



Legal Services Board

Quality indicators in the legal services market: discussion paper

A response by

CILEx Regulation

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## Introduction

1. This response represents the views of CILEx Regulation, the regulatory body for Chartered Legal Executives, CILEx Practitioners and legal entities. Chartered Legal Executives (Fellows) are members of the Chartered Institute of Legal Executives (CILEx). CILEx Practitioners are authorised by CILEx Regulation to provide reserved legal activities. CILEx is the professional body representing around 20,000 members and is an Approved Regulator under the Legal Services Act 2007 (LSA). Fellows and CILEx Practitioners are authorised persons under the LSA. CILEx Regulation regulates all grades of CILEx members.
2. CILEx Regulation is also a regulator of entities through which legal services are provided. It authorises entities based upon the reserved and regulated activities.
3. CILEx Regulation and CILEx provide an alternative route to legal qualification and practice rights allowing members and practitioners, who do not come from the traditional legal route to qualify as lawyers and own their own legal practice. With the implementation of the practice and entity rights, CILEx Regulation aims to capture a wider range of individuals and entities within its regulatory remit.
4. CILEx Regulation has in place Transparency Rules setting out the requirements for its entities to provide specific information to consumers.

## General comments and observations on the discussion paper

5. We have been working to further increase transparency of information for consumers since the implementation of our Transparency Rules in January 2019. We recognise evidence points to the importance of information about quality to help consumers make informed choices about legal service providers and have been fully engaged in working to increase quality information alongside other legal regulators.
6. LSB research<sup>1</sup> found consumers felt choosing a provider for legal services would be harder than in another sector for various reasons including limited knowledge and experience of what is needed, coupled with the stress and anxiety of their situation. However, research finds the experience of using a regulated legal services provider has been very good for most consumers.
7. The CMA stated in their 2020 review<sup>2</sup> “in terms of quality and satisfaction, our Market Study reported that consumers were broadly satisfied with the service they receive.” Research carried out for us in 2020<sup>3</sup> found that 87% of interviewees were satisfied with the advice they received and the Legal Services Consumer Panel (LSCP) Tracker survey 2020<sup>4</sup> found 84% of consumers satisfied with service and 87% satisfied with outcome.
8. The LSCP<sup>5</sup> found shopping around for a provider has increased steadily from 23% in

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<sup>1</sup> LSB [Quality indicators in legal services January 2021](#)

<sup>2</sup>CMA: [Review of the legal services market study in England and Wales](#)

<sup>3</sup> IRN Research: [Legal Services for Consumers, Qualitative Research into Client Behaviour, Use and Satisfaction](#)

<sup>4</sup> [Legal Services Consumer Panel Tracker Survey: How consumers are using legal services](#)

<sup>5</sup> [Legal Services Consumer Panel Tracker Survey: How consumers are choosing legal services](#)

2012 to 30% in 2020. Our research<sup>6</sup> found 46% of interviewees shopped around, although those that did based their final choices on relatively limited criteria.

9. SRA research<sup>7</sup> found that consumers feel they have a wide range of choice when choosing a provider, 74%, which continues an upward trend since 2016 (68%). This suggests a good level of satisfaction in the number of providers consumers are viewing before making their final decision on the right provider for them.
10. SRA research found a good level of consumer satisfaction regarding knowing what service quality to expect.<sup>8</sup>, with 76% of SME and individual consumers finding it was 'easy' and 68% 'very easy'. However, comparing quality of service created difficulties for some with 25% of individual consumers and 22% of SME consumers finding this difficult.
11. Against this background of current high levels of consumer satisfaction, we believe that with this work it is important to understand:
  - what will be viewed as success,
  - how it will be measured, and
  - timescales for achieving this.
12. Since early last year, we have focused our transparency work on quality indicators and are currently working with the SRA, CLC and BSB on a pilot scheme exploring the role of online reviews as quality indicators. The pilot focuses on conveyancing and employment law and will run until the summer at the earliest and possibly longer.
13. Our learning from, and prior to, the pilot has already influenced our views on the questions raised in this discussion paper, and the opinions we provide below may develop further as we trial different approaches.
14. There are several comparison and review sites (DCTs) in the legal sector. These include both big cross sector brands and providers operating solely for legal services. While the activity of these sites in the legal market relative to other consumer markets is lower, they are growing, some doubling the number of site visits by consumers annually and all are planning further growth.
15. Expansion of these sites in the legal sector could continue to be market lead or driven by regulators through regulatory requirements. Our approach needs to consider the impact of our actions on successful providers' business models, alongside possible unforeseen consequences, and potential anticompetitive action.
16. Having a greater knowledge of the business models of DCTs and how they see the legal services market has been vital in shaping our views. Some providers are close to operating with an optimum number of firms but for others, expansion is a commercial aim, adding more information to aid consumer choice. These providers have the experience and expertise to operate in this area, with the vital skill of being able to attract consumers to their sites through extensive SEO teams. As a regulator we are becoming increasingly aware that we are not best placed to do this and should be wary of taking

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<sup>6</sup>IRN Research: [Legal Services for Consumers. Qualitative Research into Client Behaviour, Use and Satisfaction](#)

<sup>7</sup> [Legal Services Consumer Panel Tracker Survey: How consumers are choosing legal services](#)

<sup>8</sup> [SRA Transparency Rules: Year One Evaluation](#)

steps that would effectively put us in competition with these skilled and well-resourced providers.

17. Finally, it should also be recognised that the landscape has changed since the CMA's original review in 2016. There are different drivers for firm and consumer behaviour, most notably the rapid move online in all aspects of life due to COVID-19. Consumers have significantly moved to purchasing online, with the increased confidence and familiarity that this has brought. Legal firms and other linked organisation have had to adopt technology and develop different ways of working almost overnight.

18. It is also important for us to consider our independence as legal regulators and our duty of care if we mandate engagement with these sites.

**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?**

19. Approaching quality in the dimensions: technical quality, customer service and outcomes is a logical approach. There are challenges, however, and these are greater for some areas of law.

20. Obtaining true measures for a dimension might be disproportionate to the actual consumer benefit and "good enough" proxies may be a way forward.

21. Consumers might value or find one dimension more useful. Research has found that what people value varies across different consumers and can be different depending on the nature of the legal transaction. Gaining consumer-led consensus is therefore vitally important to be able to offer true comparative measures.

### **Technical quality**

22. Identification of a true, reliable, and robust indicator of technical quality is not straight forward.

23. For some areas of law, issues with technical quality may not surface for many years, for example, with will writing, or a financial divorce settlement that does not achieve what was intended.

24. Technical quality is not easily understood by consumers who assume that all providers' work is of the same technical quality and accordingly might not understand the significance of information.

25. There is no current definition or agreed approach and these are likely to differ depending on area of law. True indicators of quality are difficult to devise and assess. It is possible that the use of proxies might be taken forwards because developing truer indicators is likely to be involved, costly and potentially disproportionate to the usefulness for consumers.

26. One starting point is to look to use published objective data. The current pilot aims to explore this so we can develop a more informed view on the use and consumer appetite for this data. It is likely that existing data can only act as a proxy for technical quality.

27. Where data is currently available, it does not necessarily provide a measure of the elements that truly reflect technical quality. For example, Land Registry data is published for property purchases. This includes timing of submission of form AP1 at the conclusion of the transaction. Although this provides no indication of time taken for the whole transaction. Additionally, it does not reflect the skill of a conveyancer who identifies and resolves an issue which if not identified would have resulted in future issues.
28. We need to be mindful that there are areas of law where objective data does not presently exist, requiring a different approach. Where objective data is not available or what is available does not provide a reliable indication of technical quality, different approaches might be explored. For example, for advocacy, courts might feed information to regulators following identification of issues with advocates and applications from firms. However, this will require agreement on processes from other stakeholders and may be seen as part of work on ongoing competence.
29. Accreditation schemes and quality marks have been suggested as indicators of technical competence, however, consumers are not always familiar with them. Current schemes differ in their requirements from effectively membership schemes to schemes that focus on input rather than outcome or more accurate measures of quality. This is not easily understood by consumers.
30. Scheme membership requirements can have a prejudicial effect on new firms entering the market which are unable to gain membership. Conversely, older practitioners might be less up to date but able to acquire accreditation.
31. Various existing accreditation schemes assume effectively an additional layer of regulation, with third parties requiring membership of them. If all professionals operating in a particular area of law acquire accreditation, then there is no differentiation in quality offered by them. Some existing accreditation schemes are not open to all regulated legal professionals, so having a fragmented system would not help a consumer.

### **Customer service**

32. Research indicates that information about customer service is valued. The LSB research finds that information about customer experience is the most important to consumers in identifying a high-quality legal provider. Although people attribute different values to differing aspects of customer service due to personal preference and or the legal service required.
33. Information about customer service is largely gathered through reviews provided by consumers who have experienced using a legal service. Reviews are not without difficulties as we explain in response to question 3.

### **Outcomes**

34. We recognise that consumers would wish to know if a provider had a good track record and is likely to achieve the outcome they desired. This is not straight forward, because of the link with success of a case which we cover at question 6.

35. There is also the issue of how to define outcomes. An outcome can be the best in specific circumstances because it accords with advice given, although it was not the outcome the client wanted or even that which would be viewed as a successful conclusion of a case.
36. We may also wish to consider the impact of any future increase in use of ADR in certain areas of law.
37. It is likely that an indication of the outcome achieved is often included in a review.

**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?**

38. The Legal Services Consumer Panel proposes a framework of elements to signal quality comprise of objective data, consumer feedback and general information about providers. These three elements make sense and the findings of the LSB research with a panel of 69 individuals concludes that that the information consumers find useful fits into these three categories. The current pilot is following this framework in relation to conveyancing and employment law.

#### **Objective data**

39. The use of objective data could provide consumers with an indication of providers' ability. The independence of such information offers consumer confidence in its validity. A starting point is the use of currently published information.
40. Consideration needs to be given to potential and unintended consequences which could result from using objective data. Providers might focus work into the part of the legal process feeding into the indicator, whereas focusing resources into other elements of the process could ensure a better consumer outcome. If success rates are used, is there a potential for firms to turn down marginal cases, thereby denying access to justice?
41. Contextualisation of data will be important for consumer understanding. As always conveyancing is used because it offers access to measurable data. For example, Land Registry requisition data is available, but consumers would need to understand it, for example, certain types of property transactions usually have more requisitions. Creating an understanding across other areas, however, will be more challenging.
42. Some organisations may collect, or be able to collect, data through their existing processes which might be better indicators for consumers than the data they already publish. For example, the currently available Land Registry data has been published to drive improved quality within firms, rather than from the point of view of what would be useful for consumers. This approach could provide consumers with more useful indicators.
43. Use of third-party data brings challenges, such as future proofing. For example, the Land Registry plan to change their procedures which may result in changes to current data.
44. We need to be mindful that research shows consumers find too much information

confusing, off putting, so the right balance, contextualisation and presentation of information will be key.

45. The pilot should enable understanding of the extent to which objective data might be useful, how it might be published to be useful to consumers and their desire to use it.

### **Consumer feedback**

46. Individual consumers use legal services infrequently and have limited understanding of them. Consumer feedback enables a quantity of people to share their experience of dealing with a legal problem, the service provided by a firm and offers collective knowledge for consumers to tap into.
47. While we agree that reviews can be useful for consumers, they are not without issues. Again, the pilot is providing the opportunity for us to increase our knowledge in this area.
48. Consumer feedback can be collected in a range of ways, such as star ratings, scoring, free form text, guided questions, and a combination. Reviews might be published on firms' websites by firms, or on independent review site which may or may not be linked to from a firm's website. Consumers are likely to have more trust in independently verifiable reviews on comparison and review sites.
49. Star or scoring ratings alone may provide little differentiation between firms if many firms have similar scores. They can be a blunt instrument which does not capture important nuances which free text can.
50. Reviews can be hosted on comparison and review websites. Some of these platforms offer suggested wording as a person composes their review. While helpful to a reviewer and standardisation of responses may be useful to consumers reading them, there could be issues around consumers being prompted to say things they might not have chosen to and any standardisation can take away from nuanced reports.
51. Our research found respondents had little appetite for consumer reviews. It was thought that reviews on firms' websites would only be those which showed the firm in a good light and reviews were not considered appropriate for legal services. The interviewees did not have an appetite for providing a review, fearing misleading prospective consumers, and generally wishing to move on from their case soon as it had finished. We appreciate that findings differ in the research with the LSB panel, although note that the participants were selected because they used online reviews for other services. There was a relatively small number interviewed, carried out several months into COVID-19 restrictions, following the resulting move online and increased familiarity using this.
52. However, our experience with DCTs has shown that there seems to be both a significant volume of clients who will leave reviews and consumers who wish to access them. Therefore, we believe it is important for us to assist both parties in understanding how to leave a balanced review and what a review might mean, as well as helping DCTs with how to present information to the consumer.
53. Reviews are subjective and likely to be influenced by individuals' own values and possibly the case outcome. Good advice and legal service may have been given even if a consumer views the outcome as poor and provides an unjustified negative review.

However, it is probable that consumers understand that one bad review does not mean a firm will always provide a bad service and the more reviews available, the more balanced and accurate the information about a firm.

54. While some firms have embraced reviews, others are more reluctant to do so. Many firms which have adopted reviews have done so as part of marketing with a clear plan for their use, how to encourage clients to provide them, how to police them and how to respond to negative reviews, some even having recruited clients on the basis of how they responded to an adverse review.
55. People are wary of fake reviews or played reviews and investigation have found such issues as people leaving positive reviews about their own businesses, negative ones about rivals, and people being paid to do the same. Site providers have employees working in this area and continue to build processes and use of technology to combat this. However, these issues persist. These concerns are equally troubling from firms' perspective.
56. Feedback could be guided with consumers asked to rate against specific questions. It is possible as regulators to suggest questions but if the way forward is for review sites to expand in the legal market, the provider business models will drive the way reviews are gathered. Any influence regulators have is probably short-lived because sites are constantly evolving to meet consumer needs and to remain commercially viable. As regulators it would be wrong for us to take action that suppresses innovation.
57. We are considering our role in raising awareness of reviews and how consumers might them as part of the choice making portfolio. Research indicates that there needs to be a growth in consumer trust of the appropriateness of reviews for legal services. There is the challenge getting sufficient people to leave reviews.

### **General Information**

58. We are open to improving the information about providers and have touched on this in question 4. Most valued information includes how long the firm has been in business (or experience of individuals), specialisms, and location. Additional information will be important to different consumers, depending on their specific needs and the legal service required. Being mindful that consumers find too much information confusing, we think that there needs to be a proportionate approach on what is required across all firms. This can be considered in line with the broader approach from the LSB.
59. There is merit in suggesting that all firms are required to provide details on their websites about regulation, access to redress, complaints information, and logos, irrespective of the services that they offer.
60. It is clear that the way information is presented on a firm's website has no impact on the information that DCTs access. This may allow more flexibility in how firms present information about services and or price.

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

61. The focus for provision of quality information should be on individual consumers and



SMEs, which often comprise of one person, or a small number of individuals, and this puts them in a similar position in terms of needing information as individual consumers. The work in this area accordingly needs to focus on firms that provide services required by these consumers.

62. Commercial consumers tend to use legal services more frequently, have a better understanding of the work they require, often have long standing relationships with firms and some inhouse legal capacity to assist with identifying the legal help they require. Often, they will have their own measures of effectiveness for the work that a law firm carries out, but these may be commercially sensitive.
63. Work in this area is being carried out by regulators and the focus is on regulated firms. Research finds that a large majority of consumers assume all legal service providers are regulated. The development of quality indicators can offer the opportunity to distinguish between unregulated and regulated providers, even if this relates to the benefits of redress, insurance and compensation arrangements.
64. The current review pilot recognises that reviews are predominantly provided online either via comparison and review sites or firm websites. This does not address the needs of the digitally excluded. The pilot is looking at ways to reach people through intermediaries and possibly provision of hard copy information.

**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?**

65. DCTs obtain the data they publish about firms directly from firms and or from regulators. Some sites provide firms with their own portal enabling firms to easily supply and change their information. DCTs are not taking information from firms' websites. This suggests that the information regulators require their firms to publish under the Transparency Rules is unlikely to increase the activity of these sites.
66. The Transparency Rules have however driven an increase in information published on firms' websites. Consumers who go directly to firm websites to find information about price and services are using this information, although research has indicated that they are put off or confused by too much information. It is likely that the Transparency Rules have also fed into the shift in many firms' behaviour towards increased transparency and looking for other ways of reaching consumers and providing information about their services, including via comparison and review sites.
67. The way in which DCTs collect data may make it is easier to raise transparency standards across the whole legal sector. In other markets where comparison sites have taken off, consumers obtain information about products from comparison sites rather than directly from the product providers' sites. If this is the direction of travel, then information provision on firms' websites takes on less significance, or at least in the areas of law that comparison sites move into, or find it easier to operate in.
68. The Transparency Rules currently cover several areas of law which are more transactional and easier to provide price information. It is more about concentrating on a few pieces of key information across the market, rather than adding to what is published.

Key information would include digital logo, PII, compensation arrangements and service provision. Price could be included but with less prescription to enable the areas of law where it is harder to provide accurate price information to invent their own approach to providing information on their websites, for example by providing a price range. If price information is provided via comparison sites, regulators might be able to approach price provision by firms in a less prescriptive way across the sector or in specific areas of legal services provision.

69. It depends on the purpose of website information provision, if it is to provide information to facilitate DCT growth because they are not using it, further development is not needed. If it is to assist consumers there is a place for it but with a change in approach.
70. This change might see publication by firms of a base level of information across all areas of law comprising the information currently required, but with scope for a less prescriptive approach to publication of price, with more tailored price data published by DCTs in the most used areas of law.
71. It is unlikely that requiring firms to publish more information on their websites will benefit consumers who are overwhelmed by too much information. However, increased uniformity of information provision might be beneficial for consumers visiting websites. It may be helpful for work to be undertaken to understand what would make the information already available more accessible across providers.

**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?**

72. We have provided our views on potential drawbacks and potential benefits for consumers regarding consumer feedback and objective data above.
73. Research finds consumers value general information about a firm, and individual providers. Most valued information includes how long the firm has been in business, specialisms, and location. Consumers can equate longer established firms with stability and competency. This is not a given and could have a negative impact on new start-up firms.
74. However, it is probable that, given consumers value different things depending on their personal preferences and the type of legal problem they have, provision of a range of general information will aid consumer choice. It must also be remembered that consumers become confused when presented with too much information, however information that is relatable for consumers is likely to be of more value.
75. The pilot should provide us with more insight into the usefulness and possible drawbacks of these types of data.

**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?**

76. Use of success rates raises several issues. Defining success is a challenge and what

might be viewed as an unsuccessful outcome is not always a reflection of the ability of the professional, or service or advice provided by them. This was recognised by participants in LSB research, “objective measures of success appealed in theory to participants, though they questioned how a simplified measure would work, given the variables and complexities that exist within legal services<sup>9</sup>.”

77. There are some areas of law that have perceived winners and losers, such as certain types of litigation; in other areas of law the right outcome for the subject of litigation may arguably be the focus of success rather than the outcome for the litigant, for example in cases relating to children. Is it possible always to be clear who has won? In a case where a litigant who ‘wins’ a case must pay costs and has their reputation questioned, both parties might argue they were successful.
78. In transactional legal services success might be viewed in terms of speed, whereas a transaction might take longer because a competent advisor identifies an issue that takes time to resolve.
79. Adoption of success rates could lead to adverse consequences for consumers by impacting on access to legal services. Firms may not be prepared to take on difficult or marginal cases because of the real possibility that the client may not be successful.
80. Success might be looked at as the achieved outcome matching the outcome advised. There are, however, cases where new information emerges which, had it been known at the outset, a different course of action would have been advised. There are some areas of law where the actions of other party(s) are unpredictable and can adversely impact on the outcome.
81. For some legal transactions, outcomes are not known until some years in the future. For example, a wrongly drafted will, problems with land title, or a divorce settlement that did not achieve the intended outcome.
82. First tier complaints data is hard to police, with some firms interpreting the definition of a statement of dissatisfaction in different ways and making different decisions about when to record as a complaint.
83. Use of complaints data as an indicator can lead to undesired practices within firms. Fee earners may choose not to report complaints if they know that they will negatively impact on a firm. The reporting of complaints within firms is a positive culture, enabling problems to be identified, put right, and prevented in the future, leading to improved customer service.
84. Participants in the LSB research “felt that complaints data could be problematic in that it relies on context, could be manipulated, or could include spurious complaints.” When comparisons are made with other sectors, such as the banking industry, it has to be remembered that there are relatively small numbers of businesses in those sectors compared with the legal sector. Accordingly, establishing a definition of a complaint and enforcing it is easier than in the legal sector where there are about 11,000 regulated firms of differing sizes.

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<sup>9</sup> LSB [Quality indicators in legal services January 2021](#)

85. There is very little data available to us from the firms that we regulate. However, we understand that the level of complaints for most firms is very similar and as such complaints data would not offer differentiation between firms.
86. It is more important for consumers to know what a firm does well, rather than where issues have arisen. This includes positive remedial responses to complaints.
87. There are issues around the use of data published by the Legal Ombudsman (LeO). LeO's data is currently year out of date and could unfairly represent a firm's position. The format in which LeO data is currently published is difficult to access in a useable way for a consumer. Use of LeO data might encourage bad practice in firms to avoid cases progressing with LeO. The practice of one individual within a firm could reflect on the firm as a whole for a period of time, even if the firm had taken quick steps to remedy the situation. Identification of firms that deal well with complaints would be required because this is an indication of desire to provide quality service. Work would be required to identify how to publish and contextualise to be useful to consumers.
88. Legal problems frequently are very human or emotional for consumers and the use of complaints data risks reducing this to numbers and percentages. Better ways might exist to identify poor practice, for example, courts and other organisations relevant to different areas of law might feedback good and bad behaviours to regulators.
89. It is probable that within the pilot we may ask comparison and review site to point to LeO data to investigate the consumer use of this.

**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?**

90. There is a place for both firms' websites and DCTs in provision of information on quality information. The role in terms of what information is best presented by each may differ and evolve as DCTs and other comparison providers gain a larger role in the legal sector.
91. Firms' websites have a role because research finds that consumers carry out online searches to find information about different firms' legal service offers. However, research also highlights that consumers are confused by large amounts of information. Research suggests that consumers look for information on firms' websites, often around softer measures, but in the majority of cases make final choice decisions following direct contact with a firm to get a feel for the provider and price advice specific to their individual case. It is important for firms to publish limited key transparency information, with enhanced information being provided by DCTs as explained at question 4.
92. Regarding specific quality information, consumers have higher trust if provision is made independently from the firm it relates to. Research finds that consumers are wary of reviews hosted on firms' websites. Recognising that firms will cherry pick the reviews published on their sites and will not host negative reviews. It is likely that people will have greater confidence in independently verified reviews on comparison or review sites. The current pilot will help us with our understanding of this.

93. The sites operating in the legal market comprise destination sites and sites used by people to check consumers views on firms they are thinking of using. Both types of site offer consumers' reviews on a range of firms in one place, rather than consumers having to navigate to each individual firm's websites. This offers consumers the opportunity to consider firms that they would otherwise not have been aware of. For firms, reviews about them hosted by online sites can market them to consumers otherwise unaware of them.
94. DCTs are wider reaching, have expertise in SEO, bring firms together in one place, but do not cover the whole market, some smaller ones are near saturation for their particular business role, but the legal DCT market appears to be doubling year on year.
95. Our views differ depending on the purpose of a SDR. We see the benefit to consumers of an SDR which brings together in one place regulatory information about all regulated providers which is currently available on legal regulators' registers, including disciplinary information. This would provide a single source for verification of regulated individuals and entities for consumers. Further work could explore developing the registers and disciplinary tool already hosted on the Legal Choices website. DCTs may wish to link to such a SDR from their websites or possibly use it as a data feed.
96. The inclusion in a SDR of data additional to regulatory information starts to move its purpose from verification to comparison. This would position the SDR in competition with DCTs. These have resources and expertise to maintain their sites, promote to reach consumers, develop, and innovate, which as regulators we do not. As regulators, we must consider our independence and duty of care if we were to provide comparison information.
97. There is the need to consider digitally excluded consumers and how to reach them. As the pilot progresses, we will investigate how to address this including through intermediaries and hard copy information.

**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?**

98. There is already considerable activity by DCTs in the legal sector and while their operation in the legal market is less than in other markets, it is growing and there are plans for growth. There are DCTs which operate only in the legal market and generalists which offer across a range of markets. There are different business models, some are validation and others destination sites. Some DCTs are operating close to capacity, while others are set up to continue to expand. Some DCTs are exploring developing their business model to become destination sites.
99. The current pilot has enabled us to gain a better understanding of their position in the legal services market and more data will be gathered as the pilot progresses.
100. There has been significant growth in the last 18 months, and we understand anecdotally that the market is doubling growth year on year. Trustpilot has reported a 25% increase in legal firms engaging with them which they say is unprecedented. They

have also commented that as a sector legal services scores higher than other professional sectors.

101. Different consumers use DCTs in various ways and at different stages in their choice making journeys. Some use DCTs to check reviews and ratings for potential firms they have already identified. Some are “directed” to look on DCTs because of ratings alongside firms following online searches. Other consumers go straight to a DCT to search for a firm.
102. The current pilot is investigating different approaches to encouraging engagement by firms and consumers with DCTs. From the increase seen by Trust Pilot it would suggest that the increased publicity and messaging about the use of and benefits of reviews in the legal sector has increased firms’ willingness to engage with reviews. There are possibly issues around confidence and the appropriateness of DCTs for legal services for both firms and consumers. Normalising the use of DCTs in the legal market for both firms and consumers may increase use. Again, the pilot will provide us with more information about this.
103. DCTs are specialists in understanding what consumers want and how they use information. They have developed their offer iteratively, know how best to present information and are continually innovating. DCTs have extensive understanding and use of SEO to reach consumers with reviews and use technology to encourage consumers to provide reviews. Action by regulators may adversely influence future development to the detriment of consumers.
104. Legal regulators might be able to have some influence with DCTs that operate solely in the legal sector, influence is likely to be less so with the cross-sector providers. The level of influence needs to be balanced against DCTs being in a position to develop their business models, compete freely and innovate for the benefit of consumers.
105. It will be a challenge to measure the long-term impact of work we as regulators take in this area because of external influences over which we have no control, and their influence is difficult to measure. For example, COVID-19 has had a significant impact in moving shopping online and change in firm and consumer confidence and behaviour.
106. We see a regulatory role to encourage behaviour with guidance and business case messages. Firms need to see a benefit to use of DCTs and encouraging their clients to leave reviews. If firms see a benefit to engaging with reviews, or at least a detriment to not doing so because competitors are using them, they are more likely to include them in their suit of marketing tools. It may become good practice for firms to check all review sites even if they do not have a relationship with them, because some DCTs allow consumers to leave reviews about firms even if the firm is not registered with the DCT. Developing consumer messaging about how to use and leave reviews to encourage clients will be beneficial. For busy firms, many DCT packages, take care of this element for firms. For some firms, embedding links to DCTS into their website may work for their business model, while other firms gain most clients offline and mandating an embedded link would not work for their business. With the growth of DCTs, firms may be reviewed on several sites, or choose to market for work from a range of comparison sites and should have the freedom to link to sites, or not, to fit best for their business.

107. There is potential for issues relating to reviews to arise and the CMA launched an investigation into misleading online reviews in May 2020. Regulators can aim to influence and work with DCTs. Those operating solely in the legal sector might be more prepared to work with legal regulators, whereas larger national cross-sector DCTs may be less open to this, and our sphere of influence is limited.
108. DCTs are commercial organisations with their own business models and approaches. They have different procedures for handling fake and defamatory reviews which can have varying impacts on firms and on consumers. There has recently been press comment regarding Google and Trustpilot and there is the possibility for negative stories about the DCT market to reflect negatively on the legal sector. The more involved regulators are in the requirement on firms to use DCTs, the less our independence and greater our duty of care to be aware of what is being published about the activities of the firms and individuals we regulate.

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

109. Legal regulators have limited influence over DCTs which are commercial businesses, and we should be careful of creating a situation where there may be a perceived regulatory influence over them.
110. We can engage and work with DCTs so both DCTs and regulators can act with the aim of avoiding and mitigating problems for firms and consumers. This is a developing market and detrimental practices, over which regulators and potentially DCTs have little influence, can emerge. Regulators' influence is limited and largely dependent on co-operation of DCTs.
111. We set out at question 11 that we see a role for regulators in providing a voluntary code for DCTs and producing information, guidance and messaging for firms and consumers, via our websites, Legal Choices, intermediaries and other channels, although it is more challenging to reach consumers. Again, regulators can encourage DCTs to provide messaging to address safety issues as they arise but being very aware and clear that the DCTs are independent commercial entities and we do not regulate them. As regulators we need to keep our independence in view, consider the impact of our actions and consider if they create a duty of care to consumers using DCTs which would extend our role, with resource implications. We expand on this at question 11.

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

112. We refer to our response to question 7. We are of a view that regulators are not best placed to provide commercial information which would put our offer of a SDR in competition with the provision of DCTs.
113. Regulators need to retain independence to be able to carry out our core regulatory role and provision of commercial information is likely to impact on this. Accordingly, a SDR provided by the legal regulators should provide the regulatory information already supplied by regulators registers including disciplinary.

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

114. During the pilot we have met with comparison and review site providers and built an understanding of their different operating models, their development over a number of years and their views on expansion in the legal market.
115. Reaching consumers, making review sites a known part of a consumer journey, building trust in this approach takes time in any market. Normalisation of the use of DCTs in the legal market may take longer due to consumers using legal services infrequently and the nature of legal services.
116. While the DCT market within legal services is not yet mature it is growing, anecdotally doubling year on year. This is without intervention from regulators.
117. Comparison and review sites (DCTs) have been operating in the legal market for several years and at least one for twenty years. As commercial businesses they have developed their operating models and products. They continue to develop what they offer, to meet consumer needs and demand and legal firms' appetite. They have expertise and technical resources to expand, iteratively and continually innovate and respond to changes in consumer and firms' behaviour.
118. There is ongoing change in the legal sector DCT market. There are destination sites with consumers starting their journey to select a provider on the site, while others are used by consumers to validate legal providers already identified. Some DCTs are planning to move into providing destination sites. New DCTs are being launched and new technologies are enabling the development of innovative new products such as comparison Apps. These are developing because of commercial opportunities fed by consumer demand. Consumer appetite for these products is growing as is use by legal firms and a market-led approach should enable this demand and supply to develop at a similar pace. Additionally, the approach taken needs to be flexible to enable development to react to consumer behaviour. For example, consumers have moved more to dealing online as a result of COVID-19. This points to the benefits of a market-led approach.
119. As regulators we need to be wary of taking a regulatory approach which could interfere with commercial businesses, stifle innovation or inventive start-ups which may negatively impact on consumers.
120. For DCTs to develop in a meaningful way for the benefit of consumers, firms need to see the benefit of and proactively engage with DCTs, ideally building their use into their marketing work. Mandating firms' use of DCTs is less likely to achieve practical engagement from firms. Most DCTs provide free services and mandating engagement with DCTs may result in firms using a free service to comply, but without active engagement required to facilitate market development. Equally, mandating engagement with DCTs might provide an anticompetitive advantage over other forms of providers developing as comparison tools.
121. Regulators need to be careful of taking action that might adversely affect the DCT market. For example, there needs to be a balance between the supply of firms providing



quotes and the demand from consumers to visit websites who are prepared to accept quotes. There are DCT providers whose business models would struggle with a sudden influx of firms because they are operating close to optimal capacity for the number of consumers that currently use their site.

122. As regulators we have a role in developing and provide guidance and messaging for consumers and firms to support consumers, firms and DCTs. DCTs taking part in the pilot have been given a voluntary code of conduct, setting out the standards expected of their sites to ensure they are independent, transparent and fair to both consumers and the firms. The regulators are exploring different channels and ways of reaching and engaging with firms and consumers.
123. We see our role as a regulator to support development, by engaging with DCTs to understand and assist progress, work to understand where there may be detriment and influence better outcomes for consumers where possible. Increased provision of information to consumers to nudge them to shop around, be aware of what is available and how to use it through channels such as Legal Choices and work with intermediaries.
124. There are areas where regulators might provide some assistance to DCT providers such as categories of law, understanding and differentiating between regulated and unregulated services, the digital logo and what Legal Choices can offer.
125. Profile raising of legal sector DCTs, and the role they play, to firms and consumers is an important role for regulators. However, we again point to the knowledge and SEO capability of DCTs to reach consumers, which regulators do not have. There are also areas of law where intermediaries have a long-established powerful position in recommending firms role such as brokers and estate agents. There will be challenges to overcome these barriers.
126. As regulators, we need to consider our role and independence. If we mandate use of comparison or review sites, we may compromise our independence and extend our duty of care to police reviews as part of our risk and enforcement work. It may be assumed that reviews will relate to service issues which are the remit of the Legal Ombudsman, however, they may encompass issues which breach a Code of Conduct. Would there be a presumption that we should be overseeing all reviews that are left and act if one, two, three adverse reviews are left? Could that be manipulated by those taking malicious action against a firm? If that were the case, there would be a significant resource implication for all regulators, including the practicalities of carrying this out. DCTs co-operation may be required but this would tie regulators more closely to working with DCTs in sharing information provided by reviewers. Reviews are provided not only on DCTs, but on social media platforms and we would have to consider if by mandating reviews we might extend our duty of care to such other reviews.
127. Our learning from the pilot feeds into our better understanding of the regulatory role, good practice, how we might support this and what works to reach and encourage engagement by firms and consumers.
128. We are not aware of any other market that mandates involvement of DCTs by those that it regulates.

129. We are moving to the view that there are advantages to, and it is right for, comparison and review site growth to be market-led.

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

130. Identifying and providing true quality indicators, in a consumer-friendly and accessible way, across a wide range of areas of law with different types of providers is challenging.

131. The pilot is increasing our understanding of DCTs and the role reviews and other available data might play in providing information about quality, although this is in the more transactional areas of law, conveyancing, and employment.

132. There is limited research to understand consumers needs for, and how to facilitate, meaningful quality information generally and especially in the more challenging areas of law.

133. From the pilot it is becoming clear that DCTs are actively developing and expanding in the legal sector. They are currently experiencing significant growth in firms engaging with them and people participating with the reviews. This has taken place largely without regulator input. We are of the view that this growth should continue to be market-led with our role to facilitate and support consumers and firms through ongoing engagement with DCTs, guidance and information.

134. The approach to provision of quality information needs to be flexible to allow for changes in consumer behaviour and unforeseen external impacts on the legal sector.

135. Against the backdrop of present high levels of consumer satisfaction, we consider it is important that with this work the LSB is clear about what will be viewed as success, how it will be evaluated, and timescales for achieving this.

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