

## Discussion papers

### *Regulatory data and consumer choice in legal services*

20 October 2016

- The deadline for submission of responses was **26 January 2017**.

#### *Rationale for change*

1. The Solicitors Regulation Authority (SRA) is considering what information it should publish, and how it would publish information, on the individuals and firms it regulates. This is to help consumers make informed choices when purchasing legal services and drive competition. We are also considering what information we may require SRA regulated firms or individuals to provide to consumers.
2. Two key developments in this area in 2016 are relevant to our thinking. Firstly, the Competition and Markets Authority (CMA) [[https://assets.digital.cabinet-office.gov.uk/media/56962803e5274a117500000f/Legal\\_services\\_market\\_study\\_statement\\_of\\_scope.pdf](https://assets.digital.cabinet-office.gov.uk/media/56962803e5274a117500000f/Legal_services_market_study_statement_of_scope.pdf)] is conducting a market study into the supply of legal services in England and Wales. Two of the three themes it has focused on concern information provision, including the availability of information about legal services to help consumers make informed purchasing decisions. In its interim findings [<https://assets.publishing.service.gov.uk/media/577f76daed915d622c0000ef/legal-services-market-study-interim-report.pdf>] , published on 8 July 2016, the CMA states that a lack of transparent information is making it harder for consumers to compare providers, undermining competition and reducing the incentives for providers to compete on price, quality and innovation. It says that this lack of information also contributes to consumers not seeking legal advice when they have a legal need. In considering remedies, the CMA has specifically sought views on whether it should recommend to regulators that they introduce a mandatory requirement to publish specific price or service information.
3. Secondly, as part of its open data project, the Legal Services Board (LSB) commissioned the Legal Services Consumer Panel (LSCP) to review what information regulators could collect from those they regulate to help consumers. In February 2016, the LSCP issued its report *Opening up data in legal services* [[http://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/OpenDatainLegalServicesFinal.pdf](http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/OpenDatainLegalServicesFinal.pdf)] . It includes recommendations for approved regulators to



improve the provision of regulatory information. The LSB responded to this report in April 2016<sup>1</sup> <sup>[#n1]</sup>, broadly supporting the LSCP's recommendations, while acknowledging that the decision as to whether to publish some data was finely balanced.

4. Our aim is to adopt a workable approach, informed by the views of all stakeholders. We particularly welcome views from the firms and individuals we regulate, from consumers and from the organisations that represent their interests. The views of both legal services providers and the public will be crucial to deciding what data we make available. This paper is intended to stimulate debate and as such, we will consider responses before reaching a policy position. Depending on our policy position, we may issue a formal consultation document in relation to some or all of our proposals.
5. The Government's Open Data Strategy provides that data should be released unless there is a good reason to withhold it. Data is now freely available to help consumers make decisions in relation to all areas of life, from purchasing car insurance to deciding to which school to send our children. However, very little data is easily accessible and available to consumers in the legal services market.
6. Research tells us that 54 percent of adults experienced a legal issue in the last three years. However, only 30 percent of these issues were handled using advice and support and then, only 56 percent of this advice and support was provided by a legal professional. This means that 83 percent of individuals with a legal issue did not receive help from a legal professional.<sup>2</sup> <sup>[#n2]</sup> Similarly, 83 percent of small businesses see legal services as unaffordable, with over half of those that have a problem trying to resolve it on their own.<sup>3</sup> <sup>[#n3]</sup> The LSB says that a lack of information is a significant barrier to consumers accessing legal services. The CMA also agrees that a lack of information is contributing to consumers not seeking legal advice.<sup>4</sup> <sup>[#n4]</sup> In line with our November 2015 Policy Statement<sup>5</sup> <sup>[#n5]</sup>, this information asymmetry is something we are keen to address, so that more consumers access legal services at the point of need.
7. At the moment, there is very little information available to help consumers choose the right legal services for their needs. Most consumers are not aware of regulation, insurance and compensation funds, and rely heavily on recommendations from friends and family or their own previous experience when purchasing legal services. This leaves many consumers in the position of, essentially, having to make blind choices, and implicitly trust that consumer protections are in place if things go wrong. Our objective is for consumers to understand their



options and make better quality comparisons and consequently choices between which legal services provider they choose. This is echoed by the CMA. It states that: "consumers need to have access to accurate, relevant information in order to make informed purchasing decisions and to create incentives for providers to compete." It considers that at the moment: "a lack of transparent information is limiting the ability of consumers to drive effective competition."<sup>6</sup> <sup>[#n6]</sup>

8. Providing more information on SRA regulated individuals and firms is just one of the ways in which we are seeking to empower consumers. The proposals set out in our Looking to the Future [<https://www.sra.org.uk/sra/policy/future/position-paper.page>] initiative would provide consumers with greater choice by allowing solicitors to deliver non-reserved legal services by practising in an unauthorised organisation. These proposals make it more important than ever that consumers have easy access to transparent information in order to benefit fully from the liberalisation of the market. Consumers will need to have better information about the choices available to them and the differences in associated consumer protections that apply across the legal services market.
9. We do recognise that increased consumer choice may lead to confusion for some consumers. However, limiting choice stifles innovation and ensuring consumers are provided with the help they need to make a well-informed choice outweighs the risk of confusion. We will manage this risk through a range of regulatory action, including requiring SRA regulated firms and individuals to explain the protections available to their clients, increasing competitive forces that drive firms to give consumers information and publishing more data so as to stimulate the development of choice tools.
10. We know there is a demand from consumers for more information about legal services, as two million online searches about legal subjects are made every day in the UK<sup>7</sup> <sup>[#n7]</sup>, and a survey of over 2,000 consumers found 36 percent of consumers conduct an internet search when looking for a solicitor.<sup>8</sup> <sup>[#n8]</sup>
11. Good information about providers and services supports consumers to make good decisions and get the help they need when they need it. This will help drive a more competitive market and help consumers benefit from the increased choices open to them within it.
12. More accessible data can be a useful tool for firms too, helping them to reach a wider market. It can also provide



firms with increased visibility of their market performance and help to highlight areas where they could improve.

13. We are considering the types of information that we might publish in any future SRA register (for more on how we would develop this register, please see paragraphs 56 and 57). We are also considering what information should be core data and whether we should provide the facility for individuals or firms to publish additional information voluntarily. Our initial ideas are below:

Category of data	Core data	Additional data
Basic regulatory	x	
Enforcement action	x	
Complaint data	x	
Insurance claims data	x	
Quality information		x
Specialism		x
Price information		x
Service delivery		x

14. For each category of data we have set out, as well as considering the benefits and risks to this data being included in a SRA register, firms may want to consider whether they would like to publish the data (and appropriate contextual information), on their own websites.
15. In setting out these categories, we have carefully considered the views of various stakeholders, including the LSB, the LSCP and CMA. We know many of our stakeholders would like us to go further and propose more core categories. However, we are seeking to strike the right balance between providing information consumers will find useful and not providing so much that consumers do not read it.
16. Many other regulators use data to enable consumers to make an informed choice when choosing a service. For example, the Financial Conduct Authority (FCA) publishes details of the number of complaints received by each of the firms it regulates which have received more than 500 complaints in six months. Similarly, The Environment Agency publishes



data on the water quality at beaches [<https://www.gov.uk/quality-of-local-bathing-water>] across the UK, enabling the public to see how clean the water is and whether there is a problem with pollution.

17. The Legal Ombudsman (LeO) publishes a data table containing details of the number of complaints it has received about a legal service provider, what the complaints were about and how many of those complaints required a remedy, ie the consumer's complaint was upheld. An extensive list of regulators and the types of information they publish can be found in Annex A [[#annexa](#)] .
18. There are, however, challenges and risks in releasing more data. We need to think carefully about the potential for unintended market consequences. We are mindful of placing additional burdens on firms by requiring the collation and/or publication of additional data. An option may be to consider exclusions for some requirements for specific categories of firms and we are interested in hearing views about whether such exemptions would be appropriate. This is especially so for small firms, in which BAME lawyers are disproportionately represented. We are also conscious that our proposals will be of most benefit to individual and small business consumers, who are more likely than corporate clients to use, for example, complaints data and comparison websites. The information needs of corporate clients are likely to be different and the case for regulatory intervention to provide them with better information less obvious. There is unlikely to be the same level of information and power asymmetry between corporate consumers and their legal services providers. Those firms with predominantly corporate clients will therefore be concerned about additional regulatory burdens when there are less benefits to the clients they serve.

## *Core Information*

### *Basic regulatory information*

19. Building on our existing Law firm search, we could provide basic information about individual solicitors and firms, such as address and contact information.

### *Enforcement action*

20. Through our solicitor check [<https://www.sra.org.uk/consumers/solicitor-check.page>] tool, a consumer can already find out if an individual solicitor or firm has been subject to certain enforcement action by the SRA, has any conditions on their practising certificate, or has been referred to the Solicitors Disciplinary Tribunal (SDT). They can also

see the outcome of a SDT hearing, but need to search the SDT website to view the full judgment.

21. Consumers should not have to consult multiple sources to obtain a complete picture of a firm or individual solicitor. We could, therefore, include in the digital register:
  1. findings against a regulated individual or firm
  2. referrals to the SDT
  3. outcomes of SDT hearings
  4. conditions on practising certificates
  5. restrictions on licences
  6. any other information that is publishable under our publications policy.
22. Publishing this type of enforcement data as part of a register would bring us in line with the regulatory norm. In keeping with our current approach, we do not propose to publish allegations made to us unless we have gone on to make a finding against the individual or firm or made a referral to the SDT.

### *Question 1*

Do you think there could be any diversity impacts as a result of publishing this information in a much clearer way than it is currently available? If so, what do you think those impacts could be?

### *Complaint data*

23. In its February 2016 report, 'Opening up data in legal services', the LSCP recommended that: "Approved Regulators should make the collation and publication of first-tier complaints [complaints made directly to firms] a regulatory requirement and mandate for its publication". In its response to this recommendation<sup>9</sup> [9], the LSB acknowledged that this data has the potential to inform consumer choice and deter poor practices by practitioners, but also highlighted the risk of unintended consequences and the potential burdens that could be created. In its interim report<sup>10</sup> [10], the CMA says it is exploring options for improving transparency on service quality, including the publication of complaint data.
24. The LSCP says that research shows consumers do use complaint data when choosing service providers, if that information is available. In addition to this, the publication of complaint data would encourage better complaint handling by firms and give firms an incentive to identify and address the key causes of complaints. It would also draw consumers'

attention to their right to complain. For firms, publishing complaint data would enable them to compare themselves to others in the market and identify where they could improve in order to deliver improved customer service and better compete.

25. In considering what requirements we may put in place for the collation and publication of first-tier complaint data, we have looked at the experiences and practices of regulators in other sectors, particularly drawing on the LSCP's report.
26. Both the FCA and the Office of Rail and Road (ORR) began publishing first-tier complaint data in 2010. Ofcom started to publish regulatory complaints in 2011 and Ofgem began publishing complaint data in 2013. Commonly, the data published relates to the volume of complaints, the type of complaint and providers' performance in responding to complaints.
27. In 2010, Consumer Focus launched a complaints league table to help consumers make informed decisions about their energy provider.
28. The publication of complaint data has met with resistance from regulated businesses, but the regulators have addressed concerns by refining their data over time and addressing specific difficulties.
29. A common objection is that consumers will not be able to understand the data without context. For example, a large firm is likely to receive a greater volume of complaints than a sole practitioner. Ofgem and the ORR have overcome this issue by publishing the number of complaints received per 100,000 customer accounts or journeys respectively.
30. Another concern often raised is about the burden that the collation and publication of complaint data places on regulated businesses. The FCA has refined its requirements over time and now only requires the collation and publication of complaint data from firms with more than 500 complaints in six months.
31. Some firms may be concerned that others could manipulate the system by not categorising complaints correctly, therefore reporting a lower volume of complaints than they receive. The FCA has overcome this by having a firm definition of a complaint in their handbook. We similarly define complaint clearly in our SRA Handbook.
32. There is also a risk that some firms could discourage consumers from complaining, to minimise the volume of complaints they receive. Outcome 1.9 of the SRA Code of Conduct requires firms to inform all clients in writing at the



outset of their matter of their right to complain and how complaints can be made. Outcome 1.10 requires firms to inform clients of their right to complain to LeO. Our initial view is that these requirements would be enough to minimise the risk of some firms discouraging consumers from complaining.

33. We already collect some data from firms on first-tier complaints through the annual return. We collect the number of complaints received, resolved and referred to LeO in relation to various categories. However, we need to consider whether this is the right information or whether different information may be more useful, such as proportion of all transactions that resulted in a complaint being made, the speed of response or diversity information. If we decided to publish first-tier complaint data, we need to consider the frequency with which we collect this information, to make sure consumers can access accurate and relevant information and that firms are able to quickly demonstrate improvements they have made.
34. We also need to consider whether all complaints should be included, only upheld complaints, or both. Providing all data would provide the fullest and most accurate picture. Consumers would be able to see the outcome of the complaint, mitigating the risk of firms being unfairly tarred by unsubstantiated complaints. And consumers can see positives with a firm that deals with complaints well. On the other hand only including upheld complaints might create an incentive to reject complaints. However, this would be mitigated by the obligation within our Code to deal with complaints fairly and effectively.
35. We appreciate legal services providers may be concerned about the publication of complaint data due to the potential for subjectivity and lack of context provided by raw data. We understand that complaint data is not a complete picture, but we need to balance this with the fact that it is, nonetheless, used as an indicator of quality in many sectors. It is one which we believe consumers would find useful. In addition, publishing complaint data would improve transparency, particularly in helping to better understand complaints - for example, which categories of law are more susceptible to complaints than others.
36. Issues regarding the lack of context of raw complaint data could be mitigated by carefully considering what data to publish and by adding contextual information to the complaint data that is published, for example: type of complaint, proportions of transactions resulting in a complaint or information to reflect that some areas of work lead to more complaints than others. We would welcome views on the type





of contextual information that firms feel would be necessary to make the data meaningful to consumers.

37. We are also mindful of increasing the burden on firms if we require them to collate additional or different information. We will give this careful consideration in reaching our views and when we design our data collection requirements. We will take into account any responses we receive to this discussion paper.
38. We have deliberated over whether it may be better to ask firms to publish their own complaint data, or for the SRA to collate and publish this data centrally. On balance, our view is that a dual approach would bring the greatest benefits to consumers. Centralising the data would allow us to aggregate, inform research and illuminate sector-wide trends. The information would then also be available to intermediaries to aid the development of choice tools such as comparison websites. Having the data available in one centralised location would enable consumers to compare different providers much more easily, alongside other information relevant to their choice of provider. On the other hand, publication of complaint data by firms would mean that this data would be available to consumers who did not utilise the SRA website or comparison websites when choosing a legal services provider. It would also enable the firm to add a greater amount of contextual information than may be possible through a centralised publication. For example, a firm may wish to explain more about its complaints process, or about improvements it has made as a result of learning from complaints. We welcome views on this dual approach.
39. There are a number of options for how we might publish complaint data:
  1. publishing firm level data on the SRA website (possibly subject to certain parameters, such as size of firm or number of complaints)
  2. publishing an aggregate dataset for the entire regulated community (without firm specific information) as we have done recently with the diversity data toolkit, which allows firms to compare their diversity profile with other similar firms
  3. incorporation of firm level data into the digital register that we plan to develop (building on the new law firm search)
  4. a combination of the above.
40. In addition to first-tier complaint data, we are also considering whether complaint data from LeO would be useful to consumers. We may wish to include a link to LeO decisions in our digital register to make it easy for consumers to find, and



to prevent them from having to separately search the SRA and LeO websites.

### *Exemptions from complaint data*

41. We are mindful of the need to consider whether it would be proportionate to require the collection and publication of complaint data by all firms, irrespective of their size or the number of complaints they receive. We would, therefore, be interested in views on two possible exemptions.
42. First, we may want to consider exempting small firms from any requirements to publish data, although they would still be required to collect and submit data to the SRA. This will need consideration as it is questionable whether consumers should be denied access to information that they would use in making a decision as to whether to instruct one firm or another. The SRA defines a small firm as a sole practitioner or a firm with no more than four partners, members or directors, which has an annual turnover of no more than £400,000. There is no limit on the number of practising certificate holders.
43. Second, we may want to consider exempting firms who receive very low numbers of complaints from any requirements to publish data, although, as above, they would still be required to collect and submit data to the SRA. The FCA has a threshold of this nature in place.

### *Question 2*

What are your views on the burden that would be placed on firms by requiring the collection and/or publication of complaint data?

### *Question 3*

What data and contextual information on first-tier complaints do you think consumers would find most useful, for example, raw numbers of complaints, proportions of transactions resulting in a complaint, speed of response?

### *Question 4*

What are your views on whether firms should publish complaint data, whether the SRA should collate and publish this data, or whether there should be a dual approach? What do you see as the advantages and disadvantages of each option?

### *Question 5*

Do you think any specific categories of firms, such as those who receive very low numbers of complaints, should be exempt from any requirements to

publish complaint data or any other category of data?

### *Question 6*

Of the options we have set out for how we might publish complaint data, which option do you think would bring the most benefits to consumers?

### *Question 7*

When weighing up the potential usefulness to consumers against the potential risks, do you think that the publication of complaint data would benefit consumers overall?

#### *Insurance claims data*

44. The number of negligence claims made by clients in relation to which firms' insurance companies have made a payment is a potential indicator of quality, and one which we think consumers may find useful in choosing a legal services provider.
45. We already collect this data from firms through the annual return, so publishing the data fits with our overall approach to transparency. However, we recognise there are risks to publishing this data that we will need to consider.
46. There is a risk that the publication of data could deter some firms from bringing a potential claim for negligence to the attention of their clients. Outcome 1.16 of the SRA Code of Conduct requires firms to inform current clients if they discover any act or omission which could give rise to a claim against the firm. Our initial view is that this requirement is enough to ensure that firms continue to bring potential negligence claims to the attention of their clients.
47. Seeing that a firm's insurer has made a payment in relation to a claim for negligence may deter some consumers from purchasing legal services from that firm. This impact could continue long after the firm has improved procedures or after the employee responsible for the negligence has left the firm. We also recognise that firms are not in absolute control about whether or not a payment is made because of the role of insurers who may, for example, wish to settle for tactical reasons. We therefore need to think carefully about whether to publish this data, how it could be presented and any contextual information that it may be necessary to provide alongside the raw data.

### *Question 8*



When weighing up the potential usefulness to consumers against the potential risks, do you think that the publication of insurance claims data would benefit consumers overall?

*Additional information*

48. In this section we set out four areas in respect of which we are considering providing the facility for individuals or firms to publish additional information voluntarily. It is not common for a regulator to include all of this information in their online register. However, we are considering providing this facility in order to begin to address the market issues identified by the CMA in their interim report.
49. Consumers need to be able to easily access information about providers, in order to make informed decisions and drive effective competition. This is not working well in the legal services market at the moment, due to a lack of easily accessible information. This makes search costs high for consumers, very few of whom are prepared to contact a number of providers individually to request this information. The CMA have stated the view that "it is predominantly a lack of information that is currently restricting competition. In order to stimulate competition in the current market, which is of primary importance in addressing concerns about affordability and unmet demand, we believe that the priority is to change supplier behaviour in order to address the lack of transparency over price and quality."<sup>11</sup> [n11]
50. The CMA also points to LSB research which indicates a substantial variability in the prices charged by providers for the same service, suggesting that consumers could benefit from substantial savings if there was greater visibility of price and quality information.
51. The CMA are considering remedies which would make it mandatory for providers to publish this information. Although we agree with the CMA on the need for increased transparency in relation to price and quality, we would prefer that the market responded to the needs of consumers without additional regulatory requirements. One option we explore in this section is to create the opportunity for individuals and firms to publish information on price and quality through our online register and therefore make this information easily accessible to consumers and comparison sites. This is in the expectation that the market will reward those that do and further incentivise other providers to publish their information.
52. As we explained at paragraph 19, the case for this type of regulatory intervention is stronger for individual and small business consumers because the information asymmetry



between them and their providers is greater. We therefore expect this additional facility to be predominantly used by firms serving those client groups.

### *Quality information*

53. Some individuals or firms may wish to provide information for inclusion in our digital register that could act as an additional signal of quality to consumers - for example, accreditations or panel membership. We recognise that consumers would find this information useful in choosing the right legal services provider for their needs. However, we also recognise that there is a risk that if accreditation schemes are not sufficiently reliable and robust, they could provide misleading quality signals to consumers.<sup>12</sup> [#n12]

### *Question 9*

When weighing up the potential usefulness to consumers against the potential risks, do you think that the publication of quality data would benefit consumers overall?

### *Areas of practice and specialism*

54. We consider that consumers would find it useful to see the areas of practice in which the firm offers legal services to help them search for a provider. We currently collect information about the areas firms have practised in over the last year as part of the annual return. This will not necessarily be an accurate indication of the areas of practice in which firms want to offer their services to the public, so if we decide to publish this information, we will need to consider how best to collect this information.

55. In addition to this, area of practice is not necessarily a good indication for consumers as to the level of experience or expertise that the firm has in relation to a particular area of law. Firms could, then, want to give additional evidence; for example, a firm specialising in conveyancing may wish to provide information about the number of transactions they have completed in the previous 12 months.

### *Price information*

56. At the moment, there is very little information available to consumers on price to help them compare and choose a legal services provider. However, the cost of services is the second most important factor when searching for a solicitor (after reputation).<sup>13</sup> [#n13] In addition, 63 percent of the public do not believe that professional legal advice is an affordable option



for ordinary people<sup>14</sup> [n14] and this perception is acting as a barrier to accessing legal services.

57. Outcome 1.13 of the SRA Code of Conduct requires firms to provide their clients with the best possible information, both at the time of engagement and when appropriate as their matter progresses, about the likely overall cost of their matter. In practice, this means that firms will usually provide an estimate of costs during an initial consultation and in their client care letter. They would then inform clients if they think this estimate will be exceeded.
58. However, Outcome 1.13 applies where a consumer has already chosen a legal services provider, therefore, its purpose is not to enable consumers to compare the prices of different providers or to drive competition. To achieve these things, consumers need transparent price information to be easily accessible before they choose a provider. We are a long way from this at the moment, with research showing that only 17 percent of firms currently advertise their prices online.<sup>15</sup> [n15]
59. Both the CMA and the LSCP have recently expressed the view that legal services providers should make price information more transparent and that regulators may have a role to play in making this happen.
60. In its interim report, the CMA has identified a lack of transparent pricing as a significant barrier to consumers being able to compare providers and drive competition. It points to research showing substantial price dispersion for similar legal services<sup>16</sup> [n16], indicating that competition is limited and that many consumers are paying more than is necessary for their legal services. It says that a lack of price transparency may also restrict the entry of comparison websites to the market, which further limits competition.
61. The CMA says that there is "considerable scope for providers to improve transparency of pricing, particularly online. The fact that some providers are publishing prices to a greater extent suggests that firms are not constrained in general from more transparent pricing".
62. The CMA is considering a range of possible recommendations to encourage price transparency, including recommending that, as a regulator, we introduce a mandatory requirement to publish specific price information.
63. The LSCP says consumers cannot be empowered to drive competition in the legal services market without additional price transparency, and it has recommended that, as an approved regulator, we should: "require the publication of the



average cost of legal services on the websites of approved firms and individuals, and mandate that they provide this information on request.”<sup>17</sup> <sup>[#n17]</sup>

64. We recognise that providing an accurate estimate of the costs of a particular matter can be difficult because of the uncertain nature of some legal transactions, particularly litigation. In these cases, costs can be driven to a large extent by the behaviour of the other side, something that may be impossible to judge at the beginning of the matter. We therefore do not feel that the level of price transparency the LSCP and CMA would like to see is possible in all areas at the moment.
65. However, an increasing number of firms are now offering standard fixed fees for certain legal transactions. For example, in conveyancing, will writing, power of attorney and immigration, the majority of transactions are charged on the basis of standard fixed fee arrangements.<sup>18</sup> <sup>[#n18]</sup> Even for complex divorces, fixed fees are being offered in 36% of cases.<sup>19</sup> <sup>[#n19]</sup> This demonstrates that increased price transparency is possible in some areas and, where it is, there are clear benefits to consumers. In addition, where a consumer uses a comparison site to help them choose a legal services provider, they are very unlikely to choose one that does not publish price information.
66. Having given this issue careful consideration, our initial view is that we should not be mandating the publication of price information at this stage. We would like instead for firms to consider what pricing information they could publish on their own websites and include in our digital register.
67. We believe that the market is best placed to deliver the information solutions that best meet the needs of consumers and our preference is therefore for the market to respond to customer demand, including on price transparency. However, until more price information is available, the use of comparison websites is hindered. As we said in our response <sup>[<https://www.sra.org.uk/sra/consultations/consultation-responses/cma-interim-report.page>]</sup> to the CMA's interim report, we believe that increased coverage of the legal services market by comparison websites would be the single best way to enable consumers to compare legal services providers. We will therefore provide support in the short-term, acting as a catalyst for more comparison websites by providing more accessible information, including price information where a firm provides this to us. However, in the absence of progress this may need to be something that we return to in the future.



What price information do you think firms could include on their own websites and/or in our digital register? What barriers are there to the provision of price information?

### *Service delivery information*

68. We consider that our digital register should have a clear focus on helping consumers compare different legal services providers on the basis of indicators of quality and, in some cases, price. However, there are other aspects of service delivery that are important to some consumers, such as opening hours, disability access, languages spoken, whether the firm wishes to take on new clients, etc. Having this information in one place would help consumers more easily identify which legal services provider could best meet their particular needs. Firms may therefore like to consider what additional service delivery information they would like to include in our digital register.

### *Question 11*

What sort of additional information do you think could be included in our digital register either on a voluntary or compulsory basis?

### *Developing a digital register*

69. Our law firm search [<https://www.sra.org.uk/consumers/using-solicitor/law-firm-search.page>] , launched in April 2016 on SRA.org.uk features a search tool where anyone can look up SRA regulated firms by name or SRA number. It provides basic information about a firm, such as address and contact information. This is a solid starting place for our work. However, we do not have our own web-based register of individual solicitor details. Instead, we redirect stakeholders to the Law Society's Find a Solicitor (FAS) service, though we provide the regulatory data for the FAS service. The LSCP has described this process as: "neither effective nor consumer focused and (it) does not serve to reinforce independence between the regulatory and representative arm."

70. We therefore aim to build an improved digital register of SRA regulated individuals and organisations. This would allow consumers to access information about individual solicitors as well as firms.

71. We propose building the register using a phased approach, adding each category of data we decide to include to the register individually as and when we were able to collect the data and prepare it for publication. The data would build over time to create a comprehensive digital register. For example,





we already publish details of enforcement action, conditions on practising certificates and referrals to the SDT through our solicitor check [<https://www.sra.org.uk/consumers/solicitor-check.page>] tool. This data could, then, be readily incorporated into one digital register, whereas other data, such as complaints, necessitates us determining our own requirements, putting in place arrangements to collect the data and then collecting the data before any publication takes place. We would, therefore, expect details of enforcement action and conditions on practising certificates to be included in our digital register quite some time before complaint data.

### *Comparison tools*

72. The data in our digital register, through data services, would be available to re-publishers directly, to aid the development of choice tools such as comparison websites. The Law Society would be one of the re-publishers to whom this information would be available, enabling them to continue with their FAS service, while reinforcing independence between regulation and representation.
73. We want to encourage all re-publishers to access and use our information, not just those in the legal sector, as the market is best placed to develop comparison tools that deliver real choice to consumers. Our intention is, therefore, that while we will provide information on our own website that consumers may use, we will not be developing a comparison website. This is something which we feel is better left to private providers.
74. Comparison sites often provide consumers with basic information about their rights, responsibilities or legal processes. For example, The Law Superstore [<https://www.thelawsuperstore.co.uk/>] provides basic explanations of when consumers might have a claim and explains some terminology. This is an effective way to increase public understanding as the information is delivered at the point of need.
75. We appreciate that some firms will be concerned about comparison websites growing in popularity in the legal services market. In particular, some firms may be concerned about facilities that enable previous clients to post reviews due to issues of fraud or the fact that reviews may be heavily influenced by the outcome of the case. We believe that, overall, increased use of comparison websites in the legal services market will benefit consumers, but firms will need to consider these issues when deciding whether or not they provide data to comparison websites.



### *Quality signs*

76. We are considering the best ways to help consumers understand what they can expect of a solicitor and what protections are in place depending on the provider they choose. We already provide information on what to expect from your lawyer through the Legal Choices website.<sup>20</sup> <sup>[#n20]</sup> There are also obligations on those we regulate to provide certain information to their clients. We may wish to consider building on this to develop other materials for consumers of legal services.
77. The General Dental Council (GDC) "has designed a concise and accessible guide for consumers explaining what to expect from dentists, as well as the protections that exist if something goes wrong".<sup>21</sup> <sup>[#n21]</sup> The leaflet, 'Smile', is available on the GDC's website and dental surgeries are encouraged to display it in waiting rooms. We may wish to consider developing comparable materials.
78. It can also be difficult for consumers to establish whether or not a provider is regulated. One piece of research found that: "Consumers were generally surprised and concerned to learn that some legal services were not regulated. They were not aware of how to tell the difference between an unregulated and regulated provider".<sup>22</sup> <sup>[#n22]</sup> In its interim report, the CMA also stated that the majority of consumers do not know whether or not their provider is regulated and the implications of this for consumer protections.
79. Given the proposals we set out in 'Looking to the future', to enable solicitors to deliver non-reserved legal services by practising in an unauthorised organisation, it is important we consider how we can help consumers to understand whether or not a legal services provider is regulated and whether or not they would benefit from protections under the SRA's Compensation Fund if things went wrong. Many regulated providers do not include this information on their website. One way this could be addressed is to enable regulated providers to use a specific logo to denote to consumers that they are regulated and enable SRA regulated firms to use a specific logo to denote that their clients would have access to the SRA's Compensation Fund if things went wrong.
80. The clearest example of this working in practice is in the financial services market. The FCA and Prudential Regulation Authority (PRA) require authorised firms to inform new and existing customers that the Financial Services Compensation Scheme (FSCS) protects their deposits. Authorised banks, building societies and credit unions are required to prominently feature FSCS materials in-branch and online



(including mobile applications). Firms must continue to confirm deposits are eligible on customers' statements of account. In practise this means that the 'FSCS protected' badge is displayed in bank and building society windows, on all letters to customers and online. The 'FSCS protected' badge is designed to increase awareness of FSCS and to increase consumer confidence in financial services.

The GDC and the General Pharmaceutical Council developed logos for use by providers that they regulate. These logos provide reassurance to consumers that providers are regulated and meet specified standards. The Government has also developed a quality mark for tradesmen called TrustMark.<sup>23</sup> Tradesmen who have this quality mark will display the logo on their website and on communications with their customers.

### *Question 12*

Is there anything missing from the proposed information package for consumers?

### *Question 13*

Would consumers of legal services find it useful if the SRA produced a guide explaining what to expect of a solicitor and the protections that exist if something goes wrong?

### *Question 14*

What are your views on how consumers could easily establish whether or not a legal services provider is regulated? Would a logo for use by regulated individuals and firms be useful in identifying to consumers that a provider is regulated by the SRA?

### *Question 15*

Would a SRA compensation fund logo be useful to raise awareness of the SRA's compensation fund and in denoting that a client of the provider would enjoy protections under that fund.

## *Questions in full*

### *Question 1*

Do you think there could be any diversity impacts as a result of publishing this information in a much clearer way than it is currently available? If so, what do you think those impacts could be?

### *Question 2*

What are your views on the burden that would be placed on firms by requiring the collection and/or publication of complaint data?

### *Question 3*

What data and contextual information on first-tier complaints do you think consumers would find most useful, for example, raw numbers of complaints, proportions of transactions resulting in a complaint, speed of response?

### *Question 4*

What are your views on whether firms should publish complaint data, whether the SRA should collate and publish this data, or whether there should be a dual approach? What do you see as the advantages and disadvantages of each option?

### *Question 5*

Do you think any specific categories of firms, such as those who receive very low numbers of complaints, should be exempt from any requirements to publish complaint data or any other category of data?

### *Question 6*

Of the options we have set out for how we might publish complaint data, which option do you think would bring the most benefits to consumers?

### *Question 7*

When weighing up the potential usefulness to consumers against the potential risks, do you think that the publication of complaint data would benefit consumers overall?

### *Question 8*

When weighing up the potential usefulness to consumers against the potential risks, do you think that the publication of insurance claims data would benefit consumers overall?

### *Question 9*

When weighing up the potential usefulness to consumers against the potential risks, do you think that the publication of quality data would benefit consumer overall?

### *Question 10*

What price information do you think firms could include on their own websites and/or in our digital register? What barriers are there to the provision of price information?

### *Question 11*

What sort of additional information do you think could be included in our digital register either on a voluntary or compulsory basis?

### *Question 12*

Is there anything missing from the proposed information package for consumers?

### *Question 13*

Would consumers of legal services find it useful if the SRA produced a guide explaining what to expect of a solicitor and the protections that exist if something goes wrong?

### *Question 14*

What are your views on how consumers could easily establish whether or not a legal services provider is regulated? Would a logo for use by regulated individuals and firms be useful in identifying to consumers that a provider is regulated by the SRA?

### *Question 15*

Would a SRA compensation fund logo be useful to raise awareness of the SRA's compensation fund and in denoting that a client of the provider would enjoy protections under that fund?

## *Annex A*

### *Our work on consumer information*

There are four strands to our work on consumer information:

- Improve the accessibility of SRA regulatory data for consumers and other stakeholders. We are looking at how best to open up access to more regulatory information and how this can feed into a new SRA open data model. This new facility takes account of the LSCP's recent calls for action to the legal regulators, but also embraces the government's Public Data Principles by making information on the firms we regulate freely available to all re-publishers, for example comparison websites.
- Continue requiring solicitors to inform their clients about regulatory protections that apply to their work, and their rights to access the Legal Ombudsman's services. Solicitors have a specific requirement to ensure

clients understand whether and how the services they provide are regulated and about the protections available to them. This requirement is also mirrored for firms.

- Improve the level of information available to help consumers navigate the legal services market, including the development of consumer guides/decision tools to provide jargon-free information about consumer rights, and help them make informed choices.
- Roll out a programme of consumer engagement during our 2016 consultation process, including with members of the public and businesses, roundtable events with consumer bodies and advice agencies.

The first three strands of our work are considered in more detail in this discussion paper.

### *Information currently available from the SRA*

In April 2016, we launched a new web page law firm search [<https://www.sra.org.uk/consumers/using-solicitor/law-firm-search.page>] on SRA.org.uk featuring a search tool where anyone can look up SRA-regulated firms by name or SRA number. This provides basic information about a firm, such as address and contact information.

In addition, we also make regulatory information available to our stakeholders in a number of other ways, including through:

- online directories, such as our register of licensed bodies [<https://www.sra.org.uk/solicitors/firm-based-authorisation/abs/abs-search.page>]
- search tools, such as our solicitor check decisions page [<https://www.sra.org.uk/consumers/solicitor-check.page>]
- customer services, including the work of our Contact Centre to verify individual solicitors' practising status
- a web service offering data re-users free access to up-to-date basic information about SRA-regulated firms<sup>24</sup> [n24]
- explanatory material on the 'Legal Choices' website
- a data service to the Law Society's 'Find a solicitor' (FAS) directory.

Some of these deliver our statutory duties to make information available to the public on request about firms and solicitors we regulate. We currently provide six professional registers containing regulatory data. Both the LSB and the LSCP have recommended in recent years that we make this data more accessible.

The data in our registers has been defined incrementally over time, and we have treated them as discrete publication requirements, rather than integrating them all into a coherent, easily understood set. We therefore now

want to look at a strategic long-term solution that will further improve the way our stakeholders, particularly consumers, can access our data as well as adding value to the way they can use it.

### *How other regulators use open data*

**Bar Standards Board (BSB)** publishes disciplinary decisions

[<https://www.barstandardsboard.org.uk/complaints-and-professional-conduct/disciplinary-tribunals-and-findings/past-findings-and-future-hearings/>] of the BSB Tribunals about individual legal service providers.

**The Chartered Institute of Patent Attorneys/Institute of Trade Mark Attorneys** publishes disciplinary decisions [<https://ipreg.org.uk/register/>] of the Intellectual Property Regulation Board about individual service providers.

**CILEx Regulation** publishes disciplinary decisions

[<http://www.cilexregulation.org.uk/disciplinary-records/>] about individual legal service providers on its website.

**The Council for Licensed Conveyancers (CLC)** publishes details of forthcoming Adjudication Panel misconduct hearings and formal determinations of conduct complaints.

**The Environment Agency** publishes data [<https://www.gov.uk/quality-of-local-bathing-water/>] on the water quality of beaches across the UK, enabling the public to see how clean the water is and whether there is a problem with pollution.

**The Financial Conduct Authority (FCA)** publishes details of the number of complaints received by each of the firms it regulates who have received more than 500 complaints in six months. It prominently publishes a table of the ten firms who received the highest number of complaints on its website. It also publish aggregate complaints data [<https://www.the-fca.org.uk/firms/complaints-data/>] , split into products, type of firm and the nature of the complaint.

**Financial Ombudsman Service (FOS)** publishes complaints data

[<http://www.ombudsman-complaints-data.org.uk/>] every six months about individual financial service providers. The information is published in the form of a table which can be sorted by the user, for example, to rank financial services providers by numbers of complaints.

**Institute of Chartered Accountants of England and Wales (ICAEW)**

publishes disciplinary decisions (hearings of the ICAEW's Disciplinary and Appeal Committees) about individual service providers.

**The Legal Ombudsman (LeO)** publishes a 'datatable' on the number of complaints it has received about a legal services provider, what the complaints were about and how many of those complaints required a remedy, ie the consumer's complaint was upheld.



**Local Government Ombudsman (LGO)** provides a public database [<http://www.lgo.org.uk/decisions>] of their decisions.

**Ofgem** publishes information on customer satisfaction [<https://www.ofgem.gov.uk/data-portal/overview>] with energy suppliers, how many complaints suppliers receive and how many of those complaints are passed on to the Ombudsman. Ofgem encourages consumers to consider this information alongside price before switching energy provider.

**Ombudsman Services (OS):** Following a public consultation in 2012 seeking the views of companies, regulators and consumer bodies on the types of data they wanted to see published, OS is now publishing more complaints data. The data will be published quarterly and divided by business sector.

**Ombudsman Services: Energy** publishes data for the 10 biggest energy companies in the UK, which details complaints received and complaints resolved, broken down by energy supplier. On its website, it says that this data will “enable consumers to make better-informed decisions about their energy provision.”

**Law Society of Scotland** publishes decisions [<https://www.ssd.org.uk/findings/>] of the Scottish Solicitors Disciplinary Tribunal about individual legal service providers.

**Parliamentary and Health Service Ombudsman (PHSO)** publishes reports [<http://www.ombudsman.org.uk/reports-and-consultations/reports/health>] on health authorities.

**Royal Institute of Chartered Surveyors (RICS):** Decisions of the RICS Disciplinary Panel about individual service providers are published on its website.

**General Pharmaceutical Council** publishes registers of pharmacies and individual pharmacists [<https://www.pharmacyregulation.org/registers>] on its website, enabling consumers to check whether a pharmacy is subject to notices or conditions and check the outcome of any fitness to practise hearings in relation to an individual pharmacist.

**General Optical Council** publishes registers [<https://www.optical.org/en/utilities/online-registers.cfm>] containing information about the individuals and organisations it regulates on its website. The information includes qualifications, the outcome of any fitness to practise hearings and practice addresses.

#### Notes

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## *How to respond*

Responses to this paper closed on 26 January 2017.