



Minutes – Legal Services Consumer Panel meeting

Date: 15 September 2021

Time: 13:30 – 17:30

Venue: hybrid meeting - online and in person

Present:

Sarah Chambers	Chair
David Abbott	Member
Paul Crook	Member
Liz Owen	Member
Mark McLaren	Member
Adam Cooper	Member
Lisa Davis	Member
Lola Bello	Consumer Panel Manager
Heidi Evelyn	Consumer Panel Associate
Kate Wellington	Cost Lawyers Standards Board (Item 7)
Heather Clayton	Cost Lawyers Standards Board (Item 7)
Bill Guthrie	Glenesk Group (Item 8)
Emma Hall	Glenesk Group (Item 8)
Charles Layfield	Glenesk Group (Item 8)
Stephanie Boyce	The Law Society (Item 9)
Libby McVeigh	The Law Society (Item 9)

Item 1 – Welcome and Apologies

1. The Chair opened the meeting and welcomed those present online and in person.
2. No apologies were received.

Item 2 – Declaration of Interests

3. None

Item 3 – Minutes of March meeting

4. The Chair presented the minutes from the 30 June 2021 meeting which had been agreed via electronic correspondence.

Item 4 - Matter arising

5. All matters arising were acknowledged.
6. The secretariat confirmed that Martin Koppack had also spoken to the LSB.

Item 5 – Chair’s report and members’ updates

7. The Panel discussed the Chair’s report.
8. 360 Law Group’s roundtable on PII showed that the problems with PII are serious. Although firms are not going out of business yet, PII is hard to find and more expensive.
9. At the latest RPIG meeting the BSB discussed its plan to work on ensuring that solicitors offer their clients the option of more than one barrister. Panel members noted the need for a comparison on price and quality so that consumers can make informed choices.
10. Paul provided an update on the SRA launch of its Oxford research report on technology and innovation in legal services. SRA hosted a good discussion with start-ups and other stakeholders on how to encourage the development and use of lawtech. The approach was not just technology based but also included how lawtech can benefit consumers and how to encourage consumers to use it.
11. The Ministry of Justice has not yet made a decision on the appointment of a new Panel member, despite receiving advice on this several months ago. This process may now be further delayed as a new Secretary of State for Justice has been appointed.

Action: Through LSB, follow up on the formal appointment of a new Panel member with the Ministry of Justice

Item 6 – Project updates and consultation responses

12. The Panel Associate noted that there were quite a number of consultations coming up in September and October that the Panel would want to respond to.

Item 7 – Cost Lawyers Standards Board Presentation on Pursuing Good Consumer Outcomes

13. The Chair welcomed Kate Wellington, CEO, and Heather Clayton, Director of Policy of the Cost Lawyers Standards Board to discuss their commitment to focus on good consumer outcomes as one of their regulatory approaches. This includes the concept of meaningful choice for consumers, not just choice.
14. Heather explained that most of the Cost Lawyers Standards Board’s traditional workstreams have been on quality of services. When examining their current workplan, there appeared to be lots of gaps, especially on innovation. Therefore, they wanted to look more at what cost lawyers could do to innovate.
15. Heather noted that very few end-consumers are served by cost lawyers. Nevertheless, securing an effective consumer focus has taken a lot of time and it has been hard to do because of limited information and access to research. They are now hoping to obtain funding to do a specific research project on innovation.
16. There was discussion acknowledging the limitations of the current regulatory framework that starts with reserved activities. The Chair commented that the Panel would advise everyone to look at legal services regulation more broadly than the Legal Services Act does. It was noted that other countries have different approaches, for example Australia, who have no cost lawyers as such but do have different types of brokers for corporates to obtain the best lawyer.
17. Members asked about diversity in the profession and whether enough was done to ensure that ethnic minority clients are well served in terms of quality. Heather explained that cost lawyers as a profession are not very ethnically diverse and what the CLSB can do is limited, but they do have some levers through their work in education. They would like to gather more data on diversity of clients. It may be useful to include diversity in

their plans for their innovation project on disregarding the difference between regulated and unregulated cost lawyers.

The Panel noted the update and thanked Kate and Heather for the presentation.

Item 8: Glenesk Group Presentation on Online Reviews in the Legal Services Sector

18. The Chair welcomed Bill Guthrie, Director; Emma Hall, Consultant; and Charles Layfield, Senior Advisor of Glenesk Group to explain their research into online reviews of legal services providers. Glenesk wanted to present their findings because they felt they would be useful to regulators given what is currently going on in the sector.
19. Glenesk used high level analytical software to analyse legal services online reviews and produced a report which found the following:
 - Trustpilot, by far the biggest player in legal services online reviews (over 100 times more reviews in this sector than the next largest online review platform), and other platforms only sort reviews by firm, not practice area (even though they collect this information).
 - Analysis of the words used in reviews shows a focus on customer service quality, not practice or technical quality (eg how quickly a consumer gets a call back, rather than the quality of the advice received which is arguably the most important comparison point).
 - Some firms are managing their online presence (only actively inviting those with a good experience to leave a review etc.) rather than remedying the root cause of bad reviews. Because of the way Trustpilot gives weight to how many reviews a legal service provider has, smaller firms or those who are not engaging with their online presence won't look as favourable.
 - Concerns were raised around grade inflation which means that a consumer cannot use this information to differentiate between firms, practice areas or individual lawyers, but only to weed out the worst.
 - Price is not mentioned in the reviews. There may be very little shopping around because price is not the issue. This may be because legal services are either a complex purchase or a dissonance reduction purchase.
 - Secret shopping revealed that many firms (of varying sizes) do not respond to phone calls, emails or webchat inquiries about price or service, or provide very delayed responses making it very difficult to compare and shop around. This may have been exaggerated by the pandemic, but Glenesk hypothesises that firms put little effort into service or price transparency because it does not affect their ability to increase business.
 - There is no data on who needs legal help but does not get it and why this is the case, whether it is due to price, not trusting any service providers or another reason.
20. Bill noted that for dissonance reduction purchases, reputation is the most important factor. The question is how can regulators help consumers inform their knowledge especially when each practice area within a firm may provide varying degrees of service quality. For example, it is not clear that clients understand that a firm which handled their conveyancing well may not have the best family lawyers.
21. There was a discussion about how to assess technical quality. The Panel noted that professional competence is not visible to consumers so it is hard for them to judge. Regulators may need to generate useful metrics for the public, though their investment in evaluation helps encourage firms to put resources towards professional competence.

22. Bill explained that there is a broad consumer trend to use online reviews more frequently, and that some review platforms are trusted more than others. The Panel discussed whether moderation of online reviews might help, but questioned how transparency and objectivity can be maintained, especially when reviews consist of subjective ratings. Bill suggested that it might help if every client was invited to leave a review on a common platform.
23. Bill also questioned whether a basic service level needs to be stipulated for the sector. He explained that law firms typically experience a large loss in cases when progressing from the intake stage to the next level of service and there may be many reasons for this loss.
24. Glenesk also works in the healthcare sector where services are also characterised by dissonance reduction. Bill pointed out that requalification, audits and regular checks are done in that sector but there is always a balance between the protection afforded by increased regulation and the cost of that regulation.
25. Glenesk has met with the SRA and LSB. The Panel suggested that the use of DCTs had to be thought about more deeply, but that the Glenesk research report and the discussion and next steps slide provides a good pointer for taking things forward with regulators. Charles noted that DCTs can be useful but most stakeholders don't fully understand them and how they can be manipulated by online presence management or affected by the volume of reviews a service provider procures or receives. Members pointed out that widespread use of DCTs is still a relatively new phenomenon; things may change in the next five years and competition between DCTs may help improve them.
26. The secretariat noted that the Panel had repeatedly suggested mystery shopping and thematic studies should be done by regulators, including in their 2016 paper on opening up data. The LSB should be reminded of this.
27. The Panel discussed how the Likert scale could improve rating accuracy as it provides for a better distribution of responses. The Likert scale uses a psychometric response scale in which responders specify their level of agreement to a statement typically in five or seven points such as strongly agree, agree, neither agree nor disagree, disagree, strongly disagree. The Tracker Survey uses a Likert scale asking whether consumers are varying degrees of satisfied or unsatisfied.
28. Bill informed the Panel that Trustpilot already provides a basic resource on how to generate a request for feedback but may charge a fee for this service. The Panel noted that it needs to be reinforced for firms that feedback helps to increase profitability because it helps a firm to improve.

Action: Raise concerns around how DCTs operate as well as the need for mystery shopping and thematic studies to be done by regulators with the LSB

Item 9 – Update from The Law Society

29. The Chair welcomed Stephanie Boyce, President and Libby McVeigh, Director of Policy of The Law Society to update the Panel on their work on a number of fronts and how they can work together.
30. First with regard to the SIF, Stephanie said it is clear that a lack of insurance cover after the six year run-off period would hurt the profession and expose consumers to risk. The Law Society has written to the SRA outlining their concerns including how any changes to SIF could affect access to justice because it could affect solicitors' willingness to

provide some legal services, and impede diversity in the profession by affecting the decisions of solicitors to continue practising or others to join. They want to ensure that any new arrangements will promote competition between firms (including smaller firms), maintain the profession's reputation, allow orderly cessation of practices and make solicitor retirement predictable and affordable.

31. Stephanie noted that introducing a levy or capping cover could affect diversity. Accordingly, a thorough Equality Impact Assessment and Regulatory Impact Assessment must be done including considering whether any actions affect consumer choice or discourage solicitors from providing legal services where claims are more likely later on. Libby explained that Law Society member interests sit alongside consumer interests here and they want to ensure the right questions are being asked and that costings are done on different ways of proceeding, including the impact on diversity of the profession.
32. Regarding the sector's recovery from the pandemic, Stephanie outlined that members' business confidence is generally strong, with roughly half of firms predicting an increase in fees and profitability. The biggest challenges for small and medium-sized firms are economic conditions, cashflow, succession planning and changing working arrangements. She also noted that clients have altered their expectations away from long in-person meetings. These changes have tended to increase service levels and speed, decrease risk and help with professional upskilling.
33. Stephanie proposed working together with the Panel to call on government to introduce new tax incentives for lawtech research and development, allow law firms to spend apprenticeship money on lawtech seats and training as well as pro-bono work in partnership with legal charities.
34. Stephanie sees access to justice as being at the heart of the work done by The Law Society. It is a consumer-focused issue about ensuring everyone can enforce their rights and obligations. The number of firms offering criminal legal aid has almost halved in the last decade, and the average age of a criminal solicitor was 47 in 2018. There are very few new entrants into this part of the profession due to low fees. In 2009, almost 1 million new civil legal aid matters were opened, while in 2020-21, just over 100,000 were, but the need is still there. The Law Society produces annual advice desert maps which show that almost 40% of people do not have a housing lawyer in their local authority and over 70% are without a welfare legal aid provider.
35. The Law Society recognizes that the pandemic had made lots of problems worse, particularly the increased backlog of cases before the crown court where trials are now being listed into 2023. The Law Society has real concerns about moving hearings online as only 16% of solicitors feel that vulnerable clients can participate remotely, others are digitally excluded while there are other concerns about remote jury trials and the lack of data on this topic.
36. To avert the collapse of the criminal justice system, the Law Society is calling on government to invest in the criminal legal aid system, increase fees, review these fees annually (by an independent reviewer), and provide a training ground to encourage new solicitors to practise criminal law. Similarly, civil legal aid must be raised, and bureaucratic obstacles reduced. The Law Society would like to see restoration of legal aid provision for early advice in housing, welfare and family law, and a removal of the cap on sitting days until the backlog is cleared.
37. Stephanie sees diversity as an issue that affects consumers, as a legal profession which does not reflect those it serves will not be fully effective. The 'Race for Inclusion'

research report shows experiences vary between minority groups; stereotypes of what a solicitor looks like must be challenged. Over half of solicitors are in the first generation of their family to attend university, but 23% attended independent or public schools compared to just 7% in the general population. The Law Society runs a diversity scholarship scheme and a social mobility ambassadors programme to tackle this disparity.

38. The Chair asked for the Law Society's views about diversity and inclusion within the judiciary, and in particular on the review of the "statutory consultation" stage of the selection process. The Law Society has called for this stage to be abolished, and more generally would like to see an ambitious plan for increasing judicial diversity.

39. Libby noted that the Law Society would like to see investments in the justice system tied to the levelling up agenda. There is a white paper due out at the end of October on this topic and would welcome collaborating with the Panel in responding to it. The Law Society is also working on a twenty first century vision of access to justice which will go beyond funding questions and involve mapping the type of people and issues that require legal representation. This analysis will look at efficiency, legal technology, the unregulated sector and unbundling and it is hoped it will be a sector wide project. They also have a long term strategy on changing the narrative so that the public understand how important the justice system is to everyone.

Action: Secretariat to coordinate a further meeting between the Law Society and the Panel to follow up on specific projects they can collaborate on

Item 10 - Draft Agenda for 10 November 2021 meeting

40. Presumably the November meeting will also be a hybrid meeting from 1 to 5pm. Members will update the secretariat closer to the date as to whether they will attend in person. There are three substantive presentations planned from the SRA, LeO and LSB.

Item 11 – Any Other Business

41. It was discussed and decided that the Consumer Panel's Away Day will be held in January 2021. Accordingly, the first Panel meeting of 2022 will be held in February.

Action: Secretariat to investigate options for an Away Day venue