



# Work programme 2012-2013

April 2012

# Contents

<b>1</b>	<b>Foreword</b>	<b>1</b>
<b>2</b>	<b>Themes in 2012-13</b>	<b>2</b>
<b>3</b>	<b>Projects</b>	<b>7</b>
<b>4</b>	<b>Measuring success</b>	<b>12</b>
<b>5</b>	<b>Our role</b>	<b>14</b>
	<b>Terms of reference</b>	<b>13</b>
	<b>Biographies</b>	<b>19</b>

## **Our vision**

**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**
- **Consumers placed at the heart of regulation**

# 1 Foreword

## Our challenge

- 1.1. **We've developed the Legal Services Consumer Panel's latest work programme at a time of significant change within the economy, society and legal services. How we respond to this rapidly changing environment has been the biggest influence on our thinking. And it's against this background that I'm pleased to present our third programme.**
- 1.2. We're facing an economic climate resulting in increased needs in social welfare law alongside major policy initiatives on legal aid and costs reform. The arrival of alternative business structures and the emergence of the electronic market place all have implications for access to legal services. Then there's the changing face and scope of regulation itself: outcomes focused regulation bedding down alongside reviews of the scope of regulation and of education and training. These are all key developments in their own right. Take them together and it is more important than ever to understand, anticipate and respond to their implications for consumers.
- 1.3. It's these wider factors that have rightly shaped our key themes for the coming year: equality of access; unleashing consumer power; and enhancing the safety net.
- 1.4. To deliver against these themes, we have a wide range of initiatives planned. This includes those we are initiating and those we are responding to, including a review of the financial protection regime; extending the Legal Ombudsman's remit; and looking at what the approved regulators can do to help consumers choose and use lawyers.
- 1.5. Now the Consumer Panel is established, with a solid body of work behind us, we also want to continue our efforts in certain policy areas. Some of our first reports, such as on quality assurance and will-writing, have made a real impact on policy thinking. Yet there remains more to be done in these and other areas before we can be satisfied that consumers are getting the right outcomes.
- 1.6. We will therefore continue our efforts in many areas of existing expertise, alongside embarking on new initiatives. As ever, this is an ambitious work programme but it's a responsive one and we'll deliver it through a partnership approach, making best use of resources and maximising our impact. We look forward to working with the Legal Services Board and our other partners to bring about positive change for consumers during the year ahead.
- 1.7. From the outset, we've had a commitment to ensuring that consumers in vulnerable positions are equally able to benefit from our vision for the market: where everyone can access high quality and affordable legal services that meet their needs. This is now more important than ever and will remain a constant as we seek to deliver improvements in equality of access, unleash consumer power and as we enhance the all important safety net.



**Elisabeth Davies**  
Chair

# 2 Themes in 2012-13

## Access, choice, protection

**2.1. Our work in 2012-13 is underpinned by three key themes, which will cut across the individual projects described in the next section of this document. The themes reflect the wider socio-economic context, the strengths and weaknesses of the legal services reforms identified by the Panel's Consumer Impact Report and the priorities of the Legal Services Board and other key decision-makers whom we seek to influence.**

2.2. The three themes, together with the work that supports them, are described below. They are:

- Equality of access – by ensuring that all consumers, especially those in a position of vulnerability, have access to affordable and high quality advice;
- Unleashing consumer power – by giving people the choice tools to drive greater competition in the market; and
- Enhancing the safety net – through improving quality assurance, better financial protection and redress, and consumer-focused regulators.

### Equality of access

2.3. People's legal needs tend to increase when the economic climate is worse, for example more employment disputes, higher social welfare law-type problems such as benefits and housing, and an increase in family law-type issues as personal relationships become strained. In addition, the propensity to complain is increased because people

cannot afford not to seek compensation due to their tight finances, whereas previously they may have "put up with things".

2.4. People need access to affordable legal advice now more than ever. Decisions on eligibility for legal aid fall outside of the Panel's statutory remit to influence, but we do have a legitimate interest in seeking to ensure that any gaps in provision are filled, in support of the regulatory objective to improve access to justice. Much is being asked of civil society to step into the breach, but it too faces significant funding pressures. Non-commercial providers which offer reserved activity services are due to become subject to regulation in future; it will be important to deliver this proportionately, so that consumers are protected without the costs of regulation squeezing out these providers. Alternative business structures can also be expected to impact on access. Much attention is on the pressures these reforms are placing on high-street lawyers, but the Panel anticipates that the innovation and service culture brought by new entrants will improve access in overall terms.

2.5. Consumer vulnerability is a constant theme in the Panel's work. We use BS Standard 18477 on Inclusive Services to help us think about these issues. In practice, we encourage policymakers to examine these issues from two perspectives: when a characteristic makes it more likely that a consumer may need specific legal advice (e.g. someone who has suffered discrimination) or when a characteristic

potentially makes someone vulnerable when accessing any legal service (e.g. due to a physical disability). Of course, both dimensions of vulnerability may occur at once (e.g. someone with mental health needs). Our aims are to ensure people can access the legal advice they need, providers understand and adapt to the diverse needs of their clients, and that regulators take proper account of the needs of consumers in vulnerable positions.

- 2.6. Yet individuals are not the only type of consumer suffering an imbalance of power and knowledge in their dealings with lawyers; the same can be true of small businesses and charities which have a wide range of legal obligations. Our research last year with small charities showed that half had a limited or no understanding of their legal rights and responsibilities, with cost being the biggest barrier to access. It is important to ensure that such consumers have a strong voice in regulatory decisions.
- 2.7. In 2012-13, we will:
- Ensure that consumer vulnerability considerations are a strong theme throughout our work;
  - Encourage legal regulators and other bodies in the sector to adopt the BSI standard on inclusive services;
  - Continue our programme of focused studies on specific consumer groups in vulnerable positions;
  - Help to design the framework for regulating non-commercial providers;
  - Take forward the findings of our research with small charities as consumers; and
  - Publish jointly commissioned research with the Legal Services Board on a framework to track the small business experience of legal services.

## Unleashing consumer power

- 2.8. Empowering consumers is a key strand of the Coalition Government's strategy to boost economic growth, as set out in *Better Choices: Better Deals*. This policy aims to put information and influence into the hands of consumers and help secure a significant power shift to citizens and communities. It describes "*Putting power in the hands of consumers, so that they are better able to choose between suppliers, will both enable them to get the best deals for themselves individually and collectively, while also putting pressure on businesses to be more efficient and innovative.*" The strategy also makes clear that empowering consumers also means helping the most vulnerable speak with a stronger voice.
- 2.9. The Panel's Consumer Impact Report found that consumers are not driving competition. Consumers tend to assume quality is guaranteed, many find it difficult to compare providers and others feel their choice is restricted resulting in little shopping around. There is also a sense that people approach lawyers with trepidation: many admit they have little knowledge about what lawyers do, and lack confidence either that their consumer rights will be protected or how to complain when providers get things wrong. When unhappy with the service they get, one-third of consumers do nothing about it.
- 2.10. The Consumer Impact Report also found that so-called "choice tools", such as quality marks and price comparison websites, which could alert consumers to different options, are underdeveloped. The Panel produced policy reports on both of these last year, with the common theme that they have potential to empower consumers, but they need reform to enhance their credibility so that they can be used with confidence. We have identified further work to take this agenda forwards positively.
- 2.11. The liberalisation reforms should create a more vibrant legal services market.

However, legal regulators can do more to help consumers maximise the benefits of these changes. This may include guiding consumers on choosing lawyers and opening up information about providers' regulatory performance, which consumers can use to inform their purchase decisions. There is also a pressing need for regulators to involve consumers directly in decisions affecting their interests, in order to improve policy-making and enhance legitimacy.

2.12. In 2012-13, we will:

- Provide advice to the Legal Services Board on the extent to which the respective parts of the regulatory system do currently, and should, help consumers to choose and use legal services;
- Support the Legal Ombudsman to roll out the publication of complaints data;
- Pursue our recommendations in relation to Voluntary Quality Schemes; and
- Support a self-regulation solution for comparison websites.

### Enhancing the safety net

- 2.13. It is certainly desirable to empower consumers to make the most of the market, but there are natural limits to this. Consumers use legal services at critical life moments and the stakes involved – financial and personal – can be very high indeed. Generally speaking, consumers have little choice but to rely on their lawyer to provide independent and competent advice, as they lack the knowledge to spot problems. Thus consumers require a regulatory regime that seeks to prevent detriment occurring and provides a safety net when things go wrong.
- 2.14. There is evidence, for example in relation to will-writing and criminal advocacy, that the quality of advice is too often sub-standard. A major education and training review, plus wider work on quality assurance, present

key opportunities to ensure that consumers receive legal advice which is ethical and technically competent, and which is useful and is delivered to high service standards. Crucially, lawyers should not only be able to do this on entry to the profession, but be able to demonstrate ongoing competence to practise throughout their careers.

- 2.15. The approved regulators are introducing new codes of conduct for the profession and changing the way they regulate. This comes at the same time as the market is being opened up to new entrants, whilst external factors such as globalisation and technological advances are also altering the way people consume legal services. The shifting landscape presents new consumer protection challenges, which the approved regulators must identify and respond to.
- 2.16. The current list of reserved activities is not grounded in consumer protection considerations, but is an accident of history. This means that anyone is able to offer services which can have profound consequences for consumers without any checks or access to redress, whilst the regulatory landscape is confusing and allows businesses to exploit loopholes. Rationalising the regulation of legal services is a major strand of work in 2012-13. The challenge is protect consumers but without deterring organisations who would improve access to legal services.
- 2.17. The vast majority of consumers are happy with the legal service they receive. In the event that things go wrong, the Legal Ombudsman provides a valuable avenue of redress. However, there are gaps in redress – in areas of law such as immigration and claims management, and types of complaint such as those by third parties – which prevent people from getting the remedies they deserve. The financial protection regime is another critical backstop, but it is under pressure from rising insurance premiums and claims on the solicitors' compensation fund.

#### 2.18. In 2012-13, we will:

- Set out our expectations for the education and training review;
- Seek to widen access to redress through the Legal Ombudsman;
- Continue to engage in detail on reviews into the scope of regulation;
- Jointly commission research with the Legal Ombudsman on expectations and experiences of first-tier complaints;
- Pursue our recommendations to make will-writing, probate and estate administration reserved activities; and
- Provide advice to the Legal Services Board on the extent to which regulators' financial protection arrangements, including compensation, are adequate and the appropriate level of risk that consumers should be expected to bear.

#### Work programme highlights in 2012-13

- **Assessing the adequacy of financial protection arrangements**
- **Examining how far the regulatory system does currently, and should, help consumers to choose and use legal services**
- **A programme of advocacy on behalf of small charities as consumers**
- **Influencing decisions on regulating non-commercial providers**
- **Commissioning consumer research on expectations and experiences of complaining in partnership with the Legal Ombudsman**
- **Focused studies with potentially vulnerable consumer groups**
- **Continuing our work on will-writing, probate and estate administration**
- **Working with the Legal Ombudsman to explore a voluntary jurisdiction**
- **Commissioning research on the theme of consumer responsibility**
- **Influencing the Education and Training Review and taking forward our work on quality assurance**

# Delivery plan

Quarter 1 April-June 2012	Quarter 2 July-September	Quarter 3 October-December	Quarter 4 January-March 2013
Publish a document setting out our expectations on education and training	Publish the second Consumer Impact Report	Publish joint research with Legal Ombudsman on expectations and experiences of complaining at the first-tier	Publish advice on the extent to which regulators' financial protection arrangements, including compensation, are adequate and the appropriate level of risk that consumers should be expected to bear
Respond to Legal Services Board consultations on: immigration; and quality assurance	Respond to Legal Services Board consultations on: regulating non-commercial providers; and proposals around will-writing, probate and estate administration	Publish advice on the extent to which parts of the regulatory system do currently, and should, help consumers to choose and use legal services	Agree Legal Services Consumer Panel Work Programme for 2013-14
Publish the results of the annual Tracker Survey	Commence a focused study on a group of consumers in a position of vulnerability	Publish research on consumer responsibility	

# 3 Projects

## Our focus

**3.1. Our core role is to provide advice to the Legal Services Board and others about their developing policies. The Board has specified two areas where it would like our help in 2012-13: financial protection and empowering consumers. The Panel also has scope to pursue own-initiative projects where we seek to drive the policy agenda, by investigating issues and providing fresh thinking.**

3.2. When prioritising projects, we ask:

- Does it fit with our strategic objectives?
- Is there evidence of significant consumer detriment, an emerging threat or an area that would benefit from fresh thinking?
- Is consumer detriment likely to continue or increase?
- Is the Consumer Panel best placed to carry out this work?
- Is there a realistic prospect that our work will have an impact?
- Are resources available to deliver the work effectively?

3.3. This section sets out the policy areas we plan to work on over the next year.

## Legal Services Board advice requests

### Choosing and using legal services

- 3.4. The Legal Services Board has said it will ask for our advice on the extent to which parts of the regulatory system do currently, and should, help consumers to choose and use legal services.
- 3.5. It can be difficult for consumers to find the right lawyer for their needs. People often lack knowledge about the law or know when they would benefit from getting advice. Most people only need legal advice infrequently, and when they do this is often at times of distress. Although consumers in other sectors are increasingly exerting their buying power, this is not the case when choosing lawyers. Consumers admit they do not shop around, but this is not helped by the absence of tools, such as comparison websites and quality marks, that would help them to tell providers apart. The Legal Services Act reforms are opening up the market to new entrants, but the impact of these measures will be limited if consumers do not drive competition.
- 3.6. A first question is the extent to which the regulatory system should seek to address this, or whether this should be left to others. But regulators certainly should share the goal of harnessing the rise in consumer power seen in other markets. Partly this is about ensuring consumers have the basic information they need at the right time, to know when the law can help them and to use legal services confidently. It also requires facilitating the 'choice tools' that

can enable consumers to shop around. There is potential to exploit new technologies which allow consumers to have a collective voice and take action in ways not previously possible. Vitrally, these efforts should not be confined to the most active consumers, but also to those in vulnerable positions, to ensure that everyone benefits from the more open markets brought about by the reforms.

- 3.7. Empowering consumers is at the heart of the Government's growth agenda and other organisations are working in this area. The Consumer Panel is keen to learn from the knowledge and experience being gained elsewhere and apply this understanding to the legal services market. Therefore, a key part of this project will be to identify good practice in other sectors as well as looking at what the regulatory system does now and what it should and could do in future.

### Financial protection

- 3.8. The Legal Services Board has said it will ask for our advice on the extent to which regulators' financial protection arrangements, including compensation, are adequate and the appropriate level of risk that consumers should be expected to bear.
- 3.9. The financial protection regimes provide a crucial backstop for consumers in cases such as fraud, negligence and insolvency, although it is ultimately one to which few people will need to resort. Its importance lies in the severity of detriment that occurs in individual cases, plus its role to underpin public confidence. This has come under scrutiny in the solicitors' profession due to unprecedented levels of claims on the compensation fund, escalating insurance premiums and rising numbers of businesses in financial distress. However, so far the debate has largely been on the impact of these developments on the profession, rather than on consumers.

- 3.10. Part of this project is likely to focus on the existing individual elements of financial protection regimes and drawing on learning from comparable sectors. However, this subject raises some deeper issues, such as the appropriate balance of risk between consumers and providers. It is desirable for consumers to take responsibility for their own decisions, but this must take account of people's lack of expertise in dealing with legal matters and the expectations they will legitimately have about regulation. Above all, regulators have to be realistic as to the risks that consumers can reasonably be expected to manage and not lose sight of the primary responsibility of providers to deliver ethical and high quality service. These are tricky issues and we will carry out research with consumers to find out their views on where the balance should lie.
- 3.11. This is a major project and we will discuss the scope and timetable further with the Legal Services Board before confirming our plans. In doing so, we will take account of recent work already done by the approved regulators in this area, such as the review commissioned by the Solicitors Regulation Authority, and work by the Bar Standards Board in relation to handling client money.

### The Panel's own-initiative projects

#### Complaints

- 3.12. It is frustrating that the Legal Ombudsman is restricted from accepting many complaints because the provider falls outside its jurisdiction. Proposals by the European Commission promise in future to give every consumer a right of access to out-of-court dispute resolution. In the meantime, we will work alongside the Legal Ombudsman to work towards the voluntary jurisdiction built into the Legal Services Act. This step would enable certain unregulated businesses wishing to signal a strong commitment to consumer protection, such as members of trade associations, to

resolve complaints voluntarily through the scheme. This year the Legal Ombudsman is also due to review its scheme rules. The Consumer Panel will use this opportunity to press for 'third party complaints' to be made eligible. Currently complaints are excluded when the person affected by the lawyer's actions is not the client; for example, a consumer cannot complain about legal work on a remortgage arranged by their bank.

- 3.13. Research has shown that many consumers lack the confidence to complain to their lawyer, while many of those who get to this stage are unhappy with how the lawyer handled the complaint. Despite this, many of these complainants do not pursue matters through to the Legal Ombudsman. To address this, we will jointly commission research with the Legal Ombudsman on consumer expectations and experiences of first-tier complaints. The project will explore the challenges, barriers and enablers faced by consumers as they progress through the complaints process.
- 3.14. There are also developments in this area at the regulatory level. Research by the Legal Services Board indicates that consumers do not recall being told about their route to redress at the time of engaging a lawyer, as is required by rules. We will closely monitor steps by the approved regulators to improve the effectiveness of first-tier complaints handling arrangements. This year, the Legal Services Board will also review the effectiveness of appeals mechanisms and wider enforcement processes. Our priority will be to ensure that such processes are fast and fair and give voice to the victims of misconduct by lawyers.

## Consumer Impact Report

- 3.15. Last year, we published the Consumer Impact Report – the first assessment of the legal services reforms from a consumer perspective. It uses a basket of indicators to measure the direction of travel towards the Panel's vision for the legal services market. It incorporates our annual Tracker Survey, and enables us to tell whether consumers are seeing any differences in their dealings with lawyers. The report identified some key areas where consumers have benefited from the reforms, such as improved codes of conduct and greater diversity among new lawyers. There were weak points too including rising claims on the solicitors' compensation fund, poor diversity at higher levels of the profession and little consumer engagement by approved regulators. However, the major theme was that consumers lacked power in their dealings with lawyers seen in little shopping around, lack of information about the quality of different providers and low confidence around complaining. There was also a social divide: consumers in lower socio-economic groups were worse off across a wide range of our indicators.
- 3.16. Our stakeholders tell us that the Consumer Impact Report is a useful resource and we will publish the second version this summer. As an annual benchmarking tool, it will help us to track changes in consumer attitudes and experience over time as a result of the Act's reforms, other government policies and wider societal factors. In addition to painting an overall picture of the strengths and weaknesses of the market, data used in the report may also act as a 'can-opener' enabling us to investigate particular issues separately and provide a tool for the profession and its regulators to identify opportunities to improve.

## Diversity

- 3.17. Legal services require a diverse workforce to meet the needs of the diverse community it serves. A legal profession that reflects the wider population can bolster public confidence and give consumers access to the widest possible pool of talent when seeking legal advice. The Legal Services Board wants to see greater transparency in the make-up of the legal profession as a step to widening diversity. The Consumer Panel enthusiastically supports this agenda and measures progress in the Consumer Impact Report. However, we think that we can add most value by working on another dimension of diversity: helping to build the profession's understanding about the needs of the diversity of consumers, especially those who lack market power or who are otherwise in vulnerable circumstances.
- 3.18. Consumer vulnerability is a constant thread through our work, but we plan a series of specific initiatives. Firstly, we will continue our programme of focused studies working in partnership with representative bodies and others. Last year's project with deaf and hard of hearing consumers, conducted in partnership with Action on Hearing Loss and the Solicitors Regulation Authority, provided fresh insight into the experience of this group of consumers. We plan to use this as a template for projects focusing on other consumer groups and would welcome contact from third sector organisations interested in working with us. Secondly, we will publish a series of profiles containing information on specific consumer groups, which we hope will be a useful tool for raising awareness. Thirdly, the Solicitors Regulation Authority has kindly given us an observer seat on its new Legal Services Disability Forum. The Panel will also be continuing its own contact programme with third sector organisations.
- 3.19. The Consumer Panel represents all types of consumers, not just individuals, who lack

buying power in legal services. Last year, we commissioned pioneering research with small charities, which found that many are struggling to keep up-to-date with their legal obligations. The research report suggested a range of ways in which the Panel could work with third sector representative bodies and others to improve this situation, which we will pursue in 2012-2013. In similar vein, small businesses have a wide range of legal needs yet often lack knowledge of these or how the law could help them. The Legal Services Board and the Consumer Panel have jointly commissioned work to develop a framework to benchmark small business consumers' use of legal services.

## Quality assurance

- 3.20. Three regulators – the Solicitors Regulation Authority, the Bar Standards Board and ILEX Professional Standards – have started a joint review of legal education and training across regulated and non-regulated legal services in England and Wales. This has wide-ranging terms of reference covering entry to the profession and mechanisms to ensure lawyers remain competent during their careers. Neil Wightman, one of our members, is a member of the steering group established to support the review, which is due to report in December 2012. We are also participating in linked seminars organised by the Legal Services Board and partner organisations.
- 3.21. The Panel's previous work on quality in legal services has highlighted the need for debate on more far reaching ways of ensuring competence, including licensing by activity and periodic reaccreditation. As the only member of the steering group representing legal services consumers, we will reinforce the need for the review team to 'think big' and place consumer interests at the heart of its recommendations. Our key focus will be on mechanisms to deliver ongoing competence as satisfying the entry standards to the profession does not

guarantee standards will remain high, as the law changes and skills can deteriorate.

- 3.22. The Consumer Panel will also take forward work from our report last year on Voluntary Quality Schemes. This identified desirable characteristics for such schemes and measured a selection of schemes against these criteria. We have already discussed the findings with those individual schemes which have asked for our help in improving their existing arrangements; we are keen to continue giving this support. The report also identified wider regulatory issues for legal regulators to consider, for example around competition and independent accreditation of the schemes. We look forward to engaging on these issues as the regulators think through the right policy response.

### Regulating non-commercial providers

- 3.23. Third sector organisations are important providers of legal services. They offer a vital pathway to justice that would be difficult to replace, especially given declining funding of legal aid. Some areas of law, such as immigration advice, are highly dependent on not-for-profit involvement. The Panel has been working collaboratively with the Legal Services Board as it develops a discussion paper on regulating what the Act calls 'special bodies'. The Board has previously made the decision that regulation should bite. The focus now is on deciding what regulation of non-commercial providers should look like in practice.
- 3.24. There is a difficult balancing act to achieve. Clearly, it is important that the vulnerable clients serviced by the third sector receive high quality legal advice – this risk does not disappear just because the advice is free or based on different fee structures. At the same time, we do not wish to see such providers stop providing legal advice due to excessive regulation, as this would reduce access to justice. In 2012-2013, the Consumer Panel will engage in decisions

by the Legal Services Board and approved regulators about the design of regulation.

### Will-writing, probate and estate administration services

- 3.25. Last year, we published the findings of a major investigation which highlighted consumer detriment and recommended that will-writing services should be made a reserved activity – one that could only be provided by regulated businesses, although it would not need to be a solicitor. In response, the Legal Services Board commenced a statutory investigation and expanded this to consider probate and estate administration services. In our response to its call for evidence, the Panel said these services should also be reserved but the regulatory regime should be limited to authorisation checks on individuals, financial protection safeguards and access for consumers to the Legal Ombudsman.
- 3.26. The Legal Services Board plans to consult on a proposed way forward in the spring. Should it implement our recommendations, Ministers will decide whether regulation should be introduced. The Consumer Panel will continue to make the case, along with our stakeholders, as necessary, for the regulation of these activities. Should this go our way, we will then be involved in advising on regulatory decisions about specific regulators and new applicant regulators later in 2012/13 and beyond.
- 3.27. Of course, will-writing, probate and estate administration are not the only unregulated markets where consumers may be losing out. A major theme of the Legal Services Board's agenda this year will be to take forward its work on the scope of regulation by prioritising areas to research, which may include general legal advice to individuals. The Consumer Panel will be closely engaged in this work strand as it develops.

# 4 Measuring success

## Focused on impact

- 4.1. **The Legal Services Consumer Panel has as its overriding purpose the goal of improving outcomes for consumers of legal services. We are an advisory body; it is for others to make the decisions. However, as the discrete body created to champion the interests of consumers it is important that we measure the effectiveness of our contribution towards the delivery of these outcomes.**
- 4.2. The Consumer Impact Report, described in the previous section, will be the primary tool to measure the impact of policy decisions towards improving consumer outcomes. This is a shared responsibility across all partners in the regulatory system, including the Consumer Panel. Our success will depend on the quality of our advice and on how effectively we use statutory and other tools to influence those who make change happen.
- ### An effective Consumer Panel
- 4.3. The Consumer Panel uses six success factors 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 the first place that people go 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
- 4.4. The Consumer Panel has also put in place a series of measures to assess whether we are delivering against these criteria. We will:
- For each project, clearly identify the outputs, impact and outcomes that we want to achieve for consumers
  - Account for our activities in an annual report, which will include a record of policy and practice that has changed as a result of our work
  - Maintain a record of our meetings with stakeholders and invitations to address key audiences, for example in board meetings and on public platforms
  - Conduct regular surveys with colleagues at the Legal Services Board to test the usefulness of our advice
  - Conduct occasional reputation audits with selected stakeholders

# 5 Our role

## About the Panel

- 5.1. The Legal Services Consumer Panel was established under the Legal Services Act 2007 to provide independent advice to the Legal Services Board about the interests of consumers of legal services in England and Wales. We investigate issues that affect consumers and use this information to influence decisions about the regulation of legal services.**
- 5.2. The Consumer Panel is a central feature of a regulatory framework which is designed to transform the legal services market around the needs of its users following centuries of self-regulation by lawyers. As a permanent, discrete champion for consumers, we have an important responsibility to ensure that regulators are able to consider the user perspective alongside the interests of providers of legal services.

### Our vision

- 5.3. Our vision is of 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
  - Consumers placed at the heart of regulation

### Our mission

- 5.4. Our mission is to ensure the regulation of legal services is shaped around the needs of consumers by influencing decision-makers and the behaviour of providers.
- 5.5. The Panel has developed a five-point vision which guides all our work. These aspirations for the market are our key reference points; we return to them constantly when determining priorities, formulating our policy advice and assessing the impact of change on consumers.
- 5.6. Access to justice lies at the heart of this vision. We want to see a fully inclusive market where regulators work to both empower consumers and dismantle barriers to access. Many factors contribute to access to justice, so it would be false to treat this goal in isolation. Instead, each element of the Panel's vision contributes towards this overriding objective. For example, markets which are responsive to consumer needs offer the best chance of helping people to identify when they might benefit from legal advice and connect them to services which deliver good and just outcomes. A diverse workforce helps the profession to deal sensitively with consumers' differing cultural needs or physical access requirements.
- 5.7. Therefore, access to justice is central to our purpose and links together the individual projects in this work programme.

## Our role

- 5.8. Our role is to provide expert evidence-based advice on the consumer interest. We cannot help individual consumers resolve their legal problems nor recommend a legal advisor. However, we are interested to learn about the problems that individual consumers face, in order to promote change that will benefit consumers as a whole. We mainly do this by conducting consumer research and by building links with complaint bodies and other organisations which deal directly with consumers on a daily basis.
- 5.9. We differ from traditional consumer organisations by being embedded within the regulator we advise. This allows the Legal Services Board and its staff to access expert consumer insight from the very start of projects and at critical stages thereafter. By sitting on the Legal Services Board's shoulder, acting as a critical friend, we help colleagues to "get things right first time".
- 5.10. On occasion, the Legal Services Board will formally request our advice. The Consumer Panel will then investigate the issue by applying a set of consumer principles to intelligence about the experience and preferences of users, and publish our conclusions. It is then for the Legal Services Board to reach a decision about a course of action. Our investigation into will-writing services is an example of this.
- 5.11. Our "insider" status is a key strength, but we are acutely conscious of the need to be, and be seen to be, independent in all we do. Our independence is bolstered both by the independent nature of the Panel's membership and also statutory powers which enable us to make representations on any issue within our remit and to publish our advice. Should the Legal Services Board disagree with our advice, it has a legal duty to publish its reasons. In addition, the Legal Services Act gives us some specific responsibilities (see box opposite).

## Our statutory responsibilities

**Consultation** – certain bodies have duties to consult us:

- The Legal Services Board on applications from bodies to become approved regulators, and licensing authorities for the alternative business structures regime
- The Legal Services Board on proposals to apply certain sanctions against approved regulators
- The Office of Fair Trading on relevant competition investigations

**Initiate change** - the Panel can ask certain bodies to examine an issue:

- The Legal Services Board in relation to the scope of reserved activities
- The Legal Ombudsman in relation to the jurisdiction of its scheme
- The Legal Ombudsman in relation to the maximum compensation limit

## The Panel Members

- 5.12. The Consumer Panel consists of seven lay people who were appointed following open competition by the Legal Services Board with the approval of the Lord Chancellor. They bring rich expertise and insight from a range of professional backgrounds and user perspectives, including the third sector, local government, trade unions, small business and consumer affairs. Biographies of the Panel Members are provided on pages 20-21 of this document.
- 5.13. The Consumer Panel meets formally six times a year. In addition, unlike some governance boards, Panel Members are actively involved in developing and articulating policy advice on an ongoing

basis. This embraces a wide range of activities, from shadowing projects to speaking on public platforms.

- 5.14. 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 operational budget for 2012-13, excluding staff costs, is £44,000.

### Who we represent

- 5.15. The legal services reforms were primarily designed to benefit individual consumers. The specialised nature of legal services, combined with the fact that people need legal advice rarely but often at times of distress, means consumers suffer from an imbalance of power in their dealings with lawyers. The Consumer Panel helps to rebalance the scales by ensuring the consumer voice is heard loud and clear by decision-makers.
- 5.16. However, individuals are not the only consumers who face this problem. Small businesses, charities and others all spend vast sums on legal services each year from a similar position of vulnerability. It was the clear intent of Parliament that we should represent the interests of different types of consumer. The Consumer Panel's membership reflects this wide user base.
- 5.17. Government, big business and bulk purchasers of legal services (including those acting on behalf of individual users) are also consumers. However, they possess greater knowledge and purchasing power than other consumers, and so have less need for our help. Therefore, the Consumer Panel will generally prioritise the interests of those consumers who are less able to give voice to their own interests.
- 5.18. The Panel adopts the BSI standard on inclusive services. This recognises that all consumers are different, with a wide range of needs, abilities and personal circumstances. These differences can put

some consumers in a position of vulnerability or disadvantage during certain transactions and communications, potentially putting them at risk from financial loss, exploitation or other detriment. The standard identifies 'risk factors' which could increase the likelihood of this. The actions of providers can also increase consumer vulnerability. Regulators must understand the challenges facing people who are at a greater risk of disadvantage and introduce policies and practices which protect and promote the interests of those for whom the market does not adequately cater. Vulnerability will remain a defining theme across all our work. In particular, we will develop further our relations with representative bodies and continue our programme of focused studies highlighting the experiences of particular user groups.

### Our policy boundaries

- 5.19. Our policy boundaries reflect the framework set out in the Legal Services Act. The Panel's focus is on the regulation of legal services. Issues such as the funding of the justice system or the administration of courts, except where they touch on regulatory matters, lie outside of our remit.
- 5.20. The Consumer Panel's remit does however include legal services that lie outside the scope of regulation as well as those activities which are "reserved" to the profession. For example, anyone can set up a business to prepare wills or provide advice on a divorce. Moreover, advice provided by non-commercial organisations such as trade unions and local authorities also falls outside of the regulatory net. These freedoms may be appropriate as reserving activities to lawyers can restrict competition. However, it is important to know whether users are getting competent advice and fair treatment from such services. If not, it may become necessary for regulators to step in to improve consumer protection. The Consumer Panel

can alert the Legal Services Board to such issues, which may lead to the scope of reserved activities being altered.

- 5.21. The Panel has a special relationship with the Legal Ombudsman. We meet regularly, provide policy advice, jointly commission research and mine their complaints data. This year we plan to work together on proposals for a voluntary jurisdiction, respond to the review of its scheme rules and jointly commission research on barriers to complaining about legal services.
- 5.22. A series of “approved regulators” are responsible for the day-to-day regulation of the different types of lawyer. As they make and enforce the rules that lawyers must follow, their work has a significant impact on consumers. Last year we responded in detail to their proposals on revised codes of practice and regulatory arrangements. This year we will continue to take a close interest in their activities, although we are not resourced to advise each of them across the breadth of their work. We are keen to work in partnership as appropriate, as we did in 2011-2012 with the Solicitors Regulation Authority and Action on Hearing Loss for our deaf consumers work.

### Intelligence gathering

- 5.23. The Panel needs to be in touch with the consumer experience to identify problems that require attention and to ensure that our advice is informed by the needs and preferences of users. The value of an evidence-based approach was seen in our work on will-writing; our evidence base has built a compelling case for regulating this activity and won broad stakeholder support.
- 5.24. We represent the interests of many different types of consumers whose experiences will relate to their own unique circumstances. Legal advice is provided by a wide variety of individuals and organisations operating in very different environments. The law also

underpins most relationships in society - personal, commercial, between individuals and the state. A great many people and organisations therefore have an interest in legal services and could hold information that we would find useful or would benefit from access to the knowledge we hold.

- 5.25. A key source of intelligence will be complaint trend data held by the Legal Ombudsman. However, this cannot tell the whole story, so it is important that the Panel has a direct dialogue with consumers. The Legal Services Board funds research on issues where it is seeking our advice, whilst we also input to its overall research strategy and specific research exercises. The Consumer Panel has a small budget for its own research. This is mainly used to fund an annual tracker survey on consumer views and experience, as part of our Consumer Impact Report.

### Working in Wales

- 5.26. Our chair, Elisabeth Davies, leads our work in Wales. We are determined to ensure that our advice is sensitive to any differences in the experiences and needs of consumers in Wales compared to those in England. In this context, we pursue two objectives:
- To ensure our remit and priorities are clearly understood across Wales; and
  - To ensure we understand and can take account of issues specifically facing consumers in Wales
- 5.27. This year we will speak at a minimum of two conferences in Wales and hold a series of meetings with stakeholders in Wales to spread awareness of our role and to learn how we can best meet our objectives. We will also continue to ensure that the consumer research we commission includes a robust Welsh sample.

# 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 is Director of Partner Relations at Age UK, where she works closely with around 170 local Age UKs across England and supports the work of Age Cymru, Age Northern Ireland and Age Scotland. Her career includes a series of senior management and non-executive roles in the health arena including at the NHS National Patient Safety Agency, where she worked closely with the Welsh Assembly Government, as Chief Executive of the UK Breast Cancer Coalition and as Deputy Chair of Wandsworth Primary Care Trust. She was also previously Director of Policy and Development at the Refugee Council and is a former Trustee of the Immigration Advisory Service. She has recently stood down as 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 local authorities in Cleveland, Northumberland, Tyne & Wear, and Durham. 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.

### Graham Corbett

Graham is a member of the Employment Tribunal Panel and 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 Director of Public Engagement at Action on Hearing Loss (formerly the Royal National Institute for the Deaf.) She brings experience of working 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.

### Paul Munden

Paul is an experienced general counsel and chartered director. Over the last ten years he has held a number of senior board posts at the Business Link operation in London. He is an accredited 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. He has also served as non executive chairman of a Bafta award winning educational software house and a founder non executive director of Customer First UK, which is responsible for the national Customer First quality accreditation framework. He is currently on the board of NHS Mid Essex and the National Youth Music Theatre.

### 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 ContinYou having ended her role as Chief Executive of the Stephen Lawrence Charitable Trust in 2009. Formerly, she was 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.

### Vacancy (Consumer Panel Associate)

This post will be filled shortly.





Legal Services Board  
Victoria House  
Southampton Row  
London WC1B 4AD

T 020 7271 0076

[www.legalservicesconsumerpanel.org.uk](http://www.legalservicesconsumerpanel.org.uk)