> A forum for all the legal regulators to meet and discuss the research each organisation is undertaking. It is focused solely on research.

<sup>11</sup> A forum for discussion of common issues between regulators, LSCP, and LeO. This meeting is broader than research.

19 July 2016	Transparency needed to improve choice and increase the pace of change for consumers
08 July 2016	Price information is about good competition and fairness
19 May 2016	New partnerships required to address unmet need

## Blog posts

02 November 2016	<b>The right information, in the right way, at the right time</b> Elisabeth Davies
21 July 2016	<b>Intervention needed on price transparency</b> Elisabeth Davies

## Stakeholder meetings attended by Panel members

The Panel meets with key stakeholders regularly to discuss regulatory issues and concerns. These meetings are often held at Chief Executive Officer and or at Chair of organisations level.

In 2016, the Panel prioritised a considerable amount of time to meet with the CMA in light of its assessment on the legal services sector. The CMA attended two Panel meetings, and the Panel attended a roundtable hosted by the CMA, as well as two bilateral meetings at working level.

The incoming Chair prioritised introductory meetings with key stakeholders bodies during February and March 2017.

APPG on Public Legal Education
Bar Standards Board
Bar Council
Chartered Institute of Legal Executives

CILEx Regulation
Civil Justice Council
Council for Licensed Conveyancers
Competition and Markets Authority
Department for Business, Energy and Industry Strategy
Financial Conduct Authority
LexisNexis
Law Society
Legal Ombudsman/Office for Legal Complaints
Legal Services Board
Legal Wales Network
Modern Law
Master of the Rolls
Personal Support Unit
Professional Paralegal Register

Research Strategy Forum

Solicitors Regulation Authority

Stephen Mayson

# Terms of reference

## Purpose

- 1 The Legal Services Consumer Panel ('the Panel') is established by the Legal Services Act 2007. The Panel contributes towards the achievement of the regulatory objectives by representing the interests of consumers of legal services. The Panel acts independently of the Legal Services Board ('the LSB') and the Office for Legal Complaints ('the OLC').
- 2 The Panel is deliberately comprised of members who are able to provide evidence of the experience of the wide range of consumers of legal services. The Panel will prioritise its work around those consumers who it considers are less able to give voice to their own interests. The Panel will have particular regard to the interests of consumers who may be in a position of vulnerability when using legal services.
- 3 The principal focus of the Panel will be on activities falling within the jurisdiction of the LSB and the OLC. However, the Panel will also have a remit on legal services matters that do not fall within the remit of the LSB or the OLC.
- 4 The Panel has an advisory role and does not have decision-making responsibilities. The key activities of the Panel are (in no order of importance):
  - (a) To help the LSB and the OLC to understand fully, and take account of the interests of consumers in its policy development and decisions;
  - (b) To respond to relevant consultations as appropriate;
  - (c) To carry out research, as agreed with the LSB, and gather other intelligence and evidence to understand the consumer experience of the legal services market;
  - (d) To provide the LSB and the OLC with feedback from a consumer perspective on the effectiveness of its policies and practices;
  - (e) To help the approved regulators develop their own approach to consumer engagement to inform their work;
  - (f) To speak out publicly on behalf of consumers as appropriate in order to positively influence outcomes for consumers of legal services; and
  - (g) To maintain an overview of developments in the legal services market, and related developments affecting consumers in other markets, in order to best deliver the other activities listed above.

## Procedure

- 5 Panel members are appointed by the LSB, with the approval of the Lord Chancellor, in accordance with Nolan principles, to represent the interests of consumers.
- 6 The Panel shall determine its ways of working, and may appoint sub-committees and make other arrangements for regulating its procedure. Sub-committees may include persons drawn from outside of the Panel, but all sub-committees shall include at least one member of the Panel.
- 7 The Panel and the LSB shall agree an annual programme of work for the

Panel. The Panel may carry out such additional work, as agreed with the LSB, in response to developments in the legal services market.

- 8 The Panel shall ordinarily publish its representations, advice and research. However, it may choose not to publish its representations, advice and research if it considers that to do so would be

likely to impact adversely on the interests of consumers.

- 9 The Panel shall publish the agenda and minutes of its meetings.
- 10 The Panel shall publish an Annual Report on its work.
- 11 The Panel and LSB shall review the Panel's terms of reference annually.

# Biographies

## Consumer Panel Members

### Dr Jane Martin CBE (Chair)

Dr Jane Martin was the Local Government Ombudsman and Chair of the Commission for Local Administration in England. In that role she was also a non-executive member of the Board of the Parliamentary and Health Service Ombudsman. Her seven year term of office as Ombudsman came to an end in January 2017. She has also recently been appointed to the Committee on Standards in Public Life.

In a career dedicated to understanding and promoting public service accountability, she has conducted research at the Universities of Birmingham and Warwick respectively and worked with local authorities across England. She was the first Director of the Centre for Public Scrutiny.

### Andy Foster

Andy is Business Development Director for Capita plc based in London. Andy has over 20 years' experience delivering local, national and international consumer protection strategies for Government agencies.

At Capita he is responsible for developing their local government portfolio by growing partnerships that help transform services, reduce operating costs and create social value. Andy was formerly Operations and Policy Director for the Chartered Trading Standards Institute during which time he was responsible for the commercial and policy output of the Institute. This included leading for CTSI on the consumer landscape changes which led to the creation of the consumer code of practice

approval scheme and the national business education resource 'Business Companion'. In his spare time Andy volunteers for a number of charitable organisations including the Princes Trust as a business mentor where he helps young people set up and grow their own enterprises.

### Cathy Gallagher

Cathy leads on the delivery of Solicitors Regulation and Pro Bono Service development for the Law Centres Network of England & Wales. Through roles in local and central government and in new and existing Law Centres, she is experienced in promoting improvement in the quality, delivery and extension of public legal services.

Cathy delivered the start-up strategic management for the New South Wales Legal Assistance Forum, Sydney and the Asylum Seeker Support programme, Rochdale Council. Formerly a practicing solicitor, she worked as Principal Litigation Officer in both Commissions for Equal Opportunities and for Racial Equality.

Cathy has particular interest in the advantages of alternatives to the litigation process and recently gained a Masters in Dispute Resolution. She is a Trustee of the North West Legal Support Trust.

### Dr Michelle Goddard

Dr. Michelle Goddard is currently Director of Policy and Standards at the Market Research Society responsible for promoting and protecting the research sector's quality standards. She also serves as the

European Research Federation Director of Policy and Communication.

Michelle has 20 years of experience in consumer market regulation gained in a range of academic, policy and enforcement roles. Most recently she led on consumer advocacy in postal services policy and research at Consumer Futures, the statutory consumer body. She was the first CEO of the Barbados Fair Trading Commission and held several senior policy advisory roles with Caribbean governments and agencies. A non-practicing barrister, Michelle also spent time as a consumer lawyer at Which? and as an Inquiry Secretary at the UK Competition Commission.

### Frances Harrison

Frances is a specialist in consumer affairs. She sits on the Finance and Leasing Association's Code of Practice Monitoring Group and the Registry Trust's Consumer Panel. In addition, Frances is Chair of Brighton and Hove Citizens Advice Bureau, a trustee of Brighton and Hove Emmaus and a policy adviser to the training organisation, Developing Youth Practice. Her career spans policy analysis with a number of national bodies as well as management of front line services for young people and consumer advice services. Her past roles include leading training and support in consumer law and practice for the National Association of Citizens Advice Bureaux, Consumer Editor of the Adviser Magazine, and Head of Policy Research and Development at the National Consumer Council. She has extensive experience in representing the interests of consumers on regulatory bodies, government working groups, and trade associations; and has been the elected Chair of both Consumer Congress and the Institute of Consumer Affairs.

### Mark McLaren

Mark is currently a council member of the Property Ombudsman. For nine years to Autumn 2015, Mark worked for Which? where he was directly involved in the work that led to all legal professionals and both estate agents and letting agents being required to join an independent redress scheme. At Which?, he also worked on a wide range of legal issues including reforms to the home buying process, private rented housing, will writing, power of attorney, consumer law reform as well as the Legal Services Act 2007.

Earlier in his career, Mark's previous roles included being public affairs adviser at Age UK, where he is now a pension fund trustee, and working in the House of Lords for a group of crossbench peers. He is now a freelance consumer policy and public affairs adviser.

### Marlene Winfield OBE

Marlene has spent her career giving a voice to users of public services. She is on the Governance Board of a London-wide end of life care programme, Coordinate My Care. She is a Vice Chair of the Thalidomide Trust and is the Non-executive Director for Patient and Public Affairs on the Professional Record Standards Body for Health and Social Care. She was previously Director for Patients and Public in the Department of Health Informatics Directorate and Head of Policy Research and Strategy at the National Consumer Council. She was a lay member of the Civil Justice Council, the British and Irish Ombudsman Association Executive, and the National Information Governance Board. For 15 years she ran a support group that helped thousands of British women obtain compensation for injuries from the faulty Dalkon Shield contraceptive device. In 2000, she was made an OBE for services to civil justice reform.





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