Response on behalf of Leicestershire Law Society to LSB Consultation on Quality Indicators in the Legal Services

Leicestershire Law Society
April 2021

Leicestershire Law Society was founded in 1860. It has a membership of around 500 solicitors living and practising in Leicester, Leicestershire and Rutland and its current objects include representing the interests of its members locally and nationally. Further information can be found on our website www.leicestershirelawsociety.org.uk

RESPONSE: Leicestershire Law Society

Quality indicators in the legal services

Date: Thursday 22nd April 2021

Question 1: We are proposing to think about quality in terms of these dimensions: technical quality, customer service and outcomes. What do you think about these elements and are there others we should consider?

Clients will confuse customer service with quality, whilst a client might receive excellent customer service, unbeknown to them, the quality of the service that they receive may be poor. Customer service is often the client's perception of whether a job is done well. If the receptionist was "nice" to them on the phone or made them a cup of tea when they visited the office, they might believe that the quality of the service received was excellent, even if this is not the case.

It is unlikely that a client will have any concept of technical quality and will judge a firm only on how the service is presented to them.

We disagree with using the three elements suggested above. We strongly object to outcome forming any part of how clients think about quality; clients could say that they received a poor quality service just because they lost their case.

Question 2: We are proposing to encourage use of these types of information: objective data, consumer feedback and general information about providers. What do you think about these types of information and are there others we should consider?

Objective data can only take you so far. The data only refers to the small number of firms and it might be unreliable. For example, if the firm has a LeO decision, this does not mean that there has been professional negligence as the Legal Ombudsman only deals with complaints about customer service. See the extract taken from their website below:

"Our job is not to decide whether what happened amounted to professional negligence or if there has been a 'legal wrong', such as breach of trust. We don't provide legal advice and normally we can't comment on the quality of service providers' legal advice either. Our job is to consider the level of customer service from the service provider. The question for us is not whether they were negligent but whether the level of service they provided was acceptable and, if it wasn't, what the consequences were for you. Clearly, if something a service provider has done (or not done) looks like negligence it is also likely to be poor service."

A LeO decision does not necessarily mean that the firm is a "bad firm" that provides a poor quality service because as explained above, a LeO decision relates to customer service.

In respect of consumer feedback, the risk is that the feedback provided could be coloured by outcomes, rather than the quality of service. As mentioned in our response at question 1, customer service is often the client's perception of whether a job is done well as it is unlikely that a client will have any concept of technical quality.

In respect of general information about providers, we note that you are referring to firms and not the fee earners that work at the firms. Just because a firm has been around for a significant number of years, does not mean that it is "good" or offers a high quality service. Fee earners move from firm to firm and firms are only as good as their fee earners, regardless of how long they have been established.

Question 3: Which groups of consumers and/or types of provider should action in this area focus on?

We do not agree with the LSB's proposals to improve the transparency of quality in the legal services board as the consumer will drive the assessment of quality and as stated above, consumers are likely to confuse customer service with quality.

Might we also add that if the focus is on the consumer rather than the business client, then smaller firms which deal with the consumer are likely disproportionately affected by the proposals. This is due to the fact that business clients do not tend to complain, they just move to a different firm.

Question 4: Should there be a base level of transparency on quality across the market and enhanced transparency in priority service areas? What should a base level of transparency on quality consist of?

The regulator (SRA) already gets involved when something is badly wrong and if a consumer has an issue with customer service, then the Legal Ombudsmen can assist.

What is it that you are saying in this question and who is going to deliver what you are suggesting?

Question 5: How useful could consumer feedback, objective data and general information about providers be in informing consumer choice? What are the benefits and drawbacks of these types of information?

We refer you to our response at question 2 and add that every legal matter is different and so consumer feedback must also been seen in that context.

Question 6: What role, if any, should success rates and complaints data have in informing consumer choice? Is there other quantitative data that would be helpful to inform consumer choice?

Using success rates could lead to fee earners "cherry picking" the matters that they take on to increase or maintain their success rates. This would be harmful to the consumer as it would limit their choice.

What is deemed successful? In a divorce matter for example, both parties have less in terms of assets at the end of the matter which means that they both effectively loose. With a Will matter, is completing a Will matter a success? In which case you are likely to have a 100% success rate.

Furthermore, success rates and complaints do not necessarily marry up with each other, a fee earner might have low success rates but no complaints or high success rates but a complaint(s).

Question 7: Which of these different channels – law firms' websites, DCTs, a single digital register – do you think could be most effective in providing access to information on quality? Are there other channels we should consider?

It is difficult to obtain information that would assist you with assessing what is good or bad quality. You might say that the receptionist was nice, the coffee was nice but that isn't really "quality", that is just an example of a firm that is good at handling consumers.

There are already legal comparison websites such as The Law Superstore and our view is that firms should not be paying for referrals in this way. We also acknowledge that such comparison websites ask for an awful lot of personal information before they provide quotes, whereas a regulated law firm is not permitted to do this.

With comparison websites such as The Law Superstore, it is unclear what type of firm you are instructing and what level of protection you are getting. For example, you might not be instructing a regulated law firm and instead, might be instructing licenced conveyancers.

Question 8: Do you have evidence on current usage of DCTs not mentioned in the paper? How could we best encourage engagement by consumers and law firms with DCTs? What are your views on the specific potential solutions, such as requiring law firms to signpost to DCTs, embed ratings, or prompt consumers to leave a review?

Our view is that consumers should not be encouraged to engage with DCTs as we do not believe that it is in the consumer's best interests. The case of referred to on page 13 of the consultation paper is an example of how using DCTs can go horribly wrong.

Legal Providers would also have to tread very carefully when responding to consumers to ensure that they do not breach SRA rules.

Question 9: What, if any, steps should regulatory bodies take to help consumers and legal services providers engage with DCTs safely?

Question 9 is similar to question 8. Who would regulate the DCTs and protect consumers in this environment? There would need to be a regulator for these services and if it was regulated by the SRA, who would pay for it?

The Law Supermarket that we referred to earlier on in this response is unregulated whereas insurance comparison website Compare the Market is regulated by the FCA.

Question 10: What range of quality information, if any, would it be appropriate to hold on a single digital register?

What do you mean by quality? Will the regulator set what the base level of quality is or will Solicitors be setting the base level of what is appropriate in the market?

Question 11: What are your views on the relative merits of a market-led approach compared with standardised regulator-led approach?

As stated above, consumers' perceptions are affected by matters that have no connection to quality, so for example in our professional duties, our primary duty is to the court not the client and clients can have no appreciation of the steps that solicitors may have to take to protect confidentiality. When it comes to conflict of interests there are standards that are quite different from those that operate in the marketplace.

It must therefore be a matter for regulators to set quality standards and enforce them, not leave it for consumers to find ways to assess quality standards as best they can.

Consumers may select firms for a variety of reasons that suit their personal preferences but they should be entitled to rely on all firms offering a quality service.

Unlike consumers of other industries, solicitors' clients already have the benefit of additional safeguards such as LeO for disputes and the Compensation Fund, if for any reason the high level of insurance protection fails. Online reviews offer the only source of assurance where unregulated services are on offer and it is difficult to see how in terms of quality they could be of benefit.

We do not believe that the market can deliver quality indicators. Firms may choose to engage with Trustpilot etc as a marketing tool, but it should not be seen as offering anything more than this. Further, the proposals ignore the unregulated industry that is already springing up around these proposals-which will distort the position further. For example, firms that receive negative reviews are already being contacted by companies such as ReviewSolved who offer to remove such reviews. There are also companies who can enhance reviews for a price. In such an environment, to rely in any way on online reviews as a quality assessment is dangerous and misleading.

The benefit of price comparison sites is not clear. Price comparison such as 'compare the market' are regulated by the FCA but even with regulation there are problems. There has been evidence that some price comparison sites such as hotel booking sites have driven up the prices of hotel accommodation (pre-pandemic) by use of monitoring software. Investigation of the current legal price comparison sites show that they are completely unregulated and some of them appear to be thinly disguised claims farmers seeking payments for referral work. Any attempt to broaden the use of price comparison sites would have to be accompanied by a costly and possibly ineffective attempt to regulate such sites, a price that will ultimately be paid by the consumer.

Question 12: Do you have any further comments on our analysis and approach to determining suitable quality indicators?

We do not agree with the Legal Services Board's proposals as outlined above. We fear that consumers will confuse customer service with quality and acknowledge that many consumers have different perceptions of quality.