



Equipping and Protecting Consumers of Legal services

Work Programme 2019/20

March 2019

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Our vision

- A market where everyone can access legal services that meets their needs and where consumers are placed at the heart of regulation.
- Our remit is to represent the interests of the many different consumers of legal services, including small businesses and charities. A core emphasis is on the needs of vulnerable consumers.

Foreword

Consumers of legal services are living in an uncertain and challenging world. This is particularly so for those on low incomes: our 2018 Tracker Survey showed that the proportion of legal services funded through legal aid had reduced from 5% to just 2% over the previous year, while organisations offering free legal services are also facing cuts. New and emerging technologies, particularly artificial intelligence, may bring huge opportunities to deliver innovative services, perhaps at lower cost, though they also bring potential risks which may need to be addressed through regulation. The uncertainties around Brexit are also bringing challenges and new risks to service providers, while making it hard for those in government to have the time or space to contemplate developing reforms in the regulatory or funding framework in the near term.

Professor Stephen Mayson has stepped into this breach by instigating a thorough review of the regulatory framework, alongside an expert panel. It will take time and careful reflection to reach well-argued and evidenced recommendations for reform. It makes sense to do this work at a time when government is heavily occupied by other matters, so that a well-considered plan can be ready when the time and space for making decisions on reform is ripe.

The role of the Legal Services Consumer Panel is to keep reminding all those with a role in developing and implementing regulation, and ultimately those who provide legal services, to keep the interests and needs of the users of legal services in the front of their minds at all times, and to demonstrate how we feel this can best be done. We have come some way in promoting greater transparency and innovation, in the interests of those who use the services, but there is a lot more still to do, in particular to support the regulators in their quest to broaden the transparency agenda on quality as well as price. The plans presented in this Work Programme give a



flavour of the contributions we hope to be making in these issues in the coming year

The Panel has also been going through a period of change. Our previous Chair, Dr. Jane Martin, was offered the opportunity last April to serve on the Board of the Office of Legal Complaints, where she continues to use her skills to bat for legal consumers. We are also about to lose the services of three of our longest standing Panel Members – Frances Harrison, Cathy Gallagher and Andy Foster – who have come to the end of their terms. We pass on our huge thanks to Jane, Frances, Cathy and Andy, and wish them well in their future endeavours. In the coming months we will be welcoming to the Panel four new members, each of whom will bring valuable new skills and expertise.

I have been spending a large part of my first year meeting and discussing issues with the various legal regulators, representative associations, a number of legal providers and other stakeholders, all of whom have been very helpful in bringing me up to speed on the issues we are all grappling with. I look forward to continuing this engagement in the year ahead, and to deepen our relationships through partnering or collaborating, perhaps through joint research projects, in order to make best use of the limited resources that constrain us all.

Sarah Chambers

Chair

About the Panel

Our purpose

- 1.1. The Legal Services Consumer Panel is a central feature of the regulatory framework in England and Wales. Created by the Legal Services Act 2007, this framework is designed to transform the legal services market around the needs of its users.
- 1.2. We are an independent arm of the Legal Services Board (LSB). 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. We want to see a market where everyone can access legal services that meet their needs, and where consumers are placed at the heart of regulation.
- 1.4. Our remit is to represent the interests of the many different consumers of legal services, particularly individuals, small businesses and charities. A core emphasis is on the needs of vulnerable consumers.

How we work

- 1.5. The Panel provides high quality, evidenced-based advice and challenge to the LSB, in order to help it make decisions that are shaped around the needs of consumers.
- 1.6. The Panel's geographic remit is England and Wales. The Panel will remain alert to any differences in needs and tailor our policy advice accordingly.

Who we are

- 1.7. The Panel is currently made up of eight lay members (i.e. not practising lawyers) whose appointments are approved by the Lord Chancellor. Our members' varied experience and expertise include: charitable, private and public sectors; advice provision; consumer research; trading standards; and complaints handling. More information about the Panel members can be found on our website [here](#).

Our approach to regulation

- 1.8. We support regulation which promotes access to justice while ensuring appropriate consumer protection. We will challenge and support regulation to enable consumers to benefit from high quality services.

The Strategy

- 2.1. In 2018, the Legal Services Consumer Panel's three year strategy identified a need for the legal services regulators to balance transparency, innovation and flexibility with adequate consumer protection and redress. As a consequence, the Panel decided to concentrate its efforts on transparency and consumer protection.
- 2.2. We supported the Approved Regulators commitment to implement the Competition and Markets Authority's (CMA) information remedies.¹ We also supported the regulators drive for increased innovation and flexibility in the types of services on offer, as well as modes of service delivery. We highlighted the need to ensure that flexibility and innovation deliver good consumer outcomes, and protect all consumers.
- 2.3. Going forward, we will focus on the same overarching strategic objectives: equipping consumers with the information they need to make informed decisions, and supporting and challenging the regulators to protect all consumers.
- 2.4. Although our strategic objectives remain the same, we will turn our attention to new issues within the ambit of these objectives.
- 2.5. On transparency, we will focus on the need for quality indicators which will complement pricing information, and drive more informed consumer decision making.
- 2.6. On consumer protection, we will support regulators' promotion of innovation and technology within a safe regulatory framework. We will highlight the considerable benefits that technology and innovation can have in extending access to justice. Our discussion papers on innovation and technology will be grounded in the benefits of ethically grounded technology, but we will also draw on learnings from other sectors to highlight risks, which will need to be well managed.

Strategic Aim 1 – Equip Consumers

Advise on appropriate and proportionate regulation which equips consumers with the information and tools they need to choose and use legal services effectively.

- 2.7. Overall, the Approved Regulators have made commendable progress towards price transparency. They have also collaborated and worked towards delivering whole market solutions (where feasible), in the interest of consumers.
- 2.8. However, there can be a gulf between the prescription of rules and adherence to them. It is therefore crucial that Approved Regulators monitor compliance closely, and enforce sanctions where non-compliance is found.

¹ This followed the CMA's findings that competition is not working well in the legal services market because

consumers do not have access to the information they need to make informed decisions.

2.9. The Panel will monitor and evaluate the implementation of price transparency rules to ensure that they achieve their desired outcomes. Evidence from our annual Tracker Survey will assess whether more consumers are shopping around, and/or finding the new pricing information useful.

2.10. It has always been the Panel's view that price transparency and quality indicators work hand in hand. Information on price is rarely efficient or optimal without information on quality.

2.11. Now that the sector has moved in the right direction with regards to price transparency, the Panel will focus on drawing attention to the dearth of information available on quality indicators.

2.12. Without information on quality, price transparency could perpetuate consumers' misconception that price correlates with quality. It is imperative that quality and pricing information are seen as a package of information that consumers need.

2.13. According to previous Panel research,² Approved Regulators did little active monitoring of quality or did not publish assessments made. The lack of comparable quality information suggests that quality is not strongly influencing consumers' choice. Regulators must consider how to change this. Consumers have a role to play in driving up quality standards but they cannot play this role if they do not have access to information.

2.14. The Panel will therefore focus on the opportunity to explore and consider how Approved Regulators might begin to gather and make information

on quality openly available to consumers.

Tracker Survey and other research findings in 2018:

- 27% of consumers shop around for legal services, compared to 19% six years ago.
- 73% of consumers pay for their legal service themselves or with the help of family and friends.
- 63% of consumers find the price of the service after talking to their provider.
- Prices vary significantly for the same legal services: it pays consumers to shop around.
- None of the Approved Regulators publish first-tier complaints data.

2.15. That said, we accept that there is a general challenge with attempting to articulate, measure, gather, and present information on quality in a meaningful way, not just for consumers, but also as a good practice tool that would improve standards in the sector.

2.16. Approved Regulators must however face the challenge and begin the journey, not least because the regulatory objectives place an obligation on them to promote the consumer interest.

2.17. The Panel wants to support the regulators. To this end we will publish a discussion paper drawing on the learnings from other sectors. We will also host a roundtable event to move the dialogue forward.

² LSCP, Quality in Legal Services, November 2010.

Strategic Aim 2 - Protect Consumers

Support and challenge the regulators to protect all consumers adequately and keep pace with changing market risks.

2.18. In 2018, we titled our strategic document 'Maximising Opportunities, Minimising Confusion'. This was to acknowledge the challenges and tensions regulators face in pursuing their competition and consumer protection duties.

2.19. Over the last 12 months we have challenged the Solicitors Regulation Authority (SRA) and the LSB to balance flexible services and modes of delivery with adequate consumer protection. We were particularly vocal in raising concerns around the proposal to allow solicitors to work in unregulated firms.

Tracker Survey and other research 2018:

- 87% of legal services users have used a regulated provider over the past two years.
- 11% of consumers did not know if the provider they used was regulated or not.
- The most used legal services by consumers are conveyancing (36%), will writing (31%) and probate (12%). An overwhelming majority of consumers use a regulated provider, particularly for will writing (92%) and probate services (87%).
- 48% of consumers cannot find information on providers' websites about the different staff who deliver services, a timeline showing when key stages of the work will be completed, and any factors that could affect these.

2.20. On this occasion, we were instrumental in highlighting consumer protection concerns which resulted in closer scrutiny. We were subsequently pleased with the assurances we received that the impact of this significant shift in policy will be monitored closely.

Consumer Principles

Access – can people get the services they need or want?

Choice – is there any?

Quality – is the consumer getting good quality outcomes?

Information – is it available, accurate and useful?

Fairness – are some or all consumers unfairly discriminated against?

Representation – do consumers have a say in how services are provided?

Redress – if things go wrong, is there a system for putting them right?

2.21. In 2019/20, the Panel will focus much of its consumer protection work on the growing use of technology in the legal services sector.

2.22. The Panel is optimistic that competition and technology will expand the ways in which legal services are delivered, and widen access to justice by encouraging the delivery of less expensive services. That said, these new market forces also present new types of risks which regulators must anticipate and mitigate appropriately.

2.23. There will be challenges for regulators and the thinking around these issues must begin now. We are keen to support regulators in this changing market.

- 2.24. In developing our thoughts and policy, we will be guided by the well accepted consumer principles which guide and inform a lot of our policy positions. We will ask pertinent questions around investment and support for providers, education and training, access, liability, redress and so on.
- 2.25. There are plenty of lessons from other sectors which the Panel could draw on in supporting regulators.

Our aims for 2019/20

Strategic aim 1 – Equip consumers	Strategic aim 2 – Protect consumers
<p>Advise on appropriate and proportionate regulation which equips consumers with the information and tools they need to choose and use legal services effectively.</p>	<p>Support and challenge the regulators to protect all consumers adequately and keep pace with changing market risks.</p>
Work Programme 2019/20	
<p>Ongoing Work</p> <ul style="list-style-type: none"> • Support the Remedies Programme Implementation Group in its drive to ensure the CMA remedies are implemented effectively. • Refocus our annual Tracker Survey and use intelligence from the data to advise, challenge and support our aims. • Work with the regulators to encourage adherence to the success criteria outlined in our Information Remedies Report. • Deliver a repackaged vulnerability training which incorporates consumer segmentation, and work with the regulators to adopt and use consumer segmentation. • Respond to Stephen Mayson’s review, as appropriate. • Engage with legal services consumer issues arising from EU exit. • Engage and Respond to the LSB’s work on technology. • Feed into the LSB’s work on ongoing competences. • Respond to the LSB’s work on regulatory performance. • Engage with the LSB’s plans around Public Legal Education. 	<p>Special Projects</p> <ul style="list-style-type: none"> • Publish a discussion paper on the use of quality indicators in legal services. • Publish a discussion paper on the use and promotion of ethical innovation sandboxes³ in legal services. • Host a roundtable event on collating and contextualising quality indicators. • Host a roundtable event and prepare a report on how the current framework supports appropriate complaints handling and resolution of disputes in legal services • Host a roundtable event on the findings of the Panel’s Consumer Impact Report. • Host a roundtable event on how the current regulatory framework supports the safe use of technology.

³ For example, the SRA would allow firms to innovate and if they are into technical breach of the SRA’s current rules in circumstances where there are currently no waiver provisions, the regulator would guarantee firms that they will take no enforcement action. It would only apply to the SRA’s regulatory action, and is not intended to limit any other liabilities, including to consumers.

Maximising our impact

Evidence-based

- 3.1. Our ability to make an impact for consumers of legal services will depend largely upon the quality of our evidence and our relationships with key stakeholders.
- 3.2. The Panel has carefully built its reputation on evidence-based policy, data and consumer insight. Our commitment to the Tracker Survey will continue for the foreseeable future.
- 3.3. We have limited additional financial resources to commission research. We are therefore enthusiastic about working with organisations who would like to partner with us.

Influence decision-makers

- 3.4. Maintaining and enhancing our ability to influence decision-makers will remain at the heart of our strategy. As an advisory body embedded within the LSB, our value stems from being able to work collaboratively with LSB colleagues whilst absolutely maintaining our independence. Similarly, we have a close relationship with the Legal Ombudsman – sometimes working jointly and other times providing external commentary, but always giving constructive challenge.
- 3.5. Increasingly we are participating in Approved Regulators board meetings and inviting more regulators to participate at our Panel meetings before crystallising their policy positions. We are certain that engagement at this level is important for our influence.
- 3.6. We maintain strong relationships with a range of stakeholders including the Approved Regulators, representative bodies, fellow consumer organisations, the voluntary sector and others. We will continue to engage with these organisations through a variety of mechanisms.

Breakdown of Panel expenditure in 2017/18

Category	2017/18
Research	£41,075
Travel	£3,221
Training	£0
Subscriptions/office costs	£136
Catering/room hire	£65
TOTAL	£44,497

Measuring our success

Focused on impact

- 4.1. The Panel's overriding purpose is to improve outcomes for consumers of legal services. From the time we were established, we have consistently and rigorously assessed the effectiveness of our contribution towards these outcomes.
- 4.2. Each year we ask the critical questions: What has changed for consumers? What has the Panel done? What should we do next? Our success depends on the quality of our advice, the effectiveness of our partnerships, and on how we use statutory and other tools to influence those who make change happen.
- 4.4. The Panel has also put in place a series of measures to assess whether we are delivering against these criteria.
 - For each project, we clearly identify the outputs, impact and outcomes we want to achieve for consumers.
 - We account for our activities in an annual report, which includes a record of policy and practice that has changed as a result of our work.
 - A record of our meetings with stakeholders is maintained along with invitations to address key audiences, for example in board meetings and on public platforms.
 - We conduct regular surveys to test the usefulness of our advice and conduct occasional reputation audits with selected stakeholders.

An effective Consumer Panel

- 4.3. The Panel uses six success criteria as indicators of our effectiveness:
 - We have intelligence that keeps us in touch with the consumer experience.
 - We are respected for the quality of our advice which is timely, constructive and evidenced-based.
 - We can demonstrate that our recommendations have influenced policy decisions.
 - We are a reliable place that people go to, to learn the consumer perspective on legal services.
 - We operate transparently by publishing our activities and involving stakeholders in setting our priorities.
 - We deliver value for money.



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