



Quality Indicators in the Legal Services Market Discussion Paper

Response by the Council for Licensed Conveyancers to the Legal Services Board

22 April 2021

The Council for Licensed Conveyancers (CLC) would like to thank the Legal Services Board (LSB) for the opportunity to comment on the 'Quality indicators in the legal services market: discussion paper' and looks forward to commenting on the draft statutory statement of policy later in 2021.

The CLC fully supports the LSB in its work on quality indicators and strongly believes in the need for a proportionate response to the current lack of knowledge and shopping around of consumers hoping to access legal services.

As noted in the discussion paper, the CLC is working with the SRA, BSB, and CILEx Regulation on a quality indicators pilot. The pilot was launched in February 2021 and is intended to run for several months. As such, we are as yet unable to contribute any findings, data, or observations from the pilot to our response to this discussion paper. We hope that this experience and insight from the pilot will inform the LSB's policy statement on its expectations of supervisors.

Our response below sets out our high-level thoughts on the questions posed in the discussion paper.

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

We have concerns in relation to the challenge of assessing and reporting 'technical quality' in a consistent and fairly comparable way. Using accreditation schemes for that purpose seems problematic unless those schemes are delivered by regulators or are very objective and rigorous in their setting and policing of standard. Where they are run by representative bodies or by commercial providers, there could be concerns about objectivity.

'Customer service' is perhaps more easily reportable given the ease with which customer feedback can now be gathered and re-presented to inform potential future clients. Consumers are familiar with tools such as TrustPilot which provide a degree of assurance around the reliability of the reviews they host.

The discussion paper defines 'Outcomes' as "whether the legal service is useful and delivers a good outcome", and notes that the meaning of 'good outcome' will depend on the circumstances. It should also be added that what is a good outcome will depend on the area of law (e.g., in conveyancing a good outcome may be a transaction that completes on time). It would be useful to have more information and clarity about what a 'good outcome' means in different areas of law so that outcome can more readily and transparently be applied as an indicator of quality.

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?

If using disciplinary records and sanctions information (which is already available on regulators' websites) we would perhaps need to assume a higher level of knowledge on behalf of the consumer. For example, if a lawyer or practice had a disciplinary record for inadequate AML checks over a period of time, however the issue had been fully remedied, this might discourage a consumer from choosing that provider if they only have sight of the breach and not the remedial action.

Also worthy of closer examination is whether the average consumer would readily comprehend the relationship between the type of the breach that is the subject of the disciplinary record, and the type of work or transaction that they are looking for a lawyer to complete (for example, the relevance of an historical accounting rules breach to proposed work where no client money will be held). This could mean practices and lawyers unfairly miss out on new work due to unrelated or trivial breaches with little actual bearing on their ability to do the work or the overall quality of the work.

In relation to consumer feedback, it is important that a clear distinction is drawn between quality indicators and other types of information that customers may find useful in making an informed choice. We would argue that consumer feedback falls into the 'other useful information' category. In addition, the highly subjective nature of this information might make it difficult or risky to use as a verifiable indicator of quality.

General information about the firm would be easy to include and is easy to source or to find. However, it should be clarified how consumers would be expected to use information about, for example, the age of a practice to make a more informed choice. Introducing factors such as these could unnecessarily complicate the decision-making process if it has not been previously shown that there is a correlation between age, size etc. and quality. It should also be noted that work on ongoing competence in the legal profession has shown that the quality of work done by a legal professional can actually decrease over time as the sector places an over-reliance on PQE (see Stephen Mayson's report on [Reforming Legal Services](#)).

Objective data about service providers might include details of the typical matters that they work on. In the case of conveyancing, that might include information about the geographical location of houses bought and sold or the value of a typical transaction for each firm.

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

We agree that action in this area should focus on individual consumers and small businesses, as these are the least likely to be able to make an informed decision about the quality of a legal services provider based on frequent use of legal services and general familiarity with the market.

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 in quality consist of?

It is not clear that dictating a base level of transparency across the market would be preferable given that different quality indicators may hold different weights in different practice areas (e.g. in conveyancing vs. employment law). It is also unlikely that the same consumer will be comparing providers 'across the market'.

Consumer feedback might be the main source of a single type of measure that could be applied to all firms in addition to the information on price and nature of services that firms are already required

by the CLC and others to publish. These might constitute the base level of transparency with other service-specific data such as that we mention in our answer to Question 2.

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

We agree that consumer feedback and objective data would be the most useful, and that ‘general information’ may have varying relevance to quality for the reasons already set out.

While consumer feedback and reviews are a popular factor in consumer decision-making, it should be noted that they are often one-sided and do not necessarily take into account any remedial action taken or resolution reached following a complaint being made or review written.

As discussed above, objective complaints and disciplinary data may be a useful aid in consumer decision-making but it is important that it is provided in context and that consumers are given the tools to make an informed decision about its relevance to their own circumstances or transaction.

We consider that there is a need for some research with consumers to understand what data on legal services they will most value and make use of. We might envisage research that sees individual consumers being observed as they interrogate dummy websites that present different elements of data in different ways. The insight from that research could help to inform targeted pilots of preferred approaches for evaluation before we move to set final requirements.

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

Success rates could play a role in informing consumer choice. For reasons already stated, it is important that ‘success’ is carefully defined according to different practice areas and outcomes. It would also be important to clarify that ‘success’ is not to be measured by a consumer’s subjective opinion of what success means in a particular set of circumstances.

Complaints could possibly be useful but again it is important that consumers are given the context and tools to view and understand how it might apply to them. This need might mean that in fact complaints is seen by consumers either as unhelpfully complicated or that it is misunderstood as being more meaningful than it is.

Question 7: Which channel would be the most effective: law firms’ websites, DCTs, a single digital register? Any others that should be considered?

Displaying the information only on law firms’ websites would not address the issue that consumers find it difficult to compare providers. As set out in the discussion paper, visiting multiple websites to make a comparison would likely lead to consumers becoming fatigued and not having the best overview of how providers compare.

Consumers may also find it difficult to find the information on a law firms’ website unless regulators specify where and how the information is displayed and monitor and enforce compliance with these requirements.

DCTs may be the most effective option as they have the technology, resource, and commercial incentive to ensure that information is accurate and transparent and that consumers and providers are benefitting from it. However, DCTs are unlikely ever to offer a ‘whole of market’ listing for legal

services, so it will also be important to ensure easy comparability between data provided by different law firms.

Question 8: Do you have evidence on current usage of DCTs not mentioned in the paper?

CLC does not have anything to add here.

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

Regulators can provide guidance and education to help consumers and providers understand and interpret the information displayed by DCTs, and to put it into the context of their own personal circumstances and needs. The CLC would seek to explain new data tools to potential consumers of conveyancing and probate services as part of our general effort of legal education which, because of the nature of the services we regulate, is focused on reaching potential clients as they begin to think about appointing a conveyancer or probate practitioner.

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

It may be that the single digital register could provide the basic level of quality indicators once that has been defined following consumer testing. More detailed data could be left to DCTs and firms themselves to present.

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

There is a role for regulators to set out standards for quality information that ensure easy comparability to avoid consumer confusion. Those standards can be set for legal service providers and existing and new market providers (DCTs and others) could develop new offerings to help firms bring the standardised data to the attention of consumers.

Because the market is unlikely to deliver a solution that covers all legal service providers, regulators will need to take steps to ensure that all firms are making data available and that it is easily comparable.

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

The idea of assessing and reporting on 'technical quality' does not sit easily with the approach to regulation of legal services. Comparisons with healthcare are perhaps misleading because the impacts of poor technical quality in healthcare can be difficult or impossible to correct whereas in legal services they generally are. That difference means that the test of proportionality gives a different result in the two sectors in terms of assessing technical quality.