LEGAL SERVICES BOARD

Meeting: Legal Services Board

Date: 8 June 2021

Item: Paper (21) 28

Title: Quality indicators discussion paper

Author: Robin Geddes, Regulatory Policy Manager
Katrina Bell, Regulatory Policy Associate

Status: Official

Purpose of the paper

1. The paper shares the executive's developing approach to quality indicators following analysis of responses to the quality indicators discussion paper and feedback from related stakeholder engagement. In summary, we consider:

- Regulatory action is needed to catalyse change in the market that is responsive to consumer needs. A market-led approach is at this time preferable to a standardised centralised model imposed by regulators
- These catalysing steps should include:
  - improving the scope, standard and consistency of core information that regulatory bodies hold about providers;
  - supporting the development of comparison tools by making this core set of information more easily available to them (including by pursuing the idea of a single digital register) and building the trust of the public and professionals in these services; and
  - pursuing small practical steps that could make a material difference, including around contextualisation of data and seeking to persuade public bodies to publish more information.
- Our policy around quality indicators will be a key component of our upcoming statement of policy on consumer engagement. We will expect regulatory bodies to make use of a variety of levers to effect change, including mandatory requirements on providers as required.

Recommendation

2. The Board is invited to:

- **discuss** the responses and our preferred direction of travel

Background

3. In April 2020, the Board agreed that, using powers under section 49 of the Legal Services Act, we should publish a statement of policy to set expectations of the regulators on improving consumer engagement in the legal services market. This will cover transparency of price, quality, regulation and redress. The statement will also cover public legal education initiatives, including Legal Choices.

4. In February 2021, we published a discussion paper on quality indicators to inform the quality component of the statement of policy – the focus of this paper.

5. In March 2021, the Board agreed in principle to the CMA's recommendations from its 2020 review of its market study, namely that the LSB would coordinate, monitor and lead work by the regulators on issues of market transparency and consumer engagement. The Board endorsed the development of a statement of policy, reinforced by forging consensus, as a tool to put into effect various of the recommendations and encourage real improvements in the sector.

6. Since the March Board meeting, we have established a new oversight group, chaired by us and attended by the regulatory bodies and Legal Services Consumer Panel, to co-ordinate, monitor and oversee progress on the market transparency recommendations. The first meeting is on 4 June and we will provide an oral update from that session at the meeting.

7. Our work in this area contributes to the promotion of the regulatory objectives, in particular:

- improving access to justice
- protecting and promoting the interests of consumers
- promoting competition in the provision of services
- increasing public understanding of the citizen's legal rights and duties.

Responses from stakeholders

8. Through the publication of the discussion paper, we have built up a strong evidence base through:

- 23 formal responses to the discussion paper
- 18 targeted stakeholder meetings, including some in collaboration with the regulatory bodies
- Hosting a roundtable event attended by 40+ external stakeholders
- Further desk research and analysis

9. We have had positive engagement with a variety of stakeholders, including:

- Regulatory bodies, approved regulators, Legal Ombudsman
- CMA

- Legal services providers, including both large and small firms, and barristers' chambers
- Consumer groups, e.g. Legal Services Consumer Panel, Citizens Advice, Association of Consumer Support Organisations, Law for Life
- Representative bodies for providers, e.g. regional law societies, Association of Personal Injury Lawyers
- Digital comparison tools (DCTs) and customer review websites

10. We hosted a stakeholder roundtable event on 17 May focusing on areas of contention that emerged in the responses. A note of this session is at **Annex A**.

Summary of responses and preferred direction of travel

11. We are developing our analysis of the responses and our wider evidence base. Our latest analysis is included at **Annex B**. This will form the basis of a consultation response document, which we will bring to the July Board for approval for publication.

Summary of responses and evidence

12. Most respondents engaged positively with the discussion paper and supported the intention behind the work. There was a clear preference for a market-led approach to deliver results and little appetite for a centralised, regulator-led approach.

13. Our suggested definition of quality, in terms of technical quality, service quality and outcomes, carried support in principle. Responses questioned the extent to which independent quantitative data was available and useful to consumers. There was little enthusiasm for use of first-tier complaints data, and strong opposition to use of success rates.

14. There was a wide spectrum of opinion on DCTs and review sites. There was some concern around the need to protect consumers and providers, for example given the possibility of fake or malicious reviews. Regulators' lack of jurisdiction over DCTs and review sites was noted. Thus, there were concerns about mandatory requirements on providers to engage with such platforms.

15. Other responses were more positive and included evidence of organic growth by DCTs and changes in consumer behaviour that would support a market-led approach. For example:

- Increases in DCT visitor traffic and provider engagement;
    - ReviewSolicitors experienced a 160% increase in the number of consumers using the site following the first lockdown and a further 140% after the second lockdown. About 2,000 firms are now actively using the platform to collect reviews.
    - Trustpilot has reported 800 legal services providers in the UK have registered with the platform, and a 25% rise in UK businesses engaging with reviews provided in the 'legal sector' category since the

start of the regulators' pilot. Consumer reviews about legal services have doubled over the last year, based on review content in the first three months of 2021 compared to the same time in 2020.

- Impact of the regulators' pilot – DCTs have reported increased interest from providers, including some of the largest consumer-facing firms. There is increasing innovation in this space, with new entrants including options not just for solicitors;
- Consumer surveys – SRA research found that 21% of individuals and 26% of SMEs have used legal review sites to help with choosing a law firm; and
- Research by IRN published in May 2021[1] found that 10% of people were using review and comparison sites to find lawyers, up from 6% the previous year and 4% in 2019. The researchers suggested this could be a "watershed moment for digital comparison sites".

16. Even so, the LSCP's latest tracker survey data shows little change since last year. This may signal that more time may be needed for consumer behaviour to catch up with changes in approach by providers. While there are encouraging signs of progress, we consider that further action is needed to catalyse change.

Preferred direction of travel

17. Our emerging analysis suggests the key elements of our approach should be as follows:

- Regulatory action is needed to catalyse change in the market that is responsive to consumer needs. A market-led approach is preferable to a standardised centralised model imposed by regulators;
- The three types of information about quality (independent quantitative data, consumer feedback and general information) provide a sound framework; and
- There should be a base level of transparency, consisting of a core set of information across business-to-consumer markets, plus enhanced transparency in certain practice areas (to be identified).

18. In order to achieve the best outcomes for consumers, we consider the LSB should seek to catalyse the market, by setting expectations of the regulatory bodies in the statement of policy. We also intend to pursue wider activities, for example in conjunction with public bodies. We will consider the following:

- Regulatory bodies making use of a variety of levers to effect change. Should voluntary approaches not achieve sufficient and fast enough progress, this should include regulatory requirements on providers;
- Increasing the provision and quality of core regulatory information, plus making this available on an open data basis and in a standardised format suitable for DCTs. This is the essential raw material that DCTs need to grow. A single digital register could serve this function (see paper on Digital Registers) although alternatives are possible;

[1] https://www.legalfutures.co.uk/latest-news/consumers-willing-to-use-lawyer-anywhere-in-country-research-finds

- Pursuing solutions with the regulatory bodies to contextualise data on providers (e.g. by size, practice area etc.) so that it is meaningful as possible to consumers and fair to providers;
- Promoting public and provider trust in DCTs via a voluntary2 accreditation scheme with a code of conduct operated jointly by the regulatory bodies, supported by public legal education initiatives targeted at consumers;
- Seeking to persuade public bodies to publish more information about the technical quality of legal work, e.g. error rates;
- Identifying suitable practise areas for enhanced transparency; and
- Using our convening role to foster collaboration on these activities.

19. We will consider whether a different approach may be appropriate in the legal aid sector, in recognition of its particular practice areas, consumer needs and incentives for firms.

20. We will reflect these expectations in the statement of policy and be clear on the outcomes regulators should achieve in the interests of consumers. We consider the statement of policy should also be permissive and enabling, providing for regulators to tailor approaches to the needs of different parts of the market. It should emphasise collaboration in common practice areas where appropriate.

21. We want to encourage a cycle of implementation and evaluation, so that regulators are seeking continuous improvement in their approach. Working with the regulators, we will identify lead indicators to assess changes in consumer outcomes (e.g. DCT visitor traffic, levels and ease of shopping around).

Next steps

22. We will refine our position on quality indicators in light of the Board discussion and further engagement. This will inform two sets of published documents, both of which will come to the July Board for agreement:

- a response document on the quality indicators discussion paper – in essence, an updated version of Annex B; and
- the draft statement of policy on consumer engagement and an accompanying consultation paper.

Annexes

Annex A – Summary note of the quality indicators discussion event
Annex B – Draft analysis of responses to the quality indicators discussion paper

Risks and mitigations	
Financial:	N/A

[2] Since regulatory bodies have no statutory jurisdiction over DCTs, this can only be voluntary.

Legal:	N/A
Comms and engagement:	The policy statement will be a significant tool in fulfilment of our new role of leadership and oversight on the market transparency agenda. We will continue to engage closely with the regulatory bodies, through the oversight group and otherwise, and other stakeholders we have engaged with on this work and maintain a high level of transparency about our plans.
Equality and diversity:	The State of Legal Services 2020 report highlighted worse outcomes in relation to consumer engagement for some groups, which can expect to benefit from interventions by LSB. Specific interventions may need to be adapted with these groups in mind.
Resource:	N/A

Freedom of Information Act 2000 (FoI)		
Para ref	**FoI exemption and summary**	**Expires**
Annex B	S22 – future publication	N/A