



Work Programme 2020/21

April 2020

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Our vision

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

Foreword

- 1.1. In this third and final year of our three-year strategy we will be focussing on those aspects of our strategic objectives on which we believe least progress has been made and where more attention is needed. In doing so, we do not wish to make light of the steps that have been taken in the last two years, by regulators and by service providers, to improve the engagement of consumers in the legal services market and more generally to improve the experience they have when making use of these services.
- 1.2. There has been much discussion and activity to introduce price transparency, though there is still a distance to go to make this really effective for consumers. Advances have also been made in establishing the Legal Choices website, but there have been some setbacks here and it is not yet achieving the impact that we would like to see. Generally, we detect a greater willingness among the frontline regulators, with the Legal Services Board, to take forward these and other issues in a way that will make a real, positive difference for consumers.
- 1.3. So, we will be concentrating this year on targeted interventions to improve access to justice, which has taken a huge knock over recent years due to the reductions in legal aid and other free advice services. We will revisit the issue of unbundling, which may have the potential to unlock efficiencies and other benefits for users who may not be able to afford the full legal package but could perform some parts of the service for themselves.



- We will continue to focus on the development of quality indicators, where progress has been frustratingly slow but where we feel that a substantial collaborative effort this year by the regulators could finally result in the development of a new framework.
- 1.4. By the end of the year we should be in a position to reflect on the three years of the strategy, and indeed on the more than 10 years of experience since the Legal Services Act was passed, and decide what more needs to be done to put consumers of legal services front and centre of the policies and decisions of the regulators and of the activities of legal providers.
 - 1.5. The Panel is about to say goodbye to two long-serving members – Marlene Winfield and Michelle Goddard, who have given outstanding service to the Panel and to the interests of legal service consumers. We have welcomed four new members during the year and are about to gain another, so the Panel will be in great shape for the challenges to come.
 - 1.6. Unfortunately, as I write this, it is becoming clear that those challenges will include moving into the uncharted territory of the Covid-19 epidemic, which will impact the legal services sector in ways we have not yet begun to

contemplate. It may be that this year turns out rather differently than we have planned.

A handwritten signature in black ink that reads "S Chambers". The signature is written in a cursive, flowing style.

Sarah Chambers

Chair

Legal Services Consumer Panel

About the Panel

Our purpose

- 2.1. The Legal Services Consumer Panel (the Panel) is a central feature of the regulatory framework in England and Wales, which is designed to transform the legal services market around the needs of its users.
- 2.2. Created by the Legal Services Act 2007, we are an independent arm of the LSB. As a permanent, discrete champion for consumers, we have an essential responsibility to ensure that regulators can consider and act on the user perspective, putting the consumer interest at the heart of regulation.

Our vision

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

How we work

- 2.5. The Panel provides high quality, evidenced-based advice and challenge to the LSB, in order to

help it make decisions that are shaped around the needs of users.

- 2.6. The Panel's geographic remit is England and Wales. The Panel will remain alert to any differences in needs and tailor our policy advice accordingly.

Who we are

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

Our approach to regulation

- 2.8. We support regulation which creates the right balance between access to justice and consumer protection. We will challenge and support regulation to enable consumers to benefit from high quality services.

Budget

- 2.9. Our working budget for 2020/21 is £45,542.

Changing our focus

We are changing our focus

- 3.1. This is the final year of a three-year strategy for the Panel. Our last strategy was developed and agreed in 2018 and ends at the end of March 2021.
- 3.2. At the start of our strategy, we identified a need for regulators to advance transparency, and balance innovation and market liberalisation with adequate consumer protection and redress. Therefore, we decided to focus on transparency and consumer protection.
- 3.3. In the second year of our three-year strategy we made the case for continuing with transparency and consumer protection. But we shifted emphasis from price transparency to the need for quality indicators in the legal services market. And on consumer protection, we explored the benefits and risks of technology, but overwhelmingly encouraged regulators to promote and incentivise its use.
- 3.4. In this final year of our three-year strategy, we will focus on the same overarching strategic objectives; *equipping consumers with the information they need to make informed decisions and supporting and challenging the regulators to protect all consumers.*
- 3.5. This year, access to justice will be the Panel's central theme under the strategic objective of consumer protection. We will highlight the need for targeted intervention in areas where evidence shows diminishing legal aid support is severely impacting consumers. For example, we will examine the existence of advice deserts in housing and immigration. We will explore whether there are any regulatory levers for intervention. And if necessary, we will advocate for creative collaboration or support the case for funding those most affected.
- 3.6. In 2020/2021, we will revisit our work on unbundling. In simple terms, 'unbundling' separates a package of legal services into parts, and the client and lawyer agree to what parts of the package each would do. This separation or segmentation of responsibility may be across documentary preparation, direct contact with the other party on negotiation, attendance at initial case management hearings; and/or preparation for trial.
- 3.7. Reduced cost and exercising control over the case are the primary reasons why consumers choose unbundled services. The Panel would like to explore how regulators have helped to facilitate its use since our joint research with the Legal Services Board (LSB) in 2015.
- 3.8. Our consideration of unbundling will also assess how LawTech can be a part of the unbundling narrative.
- 3.9. Under the strategic objective of '*Equipping consumers with information*' we will continue to focus on transparency. We remain of the view that information on quality will bolster pricing information and drive better decision making.

1	PROTECT CONSUMERS Support and challenge the regulators to protect all consumers adequately and keep pace with changing market risks.
2	EQUIP CONSUMERS Advise on appropriate and proportionate regulation which equips consumers with the information and tools they need to choose and use legal services effectively.

- 3.10. We are also keen to examine and assess how price transparency is embedding in the market.

Protect Consumers

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

- 3.11. Evidence from our annual Tracker Survey shows that legal aid funding has diminished, but the need remains. In 2019, only 3% of consumers paid for their legal services with the help of legal aid, in comparison to 5% in 2012. Support from trade unions has fallen from 6% to 1% in the same time period. Similarly, payments made for legal services with the help from employers has also fallen from 3% to 1% for the same period.
- 3.12. In 2019, we said legal aid was reducing, advice deserts were growing, and specialist lawyers appear to be declining in some areas of law. Most commentators would agree that there is a causal link between drops in legal aid and absence of specialists in areas of law dealing with the most vulnerable. There is little regulatory dialogue around how the effects of these issues would impact the future supply of lawyers in specialist areas of criminal and civil justice. And crucially how

those needing advice in those areas would be supported.

- 3.13. The review of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) has already identified the impact of the cuts in areas such as housing, debt, social security benefits, employment and immigration law. We accept that regulators cannot directly influence the availability of legal aid in these areas. However, regulators have a duty to respond to market risks.
- 3.14. The Panel will explore how regulators are responding to the numerous risks around declining specialists in specific areas of law.
- 3.15. We will explore what if anything regulators could do to alleviate the problem. For example, can regulators review the risk of developing a shortfall of practitioners qualified in these areas by assessing the education and training of the upcoming legal generation?

Tracker Survey and other research findings in 2019 (I)

- The use of legal aid has dwindled from 5% in 2012 to 3% in 2019.
- Fewer consumers reported paying through a trade union in 2019 (1%) compared to 2012 (6%).
- In 2012/13, 82,554 social security cases had legal aid help, compared to just 443 in 2017/18.

3.16. We will also consider whether information provision can be better targeted at consumers in the areas of need identified.

3.17. Legal aid is a social policy issue, but the LSB and all the regulators have a statutory obligation to maintain access to justice and education standards. As such, acknowledging the existence of tensions between social policy decisions and regulatory objectives, must be within scope of the duty on regulators to maintain access to justice.

Equip Consumers

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

3.18. In 2020, the Competition and Markets Authority (CMA) will return to reassess the legal services market. We believe that they will find a market that has made some progress, for example prescribing rules for price transparency.

3.19. However, we have previously noted that prescription of rules is only a first step. It is crucial that regulators monitor compliance and

Tracker Survey and other research findings in 2019 (II)

- 62% of consumers find the price of the service after talking to their provider.
- Lack of upfront information made it difficult for 42% of consumers to find out about the cost of the services, noticeably higher than 36% in 2018.
- Prices vary significantly for the same legal services: it pays consumers to shop around.
- 14% of consumers find it difficult or very difficult to find information on quality of services.

enforce sanctions where non-compliance is found and evaluate whether the rules are producing the desired outcomes or whether further prescription may be required.

3.20. Price transparency should not become a regulatory tick box exercise. Therefore, the Panel will retain an interest in monitoring to ensure that prescribed rules translate to good consumer outcomes. We will use our annual tracker survey as one source of evidence to monitor progress.

3.21. In 2020, we will continue to focus on drawing attention to the dearth of information available on quality indicators.

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

3.23. This year we will work with the LSB in on the availability of quality

indicators by publishing a paper on consumers perception of quality indicators in the legal services market. Our paper will be based on qualitative research with consumers.

- 3.24. The paper will highlight gaps in information provision, but crucially, it will provide useful insight into consumers' understanding of quality metrics, and the types of quality indicators they would like to see in the near future.
- 3.25. In 2020, the Panel will reassess its previous work on unbundling. As noted above, unbundling has the potential to widen access to justice for a specific group of consumers. We will assess whether regulators and the Legal Ombudsman took on board our recommendations in 2015 (see text box).¹ We will also assess to what extent LawTech can enhance or play a role in unbundling.
- 3.26. We have observed that regulators have not sought to standardize information provision to consumers in areas where we have thought this helpful. In 2020, we will revisit how regulators are adhering to our checklist on information remedies², where we said there might be a need to dictate more precisely the format in which information is provided.
- 3.27. In our report on information remedies we said that intervention with information provision may need to be prescriptive, particularly where standardisation for the purposes of comparability is an important component of effectiveness. This would be the case with pricing information for

example. The Panel is keen to reassess this area in 2020.

The joint research report on unbundling recommended:

- A review or case studies from the Legal Ombudsman on unbundling, perhaps touching on client capability, with a view to informing clearer guidance for providers.
- Support for unbundling from representative bodies.
- Guidance on unbundling by regulators.

¹ [LSCP, Unbundling of legal services, September 2015.](#)

² [LSCP, information remedies, March 2017.](#)

Our aims for 2020/21

Strategic aim 1 – Equip consumers

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

Strategic aim 2 – Protect consumers

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

Work Programme 2020/21

Business as Usual

- Support the Remedies Programme Implementation Group in its drive to ensure the CMA remedies are implemented effectively.
- Commission our annual tracker survey and use intelligence from the data to advise, challenge and support our aims.
- Advise the LSB on its projects and research.
- Maintain our interest in ensuring that legal services regulators devise a common approach on LawTech
- Respond to the LSB's work on technology
- Feed into the LSB's work on ongoing competence
- Respond to the LSB's work on regulatory performance
- Engage with the LSB's plans around Public Legal Education
- Respond to regulators' consultation papers as necessary

Special Projects

- Publish a discussion paper on advice deserts in the legal services market.
- Publish a policy paper on the need for standardising certain types of information remedies.
- Publish the research findings of consumers' perception and need for quality indicators
- Publish a policy paper and host a roundtable event on unbundling.
- Work with the LSB to jointly commission a public panel

Maximising our impact

Evidence-based

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

Influence decision-makers

- 4.4. Maintaining and enhancing our ability to influence decision-makers will remain at the heart of our strategy. As an advisory body embedded within the LSB, our value stems from being able to work collaboratively with LSB colleagues whilst absolutely maintaining our independence. Similarly, we have a close relationship with the Legal Ombudsman – sometimes working jointly and other times providing external commentary, but always giving constructive challenge.
- 4.5. Increasingly we are participating in regulators board meetings and inviting more regulators to participate at our Panel meetings before crystallising their policy positions. We are certain that engagement at this level is important for our influence.
- 4.6. We will maintain strong relationships with a range of other

stakeholders including the approved regulators, representative bodies, fellow consumer organisations, the voluntary sector and others. We will continue to engage with these organisations through a variety of mechanisms both across our work and in support of individual projects. It is hard to measure the success of our influencing work, but over the coming year we will seek to establish ways to attempt this.

The establishment of a Public Panel

- 4.7. The Panel is pleased to be working jointly with the LSB to establish a public panel. The public panel consisting of members of the public and users of legal services will act as a sounding board for regulators in the sector.

Measuring our success

Focused on impact

- 5.1. The Panel's overriding purpose is to improve outcomes for consumers of legal services. From the time we were established, we have consistently and rigorously assessed the effectiveness of our contribution towards these outcomes.
- 5.2. Each year we ask the critical questions: What has changed for consumers? What has the Panel done? What should we do next? Our success depends on the quality of our advice, the effectiveness of our partnerships, and on how we use statutory and other tools to influence those who make change happen.

An effective Consumer Panel

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

- 5.4. The Panel has also put in place a series of measures to assess whether we are delivering against these criteria.
 - For each project, we clearly identify the outputs, impact and outcomes we want to achieve for consumers.
 - We account for our activities in an annual report, which includes a record of policy and practice that has changed as a result of our work.
 - A record of our meetings with stakeholders is maintained along with invitations to address key audiences, for example in board meetings and on public platforms.
 - We conduct regular surveys to test the usefulness of our advice and conduct occasional reputation audits with selected stakeholders.

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