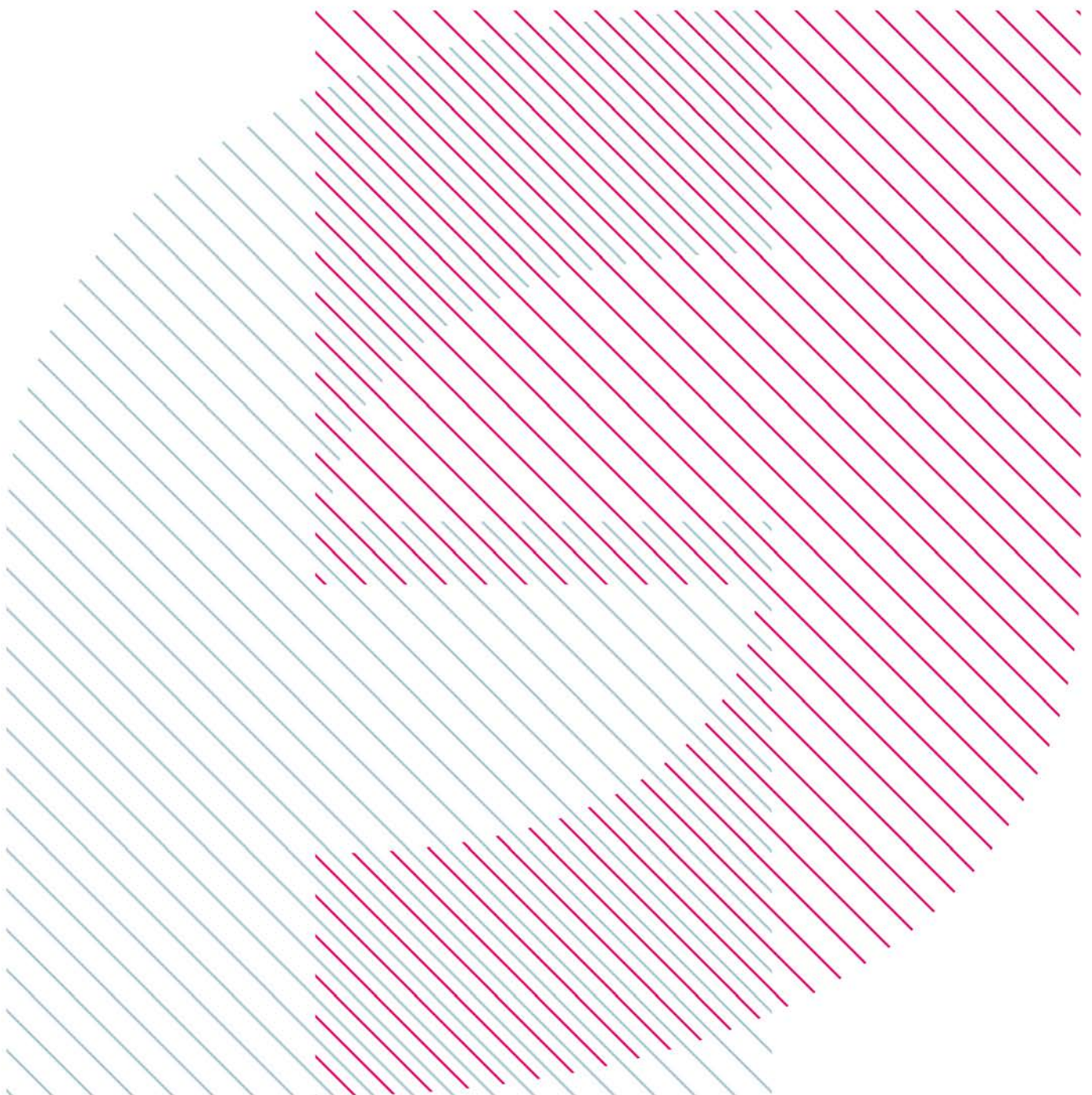




**Legal Services Board:  
Quality indicators in the  
legal services market**  
*Response*



## Introduction

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1. The Legal Ombudsman has a direct interface between consumers and service providers, and insight into the service that is provided in the sector. Given this experience, the Office for Legal Complaints (OLC) is of the view that the Legal Ombudsman has an important role to play in the LSB Quality Indicators project, which ultimately could contribute to improved public confidence in the legal sector.
2. The timing of this work directly feeds into the development of the Legal Ombudsman's Transparency and Reporting Impact project which will be taken forward under the 2021/22 Business Plan, and is part of the overall direction of improvement being undertaken by the Legal Ombudsman. The focus of the Transparency and Reporting Impact project will not only be on the data that comes out of the complaints process, but on the full decisions that are made and how this can support consumer choice and improved customer service.
3. Significant work has been undertaken by the legal regulators in recent years to improve transparency of information, and the work on quality indicators is a natural progression from this. It is clear however that there are still a range of views as to the benefits of increased transparency of information in the sector. The OLC has always been of the view that an independent ombudsman's role is not limited to investigating complaints, but also to having a positive impact on customer service and complaints handling in the sector. Being transparent with ombudsman decision data is part of encouraging best practice.
4. In 2014 the Legal Ombudsman undertook research on the business case for good complaints handling, which highlighted the positive business benefits of responding to complaints well. It is possible to take the rationale from this research further and suggest that greater transparency could also be positive for firms.
5. The OLC response highlights a number of key points which need to be taken into account:
  - Presenting complaints data fairly. Complaints data is often viewed negatively. Service providers in particular are often concerned that being named as part of the Legal Ombudsman decision data can be viewed negatively by consumers, despite what the data may actually say about the service they have provided. Therefore, it is vital that the data is presented in a way that gives consumers the best chance of interpreting and using the data correctly. Alongside this it is

important to carefully consider which information will be useful to consumers and find a balance between transparency and data overload which could lead to confusion on the part of consumers.

- Difference between complaints data. Following on from the presentation of data, it is important to take into account that there are primarily two areas of complaints data which will support consumer choice. The first set of data looks at the complaint about the actual service provided. This will tell consumers information about the numbers of complaints and if there are trends in the way a service provider works and the ombudsman's view on whether this was reasonable or not. The second set of data relates to how the service provider responded to the complaint and whether the ombudsman decided that the first-tier complaints process was reasonable. This second set of data is important. The Legal Ombudsman's position has always been that mistakes will happen, but how a service provider responds to these mistakes is also a mark of the quality of the service that they provide. So, if a provider has recognised a service failing, responded and offered an appropriate outcome this can be seen as a positive attribute. As this work develops it is important to highlight the difference in these areas.
- Contextualisation of data. The Legal Ombudsman's [Transparency and Reporting Impact discussion paper](#) highlighted the importance of contextualisation of data in order to enable consumers to fully understand decision data. Providing this information could potentially remove some of the concerns that stakeholders constantly share when this topic is discussed.

6. The discussion paper considers the best mechanism for compiling and sharing quality indicators with consumers and the wider sector. Overall, the OLC's view is that a Single Digital Register is the most likely to provide a mechanism for bringing together both the data and contextual information, and ensuring it is presented in a way which gives consumers the best chance of interpreting and using this data. However, it will be important to work alongside and benefit from the experience of comparison sites who understand how to market this information to consumers, and will themselves be users of the data.

7. The OLC looks forward to working with the LSB and others in the sector to develop this work.

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## Response to specific questions

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*Q1. 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?*

8. The proposed categories seem appropriate and broad enough to cover a range of data and future developments. Complaints data falls within the customer service category which is appropriate, and the Legal Ombudsman has access to a range of data on customer service and the first-tier complaints process which can be used.
9. The OLC agrees that it is important to include complaints data as part of the suite of quality indicators. Consumers usually approach a legal service provider at difficult and stressful points in their lives, whether because they are purchasing a property, going through a divorce or trying to resolve a situation through litigation. Whilst consumers approach legal service providers because they need their technical legal knowledge, how this legal knowledge is delivered to them is equally important. As well as getting the right outcome, the complaints received by the Legal Ombudsman show that consumers want the information to be communicated to them in a way they can understand, whether that is about the cost of the work, their options, and likely outcomes. Data from the Legal Ombudsman investigation provides consumers with independent information which indicates a provider's approach to customer service.
10. The Legal Ombudsman complaints data includes information about both the legal instruction between the consumer and service provider and the first-tier complaints process. As a future model is developed for the sector it will be important to include both data sets, and to differentiate between these areas of data. This is because complaints about service will always be an ongoing part of business and it should be recognised that sometimes mistakes happen which will lead to a finding of poor service. However, the way in which a service provider responds to a complaint is also an indicator of their quality and approach to customer service. As the Legal Ombudsman develops its Transparency and Reporting Impact project further it will also aim to look at the first-tier complaints data it holds and consider whether it provides consumers with sufficient information about the first-tier process or reflects what consumers would consider to be a positive complaints experience.
11. In addition to complaints data the outcome of an instruction is one of the proposed categories. The OLC is less sure that the outcome of an instruction should be included as a measure of the quality of a service provider, particularly in contentious areas such as criminal, family and litigation where the outcome does not directly correlate to the quality of a provider. Even in non-contentious areas such as conveyancing, the sale or purchase of a property could fall through without the service provider being at any fault. If data on the outcome of an instruction is used it should sit alongside information about a satisfaction with the outcome. This is one of the reasons that satisfaction with the Legal Ombudsman's service takes

into account whether a consumer is satisfied or dissatisfied with the outcome of their case.

*Q2. 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?*

12. The existing research indicates that consumers value feedback from those who have already used a service provider, whether this is through Digital Comparison Tools (DCTs) or through recommendations from family and friends. Therefore, it would seem to be important to use this information, especially whilst consumers are unfamiliar with other data sources.
13. However, consumer feedback is likely to be swayed by the outcome of an instruction. Therefore, as with the considerations noted above in relation to the outcome of an instruction, it will be important to consider if there are ways to educate consumers about the bias that could be present in these reviews.
14. The discussion paper notes that objective data includes both complaints and conduct information. In 2018 the Legal Ombudsman undertook joint research with the SRA on [Better Information](#). This research highlighted that when available consumers would use the ombudsman complaints data to support ranking of service providers.
15. Wherever possible both sets of data should sit alongside contextual data to ensure that consumers have the best opportunity to understand the data. In the research noted above the most commonly sought-after additional piece of information was one of context, and in particular the number of legal cases handled by each provider.
16. As well as helping consumers to understand the data, providing contextual information ensures fairness to service providers, giving the best opportunity for consumers to interpret the information about the service provider correctly.
17. Consideration should also be given about the usefulness of first tier complaints data. The Legal Ombudsman data of course provides a range of information about service providers, however this is only part of the picture. In previous discussions there has been a concern that standardising this information could be challenging and some providers may be unwilling to define something as a complaint. These are questions which need to be addressed however they also point to providers continuing to view complaints as a negative, when they can provide valuable information about the way services are delivered and present a positive image of the provider in many cases. More widely working towards this

could be a way to encourage best practice and improve first-tier complaints handling.

*Q3. Which groups of consumers and/or types of provider should action in this area focus on?*

18. The discussion paper suggests that this work should focus on consumers and small businesses. The OLC agrees as these are the groups which are most likely to need access to this information to support their choice of service provider.
19. As a starting point it would seem sensible to pilot approaches in areas of law which are either relatively transactional or where data sources, including contextual data, are easily available. It will be useful to see the outcomes from the SRA, CLC and CILEx Regulation pilot project and how easy it is to draw together data from various sources and the lessons that can be learned.
20. In the longer term the OLC considers it will be important to cover all the key areas of law that consumers use.

*Q4. 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?*

21. As noted above covering all the key areas of law that consumers use should be a priority. However, taking into account that there are considerable differences between different areas of law it would seem to make sense to aim for a base level of transparency.
22. A minimum base level of transparency should include data on misconduct and complaints. These are both sources of data which are readily available at the moment.
23. The discussion paper suggests that enhanced transparency for priority service areas could be based on volume of transactions and/or available information. While this is a useful starting point it is important to cross-reference this against the top five or ten areas of law to ensure that this does not overlook key areas which are used by consumers. If quality information is not available in key areas that consumers use, then the LSB should also consider whether this needs to be addressed otherwise there could be a group of consumers who are at a disadvantage when they are choosing their service provider.

*Q5. 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?*

24. The LSB Public Panel research, alongside consistent results from the LSCP tracker survey indicates that many consumers still prefer both personal recommendations and consumer reviews as a way of choosing their provider. This may be because consumers do not have easy access at the moment to objective data sources. However as already highlighted this is subjective data which is often swayed by the outcome of an instruction.
25. As noted above, the Better Information research indicates that when it is available consumers will use objective data. One of the key challenges of using objective data will be displaying it in a way which is easily understood and that balances provision of information to consumers with fairness to providers.
26. As already noted, there are two key factors which should be considered when publishing complaints data. Firstly, publishing ombudsman decision data about a providers first tier process, as this can be a mitigating factor, and secondly publishing contextual information.
27. The OLC has published ombudsman decision data for several years. One of the critiques of the ombudsman decision data, and of developing this information further, is the potential impact on service providers because of the lack of contextualisation. This was raised again during responses to the Transparency and Reporting Impact discussion paper.
28. The quality indicators work is likely to face similar critique from the profession if contextual information is not included. While the Legal Ombudsman continues to publish the ombudsman decision data as a commitment to transparency the data could be published in a more balanced way which gives consumers a clearer understanding of whether they should be concerned about the level of complaints. This information is important because it allows a consumer to have an approximate understanding of the size of the service provider, or the volume of transactions that they undertake. There are certain providers that will regularly have five or more ombudsman decisions recorded against their name. Some consumers may find this concerning, however the majority of these are large providers working in high volume areas such as personal injury.
29. Once contextual information is available it may be possible to develop this data further and look at developing averages (or an idea of what is typical for a sector or type of provider) which would give a consumer further assurance about a provider.

*Q6. 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?*

30. It is accepted across a number of sectors that complaints data can provide important information about the service and approach of a service provider, even more so where there is a trend or pattern in the complaints. The basis for using complaints data has been set out in paragraph nine above. It is an essential part of informing choice as it provides consumers with direct indication of the type of service or issues they may come across if they use a certain provider.

31. At this stage it seems likely that complaints data will focus on the information which can be provided by the Legal Ombudsman, rather than first tier data from providers themselves, which of course means that this data comes from a body which has made an independent and impartial decision about the service provider.

*Q7. 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?*

32. In the questions above the issues of contextualisation of data as well as presenting it in a way that is fair to service providers and understandable to consumers has been noted.

33. In the opinion of the OLC these issues can be addressed by the development of a single register. Whilst DCTs and law firm websites are an important part of disseminating this information through the market, they are not in a position to draw together and adapt information as required. They are also not best placed to provide any narrative or education around the data. However, by working together, bodies such as the LSB, regulators, and the Legal Ombudsman will be better placed to achieve this.

34. Furthermore, by working together the LSB, regulators and Legal Ombudsman will be able to look at the various data sources, ensure that they fit together and make adjustments where appropriate. For example, it has recently been brought to the attention of the Legal Ombudsman that a reason DCTs may not currently be using ombudsman decision data is because this information is only provided over a 12 month period while DCTs try to present information over a three-year period.

35. As DCTs are best placed to disseminate this information it will be important to ensure that the single register is developed in a way that they can use. They will also have insights on what consumers are likely to respond to, and presentation of data.

36. As the work develops it will also be important to consider where the Single Digital Register lives. This will be informed by whether the intention is to drive consumers directly to the register or to the information via the DCTs and whether



the data will be open source for other bodies to use. In the view of the OLC this decision should be based on how consumers are most likely to access this information. Discussions have focused to date on the Legal Choices website as the home for the single digital register but this would require further development and marketing to ensure it becomes a recognised site for consumers. Partnership with DCTs may be a more straightforward option.

*Q8. 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?*

37. The OLC does not have further evidence to provide on current usage of DCTs.

38. It will be for regulators to decide whether signposting to DCTs should be a mandatory requirement for service providers. However, it is worth noting that developing a system which encourages feedback will often give consumers the confidence that a service provider values and promotes customer service.

*Q9. What, if any, steps should regulatory bodies take to help consumers and legal services providers engage with DCTs safely?*

39. Many in the sector are reflecting on the recent court judgement which led to a consumer being liable for damages to a service provider. DCTs are a feature across many aspects of our lives and, albeit slowly, are growing within the legal sector. As part of the development of this work the LSB and regulators should look at best practice guidance for providers to work with DCTs. For example, how do providers raise concerns when potentially libellous reviews are placed on the website?

40. As this work is developed it will be worth considering the extent to which these will be open data sources which can be used and adapted by DCTs to fit their working models or whether there should be data sharing agreements in place. Service providers in particular may be concerned about how the data is going to be used, and whether different DCTs will use and interpret data, alongside a different set of comparators, in a way which was not originally intended.

*Q10. What range of quality information, if any, would it be appropriate to hold on a single digital register?*

41. The suggestions set out in the discussion paper appear appropriate. As noted above, it is important to include complaints information both in terms of the original service provided, and the firms first-tier complaints process.

*Q11. What are your views on the relative merits of a market-led approach compared with standardised regulator-led approach?*

42. As set out above a standardised regulator-led approach will allow the relevant data sources to be drawn together in a way that a market-led approach will not be able to achieve.
43. Conversely a regulator-led approach by itself is unlikely to generate the coverage that a market-led approach can. Therefore, a combined approach is most likely to generate the desired outcome which is to support consumer choice in the legal services market.

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## Conclusion

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44. Thank you for the opportunity to comment on and contribute to this work. When the Legal Ombudsman first published data on its decisions it was seen as quite controversial and many in the sector were cautious about the impact that it would have. Since then, the data has not been as widely used as it could be, and the OLC has itself been cautious about doing more because it does accept that contextualising the data is an important part of the information puzzle. This means that there is a wealth of data and information about service providers which is not being used to its full potential.
45. The OLC is committed to taking this work forward under the Transparency and Reporting Impact project, looking at how complaints data and decisions can be used to support both consumer choice and improved customer service in the sector.
46. The OLC looks forward to working with the LSB and regulators and taking forward this important area of work.

*For any questions about this response please contact Alex Moore, External Affairs Team at [support@legalombudsman.org.uk](mailto:support@legalombudsman.org.uk)*