

BAR
STANDARDS
BOARD

REGULATING BARRISTERS

Evaluation of the CMA transparency pilot

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Executive summary

Background and context for the research

In December 2016, the Competition and Markets Authority (CMA) published the findings from its market study into the provision of legal services in England and Wales. One of the key recommendations of the CMA study was for the frontline legal regulators, including the Bar Standards Board (BSB), to deliver a step change in standards of transparency and introduce new price and service disclosure requirements.

As part of a wider response to the CMA recommendations, the BSB commissioned a research study and organised a consultation with the profession and consumers to improve our understanding of the issues surrounding transparency. From 1 November 2017 to Wednesday 28 February 2018, the BSB ran a pilot scheme with nine chambers, entities and sole practitioners to test some suggested minimum disclosure requirements based on the CMA recommendations.

The evaluation was organised in two strands. The first strand gathered information through telephone interviews with eight pilot participants. The second strand collected quantitative information from the pilot participants' clients via an online survey. This report summarises the key findings from the evaluation of the transparency pilot scheme operated by the BSB.

Key findings from the participants' interviews

Implementation

- The implementation of the minimum disclosure requirements was perceived as relatively easy by the participants. The key reasons for that were:
 - Fee scales and service information were available to them internally prior to the pilot (just not published on websites).
 - The high level of expertise in specific areas of law and the small size of the sets made implementation easy, but some participants speculated that it would not be as easy for larger sets offering a wider range of services. For some participants, price and service transparency were already part of their marketing strategy, especially with public access work.

- A few participants experienced some initial concerns internally regarding price transparency. Some of the key concerns were:

- The risk of a 'race to the bottom' i.e. with price transparency the market may end up being solely driven by price information to the detriment of the quality of the service.
 - The risk of 'putting off' clients with the display of prices that may look high at first glance.
 - The risk that professional clients (e.g. solicitors) perceive price transparency for public access work as a competitive threat from barristers.
- None of these concerns materialised during the pilot according to the participants.
- With regard to the methods used to display price information:
 - It is key to emphasise the indicative nature of the prices displayed online.
 - Indicative prices were determined based on the experience of the participants (very often, their clerks), on the average number of hours needed by the type of cases and on the fee scales already available internally.
 - Some participants decided to go beyond the minimum disclosure requirements and provided further price information, such as discounted rates for low income clients, payment options or a specific fee structure for small claims.
 - Participants predominantly outsourced the changes required to put the minimum disclosure requirements on the website. However, it was seen as a necessary cost as they all planned to keep the information up once the pilot ended.

Perceived benefits and outcomes

- On business:
 - It was too early to objectively observe any impacts of the pilot on the participants' business. However, a few positive experiences were observed (not directly attributable to the pilot) and no negative effects were reported.
 - In terms of positive outcomes, one participant reported that their client conversion rate (the number of enquirers ultimately instructing barristers) had almost doubled over the duration of the pilot. Another participant who had started to display prices in January 2016 observed their largest turnover increase since, and a significant decline in late payments with the average number of days for payments decreasing by half.
 - Participants, mostly their clerking teams, reported receiving fewer basic queries from potential consumers on price and service information over the duration of the pilot.

- On clients' experiences:
 - Participants did not receive any complaints regarding the new information displayed from clients over the duration of the pilot.
 - Participants speculated that increased transparency may help to address the public's perception that barristers are expensive and difficult to access. It enables consumers to 'shop around' and compare providers.
 - New price information might provide more certainty and clarity to clients on what they are ultimately going to be charged.
 - Participants speculated that increased transparency is likely to be of more benefit to lay clients, especially public access clients.

Future plans

- Most participants indicated that they plan to keep the minimum disclosure requirements in place after the pilot.
- Three participants plan to extend further the range of fees provided on their website, to give a more comprehensive idea of the possible fees on more complex cases.

Views on the mandatory nature of the minimum disclosure requirements

There was no clear consensus on whether the minimum disclosure requirements should be mandatory across the profession or discretionary. The views expressed by the participants were mixed, but here are the key arguments raised:

- **Mandatory**
 - Minimum disclosure requirements should be applied to public access work as a priority.
 - It is key that barristers provide consistent pricing to their clients where possible, and do not fluctuate their prices excessively.
 - Indicative price information and factors that determine price as well as redress and regulatory information should be provided.
- **Discretionary**
 - A 'one-size-fits-all' solution would not be appropriate for the whole profession.
 - The number of practice areas and the size of the chambers are the two aspects to look at, as it will be more challenging for larger chambers with more practice areas to implement the minimum disclosure requirements.

- Large commercial sets are seen as less likely to interact with public access clients, hence the need for transparency would be less important for them.
- Minimum disclosure requirements should remain discretionary as it gives a competitive advantage to those who implement over the chambers that are not providing this kind of information, especially for public access work.
- Transparency should be a marketing opportunity rather than a regulatory requirement. The focus should be on its marketing value, and the BSB should show that they understand the difficulty in requiring the whole profession to provide this information on their practice.

Key findings from the clients' online survey

The findings from the online survey of the pilot participants' clients (35 respondents) indicated that:

- Respondents were satisfied with the level of information provided by the pilot participants.
- Lay client respondents needed more price and service information than solicitor respondents.
- Lay client respondents were more inclined to 'shop around' and review website information than solicitor respondents.
- Price information provided by the pilot participants was easy to find, useful and understandable, even though further queries were still needed.
- Service information provided by the pilot participants was easy to find, useful and understandable, and further queries on service were less frequent than for price information.

1. Introduction

This report presents the findings from the evaluation of the transparency pilot scheme run by the Bar Standards Board (BSB).

1.1 About the Bar Standards Board

The Bar Standards Board (BSB) was established in January 2006 as a result of the Bar Council separating its regulatory and representative functions. The BSB is responsible for establishing and implementing a range of regulatory measures to ensure that standards at the Bar are maintained and the interests of consumers are understood, protected and promoted. The BSB regulates over 15,000 barristers and 60 specialised legal services businesses in England and Wales.

The BSB is a risk and evidence-based regulator. Risk-based regulation means that we are constantly monitoring the market for barristers' services. We identify the potential risks that could prevent our regulatory objectives from being met. When we have done this, we focus our attention on the risks that we think pose the greatest threats to our regulatory objectives. We then take proportionate action to prevent those risks from occurring, or to reduce their impact.

There are three areas in particular in which risks threaten our statutory regulatory objectives, as set out in the BSB Strategic Plan 2016-19 (BSB, 2016a). One of these relates to 'improving how those the BSB regulates meet consumer needs'. The BSB Risk Outlook identifies that there is a lack of information to help consumers choose an appropriate lawyer, with little to help them distinguish between lawyers on quality, value and affordability (BSB, 2016b).

1.2 Background context

In December 2016, the Competition and Markets Authority (CMA) published the findings from its market study into the provision of legal services in England and Wales (CMA, 2016). It reported that legal services consumers find it hard to make informed choices because there is often little transparency about price, service and quality. One of the key recommendations of the CMA study was for the frontline legal regulators, including the BSB, to deliver a step change in standards of transparency and introduce new price and service disclosure requirements.

As part of a wider response to the CMA recommendations, the BSB conducted a range of research, including a web-sweep exercise to assess how many websites of barristers'

chambers published information about their prices (BSB, 2017a), and research which aimed to:

- improve understanding of the current issues, priorities and practice surrounding price and service transparency among barristers, chambers and regulated entities; and
- identify perceived barriers to publicising this information, along with a consideration of how to increase and improve transparency in ways that consumers would find useful.

The research findings were used to inform a policy consultation on transparency standards (BSB, 2017b). That consultation focused on how best to make any new transparency measures work for the consumers of barristers’ services. It proposed an approach to improving transparency standards at the Bar, based on the minimum disclosure requirements recommended by the CMA. The likely benefits for each CMA recommendation were categorised by the BSB into having a “very high impact”, a “high impact” or a “medium impact” for consumers of barristers’ services

1.3 About the BSB transparency pilot scheme

At the same time as the policy consultation, the BSB operated a transparency pilot. Pilot participants were required to test minimum disclosure requirements (MDRs) that would be mandatory information to display online in relation to price, service and redress, and that were suggested in the consultation i.e. those recommended by the CMA and categorised by the BSB as having a potentially ‘very high impact’ in terms of consumer benefit. The BSB’s suggested minimum disclosure requirements in relation to price were:

| Minimum disclosure requirements (MDR) | | |
|--|--|--|
| Price | Service | Redress |
| Pricing and charging model (e.g. fixed fee, hourly rates, capped charges, conditional fee agreement/damages-based agreement) | A description of the services that the legal services provider provides | Regulatory status, registration details |
| Hourly fees (where charged) by seniority of barrister or grade of staff | Indicative timescales of completing services and factors affecting these | Complaints process and access to the Legal Ombudsman (LeO) |

| | | |
|--|--|--|
| (Where offered) indicative fixed fees and factors that may affect these and the circumstances where additional fees may be charged | | |
|--|--|--|

Along with this set of mandatory information, it was also suggested that the participants could go beyond the MDRs and add some discretionary information such as:

- The mix of staff that deliver the service (this is unlikely to be relevant to the self-employed Bar);
- The key (and discrete) stages of services; and
- If they were undertaking Public Access work, a link on their website to the BSB's Public Access Guidance for Lay Clients.

The aims of the pilot were as follows:

- To trial how the BSB's suggested minimum disclosure requirements ('MDRs') would work in practice;
- To improve our understanding of the practicalities surrounding the implementation of the MDRs, including any barriers experienced by the profession;
- Where possible, to collect feedback and insights from clients to understand their response to the disclosure approach being tested;
- To inform our work going forward and, along with responses to the policy consultation, make any necessary adjustments before wider implementation.

The pilot scheme ran between Wednesday 1 November 2017 and Wednesday 28 February 2018. A total of nine participants were recruited to the pilot, comprising sole practitioners (3), chambers (4) and entities (2).

Pilot participants tested the MDRs in relation to price, service, regulatory status and redress (see Annex A). Participants had to comply with the requirements when undertaking Public Access work, and referral work where the client was entitled to complain to the Legal Ombudsman. This was done by providing the necessary price, service and redress information on a dedicated page or section of their website. Where necessary, they also included this information in their published literature.

Pilot participants were asked to ensure that the suggested MDRs were prominently displayed on their website. Two different display options were offered to them:

- Option 1 display: for sole practitioners and self-employed barristers in multi-tenant chambers to provide individual price information on their chambers' website.
- Option 2 display: for self-employed barristers in multi-tenant chambers to provide price information on their chambers' website in the form of ranges or average fees.

More details on the difference between the two options were provided to the participants in the Pilot Guidance (see Annex A).

Five participants chose Option 1, three participants chose Option 2 and one participant offered a mix of Option 1 and Option 2 considering the specific structure of their website. Among the five participants who chose Option 1, one participant did not have a website and offered a printed factsheet to their clients instead.

The pilot did not prescribe how or what fees should be set. Pilot participants were required to comply with the MDRs but variations in how they chose to present the information were permitted. Guidance was issued to all pilot participants to assist them in implementing the MDRs (see Annex A).

1.4 Evaluation aims

The aim of this evaluation was to assess the implementation of the pilot scheme and to explore perceived benefits and challenges. The findings will inform the development of new transparency standards.

In terms of scope, the evaluation focused on the overall experience of the pilot participants and, where possible, of their clients. It also aimed to identify any practical issues encountered by the participants when implementing the MDRs, and any necessary adjustments before wider implementation.

2. Methodology

2.1 Approach

Data collection for the evaluation was organised in two strands: the gathering of qualitative information from the pilot participants using telephone interviews, and the collection of qualitative information via an online survey.

a) Telephone interviews with the pilot participants

To evaluate the pilot, we collected feedback from eight pilot participants through a qualitative method of semi-structured telephone interviews. We were not able to interview one participant who was unfortunately unable to provide feedback during the data collection period.

Pilot participants were recruited as a result of the research activity undertaken over the summer, and a further callout for volunteers in October 2017. For a pilot of this type, where the overall methodological approach was qualitative, it was not necessary to seek a statistically representative sample; instead, a number of 10-15 pilot participants was initially sought. Eventually, a total of nine participants took part in the pilot scheme.

The sample of eight participants comprised four multi-tenant chambers, two sole practitioners and two entities. All participants except one undertook public access work. The key areas of law provided by the panel of participants comprised family, civil, employment, crime, immigration, intellectual property, tax, commercial and property. The role of the individuals interviewed ranged from sole practitioner barristers to directors of chambers, management consultants and senior clerks.

A topic guide (available in Annex B) provided an overall framework of questions and themes to be explored in line with the evaluation aims. Therefore, the topic guide combined a pre-determined set of open questions with the opportunity for the interviewer to encourage a discussion on specific themes or to explore some responses further. The questions were organised around four key themes:

- The implementation of the MDR;
- The potential impacts of the pilot on their business and their clients;
- Their future plans after the pilot; and
- Their suggestions for the wider implementation of the MDR.

All discussions and interviews were recorded - with the consent of participants - and fully transcribed. The transcripts were imported into a qualitative analysis software tool (NVivo Pro

11) which enabled their coding and analysis according to the main themes arising from the discussion. Recordings were destroyed once transcribed.

b) Online survey with the pilot participants’ clients

Providers taking part in the pilot were asked to pass on an online survey link to the solicitors and (where possible) lay clients instructing them during the pilot phase. The aim was to capture clients’ feedback on the new display of MDR on the providers’ websites and factsheet.

The survey comprised 25 closed-ended questions on the client’s experience at each step of the engagement with their barrister. The aim was to get any positive and negative feedback from clients on the display of the MDR. An incentive (prize draw for a £100 voucher) was offered to encourage participation.

The BSB did not monitor the number of clients who received the survey link. However, we asked participants to estimate the number of clients they dealt with over the duration of the pilot. Based on their response during the interviews, an estimate of 2,500 clients were dealt with during the pilots overall. This does not necessarily mean that the survey link was sent to 2,500 individuals, nor does it mean that 2,500 clients saw or were aware of the new MDRs.

35 responses were collected from 16/11/2017 to 28/02/2018. Seven respondents were lay clients (six through public access and one through a solicitor) and 28 were solicitors. Note that 21 respondents instructed barristers from the same chambers (which was displaying Option 2 information).

Table 1: breakdown of survey participants

| Participants | Option 1 display | Option 2 display | Option 1 / Option 2 mix | Not provided | Total |
|----------------------|-------------------------|-------------------------|--------------------------------|---------------------|--------------|
| Lay clients | 1 | 4 | 1 | 1 | 7 |
| <i>Public access</i> | <i>(1)</i> | <i>(3)</i> | <i>(1)</i> | <i>(1)</i> | <i>(6)</i> |
| <i>Referral</i> | <i>(0)</i> | <i>(1)</i> | <i>(0)</i> | <i>(0)</i> | <i>(1)</i> |
| Solicitors | 2 | 23 | 0 | 3 | 28 |
| Total | 3 | 27 | 1 | 4 | 35 |

In total, 27 respondents saw the Option 2 display, three respondents saw the Option 1 display and one respondent saw a mixture of Option 1 and Option 2. Four respondents did not indicate which display option they saw. There was an under representation of the Option 1 display; therefore, it is difficult to draw any broad conclusions on this model. Option 2 was, in contrast, well represented through the clients of multi-tenant chambers (the majority were clients of the same chambers).

2.2 Ethical issues

The key ethical considerations in this evaluation were as follows:

- Participation was based on valid informed consent: all participants were provided with a detailed explanation (both at the invitation stage and at the start of the interview) of the purpose of the evaluation and how the information provided would be captured, used and presented. Participants were asked for their oral consent to proceed.
- Permission was sought for each interview to be recorded to enable later analysis. All recordings were deleted after transcription.
- Non-disclosure of identity and personal information: assurance was provided that no individual, chambers or regulated entity would be identified or identifiable in the report of findings. Throughout the report, the personal details of participants have been anonymised and only selected anonymised verbatim quotes from the telephone interviews are presented.
- Enabling participation: the format and timing of the interviews were arranged at the convenience of research participants (within the parameters of the research timetable) to enable as many participants as possible to take part.

2.3 Limitations

There are some limitations that should be kept in mind when reading these emerging findings.

Qualitative insights

Part of the research involved qualitative methods as these offered the most effective mechanism to explore in detail the range of opinions and perceptions of the participants, based on their experience of the pilots and their knowledge of the profession. The qualitative elements of the research were undertaken by the BSB in-house research team. Although participants were assured at the outset of the confidentiality of discussions, it is acknowledged that the BSB's role as regulator might have influenced the nature of the feedback provided by interview participants; either positively or negatively. The choice of methods was driven by the nature of the evaluation aims as well as considerations of time and practicality.

Timeline and impact

Although the pilot scheme officially started on 1 November 2017 and finished on 28 February 2018, the participants each joined the scheme at different dates within that period: six started in November and two in mid-January. They joined when it was the most convenient for them, given their workload and the Christmas period, to deploy the new information on their website

and/or factsheet. Therefore, it is difficult to compare at length their experience over an unequal period of time.

Furthermore, the duration of the pilot was four months. As outlined by the majority of participants in the interviews, it is difficult to assess the impact of the pilot on their business and clients over a short period of time. The impacts reported in the findings are indicative and should not be treated as representative of the definite impacts of the pilot.

Telephone interviews - sampling approach

The findings of the interviews are drawn from a small sample of eight participants, which was limited to all but one of the pilot participants. It is recognised that this is a small sample and, accordingly, the findings are only indicative and should not be generalised more widely.

Survey approach

The survey findings offer a qualitative snapshot as opposed to a statistically representative view and are based on a very small number of clients who chose to respond to the survey link sent by their provider, a pilot participant. They, too, are indicative only and cannot be generalised to the whole population of legal services consumers.

3. Findings from the interviews

The research findings in this section are primarily based on information gathered from eight telephone interviews with pilot participants. They are presented according to the evaluation aims and key themes with illustrative quotes.

The eight participants comprised three multi-tenant chambers displaying Option 2, two sole practitioners and two entities displaying Option 1 and one multi-tenant chambers displaying a mix of Option 1 and Option 2.

Two of the multi-tenant chambers displaying Option 2 went beyond the scope of the MDRs and added discretionary information about discounted rates and payment options when they started the pilot. One of these two multi-tenant chambers was already displaying transparent price information before the pilot. One entity added discretionary information about their fee structure for small claims when they started the pilot.

Three participants made some minor changes in their display during the pilot (modifying individual members' information, adding the BSB logo and modification of a rate). All the participants indicated that they will keep the MDRs in place after the pilot.

3.1 Implementation

Participants unanimously found it easy to implement the MDRs on their website. The main reason for this was that the fee scales and service information were already pre-existing, so it was just matter of putting them on the website:

“It’s easy to set a rate, my hourly rate is between this figure and this figure. The clerking team all know what barristers are charging.”

“I think most chambers have some sort of internal fee scales they work to, because you can’t just stick a finger in the air every time somebody rings up. So, you probably got hourly rates, you probably got some sort of rough idea of fees that you charge for a certain type of work.

So, all we did was to formalise that and put it into a price list, which was actually quite straightforward.”

Some participants also mentioned that their specialised area of expertise and the small size of their practice made the implementation of the MDRs easy. Conversely, they suggested that bigger chambers offering a wider range of areas of practice would find the implementation of the MDR more challenging.

“It was easy, because of my years of call and experience there is market there for a particular price.”

“We’re quite a niche player, we only do family law and private clients, and we are not very big. So not that much difficulty really. I think [for those] doing a wider range of work, this is going to be a lot harder.”

The display of price and service information on the website was also easy for some participants as it was compatible with their marketing strategy. This strategy is focused on transparency, which is perceived as fostering engagement with clients, especially with public access work. As we will see in the Impact section later, transparency is perceived by some as adding a competitive advantage over providers choosing not to display price and service information.

“We’ve always been seen as a very innovative chambers so I don’t think people would have been surprised to see that kind of thing on our website anyway. It fits perfectly with what we do.”

“It’s been something that we kind of wanted to achieve ourselves anyway when we started up the entity, because we were trying to maximise the level of trust with clients. So, it really gave us a push to do what we wanted to do anyway with a bit more structure.”

Initial concerns about implementation

Although participants unanimously indicated that it was easy to implement the MDRs on their website, two of them in multi-tenant chambers faced some initial concerns from their members.

One of the internal concerns was about the risk of a ‘race to the bottom’ scenario in which the barristerial services market would be only driven by price, without considerations of the quality of the service provided. The participant who mentioned this particular concern said that they overcame it by explaining to their members that it was compatible with their marketing strategy: they are happy to not be seen as the cheapest provider on the market and instead focus their marketing outreach on their expertise and the quality of the service they provide.

“Yes, there was another issue which was raised by a member of the chambers who was formerly a solicitor. He referred to what happened in conveyancing as it was a race to the bottom, people would do it for £150-200 plus disbursements. He didn’t like the way that had worked. (...) And we said let’s picture ourselves as BA or John Lewis, yes we might not be the cheapest fee available but what you’re getting is high quality specialist advocates in

family law, not people who do criminal on Monday, family on Tuesday, civil on Wednesday.

We just do family law and that's how we sell ourselves."

Another concern faced by one participant was the risk perceived by their members of chambers of putting off clients with prices that may look high. They also mentioned that their members were worried that the solicitors they work with may perceive this new information offered to public access consumers as a competitive threat.

"Some members were worried about putting off clients because they thought people would look at it and think that the fees are too high (...). I think it was just a general uncertainty. But as it doesn't seem that we've been affected at all, I think their worries were baseless."

"They thought that solicitors wouldn't like it because it would be seen as an attempt to bring in more direct access work."

The methods used to calculate price information to display

Some participants explained in more detail how they managed to implement the MDRs for this pilot. It was key for them to be clear that the fees listed on the website were indicative. For example, to come up with indicative hourly rates, they had to work out price scenarios based on their experience of the average number of hours needed by the type of case, and the fee scales already available internally.

"We provide very clear guidance that says 'this is indicative'. We would normally look at the mid-range, the lower being the most straightforward cases. At the end of the day we don't have to take it, if the fee doesn't properly remunerate the work involved. So, I think once we got over that hurdle, it was just a question of looking at the data we've got in terms of the hours that people normally work on cases, a nominal hourly rate for these figures and then get a rough range of fees. It was probably quite a lot of work at the time, but it's not that complicated."

Besides the indicative nature of the fees displayed, three participants decided to add further information on prices beyond the scope of MDRs, such as the possibility of discounted rates for clients with low incomes, several payment options, or a specific fee structure for small claims.

"We also give clients the option of saying to the barristers 'I've got this budget, would you do it for that?'"

"Since the pilot started, the only addition I've made to the price structure is that I've introduced a small claim fee structure (...) I've put a much smaller fee structure in the same

pattern as my main fee structure saying if I'm available and if you want to contact to me to do a case I'm open to doing this case on this fee structure for this type of clients.”

For multi-tenant chambers in this pilot, clerks were systematically involved in the process. They were instrumental in setting up the price scenarios as they were already using internal fee scales and had a good understanding of the average number of hours required by the type of case. Two participants specifically mentioned that they did not get their members involved with the practicalities of the implementation phase, in order to streamline the process. The clerks' expertise was deemed sufficient to implement the MDRs in this case.

Participants frequently outsourced the changes made on their websites to developers. It was the only financial cost incurred by the pilot scheme. A few participants, however, clearly indicated that they were happy with this cost as they plan to keep this new information on their website after the pilot, as we will see in the Future section.

3.2 Perceived benefits and outcomes

As noted in Section 2.3, assessment of the perceived benefits and outcomes of the pilot on the participants' practice is limited to an extent by the four-month duration of the pilot. However, several positive outcomes were perceived and, in some cases, objectively measured by the participants (though not directly attributable to the pilot).

Impact on business

While a few participants pointed out that it was too early to say whether the pilot had a real impact on their business or not, it is important to note that none of them reported negative impacts or consequences. We asked if they had received any complaints about fees from clients and none had.

In terms of positive outcomes, two participants reported an increase in the number of clients during the period of the pilot. The first one observed that their client conversion rate (ratio potential clients / converted clients) had almost doubled over this period, with 26% before and 47% during the pilot. Although the observation was made on very small values (19 potential clients, 9 converted clients) and it is not possible to attribute this increase to the pilot, this is potentially an indication that increased transparency may have had a positive effect on that participant's business.

“Before the pilot, you get someone to phone telling us about their situation and you say: ‘we need to see, we’re not sure how much it’s going to cost, our hourly rates are X’. 80% of the time people would say ‘Oh I don’t know, I’ll think about it’. Whereas with this, you can have

this initial conversation and then on price you say 'just have a look to our website, the price list is there, you can see the fees'. The client conversion rate went up, it's almost 40% now.

So, from our point of view it's been a very positive thing."

The second participant had implemented the information comprised in the MDRs before the beginning of the pilot in November 2017, beginning in January 2016. Since that time, they had observed their largest-ever increase of their turnover.

"We implemented these changes in January 2016 and we've noticed a marked increase in the amount of private client work coming in since we started publishing our rates. In 2015/16, compared to 2016/17, our private client workload went up by £200,000, so that could be the factors involved. Though chambers grew generally, it was the largest increase in our turnover, our Legal Aid / public authority work was the same. That was a huge increase, we can put it down to good marketing."

However, when we mentioned the positive experiences described by some pilot participants, another participant suggested that, in their opinion, these might only have relevance for chambers focusing on one specific area of law.

"I think it's easier to derive that conclusion from that kind [family law] of set, whereas ours is a bit wider in terms range of work with more CFA-type of work, it's a bit more nebulous."

Other perceived benefits described by some pilot participants included improved fee collection, fewer late payments and fewer complaints related to price. Having indicative prices available upfront was perceived to reduce the risk of clients having the wrong expectations as to their final bill, and enable them to prepare their funds in advance. The participant who reported an increase of their turnover stated that since the display of price and service information had been put up on their website (in January 2016, pre-pilot), they had observed a significant decrease of the average payment period. Having started to display detailed price information two years ago, the observation made by this participant cannot be attributed to the pilot. While displaying price information was important, the participant says that this improvement was achieved by providing a degree of certainty to the client from the outset through a combination of factors, such as better communication and clearer contractual terms.

"It's difficult for the client to get the money...if you don't know how much we're going to charge you, so we provide you with a price list and you should be able to get the money ready in advance. And it worked brilliantly. Our average days to pay on private clients' work was something like 45 days and we halved it to 22 days from bringing in the price list."

“If you’re in the position where you can provide a degree of certainty of what you are likely to charge at the outset, it lessens the possibility that there will be a surprise in the end for the client. It definitely helps.”

Another participant stated that:

“It’s just kind of eliminated that element of uncertainty, where the clients know as soon they walk in the door. (...) That has removed a big potential source of problems for us in terms of getting the client to actually pay. It has improved our cash flow, it has improved our debt profile.”

Another benefit perceived by some pilot participants related to the type of queries received by their clerks. The display of more detailed information online seemed to have been followed by fewer basic queries about price, service, complaints or regulatory information, potentially freeing up clerks to focus on more detailed discussion with potential or current clients.

“Because most of my client base know my hourly rate and it’s all published on the website anyway, they don’t really have to spend too much time on my fees.”

“There’s been less queries especially in the initial phone call conversation.”

Perceived benefits and outcomes for clients

Participants perceived potential advantages for clients by making changes to the information they displayed online. Some participants speculated that this new display of information could change consumers’ perceptions of barristers charging overpriced fees or not being transparent on price and service information.

“I think from the client point of view, they like the fact that you are transparent about what you charge because lawyers tend not to be. It does help them to make that purchasing decision at the beginning.”

As reflected in the possible impact on late payments and fee collection issues reported before, participants think that transparency brings a degree of certainty to clients, so they can prepare their funds with an indicative idea in mind of how much the fees might be.

“The client is very clear from the beginning what each piece of work is going to cost.”

Some participants noted that this new display of information might have a greater impact for lay clients, especially those using public access. Price and service transparency can help lay clients to overcome certain barriers preventing them from engaging with barristers, such as

the lack of understanding of the type and the quality of the services provided, or the lack of indications on the range of fees charged.

“It’s really interesting, especially when you’re dealing with public access, there are two questions that people want to know: they always say: ‘Are you good enough?’ and ‘How much are you going to cost?’ Hopefully having things set out like this, they don’t really have to ask this question, they’ve seen the guide, we don’t need to discuss that until I’ve seen your papers, then I can give a more formal quote. In the meantime, they have an indicative idea of how much it is going to cost.”

3.3 Future plans

Most participants indicated that they plan to keep the MDRs in place on their website after the pilot because none of them have noticed negative impacts on their practice or received any negative feedback from clients. Some of them are planning to monitor the impact of this new information more closely, and conduct an objective evaluation on a longer time basis.

“We still have it in place on our website and my view is it should stay in place because I don’t think three months is enough to properly test it. I was planning to keep it on for at least a year and unless I receive negative feedback or if the public is confused (...). We are obviously going to keep that going now, we will regularly monitor what the traffic is to the website.”

Furthermore, three participants plan to extend the range of information available on their website beyond the MDRs. They envisage that the publication of price information will be broadened to encourage further engagement from the public. They plan to increase the range of fees displayed on their website to provide a clearer indication of the fees usually charged for more complex cases, as it is currently reflecting simpler cases.

“We can expect to increase the range of fixed fees in the future, or staged fees on more complex work. Even though you don’t have a comprehensive list of fixed fees or staged fees, there’s still a massive improvement.”

“So from a marketing point of view, I’m going to make some forward plans to put out fee scales out there in a more positive way and in a more widespread way to see if we can increase the traffic to the page. Maybe it will have a detrimental effect on our clients, but I really doubt it.”

3.4 Suggestions for implementation: mandatory vs discretionary

On the question of whether the MDRs should be mandatory or implemented at the providers' discretion, views were mixed.

Mandatory

Among those who thought that the MDR should remain mandatory, most agreed that they should be applied to public access work as a priority. Lay clients are seen as less likely to have a good understanding of the legal services market and indicative ideas of how much the service would cost.

If we were doing a lot of direct access work, my website would be aimed at direct access clients and they'd want that kind of information.

“Solicitors if they are any good and have some experience they'll have a fairly good idea of what is market value for a case or each piece of work. They've got enough experience to shop around if they need to! Lay clients don't. (...) We're dealing with people that may not have language skills, that may not be able to read right. We have to be able to deal with the most vulnerable people.”

One participant, who strongly advocated for the MDRs to be made compulsory across the profession, even suggested that barristers should state what their hourly rate is when they renew their practising certificate every year and not deviate from it. Although this would be an unreasonable restriction on trade, the main driver of the suggestion was to ensure that barristers provide consistent pricing to their clients and do not fluctuate their prices excessively.

“I'm just surprised that the Bar for a start has been able to go so many years without chambers and individual members stating with clarity what they are going to charge. (...) I also think that it would be quite helpful where at the moment we renew our certificate on the BSB website, there should be a provision there for the barrister to set out what their hourly rate is. If it is going to be a regulatory requirement, we got to set it out in that year of practice, so they don't start to change their mind all the time.”

In terms of mandatory information, some participants suggested that indicative price information and factors that determine it should be provided by barristers to their clients.

“I think there's definitely a need for all barristers' chambers to have some reference to how they calculate fees and an indicative idea what the fees might be.”

Discretionary

For participants who were less supportive of the prospect of MDRs becoming compulsory, it was preferable to encourage transparency rather than requiring it. The key driver would be to raise awareness of the marketing value of price and service transparency for providers, while the BSB should show that they understand the difficulty in requiring the whole profession to implement the MDRs.

“I like it as it is now. It is good to have as much information as an individual or a chambers see necessary. I think some barristers are naturally reluctant and that should be respected as well. I don’t think it should be compulsory but anything to encourage people to do it.”

“The BSB is their [the barristers’] regulatory body and does things nobody necessarily wants to do. Having the result of the pilot and the consultation, it would show that the BSB had one eye on how difficult [it is] to implement something like that.”

It was also mentioned that a ‘one-size-fits-all’ solution would not be appropriate for the whole profession. Two key aspects that would make the implementation of the MDRs difficult are the level of expertise and the size of the business. For some participants, it seemed more manageable to implement price transparency information for smaller practices. Commercial sets are also less likely to engage with lay clients. The need for transparency is perceived as less important for professional clients, who are generally more informed. Thus, the level of information provided by chambers and entities will greatly depend of their level of specialisation and the size of their business.

“I have absolutely no idea what impact it would have on some huge commercial sets, I can imagine the fee side of it would be very different for them.”

“You’re a niche set and do tax work, you don’t have lay clients. I’m not sure there’s much benefit in requiring them to display price information on their website.”

“I could see for some types of work you could have a complete price list for everything you do such as PI. It’s pretty straightforward. For other areas of law, it would vary greatly in terms of what information you can display. (...) The amount of details they [chambers] provide will depend very much on the type of work that they do and the type of barrister they have. A ‘one-size-fits-all’ solution is very difficult.”

Some participants also raised a more self-interested reason to keep the MDRs discretionary: providing price and service transparency information to their clients would give them an important advantage over their competitors, who are not providing a similar level of information. This approach might apply particularly to chambers and entities focusing their

marketing strategy on public access clients. Transparency here is seen as a marketing opportunity rather than a potential regulatory burden.

I heard the argument at the Bar Conference last year, people were very anti all of this [transparency]. I just think that if only a few chambers are doing it, they would just have a competitive advantage. If you're a set that wants to attract lay clients' direct access work, then it is in your own interest to put this information on your website. Because you would appear more accessible and transparent. You would give confidence to potential clients, I would have thought they wanted to take actions of this kind, irrespective of what the BSB says, because it is commercially astute, it is a sensible thing to do. (...) Talking in my chambers' interest, I am very happy that there is no compulsion to do anything because I think we are the ones who benefit for doing it."

"To be honest with you, my view has kind of changed a little bit over the course of the pilot. (...) I started off by saying yes it should be compulsory across the board and now I'm thinking, well, why don't we let the consumers decide and market forces will dictate what happens. The entities and the chambers that decide to go with the transparency, which I think is a good thing, will succeed more (...) because we do have this competitive advantage over our competitors."

4. Findings from the survey

A total of 35 respondents took part in the survey. Seven respondents were lay clients (six instructed a barrister through Public Access and one through a solicitor) and 28 were solicitors. Note that 21 respondents instructed barristers from the same chambers (which was displaying Option 2 information).

As outlined in the Introduction section, insights into the Option 2 display were better represented in the final findings and participants who experienced the Option 1 display were under-represented. Overall, it is important to emphasise that considering the small size of the sample, this survey only provides a restricted snapshot of clients' experience and its findings must be seen as indicative only.

4.1 Website review and 'shopping around'

Nine respondents (all solicitors) did not review the provider's website before instructing them and, again, eight respondents (all solicitors, but a different set) did not 'shop around' and make comparisons with other providers. The seven lay clients all reviewed the provider's website before instructing them and 'shopped around' and made comparisons with other providers. Only one lay client indicated that reviewing the provider's website before did not help them to 'shop around' and make comparisons with other providers.

This suggests that 'shopping around' and reviewing websites might be more helpful for lay clients than for solicitors.

4.2 Price information

On price information, most respondents stated that it was easy to find useful and understandable price information on the provider's website. This overall satisfaction with the information provided upfront does not necessarily imply that the clients had no questions to ask to the provider after reviewing their website. Of 24 responses, seven respondents still had questions on fees after review of the provider's website.

Similar high satisfaction can be observed once the service has been provided. Of 21 respondents who had previously found price information on the website and who had been already charged at the time of the survey, none of them indicated that the final fee charged was not in line with their expectations. Likewise, none of them (except one lay client) had concerns about the final fee charged.

This suggests the price information stated on the providers' websites gave the clients a good indicative idea of the price, but it was still useful for them to contact their provider to get a more detailed understanding.

4.3 Service information

On service information, we observed that the level of satisfaction is similar to the high satisfaction on price information. Most respondents indicated that they found a description of the service on the provider's website and this information was both understandable and useful. Note that in contrast with price information, fewer respondents (two out of 20) had to ask further questions on service information after review of the website. Finally, none of the respondents had concerns about the service eventually provided.

This suggests that service information provided by the pilot participants was easy to find, useful and understandable, while further queries on service were less frequent than for price information.

4.4 Regulatory and redress information

Most respondents remembered that the provider's website stated that they were regulated by the BSB. Slightly fewer respondents remembered that the website included information about their complaints process, whereas only half of them could remember that the website included information about how to complain to the Legal Ombudsman.

4.5 Overall experience

Overall, we can observe a high satisfaction from respondents on the provision of price and service information by providers who took part in the pilot scheme, with better representation of clients who had seen Option 2 type displays.

The findings of this survey suggest that the level of price and service information required for lay clients is likely to be higher than for solicitors, as observed with behaviour regarding 'shopping around' and reviewing websites to compare and choose providers.

5. Annexes

Annex A: Transparency Pilot – Guidance



REGULATING BARRISTERS

Response to the Competition and Market Authority's Recommendations

Transparency Pilot – Guidance

November 2017 – February 2018

Introduction

The BSB has published a report outlining its proposed response to the Competition and Markets Authority (CMA) recommendations for more transparency about legal service providers' fees, services and rights of redress for consumers. We are proposing to mandate disclosure of the information which we believe will particularly benefit consumers. The consultation closes on **Friday 5 January 2018**.

From **Wednesday 1 November 2017 until Wednesday 28 February 2018**, we will also be operating a pilot scheme to test the suggested requirements. This will allow us to collect feedback and insights from the profession (and where possible, consumers) before the proposals are implemented at the end of 2018. Sole practitioners, chambers and entities are all welcome to take part in the pilot.

The purpose of this document is to (1) provide information to sole practitioners, chambers and entities who may be interested in taking part in the pilot, and (2) provide guidance to those who do take part in the pilot.

Summary

Pilot participants will test the minimum disclosure requirements in relation to price, service and redress which are suggested in the consultation (while pilot participants will be able to go beyond the minimum requirements, this will not be mandatory). In line with what is suggested in the consultation, pilot participants will need to comply with the minimum requirements when undertaking Public Access work, and referral work where the client is entitled to complain to the Legal Ombudsman. They can do this by providing the necessary price, service and redress information on a dedicated page or section of their website. They can also include this information in any published literature.

The pilot will have no impact on fees charged as the purpose is not to prescribe how fees should be set, but to test transparency. We are also not proposing a "one size fits all" model and so while pilot participants will need to comply with the minimum requirements, there may be variations in how they choose to present the information. The BSB's Professional Standards Team will be on hand to provide support and guidance throughout the pilot.

Many barristers and chambers will already be providing much of the necessary information on their websites, and so we do hope that you will consider taking part in the pilot. If you are interested in volunteering, please contact the BSB's Professional Standards Team on professionalstandards@barstandardsboard.org.uk.

Minimum Disclosure Requirements – Price

Pilot participants will test the minimum disclosure requirements in relation to price, service and redress which are suggested in the consultation. The suggested minimum disclosure requirements were (a) recommended by the CMA and (b) categorised by the BSB as having a potentially 'very high impact' in terms of consumer benefit. The BSB's suggested minimum disclosure requirements in relation to price are:

| Recommendation | Very high impact | High impact | Medium impact |
|--|------------------|-------------|---------------|
| Pricing and charging model (e.g. fixed fee, hourly rates, capped charges, conditional fee agreement/damages-based agreement) | ✓ | | |
| Hourly fees (where charged) by seniority of barrister or grade of staff | ✓ | | |
| (Where offered) indicative fixed fees and factors that may affect these and the circumstances where additional fees may be charged | ✓ | | |

The pilot will have no impact on fees charged as the purpose is not to prescribe how fees should be set, but to test transparency. You will simply need to be clear about:

- Your pricing and charging model e.g. fixed fee, hourly rates etc.; and

- Your fees. For example, your hourly fees (and how these might vary) or your fixed fees (and the factors that may affect them). If you use other charging models, you will need to provide the equivalent information on how your fees might vary.

We are not proposing a “one size fits all” model as we acknowledge that barristers may wish to charge different prices in certain circumstances. Examples would be barristers charging different prices for different activities/areas of law. If you do charge different prices, you can therefore state this.

In any event, it is likely to be useful for you to state that:

- Fees are only estimates;
- For the best possible estimate, consumers should contact you or your clerk; and
- While any other charges (for example, court fees) are not included in the charging model, they could be a key factor that determines price.

You may also wish to go beyond the minimum requirements and include:

- Where appropriate, your typical range of costs for different stages of cases;
- The scale of likely disbursements (for example, court fees); and
- The key factors that determine price (including disbursements).

Minimum Disclosure Requirements – Service

The BSB’s suggested minimum disclosure requirements in relation to service are:

| Recommendation | Very high impact | High impact | Medium impact |
|--|------------------|-------------|---------------|
| A description of the services that the legal services provider provides | ✓ | | |
| Indicative timescales of completing services and factors affecting these | ✓ | | |

As an example, you could state “I can represent you in a mediation and help you to try to resolve your dispute. You will normally need to instruct me **X** weeks before the mediation (**X** weeks before if the mediation will be complex)”.

You may also wish to go beyond the minimum requirements and include:

- The mix of staff that deliver the service (this is unlikely to be relevant to the self-employed Bar);
- The key (and discrete) stages of services; and
- If you are undertaking Public Access work, a link on your website to the BSB’s [Public Access Guidance for Lay Clients](#).

Minimum Disclosure Requirements – Redress

The BSB’s suggested minimum disclosure requirements in relation to redress are:

| Recommendation | Very high impact | High impact | Medium impact |
|--|------------------|-------------|---------------|
| Regulatory status, registration details | ✓ | | |
| Complaints process and access to the Legal Ombudsman (LeO) | ✓ | | |

For example, a self-employed barrister could state:

I am regulated by the Bar Standards Board (BSB). I hold a current practising certificate and my details are displayed on the BSB's [Barristers' Register](#).

Complaints information

If you are not satisfied with the service I provide, you can make a complaint to my Chambers. Information on the chambers' complaints procedure is available on this website.

*If you are not satisfied with the response you receive from my chambers, you can make a complaint to the Legal Ombudsman (this must be done within the time limit of **X**). The contact details for the Legal Ombudsman are **X**.*

It is likely to be useful for you to state that barristers in chambers are separate and independent from one another, and not responsible for one another's work.

You may also wish to go beyond the minimum requirements and include information on your professional indemnity insurance cover. For example, you could state "I have insurance cover for all the legal services I supply, and hold professional indemnity insurance with the Bar Mutual Indemnity Fund Ltd (BMIF). The coverage is worldwide subject to their terms, which are available on their website. The contact details for the BMIF are **X**".

How to Comply with the Requirements

The consultation suggests that the minimum disclosure requirements in relation to price, service and redress should apply to (a) all Public Access barristers and (b) barristers undertaking referral work where the client is entitled to complain to the LeO.¹ **You will therefore need to comply with the requirements when undertaking Public Access work and referral work where the client is entitled to complain to the LeO**

If you are undertaking referral work for clients funded by the Legal Aid Agency (for example, in the areas of immigration, crime and family law), you will not need to publish the suggested minimum disclosure requirements in relation to price. However, you will need to publish the requirements in relation to service and redress.

You will need to ensure that the suggested minimum disclosure requirements are displayed prominently on your website; for example, on a dedicated page or section which is linked to from the homepage (you can also include this information in any published literature). However, as above we are not proposing a “one size fits all” model and so while you will need to comply with the requirements, we accept that there may be variations in how pilot participants choose to provide the information. Broadly speaking, there are two different options.

The first option is for sole practitioners and self-employed barristers in multi-tenant chambers to provide *individual* price and service information on their chambers’ website. You could, for example, take your three most common types of case (i.e. cases that conform to a specified scenario) and provide indicative price and service information for each of them.

The second option is for self-employed barristers in multi-tenant chambers to provide *blended* price and service information on their chambers’ website. This could take the

¹ Those clients who are entitled to complain to the LeO are as follows:

- Individuals;
- Businesses or enterprises that are micro-enterprises within the meaning of Article 1 and Article 2(1) and (3) of the Annex to Commission Recommendation 2003/361/EC (broadly businesses or enterprises with fewer than 10 employees and turnover or assets not exceeding €2 million);
- Charities with an annual income net of tax of less than £1 million;
- Clubs, associations or organisations, the affairs of which are managed by its members or a committee of its members, with an annual income net of tax of less than £1 million;
- Trustees of trusts with an asset value of less than £1 million; and
- Personal representatives or beneficiaries of the estates of persons who, before they died, had not referred the complaint to the Legal Ombudsman.

form of ranges, indicative fees for standard work or average fees. You could, for example, take the three most common types of case for *a number of barristers in chambers* (i.e. cases that conform to a specified scenario) and provide indicative price and service information for each of them based on averages of current fees. Variants of this approach could be to:

- Take the three most common types of case for barristers in chambers specialising in particular areas of law, and provide averages of current fees; or
- Take the three most common types of case for barristers in chambers with less than five years' practising experience, between five and ten years' practising experience and more than ten years' practising experience, and provide averages of current fees.²

The examples in the annex demonstrate how you could comply with the suggested minimum disclosure requirements. There is an example for option one and option two.

Pilot Checklist

To take part in the pilot, follow the steps below.

- **Register your interest** by contacting the BSB's Professional Standards Team on professionalstandards@barstandardsboard.org.uk and letting us know whether you are a sole practitioner, chambers or entity;
- **Seek agreement if necessary**; for example, from your head of chambers or chambers' management committee. Your chambers may wish to participate in the pilot as a whole, or alternatively a smaller number of members may wish to participate. We are prepared to be flexible, so please do contact us to discuss;
- Once you have obtained agreement, **confirm with us** (1) who will be taking part, (2) whether you will be undertaking Public Access work and/or referral work, and in which area(s) of law and (3) whether you will be testing option one or option two;
- There will be some flexibility on the start date. **Aim to send us updated website copy (and any published literature) before Wednesday 1 November 2017 (if possible)**. The information above and the examples in the annex should help you to do this. We will then confirm whether the copy meets the suggested minimum

² N.B. Any entities which take part in the pilot will not provide blended price information as unlike multi-tenant chambers, they can generally set collective fees for their employees/partners as a standard offering for the firm. In effect, any entities which take part in the pilot will therefore be testing option one.

disclosure requirements. Also, **let us know** if you intend to go beyond the minimum requirements;

- **Aim to display the suggested minimum disclosure requirements prominently on your website (and in any published literature) by Wednesday 1 November 2017 (if possible).** As above, there will be some flexibility on the start date;
- **Monitor** the number of clients that you deal with over the duration of the pilot (include both ongoing and completed cases). This will be helpful for evaluation purposes;
- **Pass on a survey link to your solicitors and (where possible) lay clients**, in order to allow us to seek feedback from them. The survey will be available in due course, and the questions will focus on how information was presented on your website and any published literature. Responses will be kept confidential. During the pilot, we may also ask you to **send a reminder to your solicitors and lay clients** about the survey;
- **Let us know** if you make any changes during the pilot – for example, to the way in which information is displayed on your website;
- **On Wednesday 28 February 2018, you can either continue or stop complying with the requirements.** If you do continue complying with the requirements, **let us know**; and
- As part of our evaluation of the pilot, **we will interview you in March 2018.** We will ask you about your experience of taking part, and collect your feedback and insights. This will allow us to make changes before the proposals are implemented at the end of 2018.

Key Contacts

The BSB's Professional Standards Team will be on hand to provide support and guidance throughout the pilot. If you have a query, the most straightforward way to contact us is to e-mail professionalstandards@barstandardsboard.org.uk.

Annex – Examples

The examples which follow demonstrate how pilot participants could comply with the suggested minimum disclosure requirements. There is an example for option one and option two.

Option one example

CHERRY TREE CHAMBERS BARRISTER A

Mediation services

I can represent you in a mediation and help you to try to resolve your dispute.

You will normally need to instruct me **X** weeks before the mediation (**X** weeks before if complex).

I am able to complete all of the preparation for a fixed fee of **£X – £X** (**£X – £X** if the mediation will be complex). I will agree the fixed fee with you before I start preparation.

I will attend the mediation for a fixed fee of **£X** for the day. If it takes longer than a day, I will charge an additional rate of **£X** per hour.

If the mediation is cancelled more than **X** weeks before, I will charge **X%** of the fixed fee. If it is cancelled less than **X** weeks before, I will charge **X%** of the fixed fee.

All of my fees include VAT. This fee information is correct as of **X**, but is indicative only and intended to enable comparison. You should contact my clerk **X** on **X** for the best possible fee estimate. Other fees you may incur (for example, room hire) will not be included in the fee estimate.

About me and Cherry Tree Chambers

I am regulated by the [Bar Standards Board](#) (BSB). I hold a current practising certificate and my details are displayed on the BSB's [Barristers' Register](#).

I am a self-employed barrister at Cherry Tree Chambers. Barristers in chambers are separate and independent from one another, and not responsible for one another's work.

Complaints information

If you are not satisfied with the service I provide, you can make a complaint to Cherry Tree Chambers. Information on the chambers' complaints procedure is available on this website.

If you are not satisfied with the response you receive from Cherry Tree Chambers, you can make a complaint to the Legal Ombudsman. This must be done within the time limit of **X**.

The contact details for the Legal Ombudsman are **X**.

In this example, barrister A has complied with the suggested minimum disclosure requirements. They have provided:

- Their pricing and charging model (fixed fees and an additional hourly rate);
- Their hourly fees (where charged);
- Their indicative fixed fees, factors that may affect these and the circumstances where additional fees may be charged;
- A description of the legal services that they offer;
- Indicative timescales of completing services, and the factors affecting these;
- Their regulatory status and registration details; and
- Information about the complaints process and access to the LeO.

Option two example

CHERRY TREE CHAMBERS – MEDIATION SERVICES

Our barristers can represent you in a mediation and help you to try to resolve your dispute.

You will normally need to instruct your barrister **X** weeks before the mediation (**X** weeks before if complex).

Your barrister will be able to complete all of the preparation.

If your barrister has less than five years' practising experience, they will complete the preparation for an *average* fixed fee of **£X** (**£X** if the mediation will be complex).

If your barrister has between five and ten years' practising experience, they will complete the preparation for an *average* fixed fee of **£X** (**£X** if the mediation will be complex).

If your barrister has more than ten years' practising experience, they will complete the preparation for an *average* fixed fee of **£X** (**£X** if the mediation will be complex).

Your barrister will agree the fixed fee with you before they start preparation.

Your barrister will attend the mediation for an *average* fixed fee of **£X** for the day. If it takes longer than a day, they will charge an *average* additional rate of **£X** per hour.

If the mediation is cancelled more than **X** weeks before, *on average* your barrister will charge **X%** of the fixed fee. If it is cancelled less than **X** weeks before, *on average* they will charge **X%** of the fixed fee.

All of our barristers' fees include VAT. These fee estimates are correct as of **X**, but each barrister will charge different fees and calculate those fees based on what you want them to do. The average fees for each type of barrister are indicative only and intended to enable comparison. You should contact the clerks on **X** for the best possible fee estimate. Other fees you may incur (for example, room hire) will not be included in the fee estimate.

About Cherry Tree Chambers

Our barristers are regulated by the [Bar Standards Board](#) (BSB). They all hold current practising certificates and their details are displayed on the BSB's [Barristers' Register](#).

Barristers at Cherry Tree Chambers are self-employed. Barristers in chambers are separate and independent from one another, and not responsible for one another's work.

Complaints information

If you are not satisfied with the service your barrister provides, you can make a complaint to Cherry Tree Chambers. Information on the chambers' complaints procedure is available on this website.

If you are not satisfied with the response you receive from us, you can make a complaint about your barrister to the Legal Ombudsman. This must be done within the time limit of **X**.

The contact details for the Legal Ombudsman are **X**.

In this example, the barristers in the chambers have also complied with the suggested minimum disclosure requirements. They have provided:

- The pricing and charging model used in chambers (their average fixed fees and average additional hourly rate);
- Their average hourly fees (where charged);
- Their indicative (average) fixed fees, factors that may affect these and the circumstances where additional fees may be charged;
- A description of the legal services that they offer;
- Indicative timescales of completing services, and the factors affecting these;
- Their regulatory status and registration details; and
- Information about the complaints process and access to the LeO.

Annex B: Topic guide for the pilot participants' feedback interviews

Transparency Pilot Feedback

Provider interviews

Topic guide

Name:

Practice:

Role:

Display option:

Area(s) of law:

Date:

Interviewer opening script

1. **Thank you** for agreeing to talk to us today. Should take no more than 20 mins.
2. **Reminder** of pilot purpose – we asked you to trial different approaches to disclosing information about price, service, redress and regulatory status to help us assess which approach worked best in practice.
3. The transparency pilot involved nine entities/barristers' chambers (including yours) in several different areas of law. You tested *OPTION 1 / OPTION 2* and we would like to hear your views about your experience of the pilot, including practical matters and how it seemed to land with your clients. We will use the findings to inform our proposals before they are implemented in early 2019.
4. *Seek **permission** to record* - this will help us to analyse the information we collect. Recording will be **destroyed** as soon as notes written up and entirely optional. If 'no', will be writing while we speak. The research findings will be **anonymous** - we will not name you or your business/chambers in the report of findings, which will be published on our website.
5. Do you have **any questions** before we begin?

Questions

1. **Before we go into the specifics, what was your overall experience of taking part in the pilot?**
 - Confirm when they started (Nov 1 or later)

2. **Do you have an idea of the number of clients that you dealt with over the duration of the pilot (include both ongoing and completed cases)?**
 - Do you know why client feedback was limited (did they send out link?)
 - Can give a range.
 - Public access / referral?

3. **(Not applicable for sole practitioners) Could you give an estimate of how many colleagues were involved in the pilot (drafting, getting it online, sending out survey link etc)?**

4. **How easy/difficult was it to produce indicative price and service scenarios?**
 - With price information specifically? Service information?
 - Pricing and charging model?
 - Hourly rates by level of seniority/grade of staff?
 - Explaining the factors that may affect the price?
 - Describing the range of your services?
 - Giving indicative timescales?
 - Complaints process?
 - Regulatory status?

5. **Did you encounter any barriers to getting the information on your website?**
 - Internal barriers, e.g. reluctance from some members, practicalities, technical issues, cost and implications
 - External barriers, e.g. consumers getting confused, increased competitive pressures.

6. **Have you noticed any impacts on your business that might be attributable to the pilot?**
 - Negative / positive impacts?
 - Positive:
 - Impact on the number of new clients?
 - More publicity?
 - Did it facilitate the work of the clerks (if applicable)? Dealing with less basic queries on price and service information and with more informed clients.

7. **Have you been able to implement all the minimum required information? If yes, have you also been able to display some discretionary information below? When? Why?**
 - Discretionary information includes:
 - Where appropriate, your typical range of costs for different stages of cases;
 - The scale of likely disbursements (for example, court fees);
 - The key factors that determine price (including disbursements);
 - The mix of staff that deliver the service;
 - The key (and discrete) stages of services;
 - A link to the BSB's Public Access Guidance for Lay Clients;
 - Displaying the BSB's logo on your website; and
 - Information on your professional indemnity insurance cover.

8. Did you make any further changes to the information you displayed during the pilot, after it started? If so, what changes, why and when?

9. Have you any plans to keep this new display in place on your website after the pilot? Why / Why not?

10. Have you received any direct feedback from clients regarding the price and service information on your website?

- Did clients ask more or less than the usual number of questions about service, price, redress, regulatory status? Were there any suggestions that clients were confused by the new information you were displaying on your website? Were there any instances where clients were confused by the difference between the information online and that provided by your clerk(s)?
- Once the service was provided, were there any instances where clients complained about the fee eventually charged?
- In a short survey we have conducted with clients of the chambers who have taken part in the pilots:
 - Most clients have indicated that reviewing the provider's website before helped them to 'shop around' and make comparisons with other providers.
 - Most clients stated that it was easy to find useful and understandable price and service information on the provider's website, although most of them still had questions to ask on price.

11. Since the beginning of the pilot, have you noticed anything that might suggest that your clients better understood your prices/service information/timescales/regulatory information/complaints etc. If so, how?

- For chambers (option 2): Were the ranges/average prices comprehensive enough to give consumers an understanding of price and service information? How difficult was it to present them?
- Specifically on:
 - Charging models e.g. fixed fees;
 - Factors that may affect prices and circumstances where additional fees may be charged;
 - Your areas of expertise and the overview of the services provided within your practice;
 - Your indicative timescales;
 - Regulatory status; and
 - Complaints process and access to LeO?
- Have you noticed any differences in the level of information required between lay clients and solicitors? More questions from lay clients?

12. Do you think that the information you disclosed during the pilot should remain mandatory when we implement our proposals more widely? Or should it be discretionary?

- Remind interviewees about the mandatory/discretionary split.
- Should disclosing the pricing and charging model remain mandatory? Some of the consultation responses suggested that it shouldn't be.

13. Is there anything else you learned from this pilot that the BSB should take note of before we implement our proposals?

- For your practice?
- For the profession?
 - Referral work?
 - Public access work?
 - To the whole profession?
- For consumers?

14. Have you any comments on the way we (the BSB) ran the pilot?

- Prompt:
 - Timescales
 - Were option 1 and option 2 useful templates to follow?
 - Communication with us
 - Sufficient support and guidance
 - Was the guidance provided throughout the pilot helpful? If not, how could we improve it?
 - Anything that we might take on board and improve before we implement new rules.
 - Things we should have perhaps done differently?

15. Those are all the questions we hoped to cover – is there anything else on this issue that you wish to raise?

THANK for their participation!

Annex C: Questionnaire for the clients' feedback survey

The Bar Standards Board regulates barristers and specialised legal services businesses in England and Wales, and would like to ask you about the information you found on your legal services provider's website. Your response will help to inform future changes in this area.

This survey should take 5-10 minutes to complete. Your responses will be kept anonymous and confidential, not shared with your legal services provider and only used for research purposes.

If you complete this survey and provide us with your e-mail address, you will be entered into a prize draw to win a £100 voucher.

Q1. What is the name of the legal services provider you instructed?

Q2. What is the name of the provider's chambers/business (if applicable)?

Q3. Are you a solicitor or a client?

- Solicitor **(skip to Q7)**
- Client

Q4. [If you are a client] did you instruct the legal services provider directly or through a solicitor?

- Directly **(skip to Q7)**
- Through a solicitor

Q5. Did your solicitor offer you a choice of provider?

- Yes
- No

Q6. Did your solicitor give you information on the provider's fees and/or describe the service the provider was offering?

- The solicitor gave me information on the provider's fees and service
- The solicitor only gave me information on the provider's fees
- The solicitor only gave me information on the provider's service
- No

Q7. Did you review the provider's website before you instructed them?

- Yes
- No **(skip to the end)**

Q8. On the provider's website, how easy was it to find information about their fees?

- Very easy
- Easy
- Neutral
- Difficult
- Very difficult
- Don't know/can't remember

Q9. Did you understand the information about the provider's fees?

- I understood the information very well
- I understood the information
- Neutral
- I did not understand the information very well
- I did not understand the information at all
- Don't know/can't remember
- N/A – I could not find information about the provider's fees

Q10. How useful was the information about the provider's fees?

- Very useful
- Useful
- Neutral
- Not very useful
- Not at all useful
- Don't know/can't remember
- N/A – I could not find information about the provider's fees

Q11. Before you instructed the provider, did you 'shop around' and make comparisons with other providers?

- Yes
- No (**skip to Q13**)

Q12. You said that you reviewed the provider's website before you instructed them. Did this information help you to 'shop around' and make comparisons with other providers?

- Yes
- No
- Don't know/can't remember

Q13. After you reviewed the information on the website, did you still have questions about the provider's fees?

- Yes
- No
- Don't know/can't remember

Q14. Based on the information on the provider's website, was the final fee charged in line with your expectations?

- Yes
- No
- Don't know/can't remember
- N/A – I could not find information about the provider's fees

- N/A – I have not been charged the final fee yet

Q15. Do you have any concerns about the final fee charged?

- Yes
- No
- N/A – I have not been charged the final fee yet

Q16. On the provider's website, was there a description of the service they were offering?

- Yes
- No (**skip to Q21**)
- Don't know/can't remember

Q17. Did you understand the description of the service the provider was offering?

- I understood the information very well
- I understood the information
- Neutral
- I did not understand the information very well
- I did not understand the information at all
- Don't know/can't remember

Q18. How useful was the description of the service the provider was offering?

- Very useful
- Useful
- Neutral
- Not very useful
- Not at all useful
- Don't know/can't remember

Q19. After you reviewed the information on the provider's website, did you still have questions about the service the provider was offering?

- Yes
- No
- Don't know/can't remember

Q20. Did the service provided reflect the information on the provider's website?

- Yes
- No
- Don't know/can't remember

Q21. Do you have any concerns about the service provided?

- Yes
- No

Q22. Did the provider's website state that they are regulated by the Bar Standards Board?

- Yes

- No
- Don't know/can't remember

Q23. Did the provider's website include information about their complaints process?

- Yes
- No
- Don't know/can't remember

Q24. Did the provider's website include information about how to complain to the Legal Ombudsman?

- Yes
- No
- Don't know/can't remember

Thank you for completing this survey. If you provide us with your e-mail address, you will be entered into a prize draw to win a £100 voucher. Please enter your e-mail address in the box below.

Terms and conditions: 1. The prize draw will be operated by the Professional Standards Team, Bar Standards Board, 289-293 High Holborn, London. WC1V 7HZ. 2. Only clients or instructing solicitors of participating legal services providers (those providers participating in the Bar Standards Board transparency pilot) are eligible to enter. Persons who are under 18, or employees or family members of participating legal services providers, are not eligible to enter. 3. Only one entry per client or instructing solicitor will be accepted. 4. Entries must be received by Wednesday 28 February 2018 (the closing date of the survey). 5. A cash alternative cannot be substituted for the prize. 6. The winner will be notified via e-mail in March 2018 and asked to provide their personal details and postal address. The prize will be sent to their postal address at the first opportunity.

E-mail address:

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