



Minutes – Legal Services Consumer Panel meeting

Date: 12 May 2022

Time: 13:00 – 17:30

Venue: hybrid meeting (in person and online)

Present:

Sarah Chambers	Chair
Adam Cooper	Member
Dan Newman	Member
David Abbott	Member
Lisa Davis	Member
Liz Owen	Member
Mark McLaren	Member
Paul Crook	Member
Lola Bello	Consumer Panel Manager
Heidi Evelyn	Consumer Panel Associate
Ben Wagenaar	SRA (Item 7)
Dharmista Mistry	SRA (Item 7)
Aisling O'Connell	LSB (Item 8)
Tom May	LSB (Item 8)

Item 1 – Welcome and Apologies

1. The Chair opened the meeting and welcomed those present and online.
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 24 March 2022 meeting which had been agreed via electronic correspondence.

Item 4 - Matters arising

5. All matters arising were acknowledged.
6. Lola provided an update on the LSCP/LSB MOU which was coming along well but had been delayed due to holidays. The next draft should be able to be shared with the Panel.
7. Heidi explained that she and Lola met with Dan about the MOJ criminal legal aid consultation due next month and that they decided the Panel would put in a brief

response outlining the perspective of legal services consumers rather than answering the technical questions.

Item 5 – Chair’s report and members’ updates

8. The Chair updated the Panel on the meetings she had since she wrote her report including a lunch with the Sole Practitioners Group. It would be useful to have Joanna Connelly of the Sole Practitioners Group talk to the Panel about insurance and compensation issues.
9. The Vice President of the Law Society should come to a Panel meeting, preferably before she starts her term as President so the Panel may discuss her agenda.
10. The Chair also updated the Panel on her attendance at the BSI launch of their practical consumer vulnerability standards. She also met with Frances Harrison, a former Panel member, who reminded her that the Panel had an excellent consultant work on vulnerability research previously who may be useful again. The Chair would want to be very involved in the work being done on vulnerability. The Panel had provided strong suggestions before but the LSB did not take them all on.
11. There was a discussion about the positive findings in the qualitative research on ethnic minority consumers and also in the Tracker Survey. However, the quantitative findings are caveated by the slightly younger Panel being surveyed by the new research company. Liz felt that we can still be reasonably confident that the results are also consistent with the changes we saw last year in how people were shopping around more during the pandemic. It is also noticeable that satisfaction and other factors are also increasing which is consistent with increased shopping around and better outcomes for the whole consumer journey. And while the qualitative research findings are not surprising, they do present an opportunity to interest others into doing further research in this area. But the Panel will have to consider how to communicate these pieces of research and then seek Paul N.’s input. Many Panel members felt it may be useful to release the qualitative piece as a stand alone research project separately from the Tracker Survey. Adam felt that the individual stories will bring the Tracker survey to life for use in all our work.
12. Some Panel members had read parts of Professor Mayson’s new update on legal services and felt that it would have some important implications to be discussed when he comes to talk to the Panel at the June Panel meeting.

Item 6 – Project updates and consultation responses

13. The Panel noted the consultation responses that were submitted and progress on the Panel’s projects.
14. Lola, Heidi, Adam and Mark travelled to Birmingham for the SRA Senior Leadership Away Day to make a presentation on monitoring, evaluation and segmentation. They felt it was a great atmosphere and all participants were very thoughtful and engaged. The monitoring and evaluation discussion was mostly well received and there were positive and considered discussions during their interactive small group session addressing how the segmentation research could be used.
15. The presenters who followed were the two professors from Bayes Business School explaining the extensive research project they are doing on legal services consumer segmentation, involving both quantitative and qualitative research, for the SRA. They said the Tracker Survey had inspired them. Consequently, they were very keen to talk to the Panel and Adam thought it would be very useful to engage with them early on to

help shape the project and have an inside look at what is being done. Mark noted they had just completed the literature review so they are still in the very early stages.

16. Lola reminded everyone that the secretariat and some Panel members had already had a couple of meetings with the SRA before they found a research partner to carry out the work, but this was the first time we saw the actual research team. Liz felt that everything we have heard so far indicates that they are taking this project very seriously and trying to do it to a very high standard. Heidi explained the Bayes team had been invited to this Panel meeting but as they were unable to make it, they had suggested another date in May which would be confirmed shortly.
17. With regard to the Consumer Focused Regulation project, Panel members thought it could be useful to explore cost-sharing or joint research with a complimentary body.
18. There has also been discussion about the LSB possibly commissioning the Consumer Panel to do some work on the contextualisation of quality indicators. The LSB did this in 2016 which led to a 2016 Panel paper which was useful. In the consultation on the consumer empowerment policy statement, there were many responses that cited contextualisation as a barrier to publishing complaints data. Panel members noted that regulators would have to do lots of research with consumers to find out how to ensure consumers are able to understand and use this information effectively. This process is what would need to be set out in any commissioned paper. It would need to explain what primary research the regulators need to do and then how they could use that information to design an effective regulatory intervention. This analysis should focus on how quality indicators can help service providers and ultimately how they can help their consumers.
19. The MTCOG meeting was happening at the same time as the Panel meeting, so Liz left to participate in the discussion about the contextualisation of quality indicators in that online meeting in order to update the Panel at the end of the meeting.

Action: Secretariat to confirm the meeting with the Bayes Team working on the SRA consumer segmentation research

Action: Secretariat to have further discussions with the LSB about a possible commission on how to go about contextualising quality indicators

Item 7 – SRA Unbundling Pilot Team

20. The Chair welcomed Ben Wagenaar, Head of Innovation and Technology, Regulatory Policy, and Dharmista Mistry, Innovation and Technology Policy Associate, who are wrapping up the Family Law Unbundling Pilot at the SRA. She also noted how happy the Panel was to see that this pilot project was happening.
21. Ben explained that there are some emerging themes from the pilot, however, they were still waiting for the YouGov consumer research they had commissioned. There were 20 different sized firms, a charity and a technology start-up that formed the cohort for the pilot, who were all interviewed. One main recurring theme was about getting professional indemnity insurance (PII) for unbundled services, so they had spoken with the SRA Insurance Data Committee which is a forum with many insurers who offer PII to solicitors. They told them they don't see very many applications which include unbundling. The rate can be as low as 1 or 2% while it seems that unbundling is happening more widely. Some solicitors did see unbundling as a way to increase access to justice though they do not always call it that. Therefore, the SRA plans to look into the term "unbundling" to see how well it is understood in the profession as well as with consumers. It was also clear that insurers were very worried about unbundling,

specifically where consumers could make an error that would increase their risk and therefore wanted to ensure the scope of the retainer is extremely clear.

22. Technology is being used by firms to assist with unbundling. For instance, one firm uses software where clients will provide information online before they even meet with a lawyer and then ask questions and segment each user based on their answers. Interestingly, insurance companies find there is less risk where a firm uses technology because there is an audit trail.
23. For those solicitors doing unbundling or thinking about it, the top two concerns are insurance and the capability of the client. The Chair questioned whether they were worried about the capability of all clients and how they tested capability. These were questions that would have to be explored in the future. When technology is used, some technical agility is required just to sign on to the portal. Some firms don't advertise an unbundled service because they gauge the client's capability before offering it.
24. The YouGov survey commissioned by the SRA asked questions of people who had used all kinds of legal services (excluding conveyancing), half of whom used unbundling and half who didn't.
25. Paul noted that if the firms that are doing unbundling are small or medium sized firms they might struggle to invest in technology because it is not something that can be bought off the shelf. Most of the SRA firms they looked at were small to medium sized firms, though there were also some unregulated firms such as the legal start-up. David asked about whether they had cross-referenced their data with the Legal Ombudsman and Ben said they would investigate that possibility, as evidence around complaints in the unbundling space could be useful.
26. The Panel suggested that unbundling is not universally understood, and it must be explained. What is covered in the retainer is as important as what is not covered. These are issues that would be addressed in the client care letter as well as ongoing communication between the service provider and the client. The unbundling pilot also showed that the majority of unbundling clients are vulnerable clients and this makes a difference to accountability for the solicitor because they need more help to understand things. This increased risk is what insurers are worried about. It would be interesting to see if insurers have look for lessons from other sectors.
27. The secretariat noted that the Panel had done research in this area some years back and had found that providers were having the same types of concerns then. The Panel had suggested clear guidance as a way of allaying some of these concerns. Guidance and more specific transparency rules are being considered. It is also important to recognise that the unregulated sector is the fastest growing area in unbundled services. The Chair asked whether guidance on unbundling for the free advice sector could be helpful as they don't give legal advice but do provide options to those who could not get legal assistance. Mark pointed out that often the front door is an unregulated firm but with unbundling they often then point a consumer to a regulated professional for specific services, which means that the provision of guidance to unregulated firms might still be relevant to the SRA.
28. Paul noted that "consulting" means you get feedback as opposed to "informing", where the provider would not necessarily get feedback. This difference is an important way to reduce liability. Risk frameworks from other sectors could be helpful.
29. The Chair felt that those who are unbundling unconsciously are the most risky as they may do it without the right communication to support it and while it might look like a

conventional product, it increases risk for everyone. Where communication is really good, it is less likely that there will be problems.

30. Liz explained that specifically defining the risk is a good way of dealing with it and Dharmista said the SRA is looking more closely at risk with insurers, and unbundling has been added to the list of areas to examine. Data from the Legal Ombudsman would also be useful in defining the risk. The cases that have gone to court are a very tiny proportion of those using unbundling.
31. As they are wrapping up the pilot, they will put out a report and host a webinar to launch it to provide a platform for further discussion. Paul thought it would be important to highlight unbundling best practice to reduce the risk and make the market more dynamic and efficient. David pointed out that industry champions who can speak to the realities of unbundling could be very powerful in showing that there are those who have insurance, are doing unbundling and making a profit from it.

Action: Secretariat to consider putting out a blog post once the Unbundling Report and Consumer Research is published to keep the unbundling conversation going

Action: Secretariat to explore whether Citizens Advice or Legal Choices will include unbundling as an avenue to legal services for those with limited resources (suggestions webpage)

Item 8 – LSB Vulnerability Research

32. The Chair welcomed Tom May, LSB Research Manager and Aisling O’Connell, LSB Regulatory Policy Manager to tell the Panel about the LSB’s new vulnerability research. Community Research did a literature review and then 30 in-depth interviews were completed with members of the public and 10 interviews with various advice organisations in November 2021.
33. The LSB was looking at vulnerability by considering whether an inclusive design approach could be useful. The Chair noted that the aim should be optimising legal services rather than focussing on detriment. Particularly in legal services, most individuals have elements of vulnerability. Tom agreed that it was the nature of the interactions, not the nature of individuals, that determines the effects of consumer vulnerability – which is not a fixed state but can fluctuate.
34. Vulnerability affects a person’s sense of agency and can make new information even harder to understand. A power imbalance between the lawyer and the consumer can further reduce the sense of agency, especially where a consumer such as a homeless person or a victim of domestic violence may be uncomfortable with figures of authority.
35. Vulnerability is not always visible, for example individuals with dyslexia or a history of traumatic experiences. The research discusses the cases of real people. The advice organisations highlighted that market exclusion was a big issue as very few people they talked to would go on to enforce their rights. Lack of affordability, no easy supply of services available, lack of agency or feeling trapped by circumstances could all play a role here. In addition, poorer outcomes such as lower settlements were also more likely for these people.
36. Because the law does not map easily onto people’s lives, it makes it very difficult for people to realise they have legal issues. But if a person is able to connect with a lawyer, how he/she interacts with them and how the service is designed and delivered can increase or reduce a person’s level of vulnerability and manage their anxiety, which directly impacts on their ability to receive information and communicate.

37. Aisling explained how the LSB looked at these journeys play out, either having a legal service provider increase their vulnerability or reduce their vulnerability, via individual case studies. The circumstances people find themselves in when they need a lawyer (such as going through probate, a divorce, an accident or losing a job) can make them find it difficult to take in information or appreciate the legal aspect of the situation. Trusting a legal professional, feeling judged, power imbalances and low quality services or affordability are also issues for vulnerable consumers. After engaging with a legal professional, heightened sensitivities and emotions highlighted the importance of first interactions, expectation management and reassuring and non-judgmental interactions. As the journey continues, ongoing communication and client care is vital. For example, having tools to manage processes as opposed to having to do something new on their own had opposite effects on vulnerable consumers.
38. All of this research led the LSB to suggest that there is a case for inclusive design of legal services in the face of processes that do not recognise that everyone can be vulnerable. In addition, because legal professionals can impact the level of vulnerability, an inclusive approach can benefit everyone.
39. Suggestions that came from individuals and organisations in the study included public legal education, trusted intermediaries to address lack of knowledge; community links and co-location to help people identify legal needs; helping people choose legal professionals, increasing affordability and authoritative tools to help people check trustworthiness to increase accessibility; having consistent standards on cost, rules, and time-scales, employing empathetic approaches and understanding their needs, using plain language and consistent communication to improve interactions.
40. Panel members noted how much cross-over there was between the Panel's qualitative research on ethnic minority users and this vulnerability research. The Chair also pointed out that the newly revised BSI standards on vulnerability are very practical and could be useful. Aisling explained that they would like to do something on education and training guidance to ensure more consistent standards. The Chair explained that it needs to be done for everyone and not only those entering the profession so ongoing competence could also be relevant. The LSB planned to launch the research at the end of June with an interactive event to discuss these practicalities.
41. Dan felt that accessible information about what to expect would be very helpful. He has described what is needed from individual lawyers as an ongoing ethical approach. Liz would like to see recognition that both the individual professional and the firm have roles in creating inclusively designed services. It might be useful to set out standard information on what to expect and what a person's rights are etc., which smaller firms could just take and use.
42. There was a striking similarity in the almost universal vulnerability of legal services consumers and those receiving healthcare (more so than financial services) so looking at that sector could be very useful. The Chair also felt that the energy sector is also relevant because everyone is vulnerable in a power cut so they have been forced to look closely at vulnerability. Paul also noted that value in legal services could be seen as a function of the emotional impact on the consumer. Tom and Aisling invited the Panel to email in any further reflections.
43. The Panel all agreed that everything discussed today was all interconnected from vulnerability to complaints to unbundling. Diversity, ethics and vulnerability are also linked – even in how Dan describes the ability to deal with a client's needs as an ongoing ethical obligation. And legal services consumers, whether they are vulnerable or ethnic

minorities or just trying to navigate the system, make very similar suggestions for how service providers can improve their services such as using intermediaries and quality indicators.

44. The Panel would like to see something mandatory to address vulnerability. When the research is published, the Panel may want to push for concrete actions to address it.

Action: Secretariat to draft a letter to the LSB asking about what actions will be implemented to improve the experiences of vulnerable consumers

Item 10 - Draft Agenda for 23 June 2022 meeting

45. The Panel will be hearing from Professor Mayson about his updated report and from the LSB on the PII and financial protection research they commissioned at the June Panel meeting. Panel members want to hear from the MOJ (to build on the former Minister Wolfson's letter we received) and the Vice President of the Law Society at the September meeting. Separate meetings can be held with the Bayes SRA segmentation research team and the Unbundling Pilot team once they have the consumer research. Mark also asked about an update on the LSB's work on legal expenses insurance. The secretariat may also try again for Claire Moriarty or another person from Citizens Advice. There was also interest in hearing from the All Parliamentary Group on Legal Aid.

Action: Secretariat to invite the guests as discussed for future Panel meetings

Action: Secretariat to arrange meetings with the SRA unbundling pilot team to discuss the consumer research findings; and with the Sole Practitioners Group

Item 11 – Any Other Business

46. The Panel discussed whether there was anyone available to attend the LSB's stakeholder breakfast meeting in Leeds on June 6th. As there were no other appointments in Leeds and limited availability of Panel members, the Panel will have to decline the invitation.

47. The LSB is also putting on a sector-wide conference entitled "a diverse public deserves a strong, ethical and diverse profession" on 13 October 2022. It will be primarily in person with some wrap around online activities. Dan will check on his schedule to see if he can appear online and Adam, Paul and Sarah said they were available to attend in person.

48. In order to keep the discussion going about the sector-wide strategy, the LSB is also launching a microsite to track progress on the 10-year strategy and they have invited the Panel to post content. The Panel decided that Sarah will do a short video discussing how everything the sector is working on for consumers is interlinked and when you improve one, you realise benefits in other areas as well. The Panel keeps being reminded of this when every which way you look at different problems, the same themes come up over and over again.

49. The Board to Board meeting with the LSB is on 12 July 2022 and the secretariat requested Panel members to send in any ideas they had about agenda topics. Some ideas that were discussed were quality indicators, vulnerability and consumer focused regulation.

50. Panel members' availability for a meeting with the Bayes SRA segmentation research team was discussed for the end of May.

Action: Secretariat to draft a script for the Chair's vlog to appear on the LSB sector wide strategy microsite