



# Annual report 2013

June 2013

# CONTENTS

<b>About us</b>	<b>1</b>
<b>1 Foreword</b>	<b>2</b>
<b>2 Vision and aims</b>	<b>4</b>
<b>3 Responsive services</b>	<b>6</b>
<b>4 High quality advice</b>	<b>8</b>
<b>5 Diversity</b>	<b>10</b>
<b>6 Complaints</b>	<b>13</b>
<b>7 Consumers at the heart of regulation</b>	<b>15</b>
<b>9 Priorities in 2013-14</b>	<b>18</b>
<b>10 Transparency</b>	<b>19</b>
<b>Consumer Panel activities</b>	<b>21</b>
<b>Terms of reference</b>	<b>28</b>
<b>Biographies</b>	<b>30</b>

# About us

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. 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.

The Panel provides high quality, evidenced-based advice to the Legal Services Board, in order to help them make decisions that are shaped around the needs of users. The Panel has a remit to represent the interests of the many different consumers of legal services, including small businesses and charities.

The Panel is made up of eight lay members whose appointments are approved by the Lord Chancellor. Members' varied experience and expertise includes: charitable, private and public sectors, advice provision, trading standards and local government. None of the Panel members are practising lawyers. More information about the Panel members may be found in the biographies section at the end of this document.



*We fully recognise the value to the public of the Panel's work and that it is achieved with a small and talented secretariat and limited budget. It plays a crucial role in representing the consumer interest and implementing the intention of the Act. It cannot be emphasised enough that no other consumer body has locus and expertise in identifying and promoting the consumer interest in legal services.*

**National Consumer Federation**  
Submission to Triennial Review, July 2012

# 1 Foreword

## Understanding our impact

- 1.1. **The Legal Services Consumer Panel has spent this last year shining a bright and sometimes harsh spotlight on the approved regulators, principally looking at them through the lens and evidence offered via our Consumer Impact Report. The Consumer Impact Report lies at the heart of our work as a Panel – it's this document which assesses the legal services reforms from a consumer perspective and articulates the consumer outcomes they need to deliver: responsive services; high quality advice; a diverse workforce that understands its diverse clients; quick, fair and cost-effective complaints-handling; and where consumers are placed at the heart of regulation**
- 1.2. So this year's Annual Report is structured around and mirrors the five consumer outcomes that form the basis of our Consumer Impact Report. For each of the outcomes we highlight the findings of the Consumer Impact Report and we then ask and answer the fundamental question of what the Panel has done in response.
- 1.3. There's no doubt that some of our responses have been particularly significant. Our work with the Legal Ombudsman this year exposed the real consumer experience of complaint handling, resulting in new guidance for lawyers and consumers and a greater awareness of the gap between what's supposed to be happening and the reality. Similarly, our work on comparison websites – developing good practice standards and the work we've since done with the Solicitors Regulation Authority and Council for Licensed Conveyancers on a self-regulatory solution – is helping to improve the visibility and credibility of these sites and will help consumers to shop around and make choices that are right for them.
- 1.4. There's also our ongoing work on vulnerable consumers. From our inception, this has always been a strong passion and commitment, but in this last year we've really been able to match this with affecting long-lasting change. Ensuring use of the British Standard on Inclusive Service Provision is bringing a sharp focus and understanding of different vulnerabilities to the sector. Combine this with our work on deaf and hard of hearing consumers – resulting in the Law Society issuing new guidance – and consumers with learning disabilities and we can rightly be proud of the tangible benefits we're providing for vulnerable groups of consumers.
- 1.5. There's then a whole string of work that we've started that we expect to yield tangible results down the line. For example, understanding the rationale for how consumers choose and use legal services should lie at the heart of regulatory decision-making and our work on empowering consumers this year provides a potentially significant foundation for further discussions and work in the future.
- 1.6. This is not about quick wins and always delivering an impact within the year of our work programme. We've never minded being in the long game and if you need a reminder of this then just look at our work

on will-writing. The Panel's investigation recommending regulation of will writing was published back in 2011 but the impact of this report only started to bear fruit in 2013 with the Legal Services Board's decision to recommend that will-writing should be a reserved activity. Whilst we are very disappointed at the Government's decision not to support this recommendation, we have exposed an inarguable level of consumer detriment. So this piece of work is not over yet.

- 1.7. This report does much to capture the impact of the Panel but I'm also very clear that there's a wider impact that will always be difficult to measure. As a permanent, discrete champion for consumers there is much that we can and are doing simply to change the culture and language. We are often a lone consumer voice on platforms, constantly reminding others of what it means to be a consumer of legal services, exposing barriers to access in increasingly tough economic times.
- 1.8. With this in mind it has to be worth highlighting the increased activity that was such a central part of our work last year. At its simplest, and when compared with 2011/12, the Panel produced more consumer policy and research reports and submitted more consultation responses. We almost doubled the speeches and presentations we made and the number of meetings we held with our stakeholders. This is also important because how we communicate with and influence others is

one of our means of maximising our impact. We recognised this last year and responded to it. It's also reflected in the five events that we held with approved regulators and others during the course of the year; this is a new focus from the previous year.

- 1.9. Finally, there's the question of who has done this work. This is significant as it highlights our commitment to working alongside others in order to deliver tangible improvements. But it also goes to the heart of how we make best use of our resources. We benefit massively from the support and skills of Steve Brooker and Harriet Gamper. Through Steve's leadership they bring immense quality and understanding to the table, enabling us to bring out the best of our diverse, talented and committed Panel. As we move to a new phase in the reforms our impact is set to increase further and I do not doubt that we are well placed to continue to put consumers at the heart of legal services regulation.



**Elisabeth Davies**

Chair

# 2 Vision and aims

## What we would like to see

### 2.1. Our vision is for a market where everyone can access high quality and affordable legal services that meet their needs:

- Responsive services
- High quality advice;
- A diverse workforce that understands its diverse clients;
- Quick, fair and cost-effective complaints handling; and
- Consumers placed at the heart of regulation

2.2. For the past two years the Panel has published the Consumer Impact Report, which assesses the legal services reforms from a uniquely consumer perspective. We use the five points above to underpin the Impact Report and compile a 'healthcheck' to measure the direction of travel towards the Panel's vision for the market. We draw our evidence from an omnibus survey, complaints data and regularly published data sources such as business plans, annual reports and board papers.

2.3. Our main workstreams are also based on this five point vision, and are intended to deliver the outcomes we would like to see for consumers. Our workstreams are:

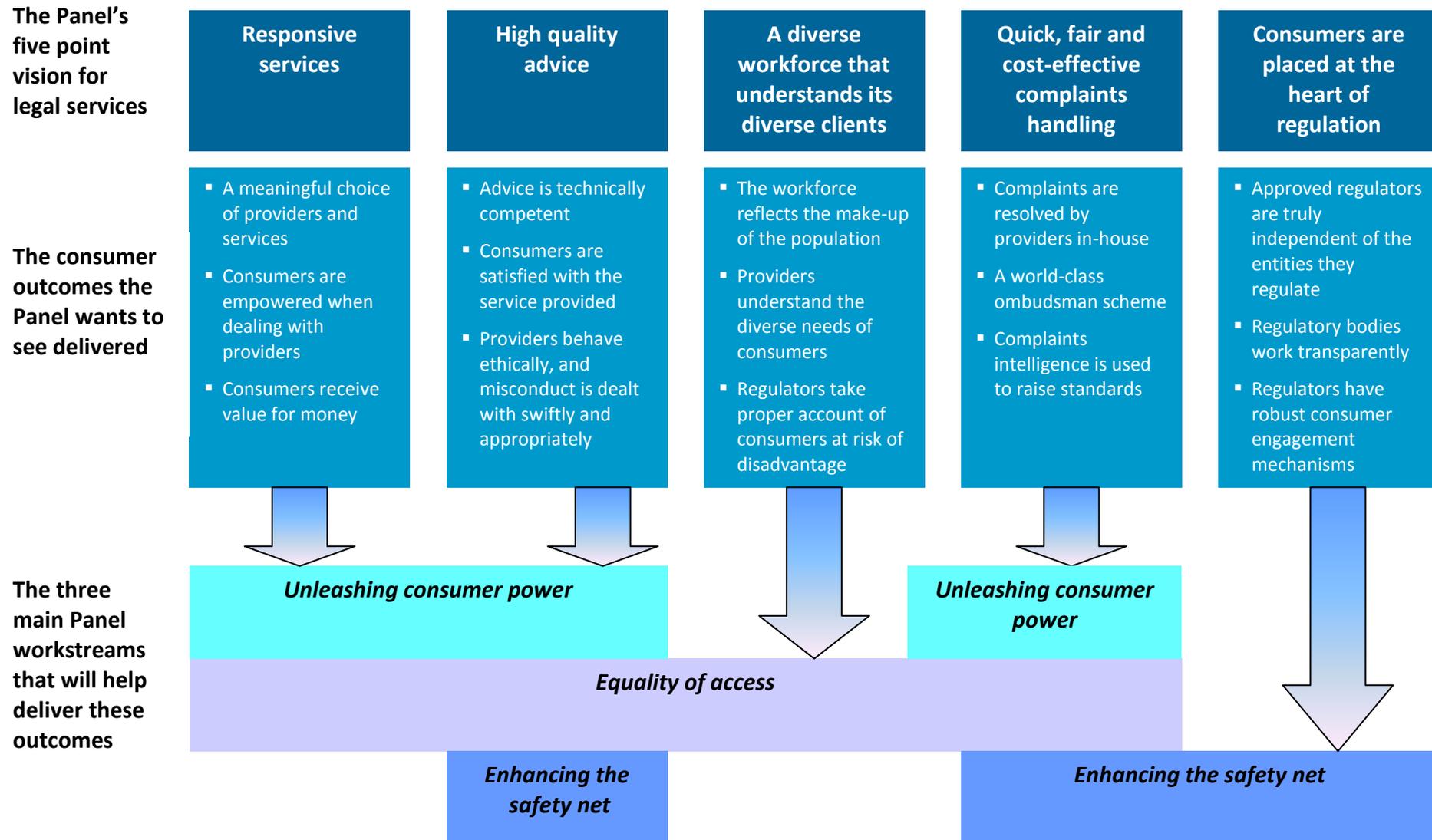
- Unleashing consumer power - by giving people the choice tools to drive greater competition in the market;
- Equality of access - by ensuring that all consumers, especially those in a

position of vulnerability, have access to affordable and high quality advice; and

- Enhancing the safety net - through improving quality assurance, better financial protection and redress, and consumer-focused regulators.

2.4. Figure 1 below shows the Panel's vision for legal services and how our work is designed to deliver this.

Figure 1 - How the Consumer Panel’s work delivers against our vision:



# 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

## What our Consumer Impact Report showed

- 3.2. Early signs of greater supply-side competition following the first ABS licences and other market developments, and some small signs of greater consumer power, with more shopping around, higher satisfaction with value for money and nearly four in ten deals packaged as fixed fees. However, consumers are still relatively unempowered and choice tools, such as quality marks and comparison websites, need to resolve credibility issues before they can become a key influence on purchasing behaviour. There was a fall in satisfaction with the transparency of pricing and this frustrates shopping around. We found:
- Low levels of shopping around at only 22%;
  - 57% of those shopping around find it easy to compare providers;
  - Only 1% had used a comparison website and 4% a quality mark.

## What the Panel has done

### *Major impact: Comparison websites*

- 3.3. We see comparison websites as an important tool which could help to support consumers shopping around and making better informed choices. In June 2012 the Legal Services Board endorsed our good practice standards for comparison sites. These drew attention to points such as accessibility, impartiality, accuracy and privacy, and highlighted where existing sites were succeeding and failing against these criteria. The standards accompanied a report the Panel published on comparison websites in February 2012, detailing the benefits and risks to consumers, and why they may soon take-off in the legal sector. The report was cited by one website as a factor leading to external investment.
- 3.4. Since publishing the report we have worked with the Solicitors Regulation Authority and industry to promote a self-regulatory solution. This has resulted in the Solicitors Regulation Authority and the Council for Licensed Conveyancers endorsing our standards and at the time of writing 5 websites have publically self-certified that they adhere to the standards. They will display the endorsement clearly on their sites along with a link to the Panel's and the Solicitors Regulation Authority's websites. This is excellent news for consumers, who will be able to see which sites are committed to consumer protection.
- 3.5. As part of our discussions we highlighted the need for a two-way collaborative

exchange of information between regulators and sites in order to ensure the most up-to-date and accurate information. We also flagged up the need for comparators other than price in order to help consumers to make fully informed decisions. The Panel will continue to focus on these two strands with regulators and providers, in order to maximise the benefit of comparison sites to consumers of legal services.

#### *Impact: Tracker Survey*

- 3.6. We commissioned our Tracker Survey to measure public attitudes towards lawyers and the views of recent users of legal services. The survey consists of two parts – a 1,796 sample of the general population and a 1,435 sample of recent users of legal services. In 2012 we also included booster samples for Wales and for six Black and Minority Ethnic groups to allow deeper analysis of the data.
- 3.7. The survey has been run since 2011 and will continue to be run on an annual basis. The Consumer Panel is committed to transparency and places the full Tracker Survey data tables on our website each year so that anyone can download and use the data. The research is regularly cited and it forms part of the evidence base for the Legal Services Board's Market Evaluation Report. Stakeholders have also told us how much they value the data provided by the Tracker Survey.
- 3.8. In September 2012 we organised a roundtable with stakeholders to hear their feedback on the Impact Report and Tracker Survey. Feedback included:
  - The Consumer Impact Report is a call to arms which helps the approved regulators to focus priorities during business planning;
  - The Report is thought-provoking and of a high standard;

- The Report rightly makes uncomfortable reading, and more needs to be done to address the issues it raises.

#### *Impact: Will-writing*

- 3.9. The Panel's report recommending the regulation of will-writing was published in July 2011. In 2012-13 the impact of our major investigation had started to bear fruit following the Legal Service's Board's decision in February 2013 to recommend to the Lord Chancellor that will-writing should be made a reserved activity. Our research had uncovered defective wills on a shocking scale and evidence of bad sales practices. Regulation of will-writing would help protect consumers and give them peace of mind that their wishes will be respected whoever prepares their will.
- 3.10. At the time of writing, the Lord Chancellor's decision to reject this recommendation has been published. This is extremely disappointing for the Panel. The attention now turns to seeing if self-regulation can succeed.
- 3.11. Unfortunately, the Legal Services Board has not agreed that estate administration should also be regulated. The Panel made a significant contribution to the evidence base including an analysis of complaints received by the Legal Ombudsman. We pointed out that unregulated businesses can cause huge damage to beneficiaries, either through fraud or poor service, but without regulation there would be no route to redress. In response to the Board's decision, the Panel has called for fast action to be taken on self-regulation, measures to reduce fraud and setting up the Legal Ombudsman's voluntary jurisdiction.

# 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

## What our Consumer Impact Report showed

- 4.2. Overall, consumer satisfaction data presents a mixed picture – satisfaction with outcomes has improved for the most common legal activities while service satisfaction has remained almost constant. However, recent users are not very satisfied with elements of service once their matter is in progress – in particular, there is a reduced sense of being treated as an individual rather than just another file. The general public's trust of lawyers has fallen, and this compares unfavourably to the medical and teaching professions.
- 1 in 5 wills prepared by both solicitors and unregulated will-writing companies were failed by a panel of experts;
  - 70% of recent users of legal services were satisfied they had been treated as an individual not just another file;
  - The general public's trust of lawyers has fallen since 2011 to just 43%.

## What the Panel has done:

### *Major impact: Choosing and using legal services*

- 4.3. In March the Panel completed Phase 1 of a two-phase project, providing advice to the Legal Services Board on how regulators can help consumers to play a more active, empowered role in the legal services market. We published two background papers, held a stakeholder event and had bilateral discussions. A final paper summarised the evidence and set out strategic choices for the Legal Services Board to consider next.
- 4.4. We found that whilst empowering consumers is a desirable objective, there should not be an over-reliance on this to deliver the regulatory objectives. Crucially, the research evidence demonstrates that consumers are most likely to have a satisfactory experience in a market if they believe that there are strong consumer protections in the market. Therefore, we said that before expecting consumers to take risks and play an active role in shaping markets, it is necessary to ensure the consumer protection framework is fit for purpose. When consumers perceive that effective regulation is in place, they will have more confidence to vote with their feet.
- 4.5. Understanding the rationale for how consumers choose and use legal services is a critical foundation for the Legal Services Board and the other regulators. The Legal Services Board

accepted the Panel's recommendations and agreed that the report raised significant strategic issues for the sector requiring leadership and co-ordination. The Legal Services Board has written to the approved regulators to urge them to make real progress on this agenda.

### *Impact: Legal Education and Training Review*

- 4.6. In our 2012-13 Work Programme the Panel committed to influencing the Legal Education and Training Review (LETR). Regulation of the education and training system is vital to protect consumers from quality risks and to make sure they can access services from a diverse profession. In our major submission to the LETR research team in May 2012 we highlighted the once-in-a-generation opportunity for change, as well as the need for reforms to modernise the system.
- 4.7. The system is failing because it tries to train the typical lawyer, when in reality there is no such thing. The legal market is too diverse to sustain the general practitioner training model any longer. We recommended a future education and training system built around an activity-based authorisation regime for individuals and entities.
- 4.8. It is no longer enough for someone to demonstrate their competence on 'Day One' and then be left more or less unchecked during the remainder of their career. The law changes and skills can deteriorate over time. We called for reforms to include a revised model of continuing professional development, and (at least in the higher quality-risk areas of law), individuals to be periodically reaccredited.
- 4.9. We followed our major submission to the research team with a further short response in October 2012. This focused

on what we considered were the key strategic points of the review. Panel members also met with the research team, and presented at an LETR Symposium on the theme of 'meeting consumer needs'.

### *Impact: Quality Assurance Scheme for Advocates*

- 4.10. The Panel has consistently supported the development of a quality assurance scheme for advocates (QASA). The benefits for consumers include bolstering confidence in the quality of advocacy, helping them to choose the best advocate for their needs, clarifying what they can expect from their advocate and promoting competition between advocates on quality grounds. The consultation process has been long, but we were pleased that most of the concerns we raised in previous consultations have been addressed.
- 4.11. We called for greater user representation within the scheme – this remains a key omission, and one which the Panel would like to see addressed before the 2015 review. In October 2012 we responded to the fourth and last consultation on the scheme. We were pleased that the Fourth Consultation response welcomed this proposal and committed to include this in the 2015 review of the scheme.

# 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

## What our Consumer Impact Report showed

5.2. The diversity of new entrants to the profession is little changed from 2011, although the proportion of women and BME solicitors and barristers remains in excess of the general population. There has been high political interest in social mobility. BME consumers score lower for measures relating to trust, confidence and experience of legal services, but higher in relation to choosing lawyers. Their satisfaction with outcome and service has increased markedly compared to 2011, although it is still lower than for White British consumers. Our report found:

- The only board with a majority of women is the Office of Legal Complaints;
- During 2011-12 the Legal Ombudsman received 32 discrimination complaints;
- Only two organisations included impact assessments as part of their consultation process between April 2011 and March 2012.

## What the Panel has done

### *Major impact: British Standard on Inclusive Service Provision*

5.3. In May 2012 the Panel adopted BS18477, the British Standard on Inclusive Service Provision. The standard was developed by consumer organisations, charities and government bodies to:

- Encourage the use of fair, ethical and inclusive practices;
- Show organisations how to identify vulnerable consumers and how to treat them fairly to help them to comply with the law;
- Help organisations to understand what consumers have a right to expect from them;
- Improve accessibility to services for all; and
- Increase consumer confidence in service providers.

5.4. We wrote to the Legal Services Board, the approved regulators, the Legal Ombudsman and others to encourage their use of the standard to inform their work. As a direct result the Council for Licensed Conveyancers has decided to amend the definition of 'vulnerable' in their Code of Conduct, so that the new definition is based on the British Standard. The Legal Aid Agency will review their service standards for the Community Legal Advice gateway later

this year and as part of this will consider incorporating the standard as one of the service standards for the gateway operator.

- 5.5. In addition, we called on the Legal Services Board to encourage uptake of the standard in their own work and across the industry. The Board have recently committed to update their consumer toolkit, and to develop and test a clear strategy for incorporating the thinking from BS18477 into their policy work. They will also invite regulators and the Legal Ombudsman to demonstrate how they have incorporated the standard into their work. This is excellent news for consumers, as it means that a greater focus and understanding of different vulnerabilities should be brought into sharp focus across the legal sector.

#### *Current research: Consumers with learning disabilities*

- 5.6. The Panel, in partnership with the Legal Services Board and Mencap, appointed the Norah Fry Research Centre (part of the University of Bristol) to carry out this research following a competitive tender exercise.
- 5.7. Interim results highlight an important distinction between the experiences of people with learning disabilities who are able to self-advocate and live more or less independently, and those with more complex needs who rely on significant levels of support in their daily lives. Some important points of concern that are shared across all of the groups contributing to the research were reliance of most people with learning disabilities upon supporters as the gateway to getting legal advice, paucity of information about the issues about which people could and should seek legal advice, the routes to getting appropriate legal advice, the costs

involved, and the outcomes that people can expect.

#### *Current research: Asylum advice*

- 5.8. In May 2012 the Panel responded to a Legal Services Board consultation on the regulation of immigration advice and services. We highlighted the need for greater protections for recipients of immigration advice and recommended further research be carried out to address the absence of data. The Legal Services Board's subsequent guidance recognised this point.
- 5.9. In October we followed this up by publishing a research note on immigration and asylum services. This drew together existing research on the subject and identified how and what steps should be taken next.
- 5.10. We concluded this is an area with high potential for consumer detriment. We said further research should be carried out to assess the provision of legal advice, particularly in the asylum area. Research should focus on two broad areas: access to legal advice and support, and quality of advice and support. The Panel also attended a roundtable on immigration hosted by the Bar Standards Board where we presented our findings. We would welcome partners to progress further research in this important area.

#### *Impact: Deaf and hard of hearing consumers*

- 5.11. The Panel's 2012 work on deaf and hard of hearing consumers, commissioned with Action on Hearing Loss and the Solicitors Regulation Authority showed that people with hearing loss "often felt like they were in a battle to be understood by their legal advisor". As a result of the research the Law Society has now issued a Practice

Note for solicitors on providing services to deaf and hard of hearing people. The guidance focuses on the many practical things which advisors can do to aid communication, and should provide tangible benefits to this vulnerable group of consumers.

*Impact: Guidance for small charities*

- 5.12. In 2011 we published a study into the provision of legal services to small charities with an income of less than £100,000. A key recommendation was to encourage the provision of concise, easy to read advice to these bodies. We were pleased to note that since the report the Charity Commission have updated their website with a specialist section of guidance for small charities.

# 6 Complaints

## 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

## What our Consumer Impact Report showed:

- 6.2. Barriers to complaining appear even higher than in 2011: confidence to complain about lawyers fell to less than half the population, while the proportion of dissatisfied consumers doing nothing sharply increased. Research suggests that non-compliance with signposting rules persists, while some lawyers appear to charge to handle complaints. Communication, delay and cost issues are the most common causes of complaint to the Legal Ombudsman. There is growing recognition that the redress landscape is confusing for consumers, and the Legal Ombudsman has to turn away consumers dealing with unregulated providers.
- 49% of people would feel confident complaining about their lawyer;
  - 35% of complainants to the Legal Ombudsman recall being informed about them by their provider;
  - 63% of those who complained prematurely said they had no confidence their complaint would be taken seriously or resolved fairly.

## What the Panel has done

### *Major impact: Consumer experience of complaint handling report*

- 6.3. The Panel commissioned a report jointly with the Legal Ombudsman, and carried out by YouGov, to understand consumer experiences of complaint handling in the legal services market. The report was published in October 2012.
- 6.4. The research was divided into two parts. The first analysed the attitudes and experiences of first-tier complainants. The second part investigated why people make a complaint to the Legal Ombudsman without first making a formal complaint to their solicitor or waiting out the eight week period for a solicitor to respond – these are classified as premature complaints. The report found a clear gap between what is expected to happen under the regulatory framework and what is actually happening in reality. People are confused about what to do, get overwhelmed by legal jargon, believe they won't get a fair hearing and fear that upsetting their lawyer could have repercussions for their case.
- 6.5. The Legal Ombudsman updated its guide for lawyers on good complaint handling following the research. The Ombudsman also published a guide for consumers on how to complain to their lawyer. This includes information on what consumers should expect from their lawyer, a three step approach to

complaining, and how and when to complain to the Legal Ombudsman. The guidance should help consumers find out the steps they need to follow, while the information for lawyers ought to help drive improvements on the supply side. The Panel will continue to monitor this carefully.

#### *Impact: Third party complaints*

- 6.6. Third party complaints are complaints from individuals who are not the lawyer's client. Detriment to third parties can arise in many different circumstances, from delay in completion on a house purchase to having personal data compromised by an opposing lawyer in a divorce case. However, currently third parties do not have a right of redress when they have experienced poor service. The Panel wants to see routes to redress extended to third party complainants in certain circumstances. This would allow redress for legitimate grievances and create incentives for the market to work well for consumers. To this end we published a paper on third party complaints and responded to the Legal Ombudsman's consultation on updating its Scheme Rules.
- 6.7. The Legal Ombudsman has committed to work with stakeholders to create a specimen list of third party complaints for consultation. While we would have preferred action sooner, the Panel welcomes the decision to keep the issue of third party complaints on the table, and will work with the Legal Ombudsman to make progress on this issue in 2013. In the meantime the Panel has been invited to interrogate the Legal Ombudsman's database to look at evidence of third party complaints which the it has been unable to investigate.

#### *Impact: Naming lawyers and firms*

- 6.8. In 2011 the Panel was instrumental in persuading the Legal Ombudsman to publish the names of lawyers and firms where complaints led to a formal ombudsman decision being made. Publication began in September 2012. Information like this should help consumers to make better, more informed choices.

#### *Current research: Financial protection arrangements*

- 6.9. It is important that consumers of legal services have recourse to effective redress, including financial protections. The Panel has responded to a Legal Services Board advice request to assess the adequacy of regulators' financial protection arrangements. As part of this in 2012-13 we carried out a set of stakeholder interviews and conducted desk research, as well as holding focus groups with consumers on the issue of risk and regulation more widely. In February we held a workshop with stakeholders to discuss the findings of the focus groups and to help inform the final assessment. We have issued two publications: a Consumer Challenge paper focusing on the division of risk and responsibility between consumers and providers, and a report assessing whether the current arrangements are fit for purpose. At the time of writing, the Legal Services Board is considering its response to our advice.

# 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 our Consumer Impact Report showed:

7.2. Consumers need to have confidence that the regulators will protect their interests. Our report showed that all six regulatory boards now have a lay majority, although only three have lay chairs, which remains the same as the previous year. The transparency of regulators' work was patchy, and showed little change from last year. The rationale for differences between the approved regulators is not obvious. We would also like to see more robust consumer engagement mechanisms, with greater focus on carrying out consumer focused research to inform policy decisions. We found:

- 6 out of 6 regulatory boards now have a lay majority;
- Mixed performance on transparency, with differences between approved regulators;
- Just 2 consumer research reports published by approved regulators.

## What the Panel has done

### *Major Impact: Independent governance*

- 7.3. All regulatory boards now have independent governance for the first time. This is something the Panel has been calling for since we began and represents a major achievement.
- 7.4. We respond to a number of external consultations each year, in which we seek to represent the interests of users of legal services. All our responses are published on our website. In the past year we responded to 19 consultations. A number of these concerned changes to approved regulators' codes of conduct or applications to become an approved regulator or licensing authority. In the latter case, applications are made to the Legal Services Board and the Panel is one of three organisations who must be consulted during the decision making process.
- 7.5. The Institute of Chartered Accountants in England and Wales (ICAEW) and ILEX Professional Standards (IPS) have both submitted such applications in the past year. We actively engaged with both bodies throughout the drafting process in order to ensure any concerns were addressed in the final submissions. We were particularly pleased to note that ICAEW made a number of changes in its final submission to the Legal Services Board

following our input. Most importantly, these changes included a new structure for the proposed Probate Committee, with greater emphasis on lay input and a new definition of lay, which now means non-lawyer as well as non-accountant. The application now also incorporates greater use of Criminal Records Bureau checks, guidance on the areas probate practitioners will need to consider when formulating their Continuing Professional Development plans, and changes to guidance. If ICAEW's application to become an approved regulator is successful these changes will benefit consumers.

#### *Impact: Consumer engagement*

- 7.6. Consumer engagement potentially covers a broad spectrum of activity. At its simplest level, regulators can provide information to the public about their work through their websites and publications. Engagement can also involve helping consumers to use legal services more effectively, for example by providing people with advice about choosing lawyers. Regulators can also engage consumers in developing policy, for instance by consulting on proposals and conducting research to find out people's preferences.
- 7.7. Some progress in this area has been made: the Solicitors Regulation Authority has developed a consumer engagement strategy, the first of the approved regulators to take such an approach. In another example of good practice, the Council for Licensed Conveyancers has developed a Client Charter, setting out what clients have the right to expect, and the options they have if those expectations are not met. This charter was developed at the suggestion of the Panel.
- 7.8. Over the past year we have listened to our stakeholders – approved regulators
- told us they would welcome support from the Panel in developing their approach to consumer engagement across the sector. In November we held a consumer engagement workshop with approved regulators and regulators from the health sector, to share learning and best practice. A report of the workshop is available on our website.
- 7.9. In addition, we have agreed to facilitate a Regulators' Forum. This is to be a regular, informal space for the regulators to discuss consumer facing issues, often at an early stage of policy thinking, and to encourage collaborative working where this would be of benefit. The Panel will provide the space and secretariat support and the first meeting will be held in May 2013.
- 7.10. Stakeholders also said that in many cases they have difficulty in reaching the end users of legal services and they would welcome help from the Panel in researching consumers' needs. The Panel has a limited budget of £30,000 for research and other day-to-day costs, which is primarily used for our Tracker Survey. Stakeholders have told us how important they think this initiative is. We therefore make sure all the information (including the raw data) from the survey is available on our website for all to download and use.
- 7.11. We are also open to working in partnership. We encourage the approved regulators in particular to engage with us where they have identified research needs, with a view to combining resources. In some cases, such as the quality and ease of access to asylum advice, we have identified areas requiring attention from the regulators, but have so far been unable to find joint funding.

*Impact: Improved communications*

7.12. Our stakeholders told us they would welcome greater visibility from the Panel, and more information about our work, including regular updates on what we are doing and the findings from our research. We have therefore set up a quarterly e-newsletter which we send out to a subscriber list of over 250 people. This highlights our current projects, provides links to our recent publications, and lists the Panel's speaking engagements and consultation responses, as well as giving a brief look ahead to our upcoming work. The e-newsletter has had a positive impact, with more visits to our website and a larger number of downloads of our publications in the days after it is sent out. We were also pleased that a number of individuals have taken the trouble to get in touch and ask to be added to our distribution list.

# 9 Priorities in 2013-14

## Looking ahead

**9.1. The coming year will be the Consumer Panel's fourth work programme. Again the Consumer Impact Report and our assessment of the legal services reforms from a consumer perspective have been the starting point for our work programme.**

9.2. Previous work programmes have been about the potential of change, with alternative business structures around the corner and wider changes being promises or risks rather than realities. But this year is different. Alternative business structures have arrived and new online technologies are well and truly taking hold. Our annual tracker survey in 2012 revealed that less than half – 48% – of legal services are now delivered face to face with wide variations across areas of law. How consumers use legal services is changing, with the emergence of self help tools and DIY law. The number of litigants in person also continues to increase sharply. All of these factors raise new questions for how consumers access legal services, how quality is ensured and how protection can be guaranteed. These are the issues that the Panel is thinking about and which frame our next work programme.

9.3. And these issues are potentially all exacerbated further by the changing wider environment: legal, economic and social. The number of litigants in person may rise following the removal of legal aid from a number of case types in April 2013. Combine this with the wider

economic changes and the potential for more consumers to be vulnerable is there for all to see. In 2013-2014 we will need to understand what this means for how consumers choose and use legal services, including the risks they will or they won't be willing to take.

### Work programme highlights in 2013-2014:

- Assessing the regulatory implications of the rise in litigants in person, including services such as 'pay-as-you-go' legal advice
- Completing our review of regulators' financial protection arrangements
- Finalising our research with Mencap on the legal needs and experiences of people with learning disabilities
- Research with the LSB on self-help tools such as automated will-writing and tenancy agreement documents
- Publishing Consumer Challenge think pieces, including on risk and responsibility for consumers
- Holding a joint event with the Law Society on restoring public trust in lawyers
- Publishing the results of the third annual Tracker Survey

# 10 Transparency

## Committed to transparency

**10.1. The Legal Services Consumer Panel is committed to transparency. Below we list details of our expenditure and outputs for the past year.**

### Expenditure

10.2. The Consumer Panel is supported by a small policy secretariat and is funded by the Legal Services Board as part of its annual levy on the approved regulators. Our budgeted costs for the year ending 31 March 2013 were £198,000. Actual expenditure for this period was £188,100 (see Table 1 overleaf for a breakdown).

10.3. Details of members' expenses are available on the Panel's website.

### Attendance

10.4. The Consumer Panel held seven formal meetings this year. The attendance of each Panel Member was as follows:

Elisabeth Davies – 7/7

Jeff Bell – 7/7

Graham Corbett – 7/7

Emma Harrison – 6/7

Paul Munden – 6/7

Neil Wightman – 6/7

Karin Woodley – 5/7

10.5. Frances Harrison was appointed to the Panel on 1 March 2013.

10.6. In addition, the Panel was represented on these committees and working groups:

Conveyancing Forum

Legal Education and Training Review

Steering Group

Legal Ombudsman Stakeholder Forum

Legal Services Board – Research Strategy Group

### Activities and outputs

10.7. A list of the Panel's activities can be found at the back of this document. This can be summarised as follows:

- Consumer policy / research reports - 10
- Consultation responses - 18
- Speeches/presentations – 11
- Events hosted by the Panel - 5
- News releases - 11
- Stakeholders met by members – 23

**Table 1 – Breakdown of Panel expenditure in 2012-13**

<b>Category</b>	<b>2011/12</b>	<b>2012/13</b>
Panel Fees and Secretariat	160,009	162,380
Research	20,628	22,188
Travel	1,641	2,526
Training	299	455
Printing and Publications	-	-
Refreshments for meetings	307	434
IT Software	640	118
<b>Total</b>	<b>183,524</b>	<b>188,100</b>

# Consumer Panel activities

## Policy and Consumer Research Reports

14 March 2013	Choosing and using legal services: Phase One Report
2 February 2013	Risk and the role of regulation
22 January 2013	Choosing and using legal services, Background paper 2
3 January 2013	Choosing and using legal services, Background paper 1
15 October 2012	Research note: Immigration and asylum services
11 October 2012	Consumer experiences of complaint handling (jointly commissioned with the Legal Ombudsman)
25 July 2012	Consumer Impact Report 2012
17 July 2012	Small Business Framework (jointly commissioned with the LSB)
7 June 2012	Third party complaints
31 May 2012	Tracker Survey 2012

## Consultation responses

5 March 2013	The Institute of Chartered Accountants in England and Wales applications to become an approved regulator and licensing authority for probate activities
1 March 2013	The Legal Ombudsman's consultation on its strategy 2013-16 and business plan 2013-14
18 January 2013	Solicitors Regulation Authority's consultation on co-operation agreements
17 December 2012	Trading Standards Institute consultation on new codes approval criteria
23 October 2012	Response to the final Legal Education and Training Review discussion paper
19 October 2012	ILEX Professional Standards' proposed application for reserved legal activity rights
1 October 2012	Response to QASA Fourth Consultation
20 September 2012	ILEX Professional Standards' consultation on continuing professional development
11 September 2012	Intellectual Property Regulation Board's consultation on a review of its regulatory arrangements and proposals to regulate licensed bodies under the ABS regime
5 September 2012	The Institute of Chartered Accountants in England and Wales consultation as it prepares a licensing authority application to regulate bodies conducting probate work
1 August 2012	ILEX Professional Standards' consultation on risk-based and outcomes-focused regulation
11 July 2012	Legal Services Board's consultation on the regulation of non-commercial providers

29 June 2012	Bar Standards Board's consultation on the new handbook and entity regulation
22 June 2012	Legal Services Board's consultation on the regulation of will-writing, probate and estate administration services
13 June 2012	Legal Ombudsman's consultation on review of the scheme rules and case fee structure
21 May 2012	Legal Services Board's consultation on approaches to quality
21 May 2012	Legal Education and Training Review call for evidence
16 May 2012	Legal Services Board's consultation on the regulation of immigration advice and services

### Speeches and presentations

19 March 2013	<b>Westminster Legal Policy Forum, Innovation in legal services - technology, skills and new business models:</b> Steve Brooker discussed technological innovation and online services from the consumer perspective.
11 December 2012	<b>Westminster Legal Policy Forum, the future for conveyancing and property transfer, innovation, regulation and standards in an evolving market:</b> Jeff Bell spoke about consumer experience of conveyancing and how this might be improved in the future.
18 October 2012	<b>Westminster Legal Policy Forum on alternative business structures:</b> Paul Munden spoke about how consumers have responded to ABS so far and some of the challenges they face when they have legal needs.
28 September 2012	<b>Solicitors Regulation Authority Conference of International Regulators:</b> Steve Brooker spoke on progress since the Clementi

	Reforms.
12 September 2012	<b>General Medical Council conference:</b> Elisabeth Davies spoke on 'Being fair: challenges and opportunities' which explored common challenges in the area of fairness and regulation.
3 October 2012	<b>International Bar Association annual conference:</b> Elisabeth Davies discussed how 'Public opinion surveys support the view that <i>nobody likes a lawyer until they need one</i> '.
21 June 2012	<b>Law in Action radio programme:</b> Elisabeth Davies appeared on this BBC radio programme to discuss standards in criminal advocacy.
11 July 2012	<b>Legal Education and Training Review Symposium:</b> Neil Wightman spoke on the theme 'Meeting consumer needs?'
10 May 2012	<b>Legal Services Board symposium on legal education and training:</b> Elisabeth Davies discussed how far the current system should be adapted in response to increasing divergence and changes within the Welsh legal services market.
26 April 2012	<b>Solicitors Regulation Authority symposium on the scope and structure of legal services regulation:</b> Elisabeth Davies spoke on what the consumer needs from regulation.
13 March 2012	<b>Law Society Regulatory Affairs Board:</b> Elisabeth Davies and Steve Brooker attended and discussed voluntary quality schemes and the collection and use of consumer feedback.

## Events hosted by the Panel

13 February 2013	Workshop on risk and the role of regulation
28 January 2013	Choosing and using legal services workshop
5 December 2012	Consumer engagement workshop
27 June 2012	Stakeholder session on the Consumer Impact Report
31 May 2012	Workshop on regulation of special bodies

## News releases

14 March 2013	Panel publishes new report on empowering consumers
13 February 2013	Panel reacts to LSB decision on will-writing and estate administration
7 February 2013	Panel publishes research into consumer views on risk and responsibility in legal services
27 September 2012	Panel calls on sector to unite behind LSB's will-writing plans
25 July 2012	Panel publishes Consumer Impact Report 2012
5 July 2012	Panel welcomes publication of Triennial Review
7 June 2012	Give non-clients access to Legal Ombudsman, says Consumer Panel
31 May 2012	Consumers start to exert buying power, but economic picture takes its toll on confidence

28 May 2012	Consumer Panel urges legal sector to show commitment to vulnerable consumers
23 April 2012	Panel welcomes plans to regulate will-writing and estate administration
16 April 2012	Panel publishes third work programme

### Ongoing committees and working groups

Conveyancing Forum
Legal Education and Training Review steering group
Legal Ombudsman Stakeholder Forum
Legal Services Board Research Strategy Group

### Stakeholder Meetings involving Panel members

Association of Personal Injury Lawyers
Bar Standards Board
Bar Council
Charity Commission
Chartered Institute of Legal Executives
Citizens Advice

Consumer Focus
Council for Licensed Conveyancers
ILEX Professional Standards
Institute of Chartered Accountants in England and Wales
Intellectual Property Regulation Board
Law for Life
Law Society
Legal Ombudsman/Office for Legal Complaints
Legal Services Commission
Mind
Ministry of Justice
National Trading Standards Board
Office of the Immigration Commissioner
Personal Support Unit, Royal Courts of Justice
Russell Cooke Solicitors
Russell Jones and Walker
Solicitors Regulation Authority

# 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

### Elisabeth Davies (Chair)

Elisabeth became the Legal Services Consumer Panel's second Chair in the summer of 2011. Elisabeth's career, combining professional and voluntary commitments, has centred on consumer engagement and a deep-seated belief in developing services that are truly consumer-focussed. She has worked across the charitable and public sectors with a particular focus on the needs of health and social care users.

She is currently an Interim Director at Arthritis Care. Former roles include at Carers UK, Age UK, the World Cancer Research Fund and as the founding Chief Executive of the UK Breast Cancer Coalition, Patient Association of the Year in 2003. Within the NHS, Elisabeth has combined executive and non-executive roles. She was Head of Policy, Planning and Partnerships at the NHS National Patient Safety Agency, leading on patient and public reporting. Non-Executive roles include former Deputy Chair of Wandsworth Primary Care Trust and prior to this Joint Chair of South West London Community NHS Trust.

Elisabeth has also worked across the advice giving sector. She was previously Director of Policy and Development at the Refugee Council and is a former Trustee of the Immigration Advisory Service. She is also a former Chair of Wandsworth Citizens Advice Bureaux.

### Jeff Bell

Jeff is a Trading Standards Consultant based in Stockton-on-Tees. Formerly, he was Chief Trading Standards Officer at Redcar and Cleveland Unitary Council, and worked as a Trading Standards Officer at County authorities in Cleveland, Northumberland, Tyne & Wear, and Durham; including various managerial posts in Cleveland. In these roles he brought three major projects to the North East: Consumer Direct; the Scambuster Team and the Illegal Moneylending Team, managing the latter two through their inception, recruitment and foundation period. He was also Chair of the North East Trading Standards Association and a Member of the North East Electricity Consumers' Committee. Recently Jeff was appointed as one of the Independent Members for Stockton Unitary Council.

### Graham Corbett

Graham is a member of the Employment Tribunal Services and is a sessional tutor running courses organised through the Northern College in Barnsley. He also does part time lecturing work on human resources related issues for the Leeds Metropolitan University. Graham was working as a Senior National Officer at the Public and Commercial Services Union (PCS) before taking voluntary redundancy at the end of 2009. Formerly he was Deputy Head of Legal Services at the PCS and a civil servant at the Department of

Environment and Transport. He previously chaired the Departmental Trade Union Side for negotiations and was a senior lay representative at the Civil and Public Services Association.

### Emma Harrison

Emma is Assistant Director of External Relations at Mencap. She brings experience of working within the charity sector specialising in equality issues. She has a strong background in the consumer movement as former Principal Public Affairs Officer at Which? and Campaign Manager at Consumers International. She was also previously a Research Manager and Political Advisor at the European Parliament.

### Frances Harrison

Frances is a specialist in consumer affairs. In 2011 she was appointed to the Financial Services Consumer Panel. She also sits on the Finance and Leasing Association's Code of Practice Monitoring Group as well as the Registry Trust's Consumer Panel. In addition to paid employment, Frances is a Vice Chair of Brighton and Hove Citizens Advice Bureau and a policy consultant to the Prince's Trust. She was Head of Policy Research and Development at the National Consumer Council in 1999–2003, and has extensive experience in policy analysis with a number of national bodies.

### Paul Munden

Paul is an experienced general counsel and chartered director. He is lead governance tutor with the Institute of Directors, leading a number of their board development courses designed to provide an in-depth view of the key duties, roles and legal responsibilities of directors and corporate governance. Paul is also chairman of the National Youth Music Theatre. Over the last ten years he has held a number of senior board posts at the

Business Link operation in London, served as non executive chairman of a Bafta award winning educational software house and was a founding director of Customer First UK. Until recently Paul was on the board of the NHS North Essex Cluster Primary Care Trust and board advisor to the General Teaching Council for England.

### Neil Wightman

Neil is Head of Housing Needs at the London Borough of Lambeth and is Joint Chair of the Association of Housing Advice Services. He was a member of the Beacon Advisory Panel between 2003 and 2009 and a Trustee Director of Kilburn Youth Service for 10 years. He has worked in local government for over 20 years and before that worked as an advice worker at Sheffield and Clapham Citizens Advice Bureaux.

### Karin Woodley

Karin is the Chief Executive of Cambridge House. Formerly, she was Chief Executive of ContinYou, one of the UK's leading education charities; Chief Executive of the Stephen Lawrence Charitable Trust; Director of the Tabernacle Trust; Deputy Director of the Arkwright Arts Trust; Partner, Keya Associates; and Chief Executive of Minorities Arts Advisory Service. She was also previously Chair of Kensington and Chelsea Metropolitan Police Independent Advisory Group on Race, and Adviser to the Scotland Yard Gold Task Group for the Notting Hill Carnival Policing Strategy.

## Secretariat

### Steve Brooker

Steve was formerly Head of Fair Markets at Consumer Focus where he managed a policy and public affairs team working on a wide range of issues including financial services, the digital economy, consumer law and sustainable consumption. Prior to that, he led the National Consumer Council's policy work on regulation and civil justice. His previous career was in university administration with roles at Keele and the London School of Economics.

### Harriet Gamper

Harriet was previously a consultant at Civic Consulting, an economic and public policy consultancy based in Berlin. Here she focused on consumer policy and had responsibility for pan-European evaluations in the areas of e-commerce and unfair commercial practices. Prior to this she worked for the European Commission (DG SANCO), the Office of Fair Trading, and the UK Home Office. Harriet holds a postgraduate Masters in consumer affairs.







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