



Minutes – Legal Services Consumer Panel meeting

Date: 16 February 2022

Time: 13:00 – 17:00

Venue: online meeting

Present:

Sarah Chambers	Chair
David Abbott	Member
Liz Owen	Member
Mark McLaren	Member
Adam Cooper	Member
Lola Bello	Consumer Panel Manager
Heidi Evelyn	Consumer Panel Associate
Danae Shell	Valla (Item 7)
James Conyers	Refugee Action (Item 8)
Tania Hardcastle	LSB (Observer)

Item 1 – Welcome and Apologies

1. The Chair opened the meeting and welcomed those present online.
2. Apologies were received from Paul Crook and Lisa Davis. The Chair noted it was very helpful and good practice for Panel members who cannot make a meeting to send comments on the papers to the Chair or the secretariat ahead of the meeting.

Item 2 – Declaration of Interests

3. None

Item 3 – Minutes of March meeting

4. The Chair presented the minutes from the 10 November 2021 meeting which had been agreed via electronic correspondence.

Item 4 - Matter arising

5. All matters arising were acknowledged.
6. It was confirmed that Adam, Mark and David, along with the secretariat, would present at the SRA's Senior Leadership Away Day and also visit the Legal Ombudsman on 31 March 2022.
7. The secretariat submitted the consultation response regarding SIF to the SRA and also put out a joint press release with the Law Society highlighting the SIF's key consumer protection component.

Item 5 – Chair’s report and members’ updates

8. The Panel discussed the Chair’s report including updates on meetings attended by other Panel members.
9. Liz provided an oral update on the Group convened to provide guidance on the implementation of the single digital register which is being led by the LSB. This project has now been named the Regulatory Information Service and is intended to be made available directly to consumers as well as to others such as DCTs. They have had two meetings of this group, established the TORs and will meet for the third time next week.
10. The Regulatory Information Service Working Group has membership from all frontline regulators and wants to develop a policy proposal for the service and to support the LSB to do a proof of concept to study how it can be implemented effectively. The group is aligned on ensuring the plan accounts for user needs and how to technically draw all the information together but the proof of concept will require funding.
11. The Chair commented that it was a shame this wasn’t done earlier, but was happy it is being done now, especially as there is a strong commitment to do a good job and get good traction.
12. David highlighted the SRA Annual Compliance conference as a very large event that in normal times attracts more than a thousand service providers and would therefore be a good way for members of the Panel to engage with solicitors and firms informally. We should plan to do so next year. It includes a hall with stands, which may be an option for the Panel. The Chair agreed this was a good opportunity which we should discuss with the SRA ahead of time so that we could be exempt from a stand charge. The secretariat thought we should agree on a topic we would like to address early on with SRA and plan accordingly.

Action: Contact the SRA to find out about next year’s Annual Compliance Conference

Item 6 – Project updates and consultation responses

13. The Chair commented that we have been doing a higher than usual number of consultations. The secretariat acknowledged this and explained that we do vet them for ones where we have expertise, but it is also important to participate in relevant Ministry of Justice ones.
14. The secretariat provided an update on the consumer-focused regulation project. The Panel will not be getting the full amount needed to complete the project as planned. It seems that our request was just too late in the LSB’s budget setting cycle, but it is likely that the Panel will get a smaller amount to do the project in the next financial year. The LSB’s CEO has asked that we have a discussion with their General Counsel and Head of Finance about working out a framework within which the Panel would in future request funding. The Chair will be included in this meeting and it would be useful for Liz to join to address the particular research issues we want to cover as a Panel.
15. Mark confirmed that because the LSB did not agree to a procurement waiver, we will have to get three quotes for the research we want done, which will introduce further delay. The Chair agreed but explained any funding would be in the next financial year anyway and may only fund the first phase. The secretariat noted that it could also be completed as a one phase project. The Chair felt it would be useful to have the planned follow up work and Liz agreed there are ways to procure the research with the possibility of follow up work later.

16. Liz was concerned that any framework for how the Panel operates and gets funding approvals from the LSB raises questions around the Panel's independence, specifically how we choose to use our budget and who we choose to work with. The Chair agreed that we were happy to take technical advice on procurement and research matters, but not on the content of our work.
17. The secretariat noted that the preferred option would be to request an uplift to our budget which has remained the same for nine years. It also pointed out that the LSB said we could go to them for additional funds at an appropriate point which would work in theory but is more problematic in practice. It was agreed that the Panel would request a general budget uplift.

Action: Sarah, Liz and the secretariat to meet with the LSB regarding a funding framework document

Item 7 – Valla Presentation

18. The Chair welcomed Danae Shell, Co-founder of Valla, a lawtech startup working on helping people with employment law problems. Valla is currently participating in the SRA's unbundling pilot and Lawtech UK's regulatory sandbox.
19. Danae explained that Valla would not exist without the Panel's research. When Danae and Kate started Valla, they researched legal services and were guided by the Panel's research. Because their background was being senior women in tech, not lawyers, the CMA Report and the Panel's Tracker Survey helped them understand the sector. This research is really important for anyone who wants to do something for consumers.
20. Danae and Kate started Valla because they had junior employees who asked them to help with employment related problems such as sexual harassment and discrimination, but they did not know how to help. They met while working for FreeAgent, where they worked on the accounting software that helps people organize and collect their accounting information and access accounting help where needed. They thought they could do the same thing in legal services and only realised later this was called unbundling.
21. The Valla platform will be able to organise a person's story, collect documents and even produce tribunal filings or legal documents and is targeting those who are under-represented. The plan is to be able to purchase simple letters from £10 ranging up to £100 for more assistance drafting legal documents. The goal is affordability or to be able to conduct a case from start to finish for a maximum of £500, about 10% of what it would cost using traditional legal services. They want to be able to help a person with organisation, obtaining legal advice and accessing emotional support (from coaches).
22. The idea is to build a case management system around the consumer. There will also be a share functionality where a person can share their case with someone else who may provide assistance. Everything so far is free and they intend to add paid documents over the next month. A person can also have their documents checked for simple professionalism leading up to an actual legal review. Valla is aligned with the Panel's thinking on unbundling being the way forward in helping consumers to get affordable help with their legal issues. Valla plans to move into housing and tenancy law, family law and immigration law later on.
23. The Chair was very happy to hear they would be applying their product to other areas of the law where access to justice is also an issue and asked whether will writing was also on their list. Danae explained that they didn't want to get into commoditised parts

of the market, but the Chair asked Valla to reconsider as there were still many who were under-served in will writing, particularly some minority ethnic groups.

24. Mark asked what was behind the company's name and Danae explained it was value based law. He also asked how Valla would monetise their product and Danae said that Valla was backed by venture capital, but was really a "profit with purpose" company, whose first layer of profits would be from consumers. Then they would add professional services including solicitors, barristers or even HR professionals; they are talking to the SRA about referrals. They believe their software could help millions of people so they are very confident in the market.
25. Mark asked whether general issues going to the small claims court could be another area to tackle, and Danae confirmed they were looking into it. Danae explained how they wanted to be able to help people understand what aspects of their case are important in the eyes of the law as many people did not even know the right terms to use. Valla addressed this by asking clients lots of questions.
26. David asked about small (or micro) business needs and while Danae acknowledged this was not a target in the short term, she did appreciate that if Valla was able to help employers do better, that would also help the consumer. Small businesses could also be consumers of legal services and were often also under-served. David also suggested that Valla follow the work HMCTS was doing to digitise their services. Danae explained they would ideally want to test Valla with litigants in person at a tribunal. The Chair encouraged this dialogue because the HMCTS did not always look at the issues sensitively from the consumer angle.
27. Adam asked whether they had received any feedback from those who were digitally excluded, or even from lawyers. Danae said they were designing their product to accommodate those people, for example being mobile friendly as many people only had a phone, not a tablet or laptop; they were also using email to make uploading documents easy. They are also working with law clinics to find those who were not able to access their services via a browser. As for lawyers, Valla tells them they could take away the non-legal work and thereby help them to be more efficient in carrying out the legal work which they were best placed to do. Barristers are interested, and solicitors generally seem content with Valla's entry into the market. The Chair asked whether Citizens Advice would be interested in this model but Danae thought they had their own internal system but it was agreed they would be good people to signpost the services offered by Valla.
28. Danae also said they were working on PLE initiatives to help people recognize their legal problems. For instance, they would soon be launching a program on how to be a discrimination first aider which aimed to train people how to be first responders to any discrimination they encountered.
29. Liz asked how hard it was to get lawyers to agree on advice and how helpful the regulators have been. Valla has an in-house lawyer and another lawyer for escalating things, but with a startup they have to move fast and revise things as they go. The SRA had been fine so far but they have realised Valla will probably have to be regulated as a claims management company under the FCA eventually.
30. Panel members encouraged Valla to provide the Panel with any feedback on their experience with unbundling and keep in touch so that the Panel may assist. Danae agreed and cited how useful the Panel's unbundling report was and helped them to decide to concentrate on marginalised people. The Chair felt that it would be good to

ensure that Valla also met with Lisa and Paul who were unable to make today's Panel meeting but would have knowledge and insight to share.

Action: Secretariat to ensure Lisa and Paul also meet with Valla to share their expertise

Item 8 – Refugee Action Presentation

31. The Chair welcomed James Conyers, Legal Trainer and Student Support Manager at Refugee Action to the meeting.
32. James explained that the Immigration and Asylum Act 1999 makes it an offence to provide immigration advice unless one is regulated by a regulatory body which includes those regulators listed in the Legal Services Act plus the Office of Immigration and Services Commissioner (OISC). OISC also performs enforcement of these provisions (ie. prosecutes unregulated individuals and organisations who provide immigration advice), and exercises some oversight of regulators in immigration.
33. OISC Advisers are skilled and knowledgeable but do not fall within the Legal Ombudsman's ambit. OISC advisers include those who don't charge a fee, many of whom are in hybrid roles within charities but if they provide any advice at all, they become an OISC adviser. Most asylum seekers are eligible for legal aid, and solicitors do the bulk of legal aid work.
34. Refugee Action's recent research into barriers to complaining about legal services surveyed asylum seekers as well as caseworkers. It found many barriers to complaining including:
 - People from overseas are often not aware that complaining is an option
 - Low understanding of the role of advisor
 - Fear that complaining will negatively affect a claim
 - Inability to recognise when a complaint is warranted (unless another lawyer identifies a problem)
 - Interpreters often discourage people from complaining
 - Those helping people do not have funding for helping with complaints (disincentive)
 - Complaints about legal services is often at the bottom of a list of more pressing emergencies such as destitution
 - Complaint procedures do not address loss of status, so no incentive to complain
35. Refugee Action found that there is a deep sense of powerlessness for refugees and asylum seekers, as the lawyer or advisor holds all the cards. There is a connection between a lack of knowledge and fear of complaining. Even case workers found it hard to tell if there was a legitimate complaint. There were also threats to asylum seekers and the organisations that help them to report them as having contravened the Act if they complained.
36. Solicitors were found to be providing the greatest amount of poor advice, but this could be because they handle the majority of legal aid funded asylum cases. Illegal (usually unregulated) providers were also a problem. Within the legal aid system, solicitors' competence is assessed, but outside legal aid there are no checks on whether providers are competent to give immigration advice. The three main problems were poor service, poor advice or other negligence such as missing deadlines (which can be fatal in the current immigration regime).
37. In order to deal with these issues, Refugee Action recommends anonymous reporting. Even though it is hard to base a single case on this type of reporting, it could help identify which firms should be audited. In addition, getting the correct information to

consumers at the right time (maybe via the Home Office or charities) was also very important as it is unclear that people are accessing the platforms where information is currently available.

38. The Chair acknowledged that there is space for a collaborative approach for regulators and other groups helping asylum seekers here as it is sometimes easier for regulators to act together. James agreed and also thought a centralised immigration complaints portal which directed people to the right regulator would be helpful.
39. Liz highlighted how regulators in other sectors tried to proactively obtain positive and negative feedback from users, such as “How is your care?” or FCA programs. This could be a good starting point to gather intelligence on service providers.
40. David also highlighted the connection to ongoing competence and that Refugee Action’s research is good evidence to require lawyers to prove their competence because it demonstrates that the absence of complaints does not necessarily mean there is not a problem, given the strong disincentive to complain. James noted that it is largely outside legal aid where competence is a real issue because of the legal aid assessment scheme (which is still arguably easier than OISC’s assessment scheme).
41. There was a discussion about whether OISC is fulfilling its oversight duty but it was acknowledged that they probably do as much as they can within their extremely limited resources, and have made efforts to try to work collaboratively with regulators in legal services. OISC takes complaints for OISC advisors only and the Legal Ombudsman would rarely be able to offer practical support in any event, because people would have been deported by the time they look at their file. Unfortunately, James felt that while the SRA recognises there is a problem, this area is not a priority. Refugee Action would like to see the SRA do more thinking outside the box and be more practical. The secretariat noted that the SRA met with OISC last year but the robust action that is needed is still not happening and outcomes have not changed. James noted that involving consumers in this work is key.
42. The main concerns with legal aid are that it is hard to qualify for it and the system disincentivises quality. Most cases only get a fixed fee which would pay for about 8 hours of work, a negligible amount for these types of case. There is also a significant financial risk for solicitors and firms because the Legal Aid Agency is ruthless at auditing files and refuses to pay if they find anything wrong at all. Unless you can qualify for escape fees (where an hourly rate is payable), this area of law must be subsidised by another area if it is to be sustainable.
43. Advice deserts are also an issue even in the southwest. It is very hard to find free advice in London for example. Jo Wilding will soon be putting out a very detailed report on advice deserts.
44. James acknowledged that any pressure the Panel could put on the SRA or other regulators would be invaluable. With the toughening up of immigration laws, it is a perfect storm of factors that means it is a very dire situation for migrants.

Action: Secretariat to draft letters to the SRA and to the LSB to draw their attention to Refugee Action’s new research and the ongoing problems that refugees and asylum seekers face in trying to obtain satisfactory legal services

Item 9 – Discussion on the 2022/23 Work Programme

45. The Panel discussed the options for areas to work on in the 2022/23 Work Programme and agreed on concentrating on a few new strands of work including:

- Completing the consumer-focused regulation research project
- Exploring solutions to opening up access to services in family law
- Statistical and expert analytical approach to a ground-up review of the Tracker Survey to minimise questions and leave a larger space for exploring topical areas each year

46. It was also noted that the increased amount of early engagement with regulators and other stakeholders is taking a lot of time though it is an important opportunity to influence policy. The secretariat will try to cut down on meetings after a consultation is published as meetings at this point often do not add more value than putting in a well-reasoned response.

47. Finally, the Chair also reminded the secretariat that the new Panel member, if finally appointed, will also have to be involved in any working groups formed under the new Work Programme.

Action: Secretariat to prioritise meeting with regulators prior to consultations being released

Action: Secretariat to produce final draft of Work Programme for approval at the next Panel meeting

Item 10 - Draft Agenda for 24 March 2022 meeting

48. It is hoped the March meeting will be a hybrid meeting from 1 to 5pm. Members can update the secretariat individually as to whether they will attend in person.

49. The final work programme will be approved at this meeting before being referred to the LSB. It is also hoped that we also have more information about the Panel's budget after the meeting with the LSB. The Panel will also want to discuss the Monitoring and Evaluation Roundtable that we want to hold in the next financial year (following the publishing of the Panel's Monitoring and Evaluation paper).

Item 11 – Any Other Business

50. None.