

**COMBAR RESPONSE TO THE LEGAL SERVICES BOARD'S DISCUSSION
PAPER ON QUALITY INDICATORS IN THE LEGAL SERVICES MARKET**

1. COMBAR is the representative organisation of Commercial Barristers in England and Wales. It has considered the recent discussion paper relating to quality indicators in the legal services market issued by the Legal Services Board and the response to that paper prepared by the Bar Council.
2. COMBAR wishes to support and endorse the points made by the Bar Council in that response.
3. In the high-value, complex and lengthy pieces of litigation in which members of COMBAR practice it is invariably the case that barristers will be instructed by, and on the recommendation of, experienced and highly-skilled litigation solicitors or other legal professionals with a deep knowledge of the relevant market. Commercial barristers are instructed on the basis of a variety of factors including experience, individual expertise, cost and inter-personal skills and it is apparent from the number of occasions in which teams of barristers are made up of individuals from different chambers that specific consideration is being given to individual expertise and style in selecting who to instruct.
4. In such a competitive and expert market, we do not consider there is likely to be any value in mandatory forms of quality indicators. Moreover, there are a number of specific factors affecting international disputes work which have a material

bearing on the sense and suitability of Digital Comparison Tools as a method for providing feedback in respect of barrister performance.

5. First, a sizeable majority of commercial disputes work in London is international in nature and, in addition, commercial barristers commonly appear in proceedings across the world. Those cases involve parties from nations who may have very different legal traditions to those which pertain in England.
6. Second, a significant proportion of the international work that is undertaken by commercial barristers takes place in arbitration. Confidentiality is a central feature of arbitration. It is generally unlawful to disclose the details of an arbitration to third parties.
7. Third, it is also an inevitability of the nature of commercial litigation, which involves both high-value claims and a substantial number of cases involving serious allegations of fraud against defendants who would not wish to be involved in such litigation, that client perception of their legal experience can be entirely divorced from a fair assessment of the legal services they received in the context of the ethical and professional obligations to which barristers in England and Wales are subject.

COMBAR Executive Committee

14 April 2021