

# **Looking to the Future: Better Information, more choice**

## **Our post consultation position**

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June 2018

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# Introduction

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1. This paper is the culmination of our work which began in May 2014 with the publication of our policy statement, [Approach to regulation and its reform](#) (which we subsequently refined and expanded upon in November 2015). In that position paper, we explained that one of our two key purposes are to protect users of legal services. This is due to the vast difference in knowledge and understanding of legal services that exists between the public and legal professionals. This puts the consumer at a disadvantage when selecting services.
2. We began to consider how we could increase transparency in the legal services market. Our objective is that people should have the information they need to make informed choices about the purchase of legal services.
3. Alongside this work, we began our [Looking to the Future reform programme](#). One of the key aims of this programme is to provide consumers with a greater choice in how they access legal services. This will primarily be achieved through enabling solicitors to deliver unreserved legal services to the public through an organisation that is not regulated by a Legal Services Act (LSA) regulator. To be empowered to realise the full benefits of these changes, consumers need the right information to understand the full range of choices available to them.
4. Our transparency reforms will ensure that members of the public and small businesses have the information they need about firms, the services they offer, the prices they charge and the protections they have in place. We acknowledge that these reforms will not provide everything consumers need and so we are doing other work to help people make wise choices, such as through the joint regulators Legal Choices website.
5. We have been clear from the outset that we hope our new transparency requirements will act as a catalyst and that the market will respond by providing better information across the whole of the legal services market. We will use our post implementation evaluations to help us decide whether our requirements have been effective and whether any adjustments are needed. We will monitor the effects of our changes using the impact evaluation framework designed for us by the Centre for Strategy and Evaluation Services.<sup>1</sup>
6. The [final rules that have been approved](#) by our Board. These are subject to approval by the Legal Services Board (LSB), but we are publishing them now so all interested parties to see what we have changed in response to the consultation. We also want to give firms as much time as possible to prepare for

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<sup>1</sup> SRA, [Impact evaluation framework](#), 2017

the new rules. The LSB approval process may lead to changes to the rules and we will keep stakeholders updated. We are currently working on the basis that the new [SRA Transparency Rules](#) will come into force during December 2018. This will give firms time to prepare whilst making sure we meet the commitment we made in our [CMA action plan](#) to introduce our new publication requirements before the end of 2018. The [SRA Roll, Registers and Publication Regulations](#) (relating to our digital register) will come into force during 2019.

## How did we get here?

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### From initial objective to Transparency Rules

7. In October 2016, we published a discussion paper, [Regulatory data and consumer choice in legal services](#). That discussion paper set out the case for intervening in the legal services market to increase transparency. It also set out the types of data we were considering making available to consumers.
8. The Competition and Markets Authority (CMA) published its [legal services market study](#) in December 2016. The CMA concluded in its report that the legal services sector is not working well for individual consumers and small businesses.<sup>2</sup> It stated that people find it hard to make informed choices because there is very little transparency, particularly on price, quality and service. This lack of transparency means that some consumers do not obtain legal advice when they would benefit from it and weakens competition between providers.
9. The CMA made several recommendations, including to us. Our [consultation](#) in September 2017 responded to that report and taking account of the feedback we received to our discussion paper, set out how we would seek to address the concerns raised. The changes we will make will help the public and small businesses to access better information in order to compare different providers and make informed choices about which provider will best meet their needs. We expect this to include comparing recommended providers, to get a good understanding of how they compare on price and service.
10. We have worked with other frontline legal services regulators in developing our new requirements to ensure a consistent approach wherever possible. This will help when comparing different types of legal services provider.
11. We see this work as a first step. Intermediaries, including comparison websites and consumer representative organisations, will play a key role in providing

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<sup>2</sup> [Legal Services Market Study final report](#), p4

better information to consumers of legal services. We will continue to engage with them during the implementation of our reforms.

## How did we gather views on these proposals?

12. Through this work we have engaged with a wide range of stakeholders, including consumers, consumer representative bodies, comparison websites, small firms and sole practitioners. We have received a lot of support and positive feedback with some stakeholders expressing the view that these reforms are long overdue. We have also heard from people who feel we should be going further. And from others who are concerned about the impact of our reforms on firms, both in terms of an increased burden and the potential to unfairly disadvantage some firms if people do not understand the context behind the information. We have carefully listened to all of the views expressed and they have been key in forming our final positions. Our reforms set out to tackle the lack of transparency in the legal services market in a proportionate and effective way.
13. Our formal consultation, [Better information, more choice](#), closed in December 2017. We received a total of 80 formal responses from a range of respondents including consumer representative bodies, law societies, solicitors, law firms, sole practitioners, other legal professionals and data re-users such as comparison websites. A [detailed analysis of responses](#) is published alongside this document. We have also [published all responses](#) unless the respondent requested otherwise.
14. We have engaged with people in other ways. Through events, workshops and focus groups with members of the public, small businesses, consumers, consumer representative bodies, comparison websites, small firms and sole practitioners, we engaged with more than 2,000 people. More than 19,000 people engaged with our consultation through Twitter polls, Periscope sessions or our digital content. We also conducted in-depth interviews with firms who already publish price information to understand their experience and help inform our thinking.
15. We have carefully listened to all of the views expressed and they have shaped our decisions. Examples of areas where we have responded to feedback include:
  - Putting our price transparency requirements into rules rather than guidance to make it clear what are mandatory requirements.

- Providing consumers with details of our professional indemnity insurance requirements and Compensation Fund through our new digital badge rather than asking firms to publish this information on their websites.
  - Including areas of practice within the digital register.
  - Moving away from plans to publish first tier complaints data.
16. We want to thank everyone who has taken the time to engage with us on our proposals and are grateful for all the feedback and comments we have received.

## Research

17. We reference some of the important research that has been undertaken on the consumer experience of the legal services market. To support our decision making we commissioned further research with thousands of potential users focused on their preferences and decision making. We have tested potential reforms to make sure they are targeted, proportionate and effective. This research tells us that people value having the right information at the right time when choosing and using legal services. 85 percent of consumers say they want information before choosing a legal services provider. Cost and quality information are most commonly sought by consumers. 27 percent of people wanted information on regulatory protections.<sup>3</sup>
18. We have sought to learn from other markets and regulators. We have noted the high level of transparency in other markets and the role regulators have played in bringing this about. When information is provided to consumers, this has led to an increase in the quality of services purchased, or a reduction in prices.
19. We also know from research that we commissioned jointly with the Legal Ombudsman (LeO) that the three most important things to users of legal services are:
- regular communication about progress
  - clear information about costs
  - information about the legal process.<sup>4</sup>
20. Our changes will address the second and third of these points.

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<sup>3</sup> [Better Information in the Legal Services Market](#),

<sup>4</sup> London Economics and YouGov, [Research into the experiences and effectiveness of solicitors' first tier complaints handling process](#),

## How did we consider the impact of these changes?

21. We have explored the impact of our final policy positions in our Impact Assessment. In it, we consider the additional impacts raised through consultation responses, ongoing stakeholder engagement and additional research. We have assessed potential benefits and risks.
22. We are committed to reviewing the impact of our changes on an ongoing basis. However, we are aware that it is very difficult to predict the impacts of changes aimed at influencing consumer behaviour. We will monitor the impacts as they materialise in line with our impact evaluation framework and act as and when necessary.

# Asking firms to make more information available to consumers

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23. Our consultation set out proposals to require firms to make more information available to consumers. These included firms publishing on their websites:

- Price information and a description of their services (limited initially to a select number of services).
- Information about the SRA Compensation Fund and that they hold professional indemnity insurance (PII) to the minimum terms and conditions (MTCs).
- Their complaints procedures and how and when a complaint can be escalated to the LeO.

24. Below we set out our approach to each of these proposals following our consideration of the responses we received to our consultation, feedback from stakeholders and the research we have undertaken.

## Price and description of services

25. We proposed to require firms to publish price information and a description of their services for certain legal services. In the consultation we set out the legal services we were considering, and asked for views on those, as well as suggestions for other areas we should consider.

26. We made it clear that rather than requiring firms to publish price information for all of the services listed, we would choose a smaller number once we had considered responses to the consultation.

27. Annexed to our consultation were the [proposed draft SRA Roll, Register and Publication Regulations](#). We also annexed [draft guidance on price and service transparency](#). We explained that we intended that within this guidance, we would set out the principles of price publication and define the legal services in which price publication would be mandatory.

### What did people say?

28. A minority of respondents supported our proposal, including consumer groups, some law firms, comparison website providers and representative groups. Those who did stated that the areas we suggested were commonly used by the public



and small businesses and that they could see the benefit to these groups of more information being made available.

29. A majority of respondents, primarily firms, individual solicitors and law societies, did not agree with our proposals. The most commonly cited reasons were:
- Legal services are by nature bespoke services which cannot be commoditised. An accurate price estimate cannot be given before the solicitor has spoken to the client to understand the type of service the client needs. Some respondents suggested that price information would have to be heavily caveated, which would cause confusion to consumers.
  - Consumers do not have enough knowledge of the type of service they need and will therefore focus on simply getting the cheapest possible service for them. This will drive competition on price alone, leading to a lowering of standards as firms cut corners.
  - Regulated firms will be at a disadvantage compared to non-SRA regulated firms as they will not have to comply with any price transparency requirements.
  - The market is best placed to address any transparency issues and there is not a strong enough evidence base for regulatory intervention. The cost of compliance with new rules will ultimately be borne by consumers.
30. Some respondents, including law firms and some law societies, argued that we should not require firms that mainly do work in the specified areas for corporate or wealthy clients to publish price information.
31. Most respondents did not have any detailed comments about the draft rules. However, some respondents were concerned that, since much of the price publication requirements were mandatory, they should be contained within rules, rather than guidance.

### **What are we going to do?**

32. We will mandate that firms, on their websites, publish price information and a description of services for certain legal services. Firms that do not have a website will need to provide the same information on request. Individual self-employed solicitors (freelance solicitors) will also need to comply with these requirements. We will provide support and guidance to firms and freelance solicitors as they seek to implement our requirements.
33. We have carefully considered the concerns raised in response to our consultation. However, we agree with the CMA that there is a strong enough evidence base for regulatory intervention to make the legal services market work

better for consumers. In reaching this decision, we have taken into account a number of factors. 63 percent of adults and 83 percent of small businesses see legal services as unaffordable.<sup>5</sup> When people deal with legal issues without the help of a solicitor, this is often the reason.<sup>6</sup> We believe that increased price information will help to overcome this.

34. Only 27 percent of people shop around when purchasing legal services.<sup>7</sup> Part of the reason for this is that there is very little information easily available. Only 18 percent of firms publish price information. This is despite the fact that 83 percent of firms have a website and 6 percent are in the process of developing one.<sup>8</sup>
35. Consumers in our research expressed a clear appetite for searching the market when purchasing legal services, with 66 percent saying they considered more than one solicitor when instructing conveyancing work and 71 percent spending more than an hour researching options. However, the majority said that price information was not readily available, and only 15 percent were able to get price information without having to contact a solicitor directly for a specific quote or approaching a third party.<sup>9</sup>
36. Many respondents, including law firms and law societies, raised concerns about the feasibility of giving an accurate estimate before speaking to a client given the bespoke nature of legal services. We consider that our requirements are broad enough to provide firms with flexibility in how they publish their prices, whilst being clear enough to make sure consumers will receive a good upfront indication of the cost of a legal service. Our rules will allow firms who do not know the total cost of a service to provide the information they do know, for example the average cost or range of costs. Firms will also be required to make clear what the price given on their website includes. This will enable firms to provide prices based on a standard case and make it clear what additional services would incur additional fees. Our rules will not stipulate which type of pricing or charging model a firm should use.
37. We understand the concerns of respondents about the risk of driving competition on price alone. Research has shown that price is the second most important factor when choosing a provider - reputation being the most important.<sup>10</sup>

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<sup>5</sup> Hodge, Jones & Allen, [Unjust Kingdom: UK Perceptions of the Legal and Justice System](#), Innovation in Law Report 2015, 2015, p10

<sup>6</sup> Ipsos Mori, [Online survey of individuals' handling of legal issues in England and Wales](#), research commissioned by the Legal Services Board and The Law Society, 2016, p6

<sup>7</sup> Legal Services Consumer Panel, [Tracker Survey](#), 2017, p1

<sup>8</sup> Solicitors Regulation Authority, [Price transparency in the legal services market – firm perspective](#), 2017, p4

<sup>9</sup> Economic Insight Ltd, [Price transparency in the conveyancing market – A report for the Solicitors Regulation Authority](#), October 2017, p34

<sup>10</sup> [Legal Services Consumer Panel Tracker Survey 2017](#), p2-3

However, our research also shows that only a small minority choose the cheapest provider. In a survey of 1,000 legal service users we commissioned, only six percent of participants said they chose a provider because it was the cheapest.<sup>11</sup>

38. We envisage that our price transparency requirements will enable consumers to compare a number of firms who could deliver the legal service they are looking to purchase and select the one that best suits their needs based on balancing the cost of that service with other factors that matter to them. This may be information about quality, who works in the firm, areas of specialism, location, etc. We would therefore encourage firms to consider what other information they could publish about their services to help consumers make an informed choice.
39. We know that consumers can save a lot of money by searching the market when choosing a provider. Research commissioned by the LSB asked firms to price a standardised scenario. The findings show the same service being quoted at costs between 17 percent and more than 400 percent of Average Weekly Earnings in the UK.<sup>12</sup> Price and service publication could help address these differences, whilst providing an opportunity for firms who do want to charge higher fees to be clear about the service they are offering for that additional money.
40. We do recognise that non-SRA regulated providers will not have to comply with our price requirements. Our view is that firms who are transparent about their prices will be at a competitive advantage over firms who are not, and our transparency requirements will therefore place SRA regulated firms in a great position to compete in the legal services market.
41. We understand that some firms are concerned about the burden of publishing this information. We will produce guidance for firms, providing examples of ways in which they can comply with our requirements to reduce the burden on them. However, we do not agree that our requirements represent a pure burden to firms. Our research shows that consumers want and value this information and would like to be able to more effectively shop around when purchasing legal services. This means that publishing transparent information about price and service provides firms with an opportunity to be more competitive in the legal services market and therefore attract new clients.
42. The areas we will mandate publication in are listed in the table below, along with a short summary of why we have decided to proceed with that area. In general,

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<sup>11</sup> Economic Insight Ltd, [Price transparency in the conveyancing market – A report for the solicitors regulation authority](#), October 2017, p42

<sup>12</sup> Legal Services Board, [Prices of Individual Consumer Legal Services 2017 – Main Report](#), 2017, p9

we have chosen services in which we believe firms can fairly easily predict the activities that will need to be carried out and so fix or estimate prices.

Area	Why we will proceed with this area
Residential conveyancing	<ul style="list-style-type: none"> <li>• This is an area which can be relatively commoditised. The work is reasonably standardised for most transactions.</li> <li>• Price publication is common for this service, with around 13 percent of firms currently publishing prices.</li> <li>• Respondents to the consultation who did support mandating price publication commonly cited residential conveyancing as a good area to start with.</li> <li>• Working with other regulators, we hope that price transparency requirements will cover the whole of the regulated market.</li> </ul>
Probate	<ul style="list-style-type: none"> <li>• Information suggests that it is an area where price competition could be improved and where there are currently significant and unexplained differences in prices quoted for the same work.</li> <li>• Working with other regulators, we hope that price transparency requirements will cover the whole of the regulated market.</li> </ul>
Motoring offences	<ul style="list-style-type: none"> <li>• This is an area where many consumers are likely to be making distress purchases with little knowledge of either the process or what to expect.</li> </ul>
Employment tribunal (employer)	<ul style="list-style-type: none"> <li>• Services in this area can often be distress purchases.</li> <li>• Small businesses are cost sensitive and more knowledge of the upfront cost of a case proceeding to tribunal (and what it entails) gives an opportunity to make an informed choice on how to proceed with an employment matter.</li> </ul>
Employment tribunal (employee)	<ul style="list-style-type: none"> <li>• Access to price and service information about employment tribunals should also be provided to employees.</li> </ul>

	<ul style="list-style-type: none"> <li>• The upfront cost of taking a case to tribunal can be significant. Access to more price and service information can help an individual assess the merits of taking their matter forward or take alternative action. More knowledge of the process leads to more informed decisions.</li> <li>• Individuals will often be making a distress purchase when seeking these services.</li> </ul>
Licensing applications	<ul style="list-style-type: none"> <li>• This is a common issue for small businesses and an area which can be relatively commoditised.</li> </ul>
Debt recovery	<ul style="list-style-type: none"> <li>• Services in this area can (and often are) commoditised.</li> <li>• This is a legal problem for many small businesses that they do not currently seek legal help for. More price information can lead to more businesses seeking this type of legal service.</li> </ul>
Immigration (not including asylum)	<ul style="list-style-type: none"> <li>• We did not include this area within our consultation, but asked respondents if there were any areas they felt were missing. A number of stakeholders asked us to consider immigration given the vulnerability of clients. Stakeholders also raised concerns about unexplained differences in prices for the same work.</li> <li>• Excluding asylum, immigration matters are commonly privately funded.</li> <li>• Working with other regulators, we hope that price transparency requirements will soon cover the whole of the regulated market.</li> </ul>

43. Although firms will only be required to publish price and a description of services in these areas, we encourage firms to publish price and service information for additional legal services if they are able to do so.
44. In our consultation we suggested other areas that might be suitable for price publication, in addition to the ones that are listed above. However, we made it clear that we would choose a smaller number of areas once we considered the feedback we received. Introducing price transparency rules in a small number of areas makes it easier to refine our requirements as we learn how they work in practise for firms and for consumers.

45. In deciding which legal services we would take forward initially, we needed to consider which areas we thought would make the biggest impact. Some areas (such as motoring offences) are distress purchases that are relatively commoditised, making it more straightforward for firms to publish the cost of services. Other areas offered the greatest opportunity to work with other legal services regulators to introduce consistent price transparency requirements to cover the whole regulated market. In particular, we are working closely with The Council for Licensed Conveyancers, the Chartered Institute of Legal Executives and the Office of the Immigration Services Commissioner. The legal services offered by the firms that these organisations regulate gave us the opportunity to work towards consistent requirements in relation to conveyancing, probate and immigration for all regulated firms offering these services. This was a key factor in selecting these services.
46. We also considered the prevalence of price information in different areas. In 2017 we conducted a survey of firms we regulate to find out more about their attitude towards publishing price. The most common areas of law that firms do publish price information in are family/matrimonial (this includes divorce), where 32 percent of respondents said they publish price information. Similarly, for the area of wills, trust and tax planning, 28 percent of respondents said they publish price information. We recognise that there is room for improvement in these figures but compared to the figures for the areas we have chosen to proceed with (for example, 2 percent for motoring offences), there is a relatively high level of transparency in these areas already.<sup>13</sup> We therefore decided to wait to see how the market develops in relation to price publication for divorce and will writing.
47. In personal injury matters it is very common to either use a damages-based agreement or a conditional fee agreement. While we recognise that consumers of these services would also benefit from more price transparency, we think that a greater understanding of the process and what it involves would have a higher impact on these people and help them in choosing a legal services provider.
48. We will issue guidance for both divorce and personal injury matters on how firms can be more transparent. This guidance will encourage price transparency in these areas, but also focus on providing clear and accessible information to consumers on the legal process they are going through and help them to understand their options. We are keen to work with stakeholders in these areas to develop this guidance.
49. We think that both divorce and personal injury are legal services that are well suited for this approach. For example, people who seek legal advice for these

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<sup>13</sup> Solicitors Regulation Authority, [Price transparency in the legal services market – Perspective of legal firms](#), 2017, p.24.

issues tend to be vulnerable and have little knowledge of how the legal process they are undergoing works or what it entails.<sup>14</sup>

50. As set out in our [November 2015 policy statement](#), we recognise that not everyone requires the same level of protection and we need to target our regulation where appropriate. We believe our price publication requirements will most clearly assist individual consumers and small businesses. Corporate clients are not at the same disadvantage in terms of information asymmetry and are unlikely to use comparison information in the same way when choosing a legal services provider.
51. We have therefore given careful thought to how to frame our requirements. Our requirement to publish price and service information only applies where a firm publishes as part of their usual business that they provide the relevant service. This includes all forms of advertising, signposting and marketing, such as any mention of offering the service on the firm's website, in a window display or any other type of marketing they undertake.
52. We have decided that the price publication will apply to firms that specialise in providing the relevant service to wealthier individuals or business clients. Appropriate price and service information will also help these clients make informed choices, for example about whether they would like a basic or a high-end service. Firms may choose to explain their particular specialism, expertise, experience and service that they provide in order to distinguish themselves.
53. Many respondents said that a price publication requirement will only be useful if firms are required to display the information prominently on their websites. We know that consumers do not spend much time searching for price information on a website so are less likely to engage with a firm if they cannot find price information easily.<sup>15</sup> Research also tells us that people make better choices when presented with accessible information, ie on a firm's homepage rather than somewhere on the website they need to search for.<sup>16</sup>
54. We will require firms to make the price information and description of services clear and accessible and publish the information in a prominent place on their website. We will not prescribe exactly where on a firm's website the information must be published. We believe that this is a matter of judgment for each individual firm. Those that provide price information in the clearest and most

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<sup>14</sup> K. Vaughan and R. Merola, [Divorced from reality – six steps to ensuring divorce processes meet separating families' needs](#), Citizens Advice Bureau, 2017, p2

<sup>15</sup> Economic Insight Ltd, [Price transparency in the conveyancing market – A report for the solicitors regulation authority](#), October 2017, p6

<sup>16</sup> Economic Insight Ltd, [Price transparency in the conveyancing market – A report for the solicitors regulation authority](#), October 2017, p54

accessible way are more likely to be chosen by consumers than those who do not.

55. We agree with the views of many respondents that it is right that we move mandatory requirements into our rules. We have decided to split the rules into two separate sets. One set will cover [the publication requirements for firms \(the Transparency Rules\)](#), and the other will set out the [rules relating to our digital register \(SRA Roll, Registers and Publication Regulations\)](#).
56. We will monitor compliance with the rules and any breaches will be dealt with in accordance with our [Enforcement Strategy](#). We want to be clear that we will investigate complaints of non-compliance and of misleading information.

## Regulatory status, protections and a digital badge

57. We think it is important that we make it as easy as possible for people to understand what kind of legal services provider they are engaging and what kind of protections they have, including in the rare event of something going wrong.
58. We proposed that firms should be required to publish on their websites:
  - that the firm is regulated by us. To do this, we proposed developing an SRA regulated logo which will also operate as a digital badge
  - that consumers may be eligible to submit a claim to the Compensation Fund, and to promote visibility of the Compensation Fund by using a SRA Compensation Fund logo
  - that the firm has PII and that it complies with our MTCs (including the amount of the minimum level of cover), the contact details of their insurer (or insurers if more than one) and the territorial coverage of the insurance
  - details of the firm's internal complaints procedure
  - how and when clients can make a complaint to the LeO.

### What did people say?

59. There was broad support for these proposals from most respondents, including consumer and profession representative groups and firms. Some respondents suggested that the digital badge would denote that a firm has PII to the MTCs and that consumers can submit a claim to the Compensation Fund, making the separate publication requirements for these areas somewhat redundant.



60. Our proposals to require firms to publish their own complaints procedures and how to escalate a complaint to the LeO were uncontroversial, with most respondents agreeing that this would be good for consumers. Those who disagreed mainly did so because they thought this information would be more appropriate to provide in the client care letter.
61. A consistent theme raised by respondents is that without increased public understanding of the role and function of the SRA, the increased confidence that a logo could bring may be lost.

### **What are we going to do?**

62. We will:
- Develop a 'regulated by the SRA' digital badge. This will be mandatory for (and exclusive to) regulated firms to display on their website.
  - Require firms to publish details of their complaints procedure on their website.
  - Require firms to publish details about how and when a complaint can be escalated to the LeO on their website.
  - Require firms to publish details of how and when a consumer may make a complaint to us on their website.
63. The digital badge will be a key way to validate that a firm is regulated by us. It will give consumers confidence when purchasing services from a regulated firm displaying the badge. In our online trial, which tested the badge with 1,899 people, we found people were more likely to choose a website with an 'SRA regulated' digital badge. 79 percent of people felt more confident when purchasing services from a website with a badge such as our proposed one.<sup>17</sup> It will also help protect against fraudulent activity, such as cloned websites.
64. Having considered the responses we received to our consultation, we will not proceed with requirements on firms to publish details about PII and the Compensation Fund. Instead we will display this information, which will be the same for all firms, on the landing page of the digital badge. This approach will also make a separate Compensation Fund logo unnecessary. This will remove any additional burden on firms and help to raise awareness of the additional protections available when purchasing legal services from a regulated firm. In our trial, more than half of participants told us that they would find it useful to be

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<sup>17</sup> Economic Insight Ltd, [Better Information in the Legal Services Market](#), research commissioned by the Solicitors Regulation Authority and Legal Ombudsman, p100

able to click on a 'SRA regulated' badge and find information on the protections available.<sup>18</sup>

65. Displaying clear information about regulatory protections aids consumer understanding and enables them to make more informed choices. Our research shows that when provided with information on regulatory status and protections available, consumers do use the information in their decision making. If also provided with price information, they are able to weigh up the importance of both to them and do not always just select the cheapest provider.<sup>19</sup>
66. We understand that it will take time for the public to recognise and understand the meaning of the digital badge. In our online trial, 56 percent of participants said that they noticed the 'SRA regulated' badge on homepages.<sup>20</sup> This means that we can build on this recognition and understanding over time. Other frontline legal services regulators have also developed digital badges or are in the process of doing so. This provides us with an opportunity to work together (as well as with consumer representative groups) to raise awareness amongst of what it means to be a regulated legal services provider.
67. We are planning to develop and implement the digital badge during 2019. In the interim we will make sure that the right information to aid choice is available on our website. We will help firms to direct consumers to this information and use our own social media activity to direct traffic to it.
68. The digital badge will be provided to regulated firms only and therefore will not be provided to freelance solicitors. However, freelance solicitors will be subject to the other requirements listed above.
69. Firms and freelance solicitors without a website will be required to provide, on request, details of their complaints procedure and of how and when a complaint may be made to the LeO or to us.
70. Firms will be provided with support and guidance to help them set up the digital badge correctly.
71. We recognise that knowledge of a firm's complaints procedure is not likely to be a deciding factor for people when choosing a solicitor. However, we know that many clients are hesitant to complain, and that some do not know how to complain when they want to. Our research tells us that 98 percent of firms

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<sup>18</sup> Economic Insight Ltd, [Better Information in the Legal Services Market](#), research commissioned by the Solicitors Regulation Authority and Legal Ombudsman, p100

<sup>19</sup> Economic Insight Ltd, [Better Information in the Legal Services Market](#), research commissioned by the Solicitors Regulation Authority and Legal Ombudsman. P117

<sup>20</sup> Economic Insight Ltd, [Better Information in the Legal Services Market](#), research commissioned by the Solicitors Regulation Authority and Legal Ombudsman, p109

provide information about their complaints procedure at the start of a matter, but only 37 percent of consumers say they were told about it. And only 4 percent remember being told of their right to escalate their complaint to the LeO at the end of the firm's internal complaints procedure.<sup>21</sup> We think that providing this information openly and transparently on a firm's website will help educate people about their rights to complain if they feel something has gone wrong. It will also enable clients to find this information easily in the event that they cannot find the client care letter or do not know that this is where they can find the complaints procedure. We will work with the LeO to provide standard wording about the right to escalate a complaint to them. Firms may use this wording if they wish.

72. Two concerns were commonly raised in response to our consultation. Firstly, that there is little knowledge amongst consumers that not all legal services providers are regulated and secondly, a low understanding of the existence and role of the SRA. We will require firms to publicise that they can report concerns about professional conduct to us. Together with the digital badge, this will begin to increase public knowledge and understanding of the SRA and more widely, of the benefits of regulation in the legal services market. We will provide standard wording that firms may adopt if they wish, which will reduce the burden on firms.

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<sup>21</sup> London Economics and YouGov, [Research into the experiences and effectiveness of solicitors' first tier complaints handling process](#), research commissioned by the Solicitors Regulation Authority and Legal Ombudsman, 2017, p. 27-28.

## Developing a digital register

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73. We proposed to develop a digital register where we will publish key information about the individuals and firms we regulate, for example if we have taken any disciplinary or regulatory action against a firm or individual.

### What did people say?

74. Our proposal to develop an online digital register was well received by the majority of respondents including consumer representative groups, individual solicitors, firms, and professional and. It was felt that easily accessible regulatory, enforcement and disciplinary information about solicitors and firms we regulate could help a consumer validate their choice of provider.

### What are we going to do?

75. We will proceed with developing the register that contains information on all the solicitors and firms we regulate. We will include in the register the data categories we outlined in our original consultation document. A [full list is available in our rules](#). Our aim is to launch our digital register during 2019.
76. We will publish an accessible, separate list of those solicitors that have been struck off or have had their practising certificate suspended. This will provide details of Solicitor Disciplinary Tribunal outcomes. If a solicitor is reinstated to the roll, their details will be removed from this list. We will help people to understand how this list can be used in conjunction with the main register when validating a solicitor.
77. We will develop a separate list of firms we have taken the decision to close to improve consumer access to this information.
78. We will also publish relevant decisions about regulated individuals who are not (or are no longer) solicitors, registered foreign lawyers or registered European lawyers.
79. Our next step is to consider how we take forward the design of the register; making sure that the register is easy to use is a key priority for us. Consumer need, experience and understanding will be central to development and so we will work with consumers and consumer representative bodies in finalising and testing the design. We will continue working with other regulators to explore how we can ensure consistency between registers, for example, using common data categories and terminology. We will also work with data re-publishers to make sure that they can access information as easily as possible.

80. We appreciate that awareness and therefore use of the register will be low to start with. We will work with a wide range of stakeholders, including consumer and business representative groups, to raise awareness of the register.

# Complaints data

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81. We collect information about first tier complaints from firms every year through our annual practising certificate renewals. We do not currently publish this information. We proposed in our consultation that we would publish this data on our website (not within the register). We suggested that this data could be used by third parties such as comparison websites and could be a helpful indicator of quality to consumers if appropriate context was provided.

## What did people say?

82. A substantial number of respondents disagreed with our proposal. Many respondents felt that raw complaints data could be misleading and pose an unfair disadvantage to some firms. However, many of these respondents also felt that providing appropriate context to the data would be difficult.

83. Some respondents were also concerned that publishing complaints data would distort the behaviour of some firms and their employees when it came to reporting complaints. This could lead to complaints being hidden, even from the management of firms, hampering a firm's efforts to learn from complaints and improve customer service.

84. A minority of respondents, such as the Legal Services Consumer Panel (LSCP) and the LeO supported our proposal and offered views as to what contextual information would be necessary to make the raw complaints data useful for consumers.

## What are we going to do?

85. At the moment, we will not proceed with the publication of first tier complaints information.

86. The decision was finely balanced as there are clear potential benefits to consumers of publishing this information, if properly contextualised. The number of complaints received by a firm can be an indicator of quality and research carried out by the LSCP suggests that consumers would use complaints data when choosing legal service providers if that information was available.<sup>22</sup> Our own research indicates that 91 percent of users of legal services say that having access to firms' complaints data would be helpful to them.<sup>23</sup>

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<sup>22</sup> LCSP, [Opening up data in legal services](#), February 2016, p.3.

<sup>23</sup> London Economics and YouGov, [Research into the experiences and effectiveness of solicitors' first tier complaints handling process](#), research commissioned by the Solicitors Regulation Authority and Legal Ombudsman, 2017, 11.

87. However, a number of factors have influenced our decision to not proceed. We are concerned that the publication of first tier complaints data could change how firms view receiving complaints. At the moment, most firms welcome complaints as an opportunity to learn lessons and improve service delivery. The publication of individual firm complaints data could change this as firms worry that complaints data may deter other clients from choosing them. This could change the culture within a firm and may lead to staff avoiding recording an issue as a complaint to present a favourable image. This, as some respondents said, could lead to complaints being hidden from the management of firms and hamper firms' efforts to learn from complaints.
88. We have considered whether we can present the complaints data we currently hold in a way that makes it easy for consumers to draw comparisons between firms. The data shows that most firms are closely concentrated around a similar level of first tier complaints. For example, if we categorise firms by low, medium and high levels of complaints received, 99 percent of firms would fall within the low category. This data alone would therefore not help consumers differentiate between providers.
89. We also considered how to contextualise complaint data in a way that was meaningful for consumers. This would be complex and require us to collect additional information, for example, number of transactions. This would increase the administrative burden on firms.
90. We know that consumers expect data published on the websites of regulators to be accurate and robust. We do not undertake any verification of the complaints data we collect and it would require a great amount of resource for us to do so. However, without that verification, we do not feel able to publish the data knowing that consumers will rely on it. We have considered whether we could publish the data with appropriate caveats, but we are concerned that many consumers would not read the caveats and would assume the data had been verified by us.
91. Therefore, having carefully weighed up the advantages of publishing this data against the risks and issues associated with doing so, we have reluctantly concluded that we will not proceed to publish first tier complaints data at this time. However, we recognise that information about complaints is important to users of legal services. To support consumers in making a purchasing decision, we will use our digital register to signpost consumers to the LeO complaints and Ombudsman's decisions data. In our consumer trial testing LeO's Ombudsman's decisions data, we found that people used and generally made 'good' decisions based on the data.<sup>24</sup> The trial was designed so that in each situation where a

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<sup>24</sup> Economic Insight Ltd, [Better Information in the Legal Services Market](#), research commissioned by the Solicitors Regulation Authority and Legal Ombudsman, p79

participant had to choose a provider, there was a 'best' option based on the number of Ombudsman's decisions and remedies awarded.

92. We will also provide guidance to firms on engaging with client reviews and feedback platforms, such as Trustpilot and Checkatrade. Feedback from consumers and consumer representative bodies tells us that consumers value the information they can get from such platforms.
93. We will focus on encouraging firms to handle complaints well and use the learning from complaints to improve their service standards. We will monitor complaints data at an individual firm level. Where we have concerns about an individual firm, for example, if we see a pattern of increased complaints, we may engage to explore the issue further. Where we have concerns with a sector of the market we will undertake a thematic review to explore issues in more detail and help determine whether we need to take any action.
94. We will publish aggregated data on first tier complaints on an annual basis, for example, overall number of complaints received, types of complaint received and most common complaint type. Publishing this information annually enables us to highlight complaint patterns and trends.



## Areas of practice

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95. Through our annual practising certificate renewals, we collect information about the areas of law in which a firm practices, based on turnover. We proposed to publish this information on our website, separately to the digital register.

### **What did people say?**

96. The majority of respondents including a consumer representative group, individual solicitors and firms recognised that publishing data about the areas of law in which a firm practices could help consumers validate their choice of provider. This information was also considered helpful by data re-publishers. Most respondents who supported the publication of this data, felt it should be published within the digital register rather than separately to it.

97. Some respondents suggested that we could better categorise the current areas of law to more accurately reflect the work they do.

### **What are we going to do?**

98. We will proceed with our proposal to publish information on areas of practice. We will not publish the percentage of turnover just the areas of law.

99. As set out in our consultation, we will undertake a review of the areas of practice we currently use. We will make sure that any categories we use going forward better reflect the diversity of modern practice. We will work with a wide range of stakeholders to achieve this.

100. We suggested that we should publish this information separately from the main digital register. We did so because the data would be historical as it is generated from information provided by firms in the previous year's annual practising certificate renewals.

101. We agree with consultation responses that consumer benefit could be diluted if we published this information separately. We will now include this information as part of the digital register.

# Individual solicitors working outside Legal Services Act regulated firms

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102. Under our rules, solicitors working in non-SRA regulated firms will not be subject to the requirements for mandatory PII that would apply in an SRA regulated firm. This will ordinarily be a matter for the organisation the solicitor works for. Clients of solicitors working in non-SRA regulated firms will also not be eligible to apply to the Compensation Fund if something goes wrong.

103. We proposed solicitors working in non-Legal Services Act (LSA) regulated firms must inform their clients at the point of engagement of both things.

## What did people say?

104. There was support among consumer representative groups, profession representative groups, individual solicitors and firms for our proposals. Many felt that it was critical that clients of solicitors working in non-LSA regulated firms understood the differences in consumer protections.

## What are we going to do?

105. We will proceed with our consultation position regarding solicitors in non-LSA regulated entities. We will go slightly further as we have reviewed our requirements in light of feedback received to this and our Looking to the Future consultations.

106. Individual solicitors working in these entities will be required to inform their clients, at the point of engagement, that they will not be eligible to submit a claim to the Compensation Fund, and that they are not required to hold PII in accordance with our MTCs. We felt that the insurance requirement would prompt the solicitor to inform clients of what their insurance position was. However, this may not always be the case and some clients may not have the confidence to ask. We have therefore decided to require solicitors in non-LSA regulated entities to inform clients of what alternative insurance arrangements, if any, they have in place and provide details if requested.

107. Firms regulated by another LSA regulator will have to comply with that regulator's PII requirements. Other LSA regulators also have their own compensation arrangements if something goes wrong. This is the reason that our requirements are limited to solicitors working in non-LSA regulated entities.

108. This means that information about protections will be provided before formal engagement and in time for a client to take this information into account when deciding whether to continue to purchase legal services from that firm.

109. Freelance solicitors will be required to hold PII that is adequate and appropriate. They will need to inform clients that they are not required to hold PII that meets our MTCs and explain what insurance they do have in place. Clients of freelance solicitors will be entitled to claim on Compensation Fund.

110. As set out in our consultation, our transparency requirements will not apply to solicitors working in special bodies.