



Minutes

Legal Services Consumer Panel meeting

Date: 30 October 2019

Time: 13:00-17:00

Venue: One Kemble Street, London WC2B 4AN

Present:

Sarah Chambers	Chair
David Abbott	Member
Paul Crook	Member
Owen Derbyshire	Member
Michelle Goddard	Member
Mark McLaren	Member
Marlene Winfield	Member
Lola Bello	Consumer Panel Manager
Laurentiu Ciocan	Consumer Panel Associate
Ramandeep Bhatti	Legal Services Board (Minutes, items 1-8 only)
Matthew Hill	Legal Services Board (Items 1-8 only)
Margie McCrone	Legal Services Board (Observing, items 1-8 and 10-12)
Rebecca Marsh	Legal Ombudsman (Item 9 only)
Professor Stephen Mayson	University College London (Item 10 only)

Item 1 – Welcome and apologies

1. The Chair welcomed the Legal Services Consumer Panel (The Panel), including Matthew Hill, Chief Executive of the LSB and Margie McCrone, Regulatory Policy Manager at the LSB who were observing the meeting. Apologies had been received from Adam Cooper and Liz Owen.

Item 2 – Declaration of interests

2. Paul Crook advised he had been approached by Legal Xchange from the United States of America, to seek his advice on the set-up of a digital legal organisation.

Item 3 – Minutes of 11 September 2019 meeting

3. The Chair presented the minutes from 11 September 2019, which had been agreed via electronic correspondence.

The Panel noted the minutes from 11 September 2019.

Item 4 – Matters arising

4. The Chair presented the matters arising.

The Panel noted the matters arising.

Item 5 – The LSB’s CEO introduction

5. The Chair welcomed Matthew Hill, Chief Executive of the Legal Services Board.
6. Matthew began by providing some general remarks and comments on the future direction of the LSB. The LSB had one year of the current strategy remaining, and LSB Board had expressed an appetite to engage broadly and deeply with the sector for the development of the next strategy. Matthew emphasised a dual aspect of the strategy, not just one for the LSB, but also for legal services regulation.
7. In relation to the role of the Panel, Matthew expressed that there is a strong and present role for the Panel in informing the LSB, not just for the set piece areas of work, but more live conversations between the teams, with the Panel providing input formally and informally through the Panel’s Secretariat.
8. The following points were raised in the subsequent discussion:

Public Legal Education (PLE)

- In relation to PLE, Matthew had two areas he wanted the Panel to advise on. First, is to help identify key intermediaries that link to groups of consumers, as an effective PLE strategy that involves broader thinking. Second, at the All-Party Parliamentary Group PLE meeting the topic of low legal confidence was discussed. Matthew sought the Panel’s views as to whether PLE is one of a range of potential solutions and posed the question: is it the lack of legal education or of confidence? The Panel agreed they could help assist in identifying intermediaries in the third sector.
- There is education for lawyers and education for people using the law, and the Panel see both issues as important and together.
- The Panel emphasised that the LSB needs to establish its ambitions for PLE. For example, is it to increase confidence and provide required skills? If this is the case it should be viewed as ‘cradle to grave’ and the skills people need to progress in life.
- In relation to information such as ‘just in case’ and ‘just in time’, it was highlighted by the Panel that different communications have different needs, which builds on the findings of the individual needs survey and the Tracker Survey.
- In terms of identifying where the biggest difference can be made for PLE, the Panel said there is not a natural single focal point and there is a need to build a broad coalition including, third sector intermediaries, teaching trade unions, the library system.
- The challenge is coordination from the Government, and a lot could be learnt from DWP and the NHS. There is benefit in providing help for vulnerable groups which should reduce the cost of the legal engine.

Access to justice

- On the topic of access to justice and legal aid, Matthew advised the LSB Board has given the Executive a steer to clearly, strongly and objectively comment on the main issues affecting regulation including access to justice. The Chair suggested that the Panel, given its role, could be bolder in its approach to legal aid.

Quality indicators

- Matthew made the point that no-one knows what quality indicators in legal services will look like.
- The Chair agreed that quality indicators is an area not as easy to look at, as is for example price transparency. The Panel is looking to the LSB for the answers, emphasising there needs to be coordination from above and it is unrealistic to expect this to be driven from below.
- The Panel is reluctant to tell the regulators what is needed as it will be different from sector to sector, and the regulators themselves need to do work and research on this. The Panel expressed that if they were to do this, they would need more financial resources.
- A working group of LSB and Panel should be convened to develop a 'straw man' to provide to regulators.

Legal Ombudsman (LeO)

- Matthew advised the LSB have been engaged in a process with LeO, since the beginning of summer, to help produce a 'roadmap to green'. The LSB have been encouraging LeO to describe in numerical terms what good performance looks like. The full assessment will be available in 2021.
- LeO have invested heavily in better systems and there is a clearer picture, because these systems are in place and are developing a better process. They are on that journey and have done a lot of work, but there is a lot more to be done.

Action point: The Panel and LSB to convene a working group on quality indicators and develop a 'straw man'.

Item 6 – Introduction and welcome to Paul

9. The Panel and Paul Crook took the opportunity to introduce themselves. The Chair asked all the Members to say a little about their background and interests in their work with the Panel.

The Panel noted the introduction from Paul Crook.

Item 7 - Chair's report and Members' update

10. The Chair presented her report on recent meetings.
11. In relation to the LSB event in Newcastle, Matthew advised the LSB wanted to bring in representatives from the local legal sector for evidence gathering for the ongoing competence project.

12. The Chair took the opportunity to remind all the Panel Members that this regular agenda item should also provide an update on their activities, which they should send to the Secretariat for inclusion in the Chairs report.
13. Marlene Winfield said the BSB are thinking more strategically about what needs to be prescriptive and they will be publishing a paper on scope and parameters in January. Marlene also advised she attended the Law Society Excellence Awards where she sat next to The Law Society Chief Executive Paul Tennant, who offered Panel Members a tour of the technology sandbox in Notting Hill.
14. In relation to the BSB withdrawing funding to the Legal Choices website, Matthew advised the LSB have written to the BSB and the letter will be published on the LSB website as part of the October Board papers.

The Panel noted the Chair's report and Members update.

Item 8 – Projects update and consultations

15. The Panel Associate presented the projects update and consultations.

The Panel noted the projects update and consultations.

Item 9 – LeO presentation

16. The Chair welcomed Rebecca Marsh, Chief Ombudsman at LeO. Rebecca had a presentation about the LeO's programme, and she shared the following:
 - Rebecca mentioned that LeO has made progress in achieving their KPI, but they still have a long way to go. LeO is meeting with the LSB and MoJ to discuss their work and how this meets their criteria expectations.
 - LeO are looking to use AI to support their own services in a more innovative way. This proves a major opportunity to use AI technology to send communication to consumers (letters and emails) at an early stage of the process and to continue to keep them updated on the progress of their cases. Moreover, AI can also be used to identify how to deal with the complaint from the language, tone and nature of the complaint itself.
 - Rebecca mentioned also mediated solutions, a place where cases can be dealt with at a pre-assessment stage of the process.
 - A key priority for LeO is to continue the investment in their staff and develop leadership skills. Over the past year nearly 90% of their staff have had a promotion, as a result to the organisation's commitment to invest and retain their staff. Investment is done not only in those members of staff that need assistance, but also in those who want to excel.
17. The Panel asked Rebecca about the four options put forward in LeO's discussion paper on transparency proposals. Rebecca confirmed that LeO had and will have discussion with stakeholders to understand their views. The Panel said that they are expecting LeO to be ambitious to improve the feedback loop and transparency for consumers. Also, the Panel has encouraged LeO to consider all options, and to use professional and public legal education to make clear what it means when things go wrong.

18. LeO confirmed they will publish the state of the nation report that will consist of granular examples and trends.
19. The Panel noted the update from the LeO and thanked Rebecca for her time.

Item 10 – UCL Law

20. The Chair welcomed Stephen Mayson, Honorary Professor at the Faculty of Laws, University College London (UCL), who published the interim report of the Independent Review of Legal Services Regulation.
21. Professor Mayson expressed interest in engaging with the Panel ahead of publishing the final report early next year. He presented the key points from his interim report:
 - The current regulatory framework can't meet fully the needs of the those who represent, the consumers. The objective of legal service regulation is the public interest, and this includes consumer protection, but not consumer interest.
 - The proposed framework is trying to align consumer expectation in using legal services. Thus, it is proposed to regulate all service providers, depending on the level of risk and vulnerability.
 - Professional title will be one way to enter the profession, but not the only way as it currently. In the future, all providers of legal services should be capable of entering the regulated domain for at least after-the-event regulation.
 - Beyond this entry level, a risk-based approach could determine whether additional during- and before-the-event requirements should be applied. Accordingly, the working assumption of the interim report is that all legal services would be regarded as low risk unless they are defined as either 'intermediate risk' or 'high risk' services requiring more targeted regulation.
 - Therefore, the entry into regulation would be set with broader scope. In relation to low-risk legal services, after-the-event redress would become available (ideally through a reformed LeO). This level would set the minimum conditions of regulatory intervention to which all regulated providers would be subject. The legal activities carrying higher risk to the public good or to consumers would be subject to practice conditions (usually applied on a during-the-event basis), as well as the lower-risk entry-level requirements.
 - Practice conditions might include accreditation requirements to assure competence; continuing professional development obligations and re-accreditation to assure continuing competence; obligations relating to the handling of clients' money; contributions to a compensation fund; undertakings; and appropriate management systems.
 - The highest-risk activities could also be subject to before-the-event regulation, as well as to during- and after-the-event requirements. Before-the-event conditions would ensure that providers have prior authorisation to carry on the highest-risk activities before they could offer their services to consumers.
 - This approach could be supported by a public register of those individuals and entities who are subject to regulation. Consumers would then be able to consult the register as they contemplate using any source of advice and representation to help with their problem.

- This alternative approach would not assume the disappearance of professional titles or of any need to regulate them but would instead offer an additional route into regulation.
- The interim report accepts the compelling need for lawyer advice and its regulation, justifying the traditional reservation of certain activities to those who are legally qualified. However, it also allows an alternative in relation to those activities or situations where such a monopoly has become inappropriate in the twenty-first century.

22. Professor Mayson said that, so far, he received positive feedback from stakeholders regarding the proposed framework. There are several reasons that lead stakeholders to agree that there is a need for a change in the legal services regulation. A new leadership at the helm of MoJ that is ambitious could be supportive of the proposed changes in the report.

23. The Panel welcomed that the report brings more clarity to a confusing market that can be navigated by people/consumers with different backgrounds and vulnerabilities. A Panel member recommended to make a business case that presents the new framework to politicians as reasonable and coherent but help them understand what the urgency and importance is with implementing the proposed regulatory framework.

24. The Panel asked if the proposed regulatory framework would address the issue of litigants in person (LiPs). Professor Mayson said that the report aims to open the regulatory framework to help LiPs at the lower end of the risk spectrum.

25. The Panel noted the update from Professor Mayson and thanked him for his time.

Action point: The Panel confirmed that it will share a formal response to the interim report.

Item 11 – Draft agenda for January meeting

26. The Panel noted the proposed agenda for the next meeting.

Item 12 – Any other business

27. The Panel agreed to invite Amanda Finlay CBE to the Panel Away Day to share her ideas on where we should be focusing our efforts for improved impact.