



Consumer Impact Report

March 2020

Content

Summary	4
Recommendations	5
Introduction	6
I. Responsive Services	7
1. A meaningful choice of providers and services	7
2. Consumers are empowered when dealing with providers	13
3. Consumers receive value for money	23
II. High Quality Advice	27
4. Advice is technically competent	27
5. Consumers are satisfied with the service provided	31
6. Providers behave ethically, and misconduct is dealt with swiftly and appropriately	33
III. Consumers are placed at the heart of regulation	38
7. Approved regulators are truly independent of the entities they regulate	38
8. Regulatory bodies work transparently and have robust consumer engagement mechanisms	42
9. The regulatory system supports a market that works well for consumers	45
Conclusions	48

FOREWORD

Our last Consumer Impact Report was published over five years ago. We reported then that some pleasing progress had been made on choice and perceptions of value for money in legal services. But we expressed concern that regulators had not embedded consumer vulnerability in their work, that too few dissatisfied customers were seeking redress, and that there was an unacceptable absence of quality indicators.



It is dispiriting that, despite repeated pleas from us to make progress in these areas, and a lengthy and evidence-rich report from the Competition and Markets Authority in 2016 making similar points, we find ourselves having to repeat the same messages.

Yes, active engagement by consumers in the legal services market has continued to increase and some progress has been made in price transparency. However, we are still very concerned about the lack of quality indicators, that vulnerable consumers on low incomes are having even more difficulty accessing legal services, and that over a third of dissatisfied customers are still choosing not to seek redress. In addition, we have seen very little improvement in the amount of consumer-focussed research undertaken by regulators.

And yet there are some encouraging signs too. Regulators appear to be collaborating more to make some real progress this year on quality indicators, perhaps invigorated by the knowledge that the Competition and Markets Authority will be returning to this issue later this year. They are also talking more about how to address the issues of vulnerability, particularly in view of the problems caused by the reductions in Legal Aid and other free sources of advice. Innovations using digital legal services have the potential to help in this as in other areas. And we are optimistic that the public panel being set up by the Legal Services Board in conjunction with ourselves will make a real difference to the levels of engagement with consumers. This will help us all develop recommendations and policies to improve how genuine needs can be met.

A handwritten signature in cursive script that reads "S Chambers".

Sarah Chambers

Chair

Legal Services Consumer Panel

Summary

Responsive services

Our annual Tracker Survey shows that since our last report in 2014, shopping around has increased by 4%. Although this is not a sharp increase, it does indicate a move in the right direction. Moreover, the increase we noted in this report predates the implementation by the legal regulatory bodies of the Competition and Markets Authority's (CMA) recommendations around transparency. We therefore anticipate more progress once these recommendations embed.

It is positive that we have seen a consistent increase in the availability and take up of fixed fee arrangements. We know that changes limiting the availability of legal aid introduced under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) has had an impact on access to justice. The use of legal aid has dwindled to 2% leaving more consumers paying for their own legal services (72%). In this climate, it is even more important that consumers can plan and predict in advance the cost of procuring services. Fixed fees facilitate this. Therefore, we urge regulators to promote and encourage fixed fee arrangements where appropriate.

Our report highlights the potential of LawTech (digital legal services) and the need for new and different approaches to respond to the diverse and changing requirements of consumers in the market. The Legal Services Board's (LSB) research into innovation¹ shows that a quarter of all legal services organisations had introduced a new or improved service in the last three years.² It is noteworthy that providers whose main market segments are immigration, crime and residential conveyancing are more likely to be innovative in this way. Overall, we would like to see an increase in innovation, as well as focused support and prioritisation of innovation that facilitates access to justice for those on low income or with other difficulties.

High quality advice

Our report shows that there is a persistent dearth of evidence about the technical quality of legal work. In the few areas where there is evidence (asylum advice and criminal advocacy for example), we know that concerns persist about the quality of advocacy and progress to address the issues highlighted. In general, the sector has a very long way to go in empowering consumers to compare the quality of legal services providers. This means that effective competition will continue to be hampered. We would like to see progress in the availability of quality indicators prioritised as a matter of urgency.

Consumers are placed at the heart of regulation

Our report also shows that regulators' approach to transparency has improved. Independence from their representative arms has been strengthened further by the LSB's intervention in recent months.

There has been little improvement in the amount of consumer-focused research. The smaller regulatory bodies face significant resource constraints so conventional consumer research may not be feasible within their budgets. However, we do not regard consumer research as an optional extra for regulators and its absence raises issues about their capacity and capability to fulfil the regulatory objectives they are charged with.

¹ [LSB, Technology and Innovation in Legal Services, November 2018.](#)

² On average, legal services organisations obtained 6.3% of their revenue from these innovative services. This rises to 10.3% among other legal services providers in unregulated activities.

Recommendations

Transparency of information

1. Regulators should work towards identifying a set of agreed quality indicators in the legal services sector to help consumers make informed decisions when choosing a provider. *See more at paragraph 2.4.*
2. Regulators should monitor and evaluate the success of the transparency rules recently introduced. *See more at paragraph 3.3.*
3. The LSB should focus its attention, through its performance standards work, on transparency in enforcement actions and decisions. *See more at paragraph 2.3.*
4. Regulators should publish all enforcement data at the end of an investigation that leads to a sanction. *See more at paragraph 9.2.*

Information remedies

5. Regulators should address the disparity in how BAME groups experience the legal services market. *See more at paragraph 1.3.*
6. Regulators should monitor the implementation of the action plans on addressing the needs of vulnerable consumers and evaluate their impact and seek to improve them where necessary. *See more at paragraph 2.5.*

Consumer protection

7. The Solicitors Regulation Authority (SRA) and the Solicitors Disciplinary Tribunal (SDT) should work together and ensure they use similar measures to calculate the time between the decision to refer a matter from the SRA to the SDT. *See more at paragraph 6.4.*
8. The SRA's fining powers for non-Alternative Business Structures firms, and for individuals working outside of ABSs are inadequate for effective deterrence. The LSB should support the SRA more vocally on the need for change. *See more at paragraph 6.4.*

Consumer research

9. Regulators should undertake more consumer research to inform policy development and implementation. *See more at paragraph 8.2.*

Introduction

Measuring outcomes

The starting point

The Consumer Impact Report is designed to provide an overview of the impact on consumers of the legal services reforms, and of progress towards implementing the CMA's recommendations for improved competition in the market.³ It also seeks to help influence the regulators' priorities around consumer needs and issues which the Panel or others might investigate further.

The Panel's Consumer Impact Report uses a 'basket of indicators' to assess the direction of travel towards the Panel's vision for a competitive market providing high-quality advice, where consumers are placed at the heart of regulation.

Constructing the report

The starting point is the Panel's vision for legal services. This is represented in three high-level outcomes revealed in this report, i.e. *responsive services*, *high quality advice* and *placing consumers at the heart of regulation*. Each of these high-level outcomes is broken down into intermediate outcomes and, in turn, a series of indicators. By developing intermediate outcomes and indicators our intention is to identify important staging posts towards enduring change. This allows us to monitor their progress towards being realised.

In this edition of the report, we have narrowed our focus to reflect our current priorities. The range and quality of the available data has improved since the first edition of this report in 2011, but there are still gaps.

As in previous years, we have used our annual Tracker Survey, conducted by YouGov based on a representative sample of the general population and recent users of legal services.⁴ The survey includes booster samples for Wales and six BAME groups to make the survey data more representative. Legal Ombudsman (LeO) complaint trends data and various official reports are also used. In addition to the statistics, a qualitative commentary interprets the data and makes wider observations on developments since the last edition in 2014.

³ [CMA, Legal Services Market Study, December 2016.](#)

⁴ The 2019 survey does not include a sample of the general population.

I. Responsive Services

1. A meaningful choice of providers and services

1.1. *Consumer satisfaction with the range of choice*

1.2. *Change in market innovation*

1.3. *Consumers claiming knowledge about what lawyers do*

What we would like to see

In a well-functioning market, we would expect to see services that respond to consumers' diverse needs. This means that consumers, including those in vulnerable situations, should have both the opportunity to choose between different suppliers of legal services and have access to different delivery methods. Consumers should find it easy to identify providers who are able to deal with their matters and make comparisons by researching information on the price and quality of different offers.

In a healthy market, restrictions on who may provide legal services should be supported by a flexible system of regulation, which applies different standards according to risks. Whenever possible, the regulatory landscape should be simple, and consumers should understand how they are protected when using different providers.

Commentary

1.1. *Choosing lawyers – consumers' satisfaction with the range of choice*

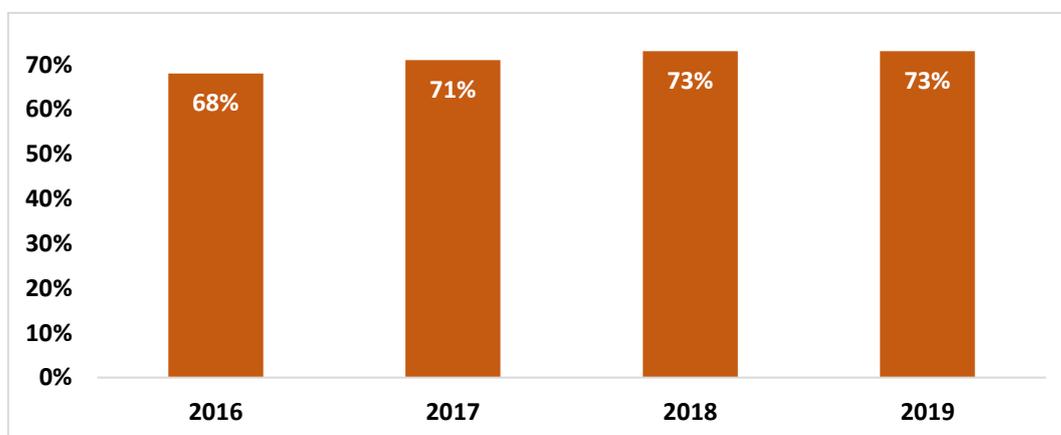


Figure 1. Consumers confirm they have a wide range of choice when choosing a provider

Evidence from the Panel's Tracker Survey shows that 73% of consumers who have used legal services within the last two years say they have a wide range of choice when choosing a provider, an upward trend since 2016 (68%), see *Figure 1*.⁵ Differences can be seen by service type. However, consumers believe they have more

⁵ [LSCP, Tracker Survey, July 2019.](#)

choice in will writing (89%) and conveyancing (82%) than in accident or injury claims (43%) or advice and appeals about benefits or tax credits (35%), see *Figure 2*.⁶

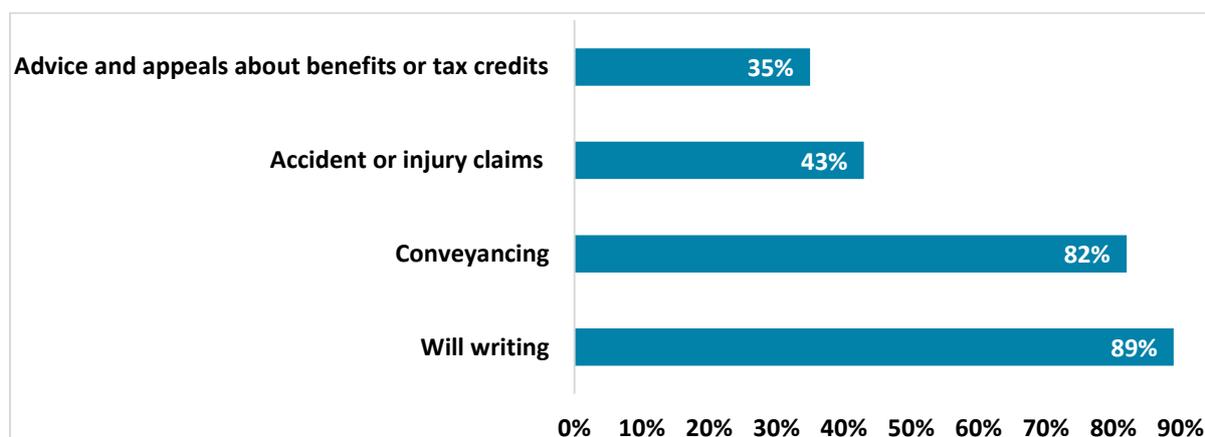


Figure 2. Consumer choice by legal service type in 2019

The consumers who report having the lowest choice are those from a lower social grade C2DE⁷ (67%) and young consumers aged 18-24 (55%) when compared to the overall percentage of consumers (73%), see *Figure 3*.

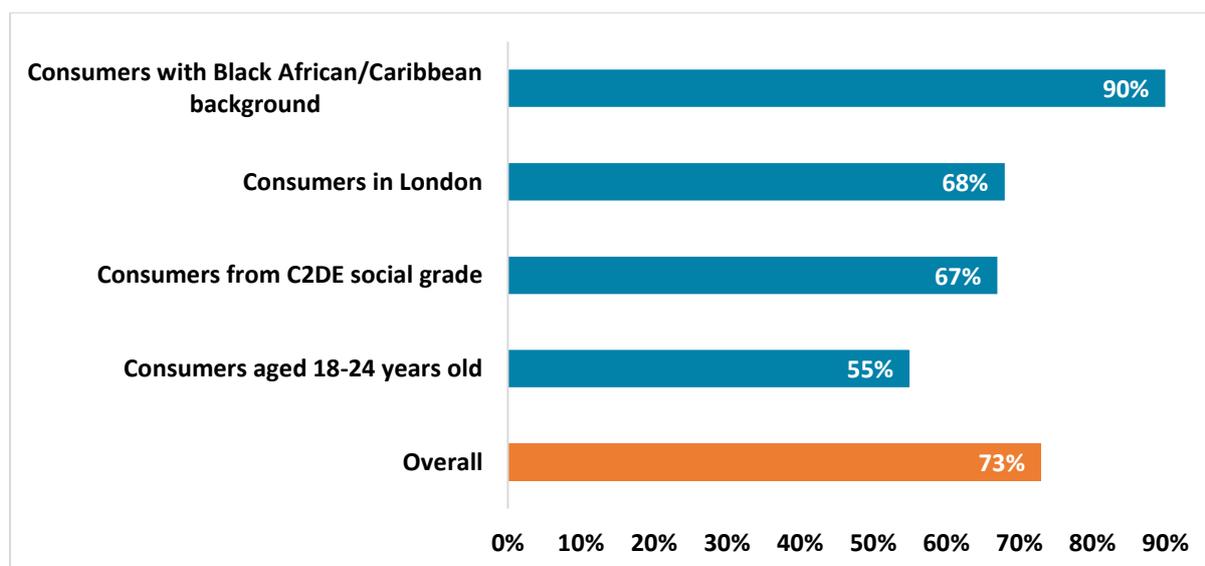


Figure 3. Consumers experience of choice by demographics in 2019

1.2. Change in market innovation

When considering innovation, the Panel takes a market-wide view of regulated and unregulated services. To the Panel, innovation is about offering consumers greater choice, better tools to decide which legal service provider to choose, and access to

⁶ Please note that in *Figure 3* we have used a subset of the data, specifically reporting on the two areas where consumers reported having the highest and least choice.

⁷ ABC1 and C2DE are part of a UK socio-economic classification of different social grades. ABC1 references people who are classified into a higher social grade (e.g. higher professional status, higher income, higher education level) and C2DE those who fall into lower social grades (e.g. lower professional status, lower income, lower education level).

redress when things go wrong. Perhaps more importantly, in a market characterised by unmet legal needs, innovation needs to contribute towards bridging the access to justice gap, e.g. the development of services or modes of delivery that reduce cost.

In this edition of the Consumer Impact Report, we assess the level of innovation in the legal services market. This is possible because the LSB and the SRA have invested in research that has tracked the levels of innovation in the legal services market.⁸ The first edition of this research was published in 2015 and then repeated in 2018. During this time, we have witnessed an increase in Alternative Business Structures (ABS), the use of fixed fees, online divorce, television advertising and multi-disciplinary services. However, the reality, according to the LSB/SRA research, is that levels of innovation remain below those of other professional services.

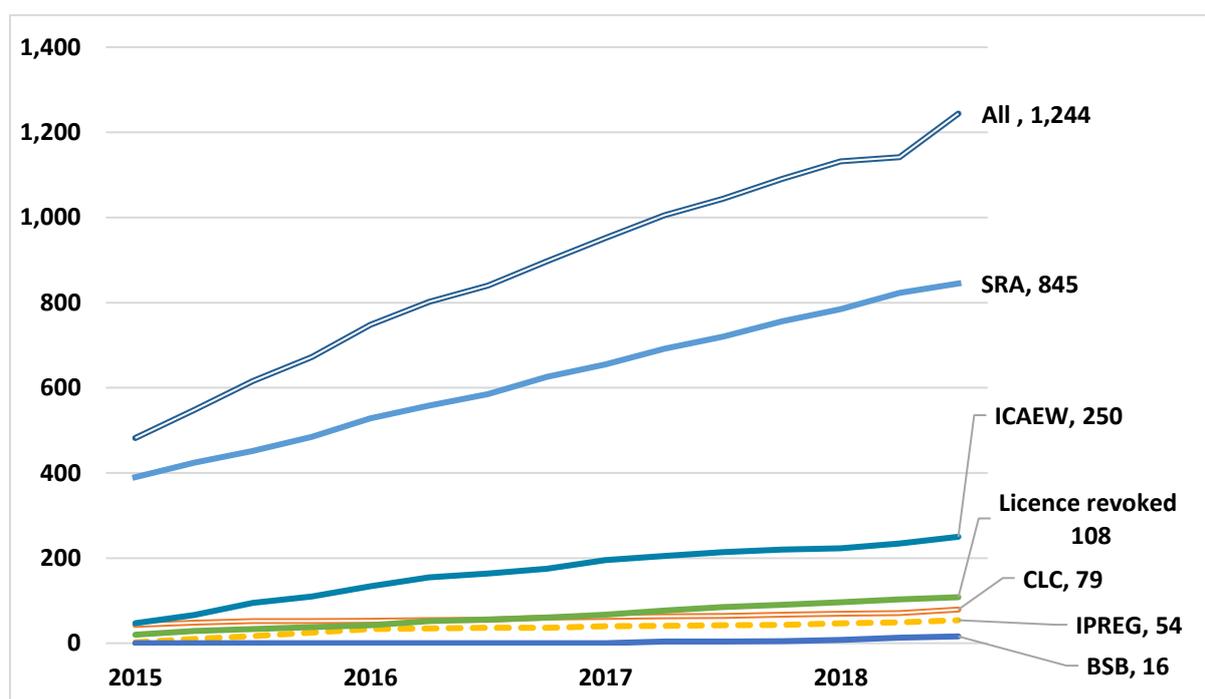


Figure 4. Number of ABS licenses issued between 2015 and 2018

The 2015 research showed that a quarter of all legal services providers had introduced a new or improved service in the last three years.⁹ When the LSB repeated the research in 2018, it found the pace of innovation had not changed. In 2018, 26% of providers had introduced new or improved services in the last three years.¹⁰ The research found that ABSs, new providers, and larger providers had higher levels of service innovation than other types of providers.

In 2018, 22% of providers had introduced a new way of delivering services in the previous year, down from 26%.¹¹ Moreover, levels of strategic, organisational, and

⁸ [LSB, Technology and Innovation in Legal Services, November 2018](#), and [LSB&SRA, Innovation in Legal Services, July 2015](#).

⁹ On average, legal services organisations obtained 6.3% of their revenue from these innovative services. This rises to 10.3% among other legal services providers in unregulated activities.

¹⁰ However, according to BEIS data, innovation for all UK businesses has fallen.

¹¹ [LSB, Technology and Innovation in Legal Services, November 2018](#).

marketing innovation have fallen since 2015.¹² Interestingly, the LSB's research highlights that, on average, the unregulated sector is more innovative than the regulated sector and is far more likely to offer service innovation to consumers.

Positively, there was a change in attitude amongst regulated providers. In 2015, the perception was that regulation was hindering innovation, but by 2018, lack of expertise and investment were perceived as more significant factors holding innovation back.¹³

In a sector with considerable challenges around unmet needs, we expect to see innovation that widens access to services through a reduction in service cost to consumers. However, we are not seeing this yet. The LSB's research indicates that the most reported business benefit from innovation was businesses being more responsive to client needs (48%), followed by increasing the quality or reliability of services (45%) and reducing the time taken to deliver services (43%). Around a third of providers had used technology to increase profitability (36%) or reduce the costs of service delivery (32%).¹⁴

It is noteworthy that providers whose main market segments are immigration, crime and residential conveyancing are more likely to innovate. We are particularly pleased to see immigration services feature in the list, as many using them are particularly vulnerable.

Providers reported several factors hindering their ability to innovate: lack of expertise or capacity in their business, regulatory factors, limited market opportunity, legislative factors, and lack of necessary finance.¹⁵ In addition, we note cultural barriers, as identified by both the 2015 and 2018 research. The 2018 report noted that a significant factor behind innovation was the existence of a leadership team that encouraged new ideas, structured processes, or policies to support or incentivise the introduction of new ideas. The LSB's research shows that the proportion of organisations that have a culture that supports new ideas has fallen from 81% in 2015 to 75% in 2018.¹⁶

Regulators have sought to tackle some of these difficult cultural issues, with the SRA leading on its flexibility agenda. Since 2015, the SRA has abolished rules prohibiting solicitors from owning separate businesses. More recently, it has paved the way for solicitors to work in unregulated firms and launched an innovation hub.

The LSB has itself been active. It has reviewed rules around restrictions on in-house lawyers and published a policy statement.¹⁷ It has announced that it will promote more innovation hubs, and it has signalled its commitment to increasing market flexibility by approving potentially contentious rule change applications, such as permitting the SRA to allow solicitors to work in unregulated firms.

Aside from this regulatory drive, the CMA's transparency remedies are likely to also drive a cultural shift, at least in relation to how providers communicate prices and

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ [LSB, Are regulatory restrictions in practising rules for in-house lawyers justified?, July 2015.](#)

services to consumers. We accept that it is difficult to target culture, but this further necessitates the need for regulators to do everything within their regulatory power to address tangible barriers to competition, in order to force or inspire culture change.

Greater price transparency is a step in the right direction, but more must be done in other areas like ensuring that there are adequate performance indicators and quality information.

Innovations and developments in legal services between 2015 and 2020:

- The number of ABS providers across the sector has more than doubled.
- Legal comparison website the Law Superstore relaunched. It now offers more than 130 services in 12 areas of practice.
- The SRA has paved the way for solicitors to deliver non-reserved legal services to the public from unregulated businesses.
- The SRA will permit solicitors to practice on a freelance basis.
- The Government has put money and influence behind the LawTech industry – with the SRA working with Nesta on the £500,000 Legal Access Challenge.
- The new ‘Solicitor’s Register’ (established in November 2019) will include information about the disciplinary records of individuals and entities.
- Since 2015, CILEx Regulation has been licensed to regulate entities, and since 2019 ABSs, and is currently proposing to introduce legal technology and emotional competencies into its educational standards.
- In 2017 The Bar Standards Board amended its Public and Licensed Access Rules which changed how consumers can access barristers’ services.

1.3. Consumers knowledge about what lawyers do

Knowledge of what lawyers do is a key factor in having confidence to seek advice, shop around and even make a complaint. Those with greater knowledge of what lawyers do are much more confident in complaining (69%) than those with limited or no knowledge (22%).¹⁸

In 2016, the Panel highlighted trends that persist in the knowledge and experience of BAME consumers compared to White British consumers in relation to legal services.¹⁹ From trust and confidence in using a provider to satisfaction with the service, there

¹⁸ [LSCP, Tracker Survey, August 2018](#) (2018 is the last year when the LSCP undertook the national representative survey).

¹⁹ [LSCP, Briefing note: experiences of BAME groups in legal services, November 2016](#).

has been a worrying disparity, with BAME consumers generally less empowered and experiencing a less positive or satisfactory service.

This is echoed by the LSB's recent individual legal services needs survey, which shows that understanding rights and responsibilities, and satisfaction with service are significant lower for BAME consumers compared to White consumers.²⁰ These disparities persist and so we encourage the regulators to revisit and consider the recommendations we made in 2016 set out in the box below.²¹ It is also noteworthy that there is a disparity, in the criminal justice system between how BAME groups and those from a White background experience the criminal Justice system.²²

That said, we must note that that BAME consumers have high satisfaction with choice (90%) possibly because consumers from an ethnic minority background are more likely than White British consumers to shop around (BAME: 34%, White British: 28%).

In the Panel's 2016 briefing note on experiences of BAME groups in legal services we made the following recommendations:

- Regulators need to address the low levels of trust in lawyers across the population, a part of this needs to focus on why BAME users are less trusting, and what can be done to address this.
- Consumer research should be undertaken to understand what drives the differences in choosing between ethnic groups – why do BAME users find it harder to compare providers and why are certain ethnic minorities less satisfied with choice than others?
- The need for regulators to identify an accurate proxy for quality for consumers to use when choosing a service is evident: specialism is the most important choice factor among BAME groups, and they are more likely to actively shop around.
- Representative bodies should consider ways to raise awareness in ethnic communities about the importance of preparing a will, particularly in the Black African and Pakistani communities.

²⁰ [LSB, Legal Needs of Individuals in England and Wales, January 2020.](#)

²¹ [LSCP, Briefing note: experiences of BAME groups in legal services, November 2016.](#)

²² <https://www.gov.uk/government/publications/lammy-review-final-report>

2. Consumers are empowered when dealing with providers

- 2.1. *Shopping around: extent and ease of making comparisons*
- 2.2. *Use of choice tools: price comparison websites and quality marks*
- 2.3. *Availability of information about provider performance*
- 2.4. *Availability of information on price and quality, clarity of information given, timeliness.*
- 2.5. *Vulnerable consumers' needs met.*

What we would like to see

We want consumers to shop around and demand more of providers. We want consumers' purchasing power to infuse market competition and inspire high quality and value for money services. We want to see a thriving sub-market where third parties (e.g. via price comparison and review websites) use reliable and unbiased data to create platforms that help consumers to navigate complex and confusing information and help them make better-informed decisions.

We also want regulators and other bodies to support consumers in making informed choices. We want regulators to require providers to publish specific information e.g. price and quality information that may help them to make informed decisions, or collate and publish this information themselves, with careful thought given to how information is presented. We want to see more information about providers' performance and about those providers who do not treat consumers fairly.

Commentary

2.1. *Shopping around: extent and ease of making comparisons*

The proportion of consumers who shop around before choosing a provider has remained relatively stagnant over the past three years (28%). And it is only slightly higher than it was in 2012 (22%), see *Figure 5*.²³ There are also a number of trends that emerge in the profile of consumers who shop around for a provider: younger consumers are more likely than older consumers to say they shop around (25-34 years old: 41%, 55+ years old: 25%). And consumers from an ethnic minority background are more likely than White British consumers to shop around (BAME: 34%, White British: 28%).

28% of consumers shop around before choosing a provider but only **2%** use a comparison website to do so.

We have also observed differences by service areas. Those who use conveyancing services are most likely to shop around for a provider (38%), as are those using legal services for immigration matters (38%). In contrast, those using probate (19%), accident or injury claims (16%), are less likely to shop around, suggesting that regulators operating in these service areas should consider whether these low figures are a reflection of a decision on the part of users not to shop around, or whether (as

²³ [LSCP, Tracker Survey, July 2019.](#)

seems more likely) it is a reflection of the perceived difficulty in doing so, especially when accessing legal services at a time of distress.

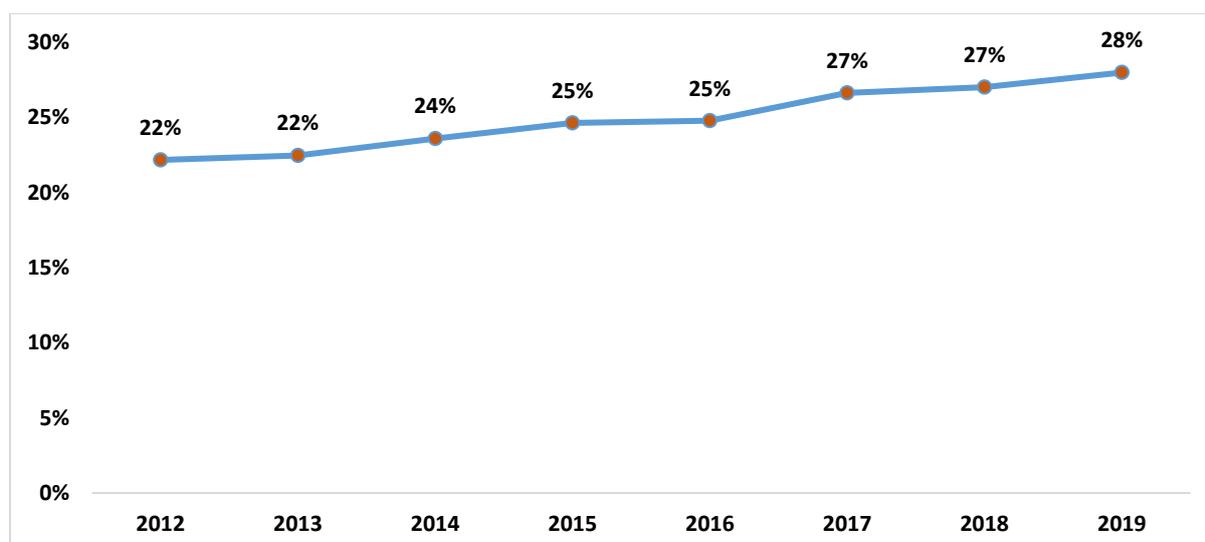


Figure 5. Legal services consumers shopping around between 2012 and 2019.

In the LSB's 2020 Legal needs research, the top three reasons consumers report for not shopping around across more than one service provider on non-contentious/contentious issues are: they were happy with their first option (44% and 29%), they trusted the recommendation they were given (32% and 27%) or their matter was routine/simple (28% and 20%).²⁴

2.2. Use of choice tools: price comparison websites and quality marks

The Tracker Survey shows that the use of price comparison websites is low amongst users of legal services, with just 2% using price comparison websites in 2019 to choose a provider, unchanged since 2014.²⁵ There is potential for comparison websites to do well in this sector, especially in areas that are more commoditised like conveyancing. However, their development and progress have been hindered by lack of access to information. Most of the legal services regulators²⁶ have only mandated pricing information and information on services at the end of 2018 and start of 2019. We are hopeful that robust quality indicators will follow soon.

In this sector it is essential for consumers to have access to information on quality, even in process-driven commodified services. Price comparison sites can only function if consumers understand that they are comparing like with like and protections are effective. Until these pieces of information are available, it will remain difficult for price comparison websites to fulfil their potential in this market.

We note that the use of quality marks to help consumers choose between different providers has been consistently low between 2013 and 2019. Only 5% of consumers used a quality mark as a criterion when they chose a provider in 2019. Although this

²⁴ [LSB, Legal Needs of Individuals in England and Wales, January 2020.](#)

²⁵ [LSCP, Tracker Survey, July 2019.](#)

²⁶ Institute of Chartered Accountants in England and Wales, Intellectual Property Regulation Board, Master of Faculties and Association of Chartered Certified Accountants have made the new price transparency rules voluntary.

figure is very low compared with other sectors, we note that roughly 25% of consumers across all sectors said they never looked for quality marks, and another 25% said they did not use quality marks to choose between service providers.²⁷

2.3. Availability of information on providers' performance

Transparency around providers' performance, e.g. information on complaints data and easy access to enforcement information, is still limited and patchy across the sector and is not collected or reported in a way that allows comparisons between all regulators. The Panel continues to believe that this type of information could provide consumers with signals about service and advice quality and so aid competition in the market.

The SDT decisions on individuals or entities are published²⁸, including on the SRA 's website.²⁹ However, it would also be useful for the Ombudsman's decisions to be published in full.

The SRA now publishes aggregate data on first tier complaints.

Most of the legal services regulators do not publish first tier complaints data, even though research shows that consumers and their representatives, including intermediaries, use it.³⁰

Equally worrying are the mixed levels of transparency around misconduct information available in the sector. Some regulators do not release information even after the completion of formal proceedings leading to sanctions. This means that consumers could continue to be vulnerable to poor treatment. The Panel has consistently said that consumers have the right to know about the shortcomings of the firms with whom they deal, so they can protect themselves and be vigilant against unfair behaviour.

We recommend that the LSB continues to focus its attention, through its performance standards work, on transparency in enforcement actions and decisions.

2.4. Availability of information on price and quality, clarity of information given, timeliness.

Readily available information on price and quality is an indicator of whether the market is responding to consumers' needs or supporting informed decision-making. We know that most regulators, following the CMA's

62% of consumers still need to have a conversation with a provider to find out the price.

recommendations, have made pricing information mandatory. We are therefore confident that we will begin to see positive changes in due course. However, our 2019 data shows that only 7% of consumers find the price on the provider's website and another 2% on a price comparison website, see *Figure 6*.³¹

²⁷ [LSCP, Tracker Survey, July 2019.](#)

²⁸ www.solicitortribunal.org.uk/judgment-search-results#search

²⁹ www.sra.org.uk/consumers/solicitor-check/recent-decisions/

³⁰ [LSCP, Open Data report, February 2016.](#)

³¹ [LSCP, Tracker Survey, July 2019.](#)

38% of consumers say it is easy to make price comparisons between providers.

The percentage of consumers who say it is easy to make price comparisons between different providers dropped from 58% in 2018 to 38% in 2019,³² and we will continue to monitor this figure.³³ Our research also shows that certain

segments of consumers find it more difficult than others to make price comparisons, for example more consumers aged 35-44 (33%) find it harder to compare prices than the overall percentage of consumers (28%), see *Figure 7*.³⁴

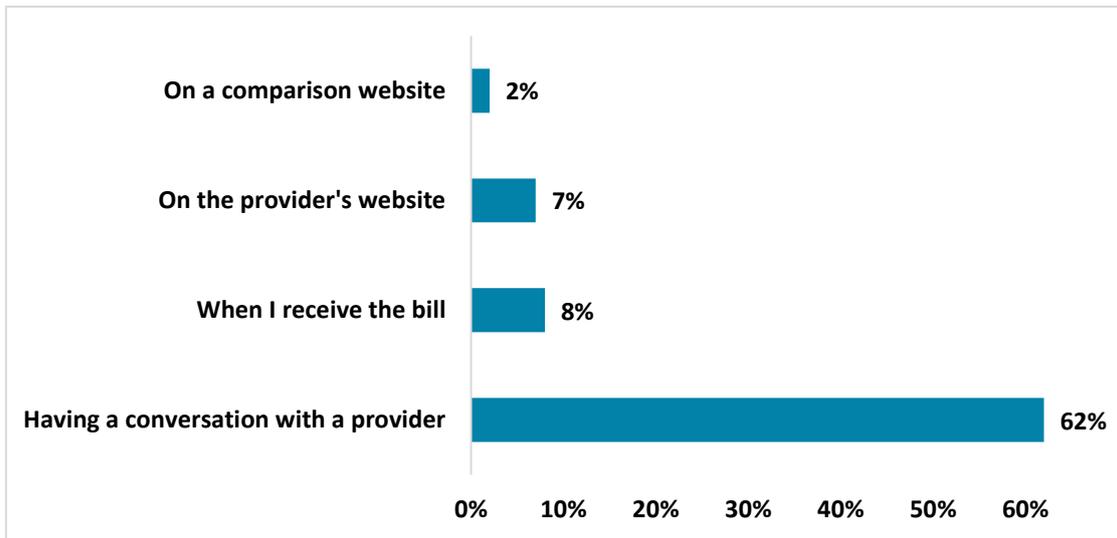


Figure 6. How segments of consumers find out the price in 2019

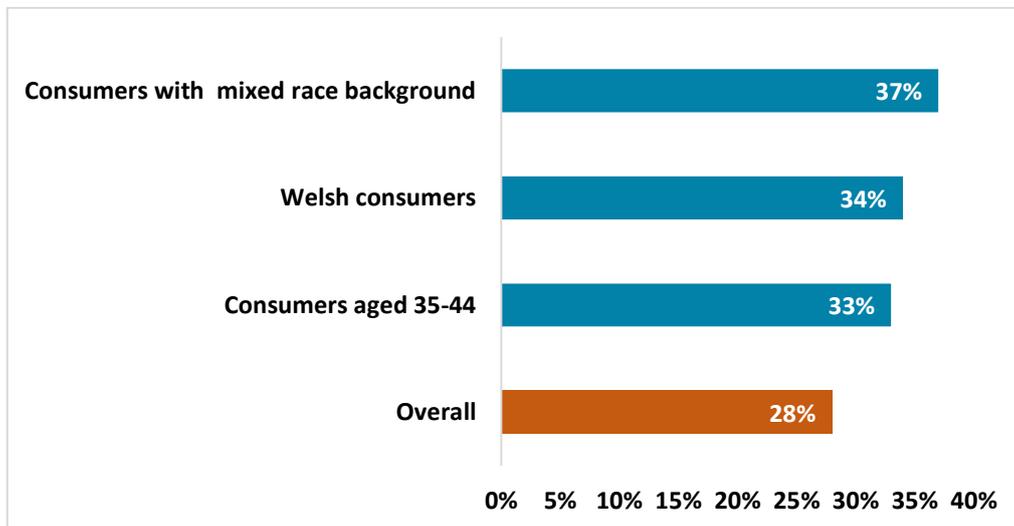


Figure 7. Selected segments of consumers who find it difficult to compare prices in 2019.

Overall, our research shows that reputation (79%) is still the key choice factor for consumers when choosing a provider, followed by price (72%), see *Figure 8*. However, price is the most important factor for consumers choosing conveyancing

³² Ibid.

³³ We are aware of this considerable difference. The question was introduced last year, and we will continue to monitor this area.

³⁴ [LSCP, Tracker Survey, July 2019.](#)

(82%).³⁵ It is also important to note that price tends to be particularly important to consumers in vulnerable circumstances, and those from C2DE socio-economic backgrounds.³⁶

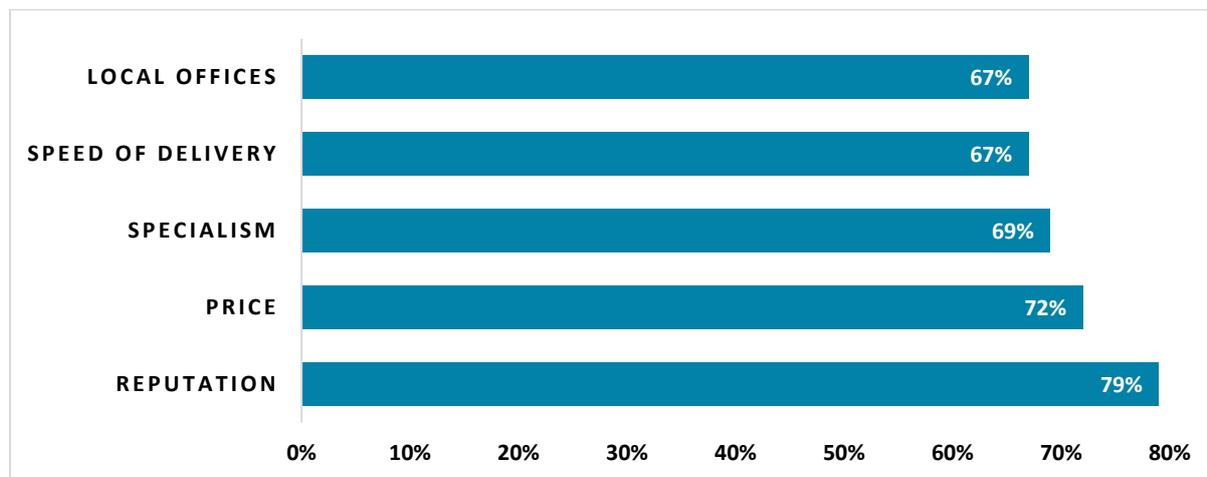


Figure 8. The key factors consumers consider when they shop for legal services in 2019

Also, while an important factor for 72% of consumers overall, price has a higher importance for Black African consumers (88%), Chinese consumers (87%) and those aged 35-44 years old (80%), see Figure 9.

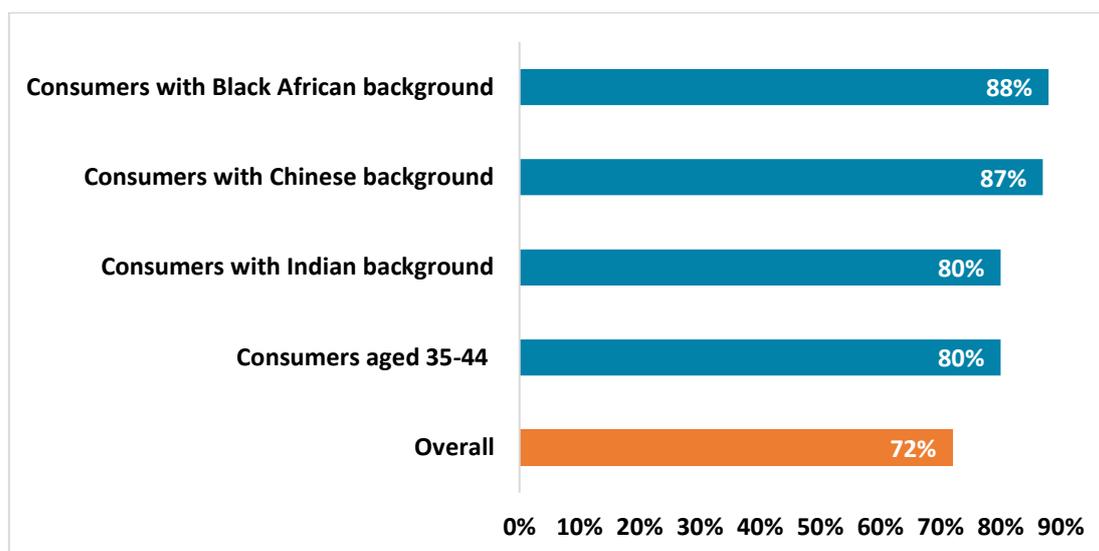


Figure 9. The importance of price for different types of consumers

Positively, the regulators have worked steadily towards increasing transparency since the CMA found that the legal services market is not working well for consumers and small businesses because of information deficits.³⁷

³⁵ Ibid.

³⁶ [Consumer Behaviour Research – A report by London Economics and YouGov for the Law Society, November 2017.](#)

³⁷ [CMA, Legal Services Market Study, December 2016.](#)

After the rules were introduced one firm stated on its website that a piece of work would cost between £50,000 and £1.5 million. This is one of many cases where information could be unhelpful for consumers, even though the firm may be deemed compliant (see footnote 38).

The sector is moving in the right direction on price transparency, but regulators, after mandating these rules, will need to ensure that consumers receive this information in a timely and understandable manner.³⁸ This will require monitoring and compliance efforts on the part of the regulators. The CMA's remedies (and

indeed the Panel's own recommendations) highlighted the importance of price and quality information being published alongside each other.

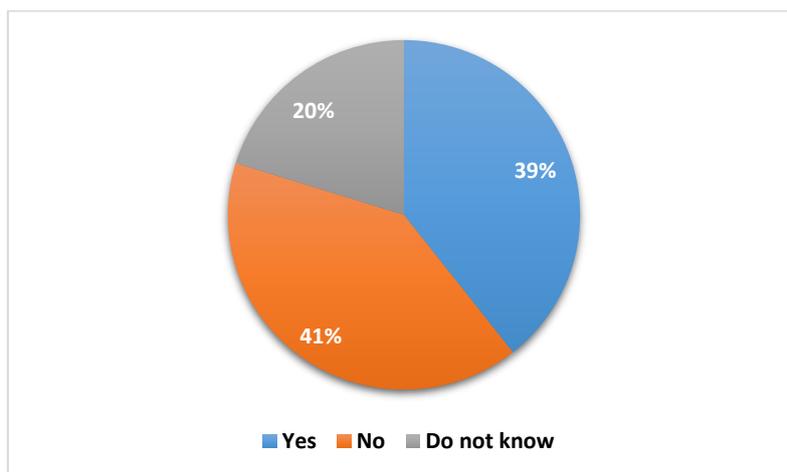


Figure 10. Are consumers able to find information on staff, services and timings for delivery?

In 2016, the CMA also recommended that providers of legal services publish on their websites a description of the services they provide. This should include the types of staff who deliver services, when key stages of the work will be completed, and any factors that could affect these. The Tracker Survey shows that, when shopping around for a provider, 39% of consumers see information on staff, services and timings for delivery, although 41% do not see these things and 20% do not know, see *Figure 10*. This is a consistent split across service types.³⁹

We recommend that regulators:

- Ensure their price transparency drive is robust and equally accessible in different groups of consumers (e.g. BAME, age, disability, etc.)
- Work towards identifying a set of common quality indicators to help consumers make informed decision when choosing a provider.

2.5. Vulnerable consumers' needs are met

The Panel recognises that consumer vulnerability is a multi-faceted issue. Previous LSB guide highlights the range of individual risk factors that are associated with

³⁸ [Law Gazette, Solicitors warned to expect extension of price transparency rules, March 2019](#)

³⁹ [LSCP, Tracker Survey, July 2019.](#)

personal characteristics (including physical and mental ability, language skills and financial constraints) and situational factors, including the situation for which they are getting legal advice.⁴⁰ These all reflect the dynamic nature of vulnerability.

We know that consumers in vulnerable situations struggle to navigate the legal services market. In 2016, the SRA found that the asylum legal process is not well understood by asylum seekers, community groups and representative bodies.⁴¹ The SRA also found that the complexity of the asylum legal process makes it difficult for asylum seekers to recognise the differences between different types of legal adviser and what protections they have through the legal regulators. The Bar Standards Board (BSB) has noted similar problems.

In 2017, the BSB published two new guidance documents on immigration and asylum issues.⁴² The first guidance is aimed at people seeking legal help. The second is for professionals working with people with immigration and asylum issues, to help them better assist their clients to navigate the legal system. The Panel provided advice on this work and considers it a positive outcome.

BSB Guidance for Professionals is aimed at those working in organisations such as victim support agencies and other charities. It explains how professionals can appropriately direct immigration and asylum clients to the help they need. It includes information on:

- Who can help and how.
- The differences between providers.
- What a client should expect from a provider.
- Fees, legal aid and how clients can be charged.
- What a client should do if something goes wrong.
- Where to signpost clients for information, advice and support.

In 2016, the SRA commissioned and published a piece of research which explored the experience of potentially vulnerable people using family law services, including whether there were any issues with access, quality and costs. This research focused on family law because family law generates the second highest number of complaints to LeO, after residential conveyancing. The SRA rightly identified that consumers accessing family law services, including divorce, domestic abuse and child custody arrangements, may be in a particularly vulnerable situation. This is because the legal issues being addressed are potentially life-changing and because their situation is highly stressful.

⁴⁰ [LSB guidance - Vulnerable consumers – mental health and dementia: scoping paper.](#)

⁴¹ [SRA, Quality of legal services for asylum seekers, January 2016.](#)

⁴² [BSB, New guidance for the public and for professionals on immigration and asylum related legal issues, June 2017.](#)

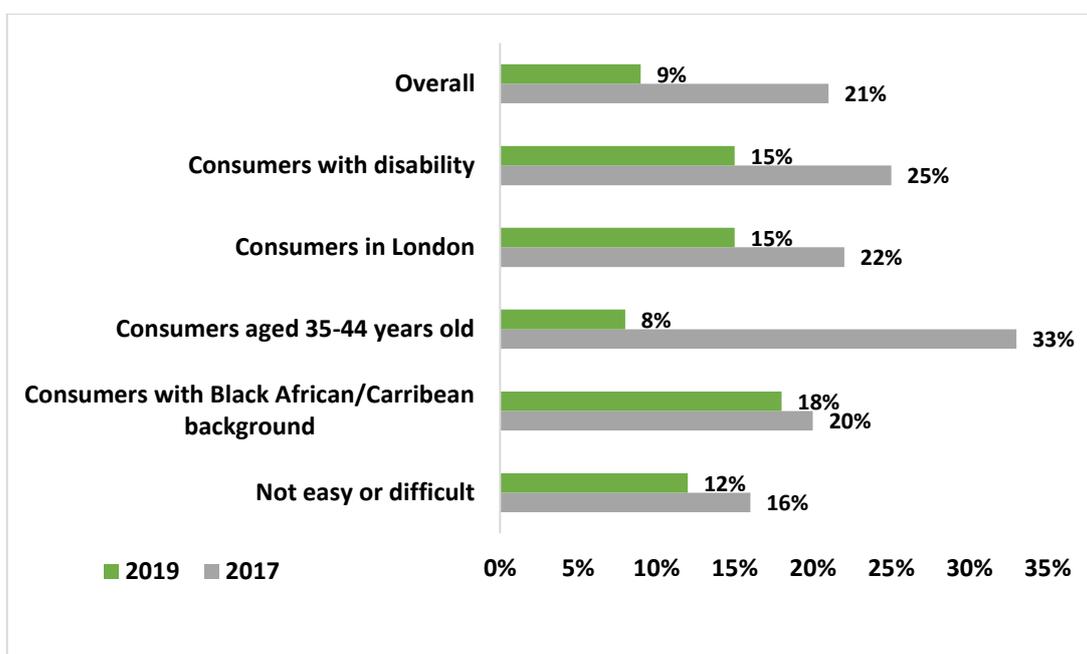


Figure 11. Consumers who struggle to find information on cost in 2017 and 2019.

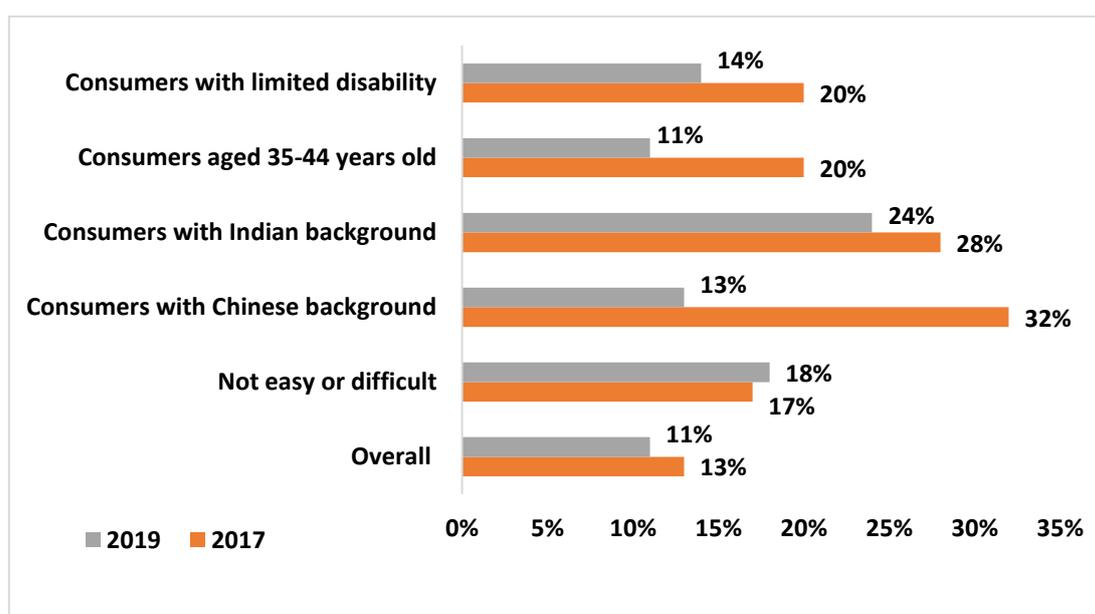


Figure 12. Consumers who struggle to find information about the experience of the legal services provider in 2017 and 2019.

In 2019 the SRA commissioned research into the reasonable adjustments law firms could offer to make their services more accessible for disabled people.⁴³ Unsurprisingly, the research found that people with less visible mental health and learning or social disabilities have a different and more challenging experience in accessing information and services than people with more visible impairments.

In addition to challenges around access, we know that some providers communicate poorly with consumers in vulnerable situations. In 2016, the joint research by the Panel

⁴³ [SRA, Reasonable adjustments in the provision of legal services, October 2019.](#)

and the regulators' into Client Care Letters showed that providers struggle to convey the information consumers prioritise, such as information on cost, timescales, and basic client-relation contact details.⁴⁴ The Panel has previously noted that the regulators need to rise to the challenge of supporting providers to deliver improved communication to consumers. We note that CILEx Regulation has used some of the research findings and recommendations to inform their transparency rules, as well as the accompanying guidance.⁴⁵ Nevertheless, we would like to see all regulators directly address the improvements providers can make.

In 2017, the LSB commissioned and published research into the experience of consumers in a range of vulnerable circumstances with different legal services providers.⁴⁶ The overall aim of the research was to understand if the regulators were applying effective measures to protect the interests of consumers, and possible ways that these measures might be improved. The LSB also wanted to spread good practice amongst practitioners. The research looked at two groups of consumers: those with mental health problems and those with dementia.

LSB research key findings

Mental health problems

- Free initial services from third sector and regulated providers are valued. Reasons include affordability, getting initial advice on options and poor experience of legal advice.
- Customer support needs depend on the severity of problems, but include extra time for individuals to express themselves, extra communication and increased reassurance.
- It is important to this group to feel listened to and understood, have services adapted to support them, have continuity of personnel and costs transparency.

Dementia

- There is a clear cluster of legal needs: wills, power of attorney and property issues.
- Those with early stage symptoms (e.g. less successful dealing with information) may not flag their needs in advance. Carers for those with later stage symptoms (e.g. confusion, memory loss and discomfort in unfamiliar surroundings) are more likely to flag the needs.
- This group welcomes initial phone contact to discuss service adaptations; clear information before meeting on the legal issue, options and costs; home visits; 'dementia friendly' services (e.g. plain English, patience and respect); and a clear meeting record.

⁴⁴ [Research into Client Care Letters, October 2016.](#)

⁴⁵ [CILEx Regulation Transparency Guidance, November 2018.](#)

⁴⁶ [LSB, Research into the experiences of consumers in vulnerable circumstances when they use legal service, July 2017.](#)

Again, the findings from this research showed that consumers in vulnerable situations had concerns with clarity around costs and communication received. See the *LSB's key findings* in the box above.

As outlined above, we have now seen several reports focusing on vulnerable consumers and some improvement in approaches to consumer vulnerability being embedded in regulatory frameworks. Some regulators now have requirements and guidance for practitioners on recognising and responding appropriately to vulnerability.⁴⁷ That said, the Panel has called for better action plans and evaluation of recommendations, post research findings.⁴⁸ Recently, the Financial Conduct Authority published guidance for its regulated firms on the fair treatment of vulnerable customers. The FCA's proposed improvements included better training to help front-line staff identify vulnerable consumers, and the delivery of a consistent approach across the industry.⁴⁹ The Panel would like to see the regulators in the legal services sector collaborate on a similar approach.

We note that the Client Care Research, the first joint research of its kind, did not lead to a joined-up action plan post-publication.⁵⁰ Moreover, this work has not been revisited since. More importantly, while the Panel fully supported the LSB's research⁵¹, the Panel was surprised to see that the limited tangible outputs of that research focused more on guides for consumers, rather than guides for providers or a requirement for regulators to monitor or drive improvements around vulnerability.

The Panel is calling for regulators to:

- monitor the implementation of the action plans on addressing the needs of vulnerable consumers, evaluate their impact and seek to improve them where necessary.
- rise to the challenge of supporting providers to deliver improved communication to consumers.

⁴⁷ SRA competence statement, vulnerability report and Youth Court toolkit, and the BSB's vulnerability guidance.

⁴⁸ [Research into Client Care Letters, October 2016.](#)

⁴⁹ [FCA, Guidance consultation Guidance for firms on the fair treatment of vulnerable customers, July 2019.](#)

⁵⁰ [Research into Client Care Letters, October 2016.](#)

⁵¹ [LSB, Research into the experiences of consumers in vulnerable circumstances when they use legal service, July 2017.](#)

3. Consumers receive value for money

- 3.1. *Consumer satisfaction with value for money*
- 3.2. *Consumers paying through fixed fees*
- 3.3. *Consumer satisfaction with the levels of transparency available*
- 3.4. *Complaints to the Legal Ombudsman about excessive costs*
- 3.5. *Complaints to the Legal Ombudsman about deficient cost information*

What we would like to see

We would like to see consumers finding the service worth the price they paid: providers charging a reasonable fee for their work, and their fees and charges being clearly set out at the outset.

We would expect to see regulators supporting consumers to identify value for money by making useful information available and protecting against misleading information. These activities might include providing educational materials or investigating allegations of poor practice, such as misleading advertising that restricts the capacity of consumers to get value for money. We would also expect to see regulators being alert to other factors that might prevent consumers from securing good value for their money. Examples include high pressure sales tactics that persuade people to purchase unsuitable services or hiding additional fees and charges in the small print, so that consumers end up paying more than they intend.

Commentary

3.1. *Consumer satisfaction with value for money*

We know from the Tracker Survey that more consumers are paying for legal services themselves. In 2019, 72% of legal service users paid for the service themselves, or with help from family or friends compared to 61% in 2011.⁵² The

63% of consumers say the services they used were value for money.

majority who paid for all their legal services themselves used their own savings (50%) or their regular salary (39%). If more consumers are paying for their own legal matters, arguably they are likely to scrutinise value for money more closely. It is therefore positive that 63% say that the service they receive is value for money (56% in 2011) and only 9% say it is poor value for money (11% in 2011). The highest score for value for money is in will writing (76%), and the lowest is in family matters (50%) and problems with consumer services or goods (49%). That said, it is worth noting that 25% of users say the service they received was neither good nor poor value for money.

3.2. *Consumers paying through fixed fees*

According to the Tracker Survey findings, 51% of consumers had a fixed fee arrangement in 2019. Fixed fees enable consumers to compare prices and make an

⁵² [LSCP, Tracker Survey data.](#)

informed decision. It is positive that fixed-fee arrangements are at their highest levels since tracking began in 2012, see *Figure 13*.

The LSB's research shows that consumers would much prefer fixed fees or no win no fee arrangements to other ways of paying for legal services, with only 2% of respondents preferring to pay by the hour compared to 47% preferring fixed fees and 38% no win no fee.⁵³

Fixed-fee arrangements give consumers a clear idea of what a service is likely to cost. Lexis Nexis research shows that 92% of consumers on fixed fees end up paying either roughly what they expected or less. By contrast, 63% of those on hourly fees ended up paying more than expected.⁵⁴ Fixed fees enable consumers to compare prices and make informed decisions.

The hourly rate now accounts for less than 8% of transactions. That said, it is disappointing to see a reduction in the use of fixed fees in immigration matters (from 67% in 2017 to 57% in 2019), particularly as this is likely to affect consumers in vulnerable situations. It is important that regulators monitor this area.

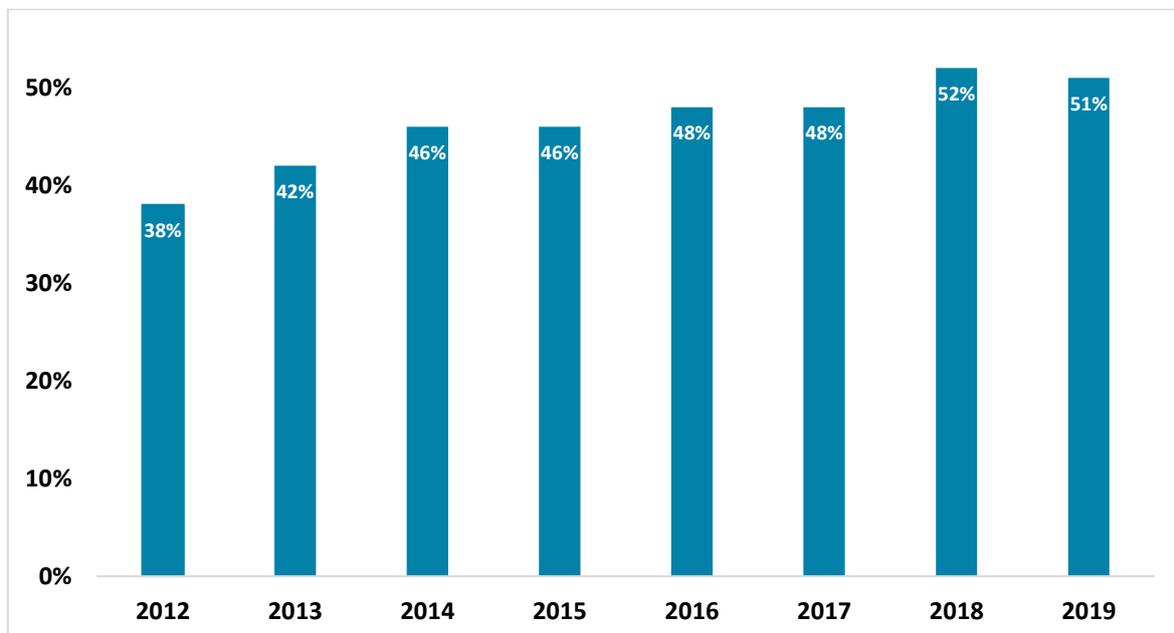


Figure 13. The use of fixed fee arrangements in purchasing legal services between 2012 and 2019

3.3. *Consumer satisfaction with the levels of transparency available*

The Tracker Survey shows that the top three barriers to finding price information are: no upfront information on prices (42%), prices presented in a confusing manner (25%) and poor communication (18%).⁵⁵ All these are within the scope of the transparency

It is vital that regulators continue to monitor the success of the of the transparency rules recently introduced.

⁵³ [LSB market intelligence - Cost of Services and Consumer preferences for fixed fees.](#)

⁵⁴ [Lexis Nexis, Mini Bellwether Report A Question of Value, 2016.](#)

⁵⁵ [LSCP, Tracker Survey data.](#)

rules prescribed by regulators. As noted above, monitoring will be crucial to the success of these rules.

3.4. Complaints to the Legal Ombudsman about excessive costs

Complaints to LeO about excessive costs has been on an upward trend since 2014 5% to 8% (2014 to 2018), see *Figure 14*.⁵⁶ A breakdown of these cost complaints shows that in 2017/18 the areas with the highest percentage were family law (25%), wills and probate (19%), and litigation (13%). Both family law and litigation were high, but stable increases were observed in residential conveyancing and personal injury.

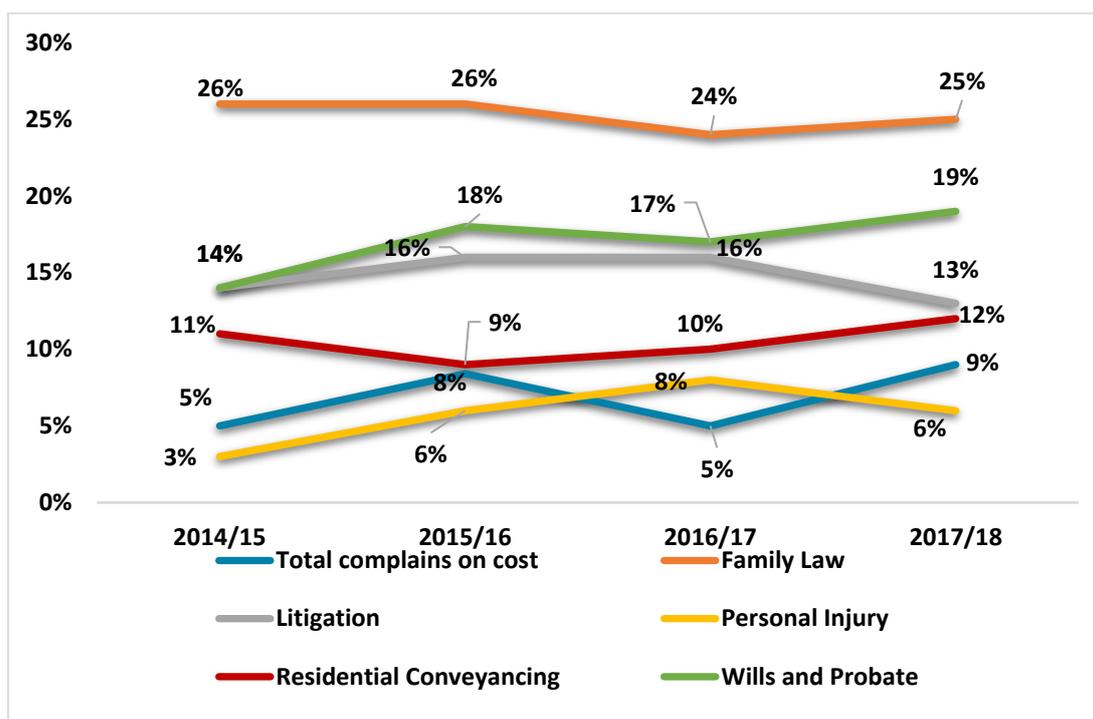


Figure 14. Top five areas of law that consumers complained about excessive costs between 2014 and 2018

3.5. Complaints to the Legal Ombudsman about deficient cost information

In 2018, around 6% of complaints received by LeO were about deficient cost information (down from 8% in 2014), see *Figure 15*. The areas with the highest complaints were consumer law (12%), family law (10%), employment law (9%), litigation (8%) and wills and probate (7%).⁵⁷

We welcome LeO’s recent initiative to refresh its guidance on good costs service, supported by case studies that provide insight into how LeO resolves complaints.⁵⁸ This includes the common causes of costs complaints, such as the information provided, the charging structure and managing changing costs.

⁵⁶ Data provided by the Legal Ombudsman.

⁵⁷ Ibid.

⁵⁸ [Guidance: An ombudsman’s view of good costs service – second edition, May 2019.](#)

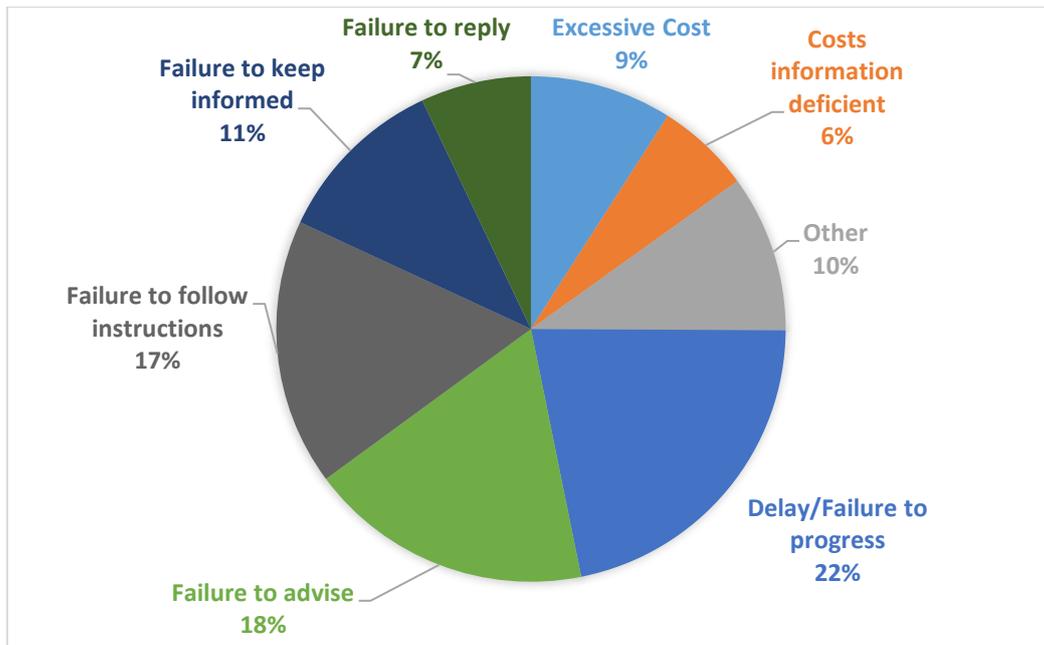


Figure 15. Reasons consumers raised a complaint to LeO in 2018

Family law ranks high on complaints about excessive costs and deficient cost information. It is an area that we believe warrants further regulatory consideration. Therefore, we would like to reiterate the questions we posed to regulators when we published the Panel's priority areas of law paper⁵⁹. Please see the box below.

The Panel posed the following questions:

- How can the regulators be encouraged to promote price transparency in family law?
- Could the regulators explore the regulatory barriers to facilitate widening the range of cases offered on a fixed fee basis?

⁵⁹ [LSCP, Priorities areas of law, May 2016.](#)

II. High Quality Advice

4. Advice is technically competent

- 4.1. *Consumer satisfaction with outcome of legal work*
- 4.2. *Satisfaction with publicly funded work*
- 4.3. *Allegations of poor-quality work.*

What we would like to see

The Panel has consistently said that there is scope for all the regulators to explore and consider how they might begin to gather and make information on quality openly available to consumers and their representatives. Moreover, price transparency and information on quality work hand in hand. Information on price is rarely optimal without information on quality. As mentioned previously, without information on quality, price transparency could perpetuate consumers' misconception that price equates or correlates with quality, with some consumers thinking higher-priced services are always better.

We would like to see legal advice that helps consumers to achieve good outcomes, such as a will that divides their estate as intended or conveyancing enabling them to move home in good time. We want to be assured that providers exercise appropriate skill and have comprehensive knowledge of the law and wider issues relating to their practice areas, which they keep up to date. We also want providers to apply this knowledge by helping consumers understand the options available and relate this to their circumstances, in a way that helps them to decide and move forward.

We would expect regulators to have effective mechanisms to ensure advice is technically competent. And we want education and training mechanisms that equip the workforce with the right knowledge, skill and levels of culture to meet the needs of consumers.⁶⁰ We also want to see measures of ongoing competence to ensure providers remain competent throughout their careers. In addition, we want to see that regulators are alert to and minimise market incentives that could drive down quality.

Commentary

4.1 *Consumer satisfaction with outcome of legal work*

Our Tracker Survey shows that 87% of consumers say they are satisfied with the outcome of their legal matter. Satisfaction varies depending on the service used but is consistently high across most service areas. In 2019, satisfaction with the outcome was highest amongst consumers who use a service for will writing (95%). Those who use services for problems with consumer services or goods tended to be the least satisfied (65%), *see Figure 16*. Consumers of social grades ABC1 were more likely to say they were satisfied with the outcome than those from social grades C2DE (89% vs. 82%).⁶¹

⁶⁰ For example: [SRA, Understanding implementation of our approach to continuing competence, July 2019](#).

⁶¹ [LSCP, Tracker Survey data](#).

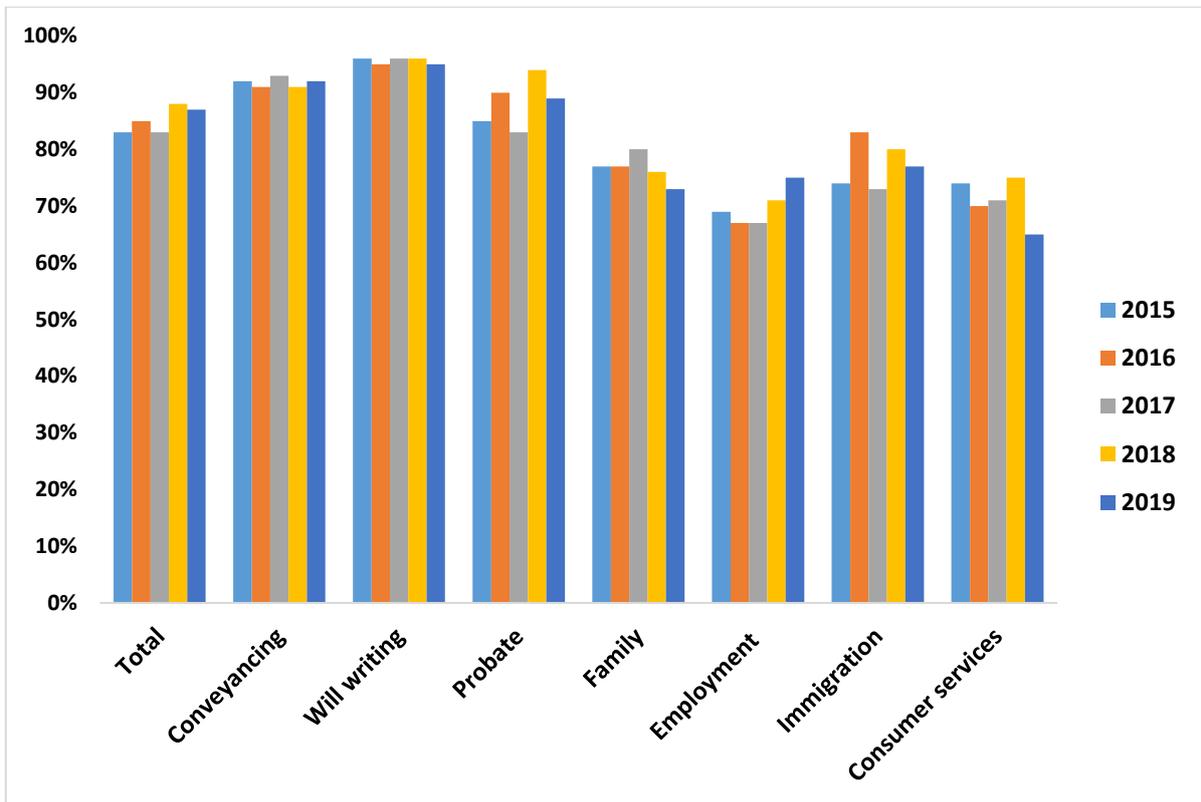


Figure 16. Consumer satisfaction with outcome per service between 2015 and 2019

The nature of the work partly explains differences in various elements of satisfaction across legal activities. For example, process-driven services can be expected to have higher outcome satisfaction ratings than contested work where there are winners and losers. So, the amount of work done in each area in each year will impact on these figures.

Figure 17 shows that there tends to be a positive relationship between outcome satisfaction and perceptions of the quality of work and service.

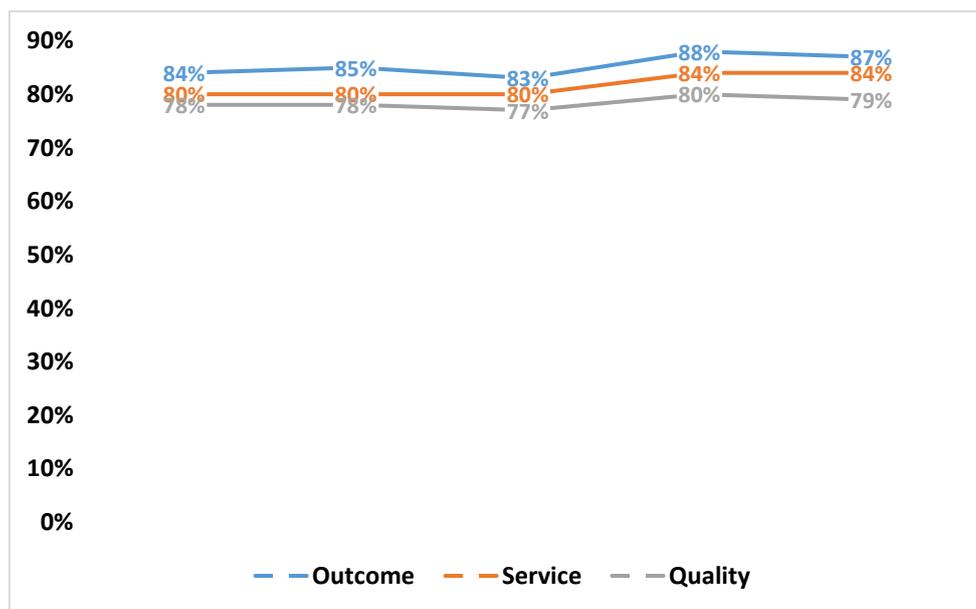


Figure 17. Consumer outcome, service and quality satisfaction between 2015 and 2019

4.2 Satisfaction with publicly funded work

Our survey provides some insight into the relationship between satisfaction with outcome in terms of service and quality, and how the legal services are funded. We noticed that overall, consumers paying privately were more satisfied with outcome, service and quality than consumers whose cases were funded by Legal Aid, although the latter were more satisfied than those funded via insurance. This might relate to the different areas of law for which legal aid and insurance are available. For example, both are available for more contentious/litigious areas of law such as criminal and personal injury. *Figure 18* shows the trend for 2019 but is a good representation of the pattern for the period between 2015 and 2019.

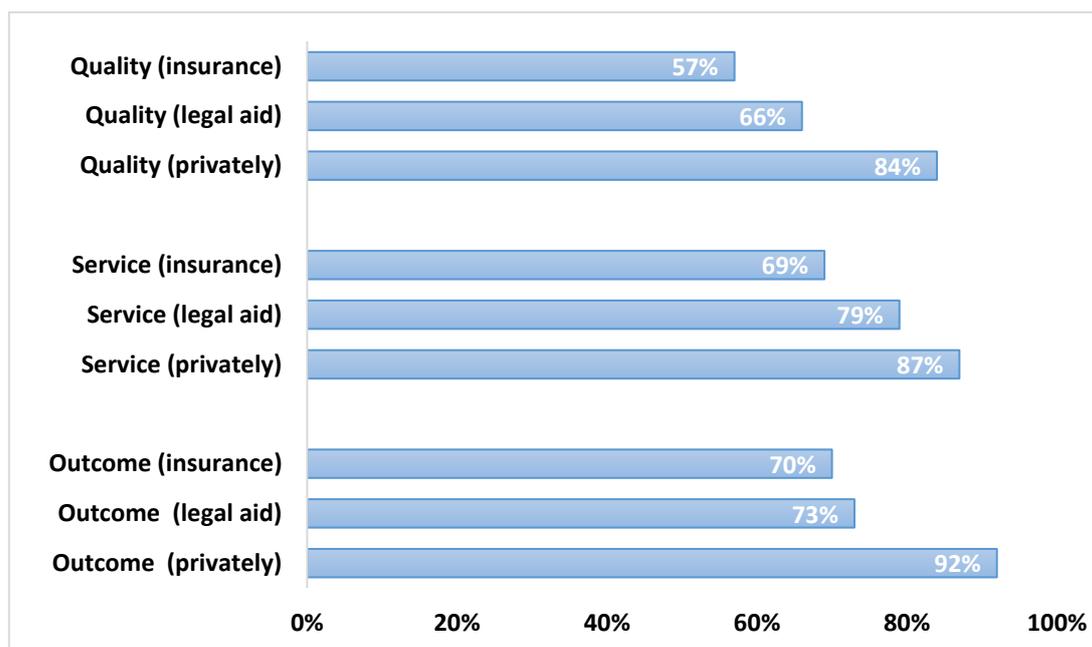


Figure 18. Funding method of services and satisfaction with quality, service and outcome in 2019

4.3 Allegations of poor-quality work.

Assessing quality indicators is one of the areas we struggled with when putting together this report. Overall, the quality of legal advice needs to be better understood and actively monitored. In the past, the Panel has suggested that this should involve academic research and build on existing good practice techniques such as file review and peer review.

A study looking specifically at the quality of legal advice for asylum seekers, commissioned by the SRA and LeO, found incidences of both good and poor practices among solicitors and advisers in a review of 45 case files.⁶² Poor practices included solicitors and advisers with insufficient interviewing skills for handling asylum clients, poor legal and case knowledge for the range of areas relevant to advising asylum seekers, failure to request additional evidence such as medical assessments to support the case, and limited experience leading to poorly constructed evidence and appeals.

⁶² [SRA and LeO, Quality of legal services for asylum seekers, January 2016.](#)

More recently, the SRA carried out a thematic review for conveyancing that included consumers' and firms' perspectives and identified good and bad practices that impact quality.⁶³

Overall, the 2016 LSB market evaluation research suggests that allegations of misconduct by solicitors have fallen over time.⁶⁴ However, the research suggests that the seriousness of these complaints about failure to advise, measured by different types of disciplinary rulings and entity compensation fund pay outs, appears to be increasing. The research also reported there was a greater use by regulators of letters of advice - a letter advising the firm or regulated person that they have breached a rule. Recent data published by the SRA shows that the second most common type of complaint received by providers is about failure to advise.⁶⁵ However, data from LeO shows that there has been a stagnation in the number of complaints received on failure to advise (19%) and failure to follow instructions (18%).⁶⁶

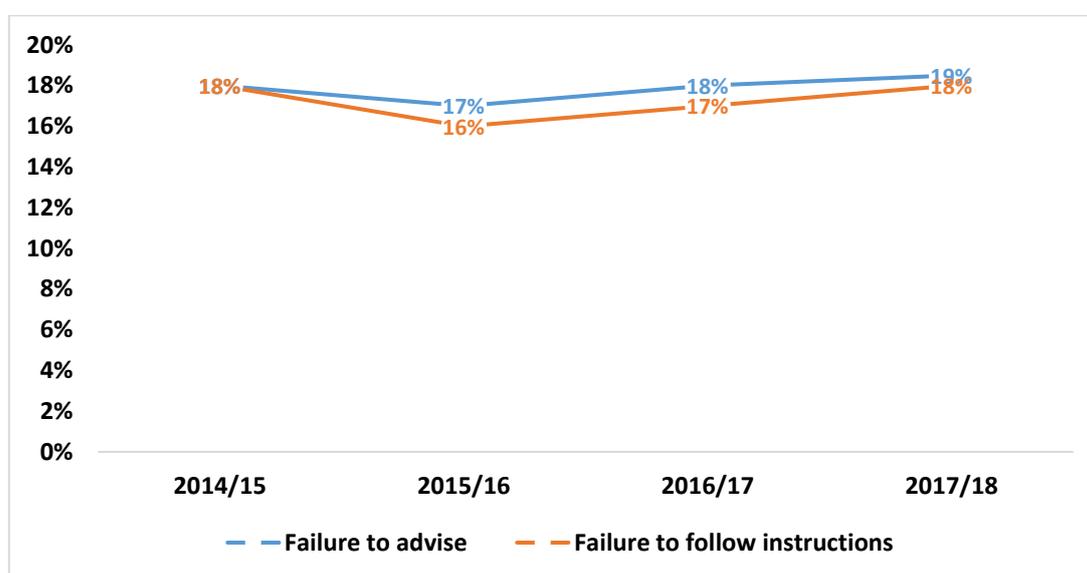


Figure 19. Complaints to LeO on lawyers' failure to advise and follow instructions

Data from the SDT shows that, in 2018, 78 solicitors were struck off the Roll following a substantive hearing, and 21 were suspended either indefinitely (1) or for a fixed term (20), see Table 1.⁶⁷

SDT decisions	2015	2016	2017	2018
Solicitors struck off	56	76	58	78
Suspended indefinitely	3	1	4	1
Suspended fixed term	12	19	20	20
Practising solicitors in E&W	129,992	132,635	136,068	139,579

Table 1. Decisions made by the SDT regarding solicitors between 2015 and 2018

⁶³ [SRA, Residential conveyancing thematic review, April 2019.](#)

⁶⁴ [LSB, Market evaluation, July 2016.](#)

⁶⁵ [SRA, Maintaining standards of service and reducing complaints, July 2019.](#)

⁶⁶ Data provided by the Legal Ombudsman.

⁶⁷ [Solicitors Disciplinary Tribunal Annual Reports.](#) We note that the numbers of solicitors struck off by SDT increases proportionally with the numbers of solicitors practising.

5. Consumers are satisfied with the service provided

5.1. Consumer satisfaction with elements of customer service: clarity of information, clear explanation, empathy, ongoing communication and timeliness

What we would like to see

We would like to see consumers receiving the appropriate level of service they expect and should receive from providers; providers displaying empathy with their customers, treating each person as an individual; lawyers providing clear and useful advice that allows consumers to decide the course of action most likely to deliver their preferred outcome given the circumstances; lawyers also communicating effectively by explaining issues clearly and without jargon, signposting what should happen and when, and updating on key developments; services running efficiently so that things progress smoothly and in a timely way.

We would also like to see consumers feeling free to negotiate differing levels of service with providers according to their needs, and regulators setting and enforcing minimum standards where necessary in order to safeguard the quality of service. For example, codes of conduct should define desired behaviours by providers, such as timeliness that, if not met, would support a complaint, and, in relation to terms of engagement with consumers, specify transparency requirements.

Commentary

5.1 Consumer satisfaction with elements of customer service: clarity of information, clear explanation, empathy, ongoing communication and timeliness

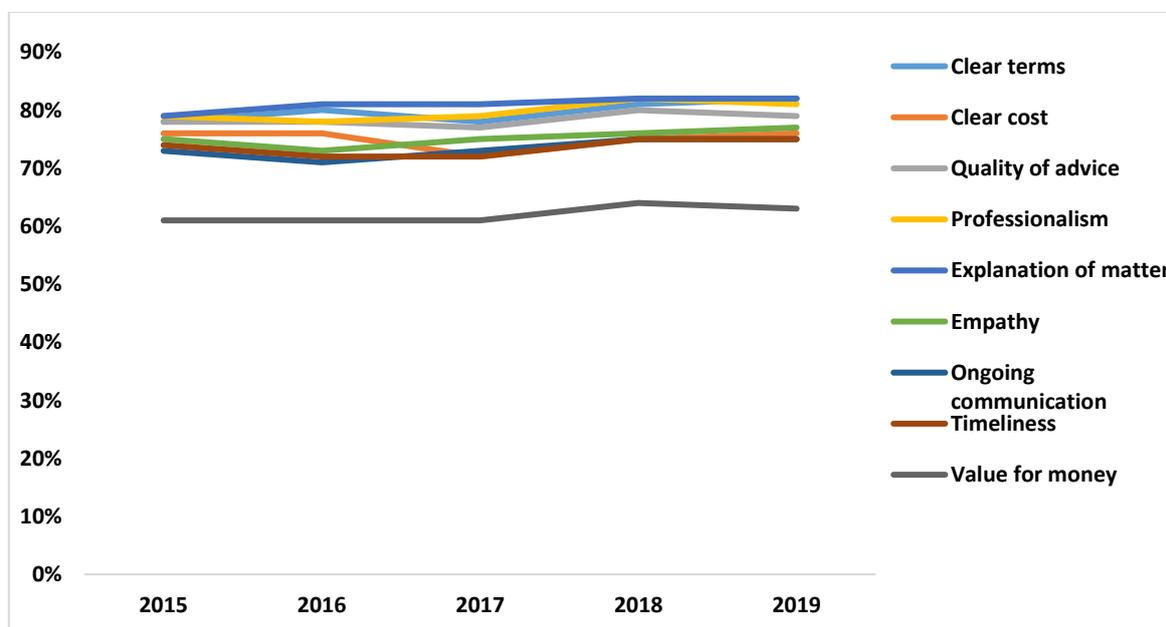


Figure 20. Consumer satisfaction with legal services elements, time series between 2015 and 2019

Satisfaction levels are relatively high for all elements of service provision, see *Figure 20*. Satisfaction is particularly high for clarity of information on the service to be provided and a clear explanation of the matter (82%). Consumer satisfaction with the quality of advice and clarity

84% of consumers were satisfied with the service they received in 2019, rising from 79% in 2012.

of information on costs has remained relatively constant between 2015 and 2019 at 79% and 76% respectively, though this should not necessarily be used as the only benchmark to assess the health of the legal services market.⁶⁸

Satisfaction relates to the nature of the work. Those using will writing services report the highest levels of satisfaction with all elements of the service. Accident and injury claims and family matters have the highest proportion of dissatisfied consumers overall (10%). Consumers using an accident or injury claims service (22%) or conveyancing (15%) are most likely to feel that their matter is not dealt with in a timely manner.⁶⁹

⁶⁸ [LSCP, Tracker Survey data.](#)

⁶⁹ *Ibid.*

6. Providers behave ethically, and misconduct is dealt with swiftly and appropriately

6.1 Consumer perception of trustworthiness.

6.2 Consumer perception of professionalism of lawyers

6.3 Incidence of potential misconduct

6.4 Performance of disciplinary procedures

What we would like to see

We would expect to see providers adhere to standards of ethical behaviour within and beyond their codes of conduct. At all times lawyers should put their duty to the court and the wider public interest, and then to the consumers, ahead of commercial interests. Moreover, we would like to see the market rules regulators set, and their response to misconduct, create a positive environment that keeps unethical behaviour and dishonesty to a minimum, and fosters greater public trust in lawyers. This should be supported by access to good intelligence, proactive cooperation with other bodies and effective monitoring processes. We would like to see regulators have a wide sanctioning toolkit at their disposal which acts as a strong deterrent and disciplinary procedures dealing with cases swiftly and justly.

Commentary

6.1 Consumer perception of trustworthiness.

The general public's trust in lawyers has remained stable, around the 45% mark in 2018. Among the public, members who used a legal service provider in the past two years trust lawyers less than those who did not (48% vs 50% - the 2% difference is statistically significant). As *Figure 21* illustrates, the trend for lawyers mirrors that for other categories.⁷⁰

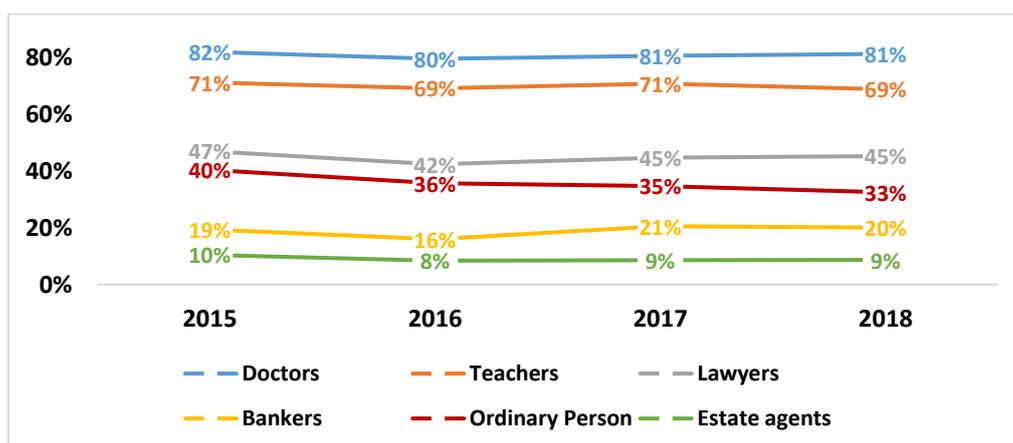


Figure 21. Public perception of trustworthiness of different groups between 2015 and 2018

However, there is a persistent trend of lower levels of trust and confidence among BAME groups, with 40% trusting lawyers to tell the truth, against 49% of White British.

⁷⁰ [LSCP research 2015 and 2018](#)

This figure drops further still with consumers from a Black African (31%) background, who have the lowest levels of trust within the BAME groups.

In 2019, we added a new question to our Tracker Survey. We asked consumers who had used a legal service in the past two years about their perception of lawyers: 28% said they perceive lawyers to be trustworthy. Consumer perception varies from service to service. Solicitors and barristers are perceived to be the most trustworthy (33%) while trademark attorneys (18%) and insurance companies (17%) are perceived to be the least trustworthy.⁷¹

High-profile failures risk contributing to a loss of trust in the profession. Recently, the Federation of International Employers issued an outspoken statement complaining that lawyers failed to “respond quickly, decisively or sufficiently comprehensively” to consumer problems.⁷²

6.2 Consumer perception of professionalism of lawyers

Consumers’ views about the professionalism of their own lawyer in 2019 are similar to 2011 levels at 81%. Consumers are satisfied the most with the professionalism of patent attorneys (90%), solicitors (89%) and notaries (87%). At the other end of the spectrum are trademark attorneys (46%).



Figure 22. Consumers’ views on lawyers and legal profession in 2019

Figure 22 shows a word-cloud detailing consumers’ perception of lawyers.

We observed that lawyers are perceived to be highly qualified and possess technical skills, but could do better at “soft” skills, such as communication.⁷³

⁷¹ [LSCP, Tracker Survey 2019.](#)

⁷² [“Arrogant” lawyers exploit young people, employers group says, Legal Futures, 29 August 2019](#)

(Last updated on 3 September 2019).

⁷³ [LSCP, Tracker Survey 2019.](#)

6.3 Incidence of potential misconduct

The SRA has reported that the number of interventions due to misconduct (intervention is used to describe a scenario where the SRA closes down a firm) peaked following the recession of 2008, which saw it intervene into many firms reliant on residential conveyancing, an area badly affected by the economic downturn. After a sharp fall in 2010/11, the number of interventions settled at a relatively constant rate for five years. However, the number of interventions experienced a spike in 2016/17 only to drop to the lowest number point in 2017/18.⁷⁴

Year	Number of interventions
2008/09	89
2009/10	74
2010/11	56
2011/12	42
2012/13	50
2013/14	51
2014/15	40
2015/16	37
2016/17	50
2017/18	33

Table 2. The number of interventions by the SRA between 2008 and 2018

The SRA's Compensation Fund handles applications from people who have suffered financial loss due to a solicitor's dishonesty or failure to account for monies received. The payments the SRA makes each year correlate with the number of interventions it carries out, see *Table 3*. However, it is important to note that the total sum will depend on the value of individual claims. Although *Table 3* shows there has been an increase in the amount the SRA has paid out from the fund, the SRA says that this is still around the historical average for the past five years, i.e. £17m.

Year	Total paid out in payments
2013/14	£23.6m
2014/15	£17.8m
2015/16	£10.3m
2016/17	£15.2m
2017/18	£18.1m

Table 3. Payments made in compensation fund by the SRA

⁷⁴ [SRA, Annual Review 2017/18](#)

6.4 Performance of disciplinary procedures

Solicitors

The SRA aims to put a case before the SDT within six months, and the SDT in turn aims to hear matters within six months. The performance data suggest the timescale for the latter is lengthening.

The number of months between the SRA's decision to refer a matter to the SDT and a receipt of the proceedings (in the correct format) at the SDT varies from 1.2 months to 41 months, with approximately half of such cases received around 6 months after the decision to refer. The SRA and the SDT both acknowledge that there are differences in how the two organisations measure the timeframe. We acknowledge that work was undertaken between the SRA and the SDT in 2018 to address and reduce discrepancies.⁷⁵ However, there does not appear as yet to be a satisfactory resolution.

Measures	2015	2016	2017	2018
Determinations within 6 months of proceedings (number of cases out of total)	68/115	74/152	89/136	60/168
70% of cases to reach determination within 6 months of proceedings (60% for 2018)	58%	49%	65%	39%
SDT – cost per court	£11,294	£9,293	£9,606	£10,333
Number of appeals against SDT's decisions	9	12	17	12

Table 4. Performance of disciplinary procedures of cases reported by the SDT between 2015 and 2018

At present, we are concerned that the SRA's fining powers for non-ABS firms and individuals working outside of ABSs are inadequate for effective deterrence. Currently, solicitors or non-ABSs can be fined up to £2000, compared to £50m for an individual in an ABS or £250m for an ABS itself. The SRA says it is committed to resolving this and in 2014 consulted on increasing its internal fining powers. However, we understand that fining powers beyond £10,000 can only be changed via primary legislation.

We encourage:

- The SRA and SDT to work together to harmonise and ensure they use similar measures on how they calculate the time between the decision to refer the matter from the firm to the latter.
- The LSB should support the SRA's resolve to increase its fining powers.

⁷⁵ [SDT, Annual Report 2018.](#)

Barristers

The BSB publishes detailed annual reports on its enforcement work which combine KPI data with a user satisfaction survey.⁷⁶ However, we noticed that the KPI data on timeliness, satisfaction with staff, enforcement process being open and fair, and overall handling satisfaction were not included in the 2017 and 2018 reports. We believe the BSB should continue to monitor this.

Based on the data we managed to access, complainants satisfaction with all measures seems to be low, indicating perhaps poor systems and service and/or poor understanding, and therefore unrealistic expectation. While we note that the BSB made improvements in other areas compared to data previously reported in the 2014 Consumer Impact Report, and data in 2015 and 2016. We are concerned about the gaps in reporting and low satisfaction by complainants.

Measures	2015	2016	2017	2018
BSB complaints concluded or referred to disciplinary action within service standards	69%	76%	80%	84%
BSB's average time to conclude cases of all types (months)	4.4	3.4	2.7	1.8
BSB complainant overall satisfaction with timeliness	40%	31%	-	-
BSB complainant overall satisfaction with staff	43%	35%	-	-
BSB complainants agree enforcement process is open and fair	25%	14%	-	-
BSB complainants satisfied overall with handling of complaint	29%	27%	-	-

Table 5. Performance of disciplinary procedures for barristers between 2015 and 2018

We would like to see the BSB monitor and publish data on enforcement regarding timeliness, satisfaction with staff, whether the enforcement process is open and fair, and overall handling satisfaction.

⁷⁶ [BSB's annual performance reports.](#)

III. Consumers are placed at the heart of regulation

7. Approved regulators are truly independent of the entities they regulate

7.1. *Independence Rules*

7.2. *Regulatory bodies with lay majority*

7.3. *Evidence of consumer testing of policy initiatives and evidence-based decision in CMA action plans*

What we would like to see

A concerted effort made by regulators to ensure that consumers' interests and needs are considered when regulatory strategies and policies are being developed. This requires consumers' interests and representation to be embedded in the structure of the organisation, including at the highest level of decision-making. Without a determined effort to embed the consumer voice in their regulatory activities, regulators run the risk of being captured by powerful professional interests. This section will explore how focused regulators are in placing consumers at the heart of regulation.

We want to see that consumers have confidence that regulators are protecting and promoting their interests by actively seeking to understand their varying needs. We also want to see that a high level of consumer focus permeates regulatory bodies, starting with the board and embedded across the staff team.

We would like to see a genuine commitment to putting the interests of consumers at the heart of regulation. This would be evident from the regulators' corporate communications, in the language used and the balance of priorities.⁷⁷

We would expect regulators to have governance arrangements which are simple and truly independent of the entities they regulate. Boards and key committees should have a majority of lay members and work free from influence or control by representative bodies.

Commentary

7.1 *Independence Rules*

The LSB has made Internal Governance Rules (IGRs) specifying how the regulators should achieve clear separation from the representation bodies. The Rules cover all aspects of the relationship and are based on the principle that structures or persons with representative functions must not exert, or be permitted to exert, undue influence or control over the performance of regulatory functions, or any person(s) discharging those functions.

Regulatory independence is fundamental to public confidence in the legal sector. Since 2014, there has been one significant investigation finding that a representative body encroached inappropriately on the independence of its respective regulator. In

⁷⁷ For example, [the SRA's current consultation on their 2020-23 corporate strategy](#) has a consumer focus.

2018, the LSB handed out a public censure after finding that the Law Society had governance arrangements in place that could have interfered with the SRA.

The LSB's extensive investigation found that the SRA was not allowed to design and manage the appointments process for its own board members, in breach of the IGRs. However, there was no evidence of an inappropriate appointment. The LSB also criticised the multiple reporting demands made on the SRA and said that this had had an impact on the SRA's efficiency.

It is noteworthy that the LSB began talks with the SRA and the Law Society in 2016 and launched a formal investigation in 2017. The final report into the investigation was published in 2018 and in July 2019 the LSB published its rule changes which provide more clarity that should lead to fewer independence-related disputes.⁷⁸

However, the time it has taken to resolve this issue and prevent similar occurrences across the sector calls into question how nimble regulation is at tackling serious breaches. The report and its findings patently shine a light on the challenges regulators face in making the current constitutional arrangements function effectively. There will continue to be strains, if not problems, until there is full independence between the regulatory and representative bodies. This is an area the Panel will highlight to the CMA when it returns to reassess the sector in at the end of the year.

7.2 Regulatory bodies with a lay majority

We note that now all the Boards of the regulators now have lay majorities, including lay chairs. This is great progress compared to the status in 2014. However, we would expect to see the SDT's disciplinary panels, unless stipulated in statute, composed of a lay majority too, but this is not yet the case. Having regulatory boards with a lay majority underpins public confidence that regulatory decisions will be taken in the public interest, rather than in sectoral interests. Please see below in *Table 6* each of the regulators' compliance based on the information available on their websites.

It is worth mentioning that the Master of Faculties (MoF) is unique, because he is an individual and the sole decision maker. He is not the Chair or CEO of a regulatory board. There are, however, two panels (which it refers to as Boards) that aid the Master, one of which has a limited regulatory delegation. MoF takes advice from the advisory and qualifications boards, but they effectively have no delegated decision-making powers.

Over the past 18 months, the LSB has worked to further clarify the roles of the representative and regulatory bodies and ensure that there is an acceptable degree of separation between them. The LSB has also strengthened its IGR rule on lay composition and therefore from 24 July 2020, all regulatory bodies should have a lay chair and a lay majority (except for MoF). We commend this work.

⁷⁸ [LSB updates rules to enhance regulatory independence, 24 July 2019.](#)

7.3 Evidence of consumer testing of policy initiatives and evidence-based decision-making in the CMA action plans

In order to better implement price and service transparency, the CMA recommended that regulators carry out consumer research and testing to understand how consumers interact with and respond to presented information. We have carried out a desktop search on the consumer research and testing done by the regulators hitherto (see Table 6).

The CMA's recommendation	Regulator's action
Carry out consumer research and testing to understand how consumers interact with / respond to presented information.	The SRA worked closely with key stakeholders to create solutions and conducted consumer research and testing.
	The BSB undertook initial desktop research on the information barristers chambers provided on their websites.
	The BSB undertook further research on: <ul style="list-style-type: none"> • understanding the current issues and priorities for the profession, on price and service transparency, including examples of good practice • perceived barriers, drivers and potential risks to increasing transparency • consideration of ways to increase and improve transparency for consumers.
	Not aware of any consumer testing published by CLC
	CILEx Reg carried out desktop research of the websites of the legal executive entities and entities regulated by other regulators.
	Not aware of any consumer testing published by Master of Faculties
	Not aware of any consumer testing published by IPReg
	Not aware of any consumer testing published by ACCA
Not aware of any consumer testing published by ICAEW	

Table 6. Regulators actions to the CMA's recommendation to carry out consumer research and testing to understand how consumers interact with/respond to presented information.

Some of the regulators have undertaken consumer research to test their policy initiatives in implementing the CMA's recommendations, either individually or combined with/in collaboration with other regulators.⁷⁹

⁷⁹ We welcome that the LSB and CMA are conducting another wave of the legal prices survey to inform regulation on pricing transparency. The fieldwork is due to conclude in March 2020.

8. Regulatory bodies work transparently and have robust consumer engagement mechanisms

8.1. Consumers' ease in accessing key information on regulation

8.2. Consumer research engagement

What we would like to see

We would like to see regulators operate transparently, helping consumers to see how decisions that affect them are made and enabling them to hold decision-makers to account. By demonstrating a high level of transparency, we would like to see regulators reinforcing public confidence in the independence of their decisions. We would envisage that information that the public can reasonably expect to be available is easily accessible and is provided in a timely manner. As a minimum, we would like to see consumers accessing information on the standards of conduct that regulators demand of providers, details of regulators' forward plans and annual activities, and an account of regulatory decisions and how these were made.

Moreover, we would like to see that regulatory priorities and policies are shaped by meaningful dialogue with both individual consumers and representative bodies. Regulators should develop effective and well-resourced consumer engagement strategies, which are reviewed regularly at board level. They make high quality evidence-based decisions informed by a rich understanding of consumer needs, experience and behaviour. This understanding is demonstrated by selecting the right mix of engagement tools for the issue at hand, drawing on tried and trusted techniques, but also showing an appetite to innovate.

Commentary

8.1 Consumers' ease in accessing key information on regulation

We identified information that consumers should be able to easily access on the websites of regulatory bodies:

- Strategic direction and activities
- Decision-making
- Minimum regulatory information

The MoF and the Cost Lawyers Standards Board (CLSB) publish very little information about Board meetings and papers. IPReg started to publish their Board papers on 1 January 2020. There is some inconsistency in approach between regulators on publication of board papers and stakeholder submissions to consultations, *see Table 7*.

We are pleased that the LSB's Regulatory Standards exercise continues to identify governance transparency as an issue. In 2019, the LSB noted that there are two areas where a considerable number of regulatory bodies have not yet met the minimum standards required and it proposed to focus its attention on these areas in the coming year. The first area relates to the failure of some regulators to include disciplinary findings in their regulatory registers. The second area concerns transparency about regulators' decision-making and performance, which includes issues such as publishing board papers and detailed minutes.

Regulator	Annual Report	Business Plan	Board Minutes	Board Papers	Consultation submissions	Management Team
LSB	✓	✓	✓	✓	✓	✓
LeO	✓	✓	✓	✓	✓	✓
BSB	✓	✓	✓	✓	✓	✓
CLC	✓	✓	✓	✓	✓	✓
CLSB	✓	✓	✓	✗	✓	✓
CILEx Reg	✓	✓	✓	✓	✓	✓
IPReg	✓	✓	✓	✓	✗	✓
MoF	✗	✗	✗	✗	✗	✓
SRA	✓	✓	✓	✓	✓	✓
ACCA	✓	✗	✓	✗	✓	✓

Table 7. Regulators availability of corporate documents

8.2 Consumer research engagement

Over the last few years, the LSB and LeO have contributed substantially to improving the evidence base and, in recent years, we have seen more consumer-focused research from the SRA. However, collectively, consumer research by the regulators remains minimal, particularly by small regulators. While they have an understandable constraint of limited budget, they must understand that research is a necessity for regulating in the consumer interest.

In 2014/15, the LSB's research budget was £250,000. In 2017/18 this had reduced to £118,000. And in 2018/19, the budget for research was set at £97,000 but is to increase to £175,000 in 2020/21.⁸⁰ The LSB has clearly had to deal with its own share of the overall budget cuts made in the face of public spending constraints. That said, it is important that the LSB maintains its investment in research, and that a significant element of this is market research with consumers. To do this, the LSB needs to think creatively about partnering with potential funders and other regulators.

We recommend that the LSB seeks to maintain or increase its research funding, and the regulators should undertake more consumer research.

There has not been a striking improvement in the amount of consumer-focused research published by regulators since our last report. However, our analysis of the SRA's consumer research shows that the SRA has published nine consumer-related reports since 2014 conducted by independent research agencies. In the five years prior to 2014, the SRA published four pieces of consumer-focused research.

We do not regard consumer research as an optional extra and its absence raises issues about the capacity and capability of some regulators to fulfil their regulatory objectives. In 2016, in conjunction with the Panel, all the regulators published consumer research into the efficacy of Client Care Letters.⁸¹ Such joint working and

⁸⁰ [LSB, Draft Business Plan 2020/21, December 2019.](#)

⁸¹ [Research into Client Care Letters, October 2016.](#)

creative use of resources is precisely what we would like to see more of. We would also like to draw attention to substantial pieces of research like the LSB's Legal Needs Survey⁸² and the Market Evaluation research⁸³, which could be drawn on by all regulators.

Regulator	Date	Consumer research done by regulators
SRA	Oct-19	Reasonable adjustments in the provision of legal services
	Oct-18	Price transparency in the legal services market: a study of small businesses with legal issues
	Jun-18	Better information in the legal services market
	Mar-18	Understanding consumer experiences of conveyancing legal services
	Jan-18	Price transparency in the legal services market
	Dec-17	Research into the experiences and effectiveness of solicitors' first tier complaints handling processes
	Mar-17	Experiences of consumers who may be vulnerable in family law
	Jan-16	Asylum report: The quality of legal service provided to asylum seekers
	Nov-16	Research into Client Care Letters
BSB	Sep-18	Consumer Behaviour and Attitudes towards Price and Service Transparency
	July-17	Research into Client Care Letters
	Nov-16	Research into Client Care Letters
CLC	Dec-17	Instant Website Conveyancing Estimate Tools - Impact Study
	Nov-16	Research into Client Care Letters
CILEx Regulation	Nov-16	Research into Client Care Letters
IPReg	Nov-16	Research into Client Care Letters
MoF	Nov-16	Research into Client Care Letters
ICAEW	Nov-16	Research into Client Care Letters
CLSB	Nov-16	Research into Client Care Letters

Table 8. Consumer research carried out by each regulator between 2015 and 2019

The Panel and the LSB are currently in the process of setting up a public panel consisting of members of the public and users of legal services. The idea is to use this panel as a sounding board for policy ideas, regulatory objectives and more. We hope that this will be a useful resource for all the regulators in legal services.

⁸² [LSB, Legal Needs of Individuals in England and Wales, January 2020.](#)

⁸³ [LSB, Market evaluation, July 2016.](#) The LSB is going to publish the next market evaluation research as part of its state of the nation report in the summer of 2020.

9. The regulatory system supports a market that works well for consumers

9.1. Consumer confidence in regulation

9.2. Performance in the LSB's regulatory standards exercise

What we would like to see

We would like to see consumers having more confidence that regulation is protecting their interests in a market where they experience gaps in knowledge and power, and thus struggle to influence the market through their purchasing behaviour. There should be the right and proportionate amount of regulation to allow consumers to truly benefit from open and fair markets.

We would like to see a statutory framework that starts from the consumer journey: a flexible regime better targeted at the risks facing consumers and a regime which is sustainably resourced and capable of delivering effective regulation.

There remains a structural deficiency: the existing regulatory framework does not provide a sustainable model in the long term to offer consumers the best system of consumer protection or support a competitive marketplace. This is the reality of the present regulatory architecture and one which needs to be addressed by statute at the earliest opportunity. We are aware of the proposed reforms arising the Independent Review of Legal Services Regulation carried out by Professor Stephen Mayson, but until such reforms are implemented, regulators must do what they can to make the current system work in the short and medium term.⁸⁴ Ultimately, we have said that we would like to see a single regulator in the legal services sector.⁸⁵

Commentary

9.1 Consumer confidence in regulation

In 2018, 49% of the general population in England and Wales were confident that their consumer rights would be protected when using lawyers compared to 46% in 2016.⁸⁶ This indicator is important since evidence for the economy overall suggests that consumers are most likely to have a satisfactory experience of a market if they believe there are strong consumer protections.

49% of the general population are confident their consumer rights will be protected when using lawyers.

Therefore, before consumers can be expected to take risks and play an active role in shaping the market through their purchasing behaviour, they need confidence that the regulatory framework will protect them. We know that 46% of consumers still do not know how to go about making a complaint about a legal service.⁸⁷ Wider UK research of legal services users shows that only 22% of consumers know that their provider is regulated and 12% are aware that they could raise a complaint to LeO.⁸⁸ Additionally,

⁸⁴ [UCL Faculty of Laws, Independent Review of Legal Services Regulation - Interim Report, September 2019](#)

⁸⁵ [LSCP, Independent Review of Legal Services Regulation; Findings, Propositions and Consultation, December 2019.](#)

⁸⁶ [LSCP, Tracker Survey data.](#)

⁸⁷ *Ibid.*

⁸⁸ [IRN Research Consumer Legal Services Market, April 2019.](#)

the LSB's research shows that 48% of consumers are not confident that they know what the term 'regulated legal service' means.⁸⁹

The 2019 Tracker Survey shows that 86% of consumers believe that their provider is regulated, and 10% do not know.⁹⁰ It is however important to note that according to SRA research, 57% of respondents thought that all legal services providers were regulated, which is not always the case. 54% of participants said that they would be willing to pay more to have more regulatory protections.⁹¹ The SRA research also shows that protections and price are both important, and people do not simply choose the cheapest option.

9.2 Performance in LSB regulatory standards exercise

The LSB has a process for assessing regulators' performance, publishing its findings and feeding back to the regulators. This assesses each legal services regulator against the LSB's regulatory standards. In the report published in 2019, the regulators appear to be meeting the minimum standards in most of the areas evaluated, although the CLSB were identified as needing to do more to improve than the others. The Panel has praised the LSB's revamped performance review framework.⁹²

The LSB's new regulatory performance framework delivers on clarity. There is no ambiguity around where improvements need to be made and no vagueness about what needs to be done. While we applaud the LSB's directive approach, we have also questioned the outcomes it measures, specifically whether these are robust enough in parts to test whether regulators are delivering on their regulatory objectives. This is an area we hope to scrutinise more in the very nearest future.

Overall, the regulators were signed off as satisfactory. However, the LSB did find that most of the regulators did not meet the requirements to provide a list of those they regulate and include information about their disciplinary record. We are pleased to see that the SRA published a digital register that went live on 25 November 2019 and the public can already look up a solicitor or firm's records online.⁹³ We are also pleased to learn that the CLC is now publishing enforcement data and linking findings to the register⁹⁴ and CILEx Reg's authorised practitioner directory links directly to disciplinary records.⁹⁵

In our report on Open Data in Legal Services, we said that consumers have the right to know about the shortcomings of the firms with whom they deal, so that they can protect themselves.⁹⁶ We said there should be a presumption that all enforcement data would be published at the end of an investigation that leads to a sanction. Making enforcement data available to consumers is an area that will particularly benefit from consistency in approach, as far as is practicable. It is even more urgent at a time when

⁸⁹ [LSB, Legal Needs of Individuals in England and Wales, January 2020.](#)

⁹⁰ [LSCP, Tracker Survey briefing reports 2019, July 2019.](#)

⁹¹ [SRA, Better information in the legal services market, June 2018.](#)

⁹² [Legal Services Board publishes its 2019 regulatory performance report, January 2019.](#)

⁹³ <https://www.sra.org.uk/consumers/solicitor-check/>

⁹⁴ [CLC Annual Report 2019, page 28.](#) The data that appears on CLC's [Adjudication Panel Findings](#) page and can be pulled through to the register where needed.

⁹⁵ <https://crlportal.cilexgroup.org.uk/CRL-Directory>

⁹⁶ [LSCP, Opening data in legal services, January 2016.](#)

the flagship consumer-facing website 'Legal Choices' is being redeveloped with a future potential to link consumers to disciplinary records.⁹⁷ As it now stands, consumers will find a complicated web of inconsistencies.

We continue to recommend that enforcement data is published at the end of an investigation that leads to a sanction.

Making enforcement data available to consumers is an area that will particularly benefit from consistency in approach, as far as is practicable.

⁹⁷ www.legalchoices.org.uk/

Conclusions

We are aware that this report does not address the suitability of the regulatory framework which also directly affects several areas we have assessed. Without a shadow of a doubt change is needed to the regulatory framework. The existing model does not provide a sustainable model that offers consumers the best system of consumer protection or supports a competitive marketplace. It remains the case that consumers have to navigate their way around the maze that is legal services regulation, with duplication in regulatory structures that contribute to higher cost for consumers, and inconsistencies in policy and practice across regulators that cause confusion.

However, in 2019 Professor Stephen Mayson began an extensive review into the regulatory architecture. We have contributed to this review⁹⁸ and submitted a response to the interim report.⁹⁹ Thus far, we support the direction of the review's findings and we look forward to the proposals for change in the final report.

In this report we have deliberately chosen to focus on the areas regulators can affect. And for the first time we have made specific recommendations to address the shortcomings we found. We look forward to working with the regulators on these recommendations and to ensuring that more progress is made towards a market that responds to consumers' needs, and more importantly, one that delivers good outcomes for consumers.

⁹⁸ [UCL Faculty of Laws, Independent Review of Legal Services Regulation - Interim Report, September 2019](#)

⁹⁹ [LSCP's consultation response to IRLSR, December 2019.](#)

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