

Sent by email only to businessplan@sra.org.uk



7 September 2020

Dear Sir/Madam

Consultation: The SRA's Business Plan 2020/21

The Legal Services Consumer Panel (the Panel) welcomes the opportunity to respond to the SRA's Business Plan.

The Panel agrees with the SRA's summation of the current challenges and opportunities facing the legal sector, particularly the current Covid-19 pandemic that is raising challenges for all three objectives. Indeed, both the pandemic and the UK exit from the EU can potentially have a substantial economic impact on consumers. It is paramount that throughout these considerable external changes consumers continue to have access to legal services, remain protected and are aware of the implications to their legal rights arising from these events.

The Panel welcomes the new governance arrangement where the SRA will operate as a distinct legal entity within the Law Society Group. This will allow the regulator to be more effective and send a clear message that regulation is organised independently from the profession.

Objective one – setting and maintaining high standards for the profession and ourselves.

The Panel would like to emphasise the importance of the imminent re-assessment of the sector by the Competition and Markets Authority against the various transparency recommendations it made in 2016.¹ It is positive that the SRA now publishes aggregated data on first tier complaints. However, there is much more still to be done, both to make price transparency effective and in particular to introduce a comprehensive quality indicator framework. We continue to encourage the regulator to make rapid steps, working with the Legal Services Board (LSB) and other regulators, to develop and implement such a framework for quality indicators, including consideration of the metrics that should be used in different segments of the legal sector. Consumers must have easy access to comparable and comprehensive information, both on price and on quality, so that they can make fully informed decisions when choosing a legal service provider.

We support the emphasis made in the consultation on monitoring and evaluation. The SRA will know that a recent survey by DG Legal² reported a low compliance rate on transparency. They found that 90% of the solicitors firms' websites surveyed did not fully comply with the SRA's transparency rules for price and almost 75% are not complying with publishing complaints handling information rules.

¹ LSCP, SRA – Corporate Strategy consultation 2020-23, January 2020.

² DG Legal, <https://dlegal.co.uk/news/sras-transparency-rules-survey-websites/>

Our own research³ shows that although shopping around is at an all-time high with 30% of consumers shopping around, consumers still struggle to find information about the cost of the service or information on service. In 2020, 56% of consumers who find it difficult to access information on price (about a solicitor) said it was due to no upfront information, a jump from 40% in 2019. And 48% of consumers who shop around for a solicitor did not come across information on service in 2020, an increase from 44% in 2019. Research published by the LSB also shows a continuing trend of wide variation in prices, for the same services, supporting the need for consumers to shop around.⁴

Under the first objective the consultation mentions the Solicitors Qualifying Examination (SQE) and solicitors' ongoing competence. Overall, we are supportive of the SRA's proposals for the SQE, for introducing the SQE in Welsh and for planning to set up an office in Wales. On ongoing competence, the Panel has said⁵ that a lawyer's initial education and training cannot offer a career-long guarantee of competence. We support the SRA's plan to undertake a strategic review of its approach to regulating solicitors' ongoing competence. We look forward to seeing the actions following this review.

The SRA's states that it plans to monitor diversity data and commission research and establish an advisory group of experts to help with these complex issues over its three-year strategy. We are not convinced that this is enough, and we have said repeatedly that the SRA needs to do more. In 2017, in response to the SRA's corporate strategy we said the regulator needs to "continue to work with the wider profession to improve diversity at the point of entry and beyond".⁶ In response to its current corporate strategy we said "it is crucial that the regulator does more than monitor or carries out research."⁷ We specifically said that the Panel would like to see the SRA giving "supportive steers, guidance and recommendations to improve diversity, especially in seeing progress at senior levels, as well as in monitoring the impact of legal service provision on different groups of users."⁸

Objective two – actively support the adoption of legal technology and other innovation, that helps to meet the needs of the public, business community, regulated entities and the economy.

The Panel believes the pandemic has accelerated the use of digital tools by providers and consumers. The SRA should enable the development of technical solutions at a faster pace. To foster innovation and accelerate consumers' access to services in response to the pandemic, we would encourage the regulators to work actively with frontline advice services, e.g. Citizens Advice and Law Centers, to understand where the pinch points that hinder access to legal services are in the current context. Moreover, regulators should access insights that already exists with these organisations to help consumers and intervene to support access to legal services.

However, it is important to note that access to digital solutions can vary. Some consumers have limited digital literacy - roughly 9 million people in the UK (16%) are unable to use the Internet and their device by themselves.⁹ We acknowledge that it is helpful to undertake research to understand how best technology can help those with limited or no access to digital services, but the SRA should also consider alternative

³ LSCP, Tracker Survey 2020,

⁴ LSB, Price Research, September 2020.

⁵ LSCP, LSB - Ongoing competence, 2020.

⁶ LSCP, SRA - Corporate Strategy Consultation 2017-20, September 2017.

⁷ LSCP, SRA - Corporate Strategy, January 2020.

⁸ Ibid.

⁹ Lloyds Bank UK Consumer Digital Index 2020.

ways to support all consumers to access legal services. Thus, we endorse the proposal to increase guidance and support materials for both the profession and consumers.

We welcome the acknowledgement that using innovative tools to increase access goes beyond simply using technology and it also comes with risks. Indeed, action must be taken to avoid creating opportunities for cyber-crime while using digital tools, so security considerations are crucial. The regulator can learn from other sectors that have worked hard to secure online transacting and apply the learnings to its own context.

Objective three – build understanding of emerging opportunities and challenges for the users of legal services, the legal sector and our role in effectively regulating it.

The Panel welcomes SRA's plans to engage with multiple stakeholders and to monitor the research findings undertaken by other organisations. Consumer engagement and research is the primary way for the regulator to deepen its understanding of consumers' concerns. Therefore, we endorse the consumer research showing that the regulator plans to listen to consumers' needs, reflecting our previous recommendation.¹⁰ We would also like to remind the SRA of the opportunity to use the newly established public panel set up by the LSB and the Panel as a way of accessing consumers' views in developing and assessing policies.

The SRA aims to look at the impact of Covid-19 on the structure of the legal market over several years and consider the challenges faced by consumers in accessing services. Improving access is an area of special focus under this objective although it cuts across all three strategic objectives. Access to justice and public legal education, including through the further development of the Legal Choices website, is important for many consumers who do not understand their legal rights.

We have consistently said¹¹ that, apart from cost, consumers find it difficult to navigate the legal system that is often laborious and complex in many areas of law. Technology can indeed be used to support and facilitate access to justice in "desert areas", reduce the cost and the time it takes to get them delivered, but also it can make the process more straightforward. As we highlighted above, it is important that the regulator considers and reduces the risks that come with using technology to ensure consumers can use these tools securely.

As for the proposed work on immigration and asylum services, we note the work the SRA is doing with stakeholders to assist consumers of these services to understand their rights and access quality advice. The Panel agrees that these are vulnerable groups and we would encourage the SRA to consider extending the price transparency rules to asylum services. This will help consumers using asylum services by supporting them to make informed decisions on price. This could be particularly important in the coming months if the UK's departure from the EU poses new challenges for immigration services users cutting across different jurisdictions.

Setting out the Compensation Fund contributions

The Compensation Fund is a crucial consumer protection measure that should provide a safety net for risks which Professional Indemnity Insurance is unable to cover. We accept that there is a need to review, adjust and consider the need for this fund to be financially sustainable, but primarily it should ensure it is effective, i.e. it protects consumers. The Panel is of the view that consumers should be at the heart of this

¹⁰ LSCP, SRA - Consultation Strategy 2020-23, January 2020.

¹¹ Ibid.

process because they are asked to take on a disproportionate level of risk while entrusting the profession with their money and with important decisions impacting their lives. The Panel's submission to the consultation on this matter earlier this year remains its current position.¹²

Last, we welcome that the SRA wants to be transparent in its decision making and will publish the Compensation Fund financial statements annually.

We would be very happy to meet and discuss any aspect of this response in further detail. Please contact Lau Ciocan for further queries at lau.ciocan@legalservicesconsumerpanel.org.uk.

Yours sincerely



Sarah Chambers

Chair

Legal Services Consumer Panel

¹² LSCP, SRA - Compensation Fund consultation, April 2020.