

Sent by email only to

22 April 2021



Dear Sir/Madam

Quality indicators in the legal services Market: discussion paper

The Legal Services Consumer Panel (Panel) welcomes the opportunity to respond to the Legal Services Board (LSB) discussion paper on quality indicators.

We are pleased that this important issue has gained traction and we remain committed to supporting deliverables that lead to better consumer outcomes.

Reflection on the LSB's questions

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?

We agree with the dimensions under consideration. These ideas fit in with the Panel's own definition 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?

The Panel agrees with the types of information the LSB is proposing to consider, we believe these fall within the categories consumers have come to expect in other sectors. However, adequate attention must be given to the exploration of each type of information. While the Panel has always supported the use of DCTs and review websites, we have also advocated for a single digital register, publication of Ombudsman Decisions in full and first tier complaints data. The LSB must be mindful not to lean too heavily towards review websites or DCT alone. As such it is important to provide information about all the dimensions set out in Question 1, we believe this is the only way to give consumers a rounded picture.

Question 3

Which groups of consumers and/or types of providers should action in this area focus on?

We agree with the rationale for targeting individual consumers and small businesses. This reflects the focus of the Competition and Markets Authority (CMA) as well as the reality that these are the groups less familiar with the legal services market.

However, we are not in agreement with the LSB's description of the priority areas. The LSB has characterised priority areas should also include those areas with high volume of transactions and areas more amenable to solutions. The Panel considers priority areas to also include areas where consumers' needs are greatest and where evidence shows that consumers are currently struggling because of deficiencies in transparency.

Therefore, areas like immigration/asylum and family law should also be priority areas. We accept that these are not easy areas to develop quality indicators in, but they are areas that have significant impact on people's lives. Moreover, there is regulatory evidence to show that there are concerning pockets of poor quality in immigration and asylum. Developing indicators for this area should therefore be considered priority.

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 on quality consist of.

We agree that there should be a base level of transparency across the market. In our view, regulatory data like Legal Ombudsman decisions, disciplinary decisions and sanctions should be available across the whole market. This information should be in a single portal and presented in a format that is easily accessible and assessable for consumers, with a degree of consumer testing done before the final output is published.

We agree that enhanced transparency should sit alongside regulatory data, but we think that the current definition of priority areas is unduly narrow and fails to respond to the real needs of vulnerable consumers in areas where we know they are struggling with information.

Question 5

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

The Panel's opinion on the benefits and draw backs of quality indicators are well documented¹.

¹ LSOP. Open Data in Legal Services, January 2016.

In general, the Panel is of the strong opinion that consumer feedback, objective data and general information about providers can be helpful to varying degrees. We know that this information can empower consumers to make better informed decisions thereby ensuring that they become active participants in the market. This in turn enhances competition. What we also know, is that there is no silver bullet or set of indicators that all consumers will use, in the same way, consistently. Therefore, it is important to develop indicators alongside consumer testing and segmentation.

It is our strong view, success in this area will depend very much on whether a mixture of indicators are provided, monitored and evaluated. And the dimensions of quality should go beyond customer service.

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?

The Panel is not convinced that the time is right to explore the idea of success rates, particularly when progress has not been made with publishing other data sets which have been shown to be useful to consumers.

The Panel has previously said that the publication of the volume and nature of first – tier complaints data has the potential to improve market transparency and to aid consumers in making informed decisions. As far back as 2011 research commissioned by the Financial Services Consumer Panel² noted that beyond aiding consumer choice, the publication of complaints data can also:

- Provide commentators with more complex information that they are better placed to repackage for consumers.
- Act as a deterrent against poor behaviour even if consumers make little or no use of the information.
- Help to guide or inform decisions around organisations prioritisation.
- Provide a performance indicator for the organisation’s own activities.

In 2012, a survey for the Financial Services Authority³ showed that 38% of customers said they would be likely to use complaints data as a factor in choice of financial services provider. The LSB will also be aware that complaints data has been used by consumer groups to create league tables to help consumers make better informed decisions⁴ in the past.

There has been numerous discussions and questions posed around the publication of complaints data in legal services. We believe it is time for the oversight regulator to decide on this matter. The publication of complaint data is never going to happen without regulatory intervention. And there will never be consensus on such a contentious matter, as evidenced by every other sector that has boldly taken this step. The Panel looks forward to a decision, whatever that may be.

² Transparency as a regulatory tool (an international literature review) John Leston 2011

³ Review of Literature on Regulatory Transparency, Oxera September 2012

⁴ In 2010 Consumer Focus, launched a complaints league table to help consumers make informed decision about their energy provider.

Moreover, we would like to see rapid progress made with the data that is available now, and ongoing work to develop further sources of data over time to provide a more rounded picture.

Question 7

Which of these different channels law firms website, 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?

The Panel is of the view that the LSB should prioritise DCTs and a single digital register as the most effective means of providing access to information on quality at this point in time.

We believe that DCTs have a wealth of experience and are primed to respond to market developments in a way that individual websites may not be able to. We also believe that a single digital register that is well designed, well presented and tested with consumer input is likely to be the most effective means of sharing information with consumers.

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 DCT. 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 review?

The Panel does not have additional evidence around the usage of DCTs.

We agree with the LSB's deliberations around signposting consumers to DCT. It is the Panel's view that this should be mandatory. We also agree that there should be prompts for consumers to leave a review, as well as a campaign on social media and on the Legal Choices website, about the importance of customer review.

Question 9

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

There is a need for regulators to develop guidance on how providers should or should not engage with DCTs, including review websites. We remain concerned about providers resorting to legal action in response to unfavourable reviews or comments. Threats of defamatory action, against website operators or users for negative online reviews must not be allowed to stifle the consumer voice.

We also need to encourage consumers to use fair and credible review websites.

Question 10

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

The Panel is of the view that the single digital register should bring together basic and conduct information in a way that is user friendly for consumers. We have previously emphasized the importance of focusing on presentation for effective engagement.

The single digital register should contain regulatory history and basic information like; Ombudsman decisions, relevant regulatory sanctions/disciplinary decisions, main contact details, trading names and the authorisation a firm has.

The register could also include firms that have been reported as knowingly running a scam. For example, the Financial Conduct Authority (FCA) includes scam firms by highlighting in its search results red text and a warning symbol to make it clear that the FCA thinks the public should avoid dealing with such a firm or the individuals involved.

Question 11

What are your views on the relative merits of a market led approach compared with a standardised regulatory led approach?

The Panel's preference at this stage is for route 1 as outlined in the paper. This will ensure that regulators support the DCT market, backed with a regulator-led single digital register. We do not believe that regulators have the capacity or competencies to establish a platform operating a standardised customer feedback system.

Question 12

Do you have further comments on our analysis and approach to determining suitable indicators?

The Panel is of the view that there may need to be some acceptance that some of the information required will be, to a greater or lesser extent, subjective. Over time subjective information can however become more 'objective' as moderation improves with experience.

Yours sincerely,



Sarah Chambers

Chair, Legal Services Consumer Panel