

Looking to the Future: Better information, more choice

Consultation responses

June 2018

Name**Respondent Type**

Publish the response with my/our name***Responses from organisations***

Age UK	Representative Group
Association of Personal Injury Lawyers	Representative Group
Association of Women Solicitors	Representative Group
Birmingham Law Society	Law Society
Boys & Maughan Solicitors	Law Firm or Other Legal Services Provider
Cardiff and District Law Society	Law Society
Citizens Advice	Other Organisation
City of London Law Society	Law Society
Devon and Somerset Law Society	Law Society
Doncaster and District	Law Society
F I Law Limited	Law Firm or Other Legal Services Provider
Federation of Small Businesses	Representative Group
Hampshire Law Society	Law Society
Hexagon Legal Network	Other Organisation
HM Land Registry	Other Organisation
Howden UK Group Limited	Other Organisation
Junior Lawyers Division	Representative Group
LawNet Limited	Law Firm or Other Legal Services Provider
LawWorks	Other Organisation
LegalBeagles & Justice Beagle	Other Organisation
Leeds Law Society	Law Society
Legal Ombudsman	Other Organisation
Legal Services Consumer Panel	Representative Group
Leicestershire Law Society	Law Society
Liverpool Law Society	Law Society
Manchester Law Society	Law Society
Middlesex Law Society	Law Society
Peninsula	Law Firm or Other Legal Services Provider
Peterborough and District Law Society	Law Society
Resolution	Representative Group
Rights of Women	Other Organisation
Slater and Gordon Group	Law Firm or Other Legal Services Provider
Sole Practitioners Group	Representative Group
Solicitors for the Elderly	Representative Group
Stewarts Law LLP	Law Firm or Other Legal Services Provider
The Black Solicitors Network	Representative Group
The Law Society of England and Wales	Law Society
The Yorkshire Union of Law Societies	Law Society
Unnamed Conveyancing Comparison Website	Other Organisation

Responses from individuals

Boulter, Jan	Solicitor
Englehart, David	Solicitor
Forster, Steven	Solicitor
Gee, Teresa	Solicitor
Giles, Melinda	Solicitor
Hodder, Elizabeth	Other Capacity
Howlett, Neil	Solicitor
Mian, Zeeshan	Academic
Moorhead, Richard	Solicitor
Newson, Helen	Other Legal Professional
Vadera, Angeli	Other Capacity

Publish the response anonymously

Responses from organisations

ID-047	Anonymous
ID-049	Anonymous
ID-071	Anonymous
ID-073	Anonymous
ID-077	Anonymous
ID-096	Anonymous
ID-104	Anonymous
ID-114	Anonymous
ID-130	Anonymous
ID-133	Anonymous

Responses from Individuals

ID-017	Anonymous
ID-046	Anonymous
ID-055	Anonymous
ID-058	Anonymous
ID-073	Anonymous
ID-087	Anonymous
ID-091	Anonymous
ID-093	Anonymous
ID-107	Anonymous
ID-108	Anonymous
ID-115	Anonymous
ID-116	Anonymous

Publish my/our name but not the response

Responses from Organisations

East Greenwich Legal Advice Clinic	Law Firm or Other Legal Services Provider
Forsters LLP	Law Firm or Other Legal Services Provider
Search Acumen	Other Organisation

Responses from Individuals

Reardon, Daniel	Member of the Public
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Consultation Response

Looking to the future: better information, more choice-Solicitors' Regulation Authority

October 2017

Reference number - 2417

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About this consultation

In September 2017, the Solicitors' Regulation Authority (SRA) began consulting on publishing more of the regulatory data that they hold about the solicitors and firms that they regulate. The SRA are proposing these changes because they want to make sure that people have accurate and relevant information about a solicitor or firm when they are considering purchasing legal services. This will help members of the public and small businesses make informed choices and improve competition. The SRA are also asking the solicitors and firms they regulate to publish more information on the legal services they provide. The SRA are proposing to:

- Require firms to publish their price for services (limited initially to a select number of legal services).
- Require firms to publish a description of the services they offer - in the same areas for which they will ask firms to publish price information.
- Require firms to make information on the SRA regulatory protections available - this includes introducing a digital badge. This will act as a mark of quality that verifies that a firm is regulated by the SRA.
- Publish the data the SRA already collects on first-tier complaints made against firms regulated by the SRA and their areas of practice.
- Build a digital register that holds key regulatory data about solicitors and firms regulated by the SRA in one place and make this available to the public.
- Require solicitors working in non-Legal Services Act regulated firms to inform clients that they are not subject to the SRA requirements for compulsory professional indemnity insurance (PII).

Key points and recommendations

- Age UK strongly supports the SRA's proposals to introduce greater transparency into the market for legal services.
- Any information that the SRA requires solicitors to publish should be available both online and in hard copy, free of charge.
- All information should be available in a range of languages and formats. The languages and formats available should be made clear.
- All information should be in plain English and free from legal jargon.
- Audio and large font copies of information should be available on request, free of charge.
- The point of providing information about legal services should be to allow potential clients to understand the role of solicitors, the timescale of legal tasks, the cost of the legal service they require and any rights/protections they have if they are not satisfied with the way their case was handled.
- The SRA need to ensure that solicitors are publishing accurate and up-to-date quotations for their legal services, for example through 'mystery shopping'.
- The system whereby solicitors publish quotations for legal services should include safeguards to ensure that it is clear which factors may make a quotation increase or decrease and everything possible should be done to ensure that clients are protected from discriminatorily high prices that prey on their lack of knowledge about legal services.

- To ensure comparability between firms, the SRA should develop benchmark cases for typical services.
- Any information about PII coverage should be enough information for inexperienced clients to understand what protections they have as a consumer of legal services but not so much detailed information that the client gets lost in the legal jargon and does not understand why the information is relevant. All information about PII must be explained in plain English so clients can understand which protections they have.
- Any information about the Compensation Fund should be explained in plain English. It must be made clear that compensation is awarded on a discretionary basis and not by right. All clients must be able to understand how the compensation fund operates.
- Any information that the SRA requires firms to publish on their website should be required to be displayed on a prominent part of the website that is easily accessible. For example, on the home page rather than a page at the back end of the website. It is important that all information published is done so in the spirit of transparency rather than as a 'tick box' exercise to meet SRA requirements.

1. Introduction

Age UK is the country's largest charity dedicated to helping everyone make the most of later life. The Age UK network comprises 140+ local Age UKs reaching most of England. We provide information and advice to around 7 million people each year, through web-based and written materials and individual enquiries. We work closely with Age UK Cymru, Age UK NI and Age UK Scotland.

Age UK strongly believes that lawyers should be accessible, affordable and useful to everyone. Our most recent Policy Sounding Board was a meeting of over 20 older people who gave their views on various issues, including legal reform. This Sounding Board echoed our general enquires data by making it very clear that many older people feel that legal services are overpriced, unaffordable and intimidating. A selection of enquiries on these issues that we have received in the last 18 months have been anonymised and can be found in the appendix and throughout this response.

We think the imbalance of power in the solicitor/ client relationship is a key issue that needs to be addressed through increasing the transparency of legal services. When an inexperienced client is instructing a solicitor for the first time, the power imbalance is great. This is important for older people, who may be using solicitors to make wills or powers of attorney or to arrange probate, at times of some stress. Unfortunately rebalancing the power imbalance between solicitor and client does not always occur and this can lead to unfortunate situations of distress as evidenced by the following enquiries we received earlier this year:

Case studies

C is 75, Mother is 99, Father died last week and his will is being administered by solicitors. C explains that the solicitors have, in the wake of her Father's death, passed the administration of the will on to another solicitor's firm to deal with Probate and transfer of ownership. A couple of days after the funeral C's Mother was phoned and

questioned for over an hour about her Father's estate. C explains that her Mother was very distressed and scared when the solicitors rang.

C's Brother passed away on Friday leaving no will and C is looking to administer his estate himself but has specific/ legal questions relating to the process. C was calling in the hope of speaking to a legal advisor. C thinks he may want a solicitor to deal with the estate but is concerned about the cost.

Age UK supports the SRA's proposals to improve transparency on cost and legal services. These changes have the potential to promote competition between solicitors' firms. We believe that the price transparency proposals that the SRA is suggesting could increase competition amongst high street firms and therefore increase choice for clients. This in turn could encourage solicitors to increase the standard of their client care in order to stay competitive and this will help clients feel less intimidated by the prospect of purchasing legal services.

We believe that the success of the SRA's price transparency proposals rests on their ability to research how legal services' consumers decide which solicitors' firm to instruct, how they detail the information that they want solicitors' firms to publish and their efforts to effectively monitor the information being published for accuracy and understanding.

To implement these proposals effectively, we recommend that the SRA completes some research into consumer behaviour and predictability. We note that there is a wealth of research available in this area from various regulated markets including the energy market and financial services market. To get an idea of the kind of research we recommend the SRA could consider the following:

National Audit Office 'Deciding prices in public services markets: principles for value for money.' <https://www.nao.org.uk/wp-content/uploads/2014/01/10333-001-Deciding-prices-in-public-services-30-Dec.pdf>

Financial Advice Market Review <https://www.fca.org.uk/publication/corporate/famr-final-report.pdf>

A solid understanding of consumer behaviour in the legal services market will allow the SRA to create detailed guidance for solicitors' firms about what, where and how to publish the requisite information. This guidance will ensure that solicitors' firms understand what they need to publish, the level of detail they need to provide and any other specific publication requirements they must meet e.g. ensuring audio versions of information is available for clients who are visually impaired.

Additionally, increased transparency needs to be accompanied by effective monitoring. We believe that the SRA need to implement a 'mystery shopping' quotation system whereby they can ensure that solicitors are publishing accurate and up-to-date quotations for their legal services. The system should include safeguards to ensure that it is clear which factors may make a quotation increase or decrease and everything

possible should be done to ensure that clients are protected from high prices that prey on their lack of knowledge about legal services.

To summarise, we agree with the price transparency proposals set out by the SRA. We think it is particularly important that published prices include an hourly rate, an estimate of how long tasks will take and a general outline of the stages of the legal process in layman's terms. Our main concern is that everyone using the published prices, should have easy access to information regarding any factors that may increase/decrease the price of the service. For example, if a solicitor were to publish prices on will writing services, the firm should make clear the common factors that make wills take longer to write or more expensive to create e.g. foreign assets, expert valuations and complex legal matters. The key to this, we believe, is to ensure clients have enough information to make informed choices about the services they need but not so much information that clients become overwhelmed by details. We suggest that the SRA should complete research into the best way to present information to inexperienced clients including, format, level of detail and style of writing. Any publication of prices should make legal services from SRA regulated firms comparable. To increase the comparability of the data the SRA should formulate benchmark typical legal scenarios on which firms should base their published prices. The published prices should then be reviewed on an annual basis.

Case Study

C's Brother is using a firm of solicitors to create an LPA and C is concerned that their annual fee of £10k was high. C asking who regulates lawyers and keeps them in check?

2. In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

We agree with the categories suggested and have nothing further to add to the list at this stage.

1. Do you agree with our proposed principles of price transparency?

We agree that price transparency is very much needed. The transparency needs to go beyond just a figure per hour and include the typical number of hours required for various services, and the price per hour for solicitors of varying levels of seniority. The aim should always be to help clients to see which firms are offering a service that suits them and allow clients to compare the time needed, quality of work and cost of a legal service between various solicitors. However, we would like to emphasise that whilst price transparency is very much needed it should not be seen as a substitute for more comprehensive regulation.

We believe that price publication should be based on a number of tightly crafted benchmark scenarios for which all SRA regulated firms should have to publish an annual quotation. This will allow clients to easily compare prices across firms and understand the factors that may affect the price they pay for a legal service.

We urge the SRA to be cautious in encouraging the use of online quotation calculators. It should be made very clear that quotations calculated by automated systems are not guaranteed and are subject to change based on unforeseen factors that can make a case more or less expensive. It is vital that quotation calculators are seen as an estimate and not a guaranteed price.

4. Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

Yes all explanations should be in plain English, available in audio description and should make it clear that all data is subject to change. Any alternative formats of the information e.g. audio description, large fonts etc should be advertised as available on request and should always be free of charge. We believe this will help to combat the perception that legal services are intimidating and help clients feel more capable in their ability to instruct a solicitor.

1. Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Yes, this should encourage people to find out more about the SRA and understand their rights if they are not satisfied with the legal advice/ service that they have received. This may also encourage more firms to become regulated and take on a 'hallmark of quality' thus reducing the risk of inexperienced clients using unregulated and perhaps fraudulent solicitors/legal advisers. Additionally we hope this will help clients feel less intimidated and more informed about the process of purchasing legal services.

2. Do you have any suggestions as to how we can best increase consumer awareness of the logo?

The SRA need to ensure that firms explain to clients what the logo means for them. This will help people who are not used to instructing solicitors to understand how solicitors are regulated and what protections they have if they are not satisfied with the legal service they have been provided with. It is important that solicitors display the logo on all marketing materials. Explanations of what the logo is used for and what it represents should be made clear on the SRA website but also in hard copy marketing materials for people who do not have access to the internet. Overall, there should be a clear plain English explanation of what the SRA does as a regulator and the rights of the client available on the SRA's website.

The SRA might want to consider whether any lessons can be learned from bodies using similar 'kitemarks', for example the Chartered Trading Standards Institute's Consumer Codes Approval Scheme. However, it is difficult to increase awareness of the variety of logos and kitemark schemes without significant expenditure over time. The onus will always need to be on individual solicitors' firms to promote the value of the protections under the scheme. As a regulator, the SRA will also need to be vigilant in policing use of the logo to ensure that only those entitled to it are displaying it.

7. Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

The fact that compensation is awarded on a discretionary basis and not automatically should be made clear especially for people who have not instructed solicitors or experienced the English court system before. It is important that all explanations should not create an expectation that compensation claims will always succeed. All materials should be accessible, clear and published in plain English. Overall the published materials explaining the Compensation Fund need to explain what the fund is for, who can use it and how to use it.

2. Do you agree with our proposals on the publication of PII details? Any information published about PII coverage should be enough information for inexperienced clients to understand what protections they have as a consumer of legal services but not so much detailed information that the client gets lost in the legal jargon and does not understand why the information is relevant. All information about PII must be explained in plain English so clients can understand which protections they have.

3. Do you agree with the proposal for firms to publish details of how to complain?

Yes, all clients and potential clients need to know how to complain, who to complain to and the complaints process before they instruct a solicitor. It should be made clear that clients have a right to complain, and that it is free to do so. The timescale for dealing with complaints and the possible outcomes of a complaint need to be made clear. It should be clear that all complaints will be dealt with by someone independent and not linked to the subject of the complaint. The types of complaints that can be made should be clear and include examples e.g. overcharging, delays, negligence etc

1. Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

We agree that all SRA regulated firms should publish information on their websites about a client's right to complain to the Ombudsman (second-tier complaints), the time frame for doing so and full details of how to contact them.

11. What are your views on the proposed content for the digital register?

We think this will be a very useful way for clients to compare firms and individual prices in one place. The digital register needs to be easy to use and everything needs to be explained in layman's terms. It needs to be suitable for people who have never used a legal service before. The SRA needs to create a way to ensure that the digital register's information is accurate and up-to-date.

2. Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

Yes, complaints data should be published and available online or in hard copy. This is now accepted as the norm in the Financial Services industry and other industries so it is difficult to see why this is not the norm for a professional industry which aims to meet the highest standards. Aggregated data should be available on the subject of complaints, outcomes (e.g. uphold rates) and time taken to resolve the complaint.

3. Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes it is important that potential clients know that they can choose whether or not instruct a PII protected solicitor. It should be made clear what PII is and that non-LSA regulated firms are not required to hold PII policies.

4. Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes but non-LSA regulated firms should make it clear which legal remedies and compensation options are available for their clients. The crucial point is that it should be obvious to potential clients what their rights and options are if their case is not handled properly or if their solicitor's conduct is not satisfactory.

5. What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

Use of organisations such as Solicitors for the Elderly, the Citizens Advice Bureau and Age UK, may be able to help the SRA to disseminate important information on complaints, prices, timescales and types of work to a wider public audience. However, it can be very difficult to reach those who are in most in need of this information (particularly older people who do not use the internet), so dissemination should be regarded as a long-term process rather than an individual campaign. We suggest that an important audience for SRA materials will be individual advice workers in organisations such as Age UK.

The SRA should consider the following questions which we advise older people to consider when they instruct solicitors for the first time:

- How much will it cost and how long is it likely to take?
- Are there alternatives to legal action?
- Is mediation possible?
- Is legal aid available for the case?
- What are the chances of success?
- Could I be liable for the other party's costs?
- Is there any risk of other adverse consequences?
- Are there any deadlines for taking action?
- Will the person you meet be dealing with the case themselves? If not, who will it be? What experience and qualifications do they have?

The SRA should ensure that all of its work with others includes a client focused ethos which deals with the concerns of the client as a primary objective. This will help inexperienced clients feel that solicitors are approachable and that any money they spend on legal services has been well spent.

Appendix: Case studies about cost of legal services

C and her husband are in receipt of Benefits and have their adult children, a man and woman, aged 30 living with them in their house. C has 3 pensions and wants to know if she can withdraw some of her pensions to help her adult children purchase a house. C is severely disabled and would also like to buy a new car so that herself and her husband can become more independent. C says she is desperate and needs information regarding her situation she cannot afford the fees her solicitor is asking for. C explains that even with a free first consultation they do not go beyond what she would like to know.

C's Father died 2 weeks ago, C is executor of his Father's Will but a solicitor is also named as executor, C is happy to carry on with probate himself, the solicitor has quoted £300 to have his own name taken off as executor, is this usual?

C ringing for legal advice regarding a life insurance policy that she intends to cover the costs of her funeral. The insurer has advised that he transfers the assets from the policy to a friend as a trustee so that she will have easy access to it in the event of his death to cover funeral costs. C explains she is poor and cannot afford legal advice.

C is querying the amount he is being asked to pay solicitors for dealing with probate following the death of his wife. They are requesting a percentage of the estate, which amounts to quite a large sum. C has spoken to friends who say that it hardly cost anything when the estates of their late spouses were dealt with. C wants to know whether it is normal practice for such large sums to be charged

C has received Terms of Business from a local solicitor that make reference to charges based on 1% of the gross value of the estate and a further 0.5%. C asking whether this is common practice?

Solicitors Regulation Authority

Looking to the future: better information, more choice



**A response by the Association of Personal Injury Lawyers
December 2017**

The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation with a 25-year history of working to help injured people gain access to justice they need and deserve. We have over 3,000 members, committed to supporting the association's aims and all of whom sign up to APIL's code of conduct and consumer charter. Membership comprises mostly solicitors, along with barristers, legal executives and academics.

APIL has a long history of liaison with other stakeholders, consumer representatives, Governments and devolved assemblies across the UK with a view to achieving the association's aims, which are:

- To promote full and just compensation for all types of personal injury;
- To promote and develop expertise in the practice of personal injury law;
- To promote wider redress for personal injury in the legal system;
- To campaign for improvements in personal injury law;
- To promote safety and alert the public to hazards wherever they arise;
- To provide a communication network for members.

Any enquiries in respect of this response should be addressed, in the first instance, to:

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Introduction

We welcome the opportunity to respond to the SRA's consultation on improving information for consumers of legal services. We appreciate that the public is very sensitive to cost, and accept that more can be done by solicitors' firms to be transparent with information that will help consumers to choose the right firm for them. Pricing in personal injury claims is far from a "one-size-fits-all" exercise, however, and firms would find it very difficult to provide the level of detail proposed in the SRA's consultation from the outset, without knowing the circumstances of the case in question.

In addition to indications of the price of legal services, it is key that consumers receive as much information as possible to help them ascertain the quality of the service offered. Details of the level of relevant accreditations that the firm or individual solicitor holds should be made clear on the firm's website, along with details of what this means for the consumer.

Pricing

While we agree that it is important that some pricing information is made available to potential clients, the nature of personal injury law makes it extremely difficult to comply with the principles set out at paragraph 45 of the SRA's consultation and in the SRA's guidance on page 9 of Annex Two. Costs depend heavily on the circumstances surrounding the individual case. If solicitors were required to provide an estimate without knowing any of the details of the case, this would likely change as the case progressed, leading to the claimant feeling misled.

Information on funding arrangements and likely cost tailored to the individual claim is usually provided to the client in detail in the Retainer Letter of Professional Appointment (Client Care letter), and this is a far more suitable stage to provide accurate pricing information.

Details of any success fee or percentage that may be payable from damages

The costs payable by the client will be dependent on a number of factors in each case and it will be extremely difficult to provide accurate information on this at the outset, without knowing anything about the individual's claim.

The following factors play a part in the calculation of how much clients ultimately have to pay in personal injury claims:

- The type of case
- Whether the claimant is a protected party
- Whether the case will fall within a fixed costs regime
- What sort of funding arrangement or third party cover for legal costs is in place
- Whether liability is in dispute
- The success fee, which is calculated based on the risk presented in each case
- The behaviour of the parties, and whether there are likely to be any adverse costs orders
- Whether Part 36 offers will be made, by whom and whether they might be accepted late
- Whether the claimant succeeds on the whole or part of the claim

- In cases that require a budget, there will be uncertainty as to what the court may allow. Whether the hourly rate will be recoverable will depend on whether the court determines that it is reasonable, necessary and proportionate on assessment.

Details of any disbursements that the client may be liable for (such as ATE insurance, counsel's fees or obtaining a medical report) and the circumstances in which liability will arise

Disbursements are not the same fixed amount in each case. The amount of disbursements will depend on, for example, the number of and type of expert reports required, which will depend on the type of injury, degree or otherwise of recovery and circumstances of the claim. The most that could be provided by firms is a generic list of the most common disbursements that are likely to be paid, but no two cases are the same. Additionally, it is for the court to determine whether or not disbursements are to be paid by the losing party.

An explanation of any other circumstances when the client may be liable to contribute towards their own solicitor costs and an explanation of any potential liability for the other side's costs

It will be difficult to establish without knowing the details of a particular case whether a client will be liable to contribute to their solicitors' or the other side's costs.

APIL recommendation

In place of the SRA's proposals, there should instead be standard wording which personal injury solicitors are required to put on their websites which provides basic information on how fees in personal injury cases are calculated. We are concerned that a requirement to provide any more detail than this will open up the risk of clients being dissatisfied when they realise that their bill is going to be more than a generic figure posted on the firm's website.

The wording should be developed by the SRA and would provide very generic information about the types of funding available for personal injury cases, such as conditional fee agreements, damages based agreements, trade union funding, and what each of these entail. It should also explain prominently that the client may be charged a success fee, and this should include information about the maximum percentage that the law permits the success fee to be and how it is calculated. Firms should also be obligated to set out their policy on obtaining ATE insurance, and the range of premium prices for the products that they offer, with an explanation of when and under what circumstances the ATE premium will be payable by the client. There should continue to be a requirement, as currently set out in the SRA Handbook, that firms provide updates to clients at certain stages of the case on what the costs are likely to be. Firms could also provide details of their hourly rates.

It may also be useful for firm websites to provide information on the circumstances under which a client will have to pay their solicitor's costs if they lose the case. We suggest that in order for the claimant to be more fully informed, examples of the sorts of circumstances that a client would be charged a fee by the solicitor if they lose their case should be set out on the firm's website. These could include for example, where the claimant has been fundamentally dishonest (with an explanation of what this means), where there has been a breach of the CFA, or where the client has misled the medical expert. Displaying this

information may help to discourage those who may think of making an exaggerated or fraudulent claim.

Description of services

We agree that a description of services should be provided on the websites of claimant personal injury firms. Firms should provide generic information about the types of work and the level of staff completing that work, so that potential clients are fully informed when choosing the right firm for them. Many firms with websites already provide the majority of this information already.

It would be useful if there was also a requirement that the firm sets out the level of relevant specialist accreditation, if any, that each solicitor has obtained. Firms should specify which sorts of cases will be dealt with by, or carried out under the supervision of, an accredited lawyer. Equally, if individuals do not hold accreditations, this should be made clear.

It is important that people know whether the firm they are considering has specialism in the area that they would like advice on, and displaying individual accreditations is the best way to demonstrate this. APIL offers accreditation in a variety of specialisms, including portal claims, brain injury, spinal injury, and clinical negligence. Holders of these accreditations must have met rigorous criteria demonstrating that they are competent in that area of law.

Regulated by the SRA logo and digital badge

We agree with the proposal to introduce an SRA logo for promotional and printed materials and window displays to confirm that the SRA regulates the firm. Alongside this, however, is a need for the SRA to raise awareness of their role as a regulator amongst the general public. On its own, to most lay members of the public, the fact that a firm is regulated by the SRA will hold little meaning. The SRA should raise public awareness of its role in ensuring that solicitors abide by the rules of their profession, and that the SRA regulation will offer certain protections to consumers. When people are choosing a legal services provider, the SRA should aim for it to be the norm for consumers to look for the SRA regulation logo when they are searching for a legal service provider, just as they would look for ATOL protection when booking a holiday.

It is important that the SRA ensures that customers know the difference between choosing an SRA regulated firm and an un-regulated firm, given the changes that are afoot in lower value road traffic accident claims. The plans to reform the whiplash claims process are likely to increase the number of MacKenzie Friends and claims management companies carrying out work in this area. It is important that consumers are made aware that if they choose these entities to assist them with their claim instead of an SRA regulated firm, they will be missing out on some of the vital protections should things go wrong. This is particularly important, given that solicitors will soon be able to practice in non-SRA regulated firms, so simply looking for someone badged as a "solicitor" will not necessarily be enough.

Compensation Fund logo

We agree that firms should be required to publicise the existence of the Compensation Fund, and the SRA should work to raise awareness of what this means. This is essential, given the proposals to allow solicitors to work in unregulated firms without the protections of

the Compensation Fund and professional indemnity insurance. It should be a requirement that firms make clear that they are covered by the Compensation Fund. Conversely, those solicitors working in non-regulated firms should be required to make clear that they are not covered by the fund.

Professional Indemnity Insurance

In relation to professional indemnity insurance, we believe that if a firm holds itself out to be one which specialises in high value, complex claims, they need to satisfy the potential client that they have sufficient cover in place. Not only should firms have PII cover in place, it should be set at the appropriate level for the types of case that the firm handles.

Complaints

We agree that firms should make prospective clients aware of their right to complain to the Legal Ombudsman. Firms should also be required to publish details of how a person can make a complaint against them.

Creating a digital register

We agree that a digital register should be published.

Alongside information on regulatory and disciplinary decisions, there should be information about the accreditations held by individual practitioners and firms, and any positive feedback provided by previous clients. Providing information about disciplinary action on its own will not necessarily help the consumer to determine the quality of the legal services provider.

Publishing areas of practice and complaints data

In relation to publication of complaints, we agree that candour is the best option.

Individual solicitors working outside LSA-regulated firms

We agree that solicitors working outside LSA-regulated firms should be required to publicise that they are not required to have professional indemnity insurance, and that their clients will not have access to the Compensation Fund.



Association of Women Solicitors

Essential for Success

SRA Consultations

Looking to the Future: Phase two of our Handbook Reforms

Looking to the Future: Better information, more choice

Response by Association of Women Solicitors, London

About Association of Women Solicitors, London

Association of Women Solicitors, London was founded in 1992 and its aims include representing, supporting and developing the interests of women solicitors. Membership is open to women solicitors and trainees and associate membership to other women lawyers including barristers, chartered legal executives and paralegals.

For further information please visit our website www.awslondon.co.uk

Response

Thank you for inviting us to attend your recent workshop on these two Consultations.

The main points that emerged were;-

1. The Equality Impact Assessments left something to be desired but you did take our point that as the majority of solicitors involved with distressed clients and in the more difficult types of work (Divorce, Mental Health, etc.) are female the inevitable greater number of complaints could adversely affect the profile of women solicitors.

Our membership includes many women solicitors working within the smaller entities (niche, Sole practitioner, small High St etc) and looking after vulnerable individuals and drawing on that specialist knowledge we have read both Responses submitted by The Law Society and agree with what they have said.

2. We agreed that regulated firms displaying a logo to demonstrate regulated status is a good idea but are concerned about the absence of enforcement of the requirement that unregulated firms disclose unregulated status. This is obviously part of the overall shifting of monitoring to solicitors whilst retaining full disciplinary powers for regulated individuals and firms. Whilst we are not averse to fair competition this proposed arrangement does seem to be unfair.

We also expressed concern that the typical consumer will not understand the distinction anyway.

Also of concern is the fact that unregulated firms with one solicitor will not be regulated by the SRA, but the solicitor shall be responsible for any issues that arise and shall be disciplined should things go wrong. Many women who may be career returners may find themselves more likely to be in this position and therefore will have increased pressure as a result.

3. On publication of prices, timelines etc. the proposal is that the information currently given in the tailored client care letter after an initial meeting with the client will now go on the regulated firm's website in advance. All agreed that publishing such information on a general basis would be extremely difficult particularly in contentious matters and it would have to be hedged about with so many qualifications as to render it useless. For example, Counsel and experts are regularly engaged in litigation and at the outset of a matter, to estimate for these costs is almost impossible.

4. A similar comment applies to publication of the Complaints record. We need to know exactly what information would have to be published and how much explanatory information could be added.

Association of Women Solicitors, London
December 2017

2. About you

1.

First name(s)

Andrew

2.

Last name

Beedham

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Law society

8.

Please enter the name of the society

Birmingham Law Society

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

It is accepted that there should be price transparency in conveyancing transactions subject to the caveats below. The difficulties that we find in private practice is that each transaction is variable i.e. does the purchase involve the acquisition of a leasehold or a freehold property? If the sale is a leasehold property then that will incorporate the necessity for the sellers' solicitor to purchase a Leasehold Information Pack which costs in excess of £300. Accordingly it is not generally possible therefore, as part of the transparency of price publication, to schedule all or any disbursements as these are unknown at the time of accepting instructions. Fees must necessarily therefore mean the legal fee payable to the conveyancer/solicitor and not any disbursements that the conveyancer or solicitor must bear. On a leasehold purchase it is common practice for the freeholders' agents to demand fees for preparation of a Deed of Covenant and Service of Notice of Transfer and Mortgage which often, again, cost in excess of £300. What must be made transparent to the public is whether a solicitor acting in a purchase involving a mortgage is on the panel of the mortgagees as if not a separate solicitors' fee will be payable to the solicitors representing the mortgagees in addition to the fees quoted by the conveyancer/solicitor. There are numerous variables where it is almost impossible to advertise fees without more knowledge of the transaction e.g. a transfer of an equitable interest in a property subject to mortgage.

It would be worthwhile also investigating whether there could be price transparency for the preparation of wills.

However for any legal advice or transaction there can be so many variables that do not become apparent until full instructions are taken by the solicitor that it may only be very simple standard transactions that are suitable for price publication. Everything else (which is the majority of legal work) would be subject to caveats i.e. that the fee may have to be revised upon full instructions having been taken and/or banding of prices i.e. between £X and £Y.

Having said that, price publication needs much more thought and consideration. It is not a simple issue. It should not be mandatory.

11.

2) Do you agree with our proposed principles of price transparency?

As above.

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

Yes – sophisticated clients should not have to be subject to this regime. Large commercial clients or wealthy private individuals would not for reasons of confidentiality want the general public or commercial rivals having sight of the type of fees charged by their legal advisers. Would the Queen want the public to know how much Farrer & Co charge her for administration of her property portfolios? Would Aldi want Lidl to know how much it pays its law firm for purchase of a retail property? Would the Bank of England want the public to know how much it pays Freshfields? The list continues.

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

We consider it important that the public should know from day one the professional status (or lack of) of the fee earner dealing with the work. This is not always transparent and should be compulsory for all firms. It is easy to enforce and is important for service delivery and price transparency.

We do not agree with the proposals re stages and timescales. Again this is difficult to predict and subject to many variables. It should be avoided. Price publication must be kept as simple as possible if it is to be introduced in the interests of the public.

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Yes – in an increasingly complex legal services market, this would enable prospective clients to see immediately when they were looking at the website of an SRA regulated firm. Although firms are required to say on their websites that they are authorised and regulated by the SRA, this tends to be in the small print towards the bottom of websites. A logo is something that catches the eye and would be much more visible.

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Some form of national advertising may be the most effective.

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

Another logo may confuse the public and dilute the impact of the SRA regulated logo. It might be more sensible to require firms to carry this information on their website – along with information about other protections such as indemnity insurance and LeO.

17.

8) Do you agree with our proposals on the publication of PII details?

Yes – this is information that would be useful to the public in trying to access legal services and could, as suggested above, form a part of a firm's website which deals with the protections that flow from being regulated.

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

Although this is information routinely given in terms of business letters, it might help encourage new clients to know about a firm's complaints procedures and LeO. It would also help those clients who have lost their terms of business letter. Again, this is information which could make up a client protections section of a firm's website.

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

It is helpful for firms and the profession as a whole that the public are aware that there is a LeO.

However, it should be made clear that the first complaint should be made to the law firm which will endeavour to deal with the matter in-house before recourse is made to the Legal Ombudsman. Indeed that is what is required by the Ombudsman.

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

This is largely information that is already publicly available so it would make sense for it to be accessed in one place. Where information of a disciplinary or administrative nature is recorded it would be important to ensure that it was not published until the time for any appeal had expired.

6. Consultation questions: Publishing areas of practice and complaints data

21.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

This should be published separately from the digital register as it is information of a different nature and provided by firms. The categories need review as it is sometimes difficult for firms, particularly those of a niche nature, to fit their services into any of them.

22.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

There are many positive reasons to do this but it does need careful handling. Overall, it might encourage firms to take more time to review complaints and the underlying cause of them which could lead increasing standards.

As the consultation identifies, there are certain clients who are vexatious – possibly because they are mentally ill and/or become obsessed with their case – who could distort the figures of a firm. As suggested, one way of dealing with this is to register a maximum of one complaint per client. There are also other areas of work which tend to attract complaints.

Initially, it would be sensible to publish the complaints that are dealt with by the LeO whilst further thought is

given as to how first tier complaints could be used to give a realistic impression of the standard of service and work offered by a firm.

23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

The size of the firm and the nature of the transaction may be relevant factors.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

24.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes. The public are likely to assume that because they are receiving solicitor services all the usual protections apply.

25.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes – it is important the public knows this before engaging solicitor services in this way.

8. Consultation questions: The draft rules and enforcement

26.

17) Do you have any comments on the drafting of our rules?

no comment

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

no comment

28.

19) Do you have any further information to inform our final impact assessment?

no comment

Looking to the future: better information, more choice

Response ID:117 Data

2. About you

1.

First name(s)

Ian

2.

Last name

Priston

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Law firm or other legal services provider

8.

Please enter your organisation's SRA ID (if applicable)

351365

9.

Please enter your organisation's name

Boys & Maughan Solicitors

10.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

12.

2) Do you agree with our proposed principles of price transparency?

On behalf of Boys & Maughan Solicitors, I would like to express some reservations about the proposals to introduce requirements for firms to publish information on price for certain legal services on their websites.

You state that "when people need help with a legal problem, it can be hard to find useful information on either price or quality of service" and go on to say that your "aim is to help create a more competitive market." You welcome the probability that data re-publishers, such as comparison websites, will use the information that firms publish.

In our opinion making solicitors publish their prices online will disproportionately benefit the firms offering

the lowest prices. These firms often do not provide the same calibre of service as slightly more expensive solicitors, and your proposals could lead to generally poorer service from the industry.

Have you fully investigated why solicitors do not publish their prices currently? It's not, as some might think, because they wish to be secretive or fear losing business.

As you know, the public generally has high trust in solicitors and low knowledge of what they do. They also, generally speaking, assume all lawyers are competent and offer much the same service. They differentiate them in other ways such as their approachability, attention to detail, timeliness and price.

Solicitors and their teams answer questions about their services and how much they cost every day. These conversations are vital. We offer initial free appointments with divorce clients and consultations for home movers and will makers because we recognise that choosing a solicitor for these milestones is going to be as much about whether you can get on with him or her as anything else. Price comparison websites will lessen the likelihood of broader conversations between prospective clients and solicitors and lead people towards just focusing on price. They will reinforce the notion that all solicitors are expensive and you need to shop around and find ways to force down the cost. I research price comparison websites offering conveyancing as part of my market research and they often hide a plethora of hidden extras.

You state that "clear information on price, types of services offered and regulatory protections should encourage small businesses and other consumers to approach the firms that are regulated legal services providers to resolve legal problems."

Small businesses give an overview of their problem or challenge to us free of charge and we give them their options before they engage with us. They could be misled by a sliding rule of prices on our website which is in many cases unlikely to fit every set of circumstances and could easily be inadvertently misleading. If we seek to cover a wide variety of scenarios, clients will be much more intimidated than they would be after a friendly chat over the phone or by email.

In the consultation you say that "only around one in four people shop around for a law firm" and go on to say that this "suggests that there is a lack of information in the market that need to be addressed."

We respectfully disagree with the first statement and the link you are implying. Our experience is that the public doesn't shop around via Google because they seek advice from friends, family or business advisers, or simply base their choice on who is local and well known. Many families stay with the same firm for generations which can, of course, be a good thing for the client.

We also think you may have underestimated the adverse impact of price comparison websites on smaller firms with less marketing capacity. Such firms typically offer more expensive bespoke service and are unlikely to have the resources to constantly check their online reputation.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

18.

8) Do you agree with our proposals on the publication of PII details?

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

29.

19) Do you have any further information to inform our final impact assessment?

Looking to the Future: Better Information, more choice

1. In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

Please see our answer to Q.2 below.

2. Do you agree with our proposed principles of price transparency?

With regard to Question 1 and 2 we do not consider that price and service publication is necessary.

We believe that market forces are a much more effective means of achieving the goal of consumers obtaining the right level of information for the different areas of law. Each area of law and geographical areas of the country have their own challenges and differing consumer behaviours, a prescriptive rule in relation to pricing and service information is unworkable.

The law has changed from a sellers' market to a buyers' market and one that has seen great strides in technology. Firms will approach this changing market place in different ways to suit their particular client base and a "one size fits all" approach cannot be right. The proposed changes are unnecessarily onerous, particularly for smaller firms.

The Consultation states consumers generally lack the experience and information they need to find their way around the legal services sector and to engage confidently with provider. Such consumers will not be able to assess the extent of their legal needs at the time of their initial enquiry; therefore, it is very unlikely that they will be able to obtain accurate and meaningful price information can be provided from a website or by "shopping around". They require direct contact with a solicitor.

The current Handbook already requires solicitors to ensure "clients are in a position to make informed decisions about the services they need, how their matter will be handled and the options available to them" and further to give clients "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". This requirement to provide bespoke information based on a client's individual case is far superior to relying on generic online information, which is likely to be misleading and cause further confusion. As even in commoditised areas of law there are variables and unexpected issues can arise to affect time scale and cost.

We would also caution against seeing price publication on a website as a panacea. Clients interact with solicitors in many different ways and may never have seen their website. Based on information from the Office of National Statistics, in 2017, almost 1 in 10 adults had never used the internet. This included 11.4% in Wales. Of the 4.8 million adults who had never used the internet in 2017, just over half (2.6 million) were aged 75 years and over and of the 0.9 million adults who had last used the internet over 3 months ago, 0.5 million were disabled. This suggests that an overreliance on the internet is likely to be detrimental to vulnerable consumers. This is worse in parts of Wales, such as Conwy and in Denbighshire, where there are the areas of 1 in 5 adults have never used the internet, which is the lowest usage across the whole of the UK. Poor connectivity is thought to be one of the reasons for this. There is an increasing danger that people who do not use the internet will become

Looking to the Future: Better Information, more choice

increasingly marginalised from society with the march of “digital by default”. The proposed publication of price and service will be of no value to vulnerable clients and clients in these areas and those who simply do not use the internet.

3. Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so, how should any exemption be defined and operate?

As we do not agree with the price publication proposals (as shown by our answers to questions 1 and 2) we do not feel it necessary or appropriate to comment on the extent of any proposed exemption to those proposals.

4. Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

We agree with the need for clients to understand the value of services, but would repeat our view set out within our response to Questions 1 and 2, that a prescriptive “one size fits all” approach to this cannot be right. The information provided should be driven by market forces and consumer demand.

Whilst information on the key stages of a matter may be useful to a client we would question the value of providing generic information about average timescales, which may prove to be misleading and inaccurate in respect of a client’s own legal issue.

The proposal to require firms to publish information on the staff delivering a service would again seem unduly prescriptive and onerous. Firms seeking to attract clients may well wish to emphasise the range of qualifications and experience, of not only their solicitors but of all types of staff involved, but this would be a matter for them based on the market and consumer demand. The relevant information is already contained within the requirement to provide “the name and status of the person(s) dealing with the matter and the name and status of the person responsible for its overall supervision”. We believe that the proposal is unnecessary.

Looking to the Future: Better Information, more choice

5. Do you agree with our proposal to introduce an “SRA regulated” logo and digital badge?

We agree to this proposal. However, further clarification is needed from the SRA in terms of how the SRA will monitor that only SRA regulated firms are displaying this logo as opposed to other entities that would not be entitled to display it.

6. Do you have any suggestions as to how we can best increase consumer awareness of the logo?

We would suggest a logo is publicised in advance of its introduction:-

1. On the SRA and Law Society websites.
2. In all citizen advice bureaux and law centres.
3. By way of nationwide advertising, drawing consumer’s attention to the difference between regulated and non-regulated firms and the consumer protection a regulated firm offers.

7. Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

We agree with your proposal provided an additional logo will not serve to confuse consumers.

8. Do you agree with our proposals on the publication of PII details?

We agree with your proposal.

9. Do you agree with our proposal for firms to publish details of how to complain?

Looking to the Future: Better Information, more choice

Whilst we agree that it seems sensible at first review for firms to be required to publish details of how to complain, we note that it may place a significant cost burden on some firms to publish details on their websites. When clients engage a firm to act on their behalf, there is a regulatory requirement to provide clients with details of the firms complaints procedure. In the event a client complains, this information is provided again. It appears to us that an additional requirement to publish details of how to complain is not necessary.

10. Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

We repeat the comments made in respect of question 9.

11. What are your views on the proposed content for the digital register?

We agree with the proposed content for a digital register of regulatory information.

12. Do you agree with our proposal to publish annual information about areas of work and to do so separately from the digital register?

We do not agree that it is necessary to publish information about the areas of work undertaken by any firm. We do not believe that consumers or third parties would make use of such information.

Additionally, it would not be uncommon for a firm to hire an individual solicitor with different specialisms within any year (or indeed for a solicitor with a specialism leaves a firm) meaning that the information would be out of date relatively quickly.

Looking to the Future: Better Information, more choice

13. Do you agree with our proposed approach to publishing complaints data and if you do not agree, what do you propose?

We agree to the publishing of first-tier complaints but this data should be put into context so that the complaints are broken down to indicate the numbers of justified and unjustified complaints.

Complaints which are referred to the Legal Ombudsman are published on their website in any event and we have no objections to the republishing of this data.

14. If we do publish first-tier data, what (if any) context should we provide?

To put complaint data into context the SRA should consider publishing:-

1. The number of complaints made
2. The number of those complaints which were justified
3. The size of the firm, based on firm's turnover
4. The types of work provided by the firm

The introduction of an over-arching and universal grading system i.e. A, B, C or 1, 2, 3 etc., by the SRA taking into account all the criteria (suggested above) above would make it easier for consumers to make an informed choice.

15. Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Please see our answer to Q.16 below.

Looking to the Future: Better Information, more choice

16. Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Dealing with these Questions 15 and 16 together - we agree with these proposals in principle and believe them to be essential. Consumers must be made aware of the reduced protections in order to make an informed choice.

However, there must be consistency in the rules. We are very concerned with the proposal that, in non-LSA regulated firms, information about the fact that those solicitors are not subject to the requirements for mandatory PII and that the potential protections of the Compensation Fund do not apply, must be given at "the point of engagement". This is stated to mean that these solicitors will need to provide information face-to-face or in writing. We do not consider this to be sufficient safeguard for the public. We believe it will be very difficult to police, in practice, whether clients have these issues properly explained to them. This information should be set out as a very clear "red flag" warning on their websites and on promotional and printed materials to enable clients to make an informed choice.

17. Do you have any comments on the drafting of our rules?

We have considered the National Law Society answers and agree with their comments. We have nothing further to add.

18. What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

Please see our answer to Q.17 above.

Looking to the Future: Better Information, more choice

19. Do you have any further information to inform our final impact assessment?

Please see our answer to Q.17 above.

2. About you

1.

First name(s)

Caroline

2.

Last name

Rogers

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Other

8.

Please specify

Citizens Advice

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

In this consultation, we are speaking primarily from our research into family law & divorce, and access to justice. For people getting a divorce, choosing a legal service provider can come at an emotional and distressing time. Many make this decision on the basis of recommendations from friends and family.

What's more, cuts to legal aid mean more people than ever are having to go through divorce proceedings without any financial or legal support. Our research into access to justice found that divorce and annulment cases where neither party had legal representation rose from 25% in 2011 to 40% in 2015.

An important piece of information for many people is cost. Not being able to compare between different options means people fail to access the services that could help them. Price disclosure requirements would help reduce the difficulties people face in accessing divorce services, and would ensure more people are given the support they need.

11.

2) Do you agree with our proposed principles of price transparency?

We broadly agree with the SRA's proposed principles. Lack of competition in the legal services market is heavily evidenced. The Competition and Markets Authority recently found that only 22% of consumers compare more than two providers before choosing their legal representative.

Above all, price information must be presented clearly and understandably. This will affect how far people are able to use it. Many of the services the SRA proposes will be affected by these regulations are distress purchases, and must be treated as such.

As we highlighted in *Divorced from Reality*, many of those looking for a family law solicitor are likely to be distressed. This means they are likely to struggle with comparing providers and making an informed choice. This is something the CMA also highlighted in their market study.

We therefore agree with the SRA's principles that wherever practicable, the total cost should be shown including disbursements and VAT. This will enable people to easily understand and compare the cost offered by different firms. We also agree that it should be clear what this price includes and excludes, and what circumstances might increase or decrease overall costs.

Where it is not possible to show a total cost before meeting with a client, we support the SRA's principle that known costs such as fixed fees and hourly rates should be stated. However, people should not be given a complex set of variables and expected to do the calculation themselves.

Where hourly rates are stated, a range of average costs paid by people in a variety of scenarios should be quoted. The SRA should work with industry and consumer groups to determine how these scenarios are defined.

These average costs should include the average cost of typical disbursements and any VAT charges. Factors which may alter the prices shown should be stated and explained. The most prominent price displayed should be the total cost of the most typical scenario.

Firms should avoid specialist language when discussing and explaining potential costs. The most important information, for example the likely total cost, should be displayed prominently and simply.

And wherever VAT will be charged, or other costs incurred, these should be included in the total price displayed - people should not need to calculate the additional cost for themselves. This will make it easier for people to understand the total cost they will expected to pay.

To ensure that the information firms publish is useful for people, the SRA should engage with consumer groups during the implementation of these regulations. This could include testing different ways to display prices to see what consumers find easiest to understand.

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

Previous Citizens Advice research showed that unclear information about the services lawyers can provide makes it difficult for people to judge the quality of legal professionals, compare services and develop realistic expectations.

Few people going through a divorce fully understand what lies ahead. Not having a clear sense of the process, costs and timescales involved can heighten stress and anxiety and make people feel powerless. It

can also mean people make decisions that do not stand in their favour.

We therefore agree that firms should publish a clear, brief description of the service, and of the key stages in the process. For undefended divorce, standard time limits and average time taken should be provided.

For more complex cases we agree that the various stages of the process should be clearly laid out, with reference to likely or typical timescales where possible. Those undergoing a complex divorce are likely to be distressed and therefore to have reduced cognitive capacity. Firms should bear this in mind, and take care to make this information as clear and easy to understand as possible.

When displaying information about staff, special care should be taken to emphasise where solicitors have domestic abuse accreditations. As we highlighted in our report *Struggling for Support*, those experiencing or fleeing abuse may need specialist support around child custody or divorce. Prominently advertising the availability of this support can help ensure people make the best possible choice of solicitor.

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

17.

8) Do you agree with our proposals on the publication of PII details?

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

We agree with the proposal to require firms to publish details of how to complain. Beyond this, while there is no single 'ideal' complaints process, our broader complaints handling research has highlighted a number of things that prevent consumers from making a complaint:

Not knowing how to initiate it

The complexity of the process, and time taken to make a complaint

Concerns that the outcome will not justify the effort

Belief that consumers are not able to take on large organisations

Lack of visibility of procedures

Lack of information on any action taken as a result

Further concerns about sophisticated complaints handling terms and use of legal jargon leaves consumers intimidated and reluctant to embark on the process of making a complaint

We suggest the SRA encourages firms to outline clear and easy to navigate complaints procedures, particularly focusing on how to initiate the complaint.

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

We agree with this proposal. We suggest that these details include an example timeline, to ensure that consumers feel as informed about the process as possible.

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

6. Consultation questions: Publishing areas of practice and complaints data

21.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

22.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

24.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

25.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

8. Consultation questions: The draft rules and enforcement

26.

17) Do you have any comments on the drafting of our rules?

While finalising their rules, the SRA should use insights from behavioural science to strengthen their effectiveness. Understanding how people's behaviour is influenced by inherent biases means you can design interventions that go with the grain of behaviour, not against it. In keeping with this, firms should be compelled to act with the spirit of the rules as well as the letter of the law in mind.

In this respect, the SRA can learn from interventions in other markets, such as the FCA's recent price regulations in insurance. These regulations were rigorously tested before implementation, and take people's behavioural biases into consideration.

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

The SRA should work with consumer advocacy groups to test out information displays with consumers.

28.

19) Do you have any further information to inform our final impact assessment?

Solicitors Regulation Authority
The Cube
199 Wharfside Street
Birmingham
B1 1RN

**FAO Juliet Oliver
Crispin Passmore**

20th December 2017

Dear Sirs,

Response of the CLLS Professional Rules and Regulation Committee (“CLLS”) to the SRA Consultation “Looking to the future: better information, more choice” (September 2017).

1. Introduction

- 1.1 The CLLS has read the SRA consultation paper entitled “Looking to the future: better information, more choice”.
- 1.2 In January 2016, the CLLS submitted a response to the October 2016 SRA discussion paper entitled “Regulatory data and consumer choice in the legal services” (the “January response”).
- 1.3 For the most part our comments reiterate those set out in our January response. In summary, the CLLS supports the recommendations set out in the Competition and Markets Authority (CMA) report on the legal services for the provision of better information to sectors of the market where competition is not functioning and to assist individual consumers and small businesses in being able to make better informed choices when selecting solicitors. However, any proposals to publish information either by firms or by the SRA must:

- (A) be proportionate;

- (B) not be unduly burdensome to firms; and
 - (C) ensure that the information to be published is objective, properly contextualised and presented in a helpful, clear and understandable manner which is not misleading.
- 1.4 We have provided our response to some (but not all) of the questions raised in the consultation paper. We have grouped our comments under the headings of Price transparency and description of the services provided, Publication of PII data, How to complain to the firm and to the Legal Ombudsman, Creating a digital register, Publishing complaints data and Transparency requirements of individual solicitors working outside LSA regulated firms. For this reason we have not, as requested, submitted our response via the online form.

2. Price transparency and description of the services provided

Question 2: Do you agree with our proposed principles of price transparency?

Question 3: Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

Question 4: Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

- 2.1 The CLLS does not support the SRA proposal to require firms to provide pricing information on the proposed legal services for the following reasons:
- (A) The list of proposed legal services for consumers or small businesses is too broadly defined. Providing pricing information for each type of service within each discipline in the absence of client specific information will be too great a burden for law firms. For example, the definition of residential conveyancing as set out in the Annex 2 guidance sets out fifteen variables. Even if firms were able to provide information for each of these variables on the basis of common assumptions and give price ranges or invest in some form of “quote generator” technology they would still need to caveat this information in order to avoid misleading consumers (or assume the risks of having quoted too low or too high).
 - (B) The way firms describe the services, staff, stages and timescales, necessarily at a highly generic level on their websites (as opposed to the detailed information which they provide in bespoke client engagement letters) will differ and therefore will make any comparison between services and prices difficult for consumers and less likely to be (eventually) picked up by price comparison websites.

- 2.2 This means that the SRA proposals will not achieve the goals set by the CMA report to ensure that information to consumers and small businesses is “clear, accurate and comparable”.
- 2.3 In addition, the requirement to make firms, like those of our member firms, comply with these requirements is excessive and unnecessary. Whilst we would agree that exempting firms whose clients do not require such transparency information would be helpful it is not sufficient to limit this to “firms dealing exclusively with large commercial clients”. This is because clients of the CLLS member firms include high net worth individuals, family offices, entrepreneurs and start-up companies all of whom could be classified either as consumers or small businesses and yet do not experience any difficulties with accessing legal services and may already be sophisticated users of legal services.
- 2.4 Although these types of clients are likely to seek advice on some of the “proposed legal services” including residential conveyancing, drafting of wills or probate or estate administration or debt recovery, employment tribunal work they are likely to require this in combination with other specialist advice (e.g. tax planning or financing) and are therefore seeking to instruct firms with a particular combination of expertise. It is not clear from the proposals what obligations firms would have where some of the proposed legal services are provided in conjunction with other services.
- 2.5 This category of clients have no difficulty in identifying which of the relatively small pool (less than twenty) of law firms which offers high end and specialist private client services best meets their needs, nor in understanding the likely costs involved. They are highly unlikely to conduct research by comparing information set out in law firms’ websites or to seek a price comparison website. As the services provided by member firms are generally bespoke and based on differing variables, attempting to provide any meaningful information will be almost impossible and therefore we anticipate our member firms will refrain from doing so on the grounds that, as the SRA paper correctly states “providing inaccurate information would be worse than providing none at all”. For example, advising on estate planning including preparation of Wills for an individual who is domiciled overseas and resident in various jurisdictions may involve very lengthy and complex advice on overseas succession and heirship etc. issues.
- 2.6 The CLLS does agree that more information should be provided to those for whom it could be helpful and that consumers and small businesses should be encouraged to seek solicitors’ help for legal work.
- 2.7 However it is important to acknowledge that the provision of precise information at the outset of a matter is a very difficult thing to achieve and seems to be contrary to the spirit of the Solicitors’ (Non-Contentious Business) Remuneration Order 2009 where solicitors must ensure that costs are “fair and reasonable having regard to all the circumstances of the case”. Firms, particularly at a time where the economic climate is uncertain should not be required to invest time and expense to try and provide information which may not be of assistance.

- 2.8 We think that the proposals by the SRA are a case of “too much too soon”. We would recommend that the SRA adopt a more measured and cautious approach to price transparency by:
- (A) Making the disclosure of pricing information voluntary and therefore to remove the requirement to disclose pricing information from the Draft Registers, Roll and Information Regulations; those who compete in a price sensitive market involving the provision of fairly standardised services, so which are available from hundreds of law firms, may find they need to elect to provide pricing information to compete – which is fine; and
 - (B) Providing guidance to firms of types of work where pricing comparison would actually be helpful. This would include commoditised services which can be clearly defined without having to consider too many variables, such as routine and relatively low value conveyancing, straightforward English wills and the administration of relatively low value estates based in England and Wales. The market is likely to self-procure that firms offering these types of services (and who are likely already to be offering fixed prices) will want to set out this information on websites (or risk losing the business).
- 2.9 By adopting a voluntary approach, firms who participate in these sectors may well start to see the advantage of providing clear information and may start providing information on other types of services. It would also mean that firms (such as our member firms) who do not wish to participate in these types of market and who, in any case generally offer services which cross different disciplines on the same matters, are not required to provide information that their clients do not want or need.

3. Publication of PII data

Question 8: Do you agree with our proposals on the publication of PII details?

- 3.1 As indicated in the consultation paper, firms are already required to provide this information under the Provision of Services Regulation 2009 – Part 2, Chapter 1, Regulation 8 (n).
- 3.2 Under these Regulations, where a provider of a service is subject to a requirement to hold any professional liability insurance, information about the insurance and in particular the contact details of the insurer and the territorial coverage of the insurance should be made available. Information is “available” if it is easily accessible to the recipient electronically by means of an address supplied by the provider.
- 3.3 In light of the above it is necessary for the SRA to require firms to publish information when they are already required to do so by law?

4. How to complain to the firm and to the Legal Ombudsman

Question 9: Do you agree with the proposal for firms to publish details of how to complain?

Question 10: Do you agree with our proposal that firms should publish details of how to complain to the Legal ombudsman?

4.1 Again, the Provision of Services Regulation 2009 – Part 2, Chapter 1, Regulation 7 require a provider of a service must make available contact details to which all recipients of the service can send a complaint or request for information about the service. Many firms therefore provide information about their client complaints procedure and details of how to complain to the Legal ombudsman on their websites.

4.2 In light of the above, it is necessary to require firms to publish information when they are already required to do so by law?

5. Creating a digital register

Question 11: What are your views on the proposed content for the digital register?

The CLLS agree with the proposed approach to create a digital register and to hold key regulatory data and regulatory and disciplinary decisions.

6. Publishing complaints data

Question 13: Do you agree with our proposed approach to publishing complaints data and if you do not agree what do you propose?

Question 14: If we do publish first-tier complaints data, what (if any) context should we provide?

6.1 In our January response we noted that whilst we support the SRA collecting information about complaints in order to respond to any thematic or specific risks, our view is that publishing first-tier complaints data, given the number of vexatious complainants prevalent in the private client market, could be misleading to consumers. It may also have the undesirable and unintended consequence of causing personnel to be reluctant to come forward within law firms when they have an issue. Thus rather than improving the position for clients by putting data into the market, it might have the reverse effect of causing issues to be suppressed even from the management of law firms.

6.2 Given the subjective nature of what amounts to a complaint, in the event that the SRA decides to publish complaints data, the CLLS maintain (as set out in their January response) that only complaints that are upheld (and already published) by LeO or the SRA should ever be made public on an SRA register.

6.3 Should the SRA proceed with publishing first-tier data it must ensure that in doing so the information is properly contextualised and balanced; the views of both the law firm and the complainant would need to be represented to avoid consumers only seeing the views of, say, a vexatious complainant. In this respect we would agree that in respect of a single matter only one complaint per client should be counted and that the overall number of complaints or claims should be made by reference to the particular practice area and by reference to the numbers handled in that particular area. This information should above all be presented in a clear and understandable manner which is not misleading.

7. Transparency requirements for solicitors working in non-LSA regulated firms

Question 15: Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Question 16: Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

7.1 The CLLS agree that solicitors working in non-LSA regulated firms should provide certain information to their clients so that these clients are aware that a number of protections which they would be entitled to when receiving services from a regulated firm do not apply to them.

7.2 In this context it is important that clients are informed not only that these solicitors working in an unregulated environment do not have to carry insurance but they should make it clear whether or not insurance is in fact available.

7.3 Similarly, the CLLS agree that these solicitors should inform their clients that they would not be entitled to recover funds from the Compensation Fund and what that is.

7.4 The SRA should also consider whether further transparency obligations should be imposed on solicitors working in non-regulated firms. For example, should these solicitors also make it clear that privilege will not apply (if the case) to communications with their clients and the possible impact this may have? If so, care should be taken not to impose this requirement on in-house lawyers in respect of communications with their own in-house clients (where privilege should be available).

Yours sincerely

City of London Law Society

Professional Rules & Regulation Committee

The individuals and firms represented on this Committee are as follows:

Jonathan Kembery (Freshfields Bruckhaus Deringer LLP) (Chairman)

Julia Adams (Slaughter and May)

Tracey Butcher (Mayer Brown International LLP)

Roger Butterworth (Bird & Bird LLP)

Raymond Cohen (Linklaters LLP)

Annette Fritze-Shanks (Allen & Overy LLP)

Antoinette Jucker (Pinsent Masons LLP)

Mike Pretty (DLA Piper UK LLP)

Jo Riddick (Macfarlanes LLP)

Chris Vigrass (Ashurst LLP)

Clare Wilson (Herbert Smith Freehills LLP)

Sonya Foulds (Freshfields Bruckhaus Deringer LLP) (Secretary)

SRA CONSULTATION LOOKING TO THE FUTURE: BETTER INFORMATION, MORE CHOICE – QUESTIONS IN FULL

Deadline for responses – 20 December 2017 – Response from Devon & Somerset Law Society

Question 1

In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

If price publication proceeds (as to which please see our response to question 2), rather than specifically identifying work types which should be the subject of price publication, given that the SRA's concern is to address unmet legal service needs, it would seem reasonable to suggest the work types on which publication should be tried first are those where there is the perception that unmet legal needs are at their most severe. There would seem to be a better prospect of judging the success or otherwise of price transparency for these based upon whether or not there is an increase of enquiries/instructions.

Question 2

Do you agree with our proposed principles of price transparency?

Solicitors sell a service of advice tailored to the individual, not a uniform commodity. Price transparency is fraught with potential problems, given the impossibility of anticipating the precise requirements of each client and each unique set of circumstances. If the market demands price transparency, we suggest the price information be accompanied by indications that this is a guide only, to be informed by further discussion with the client.

Question 3

Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

'Large' commercial clients would not – in the main – be concerned with price transparency as such, as they are mostly more than capable of demanding terms to suit their requirements. Nevertheless, there should be no specific exemption for "Large commercial clients" however these may be defined.

Question 4

Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

Generally, yes.

Question 5

Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Yes – there was strong support for this proposal.

Question 6

Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Yes – there was strong support for this proposal subject to the SRA mounting an effective campaign to increase consumer awareness of the significance of the logo and digital badge.

Question 7

Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

Yes we agree that this is a good idea.

Question 8

Do you agree with our proposals on the publication of PII details?

Yes, assuming putting this information on a website would allow the removal of such details from the client care letter. Otherwise, this simply amounts to duplication of information.

Question 9

Do you agree with the proposal for firms to publish details of how to complain?

Yes, assuming putting this information on a website would allow the removal of such details from the client care letter. Otherwise, this simply amounts to duplication of information.

Question 10

Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes.

Question 11

What are your views on the proposed content for the digital register?

This would be a good thing.

Question 12

Do you agree with our proposal to publish annual information about areas of work and to do so separately from the digital register?

Yes.

Question 13

Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

We do not agree. We are concerned that this is not a level playing field if the publication only applies to SRA regulated firms and other regulators do not follow suit. In addition such data could be misleading unless publication of testimonials was also allowed for balance.

Question 14

If we do publish first-tier complaints data, what (if any) context should we provide?

This proposal is fraught with problems as highlighted at question 13.

Question 15

Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes. There should be a requirement for this to be prominently displayed, not hidden in small print.

Question 16

Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes. There should be a requirement for this to be prominently displayed, not hidden in small print.

Question 17

Do you have any comments on the drafting of our rules?

We have seen the Law Society's response to this question and have nothing to add.

Question 18

What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

We are not in favour of information sharing. If information is shared with third party intermediaries, such as comparison websites, there is the risk they will pick and choose which information to publish, stripping out that designed to provide context.

Question 19

Do you have any further information to inform our final impact assessment?

We have no specific comments.

2. About you

1.

First name(s)

Diane

2.

Last name

Parker

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Law society

8.

Please enter the name of the society

Doncaster and District

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

How is it proposed that litigation should be priced?

Pricing without discussion will not be meaningful.

How can it be fair that unregulated practitioners will not need to price?

The prohibitive costs of legal services from a consumer perspective are often not their solicitors' costs – but other costs, like stamp duty, inheritance tax, search fees, court fees or in litigation the other party's costs.

If it was easy to do firms would already be doing it.

11.

2) Do you agree with our proposed principles of price transparency?

To prescribe that fees be published – without knowing the client, the scope of the job is going to create price opacity rather than price transparency. Again, to repeat the response to question 1 – if it was easy, solicitors would already be doing it.

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing

exclusively with large commercial clients? If so how should any exemption be defined and operate?

For a local law society that comprises almost exclusively of public facing, "high street" practices, this looks like a cynical attempt to remove a powerful lobby from the debate.

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

This again, as with question 1 will largely depend on the individual client/problem that is presented to us and for those of us who are Lexcel accredited this is something we would do once we had accepted a client as a matter of good practice.

As with pricing, to do this in the abstract would require so many caveats as to make it meaningless.

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

How would this prevent fraudsters using the logo? Otherwise, yes.

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Comparison with travel agents:

Public awareness developed as a result of disastrous failures, not through having an accreditation scheme. There is also a big difference between a plane full of holidaymakers being left stranded because their unaccredited travel company has gone bust and a handful of house buyers who have been defrauded out of profits.

High profile disasters will be needed to persuade mainstream media to pick it up and create public awareness of accreditation.

In fact, there is already a public awareness of a certain level of service – it's called a "solicitor". Please don't dilute or confuse that awareness/understanding by creating sub-strata of the same profession as proposed.

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

As per Q5. But please note also the response to Q6

17.

8) Do you agree with our proposals on the publication of PII details?

Part of public perception that as a 'solicitor' that there is PII without expressly stating. How is public going to benefit? As high street solicitors we are often dealing with clients with very limited knowledge of the profession, the law, or even the world around them. Many of our clients read the Sun not the Times and listen to Galaxy FM not radio 4.

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

We do give details of how to complain in our client care letter. What other businesses do this? This would appear to be inviting complaints from non-clients. Is it necessary?

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Again this is contained in our client care letter. As for Q9. Are we replicating "solicitors from hell"? Creating a market for blackmail. Aren't comparison websites effectively CMC's? You pay them to get a better ranking.

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

Unnecessary and likely to create a culture of under reporting.

How do you make a fair comparison? Many firms presently act for "difficult" clients out of a sense of "everyone deserves a fair hearing, no matter who they are or what they have done". There is a risk that certain types of work/certain types of client won't be able to find representation if there is a perception that if they complain (and remember that a solicitors duty of confidentiality limits their right to reply) it will affect future business.

6. Consultation questions: Publishing areas of practice and complaints data

21.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

What information?

22.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

Why are we pandering to the comparison website industry? See earlier comments regarding the payments made to these operators – both to improve ranking and to remove adverse comments.

23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

What about confidentiality issues?

Even disgruntled clients have a right to confidentiality and publication may well identify clients.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

24.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes, subject to our concerns about the general protection of the public and the reputational risk to the badge of "solicitor". It appears that the SRA accepts that an alternative "badge/logo" needs to replace the "solicitor" badge if current safeguards are removed but actually its taken 150+ years to develop the "solicitor" badge – why dilute what we've already got?

25.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

8. Consultation questions: The draft rules and enforcement

26.

17) Do you have any comments on the drafting of our rules?

What do you mean?

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

What have third parties got to do with this? Comparison websites exist to make money for their owners, not

to "serve" the public. The best ranked firms are the ones who pay the most money to the comparison websites.

There are third parties out there providing information to consumers – Chambers Directory and the Legal 500. They do not have a great deal of traction with consumers because they do not have the budgets of "Money Supermarket" or "Compare the Market" because the firms that feature do so on recommendation by clients/other professionals and not by cash.

28.

19) Do you have any further information to inform our final impact assessment?

The tenor of these proposals feels like undermining and devaluation of the profession.

2. About you

1.

First name(s)

douglas

2.

Last name

iles

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Law firm or other legal services provider

8.

Please enter your organisation's SRA ID (if applicable)

612518

9.

Please enter your organisation's name

fl law limited

10.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

I am content for there to be a requirement that firms publish pricing information for Residential freehold and leasehold sales. These are fairly standard transactions where it is generally possible to provide a fixed and reliable fee proposal. Residential purchases are however a different matter. A lot of standard purchases can be easily priced, but a very significant minority are subject to so many variables that it would be too difficult to supply a clear and open fee proposal. For example: the amount of land included in the transaction in addition to the building (investigation into the title will vary enormously); town or village properties (rights of way - footpaths - village greens etc); help to buy funding; mortgage company requirements; leasehold management company requirements and processes; young occupiers (in addition to Borrowers); gifted deposits; deeds of trust; NHBC documentation etc. None of the other proposed areas are standard enough to give a clear pricing structure as again there are so many variables that have an effect on the proposition.

12.

2) Do you agree with our proposed principles of price transparency?

No not really. All law firms will agree to give a price quotation to any enquirer once they know the extent of the work that they are being asked to perform. Legal services and clients are not standard and one price most certainly does not fit all persons. We would for example charge less to a client who gives us a lot of work and would charge more for a one off instruction. This is because I would know in advance the best way to deal with a repeat client and would have a good idea of the detail he would require from us. The same cannot be said of a one off instruction where I need to build in time to understand the client, their motivations and their desire to receive and respond to communications from me..

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

These types of clients are sufficiently skilled to negotiate their own pricing and charging protocols and I do not believe that this would assist them.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

Yes, this would make sense and allow for variables to be better addressed.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Yes, good idea.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Online advertising and media press releases.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

No I believe this to be unnecessary, PII insurance cover will cover most claims and the minority that are not can be dealt with on an adhoc basis. Most claims are submitted by another legal adviser who know of its existence. Too much information for consumers has the capacity to confuse.

18.

8) Do you agree with our proposals on the publication of PII details?

I think it is unnecessary. It is for the firm to choose whether to use their PII cover to deal with a claim or meet it themselves. The policy is to protect the law firm, not to be a first port of call for a consumer. There is a danger that a series of unmerited claims directly to a PII provider but disappointed claimants (who may or may not be clients) will lead to premium increases by PII providers where no increases are merited.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

Yes, no problem.

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes, no problem.

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

I am happy with the SRA proposals and think that this is a good idea.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

I have no problem with this but I do not believe that it will be especially helpful to consumers. I want to receive calls from clients and I want to assess how I believe that we can help them. A list of my services may not resonate with clients who do not know what they need and or believe that they need something that they do not. All law firms refer work to each other where they are not equipped to deal with it. These interactions with clients and other legal service providers are helpful.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

No, only upheld and substantiated complaints data should be published.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

It must be made clear that the complaint was unjustified, dismissed, or inappropriate. Excluding settled complaints where the law firm made a commercial decision to pay to keep the client happy should also be excluded. This would encourage more settlements as well !

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes.

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes.

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

No.

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

The SRA should publish good news stories regularly, such as "90% of all solicitors received no complaints about the service that they delivered."

29.

19) Do you have any further information to inform our final impact assessment?

Price transparency is delivered by firms who comply with the Code of Conduct. These new proposals will not increase this at all. We need to know what we are being asked to do before we give a commitment on price.

Mr Crispin Passmore
Executive Director, Policy and Education
Solicitors Regulation Authority
The Cube
199 Wharfside Street
Birmingham
B1 1RN

20 December 2017

Dear Mr Passmore,

SRA: 'LOOKING TO THE FUTURE' CONSULTATIONS

The Federation of Small Businesses (FSB) welcomes the opportunity to respond to the above named consultation.

The FSB is the UK's leading business organisation. It exists to protect and promote the interests of the self-employed and all those who run their own business. The FSB is non-party political, not for-profit organisation and is the largest organisation representing small and medium sized businesses in the UK.

Small businesses make up 99.3% of all businesses in the UK, and make a huge contribution to the UK economy. They contribute 51 per cent of total private sector turnover in the economy and employ 60% of the private sector workforce.

We trust that you will find our comments helpful and that they will be taken into consideration.

Yours sincerely,

Ken Wright
Home Affairs Chairman
Federation of Small Businesses

**FSB response to SRA consultations
'Looking to the future: better
information, more choice' and
'Looking to the future: phase two of
our handbook reforms'**

December 2017

INTRODUCTION

The Federation of Small Businesses (FSB) welcomes the opportunity to respond to this consultation document on behalf of its members across the UK.

The law and the legal services which service it are essential building blocks of a well-functioning market economy. The law provides the framework which enables commercial activity to take place. Therefore, an effective commercial legal services sector which facilitates the use of the law by small businesses is crucial to a thriving small business sector and a competitive UK economy.

The legal services sector has not served the small business community as well as it might. A report in 2013 by Pleasence and Balmer identified £100bn worth of unsatisfied legal need among the UK's small business population.¹ More recently, a string of ways in which the current legal services market could better support the UK's smaller businesses were identified by the Competition and Markets Authority (CMA).² Further, the regulatory frameworks governing some of the providers of legal services, such as solicitors, have contributed to the failing of the legal services sector to meet the needs of smaller businesses by being costly and not flexible enough to encourage innovation.

FSB welcomed the CMA's final report into the functioning of the legal services market. We supported the broad thrust of the remedies outlined in it by the CMA. Since its publication and the slew of recommendations it contained about how to improve the functioning of the legal services sector for the benefit of its users (including smaller firms) FSB has been encouraged by the overall approach of the legal regulators. They have, initially at least, seemingly picked up the gauntlet from the CMA with some energy. FSB is keen that this continues, momentum is not lost and regulators make significant improvements on the current position. As such, FSB aims to continue to input into the process of the development and implementation of remedies which aim to improve the legal services market for smaller businesses. Consequently FSB are pleased to be able to respond to these two consultations in more detail below.

INFORMATION AND TRANSPARENCY

FSB supports the legal regulators co-ordinating their approach on information and transparency issues so that smaller firms can expect a similar level of standards no matter which kind of regulated provider is providing legal services. Inherently, having multiple-bodies trying to achieve similar goals is more difficult than a single organisations doing so. There is a risk that co-ordination means efforts move more slowly than they might otherwise. Therefore, the CMA should closely monitor developments to make sure:

- They continue apace.
- There is as much collaboration as is needed to deliver the best outcomes i.e. market-wide consistency.

¹ Pleasence, P and Blamer, N J. In Need of Advice: Findings of a Small Business Legal Needs Benchmarking Survey. (2013). Available at: <https://research.legalservicesboard.org.uk/wp-content/media/In-Need-of-Advice-report.pdf>

² CMA. Legal services market study: final report. (2016). Available at: <https://assets.publishing.service.gov.uk/media/5887374d40f0b6593700001a/legal-services-market-study-final-report.pdf>

While we consider the information and transparency measures being consulted upon by the SRA as moves in the right direction we believe that in some areas they must go further. It is only through ambitious measures that significantly improve the quality and quantity of information made available to smaller businesses that the market can substantially improve and close the £100 billion deficit of un-fulfilled demand.

FSB considers that the information and transparency agenda needs to encompass not only firms but individual lawyers. Small businesses, especially those at the larger end of the 'small' business size category who have a more sophisticated approach to navigating the legal market, often want to hire a particular solicitor not just use a particular firm e.g. for expertise reasons. Many solicitors within a firms have their own prices, accreditations and client feedback, all driven by a series of bespoke factors. Given this complex picture, unless clients can assess both firm and individual lawyer information, depending on their particular preferences, there is a clear risk that the information and transparency reforms will fail in their aim of improving the functioning of the legal service market for smaller businesses.

Pricing

It is essential to include pricing in a comprehensive set of transparency requirements for law firms and solicitors. FSB sees little reason why solicitors and firms should not be able to publish fees upfront. Solicitors provide fee information in their first engagement letters whether that is a 'fixed' price or an estimate for the services charged on an hourly basis. A reasonably experienced solicitor and efficient law firm should have a good grasp of their cost base and the prices they can reasonably charge.

Pricing publication requirements should not be limited to specific areas but cover all commercial and corporate law provision to smaller businesses. Both transparency and a comprehensive approach is necessary if a more sophisticated demand side is to develop among small business users.

Full publication of all fixed fee services should be straight forward. In order to enable smaller firms to effectively navigate the market fixed fees need to be fully transparent and include elements like VAT and obvious disbursements. Their publication needs to be clear and simple. Use of extensive exclusions and qualifications for example needs to be prohibited by the SRA.

If fixed fees cannot be offered (and there are some legitimate areas where it's not possible e.g. litigation) then likely pricing ranges should be provided alongside hourly rates. Experienced lawyers and law firms should be able to provide realistic cost ranges. As with fixed fees, estimates need to be reliable (i.e. accurate with minimal qualifications and exemptions). Small businesses need to be able to make and easy comparisons.

Further, to be fully effective pricing needs to be presented in a clear manner. Where 'qualifications' or exemptions might be required, these too need to be transparent. Lengthy and complicated 'bills' that utilise exemptions and qualifications can confuse users and need to be eliminated.

In addition to being clear, prices need to be published prominently. Prices that are hidden in some way are no use to a small business needing to get legal advice to resolve a problem and trying to navigate the market. Therefore, as well as being clear and reliable the SRA should set down 'prominence' rules which solicitors and law firms need to adhere to. The

current proposal for them to be displayed on the firm website needs to be enhanced to ensure that prices are visible and comparable for potential clients. Therefore a more universal prominence principle needs to be established.

If firms and solicitors fail to meet any of the requirements around pricing the SRA should be willing to take appropriate action. If the sector as a whole fails to step-up sufficiently then the SRA should seriously consider requiring prices to be submitted to them where the SRA can then make them available to third party intermediaries.³ This latter measure would something to consider if evidence emerged that the legal services sector was not responding in the right way to the requirements of clarity, reliability and prominence.

FSB would be happy to see a gradual roll-out of these new pricing standards from a small number of services to begin with but eventually covering all small business focussed legal services offered by law firms. Any roll-out period however should be time-limited. Solicitors could reasonably be expected to have made the requisite adjustments in two years after a short pilot-testing period of the new requirements by the SRA.

Accreditation

Accreditations and similar market signalling mechanisms can be useful tools that help users and potential users on the demand side make better choices about from where to purchase legal services from. They signal to consumers who can reliably provide a particular type of service at a minimum level of competence. The difficulties many smaller firms have in navigating the legal services sector and understanding who is best placed to provide the services they need suggest that accreditation could play a bigger role in helping stimulate the demand side.

However, accreditation is only as good as its rigour and the extent to which clients and potential clients understand what the various accreditations that might be obtained by a legal services provider mean. Without these two crucial factors in place they are largely pointless. In some cases they may even complicate choices for buyers. Therefore, accreditations for specialities need to be meaningful i.e. require specialist training and experience which is tested in some way. If the accreditation route is encouraged, then any accreditation cannot be a 'badge for experience'. Or indeed just something that can be paid for. Accreditation should be earned. Regulatory accreditations (like an SRA badge) are largely meaningless to most small business clients. If other regulators take a similar approach this could make choice a more confusing process for small business consumers. A clearer option, which would overcome the inevitable vagueness of having, for example, an SRA badge, would be to highlight the specific protections that come with using a provider who, for example, is regulated by one of the legal regulators e.g. insurance, complaints mechanisms, codes of ethics etc.

Alongside improving the meaningfulness of accreditation, efforts would need to be made to make small business consumers aware of their meanings. The Legal Choices website for example, or the regulators themselves, should provide a 'guide' to what they mean and why and how they can be relied upon by a potential consumer.

³ The burden of this could be minimised by requiring submission of hourly rate at the time of practice licence renewal. With updates throughout the rest of the year allowed through submissions using MySRA.

Feedback

In addition to improvements to pricing and accreditation the small business legal services market needs better feedback mechanisms to enable information about the best value for money services to percolate through the market, help improve purchasing choices by smaller businesses and ultimately help close the £100 billion gap of unsatisfied demand.

The proposals to publish regulatory sanctions information could be helpful in the most extreme circumstances i.e. help a small business user avoid the very worst lawyers. However, this information is not the most important for facilitating the small business legal services market at the aggregate level. Such incidents are few and far between and relate to issues of a very serious nature, which are not relevant for the large majority of small business purchases of legal services.

A more effective approach that FSB believe could significantly help the market would be to require solicitors and firms to obtain simple (i.e. a minimum level of⁴) customer feedback from every client.⁵ High volumes of feedback would lead to large quantities of statistically useful data about how lawyers and law firms are performing. Commercial tools for obtaining feedback are already available and cost very little to use. Since the advent of the internet and associated data processing technologies it has become very easy to collect and collate such information.⁶ The SRA (along with the other legal regulators) should ensure that lawyers and firms implement feedback collection by setting out and monitoring a set of consistent standards for the collection of performance data, while avoiding mandating particular technologies for doing so.⁷

Finally, the SRA needs to ensure its own systems have the flexibility, for example, to inter-operate with the various feedback tools that solicitors and law firms might employ to collect feedback and then would be periodically submitted to the SRA. Such inter-operability would allow the SRA to play the role of a 'hub' for facilitating the development of more effective third party market intermediaries which will, in-turn, help facilitate the small business legal services market.

REGULATORY REFORM

Flexible, proportionate and supportive of innovation

The regulation of legal services providers needs to be designed such that it maintains the traditional strengths of the solicitors' profession e.g. the ethical underpinnings and the high-levels of training (and associated investment) it takes to build up the requisite experience to practice. However, the regulatory framework also needs to be competitive as solicitors

⁴ It is important that legal firms and solicitors are not be prohibited from going further in the type of feedback information they ask clients for.

⁵ In some cases clients won't want to provide feedback. In such examples it is not possible to get the feedback. Such a regulatory requirement therefore would need to take this into consideration in its design.

⁶ In many sectors the combination of the internet and powerful data analytical tools have enabled an explosion in the collection and utilisation of feedback data. For many businesses such information and its analysis are seen as key tools of business competitiveness.

⁷ FSB acknowledges that the publication of feedback provides opportunities for misuse and abuse by disgruntled or vindictive people. These are challenges that beset all market intermediary platforms based-upon feedback and user-reviews. Therefore systems may need to be developed that help provide a degree of quality assurance around feedback and 'proof of provenance' of those providing the feedback. Thinking about these problems should be integrated into the 'remedies development process' so that solutions can be built-in, where they are available.

compete with other providers of legal services (regulated and un-regulated). As part of achieving that aim of the regulatory framework enhancing and not impeding competitiveness, it needs to leave sufficient space for innovation and adaptation, not least in how legal services can be provided. A competitive regulatory framework:

- Has rules which are clear but minimal i.e. they are sufficient to achieve the desired or necessary ends but do not load costs onto solicitors and law firms. They avoid creating excessively high barriers into the profession or making the costs of practicing significantly higher than for those direct competitors who are not regulated.
- Imposes minimal administrative burdens for the 'regulatee' to comply with. This will minimise the on-going costs of regulation which bear on those practicing and reduce the risk of the regulatory framework making solicitors and firms cost un-competitive. Such administrative costs include the time diverted towards compliance and away from servicing client needs and business development.
- Makes sure regulations are flexible, such that they allow for adaptation to the market. They should not impede the adoption of technology or the re-organisation of firm structures and processes that help to improve efficiency and open up access to previously un-tapped customer demand. Where possible they should encourage these kinds of 'innovations' and 'market expanding' activities.

FSB consider a regulatory framework based upon the above principles would enable the solicitors' profession to face the changing legal service market with confidence and meet its challenges head-on by reducing the costs of operating as a solicitor and a law firm, improving profitability and encouraging innovation by individuals, firms and the sector as a whole. In-turn this supply-side stimulation would help close the £100 billion 'gap' between the legal needs of smaller businesses and what is currently supplied by the market.

A set of rules based upon the 'regulatory' principles described above would enable solicitors to respond more effectively to the more active demand-side stimulated by the better information and greater transparency facilitated by the reforms described in this submission. The result will be, in-turn, less need for formal regulation because some of the reasons for the regulation in the first place (e.g. the asymmetries of information and the knowledge gaps among demanders) will be reduced.

In order for the kinds of transparency reforms to work as effectively as possible there are two areas where new regulatory requirements should be introduced:

- The SRA should set out minimum pricing standards and pro-actively monitor compliance with them and take proportionate regulatory action where necessary to ensure that the pricing meets agreed measures of clarity that small businesses need.
- Firms and individual solicitors, should not only have to make reasonable efforts to collect feedback but additionally to submit it to the SRA on a periodic basis. Subsequently, the SRA should make such data publicly available and use-able by third-party intermediaries.

Regulatory action may be needed to ensure that accreditation is reformed along the lines described in this submission. While encouragement rather than regulatory action is the preferred 'first choice' in relation to improving accreditation in the legal services sector, rules-based action by the SRA should not be ruled out. As with pricing, a progress review after a period should establish whether a move to more robust action by the regulator is required.

With significant reform of the regulatory framework based upon the approach described above, despite the new requirements around information and transparency (pricing and feedback), there should be a net reduction in the regulatory burden on solicitors and law firms. Together the kinds of regulatory changes described should work hand-in-hand and result in a legal service market which can reduce the £100 billion 'demand-gap' because over-time, a better functioning market will:

- Push-out those providers not delivering value-for-money.
- Incentivise the expansion of the best provision so that greater numbers of small business consumers can benefit from it.
- Stimulate new ways of providing legal services.

2. About you

1.

First name(s)

Adrienne

2.

Last name

Edgerley Harris

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Law society

8.

Please enter the name of the society

Hampshire

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

Overall, we are not in favour of this proposal.

We are not convinced that consumers will be helped by publication of price and quality indicators (which are not defined). There are existing accreditations and panel membership, such as Lexcel, CQS and WIQS, against which firms & individuals are audited and which firms can promote.

There is nothing to prevent those firms that wish to from publishing price and 'quality' information now. That the LSB research shows a substantial variability in the prices charged by providers does not necessarily mean that people are paying varying amounts for the same service. It probably also demonstrates that there are a variety of levels of service being provided. Some firms even advertise different 'levels' of service and charge accordingly for such.

however, if this proposal is progressed, then pricing should include whether a referral fee has been paid on a conveyancing transaction.

We do not consider that there should be entities that do not have to publish data- the same criteria should apply to all legal entities

11.

2) Do you agree with our proposed principles of price transparency?

Whilst there is no objection in principle to publishing a firm's areas of work, we are not in favour of publishing price information. There is considerable room for price confusion and for not comparing "like with like".

Publishing an average price is likely to be misleading in that it will not guarantee a comparison of the same parameters.

Fixed fees are also not a useful guide. This may restrict firm flexibility in using them for a limited period or changing them and there is the risk that they then become the "norm".

Publishing pricing is not an indicator of quality and we agree that it should not be published. The potential damage to the legal sector of forcing the provision of price data could be considerable. This could prompt a 'race to the bottom' which would ultimately mean that firms would not be able to provide the high quality service required by consumers. We consider that, to an extent, this has historically happened in the residential conveyancing market. A lot of conveyancing is now done by non-solicitors, with adverse consequences for the consumer in many cases.

'Average' price information will not be helpful in some areas. The rationale acknowledges that fees can increase due to factors beyond control (e.g. uncertain transactions and behaviour of the other side) but consideration should also be given to how some clients manage to increase their own fees by their own conduct.

Price is not the only factor influencing consumer choice. For example, it can be the way an enquiry is handled, clarity and the explanation given and the way the consumer and person at the firm interact.

Price information can get out of date quickly and published rates are likely to lead to price wars (a race to the lowest figure).

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

If the proposal to publish price information proceeds, then we do not consider that there should be entities that do not have to publish data- the same criteria should apply to all legal entities.

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

We do not support this proposal.

We can see no overall consumer benefit in this proposal.

It is considered that this is likely to lead to confusion for the consumer. There is a risk of the data being provided becoming too complex for people to use effectively.

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

We are not in favour of this proposal.

There is already a plethora of logos used by regulated firms.

We doubt that the public pay much heed to logos or kite marks.

It will also mean extra expense for regulated entities in adding this to their websites and other published material.

We are not convinced that consumers will be helped by publication of price and quality indicators (which are not defined). There are existing accreditations and panel membership, such as Lexcel, CQS and WIQS, against which firms & individuals are audited and which firms can promote.

There is nothing to prevent those firms that wish to from publishing price and 'quality' information now. That the LSB research shows a substantial variability in the prices charged by providers does not necessarily mean that people are paying varying amounts for the same service. It probably also demonstrates that

there are a variety of levels of service being provided. Some firms even advertise different 'levels' of service and charge accordingly for such.

Certain accreditation information is already published by the Law Society and other organisations (e.g. Resolution). As with the LeO link, potentially similar links could be included in any SRA register/publication. Questions could arise, however, about which accreditations should be included.

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

We do not favour its introduction.

Please see our response to 5) above.

We consider it should be clear to consumers whether a firm is unregulated or regulated by the SRA and what this means. A logo for this may well be useful but if the proposal proceeds, it should be combined with compensation fund logo if adopted. We consider that there are many logos for accreditations and we question whether the additional cost of including them on a firm's publicity is useful to consumers or the cost justified.

If it is considered that there is a lack of clarity about regulation by the SRA and what this means, a sustained and visible campaign (e.g. recent Law Society campaign about solicitors, and similar financial campaigns about Financial Services Compensation Scheme) about this could be more beneficial than another logo.

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

We do not favour its introduction.

Please see our responses to 5) and 6) above.

17.

8) Do you agree with our proposals on the publication of PII details?

We do not support this proposal.

We are not convinced that there is any consumer benefit in publishing this data. It is unclear exactly what information would be published in any event.

The PII market and terms are complex and many firms have particular endorsements- beyond the minimum terms and conditions. It should be sufficient for the public to know that as an SRA registered entity it has PII cover.

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

This has been requirement for many years. We are not convinced that providing this information at the outset in writing is particularly helpful for consumers.

"Complaint" needs to be defined.

In some areas, such as crime, clients complain if they are unhappy with the outcome which is beyond the control of their solicitors.

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Please see our response to 9) above.

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

We are not generally in favour of a digital register so have no proposals for information for inclusion. However, we support the idea that the SRA rather than the Law Society should control data. We can foresee problems in publishing personal data such as PC conditions, as it would tarnish the firm if the fee earner has left and the data is not removed promptly.

We oppose the idea of sharing data with comparison sites as data could be out of date quickly if they are not updated.

Consideration should be given to whether or not comparison sites are really appropriate for the legal market. Whilst it may not be possible to stop private companies setting up such sites, is it something that the SRA should be supporting? The provision of legal services to consumers is completely different to e.g. purchasing an insurance policy. The consumer is likely to have an ongoing relationship with the firm/fee earner over a number of weeks/months or years. There is a huge amount of value in the consumer's rapport with the relevant firm/fee earner which will simply not be conveyed by comparison sites. It is a fallacy to ignore the importance of factors such as this.

6. Consultation questions: Publishing areas of practice and complaints data

21.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

We have no particular objection in principle to publishing a firm's areas of work.

As we are not in favour of a digital register, then it would have to be done separately.

22.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

It is not considered useful to have the raw number of complaints at tier 1 level, nor the percentage of transactions leading to a complaint or the speed of response (for example, the matter may be complex and require a longer period of investigation prior to responding).

A better indicator may be whether or not clients are ultimately satisfied with the dealing/outcome of their complaint. This would also be fraught with risk: it could be argued that by their very nature a complainant is unlikely to be satisfied unless they prevail.

Some areas of law are more prone to people complaining than others, so if any complaint information was to be published it should be normalised in some way to show how it compares to any 'average' for the area of law, size of firm etc.

Tables of numbers could tempt consumers to simply pick the firm with the lowest number of complaints but that would not necessarily be the wisest choice.

Please also see our comments previously relating to complaints.

The additional burden of keeping this information is not considered useful or justified.

Further, the task of collecting and publishing such data could be disproportionate depending on firm size and type. Whilst larger organisations may have the ability to absorb such a burden to some extent, other firms with less management/non-fee earning support may struggle.

23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

Please see our response to 13) above.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

24.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

WE are not in favour of the suggestion that there is to be a separate set of rules for solicitors working in this sector.

It will create a two-tier profession and confusion for consumers as to who can do what and who has PII cover and who does not. Regulation should be made simpler not more complex and must focus on those it is seeking to protect.

25.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Our reply to 15) above is equally pertinent to this question.

8. Consultation questions: The draft rules and enforcement

26.

17) Do you have any comments on the drafting of our rules?

We ask you to stop changing terminology and definitions.

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

We suggest that you ask consumers or their representative bodies.

We are not aware of any particular market research which supports the proposals now under discussion.

It appears that the proposals are making the market more complex rather than transparent or simpler for the consumer to understand.

28.

19) Do you have any further information to inform our final impact assessment?

There may be diversity impacts but we are unable to quantify these. However, our view is that as the regulatory data will be factual, if it is published, it should apply equally to all sectors of the legal supplier community.

If some firms are excluded then that could potentially have an advantage or disadvantage to them. The average consumer may not take the time to read any 'small print' explaining why data is not provided about some suppliers. Any publication requirement should therefore apply to all.

Thought or consideration should perhaps be given to how the introduction of any new registers/publications will be brought to all consumers' attention. Otherwise, there could be a risk that only better informed consumers will use any new register/publication. The less well informed, who may be the most vulnerable, may continue to choose services in the way that they currently do and would not therefore benefit from any additional information being published.

Is there any data available about how similar information published by other regulators is being used by consumers? Just because other regulators are doing such is not an absolute guarantee that it works or would work for the legal sector.

The proposals may dissuade firms from alerting clients to a possible negligence claim (despite the regulatory obligation to do so) and it is likely to penalise a firm if they have changed their procedures subsequently or the fee earner has left or changed the area of work.

Whilst the number of insurance claims is likely to be significantly less than the number of complaints, and could be possibly a better indicator than first tier information, a large query remains over the usefulness of this data to the consumer. There is a question of proportionality in that the potential damage to a firm could outweigh any possible benefit of providing the information to the consumer.

We are not convinced that consumers will be helped by publication of price and quality indicators (which are not defined). There are existing accreditations and panel membership, such as Lexcel, CQS and WIQS, against which firms & individuals are audited and which firms can promote.

There is nothing else that we can suggest as information that may be useful for consumers in making their solicitor choice although consumer guides as to what to ask for as to pricing/ quality may be useful.

However, they may be too general to be worth the effort and may not be relevant to the particular instructions provided to the firm.

We question whether any analysis has been undertaken to see how often the Find a Solicitor firm search is being used and whether, even if it is an SRA function, whether is proportionate to spend further monies developing it- especially as the SRA itself already advises firms not to rely entirely on the information it contains.

2. About you

1.

First name(s)

Karen

2.

Last name

Purdy

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Other

8.

Please specify

Hexagon Legal Network - a support and networking group for lawyers

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

No

11.

2) Do you agree with our proposed principles of price transparency?

No. This seems to be very naive in terms of what can be achieved in protecting the public and how fees can be distilled down into a simple price list. Transparency of fees is very important so that the client/consumer knows what to expect and so that they are not unhappy with the charge for the service received. However, those fees can be set out for the client/consumer by the advisor, without the fees having to be published in advance like a take-away menu. It is not that simple. A firm can easily set out how much a simple Will costs, but the client who phones up "for a simple Will" and then ends up describing their situation which is rather more complex, will end up paying more than the fee for a simple Will. It will be more confusing for someone to phone up, having looked at the "price list" and be told that they need something else. The aims of this are likely to cause confusion for the public, rather than afford them any additional protection.

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing

exclusively with large commercial clients? If so how should any exemption be defined and operate?

No

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

No

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

No. I can understand the need to reassure the public that we are regulated, but the badge of solicitor already does that. The badge of solicitor should be promoted by the Law Society, not a competing, confusing one from the SRA.

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

No - see question 5

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

No. Again, I can understand the need to reassure the public, but the badge of solicitor already does that. The badge of solicitor should be promoted by the Law Society, not a competing, confusing one from the SRA.

17.

8) Do you agree with our proposals on the publication of PII details?

No. This is unnecessary as you enforce against firms without PI, so all firms have insurance and the public should be able to rely on that.

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

No - this is already clear when the client sees our Terms and Conditions.

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

No - this is already clear when the client sees our Terms and Conditions and publicly available.

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

Strongly oppose such a public register. The SRA do not have sufficient resources to manage a database of such a vast amount of publicly-accessible information and keeping it up-to-date - it will be very expensive, with little benefit to the public and potentially hugely damaging.

I have personal experience of a publication by the SRA being so limited in the information it gave so as to be misleading. The information was used by other websites and was potentially damaging to my firm's reputation. Where firms have similar names and/or limited information is published, it can be misinterpreted and misused, causing significant damage. The potential cost of insurance for the SRA for future libel cases should be considered, as this seems a very risky route to consider and with limited potential benefit for the

public.

6. Consultation questions: Publishing areas of practice and complaints data

21.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

No. The onus of producing the information seems unduly burdensome for small firms and sole practitioners.

22.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

No - see question 11

23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

No - see question 11

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

24.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

It is vital to protect the public by flagging up when safeguards have been removed or reduced. It raises the question of why the SRA would let the safeguards be removed in the first place, as they are putting the public at risk and causing confusion.

25.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

It is vital to protect the public by flagging up when safeguards have been removed or reduced. It raises the question of why the SRA would let the safeguards be removed in the first place, as they are putting the public at risk and causing confusion.

8. Consultation questions: The draft rules and enforcement

26.

17) Do you have any comments on the drafting of our rules?

The rules are unnecessary as the publication of the information is not practical nor helpful for the consumer.

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

As long as the comparison websites are accurate and fair, then they should be left alone and are not the concern of the SRA. It is important that the SRA ensures that the information that it has available for comparison sites and review sites and consumers is up-to-date, accurate and sufficiently-complete, so as not to be misleading and potentially damaging, as I have explained previously arising from personal experience in relation to a similar-named firm that was intervened and it had a detrimental impact on my own firm's online reputation.

28.

19) Do you have any further information to inform our final impact assessment?

The intention of the SRA to publish this information to assist the public seems naive, unattainable and

| potentially fraught with libel claims.

HM Land Registry's response to the Solicitors Regulation Authority Consultation – Looking to the future: better information, more choice

HM Land Registry (HMLR) exists to register ownership, interests, mortgages and other secured loans against land and property in England and Wales. Established in 1862, we are a non-ministerial government department, an executive agency (since 1990) and a trading fund (since 1993) that makes no call on funds voted by Parliament. By statute we are required to ensure that our income from fees covers all of our expenditure under normal operating conditions.

HMLR's primary role is to provide a reliable record of information about the ownership of and interests affecting land and property; land and property owners with a title which is guaranteed by the state; and the financial sector with the capability to secure lending against property. HMLR is committed to becoming the world's leading land registry for speed, simplicity and an open approach to data, and aiming to achieve comprehensive registration by 2030.

Informal response (not for publication)

There is one point that HMLR would like to make in relation to questions 15 and 16 in section five: Individual solicitors working outside LSA-regulated firms.

HMLR's reliance on identity information given by solicitors is in part founded on the premise that if they were negligent in providing such information, HMLR would potentially have a right of recourse against them. Such recourse would potentially be funded by their PII insurer (or ultimately the Compensation Fund). If individual solicitors who fall within the definition of conveyancer for HMLR's purposes are no longer covered by PII or the Compensation Fund, the possibility of successfully pursuing a right of recourse in the appropriate circumstances may be substantially diminished.

2. About you

1.

First name(s)

Jenny

2.

Last name

Screech

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Other

8.

Please specify

Broker - Howden UK Group Limited

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

Refer pdf document emailed from jenny.screech@howdengroup.com to the contact centre today as agreed by phone on 18/12/2017

11.

2) Do you agree with our proposed principles of price transparency?

Refer email as noted above

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

Refer email as noted above

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

Refer email as noted above

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Refer email as noted above

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Refer email as noted above

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

Refer email as noted above

17.

8) Do you agree with our proposals on the publication of PII details?

Refer email as noted above

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

Refer email as noted above

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Refer email as noted above

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

Refer email as noted above

6. Consultation questions: Publishing areas of practice and complaints data

21.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

Refer email as noted above

22.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

Refer email as noted above

23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

Refer email as noted above

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

24.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform

clients of the absence of the requirement to hold compulsory PII?

Refer email as noted above

25.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Refer email as noted above

8. Consultation questions: The draft rules and enforcement

26.

17) Do you have any comments on the drafting of our rules?

Refer email as noted above

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

Refer email as noted above

28.

19) Do you have any further information to inform our final impact assessment?

Refer email as noted above

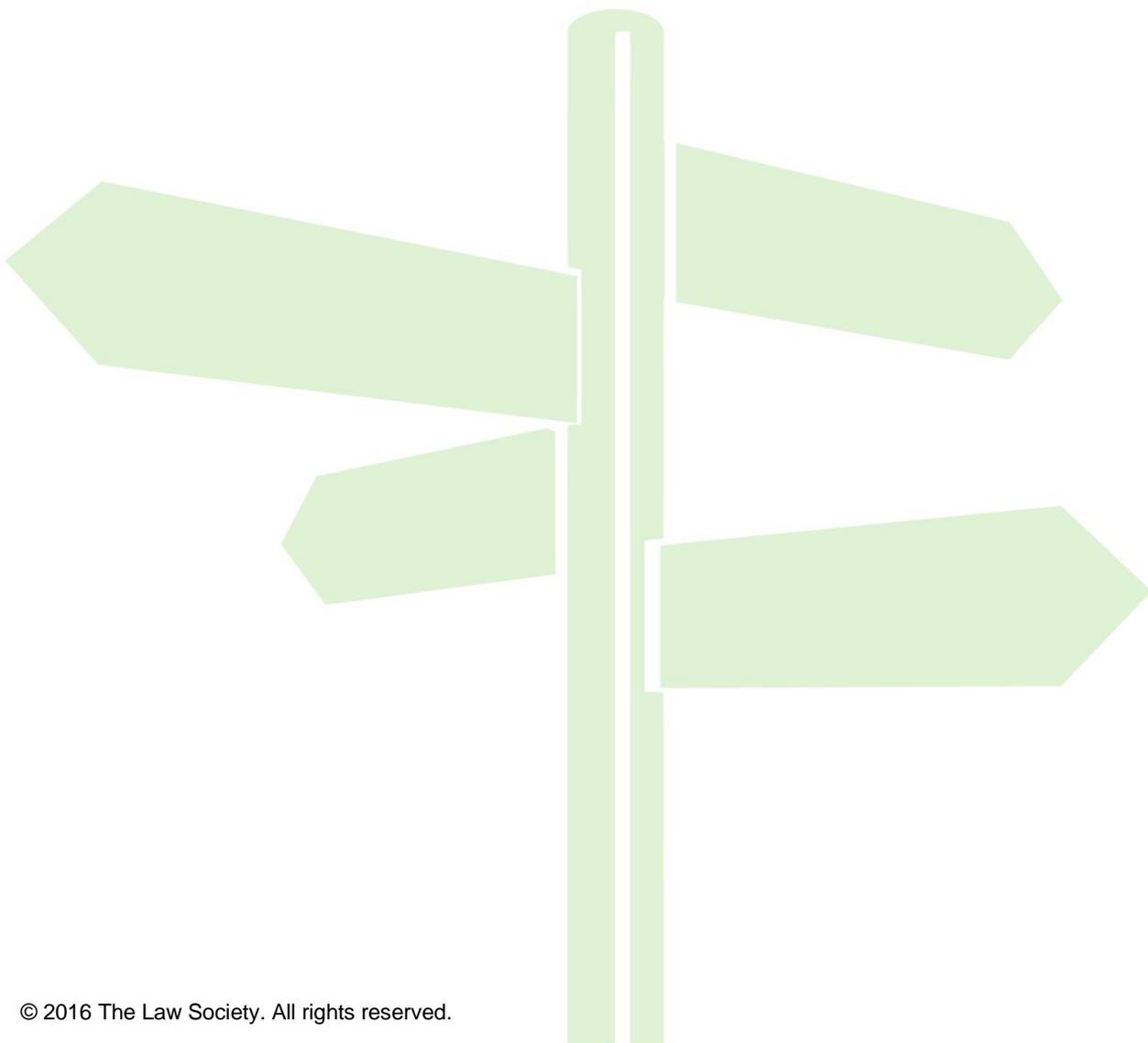


The Law Society

Looking to the future: better information, more choice

The Junior Lawyers Division's response to the SRA consultation

December 2017



SRA consultation: Looking to the future: better information, more choice

The Junior Lawyers Division's response

The Junior Lawyers Division (JLD) is a division of the Law Society of England and Wales. The division, which has a committee with an independent voice, was established in 2008 to support:

- Legal Practice Course students
- Legal Practice Course graduates
- Trainee solicitors
- Solicitor up to five years qualified

The JLD, is one of the largest communities within the Law Society with approximately 70,000 members. Membership of the JLD is free and automatic for those within its membership group.

The JLD provides members with an opportunity to:

- Network and connect with other junior lawyers
- Discuss issues of concern
- Benefit from training, advice and career guidance
- Ensure their views are heard
- Contribute to JLD campaigns, lobbying activities and consultation responses

For further information about the JLD visit the JLD website [here](#).

In advance of submitting this response, the JLD has had the benefit of reviewing the Law Society's response to the consultation and note that the Law Society has commissioned its own research in order to collate member's views. The JLD is in full agreement with the response of the Law Society and echoes the views therein.

The JLD's response to this consultation should be considered together with our response to the CMA Legal Services Market Study Interim report which can be viewed [here](#).

Please note that the JLD does not feel it appropriate to respond to all questions on the basis that the JLD intends only to outline concerns which affect its members specifically. Additionally, it is not within the remit of the JLD to respond to area specific questions and nor does the JLD have resources to be able to do so adequately.

Question 1

In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

See response to question 2.

Question 2

Do you agree with our proposed principles of price transparency?

As stated above, the JLD is in agreement with the response of the Law Society and does not consider the price and service publication proposals to be necessary.

The JLD considers that non-regulatory options would be more effective in forcing the market to provide the relevant information at the right time for each area of law, this can be evidenced by a recent article relating to a city firm voluntarily publishing the hourly rate and seniority on the firm's website¹. We agree with the Law Society's view that some aspects of the proposals may risk causing confusion to consumers.

We also consider that price transparency proposals may result in firms making attempts to compete by reducing their legal fees to a point at which they rely too heavily on lawyers at the junior end of the profession, particularly where fixed costs are introduced. Increasing work pressures and responsibilities upon junior lawyers may have a detrimental effect on the profession, as it may result in them dealing with matters which would be more suited to legal professionals with more years' experience.

Question 3

Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

The JLD are in agreement with the response of the Law Society that no section of the solicitors' profession should be singled out for differing treatment, and obligations should apply as consistently as possible to clients in any sector.

Question 4

Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

The JLD understands the SRA's rationale for the proposal however we do not consider it will have the desired effect in addressing the concerns. We are in agreement with the general findings of the Law Society's research in that consumers in different areas of law put emphasis on different areas of service. For example, a consumer of a conveyancing service is seeking something different in terms of service from a consumer of a divorce service.

Question 5

Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Whilst we do not have any specific objection to the proposed SRA Regulated Logo, we do not know if the logo will have the desired effect outlined by the SRA.

¹ https://www.lawgazette.co.uk/law/city-firm-publishes-hourly-rates-in-transparency-drive/5064076.article?utm_source=dispatch&utm_medium=email&utm_campaign=%20GAZ141016

We do agree that consumer awareness of their regulation and protection requires promotion. We think without suitable further information or announcements the logo alone may have little or no effect. The general consumer of legal services would have little or no knowledge of the SRA; as such a logo to reflect this is likely to be overlooked by most consumers.

Question 6

Do you have any suggestions as to how we can best increase consumer awareness of the logo?

The JLD is in agreement with the alternative proposal of the Law Society, that the SRA should have a clear, accurate and easy to read section on its website regarding the protections consumers receive from going to a solicitor. Firms and solicitors could then provide a link to this page from their own websites, behind a short piece of text or image promoting and explaining regulation.

Firms are already required under Outcome 8.5 of the current code of conduct to inform clients of their regulated status on letterheads, websites and emails. It is hard to see how the use of a logo would make this any clearer to the consumer.

Question 7

Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

As outlined above the JLD considers that the general consumer of legal services would have little or no knowledge of the SRA and even less of Compensation fund. We consider it very unlikely consumers will search for information about the Compensation Fund.

Questions 8 - 10

Do you agree with our proposals on the publication of PII details?

Do you agree with the proposal for firms to publish details of how to complain?

Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

We are in agreement with the response of The Law Society in respect of questions 8 to 10 of the Consultation.

Question 11

What are your views on the proposed content for the digital register?

The JLD is in agreement with the response of the Law Society.

We note the SRA's view that consumers would use the register to validate the experience of newly qualified solicitors. We do not consider this to be a practical use. Inaccurate information may cause further confusion to the consumer or, further still, a prejudice towards junior lawyers. It is likely that consumers, unaware of the context of the information provided, may simply seek more experienced solicitors, seeing newly qualified solicitors as lacking the expertise or knowledge to provide a suitable service.

Question 12

Do you agree with our proposal to publish annual information about areas of work and to do so separately from the digital register?

The JLD does not see the rationale in publishing information on areas of law that a firm provides services in as in isolation we consider this would have little or limited use to the consumer, if they were to consider this at all.

Question 13

Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

The JLD is in agreement with the response of the Law Society.

The JLD sees little value in such data being made available to consumers. Most consumers would be unsophisticated as to legal services and are unlikely to understand the nature or complexity of a complaint. There is also a strong concern of the quality and accuracy of data provided to third parties as mentioned in the response of the Law Society.

The data collected by the SRA is unlikely to accurately reflect the quality of service provided by a firm. Certain areas of law are also considered much more likely to receive complains due to the highly emotional subject matter, such as criminal and family law.

The SRA would also only be publishing complaints in relation to authorised firms. This would be counterproductive in relation to redressing the balance between regulated and unregulated firms as It would then appear to the consumer that the unregulated firm may have not received any complaints.

Questions 14 -18

If we do publish first-tier complaints data, what (if any) context should we provide?

Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Do you have any comments on the drafting of our rules?

What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

We are in agreement with the response of the Law Society in respect of questions 14 to 18 of the Consultation.

**Junior Lawyers Division
December 2017**

SRA CONSULTATION

LOOKING TO THE FUTURE – BETTER INFORMATION, MORE CHOICE

RESPONSE FROM LAWNET LIMITED

Introduction

LawNet is a member-owned network of 71 solicitors firms in the UK and Ireland, of which 65 are domiciled in England & Wales, and regulated by the SRA. Established in 1989, LawNet supports its members in a variety of ways summarised on the attached **'Benefits of Membership' infographic at Appendix One**. The company is limited by guarantee, and therefore has no shareholders and no profit motive. Member firms join in order to be able to achieve more collectively than they could individually.

Membership is by invitation, and the characteristics we look for in member firms include turnover usually between £2m-£25m, sound finances, good PII claims records and a progressive mindset. We are unlikely to seek actively new members in a town where we already have one, but there is no 'black ball'; rather, we have a consultation process which allows existing members within a given radius to express any concerns they might have about a potential new member. The reputation of the group is taken seriously and highly valued.

Our membership is spread across England & Wales, though there are some parts of the country where our membership is weaker than others – inevitable perhaps given the distribution of firms having the characteristics described above. Even so, **LawNet is a good proxy for the views of medium-to-large SME firms, with more than £300m of turnover and around 2,000 lawyers in the network.**

On joining LawNet, firms must: -

- Achieve our **mandatory ISO9001 Quality Standard**, within two years, and maintain it subsequently
- **Commit to our Excellence Mark requirements**, involving a package of tools to measure the customer journey, including mystery shopping and online client satisfaction surveys. Over the past 4 years, LawNet firms have undertaken more than 3,000 mystery shopping interactions and over 50,000 client satisfaction surveys. LawNet firms have been active in using the learning arising from these initiatives to take steps to improve customer service in their firms, and it has been pleasing to see scores from mystery shopping and satisfaction surveys improving over that period and exceeding those seen outside of our network.

This response is informed by discussions with LawNet members over the past year or so since publication of the CMA report and your own consultations, and also by responses to a survey among our members carried since your most recent consultation issued at the end of September. The responses to that survey were given in some cases as individuals and in others on behalf of the whole firm.

In this response, we will answer the majority of the questions set out in your Consultation document, and in addition we will provide answers that our members have given to questions that we added to your own.

Section One – Asking firms to make more information available to consumers

Question 1

In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

Question 2

Do you agree with our proposed principles of price transparency?

We felt it logical to change the order of these questions. Before asking our members for a view on which areas of legal work might be better suited mandatory price publication, we asked our members *'How do you feel about the SRA's proposed principles of price transparency? Please indicate on a scale of 1-5 where 1 is strongly opposed and 5 is entirely comfortable.'* The average score from 88 responses was 3, and we feel we should add some context to this based on our interactions with members: -

- There is a strong feeling among our membership that the SRA will press ahead in any event, whatever the responses to this Consultation.
- Our members are convinced that the SRA is attaching far too much importance upon price, which is just one of many factors behind choosing a provider of legal services.
- Our members are convinced – by the experience of their Excellence Mark activity, which has given them a huge dataset to help them understand the client journey and why the client chose to instruct their firm – that price is only a small factor in the buyer's decision.
- Many concerns were raised about the difficulty – and sometimes impossibility – of publishing a price without a basic level of information from the client.

We moved on to ask our members ‘How easy would it be to publish prices for these legal services for consumers? Please rate each of these from 1 to 5 where 1 is extremely challenging and 5 is very straightforward.’ The responses were as follows: -

1. Consumer legal services

	1	2	3	4	5	TOTAL	WEIGHTED AVERAGE
Residential Conveyancing	3.61% 3	13.25% 11	18.07% 15	30.12% 25	34.94% 29	83	3.80
Family	20.48% 17	38.55% 32	25.30% 21	10.84% 9	4.82% 4	83	2.41
Drafting of a will	2.35% 2	12.94% 11	20.00% 17	37.65% 32	27.06% 23	85	3.74
Probate/Estate Administration	20.00% 17	28.24% 24	34.12% 29	12.94% 11	4.71% 4	85	2.54
Drafting a Lasting Power of Attorney	2.35% 2	11.76% 10	20.00% 17	40.00% 34	25.88% 22	85	3.75
Motoring offences	5.33% 4	21.33% 16	34.67% 26	26.67% 20	12.00% 9	75	3.19
Employment Tribunal	17.07% 14	37.80% 31	26.83% 22	15.85% 13	2.44% 2	82	2.49
Personal Injury Claimant	19.75% 16	32.10% 26	29.63% 24	11.11% 9	7.41% 6	81	2.54

2. SME legal services

	1	2	3	4	5	TOTAL	WEIGHTED AVERAGE
Employment Tribunal	22.50% 18	28.75% 23	36.25% 29	11.25% 9	1.25% 1	80	2.40
Debt Recovery	8.75% 7	12.50% 10	36.25% 29	30.00% 24	12.50% 10	80	3.25
Licensing applications in relation to business premises	7.79% 6	16.88% 13	36.36% 28	25.97% 20	12.99% 10	77	3.19

In the context of a scoring range of between 1 (rather than zero) and 5, any score below 3 suggests that price publication would present challenges. The highest incidences of 4 and 5 scores are in the areas of residential conveyancing, and the drafting of Wills & LPAs, though many responses caveated just how complex these can turn out to be despite what a client might say at the outset. For SME work, debt recovery scored comfortably the highest number of 3+ responses.

Question 3

Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

You have not defined 'large commercial clients', but we have assumed it to mean any business larger than a SME (usually defined as up to £25m turnover). Given that your proposals are in response to the CMA Report – which itself focused on individuals and SMEs, then by extension one would assume that larger businesses would be out of scope. On that basis, we offer no other comment.

Question 4

Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

We asked our members to indicate, on a scale of 1 to 5, how comfortable they feel about providing this information. The weighted average score from 89 responses was 3 – exactly mid-range.

LAWNET QUESTION

In the introduction to this response, we have described the work undertaken by LawNet over the past several years in the area of Quality - both in processes and systems, as assessed externally via our internationally-recognised ISO90001 standard - and in client experience, via our Excellence Mark activities. Our members believe that it makes no sense for them to compete on price, but rather, on value. In any business sector, there will be those who choose a price leadership model (Aldi) and those who prefer to compete on quality (Waitrose). LawNet firms are all in the top 15% or so of firms by size, and the quality screening undertaken before they can join this network and the commitments they make upon joining are such that they are far more likely to wish to compete on quality and value than on price alone. Our view is that no business should ever compete on price alone unless there truly is no way they can differentiate themselves.

Against this background we asked our members the following question:

'The Competition and Markets Authority expressed concern regarding an 'asymmetry of information' on Price & Quality. However, the SRA has focused on Price alone and has expressly dismissed mandating firms to make available information regarding the quality of legal services or the quality of service. How do you feel about this? Please indicate on a scale of 1 to 5 where 1 is strongly opposed and 5 is entirely happy with the SRA's approach.'

The weighted average score from 79 respondents was 2. **LawNet member firms feel that it is wrong to disregard quality accreditations, and that their hard-won, internationally-recognised and**

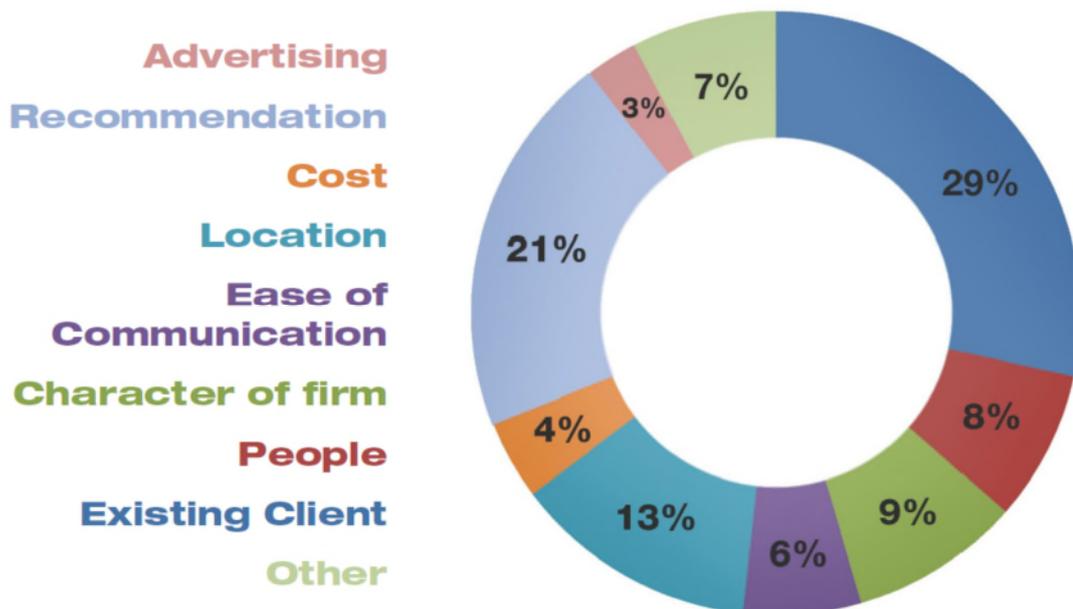
externally assessed ISO9001 accreditation is a reliable indicator of quality, understood by private individuals and SMEs alike; the former will have seen the kite-mark elsewhere and the latter may have achieved or be aspiring to such a standard themselves.

Your decision to disregard accreditations seems to flow from comments made by the Legal Services Consumer Panel in 2014, which focused on Law Society-sponsored accreditation schemes and observed that some of these accreditations seem to lack rigour in terms of the frequency and independence of assessment. LawNet asserts that its members achieve and maintain a Quality Standard that is internationally recognised and rigorously and independently assessed, and that in addition its members commit to measuring and improving the client experience.

The LawNet Excellence Mark, the programme through which LawNet firms measure the client experience, comprises:

- mystery shopping interactions by walk-in, telephone, email, web enquiries and our-of-hours calls (almost 3,000 over the past four years)
- online client satisfaction surveys (more than 50,000 over the past four years)

The latter, conducted post-matter, facilitated by an independent third party and involving standard questions across the network, and allowing for benchmarking across departments, by fee earner, by branch office, against the rest of the LawNet group and also against the wider profession, has proved to be a valuable tool to understand and improve the client experience. Scores are improving year-on-year as member firms make changes informed by the feedback they receive from clients. One of the standard questions asks clients to choose the main reason why they chose to instruct the firm, and the results have been consistent over four years, as below.



Clearly, **the decision to choose a particular firm is based on a cocktail of reasons, but** this question deliberately seeks to establish the MAIN reason, and **only 4% said Price**. By contrast, having used the firm before (29%) and recommendation (21%) account for half the responses. **We remain mystified that so much importance is being placed on price when our research (which makes much of the research undertaken by CMA and LSCP look minuscule) clearly shows that it is not a prime driver.**

Research at the SRA and elsewhere has referred to comparison sites and a number of these have come and gone over the years. These can succeed only if they are commercially viable, and if they meet a need for both clients and firms. LawNet has chosen to engage with a review site which concerns itself with client satisfaction rather than Price ('Trip Advisor' rather than 'Meerkats'), for the following reasons: -

- this site lists all firms regulated by the SRA anyway, so why not have some reviews?
- this site does not seek payments for leads
- this site allows firms to showcase the areas of work they do and to humanise the firm with details of partners, areas of expertise etc.

LawNet contends very strongly that clients choose law firms infrequently and often at times of stress. They tend to assume that solicitors will be technically proficient, but (perhaps because of the asymmetry of knowledge referred to by the CMA) want to have an appreciation of what it will be like to be a client; how they will be looked after / treated. Client testimonials, from friends, family and business contacts - and to a lesser extent those gathered by a comparison site - are powerful.

LawNet believes that the SRA is misguided in concentrating on Price alone. Whatever the SRA does in terms of mandating our members in relation to Price, they will tell their story in their chosen (local or sector) markets using the language of client satisfaction and Quality, and will have no interest in joining a race to the bottom on price – only a tech-driven, commoditised provider could proceed that way, and only for matters that are entirely predictable and free of nuance.

LawNet is not alone in believing that consumers value many other factors above price. The Institute of Customer Service has produced a top twenty list where price features in last place.



The **verbatim comments at Appendix Two** capture the key themes in responses to your proposals in this section.

Section Two – Regulatory Status and protections

Question 5

Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Question 6

Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Question 7

Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

Question 8

Do you agree with our proposals on the publication of PII details?

Question 9

Do you agree with the proposal for firms to publish details of how to complain?

Question 10

Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

We grouped these questions together and asked our members to offer a view on how important they felt each of these would be to clients. Our members understand that much of the information is available elsewhere; indeed, on their own websites. The results are shown below: -

	NOT IMPORTANT AT ALL	LESS IMPORTANT	NEUTRAL	IMPORTANT	VERY IMPORTANT	TOTAL
'SRA Regulated' logo and digital badge	21.35% 19	16.85% 15	19.10% 17	29.21% 26	13.48% 12	89
Details of existence of and eligibility to protection from the Compensation Fund	5.62% 5	17.98% 16	25.84% 23	39.33% 35	11.24% 10	89
Publication of my firm's PII details	11.24% 10	24.72% 22	28.09% 25	32.58% 29	3.37% 3	89
Information on how to complain to us	2.25% 2	6.74% 6	21.35% 19	53.93% 48	15.73% 14	89
Information on how to take a complaint to the Legal Ombudsman	1.14% 1	9.09% 8	28.41% 25	51.14% 45	10.23% 9	88

Regarding the SRA-Regulated digital badge, if the 'neutrals' are discounted there is a majority in favour of the badge, but concerns were raised regarding the extent to which consumers are aware of the existence of the SRA, the role it plays and the value of its regulatory position. **Individuals and SMEs are more likely to have seen / recognise the ISO9001 logo than the SRA badge.**

In relation to the Compensation Fund, our members of course understand the nature of this as a last resort where PII will not provide protection, but nonetheless, after removing 'neutrals', a majority recognises this as important.

On PII, LawNet requires its members to carry a minimum of £10m cover, and has negotiated, through its group scheme, a broker-written policy which exceeds the SRA's MTCs in a number of important areas. LawNet firms benefit from a breadth and quality of cover – and by extension their clients receive a breadth of protection – that would be available usually only to Top 100 firms. Our members believe this to be a major differentiator benefit of membership, and they have been surprised and dismayed at the SRA's attempts in the past to reduce the level of client protection through PII – something that seems to run contrary to the SRA's raison d'être. Whatever the SRA proposes to instruct firms to do, LawNet firms would continue to use this level of client protection as a differentiator.

Information on how to complain - either to the firm or to LeO if unresolved - is entirely uncontroversial. Only 10% of respondents ranked this as either Unimportant or Less Important and this information is made available routinely to clients. Moving it back on the timeline to pre-instruction is inconsequential.

Verbatim comments from LawNet members in relation to Section Two

These are at Appendix Three.

Section Three – Creating a digital register

Question 11

What are your views on the proposed content for the digital register?

Lawnet asked members to comment on these proposals using the following question: *‘How do you feel about each element of the proposed content of the digital register? Please rate each from 1 to 5 where 1 is strongly opposed and 5 is entirely comfortable.’*

Feedback from 89 respondents gave average scores in a very narrow range between 3.82 and 4.35, suggesting that our members are relatively relaxed about the content of the register, which they recognise will contain information which is already available elsewhere.

Nonetheless, concerns were raised about the nuance of some of this information, largely in relation to disciplinary issues and the security of the information held on the register. These are captured in the **verbatim comments at Appendix 4**.

Looking more widely, the digital register is to hold in one place the information needed by consumers in relation to firms, to enable them to make informed choices. This flows from last year’s the CMA Report, which referenced Quality alongside Price. **If the proposed digital register is to fulfil its purpose, we believe that firms must be able to have displayed on that register any internationally recognised, externally assessed accreditations they may have.** LawNet members would wish to see their ISO9001 accreditation visible to potential clients on this register. As our research over four years has demonstrated, purchasers of legal services are interested in quality, and how it is evidenced, whether through credible accreditations or reviews.

Section Four – Publishing areas of practice and complaints data

Question 12

Do you agree with our proposal to publish annual information about areas of work and to do so separately from the digital register?

We asked LawNet members: *'How do you feel about the SRA's proposal to publish annual information about the areas of work your firm handles and to do so separately from the digital register? Please rate from 1 to 5 where 1 is strongly opposed and 5 is entirely comfortable.'*

89 respondents gave a weighted average score of 3, which at first glance might suggest a degree of ambivalence on this issue. However, we saw a spread of replies as below; clearly there were some divergent views.

1	11%
2	16%
3	34%
4	15%
5	20%

We are not entirely sure what the purpose of this is, given that firms tend to state clearly on their websites the areas of work in which they are active. Would you propose simply to list the areas of work, or to add context by, for example, specifying the percentage of the firm's business that each work area represents? If the latter, by turnover, time spent/resources dedicated, or some other measure? Either way, **we are not convinced that any value is added to the consumer, and conversations with our members suggest to us that this could be a worthless exercise for which they, ultimately would have to foot the bill.**

Question 13

Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

Using the 1-5 rating approach for consistency, we asked our members for their view on this proposal. 85 respondents produced a weighted average of 2, and it is clear that **LawNet firms are opposed to this idea.** Complaints are an emotive issue, can be vexatious, and completely unconnected to the quality of work, professionalism, client service and so on. The 'wrong result' in a litigation case might cause a complaint when none could possibly be justified by any rational observer.

Our members believe that complaints can be a powerful way to enhance reputation, simply through the way they are handled. Most businesses in the legal sector and elsewhere have plenty of anecdotal evidence of situations where a complaint, handled well, has generated a high level of customer advocacy.

Earlier in this response we have described LawNet’s approach to **measuring customer satisfaction, and we believe this is much more compelling for consumers than measuring complaints.**

Consumers are used to using sites such as TripAdvisor where they have developed a ‘nose’ for accepting that the odd poor review can happen, judging the venue on how it handles those, and taking the balance of opinion. Review sites, (as opposed to price comparison sites) can have a role to play in the legal space, so long as the business model is such that legal services providers wish to engage with them.

Question 14

If we do publish first-tier complaints data, what (if any) context should we provide?

We asked our members: *‘If the SRA does publish first-tier complaints data, what additional information would help potential clients to understand the data and make informed choices? Please select all that you feel would be helpful.’*

Results:

ANSWER CHOICES	RESPONSES	
Number of complaints in the context of number of matters handled per annum	84.09%	74
Percentage of complaints resolved to client satisfaction within 30 days	77.27%	68
Percentage of complaints referred to LeO	63.64%	56
Analysed by work type	53.41%	47
Any Other (please specify)	22.73%	20
Total Respondents: 88		

The verbatim comments at Appendix Five contain some other contextual ideas as well as more general comments on the proposal to publish complaints data.

We also asked members: *‘If the SRA does publish first-tier complaints data, how far back should it go?’*

Results:

ANSWER CHOICES	RESPONSES	
up to 1 year	52.27%	46
up to 3 years	40.91%	36
up to 5 years	5.68%	5
more than 5 years	1.14%	1
TOTAL		88

Verbatim comments at Appendix Five are relevant here also.

Section Five – Individual solicitors working outside LSA-regulated firms

We began by asking our members a more fundamental question than those in your consultation: *‘Do you agree with the SRA’s proposal to allow solicitors to provide reserved legal services to the public outside of the firms they regulate?’*

LawNet members are almost 100% opposed to this idea, and they struggle to understand the motivation behind it. Topmost among their concerns is the confusion that would inevitably arise in the minds of consumers, who cannot be expected to make a distinction between solicitors working in regulated firms and those who are not. The SRA claims to regulate in the public interest and in line with the regulatory objectives of the Legal Services Act 2007. This particular proposal seems to us to run entirely contrary to ‘Protecting and Promoting the interests of consumers of legal services’.

Objections and warnings regarding this proposal have been given by the Law Society, the Legal Ombudsman and the Legal Services Consumer Panel, and LawNet similarly urges the SRA to scrap this proposal, where it is difficult to see any upsides for consumers, yet it is rife with opportunities for consumers to become confused and for the reputation of solicitors to be damaged.

Notwithstanding these strongly held views, we asked the following questions from your consultation plus one of our own.

Question 15

Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

94% said Yes. Verbatim comments at Appendix Six.

Question 16

Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

97% said Yes. Verbatim comments at Appendix Six.

LawNet Question

The SRA proposes that clients should be made aware of the absence of (1) compulsory PII and (2) access to the Compensation Fund ‘at the point of engagement’. This is not defined in the consultation. What do you believe it should mean?

The three suggestions receiving the most votes (in order) were:

- On websites and any other collateral alongside that individual’s / non-LSA Regulated entity’s pricing information, and in the same font size
- On initial contact from a prospective customer
- At the point of instruction

The concept underpinning this whole Consultation - of requiring those you regulate to offer up price information ahead of any contact with a prospective client – should, if these proposals were to be

implemented, be extended to these warnings about lack of protection. Consumers should be made aware **before** getting in touch with such a provider, that the usual protections to be found in dealing with Regulated firms will not be available to them.

Indeed, **we believe that solicitors operating in unregulated environments should be compelled to continue to warn consumers about this lack of protection at each subsequent stage**, i.e. upon making an enquiry, in any discussion or correspondence, and at the point of instruction, should they take such a precarious decision.

Summary

LawNet firms are enlightened legal services businesses who are not interested in preserving archaic practices or in protectionism. They understand that **they are operating in a dynamic and competitive market**, which is highly fragmented with no evidence of market domination or of systemic poor practices. Their **commitment to quality and client satisfaction** goes beyond words; it can be proved through their externally-assessed accreditations and their activities in the area of client experience.

They know that **Price is not the prime factor in choosing a legal services provider**, and that legal services are often sought out at a time of stress or difficulty. People's engagements with solicitors are infrequent, very important to them and sometimes emotional. Buying a lawyer is closer to buying a parachute than it is to buying petrol – it simply is not a commodity and few would choose the cheapest.

Our members believe the proposed Price publication obligations are misguided, difficult to implement without risking confusion, and not in clients' interests.

Our members see some benefits in publishing information on regulatory status and protections, though with reservations on the impact of the SRA's name in relation to these.

The digital register is relatively uncontroversial but **should be improved to include appropriate accreditations.**

LawNet members are confident about the incidence and handling of complaints in their businesses, but context is critically important, as is an understanding of the unique characteristics of the legal services market and the justice system.

We are deeply opposed to any proposal that would permit a solicitor to provide reserved legal services to the public from within an unregulated entity and believe these proposals should be abandoned because they are entirely contrary to the interests of consumers. We hope that the SRA will accept the feedback it has received from us and other organisations regarding this. If the proposals should proceed, then consumers must receive strong, highly visible and repeated warnings about dealing with solicitors in unregulated entities.

As a group representing 65 England & Wales firms and some 2,000 lawyers, mostly solicitors, LawNet can reasonably claim to represent the thinking of medium-to-large SME firms. If, after assessing responses to your consultation and as you begin moving towards developing your strategies and actions for the future, you want to engage with us to test ideas, or to participate in workshops, we would be pleased to hear from you.

Supporting independent law firms for over 25 years

LawNet is passionate about helping its firms grow and be successful in their individual markets. Our aim is to help you achieve excellence, win and retain clients, reduce costs and increase your profitability

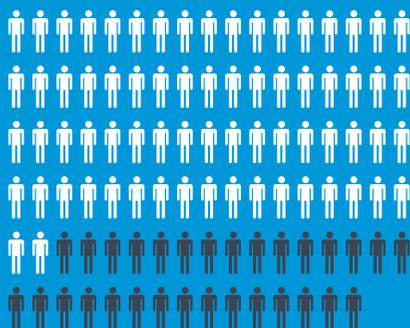
Today, with more than 70 member firms ranging in size from £2M - £25M in turnover, the network delivers a range of powerful benefits for its members and their clients.

Not for profit



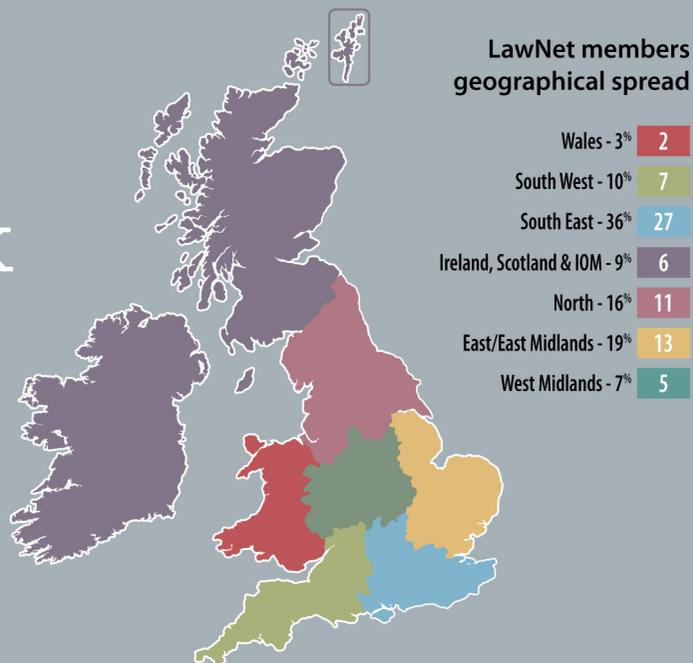
Investing in member services and delivering value

NEARLY **70%** have been members for more than 10 years



Inside the network

Percentage of firms by turnover



Insurance

Play Video



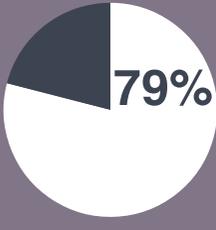
£1bn+ PII scheme
LARGEST
group placing in legal sector

- Unique, stable, consistent scheme
- Broad, flexible policy - beyond SRA's MTCs
- Superior claims handling

On average, members pay **2.51%** of fee income for **£10m** of cover



30%
pay < 2%



79%
pay < 3%

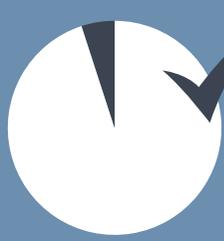
Learning

Play Video

Technical updates, skills-based management & leadership



Over **60** events each year



95% rated seminars as good/excellent

Helping firms meet SRA Continuing Competence regime

Shaping agenda of future learning in sector

Networking

Play Video

Hard to measure, valued the most



openness referrals exclusive Eurojuris strategic alliances
sharing family collaboration
community practice groups
annual conference challenge ideas mentoring
member-only

Risk Management

Play Video

Helping you embed a risk management culture

Every firm committed to LawNet's ISO.9001 standard (LQS)



LQS incorporates ISO, Lexcel and OFR requirements

Free quality management review

A varied package of support for your COLP, COFA, MLRO



Business Support

Play Video



Reducing costs through exclusive member discounts with vetted suppliers

Improve performance through annual financial benchmarking with tailored dashboard and free specialist feedback



Award-winning centrally funded client care package including £3,500 of tools to measure and improve your client experience

Marketing Support

Play Video

Freeing up your marketing staff with benefits that include:



High quality individually branded magazines keeping you in front of your SME clients worth over £10,000



Range of customised service brochures in your firm's livery worth c£2,500



Exclusive news stories and expert articles to win PR coverage worth £6,000 per year

All reducing the cost of staying in touch with your clients



Raising your profile and recognising your achievements with national industry award scheme

SRA CONSULTATION

LOOKING TO THE FUTURE – BETTER INFORMATION, MORE CHOICE

RESPONSE FROM LAWNET LIMITED

APPENDIX TWO – Verbatim comments from LawNet members on Section One

This could lead to confusion by the client if fixed fees were advised when they might breach a CFA and be responsible for all costs incurred.

Clear Information is important and will hopefully educate clients as to what we do and how complex some of the issues are that we deal with

Lawyers provide a SERVICE and not a commoditised PRODUCT. Therefore I feel that it is not possible to give accurate pricing. As a Finance professional I have often found that clients do not tell you everything to start with so it is not possible to quote a fixed price.

Focussing on residential conveyancing - although fixed fees are used by most firms, publicising these fees may lead to clients not understanding that these can still be subject to change depending on the details of any given transaction.

We already do this

There are some real positives that could come out of price transparency but equally, it may well lead to price being the only competitive decision point rather than quality of service. This could lead to a "race to the bottom", commoditisation, poor outcomes for clients and a further de-skilling of the professional legal sector.

Whilst it is technically easy to add information on the website, the estimates would have so many caveats that it would be meaningless. Consumers have made it clear that price is rarely the primary factor, so the information would not have a huge impact on client decisions about which firm to choose. Differing views of an 'inclusive' price will make comparison difficult, especially for property work, but even for Lasting Powers of Attorney (some firms automatically include registration, but others add it as an additional cost). It will not be comparing eggs with eggs, but comparing eggs with omelettes (the latter having lots of added extras!).

Price is only likely to be one factor for a consumer in deciding who to instruct. It seems unhelpful to prioritise price over other issues (such as quality of service etc.)

Pricing by itself is meaningless and our firm does not compete on price. The cost takes no account of expertise, urgency, complexity and many other factors. It is also a complete opposite to the current position. This looks like a race to the bottom. We have seen how in the past residential conveyancing has competed on price but takes no account of the complexity of buying property. Will makers make an issue of being cheap but then charge for storing a will but no account of the fact that they lack PI cover for example. Any pricing has to be on a level playing field. People do not use solicitors based on price alone.

In some of the practice areas identified (particularly in financial disputes arising out of a divorce), the range of pricing varies considerably according to the complexity of the particular client's matter and the point at which it may be resolved (e.g. First appointment? Final hearing? By consent order, without a hearing at all?), rendering any range published as part of a pre-set price guideline so wide as to be entirely meaningless or (at worst) misleading: Many clients will inevitably optimistically assume that their matter falls into the simpler end of that spectrum, whereas robust costs advice given by a solicitor based on experience may identify particular complexities and accordingly arrive at a different conclusion. Advising on costs itself is a professional skill within the conduct of litigation; it is not fair to abdicate responsibility for that assessment and hand it over to the lay client - particularly given that, again as is suggested in the consultation, consumers do not typically have sufficient experience of the sector to assess pricing of legal services. Further, as the consultancy notes, firms are already required to provide up-front and transparent pricing information and keep the client informed fully of costs incurred as the matter progresses. This is best discharged through direct communication with the client from the outset of the matter and is far more accurate as it takes their particular circumstances into account and additionally is on-going. I question whether publishing a template pricing model which may or may not apply accurately

to a particular client meaningfully complements robust costs advice based on professional experience.

Family - timescales and costs vary depending on many factors, including how the other side behave and Court delays. It is impossible to pre-judge this. The information on the website would end up being very unclear, so as to protect the solicitors.

It must be remembered that not all matters are straightforward and setting a price at the outset won't always take into consideration unforeseen circumstances

We are not selling widgets Every matter will need contingencies explaining We risk a race to the bottom There is the risk of complaints if client cannot discern the difference between true transparency and qualified potentially misleading information

Providing information is fine, but the point is that decent lawyers assess each client as individuals, and although there will be similarities, it is important not to generalise to ensure they get the best service. Most clients are already provided with information about likely timescales, what has been agreed and who will carry out the work - I don't think that is controversial.

The purpose of this proposal is to give the consumers choice in their "purchase" of legal services, the actual effect will be to harmonise prices between firms achieving the exact opposite of the intention.

The potential problem would be with having a published price where the work involved will vary depending on the complexity of the matter. The published price would need to have so many caveats that it may end up being of little value.

I work in family law, and whilst it is easy enough to suggest a fixed fee for a divorce, the related financial remedy can range hugely in costs. Clients will look at the reputation of a firm and enquire regarding the costs. Making the costs transparent entirely on a website (ours are all within a client care letter) will mean that businesses may struggle - with costs published, consumers may look towards who can offer services for the cheapest amount, compromising

the need to look at a firm's reputation and therefore putting firms who may charge more but offer a better service at a disadvantage initially. It creates competition between firms which is not in consumer's interests. It is about quality of the work carried out not just cost.

Any costs can only be estimates with the power to increase if the matter becomes complicated

It assumes that services, clients and opposing lawyers are generic. They are not.

We are not a price-driven business. We compete on the level of service and personal attention we give clients. Focussing on price, is irrelevant to us as a business.

We are already tightly governed in relation to terms and conditions, pricing and service. There needs to be a balance between price and service - they are not mutually exclusive but are not always the same thing either. It should be about real choice and not a checklist of prices

Any price will be full of caveats

I think it will be difficult for potential clients to compare like for like because the price may include different things, including a very different level of service. Matters such as probate vary so very much in how much work is required that although a pricing principle can be advertised, it is unlikely the client will have a true price until the lawyer has gone through everything in detail. Even for Wills, it needs to be very clear what is, and is not included in the fee indication given.

The ease with which the proposals can be put into place will depend entirely upon the flexibility within those proposals. It will, for example, be relatively straightforward to list the minimum price we would expect to charge for the preparation of a simple Will. However, that price will not apply in many cases and the clients will not be aware, in advance, which category their circumstances or instructions will place them into. Will there be capacity questions, can we assume the instructions will not change throughout the retainer, can we assume IHT planning is not required and that ongoing trusts will not be established by the Will? There must be sufficient flexibility within the proposals to ensure that any such complicating factors

can be taken into account and that the published starting points for charges cannot bind solicitors unnecessarily. If that is the case, however, I cannot see how the requirement to provide that information will help consumers. With respect to 'Probate/Estate administration', this covers such a broad category of work that listed prices will be all but meaningless. An instruction to obtain a Grant based on information supplied by the client and an instruction to deal with the full administration of a multi-million pound estate will be covered by the same category - as will everything in between. The range of potential fees will make the information meaningless. Simply listing expected charges based on the value of an estate may, similarly, be unhelpful: a mid-value estate holding complex assets or involving an element of risk or dispute will cost far more for solicitors to deal with than a more valuable estate holding a property and cash balances. The canvas is too broad for any meaningful information to be boiled down into a glib answer.

Easier said than done.

I believe that it is imperative that we, as a provider of legal services, make this information available to the client at an early stage and that it is important that the client has as much knowledge as is possible as to the overall cost of whatever legal advice they are seeking and action that they may be considering taking.

I don't understand why it is necessary. It takes absolutely no account of quality and simply leaves competition at the level of lowest common denominator - price.

As each case may have complications that are unseen or unknown up front prices can only ever be guides

While this may work for very straightforward, commoditised services, it risks being misleading for anything more involved. It goes completely against our philosophy of tailoring service and pricing options to suit each individual client. It risks pushing prices up for consumers as firms seek to avoid being caught out by failing to price for greater complexity. It undermines the 'trusted adviser' expertise which solicitors' firms should be offering.

Few other sectors have to comply with such regulations. Let the market decide how it deals with such issues.

My concern is we already supply this information to clients. Publishing in a wider context gives information to others including competitors and hackers.

It is not the information itself that is the challenge it is ensuring consumers of legal services can be certain they are comparing apples with apples. Otherwise there is a risk that consumers will shop on price alone and quality of service will deteriorate

My concern on debt recovery is that while as a law firm we can and should be totally transparent in pricing, we compete against so called debt recovery specialists who have lots of hidden charges for the unsuspecting consumer. I would be resistant therefore to over regulation for the legal service (again!)

The proposals move away from what law firms should be focussing on; client care and not ruled by price. By asking firms to publish their prices, we are turning into comparison sites which denies us the opportunity to demonstrate the different service levels we can provide for our clients compared to our competitors. Publishing prices does not take into account the complexities of these transactions, a price for someone's Will for example will be different to another's depending on their estate, their family arrangements etc, and to publish a price which may then turn out to be different after we have met with the client will lead to unmanageable expectations and possibly long term reputational damage. I agree with the principle of being transparent with clients on price, but publishing on our websites is not the right time in the client journey to be doing so.

It is a reasonable expectation but in relation to contentious work, costs can be driven by the other side which makes it challenging to agree a fixed fee at the outset.

It would enable the client to make better choices about who they instruct if pricing were the only criteria.

The problem is a concern that headline prices don't easily allow for other distinguishing factors to be taken into account by consumers such as quality of service.

Some work such as PI financial disputes on a divorce are so open ended - often it depends on the nature of your client or your opponent that it would be almost impossible to provide accurate or meaningful information For fixed fee transactions e.g. conveyancing/ wills it is quite easy As for providing a breakdown of the processes again in litigation matters this will be very difficult and would potentially lead to reams of pages Unless all firms are providing information using exactly the same process profile I cannot see that any realistic comparison of charges could be made Even now with conveyancing quotes we always give fixed fee quotes for standard residential which are all inclusive of all charges/disbursements Other firms ostensibly do the same- often they are cheaper but then there are hidden charges as extras e.g. filling in the SDLT return

Quality is a big factor as is protection of the client. The SRA focus on price alone is misguided.

SRA CONSULTATION

LOOKING TO THE FUTURE – BETTER INFORMATION, MORE CHOICE

RESPONSE FROM LAWNET LIMITED

APPENDIX THREE – Verbatim comments from LawNet members on Section Two

This information is already available to our clients

The SRA must put most of their efforts on ensuring that all firms providing legal services are professional, qualified, experienced and have integrity, rather than relying on insurance and complaints processes to compensate the clients when things go wrong. If not, we just add further encouragement for people to complain and make claims.

Most of this is already obligatory in the letter of engagement.

The SRA badge has limited value as solicitors already include reference to their SRA authorisation and their number on websites and in communications with clients. Firms also publish complaints procedures, which refer to the LeO.

Firms should be providing this information in any event

What other profession has to tell clients how to complain?

We spend a disproportionate amount of time dealing with vexatious complaints. Details of our PII cover appear in our client care letters.

Clients only ever want to know about any of these things if anything goes wrong, in which case we provide all this information anyway within our retainer letters and Ts&Cs.

Transparency of process is important but there is a risk that the encouragement to complain overrides the service and professionalism of those in the profession.

Although it is important clients know they can complain, and how to do it, I think the information about the ombudsman can be provided if it becomes relevant, not as standard from the outset.

This information is already available when needed. I do not think that the majority of clients will pay any attention to it.

Clients expect this

We already have all of the above in place and feel that this was the right step to take at the time that it was taken.

It might be better to emphasise the quality of our service rather than start by implying that it will all inevitably go wrong!

Why given the rules that bind us on protection of data are we expected to publish more and more data about our businesses?

SRA logo would have to be accompanied by a nation-wide advertising campaign so that it would mean something to the consumer. Why advertise the Legal Ombudsman any more? They charge a legal firm £400 for every claim, whatever the merits and many of the complaints are not legitimate and no way of getting the money back.

It would enable clients to make informed decisions on whom they intended to instruct.

As a solicitors firm we don't (yet?) have a choice of regulator. Until there is a choice and until there is one regulator who emerges as "better", I struggle to understand the benefit to consumers of an SRA Regulated logo.

Some clients are price led - They are pretty good about finding out how to complain If firms without the logos do the work cheaper I suspect they won't be bothered ...until something has gone wrong and there is no insurance

SRA CONSULTATION

LOOKING TO THE FUTURE – BETTER INFORMATION, MORE CHOICE

RESPONSE FROM LAWNET LIMITED

APPENDIX FOUR – Verbatim comments from LawNet members on Section Three

I have no problem with a digital register provided that the information held is secure and accurate

Is this not already available on the Law Society website?

The key issue is quality and giving clients the confidence and comfort that they are buying legal services from a firm that is duly authorised and not sanctioned. Most importantly, are they dealing with who they think they are dealing with, not a phoenix company or fly-by-night service providers in it for a quick buck.

The more personal information that is made available the easier it is to impersonate a firm or individual for the purposes of fraud. Not sure I trust the SRA to protect my personal data.

It sounds very similar to what already exists. I would question the value being added by doing this (presumably there will be significant cost).

As the consultation notes, most of this information is already available and published elsewhere.

I think clients should be able to find out this information, and they can already find most of it for individual solicitors. I do think there needs to be an awareness of the possibility of this information being misused for fraudulent purposes though.

the only firms/individuals that would not be happy to share this information are those with conditions etc attached to their practices. As much of this information is already publicly available there really ought not to be much to object to in this proposal.

None

Most of this is in the public domain anyway (if you know where to look!)

I am relaxed as above but with the prevalence of fraud I don't think making more information available is a positive step

good idea

I think it will be helpful. No objections to it existing, just caution that only upheld complaints are registered, so a solicitor is not prejudiced by unfounded complaints.

I see no issue with this type of information being made public

The more that can be done to protect both clients and legal firms from "rogue" practicing the better.

It is a blunt tool to achieve an outcome that is not necessary.

Disciplinary- would be concerned that spent items are not posted

Is it much different to that already stored on the internet through the Law Society, companies house etc free of charge?

Can only improve client focus when seeking legal services.

Whilst generally happy I do think disciplinary information should be added at the end of such process (if proven) and not if allegations are mid-way through the process or turn out to be dismissed.

SRA CONSULTATION

LOOKING TO THE FUTURE – BETTER INFORMATION, MORE CHOICE

RESPONSE FROM LAWNET LIMITED

APPENDIX FIVE – Verbatim comments from LawNet members on Section Four

In general and relating to context:

I am at a loss to understand why we need to break down the data into these categories and how in doing so will benefit potential clients. Such data is open to manipulation and non-reporting making the data meaningless.

Total complaints against all firms.

each complaint is likely to be fact specific and unless there is a very defined trend it is very difficult to put complaints and their resolution into context.

I do think that context is important, but the statistical relevance of this is questionable. It will also tend to discourage firms from setting the threshold as to what is regarded as a complaint at a high level. (By lowering the threshold to that of customer dissatisfaction one gets a better appreciation of near misses, and understands a lot more about how cases are handled from the client perspective.)

Which ones were legitimate complaints, not just people unhappy with a result

This is a dangerous area in so far as publication of complaints data could be taken out of context, misinterpreted and even used by the media in a way that could damage a firm's reputation. As the market becomes ever more de-regulated the diversity of service providers will mean that the SRA would not be comparing apples with apples.

Whether complaint was upheld or not.

It has to all be seen in context.

I do not agree with publishing complaints data, simply because vexatious and frivolous claims will be included and this will be detrimental to the firm

It is easy to give the impression by non-contextual data that a firm is generating a significant number of complaints. If the context is given then it should avoid firms being tarnished unfairly as offering a poor service. Likewise this publicity may convince firms not to allow their complaints to progress to Leo, which although laudable can lead to firms compromising to the increasingly sophisticated and complaining client merely because they are worried about their complaints record rather than because the complaint has any merit.

Individual basis. Some complaints which may be received can be completely unnecessary and should not actually be treated as complaints. These types will paint a bad picture of a firm whom should not actually be subject to such scrutiny.

Complaints burden a business due to resource required to resolve them and also reputational damage. I cannot think of any other service business where complaints data is published. Also most complaints are not upheld so the information provided could easily be misinterpreted

Number of complaints where there was no case to answer. Someone could seriously damage a firm's reputation with frivolous complaints. The fact that complaints are resolved to client satisfaction could mean anything - the solicitor was sacked, they received compensation etc but it needs to be clear where the complaint was not justified in the first place.

It would be important for the firm to be able to link complaints made about the firm by the same individual to avoid campaigns by individual clients designed to tarnish the firm's reputation.

Nature of complaint, I.E cost related or service issues

How many complaints were upheld

Some kind of benchmarking.

Complaints without some form of indication whether they are unfounded, vexatious, harassing or just wholly without merit will give an unbalanced view of complaints generally and when weighed up against the volume of files that a firm handles which do not lead to complaint.

Where complaints are unfounded. Solicitors attract unreasonable clients occasionally and it is often those clients who go on to make unfounded complaints which could still affect the firm statistically. The SRAs proposals could lead to firms becoming even more selective about who we take on and on what terms. That in turn could lead to some clients being unable to obtain legal support.

Many complaints are unwarranted and can be headed off before they become a problem

How far back should it go?

There are too many changes in businesses from year to year so that would make multi-year comparisons irrelevant. The growth of different types of service firms would also make cross-comparisons between firms impractical.

More than one year can show if a number of complaints in a year is an anomaly, while also allowing a firm to 'move on' if a particular fee earners or circumstance caused past problems.

I feel that up to three years is a good balance between going back far enough to be able to show comparisons where lessons have been learned from mistakes made but not so far back as to show complaints made where, perhaps, there has been a change of staff members and change of rules, regulations and practice. I would not, however, consider up to five years as being too far back.

It is black and white data. Does not take account of the "unreasonable client" who would distort the data.

By highlighting complaints data you are focussing on the negatives of the firm and not the positives, and doing so without context of the client involved.

to give a fair view

SRA CONSULTATION

LOOKING TO THE FUTURE – BETTER INFORMATION, MORE CHOICE

RESPONSE FROM LAWNET LIMITED

APPENDIX SIX – Verbatim comments from LawNet members on Section Five

Allowing solicitors to provide reserved legal services outside of SRA Regulation

This dilutes the expertise of the legal profession and will make solicitors more susceptible to commercial pressure from the businesses that employ them.

I think this will potentially allow people to operate more 'off radar' and it will be hard to regulate.

Again - more choice does not guarantee quality or service. We work in an under-served market so it's not more choice that's needed but more confidence in the existing providers. Promoting competition is a good thing but would be much safer for clients if there were stronger barriers to entry rather than promoting a free-for-all outside well-established parameters. Creating more opportunities for diverse provision of reserved legal services will confuse the public - they don't understand it now so this would make it even worse.

Clients never start a retainer thinking that they will have to make a claim for poor advice and will not be fully aware of the implications of using a solicitor without PII.

This proposal if implemented could cause significant problems for transactional matters involving numerous solicitors. In such cases where one solicitor did not have PII it would render undertakings potentially meaningless. This is likely to only transfer costs to those clients instructing a solicitor with PII. The costs of PII is clearly an issue but I doubt this is the answer. Would it not be better for the SRA to focus its attention on how the PII market operates?

The broad proposal has merit in that it encourages competition, but presenting clients with "cheaper" options without professional indemnity protection and compensation fund cover is fundamentally unfair to the consumer: As the recent experience with McKenzie friends in the family division indicates, there is a real risk that clients will opt for the cheaper option not understanding the risk of relying on advice and/or representation from someone without PI cover and access to the compensation fund (even where this is stated prominently).

Solicitors operate in the way that they do because they have chosen to. Clients like to know that this protection is in place. If we are not regulated then why be a solicitor?

It's a terrible idea.

The public deserves to be protected by the benefit of PII insurance and the compensation fund. There is a risk that the solicitors that provide their services outside of their firms are exactly the sort that require insurance and the back-up compensation fund on the basis that this protects the public from those solicitors as does the benefit of a firm.

This will produce an imbalance in the market-place because regulated firms have much higher costs and PII demands placed on them which may not be required by individuals.

The public will be price driven as seems to be the motive of the SRA and wont care about regulation or compensation until something goes wrong and then it is too late. Either regulate us all and make sure we are PII insured, or none of us. Make it a level playing field

If someone has applied to the roll to be a Solicitor they should be bound by the same rules and requirements as all Solicitors regardless of the entity employing them.

Clients use solicitors because they feel safe that they will be protected should anything go wrong. The ability to advise without suitable PII cover in place removes that protection and it is unlikely that the clients will appreciate the difference that will make until it is too late.

Could damage reputation of the profession.

We should focus on how to make legal services more accessible to all. This proposal will create a two tier structure. Those with money will go to those who offer the protection of insurance cover and those less well-off will be forced to choose the riskier alternative. This is not looking after the consumer

Clients will not be able to differentiate adequately and this will affect the reputation of the entire profession.

Those carrying out reserved legal services should all be subject to the same regulatory environment for the public's protection

We will have a two tier profession and when things go wrong and there is no insurance all firms/ solicitors will be "tarred with the same brush" Also there is the potential for abuse by those employing such solicitors - they will have uninsured staff who may be put at risk themselves for claims

Requiring solicitors working in non-LSA regulated firms to advise clients of the absence of compulsory PII

But, I don't think that is enough. The SRA should not be encouraging clients (often vulnerable clients) to buy cheaper services and not have the protection of a compulsory PII cover. Client dissatisfaction and anger will create a backlash against the entire sector and make its reputation even worse than it is today.

If the broader proposal must proceed, this should certainly be a requirement. This should be clearly communicated from the outset and alongside any information provided on charges.

This proposal should go further in that the solicitors should explain exactly what this means.

Although I suspect most clients will not understand what that means to them

Should not be permitted at all

This move would be dangerous and many clients do not read what we send them. This could easily be missed by a busy client

But really they ought to have PII

If it has to happen clients should be clearly made aware

Requiring solicitors working in non-LSA regulated firms to advise clients of the absence of access to the Compensation Fund

Yes, but the same response to the previous question. Informing clients that they have little or no protection is a critical issue BUT if the service is cheap enough they may opt for it anyway and hope they don't have a problem later. False economy! Wrong solution!

Probably meaningless to most clients.

What about informing other professional with whom the solicitor in question is dealing? We also need protection.

Again, If this broader proposal must proceed, this should certainly be a requirement.

Likewise these solicitors should explain exactly what this means

Although again most clients will not appreciate the significance of this

Defining the 'point of engagement'

If the market is going to be opened up to such providers then it must be raised at the earliest possible opportunity and preferable pre-engagement or even earlier e.g. within marketing literature and on websites. BUT, it still seems totally inappropriate, if not perverse, that to improve choice and integrity, the SRA is going to allow firms to offer such services that have little or no protections for clients and justify it on the basis of price competition and choice.

It should be repeated at the various stages.

Point (1); however "the point of engagement" continues on to instruction (point (3) and therefore through point (2)). It should not in any case mean point (4) given the risks involved to the consumer.

It should be displayed prominently on their website and all communications with the client - not hidden away in t&cs. It is possible that no pricing information is provided enabling these individuals to avoid the necessity of providing this information. If a client chooses this type of engagement on the basis of price they should understand what that costs saving achieves - ie a potentially shoddy service with no ability to rely on insurance if it goes wrong.

At each of the first 3 steps and explain what it means too

And also on initial contact and/or point of instruction

It should be in bold and a larger font size but this was not an option made available. This should be seen as an important term.

Two issues - whether it will be regulated/enforced and if the lack of insurance means a cheaper estimate, the consumer will normally go cheaper as it does not understand fully the implications.

SRA CONSULTATION

LOOKING TO THE FUTURE – BETTER INFORMATION, MORE CHOICE

RESPONSE FROM LAWNET LIMITED

APPENDIX SEVEN – Verbatim comments from LawNet members on overall Consultation

The sector is facing more and more regulation, more competition, diverse forms of delivery and an inexorable rise of alternative DIY services and yet, the only factor that the SRA seems concerned about is PRICE - there is far more to it than that!

Allowing solicitors to offer a reduced service (one which is not regulated and not protected to the same degree) for a lower price point is fundamentally at odds with the CMA's concern(which the SRA cites) that providers cut corners to appear more competitive on price as consumers are "unable to judge the quality of the services provided". Reducing the level of protection provided to the consumer in order to offer a lower price is surely the worst corner to cut as the consumer is left with little, if any, protection. I question whether the SRA's proposed solutions (first among which is the digital badges) will address the risks posed by allowing providers of legal services to operate without insurance or compensation fund access.

Disaster waiting to happen. Uneven playing field. Everyone should be regulated to the same extent.

This is a bad idea. If there is no insurance to meet legitimate claims it will reflect badly on the profession as a whole.

It is a load of consumer led nonsense which won't result in clients getting a better choice price or service I have in mind will writers- they practise partly uninsured and charge enormous prices for simple wills which are often wrong and tie clients into excessive storage charges Clients still think solicitors are more expensive and it would appear untrustworthy Surely the Law Society should be working much harder on this

Overall I feel that the SRA's proposals are going to lessen the protection offered to users of legal services and open clients to a "Wild West"



LawWorks Policy Consultation Response

Looking to the future: Phase two of the SRA's Handbook reforms

Introduction

We welcome the opportunity to comment on phase two of the SRA's handbook reforms which focuses on authorisation and enforcement. Our response to this consultation builds on comments we have already made on the SRA's strategy, our response to the phase 1 consultation, and to other recent SRA consultations, including consultations on waivers, and on the SQE and training reforms. Our response focuses on matters relevant to pro bono and access to justice. A theme to our response is that existing regulations and regulatory approaches have sometimes inhibited rather than enabled pro bono and the provision of free legal advice.

About LawWorks

LawWorks is the operating name of the Solicitors Pro Bono Group, an independent charity which offers a range of support and brokerage services to bring together lawyers and law students, who are prepared to give their time without charge, and individuals and community groups in need of legal advice and support. LawWorks has 20 years of experience in supporting pro bono clinics and has seen the impact that good quality, timely legal advice has on clients' wellbeing, particularly the provision of advice on a range of legal issues, including housing and homelessness, welfare benefits, immigration, debt, childcare, employment and domestic violence and other related legal and money matters.

General Comments

The proposals for the new handbook demonstrate continuity in the SRA's direction of travel towards a "principles based" and "outcomes focused" handbook, bringing together and rationalising the Code of Conduct and other professional standards and rules in one place, and framed around risks and regulatory proportionality. We are supportive of the SRA's overall approach, however it is essential that in the process of regulatory development the SRA works in dialogue with the Solicitors profession. This is not to deny the importance of leadership, but to caution against getting too far ahead of those who are regulated. It is also important that the SRA grounds its proposals in the regulatory objectives of the Legal Services Act: to improve access to justice, increase public understanding of citizens' legal rights and duties, supporting the rule of law, promoting the public interest, protecting consumers, and encouraging competition in a strong and diverse legal sector adhering to professional principles and standards.

This consultation sits alongside a further set of consultative proposals *Better information, more choice* on mandatory price-reporting in response to last year's market study by the Competition and Markets Authority (CMA).¹ Given that we have less expertise on these matters, we have incorporated comments on the second consultation as an appendix rather than in a separate response. We also note the CMA's second recommendation was that a longer-term review of the regulatory framework should be carried out to ensure that it becomes more flexible, with regulation being better targeted at higher-risk activities, more proportionate and cost effective in its approach, and with a shift away from regulation attaching solely to professional titles.

LawWorks' interest in the regulatory policy agenda is primarily around access to justice, pro bono and how solicitors work in a not-for-profit context. Context is relevant and important, the key point being that solicitors provide pro bono voluntarily, in good faith and without financial remuneration, most often for vulnerable individuals (or charities and not-for-profit organisations supporting them) not eligible for legal aid and otherwise unable to pay. We entirely support the principle that pro bono work must be delivered to the highest professional standards, indeed this principle is written into the Pro Bono Protocolⁱⁱ (supported by the legal professional bodies) along with guidance on the level of supervision, expertise, and required client care. But it is equally important in a risk based regulatory framework for regulators to understand the specific context of pro bono work, the organisations through which pro bono is delivered, and that the risks may be different to those applicable to commercial practice (for example solicitors acting pro bono won't generally hold client funds).





Although there is no regulatory requirement on the legal profession to undertake pro bono work or deliver a set number of pro bono hour targets, pro bono is now commonly seen as an essential part of being a lawyer. It is an opportunity to use professional skills, experience and knowledge to support the most vulnerable in our communities to access justice. As the Law Society's Pro Bono Charter says "a commitment to access to justice is at the heart of the legal profession and that pro bono work, as one method of achieving this, is an integral part of the working lives of solicitors."ⁱⁱⁱ In our response to the SRA's recent strategy consultation we argued that encouraging pro bono could help the SRA meet its own strategic objective of "providing solicitors and firms the flexibility to innovate and better meet the needs of members of the public."

We assess these reforms on the basis of whether they assist access to justice, including the contribution of pro bono. As the SRA knows, the challenge of unmet need is massive; legal needs research from the *Civil Justice and Social Survey* and other research, has consistently shown that around a third of the population have unresolved civil legal problems at any one time, and that a significant percentage (around half, although the figure varies in different surveys) get no legal advice at all in the face of multiple law related problems. This is evidence of a supply and demand mismatch – or market gap. Put simply there is a lack of services appropriate to the needs of low income consumers, a problem which recent legal aid cuts and restrictions have accentuated. The SRA's overriding focus should be on what policy, regulatory and market interventions and innovations can best address these issues; in this respect the handbook reform is a bit disappointing.

Review of the Handbook and the role of guidance

LawWorks welcomes the SRA's overall policy approach of simplifying the Handbook, for example by removing duplication of rules at the statutory level. We also welcome the SRA's indication that it intends to produce guidance which sits outside its rules, but it is essential that such guidance is clear and helpful. Clear guidance will be especially important for small firms and sole practitioners, and for solicitors working in pro bono clinics or in projects managed by small non-profit agencies, as these organisations do not have the compliance resources of big law firms. The SRA could benefit from working directly with organisations like LawWorks in the design, development and communication of bespoke guidance - for example in relation to pro bono practice issues. As an example of where guidance could be more appropriately framed we cite the SRA's guidance below (see box) on in-house regulations. In light of this we encourage the SRA to consult with stakeholders before issuing guidance around the handbook and/or statutory rules, so as to ensure that it conforms to the SRA's settled policy goal of reducing unnecessary regulatory barriers and simplifying rules.

Example of unclear guidance: In-house solicitors and pro bono

As regards the type of guidance the SRA envisages, a recent example concerns section 15 of the Legal Services Act 2007 governing, among other things, the carrying on of reserved legal activities by employees of non-regulated organisations (e.g. in-house solicitors):

<http://www.sra.org.uk/solicitors/code-of-conduct/guidance/guidance/Does-my-employer-need-to-be-authorised-by-an-approved-regulator-.page> .

Whilst we welcome the good intentions of the SRA in relation to this challenging piece of statutory language, we are not wholly convinced that the guidance is the sort of clarifying quality needed, combining as it does a mixture of factors to consider, some of which are helpful while others are less so. The relevant parts of the guidance are:

In deciding whether you are providing reserved legal services in your capacity as an employee, you may wish to consider whether, for example, you are required by your employer to carry out the activities in question, are held out as carrying out the activities on behalf of the employer and/or are paid for the time spent doing them. When considering whether you are, conversely, acting independently, it may also be relevant whether you are providing the services during working hours and/or from your employer's business premises.





...you will want to consider the extent to which the employer is itself involved with the activities (for example, by requiring you to carry them out, or to hold yourself out as acting on their behalf) and factors such as when and where they are carried out...you may in addition wish to consider:

(a) whether your employer describes its business as including the relevant services,

(b) how regularly it provides the services, the number of employees that do so and the overall proportion of time spent on providing them

(c) the extent to which these services complement or enhance the business of your employer

(d) whether your employer provides management, training or supervision in relation to the provision of these services, or rewards you (directly or indirectly) for doing the work

(e) who provides the necessary indemnity insurance cover..”

LawWorks' concern around the guidance is that it promotes the very misapprehension surrounding section 15 LSA (and the current Rule 4:10 PFR) which has dogged the profession, namely the idea that as soon as an employer permits, encourages or supports its employees to participate in pro bono arrangements outside the organisation the activity is likely to fall within the statutory prohibition, which Parliament could not have intended. For example, whether an employer provides insurance for pro bono work undertaken by employees should not at all be determinative of the scope of the prohibition, nor any other support, such as use of IT or whether pro bono activity is undertaken inside or outside normal working hours.

Whilst we appreciate that the SRA has made a good attempt to carve out a safe space for pro bono within the section 15 LSA prohibition, in doing so it has inadvertently muddled the picture. In the circumstances, we believe that it might have been better for the SRA to have first published its own research dealing with section 15, taking in to account the views of the profession, including organisations like LawWorks that are grappling with the prohibition, and make recommendations for practice and policy. Had the SRA undertaken its own research, we believe that it would have concluded that the real answer to the challenge of section 15 LSA is a statutory amendment, (possible by way of negative resolution procedure under the Legislative and Regulatory Reform Act 2006), using its role as regulator in making recommendations to ensure the LSA is fit for purpose.

This issue is directly relevant to this consultation. Rule 4.10 of the SRA Practice Framework Rules 2011 (PFRs) was intended to reflect s15(4) of the Legal Services Act 2007 rather than go beyond it, and needs to be read in conjunction with Rule 4.16 which allows services to be provided through law centres and advice services which have the benefit of the transitional arrangements under section 23 of the Legal Services Act, and therefore don't need to be authorised in order to provide reserved legal services. In both the phase one of the *Looking to the Future* consultation (paragraphs 80 and 81 in particular), and in a previous response to the Legal Services Board,^{iv} the SRA accepted that the wording of Rule 4.10(c) on the question of "relevant services" is ambiguous, and acknowledged that rule 4 as a whole goes beyond the Legal Services Act.

We had understood that following the phase one consultation, the SRA had decided to remove Rule 4 in its entirety, and had planned to include that proposed change in this consultation, in order to remove all of the restrictions that can prohibit solicitors providing unreserved services either as an individual or from a body that isn't authorised. Although this may be the SRA's intention with its new proposals on authorisation, it needs to be spelt out and it is disappointing that Rule 4 ("in house" practice regulations) and related issues for employed solicitors are not specifically covered in the consultation document. We deal with this issue further in our response to Question 5.

The consultation also does not specifically address issues relating to lawyers working or volunteering in charities and other non profit bodies, and how proposals for the new handbook might impact on this sector especially as uncertainty remains around the future treatment of "special bodies" under section 106 of the Legal Service Act, and how long transitional protection will be maintained. Following consultations by the Legal Services Board (LSB) the position remains unclear.^v Other issues may also arise in relation to pro bono clinics, many of which will not be constituted as their own legal entities (ie not automatically able to benefit of the transitional arrangements under section 23 of the Legal Services Act). We would invite the SRA to discuss with us regulatory approaches that could allow pro bono clinics to deliver reserved activities where the





individuals advising at a clinic have demonstrated to the SRA appropriate experience and competence. We suggest it should be relatively simple to put in place some form of appropriate authorisation procedure.

LawWorks Response to consultation questions.

In this next section we respond on the individual consultations questions and issues.

Authorisation in the UK and overseas

Q 1 (a) . Do you agree with our proposal to authorise recognised bodies or recognised sole practices that have a practising address anywhere in the UK? (b). Do you have any views on our approach to overseas practice more broadly and the practising address restriction?

We do not have strong views on this issue, so our answer will be brief. We can see the case for the SRA's proposals on practicing addresses in the UK, subject to appropriate arrangements being put in place with relevant bodies across jurisdictions (ie the Law Societies of Scotland and Northern Ireland) to monitor the conduct of firms with a practising address in Scotland and Northern Ireland, and that the SRA is able to enforce effectively. We agree with the SRA's approach of maintaining the current practising address arrangements for overseas firms without any connection to the domestic firms the SRA regulates as any wider lifting the restriction could create enforcement challenges.

Supervision

Q2 (a): Do you agree with our proposal that the current requirement for firms to have within the management structure an individual who is "qualified to supervise" should be removed?

(b): If you disagree, what evidence do you have to help us understand the need for a post-qualification restriction and the length of time that is right for such a restriction?

LawWorks regards this proposed reform, as currently presented, as virtually impossible to assess or the practical impact it might have for access to justice and pro bono work. That is because the extent to which it protects the public and promotes other regulatory objectives (like access to justice) will turn entirely on the SRA's approach in practice to its retained discretion, whether or not to authorise new firms (nothing is said regarding previously authorised firms and supervisory staff). We recognise what the SRA is aiming to achieve in that the current rule 12 can be confusing, but the SRA's motivation in scrapping the rule entirely is unclear. In this regard, we note the following statement with some concern: "... the effect of the rule is to create a barrier to market entry, by preventing solicitors establishing their own firms as soon as they qualify".

If it is the SRA's intention, pursuant to its policy of opening up the market for legal services, not to refuse to authorise a firm consisting exclusively of newly qualified solicitors under existing (default) rules pertaining to supervision, then, at the very least, it is hard to see how many of the points made by the SRA in support of this reform are relevant at all to the real reason for its removal (for example, the arbitrariness of the rule or the confusions among some respondents as to the rationale). This would, in our view, represent a potentially dogmatic approach to market liberalisation. If, however, the SRA intends to exercise its discretion retained under these proposals in order to genuinely grapple, case-by-case, with the undeniable arbitrariness inherent in the current 3 years rule then we would have less objections to the reform.

This is a case of the devil being in the detail. We are disappointed that the SRA has not provided sufficient information so as to make this aspect of its reforms clear. We would, therefore, urge the SRA to provide more information so as to properly discharge its duty to consult around this proposed reform, and do so in a meaningful way.





LawWorks would support a reformed rule which permitted the SRA to exercise its discretion as regards qualification to supervise, case-by-case, consistent with the SRA's Draft Enforcement Strategy which rightly recognises the challenges for newly qualified and inexperienced solicitors: "... We recognise that certain stages in an individual's career can present a steep learning curve – such as becoming a trainee, a newly qualified solicitor, or a partner or the first time. We would expect solicitors to gain a deeper understanding of appropriate behaviour and of the law and regulation governing their work as their career progresses. And for those with more seniority and experience to have higher levels of insight, foresight, more knowledge and better judgement."

Supervision of pro bono work, for example in a Law School clinics context, is an issue that is regularly discussed at our Forums and we would welcome a discussion with the SRA on supervision issues. In our response to the SRA's draft regulations on the SQE we argued that supervising solicitors in pro bono clinics needed to feel comfortable in signing off student volunteering work as "qualifying work experience" and so there may be need for guidance on what good supervision looks like in particular contexts.

Immigration services and claims management regulation

Q 4 Do you agree with our proposal that solicitors, RELs and RFLs should not be able to provide immigration services outside of LSA or OISC-authorized firms?

Q 5 Do you agree with our proposal that solicitors, RELs and RFLs should not be able to provide claims management services outside of LSA or CMR-authorized firms (or equivalent)? If you disagree, please explain your reasons why.

We agree with the SRA's proposals on the basis that the statutory regulation of these sectors needs to be applied in a consistent way. These will also be important protections in relation to the self-employed business models covered in this consultation. As the SRA's impact assessment points out - allowing individuals to deliver legal services in claims management and immigration areas outside regulated firms goes against 'the proper policy intention of the regime'. Both of these markets have grown in response to unmet needs. The regulatory regimes for both claims management and immigration services have been developed over a period of time by statutory intervention, with a strong degree of cross-party support, in response to quite specific concerns and issues. Specifically evidence about practices, standards and consumer detriment in these sectors have highlighted the need for strong regulatory protections, so that injury victims and those in the immigration system can have improved access to justice.

"Freelance" Solicitors

Q5: Do you agree with our proposal to allow individual self-employed solicitors to provide reserved legal services to the public subject to the stated safeguards?

Subject to the issues raised below, in principle LawWorks is open to some of the benefits of this proposed reform which would permit individual solicitors to provide reserved legal services as "freelance" lawyers, for example in a chambers style arrangement or other networks, and enable solicitors to provide non-reserved services to the public from a wider range of organisations and platforms. In particular we are interested in how such a reform might enable solicitors to work more easily in non-profit contexts, community projects, pro bono and clinic settings. The notion of professionals "freelancing," including mixed portfolios of paid (consultancy) and voluntary work, is one that is already quite familiar to third sector organisations, and the freelance model is one that could have particular application to purely voluntary work. By practice and definition much pro bono may involve 'sole solicitors' (ie freelance solicitors) acting outside the protections of a recognised sole practice, or corporate practice.

We do recognise the concerns and risks associated with the proposal and the need to guard against poor or unethical practices developing in the market; clients should be able to trust in the brand title of "solicitor" with a





consistent set of regulatory protections. However as the SRA points out, this is essentially how the majority of barristers currently provide services to the public. What is more, barristers are currently open to operate both out of chambers and through a law firm style set up, and to do so simultaneously if they so choose, and are now able to provide “direct access” to the public. With solicitors increasingly acquiring higher rights of audience and undertaking advocacy throughout the court and tribunal systems, it seems appropriate to us that the SRA should consider moving towards greater regulatory alignment. Barristers' chambers are not regulated entities rather they are treated as no more than a pooling of barristers resources, often via an LLP. We assume that this model of delivery is permissible under these reforms, despite the injunction against freelancers employing people (we would invite the SRA to clarify this point). Consequently, on the face it, failure to align the regulatory landscape could lead to a comparative disadvantage for solicitors. In our view, any such differential treatment should be justified only where is clear evidence to support it.

It is important though that consumers and clients can still benefit from regulatory protections under any of the new proposed arrangements, and to rely on professional standards being upheld, including professional privilege, insurance cover, protection of client funds and data, and access to redress. So we address the more detailed issues of regulatory oversight below.

Encouraging Pro Bono

The proposed reform and the additional flexibility they bring may be capable of stimulating additional pro bono activity. In our response to the “Looking to the Future” phase 1 consultation we supported the idea of individual solicitors unconnected to an entity authorised by the SRA being able to provide pro bono services; this might include solicitors on career breaks looking to maintain their skills and experience by volunteering between employment, retired solicitors, and former legal aid practitioners. Previously we have had to rely on obtaining waivers to enable individual solicitors to participate in some LawWorks projects, so the change of approach is welcome (we refer here to our previous response to the SRA’s waivers consultation). However, it is unclear what the SRA means where it says in the consultation “We are keen not to replicate the current complex and confusing system of exceptions (special bodies, pro bono, telephone services etc.) under the SRA Practice Framework Rules 2011.”

It appears, based on the limited information from this consultation, that major regulatory inhibitors of pro bono work will still remain in place following these reforms. For example, permitting freelance working does not sidestep Rule 4 Practice Framework Rules 2011 (“PFR”), governing pro bono activity for in-house solicitors, which has dogged the in-house sector since the enactment of the Legal Service Act 2007 (from which the SRA’s rule is derived). That is because freelance solicitors would not, we assume, be able to, in effect, contract out of Rule 4 PFR by working for non-regulated commercial organisations in their individual capacity (i.e. freelance). We therefore seek greater clarity from the SRA on these issues, especially the question of whether Rule 4 remains. Annex one provides no detail or clarity on which rules are to be retained, removed or combined with other rules.

Ultimately, the success or failure of the reform to stimulate pro bono will take time to establish. We are interested though in how the model might be usefully developed in a pro bono context, especially for free legal advice clinics where the clinics themselves are not separately constituted legal entities, and may be driven through the initiatives of individual solicitors. Clinics in the LawWorks clinics network are independent and operate through (or associated with) a diverse range of organisations - 9% of clinics are attached to firms whilst 42% of clinics are attached to Law Schools, 22% are attached to local Citizens Advice services and law centres, and the remaining 27% are attached to other not for profit organisations and community projects (not all of which are covered by the ongoing “special bodies” transitional provisions of the Legal Services Act). There are a significant number of solicitors operating in a clinics context. Information from clinic co-ordinators show that last year there were 1,731 qualified solicitors and 506 trainees volunteering in the clinics network. Issues sometimes arise about the regulatory position of the pro bono clinics sector, and we are aware of some examples from registered members of the LawWorks clinics network where advice has been sought from the SRA’s ethics helpline on the boundaries of permissible work for clinics as between the boundaries of





unreserved and reserved legal activities. There are some clinics in our network which have been formed by highly experienced and qualified litigation solicitors as individuals, coming together for example through church groups and other civic associations, and whilst signed up to good practice standards such as the Pro Bono Protocol and operating under appropriate PII cover, are nevertheless uncertain of their scope to get involved in county court matters due to the unclear regulatory status of the clinic as an entity.

That there should be any uncertainty in respect of authorisation of competency in such instances is a matter of some concern from an access to justice perspective. Given the well documented problem of litigants in persons in the civil and family courts impacting on the work and effectiveness of the justice system, we would suggest it is the SRA's duty to enable appropriate pro bono resources to be directed towards where they are most needed. We therefore urge the SRA to address these wider regulatory issues for pro bono practice on a more comprehensive basis. In order to give effect to its regulatory objective to improve access to justice, this may require that the SRA take a more "purposive" interpretation of the Legal Services Act (for example in respect of the "conduct of litigation"), or advance new regulatory flexibilities and approaches to the issue.

Regulatory oversight and guidance

In order for this reform to work, regulatory burdens should be kept at a minimum, whilst ensuring the highest standards of protecting the public and consumers, and maintaining professional standards. By way of comparison, Registered Sole Practitioners ("RSP") are required go through a rigorous process of registration, in which they are required to make submissions around the major risk centres, such as conflicts of interests, financial stability and complaints handling. Barristers are also required to adhere to minimum terms and conditions in respect of individuals' professional indemnity insurance. Whilst we accept the SRA's point that the Minimum Terms and Conditions applicable to firms of solicitors (including Registered Sole Practitioners (who are able to employ staff)) may not be appropriate, we do urge the SRA to consider adopting appropriate Minimum Terms and Conditions for freelancers. Other areas where there are risks to be managed include health and safety law, data protection, property, commercial contracts, training on money laundering and Solicitors Accounts Rules. There will be a need for information and guidance on these and other areas. We look forward to seeing more of the detail regarding how the SRA intends to strike the right balance so as to manage these risks, whilst freeing the market place for legal services to develop more innovative models.

One potential problem is that professional indemnity insurance may not be required of freelancers carrying out non-reserved work; currently anyone can provide legal advice (i.e. undertake non-reserved activities) to the public, with many of those providers not subject to similar PII requirements. Arguably solicitors could be placed at a comparative disadvantage as compared with other non-regulated legal advisors were the requirement as to PII to be maintained in respect of freelancers undertaking non-reserved activities. This is a policy challenge for a liberalised legal market that the SRA needs to consider. A possible solution might be to regard legal advice as a core activity, i.e. one which in principle should be treated as akin to a reserved activity under the Legal Services Act 2007 with the aim of achieving greater consistency in protection across different types of activity. However, this is not a change that we would advocate; how advice itself is regulated has very significant implications for access to justice, and we would not want to see a more burdensome approach adopted to the not for profit sector than already exists. Early advice has an important role to play in avoiding dispute escalation and resolving problems in a timely manner as the Law Society's recent report emphasises,^{vi} so we would not want see regulators act in any way which might potentially restrict the supply of legal advice.

We welcome the SRA's reassurances in respect of the applicability of the Compensation Fund to freelance solicitors. Furthermore, these reforms do not (nor could they) affect the jurisdiction of the Legal Ombudsman to hear complaints about solicitors. The Ombudsman has the power to require disclosure of solicitors' details, as well as information from any sort of arrangement or entity regarding advice given to the public as well as the reasons, regardless of who is the nominal service provider.

In order to encourage the highest standards for freelance work through chambers style or other arrangements – should the proposals be introduced – we urge the SRA to adopt Practice Management Guidelines,





specifically tailored towards self-employed solicitors, as well as considering promoting standardised best practice indicators, such as, by comparison with the Bar, the Bar Mark or the Quality Mark, as well as tailored Equal Opportunity Policies. Further, we urge the SRA, working with the Law Society, to develop off-the-shelf template protocols and constitutions that can be adopted by freelancers working via a chambers structure, governing intra-chambers, member-to-member issues, including decision-making processes. We would also hope that positive cultural norms (again by comparison to the Bar) might emerge, including a culture of pro bono, to play a role in driving up standards and commitments to obtaining justice for clients. It is not possible to predict with any certainty what cultures and norms will develop among solicitors' chambers and acknowledge the experimental nature of these reforms, but we urge the SRA to take an active role in supporting the profession through any transition.

Character and suitability

Q6 (a) What are your views on the policy position set out above to streamline character and suitability requirements, and to increase the flexibility of our assessment of character and suitability?

(b) Do you agree with our proposed transitional arrangements for anyone who has started along the path to qualification under the existing routes when the SQE comes into force?

Subject to some concerns, LawWorks broadly agrees with the principle of deciding character and suitability issues on a case-by-case basis, and agree with the SRA's premise of focusing mandatory character and suitability testing to take place at the "point of entry" to the profession. We do however see real benefit in the current system of rules which signal the profession's attitude to behaviour that falls short in a very clear way. Such clarity is useful in terms of public perception of a sector where there is already a significant imbalance between service provider and end-user, a large degree of trust inherent in a solicitor-client relationship, and an ongoing challenge over the issues of diversity in the legal profession, with the concomitant problem of perception among some communities. As just one example of where the problem of "trust" with the legal profession has been cited, we would mention the Lammy Report into treatment of, and outcomes for, BAME individuals in the criminal justice system.^{vii} We would be interested in hearing more about how the SRA proposes to operate a much wider discretion, especially around issues which may involve discrimination.

We support (as does the Law Society) the proposals for moving suitability tests for students from a Period of Recognised Training (PRT) to the point of applying for entry to admission to be a solicitor, and align with the approach adopted for apprenticeships. Essentially this aspect of the proposed reform is a re-packaging of the current system of early advice for students in respect of character and suitability. Indeed, the SRA intends to continue to support a programme of initial advice but is at pains to ensure that such advice is not perceived as, in effect, a final decision; in particular by making it clear that mitigating or rehabilitating factors would not have been factored into any such early stage advice.

Enforcement

Q 13 Do you agree with our proposed approach to enforcement?

LawWorks broadly agrees with the SRA's proposed approach to enforcement. Having said that, we would have expected the SRA to specifically consider the impact, if any, of freelance work on its revised enforcement strategy, for example when it discusses its approach to signalling disapproval of firms, as well as or in place of individuals. Consequently, we urge the SRA to set out what, in its view, are the challenges (if any) that a chambers style or other business model arrangement represent to its enforcement strategy, as well as how it envisages its enforcement strategy will apply to the new context.





Appendix: Better information, more choice

The SRA's second consultation is on the information that is freely available to members of the public about solicitors and their services. Following recommendations of the Competition and Markets Authority, this consultation proposes changes requiring the legal profession to provide better information on price and quality of service with the aim of encouraging the public to compare legal services across the marketplace and to facilitate a good choice of appropriate legal services. This includes:

- making it mandatory for all solicitors and law firms to publish their prices for commonly-used legal services and describe exactly what that price includes
- requiring all solicitors to publish clear, simple information about complaining if something goes wrong
- introducing a new SRA logo that solicitors will need to display, as a quick indicator to people of the protections that are in place if they use a solicitor

The requirement on firms to publish their price for services and a description of the services offered will be limited initially to a select number of legal services such as conveyancing, wills and probate, family, employment tribunal and personal injury, and the new proposed regulations will require firms to publish the required information on their website. The proposals also include requirement for firms to publish data on the first-tier complaints they receive and their areas of practice. This information will also be made available to re-publishers, such as online comparison sites. Firms will be required to make information on SRA regulatory protections available – including introducing a mandatory digital badge that verifies that a firm is regulated by the SRA. In addition, the SRA is proposing to build a digital register to hold key regulatory data about SRA regulated solicitors and firms and make it available to the public, and for use by solicitors in bench-marking their services against other legal service providers.

LawWorks broadly supports the overall objectives of these reforms to achieve greater transparency in the legal services market for consumers, especially for consumers on low incomes. Again we assess these reforms from the perspective of improving access to justice. Increasing the availability of timely, relevant information to help consumers to make informed choices in the legal services market and obtain more affordable legal services – which is a key SRA objective – can better enable access to justice. However, marginally lower cost overall doesn't necessarily assist the most disadvantaged.

The SRA will need to adopt a proportionate approach to implementing these reforms, including non-regulatory methods and guidance on the minimum standards sought. We hope that the SRA can work with stakeholders in producing guidance to help support these changes, using tools such as the Law Society's Price and Transparency Toolkit which includes tips on how to provide the right information at the right time to clients.

Transparency can also play a role in enhancing the profile of pro bono work in the profession, and the impact of firms Corporate Social Responsibility policies. With insufficient recognition of the range, quality and quantity of pro bono work that firms and the solicitors profession undertakes, there is a potential role for regulators in raising the profile of the pro bono work delivered and its impact. We would therefore welcome any positive messaging from the regulator to encourage voluntary commitments to pro bono, such as through the Law Society's Pro Bono Charter. We are not suggesting that there should be mandatory approach to publishing information on pro bono and CSR policies, but rather a best practice approach utilising existing tools such as the Law Society's Pro Bono Charter and Protocol as a way forwards, consistent with the voluntary nature of pro bono activity.



2. About you

1.

First name(s)

Louise

2.

Last name

McKay

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Other

8.

Please specify

LegalBeagles & JustBeagle - Legal support forum and solicitors comparison website

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

The legal areas we would suggest are those where it is already more common to see fixed fees available. For many firms, it is common place to have set basic Will and LPA fees (albeit unpublished in many firms), so it would be simpler for firms to harness these standard pieces of work to deliver fee transparency.

As far as single prices are concerned, we agree disbursements need to be shown to the consumer as well as Value Added Tax. However, including disbursements in a 'rolled up' price may be somewhat onerous for firms to maintain accuracy, particularly when disbursement prices can change frequently. This would then involve work amending prices on websites and ensuring compliance throughout the firm. A simple link to the 'disbursement' figure may be sufficient as only one document or entry on a website would need amending if a figure varied, rather than potentially having to update numerous entries on a firm's website or other method of communicating prices.

Another solution to consider would be the formation an API with the MOJ providing live data for latest court fees etc. Other such API's could exist in future for stamp duty rates, local authority searches etc, if we assume that all such data registers will becoming increasingly digital in their operation.

Instant quote applications are a good idea in principle, however for small to medium size firms they may be too costly to implement meaningfully. In addition, there are a huge number of firms who do not even have websites (around 9% of regulated law firms) who would also struggle to generate either displayed fixed fees or instant online quotes. Despite the long term likelihood of all law firms operating websites, this factor will need consideration in the short term.

Initially we would suggest:-

For Consumers:-

- Residential conveyancing (limited to sale, purchase and remortgage)
- Family – undefended divorce and financial disputes arising out of divorce
- Drafting of a will
- Drafting a lasting Power of Attorney
- Motoring offences
- Employment tribunal
- Personal Injury Claimant work – explanations of scenarios they could be liable for costs and the likely costs if that were the case. What disbursements they are responsible for and any payments that can be taken from their damages if successful. All this in relation to PI claims should be in place already, so shouldn't be too onerous for firms.

Probate and Estate Administrations are more complex and less suited to fixed fee pricing so may meet with more resistance from firms. There is a need for firms to look at how services can be 'unbundled' so that fixed fees can be calculated to be both a benefit to the consumer and also enable the firm to run as a business.

For SME's:-

- Employment tribunal
- Debt recovery
- Licensing applications in relation to business premises.

In addition, SME standard company formation could be considered?

11.

2) Do you agree with our proposed principles of price transparency?

We are in agreement with the proposals around price transparency because we are the only all of market price comparison platform focused on increasing law firm participation in fixed fee pricing, to allow us to display such data to consumers and small businesses needing to shop around for legal services.

The current 17% rate of participation prevents us from giving consumers full choice. The 27% rate of shopping around among consumers is currently indicative of lack of competition and access to suitable comparison platforms. Numerous consultations have concluded this is unhealthy for the survival of the industry and that price transparency and increased digital engagement is at the heart of all recommended solutions.

Despite our support for price transparency and modernisation of the industry in this direction, we do sound a note of caution around how such transparency is delivered. It is not coincidental that the industry has been slow to adopt innovation. This is not an industry that people 'willingly' engage with. Often we are dealing with distressed purchases brought about by stressful life events. A good solicitor can positively transform the outcome of a dispute or event, so we are not supportive of approaching the problem with only a focus on price. This is not a holiday or a restaurant, this is potentially a very significant life decision which could have a huge impact on someone's life for better or worse, so we believe that any advance in price transparency should be matched yard for yard, by transparency on quality.

We are aware of the resistance of firms and the perceived dumbing down of legal services by focusing on price alone. This must not become a 'race to the bottom'. However, to bring legal services in line with all other sectors, it is only right that consumers are given access to meaningful choice and comparison for the first time.

The importance of consumer feedback cannot be underestimated when it comes to potential obstacles such as bait pricing. Consumers and businesses who use our platform will be encouraged to leave feedback after the completion of their legal work. Poor practices like bait pricing will be quickly identified and will damage the law firms' valuable reviews and ratings.

The legal sector is unlikely to embrace price transparency voluntarily across the board, but those that do so early and proactively will see swift benefits. There is wide reporting about low engagement with digital marketing within the industry which will only hold back firms that fail to modernise and adapt.

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

Large commercial firms would struggle to engage with the drive for transparency around pricing of most of the suggested services because such services do not form their core business activity. When such firms act for their clients in personal matters, it is often of a very high level of service delivery and is likely offered to ensure client loyalty and engagement. However, this in itself does not prevent the firm from offering example fees for such services they provide. There is also an argument that such firms should lead by example, even if their services are 4X costlier. Many people are content and able to pay such high fees, because the service levels that accompany the product justify that cost.

It would be preferable for all firms to participate in the scheme if they offer such services on a regular basis, if full transparency is to be achieved, all relevant firms should be included.

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

It would be helpful to include such further information to better analyse what service level a product belongs to. We operate a Level 1/2/3 system to differentiate basic services from fully managed products. It is important to be able to differentiate different service levels so that people understand the key differences to be able to make meaningful 'like for like' comparison.

Additionally, some firms are achieving low cost by using large teams of supervised paralegals. We are unaware of specific guidelines around appropriate ratios and believe this could be valuable information for consumers to understand when hiring a legal provider.

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

In principle yes, particularly with the GDPR coming into force although maybe the SRA digital badge should only be associated with those firms who have secure websites too.

However, without significant marketing of the 'scheme' in the national press, media and social media there may be little benefit, as consumers are already oblivious to the numerous Law Society accreditation schemes already out there.

There is also the consideration of the cost in setting this up and more specifically to the firms themselves. In the event that the marketing is not sufficient to actually raise consumers' awareness of the benefits of using

an SRA regulated firm, then there would be little point for the firms or the consumers to engage with the scheme.

Our platform currently only lists regulated SRA law firms. There is pressure upon us to consider listing unregulated providers but in our opinion, the total absence of formal complaints process, insurance considerations and other concerns do make us feel that now more than ever, consumers and small businesses should be aware of the protective benefits of using a regulated provider and a well-designed digital logo would assist that process.

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

All forms of advertising would be necessary including, peak viewing ads, billboard, flyers and utilise social media, FB & Twitter. If there is a cost to law firms for implementing the badge, they will undoubtedly expect a high profile media campaign to justify that cost.

It would also be prudent to work with organisations like Citizens Advice, MoneySavingExpert, and our own LegalBeagles to drive awareness of the wisdom of using regulated legal services.

Additionally, comparison sites like our own, combine our search services with guides and assistance. If comparison platforms become the new location for legal searches, they present an optimum opportunity to inform and educate its users on the benefits and protections of regulated products.

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

No, If the compensation fund is available to all but a small group of individuals as in your example at para 85. Why not amalgamate the two? If it is available to the majority it should be advertised as such. Why create 2 logos and allow voluntary display? Isn't this about informing consumers that such a scheme is available and it is then up to the firm to confirm when it would not be available?

17.

8) Do you agree with our proposals on the publication of PII details?

Would it not be more appropriate to leave as is, i.e. confirmation that PII is in place and with whom, but put the onus on the firm to provide a hard copy of the insurer's contact details within 21 days of a request from a consumer? Or if the firm has a website it should be appropriate to refer clients or prospective clients to the information on the site.

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

Yes, but if the firm has a website it could be appropriate to refer clients or prospective clients to the information on the site or make a request for a hard copy of the information, rather than increasing client care letter content further.

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes, we feel it is important consumers are aware of the full range of protections afforded by using a regulated provider, including a fully independent complaints body.

It is also important that the firm make consumers aware that the internal complaints process has to have been completed in the first instance.

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

We would support the creation of a digital register holding all relevant regulatory data about a law firm, in one location. Such information would not be held by our comparison site, but it would be highly useful for us to be able to install a link on each law firm listing, allowing consumers to quickly check any further data about a firm they are considering instructing on a matter.

6. Consultation questions: Publishing areas of practice and complaints data

21.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

No, if the proposal is to have all the information relating to registration, regulatory investigations, personnel etc in one place, it would seem sensible to have everything together and therefore include areas practiced on the digital register.

Areas of legal practice is vital information about a law firm and we can see no practical purpose to holding this data in a separate silo to other data, around complaints and staff.

If multiple separate registers are created, there is risk that confusion will result. It is important that a clear and simple strategy is adopted to make best use of the opportunity, in creating a digital register.

22.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

Complaints data should be held alongside other data about a firm, in a manner which makes it easily accessible to consumers. A digital profile for each law firm entity could host multiple 'tabs' of data. These may reflect different databases, but each should be clickable from one single digital location, within SRA environment.

We feel that all tiers of complaint data should be held, from initial written complaints through to upheld LeO decisions, if this complaint data is to be of much benefit. We do have concerns about the workload this could create for law firms. However, as so few cases proceed to LeO, there is real value in capturing the overall level of client complaints, because it may be illustrative of weaker procedures, which don't break any technical rules, but flag up general concerns for a consumer.

Overall however, we feel that only a small number of consumers will actually check such complaint data, so the small benefit achieved may not be offset if this requirement triggers increased workloads for firms and potential hostility at being forced to produce such data, with low perceived consumer benefit.

23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

It should be indicated that firms deal with complaints themselves and their policy for this will be found on their website. In addition, the information provided by SRA may not be based on the most up to date information held by the firms.

The last 2 year rather than a 3 year history seems appropriate, provided there is an indication the information is for the previous year's complaint stats that have been provided. A longer period would probably not be appropriate, due to turnover of staff will inevitably change and thus impact on the types of complaint. If a longer period of historical data regarding complaints, were deemed appropriate, then maybe an archive system could be available for those complaints over 2 years old?

First tier complaints do need to be put into context, with some explanation as to the incidence of complaints

in particular areas of law across the board and the types of complaint. Categories of complaint should be explained. In relation to specific firms; the number of cases the firm deals with in those areas, the number of complaints for the particular area and some way of indicating what the percentage of complaints is, in the particular area of law, for the firm.

The proposal for those clients who make vexatious and multiple complaints on the same matter, should be classed as one complaint is appropriate, although if there are various differing issues of the numerous complaints these should be included in the 'one' complaint.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

24.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes, definitely. It would also be appropriate to have warnings regarding the incidence of non-regulated entities and that consumers should be mindful of this. Through our work with consumers and SME's on LegalBeagles, we are already aware of dissatisfied clients of unregulated entities, taking far too much reassurance by the presence of a solicitor, in a firm offering legal services. There is poor understanding that such firms can have several hundred paralegals being 'supervised' by maybe one solicitor.

We question whether the SRA should be able to exert more influence over such individuals working within unregulated firms, to ensure that the absence of insurance and compensation is not accompanied by the further potential detriment of poor quality legal work, that is an erosive step too far.

25.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes, definitely. With similar warnings as suggested in response to Qu 15.

8. Consultation questions: The draft rules and enforcement

26.

17) Do you have any comments on the drafting of our rules?

No.

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

Improved access to information in one place for example SRA No. firm addresses, branch addresses and areas of law practiced that can be disseminated via API.

28.

19) Do you have any further information to inform our final impact assessment?

No.

LEEDS LAW SOCIETY

RESPONSE TO “LOOKING TO THE FUTURE: BETTER INFORMATION, MORE CHOICE”

This consultation response is submitted on behalf of the members of Leeds Law Society (“LLS”).

As an overview, we do not believe that the proposals set out in this consultation are necessary or justified. Nor do we believe they will increase competition or innovation as the SRA suggest.

SRA QUESTIONS AND RESPONSES

Question 1

In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

The services proposed in the consultation are all areas where, for the most part, prices are already low due to solicitors being undercut by unregulated entities. These proposed principles are likely to put further pressure on areas that are already overworked for little profit. This added burden causes a risk that the profession will no longer be able to offer these typical high-street style services and the non-regulated entities will fill the gap; we do not believe this would offer the consumer better protection or more choice.

Further we particularly note your suggestions of divorce financial disputes, employment tribunal work and personal injury matters as areas that may be subject to these proposals. However we do not believe that these are areas where it is possible to offer ‘fixed prices’ as they are unpredictable due to the contentious element.

The proposals also risk disproportionately increasing compliance and administration costs for smaller and medium-sized firms. We will address this concern further below.

Question 2

Do you agree with our proposed principles of price transparency?

We believe that the proposed principles are contained in a solicitors’ retainer with the client, which takes the form of a client care/client engagement letter (“the retainer”). Solicitors require the client to confirm agreement to the information contained in the retainer and any terms of business. Therefore the proposed principles seem to be an unnecessary additional regulatory burden placed on all regulated entities to publish information they already provide in a properly scoped retainer letter.

In addition, compulsory publication of prices may influence the decisions of consumers of legal services in favour of a lower price, above consideration of important factors such as quality, standards and protections that regulated entities offer. Therefore these proposals are unlikely to protect the consumer. There are many unknown variables at the outset of a matter that are beyond the control of the solicitor and consumer; it is important this information is communicated by an experienced solicitor so that the consumer understands the scope and basis of any price estimate that has been calculated. This further assists later down the line when the price may change because of one of these

unknown variables. The solicitor can clearly explain to the client at this stage that an unknown variable initially discussed has occurred and as such the price originally estimated has increased by £X. This type of transparency is better for the consumer and likely to result in a lower number of complaints in relation to price and communication, but it relies on the consumer engaging in a conversation with the solicitor, rather than reading standard generic information published as a “one-size-fits-all” guide.

The SRA’s approach is in fact detrimental to more vulnerable customers.

Question 3

Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

No. No area of the solicitors’ profession should be singled out for different treatment; obligations should be consistent to all solicitors in all sectors.

The proposal will be an extra burden for the smaller high-street style firms who may struggle to meet the costs that these proposals are likely to bring. The larger commercial firms are more likely to be able to absorb these costs as overheads. It should be a case of one rule for all, as the scope of work for an individual non-commercial client might be just as complex and unique as that for a large commercial client.

Question 4

Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

No. At a time when cyber security is a growing concern, it seems that firms should have discretion as to whether they publish details of all the staff in the firm. This should not be the decision of the regulator.

Solicitors already place a lot of effort into ensuring consumers have the required information about the people working on their matter and that is provided at the outset, in the retainer. On that basis the proposed information would already be available to those who become a client. This ensures consumers have this information in a manageable form at the outset, at the stage conflict and identification checks are undertaken.

It is already a requirement that the retainer letter sets out specifically who will be dealing with the matter, and their status in the firm and whether they are a solicitor level as well as charge out rates. When there is a change of personnel there is a requirement to notify the client. Beyond that information firms should have discretion as to what other information about the team is required and how this information is presented and at what stage.

Publishing such information pre-instruction will only exacerbate the potentially unlevel playing field between regulated and unregulated providers. We consider it unlikely that unregulated providers would publish information regarding the expertise of their employees.

Question 5

Do you agree with our proposals to introduce an “SRA regulated” logo and digital badge?

There is a clear need to raise awareness of what regulation means. However, we do not see what clarity this logo will give to consumers who already do not understand the protections and different roles of lawyers (unregulated, unreserved activities, freelance etc.). Consumers already assume that all legal services are regulated, regardless of whether they are provided by a solicitor or unregulated provider therefore publishing this information by way of a logo or badge is unlikely to affect the consumer.

The SRA's creation of new categories of providers with lower levels of protections only makes the task of public education more difficult.

Question 6

Do you have any suggestions as to how we can best increase consumer awareness of the logo?

There is a greater need to educate the public generally on the unreserved and unregulated activities. Currently consumers are not aware what type of 'lawyer' they are dealing with and assumptions about insurance and protections are too quickly assumed the norm. Contrary to giving consumers better choice and information, these proposals only add further confusion.

The consumers who are most likely to be price focused and choose the cheapest option are those most likely to require the protections offered by regulated entities. Invariably the unregulated entities attempt to undercut solicitors on price and the consumers who are price focused tend to be more vulnerable lower social grade consumers. This is a recipe for disaster. It is therefore more important to educate consumers of where these protections **do not** exist. If the SRA wishes to protect consumers it should take responsibility for this education. It is not for regulated solicitors who already offer the protections to incur costs and resources in providing this education/information.

Question 7

Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

We repeat our responses to questions 5 and 6 in this regard.

Question 8

Do you agree with our proposals on the publication of PII details?

We do not see what these proposals will do to assist the consumers' ability to analyse the information proposed to be provided. We repeat our responses to questions 5 and 6 above.

Question 9

Do you agree with the proposal for firms to publish details of how to complain?

This is something that is already a requirement in the retainer letter. This is likely to be more effective than publishing this information on a website. For the most part, consumers seek out complaints information at the stage they have a complaint. At this point, we would expect the consumer has already instructed a solicitor and therefore will have the terms of business/retainer containing these details.

Question 10

Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

We would question the need to publish such information on the firms' websites and we do not expect that such information would assist a consumer's choice of legal services. This information is already required to be included in the retainer letter, as required by the SRA, and we believe that the point of instruction is the most appropriate time and the retainer letter the most appropriate place for this information.

Question 11

What are your views on the proposed content for the digital register?

We are not a 'trip advisor' profession and it certainly should not be a race to the bottom on price. This type of platform does not promote healthy competition, instead it might impact on the reputation of the regulated profession and standing of legal services in the eyes of the consumer.

In addition, similar platforms do already exist and are largely unused. As such, we are sceptical about the number of consumers who would check the register to validate a firm or solicitor.

Question 12

Do you agree with our proposal to publish annual information about areas of work and to do so separately from the digital register?

We do not see what value this information will have for consumers. 'Find a Solicitor' is widely used and quoted, along with 'personal recommendation', by potential new clients making enquiries of firms.

Question 13

Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

No. Some complaints can be irrelevant and spiteful. A lot of the time, clients will raise a complaint in an attempt to receive a reduction on their bill. Such complaints do not necessarily have legitimacy. Particularly in litigation cases where complaints may be raised because the client did not 'win'. A successful outcome, a 'win', is not necessarily linked to a good service nor is a 'lose' necessarily linked to poor service or inexperience.

In addition, such proposals will penalise those firms who handle complaints well by reporting all instances. Also, there are certain areas which receive a higher volume of complaints such as conveyancing, and these proposals could cause significant harm to this area of law. Consumers may opt for unregulated entities in such services who are not required to publish their complaints data.

Question 14

If we do publish first-tier complaints data, what (if any) context should we provide?

The complaint needs to be put into context to give a clear analysis and understanding. For instance, benchmarking against something such as the number of cases handled in the department compared to the number of complaints received, but this would only be one contextual element and would not on its own make the data efficient. The impact of the complaint, the seniority of the solicitor complained about, when the complaint was raised and how it was handled are all relevant factors to give context.

As the SRA will not require sole solicitors or those working in unregulated entities to publish such information, again we have concerns that this would create an unlevel playing field.

Question 15

Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes. If the SRA is to insist on implementing these proposals, it is even more important that there is transparency and education for consumers to enable them to make an informed decision.

Consumers do not want to have to pay more for a regulated provider but expect all providers to be regulated to the same level. It should not be assumed that consumers will be able to understand the consequences of different PII arrangements. The SRA should give significant consideration to this in their wider reforms before increasing the burden on regulated firms.

Question 16

Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes. It should be a level playing field that includes sole practitioners and non-regulated entities. It is also crucial that consumers are informed of reduced protections.

However, breaches by solicitors working in unregulated entities are difficult for the SRA to monitor and as such would rely on voluntary cooperation. These solicitors are likely to be subject to a range of pressures from their firm and we question whether such cooperation would be forthcoming.

Question 17

Do you have any comments on the drafting of our rules?

We would question the use of the word 'guidance' which suggests some discretion in implementation. If it is intended these proposals would prescribe compulsory standards it is inappropriate to refer to them as 'guidance'.

Question 18

What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

The heavily prescriptive proposals set out in this consultation are likely to result in extensive and detailed information that only well-informed consumers are likely to be able to use. Consumers do

not often read the fine print or detailed terms on firms' websites meaning this volume of information is likely to offer nominal benefit to consumers and as such be a wasted use of money and resources for firms.

It might be more helpful to consumers if the SRA were to provide clear and accurate guidance on its own website and raise its own profile through marketing material. This guidance could set out the protections offered by regulated entities which provides something clear and consistent for consumers. It might be that the SRA then sets a minimum requirement that firms provide a link to this guidance from their firm's website to promote the benefit of being regulated.

Question 19

Do you have any further information to inform our final impact assessment?

As mentioned in our response to question 1, the proposals risk disproportionately increasing compliance and administration costs for smaller and medium-sized firms, of which 54% of the firms regulated are small firms (as per the SRA definition of small firms). Smaller firms are most likely to face proportionately higher costs in implementing these proposals.

Leeds Law Society would be interested to receive further information from the SRA in relation to the costs firms will incur in having to implement the proposals and on what basis the SRA believes these are proportionate.

In addition, the SRA notes in its impact assessment that the changes are unlikely to benefit consumers of a lower social grade, suggesting that the proposals will have a limited benefit for those consumers for whom price is a barrier. These seem to us to be the type of consumer the SRA should be focusing on – the ones most likely to have an unmet legal need.

To conclude

We do not believe that these proposals from the SRA are necessary or justified. Solicitors already do a good job in providing the information suggested in these SRA proposals by way of the retainer letter. In contrast, publishing the majority of this information is likely to raise the number of complaints because, under the proposals, the information will be untailored and contain so many caveats due to the nature of legal problems.

In addition we do not believe that the SRA has provided any significant evidence that consumers feel they have a limited choice of legal services. The Legal Services Panel 2017 tracker shows 71% of consumers report having a fair deal or great deal of choice and the proportion is higher in areas such as will writing and conveyancing - interestingly these are the initial areas where the SRA suggests implementation. The issue seems to be with the complexity of legal services regulation and the different tiers of solicitors being created. It would be more beneficial to the consumer to have stability in regulatory protections and legal providers so that they truly understand the difference and who they are instructing. This education should be provided by the SRA and not be the responsibility of regulated firms.

It is Leeds Law Society's view that firms should be free to publish the information they believe to be the best for their clients and their market. If that information is of value to consumers, then those firms should gain an advantage, thereby encouraging competition and innovation in the profession. There is no set way of providing information and no set information to be provided that will be of benefit to all consumers due to the variety of circumstances that arise in legal advice. These proposals risk stifling innovation in this area completely rather than increasing competition and choice.

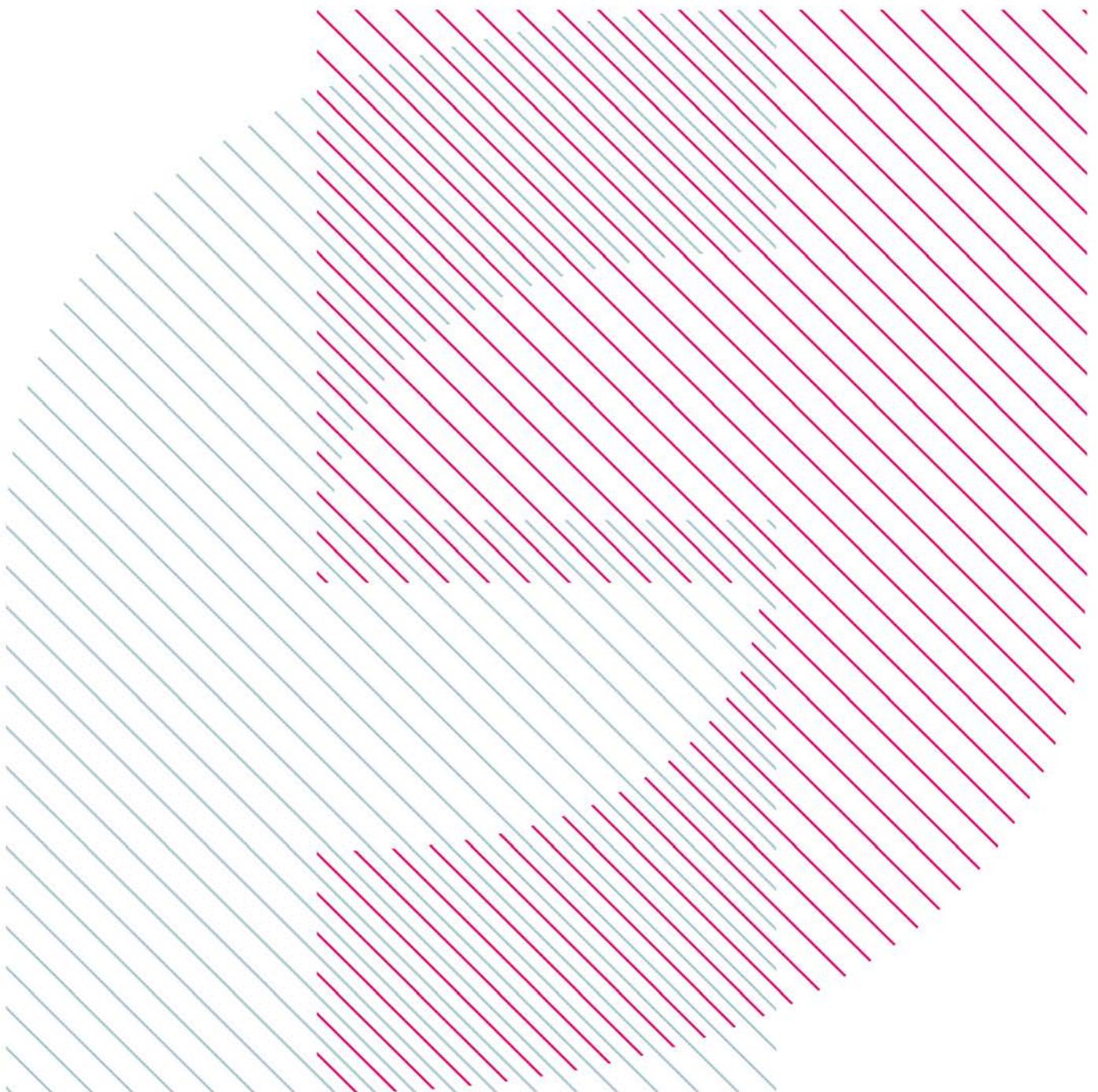


Consultation Response

Regulator transparency

measures:

SRA, BSB, CLC, CILEx, IPReg, MoF



Introduction

1. The Legal Ombudsman was established by the Legal Services Act (2007). Our role is two-fold: to provide consumer protection and redress when things go wrong in transactions within the legal services market, and also to feed the lessons we learn from complaints back to the profession, regulators and policy makers to allow the market to develop and improve.
2. We welcome the opportunity to respond to consultations produced by frontline regulators in response to recommendations in the Competition and Markets Authority report on legal services. The Legal Ombudsman has chosen to respond to these transparency measures as a whole, on account of the broad similarity of proposals. In this paper we are responding to consultations published by:
 - Solicitors Regulation Authority (SRA)
 - Bar Standards Board (BSB)
 - Council for Licensed Conveyancers (CLC)
 - CILEx Regulation
 - Intellectual Property Regulation Board (IPReg)
 - Master of the Faculties (MoF)
3. There are a small number of issues raised in individual consultations which are not addressed in others. Among these, we have identified some issues on which we wish to comment. Where these are addressed in the response, we make reference to the relevant consultation.
4. Broadly, the Legal Ombudsman feels that the proposed measures in these consultations are appropriate to the need and proportionate to the demand from consumers. We are supportive of frameworks which give consumers of legal services clear information from the outset, provided that the volume is not overwhelming and all information is clear and contextualised.
5. We also support the efforts made by regulators to avoid burdensome measures. It is not in the interests of the legal services market to make regulation difficult to manage or even detrimental to provision, and as such we believe it is appropriate to allow for flexibility wherever possible.
6. The Legal Ombudsman is keen to continue engaging with frontline regulators on these issues to offer advice, expertise and data (where appropriate) to support these efforts.

Transparency measures

Price transparency

7. We have found that complaints about costs consistently rank within our top five areas of complaint every year. This includes 'cost information deficient' and 'costs excessive', of which the former is particularly pertinent to these measures. While the percentage of complaints about costs have decreased somewhat over the past four years, they still account for around 20% of complaints to the Legal Ombudsman (LeO).
8. Complainants state in some cases that information they receive about costs can be unclear, difficult to follow, or even misleading and this results in higher rates of dissatisfaction with service.
9. We believe that providing more up-front information about costs would therefore be beneficial in managing consumer expectations about the process. Moreover, if information about how costs are calculated were to be included, this might increase consumer understanding more generally and generate greater confidence in the profession.
10. However, in the interests of better facilitating understanding, we believe that giving context to price information is very important. Openness and transparency are highly desirable in any broad conversation with consumers, but this is only valuable if the information made available is meaningful to consumers.
11. Very often pricing in the legal services market can be complex, depend on a number of factors, and change over time. It is therefore crucial to ensure that these caveats are built into any transparency framework. We are supportive of initiatives in these consultations that require price to be published with all of its dependencies. Consumers need to understand what could affect the price they pay and how this might change as the process continues.
12. Therefore we believe that hourly rates, likely disbursements, typical costs ranges and other similar information must be included in any price transparency requirements. If possible, these should also show ranges within the entity or firm, including variations by grade of staff. This will help consumers to see the nuances in costing and give them a better idea of what their final bill might look like.
13. Even in the context of fixed fee work, this should be considered. While very often this work is straightforward, there are specific circumstances in which additional fees may apply. We would be keen to see price information that acknowledges the scope of work

that the fixed fee will cover, and (by necessity) what it does not. In the context of a price that appears to cover everything, exceptions are especially crucial to note.

14. Where estimate generators are used, as suggested in the CLC consultation, there should also be appropriate context given. Consumers should be advised that these calculations are only indicative, and we would prefer to see a price list alongside any such tool, for clarity. While we do not object to the use of estimate generators, we do not believe these should be mandatory, nor act as a replacement for written costs information.
15. In order to encourage consistency of information, we would encourage all regulators to supply prescriptive templates for price publication. Ideally these would be similar across all regulators (which would require collaborative working) to reduce the onus on the consumer's individual interpretation. For consumers to feel the benefit of greater price transparency, there needs to be some comparability in the information published by different providers.
16. Moreover, the complaints that come to the Legal Ombudsman make it clear that work in this area should continue beyond simply displaying likely prices. We emphasise that updates at key points throughout the process should always be provided, especially where costs will have to increase.
17. Communication is crucial to ensuring that consumers are happy at the end of any service provision. We understand the importance of publishing price information to enable 'shopping around', but are keen that this should never come at the detriment of keeping the consumer informed throughout the process once a provider has been instructed.
18. With this in mind, we would not support the CLC in amending its rules to make estimates provided to consumers binding on the firm (should they be instructed). We believe this is likely to make it extremely difficult for CLC-regulated firms to explain a change in cost structure that may be entirely reasonable. Even with the caveat that this would be 'subject to any new information emerging that legitimately affects cost', we foresee problems with consumer understanding and expectations. It might also make the job of the Legal Ombudsman more difficult, as what is considered to be 'reasonable service' and what is required of a CLC-regulated firm may begin to diverge.
19. The aim of price transparency is to make the landscape clearer and easier to navigate for the consumer. We at the Legal Ombudsman fully support this aim and feel it will go some way towards reducing cost-related complaints. However we are eager that none of these measures should come at the detriment of direct communication between providers and their clients.

20. We are keenly aware that price is not a reliable measure of quality and as such, we would encourage providers to ensure that a range of information is posted to their website for consumers to consider. We discuss the importance of contextualisation below, and support the publication of additional information that will provide a much richer level of detail about different service providers' offerings.

Publication of complaints information

21. We are very much in support of requiring service providers to publish details of how to complain on their websites, including how to bring their complaint to LeO should the situation reach that stage. It is important that consumers of legal services understand the complaints process in order to prevent further loss of confidence in service providers. We see no drawbacks to ensuring that this information is publicly available at the earliest opportunity, although this should not replace signposting at the end of the process.

22. We appreciate the difficulties identified by BSB and CLC regarding the publication of first-tier complaints data. In order for this to be a reliable indicator of quality there would need to be some standardisation of what constitutes a complaint as well as consistent reporting of how early in the process a matter had been settled. Such reporting might also fail to reflect any improvements in firm's service or complaint-handling, and might not take account of volumes of work in specific areas of law.

23. Appropriate contextualisation is therefore crucial. Broadly we support SRA proposals to publish first-tier complaints data in the manner they are suggesting, in that publication by the regulator avoids issues around consistency of reporting and data fields. We are pleased to note that a standard definition of complaint has been established to help with this, although research suggests that there are significant inconsistencies in firms' identification and recording of complaints. We therefore suggest that guidance on identifying and recording complaints should be offered to firms before these measures are brought in.

24. We agree that raw complaints data without context is of little value. It would seem appropriate to publish the following information in order to provide this context:

- Size of firm (turnover)
- Number of transactions p/a
- Number of first tier complaints p/a
- Complaint types (to inform consumer choice in types of issues raised, e.g. if excessive complaints about costs, consumers may look elsewhere)
- Link to LeO data on ombudsman decisions

The above will help ensure that larger organisations could demonstrate that higher complaint volumes may be due to the relative size of their organisation. We also

support the proposal to report a maximum of one complaint per client per matter to avoid distortion due to repeat/vexatious complaints.

25. Furthermore, we support the research into complaint information and how this impacts consumer choice proposed by the SRA. We hope that this will ensure that any information published will help adequately inform consumer choice and is not unnecessarily excessive, as this may negatively impact the profession and confuse consumers.
26. In the case of CILEx Regulation, IPReg and MoF, we agree that publishing first-tier complaints information would be of limited value to consumers due to the low numbers of complaints received at first tier. For this data to be a sufficiently reliable indicator of quality, there would need to be greater numbers of complaints to provide some comparison level between firms. Since consumers are unlikely to be able to use this information to inform their choices, we see no reason to encourage its publication.

Publication of additional information

27. We are supportive of proposals to introduce requirements in relation to description of service, staff, stages and timescales in any legal services where price publication is required. This would have the effect of putting costs in context in a similar way to other measures previously mentioned in this response. We do not believe these points require a template, however, as we see less scope for consumer confusion or individual differences in interpretation.
28. Beyond these aspects, however, we believe that the choice to publish further information should be left to the firms themselves. The Legal Ombudsman recognises that mandatory publication of a large number of data points may become unnecessarily burdensome. Where firms do choose to publish information such as areas of specialism, we would encourage them to make this information clear and concise to facilitate consumer understanding.
29. We do not think that Public Access barristers should be required to publish the BSB's Guidance for Lay Clients on their websites. While we would strongly encourage barristers to highlight that guidance exists, (and perhaps provide a link to it on the BSB's website) we see no reason for a requirement to publish the guidance itself on their own website.

Use of logos/digital badges

30. Broadly we are in favour of regulators developing digital badges or logos to provide clear indication that firms are regulated. However it would seem sensible not to seek to provide a great deal more information through these badges. We are in favour of regulatory status being communicated, but are concerned that any further information could cause greater confusion amongst consumers.

31. More particularly, in response to CILEx Regulation, we would advise that only items a) and b) (that is CILEx Regulation website link and that the firm is authorised) be provided through the digital smart badge they propose.
32. We would encourage further analysis of the effectiveness of digital badges in signposting to consumers. While we are supportive of initiatives that aim to simplify the legal services market for consumers, their utility should be proven through research. As yet it is not clear whether these do facilitate understanding of regulatory status (or any other information). We welcome any opportunities to engage on this matter further, and note SRA proposals to start research into this area.

Single digital register

33. The Legal Ombudsman is fully supportive of efforts to create a single digital register of common fields across all regulators, and we look forward to contributing our own data. We are in favour of a single source which collates several different measures across consistent data fields for use by third party intermediaries. We hope that this will help to avoid mistakes, gaps in information, lack of clarity and poor contextualisation on such third party sites.
34. We are optimistic about the value that comparison websites could add to the legal services market, provided that the information they supply is complete and balanced. There would be no advantage to consumers if such sites claimed to be an excellent way to 'shop around' for a legal service but then failed to represent the range of providers accurately. In particular, we wish to avoid a situation in which complaints are brought to us that relate to inaccurate information displayed on a third party site, for which service providers cannot be held responsible.
35. We are therefore keen to be involved in this project to ensure that information provided will be useful and consistent. We will continue to engage with regulators about the information we could supply to add value to the single digital register, within the parameters of our statutory restrictions.

Legal Choices

36. We believe that refreshing the Legal Choices website would be hugely beneficial for consumers. It was intended as a hub for legal information to increase public understanding and help consumers navigate legal services, and we believe that these are important objectives. We are confident that in working together, stakeholders in this project can develop the website much further and ensure that relevant, up-to-date information is available in a user-friendly manner.

37. As such, we are eager to be involved in the process. We look forward to participating in discussions as part of the steering group for Legal Choices, and to contributing our own data, factsheets and consumer guides for future content.

Conclusion

38. Thank you for the opportunity to comment on proposed transparency measures arising from recommendations of the Competition and Markets Authority legal services market study. In this response we have considered consultations from the following organisations:

- Solicitors Regulation Authority
- Bar Standards Board
- Council for Licensed Conveyancers
- CILEx Regulation
- Intellectual Property Regulation Board
- Master of the Faculties

39. For greater ease and clarity, the Legal Ombudsman has chosen to issue one response to all consultations on this matter. Where particular issues have arisen from specific consultation papers we have made reference to the source.

40. Taken together, we welcome the improvements and innovations put forward in these consultations. We believe that with certain safeguards in place transparency measures should improve consumer experience of legal services and still allow providers to concentrate on delivering their core service.

41. We look forward to discussing these issues further, including in meetings of the Remedies Programme Implementation Group and the Regulators Forum.



Sent by email only to betterinformation@sra.org.uk

20 December 2017

Dear Sir/Madam

Looking to the Future: better information, more choice.

The Legal Services Consumer Panel (Panel) welcomes the opportunity to respond to the Solicitors Regulation Authority's (SRA) consultation on its transparency measures.

The Panel would like to start by commending the SRA for a progressive collection of proposals. These proposals have the potential to address transparency deficiency in the sector. We are particularly pleased with the SRA's leadership role in a number of important areas e.g the Legal Choices website and the publication of complaints data. More importantly, we welcome the SRA's plans to apply the learnings from consumer research and testing to these proposals.

Overall, the Panel found the SRA's transparency measures to be well considered. However, there is an undisputable shortcoming with regards to information on quality. In our Open Data report¹, the Panel highlighted the need for quality information to sit alongside price transparency. The need for quality measures has not been addressed sufficiently in our view. We would like to see the SRA address our concern on this issue.

We also believe that the SRA's proposals would benefit from a clear communication and compliance strategy, both of which are missing from the consultation document.

We hope our reflections on the questions aid in the finalisation of your decisions.

Reflecting on the consultation questions

Question 1: In which of the services suggested do you think we should proceed initially with requirements for price publication and are there other additional categories that we should consider?

We broadly accept the SRA's arguments for opting to focus on specific areas of law in the first instance. We are particularly pleased that these areas include a mix of

¹ [Open Data in Legal Services, LSCP, 2016](#)

commoditised and non-commoditised areas. Nevertheless, we are of the view that the SRA's proposals should include an area of high consumer vulnerability. The lack of transparency in areas of high consumer vulnerability e.g. immigration services, could have a disproportionate effect or compound the challenges faced by consumers navigating these areas. We note the SRA's arguments against including some of these high consumer vulnerability areas in its first phase. The SRA has said that the role that price transparency can play in asylum, housing problems and or mental health law is limited, because these services are more likely to be provided by the not-for-profit sector or at legal aid rates. While the Panel broadly accepts this position for some areas e.g. asylum or mental health, this argument does not readily apply to immigration services. In May 2016, the Panel published a report² identifying asylum and immigration, family relationships, and housing, as areas for regulators to prioritise. Therefore, we would like to see both family and immigration services included in the transparency requirements.

Question 2: Do you agree with the proposed principles of price transparency?

Yes.

Question 3: Is there a need for any specific exemptions from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

The Panel is not convinced by the argument that price transparency 'serves little use' for corporate clients. On the contrary, we believe that every well run business should want or demand price transparency for the services it procures. We accept that the Competition and Markets Authority's (CMA) recommendations focus on whether the market is working for ordinary consumers, as well as small businesses. However, for the sake of consistency, we believe that the SRA should ensure that its requirements apply across the board.

Moreover, the Panel believes that the long term success of these proposals would require a significant shift in culture. It would therefore be counterproductive if a different culture exists amongst solicitors in larger corporate firms.

Question 4: Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

Yes. The Panel is in full support of the approach outlined by the SRA. That said, the consultation document is silent on how the SRA proposes to use consumer testing to inform and strengthen these specific requirements. In its consultation document, the SRA referenced the Panel's publication on information remedies³. In that report, as well as in our Open Data report,⁴ we explained the importance of consumer testing

² [Priority Areas of Law, LSCP, 2016](#)

³ [The Development of Information Remedies in the Legal Services Sector, LSCP, 2016](#)

⁴ [Open Data in Legal Services, LSCP, 2016](#)

for the presentation of information. We noted that the volume and density of information particularly matter, and that it is difficult to predict how consumers will react to, or use, information. Therefore, regulators must consider very carefully the efficacy of information remedies by investing in consumer research, testing and evaluation. While we are assured that the SRA's pricing requirements will be informed by consumer research and testing, it is unclear if, and how, these important criteria would be applied to service information.

The SRA proposes to limit the requirement for service information to the same areas it will mandate price transparency in. The SRA proposes to do this with little explanation as to why service information should not readily apply to all areas of law. In our view the consumer need identified by the CMA warrants the SRA to mandate service information in all areas as soon as practicable.

Question 5: Do you agree with our proposal to introduce an “SRA regulated” logo and digital badge?

The Panel acknowledges that a logo can be a useful and easily recognisable visual symbol for consumers, where there is high awareness of the logo. However, we would like to warn against the proliferation of logos in the sector. Legal services regulation is already a complicated landscape with multiple regulators. Therefore, there is a danger of multiple logos adding to consumer confusion, especially if other regulators decide to develop their own logos. And we know that others are consulting on this exact proposal.

The Panel however acknowledges the SRA's reasons for moving away from a logo and using a digital smart badge on websites. This digital smart badge would provide a live feed to the regulator's website, confirming the regulatory status of the individual or firm. In principle we have no objection to this approach.

Question 6: Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Communicating to increase consumers' awareness of the logo (bearing in mind our caveats about logo confusion) should be part of a wider exercise in communicating to key stakeholders. Its aim should be to increase awareness and understanding more generally and include pricing, quality, making comparisons, rights privileges, etc. Communication should be approached as a coherent whole.

Question 7: Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund and a voluntary logo?

The Panel does not agree with the proposal to introduce another logo to denote the existence of a Compensation Fund, in addition to the logo denoting regulatory status. The SRA has acknowledged that logos are generally ineffective unless accompanied by high consumer awareness. Any logo would therefore require a concerted effort, and resources to raise consumer awareness. The expectation that consumers will

learn and be empowered to engage with multiple new logos is unrealistic in our view. Our view is given in the context of other regulators' plans to introduce logos, which means that within a short space of time consumers could be asked to grapple with at least seven logos.

The SRA acknowledges that respondents to its discussion paper⁵ were split on the usefulness of such a logo, it some expressing the view it would exacerbate consumer confusion. The Panel shares that concern. Moreover, we are not convinced that such a logo would help consumers understand their legal protection, especially when this protection is not an automatic right of access to the fund. We also note that this idea has not, to our knowledge, been tested with consumers.

Finally, all the legal services regulators operate a compensation fund. We have therefore suggested to the SRA, and elsewhere, that a single logo denoting this fact may be more useful than various logos highlighting the point.

Question 8: Do you agree with our proposals on the publication of PII details?

Yes. The Panel agrees with the SRA's proposals as outlined in the consultation document.

Question 9: Do you agree with the proposal for firms to publish details of how to complain?

Yes. The Panel fully supports the SRA's proposal.

Question 10: Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes. The Panel fully supports the SRA's proposal.

Question 11: What are your views on the proposed content for the digital register?

The Panel commends the SRA's progressive proposal with regard to combining regulatory history data with conduct information. In our Open Data report⁶ we noted that although regulatory data is available across the sector, a key weakness is that it is scattered and not easily accessible. In that report, we recommended that regulators should do more to bring together regulatory information in a meaningful way. A starting point would be to link basic and conduct information. We are therefore pleased to see the SRA doing this, to some degree, in its proposed digital register.

In our Open Data report,⁷ we also said that there is an increasing need for regulators to work together to produce one digital register for basic and conduct information across the sector. We said regulators should explore whether the Legal Choices

⁵ Where this idea was first floated.

⁶ Ibid.

⁷ Ibid.

website could be the host of such a register. The Panel would like to see the SRA take a leadership role by galvanising other regulators towards a sector wide digital register, hosted on the Legal Choices website.

Question 12: Do you agree with our proposal to publish annual information about areas of work and to do so separately from the digital register.

The Panel agrees with the SRA's proposal to publish first-tier complaints data and annual information about areas of work. However, it would be a missed opportunity if these pieces of relevant information were published outside the digital register. While the Panel notes the SRA's argument that the purpose of the register is to provide 'real time' information, we take the view that the register does not need to be restricted in that way. We know that complaints data and areas of practice can directly inform a consumer's choice, and while this may not be 'real time' information, it is nevertheless relevant to the overall picture of a firm. A clickable tab explaining that the information is not 'real time' information would be sufficient for most consumers.

Question 13: Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

The Panel agrees with the SRA's proposed approach to publishing complaints data. As it stands, none of the legal services regulators publish complaints data and the sector is far behind other regulated sectors. We therefore welcome the leadership role the SRA has taken in this regard. We are particularly pleased with the SRA's determined effort to engage and work through the challenges of contextualising this information.

Question 14: If we do publish first-tier complaints data, what (if any) context should be provided?

The Panel has consistently said that contextualisation of complaints data is important for consumers and businesses. We accept that it is a challenging task, which may not be perfect at first try. We are therefore reassured by the SRA's commitment to evaluate all its proposals at the appropriate time.

We agree that publishing information at firm level is optimal. There is a wealth of experience from other regulated sectors which the SRA should start with. Our report on Open Data⁸ highlights how complaints data can be contextualised, drawing on learning from other sectors. This learning can be adapted to the legal services sector with additional input from legal services providers, consumer groups, and intermediaries.

⁸ Ibid.

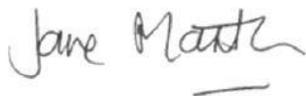
Question 15: Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

The Panel agrees with this proposal. We would however emphasise that it is important for consumers to get this information at the pre-engagement stage. It is also important that the possible implications for the consumer are clearly spelled out.

Question 16: Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

The Panel agrees with this proposal. Again, we would ask that this is mandated at the pre-engagement stage. It is also important that the possible implications for the consumer are clearly spelled out.

Yours sincerely

A handwritten signature in black ink that reads "Jane Martin". The signature is written in a cursive style and is positioned above a short horizontal line.

Dr Jane Martin

Chair



SRA Consultations

Looking to the Future: Phase two of our Handbook Reforms

Looking to the Future: Better information, more choice

Response by Leicestershire Law Society

Leicestershire Law Society
Non contentious business sub committee
December 2017

RESPONSE

Our geographical legal sector area Leicestershire and Rutland is heavily populated with the smaller entities (niche, sole practitioner, small High St LLP) many owned by ethnic minority solicitors and looking after vulnerable individuals.

Drawing on that specialist knowledge we have read both Responses submitted by The (national) Law Society and endorse everything they have said.

In particular our feeling is that individual clients will not understand the difference between a regulated and insured firm and an unregulated and not necessarily insured provider. Our view is that an SRA logo indicating regulated status for regulated entities will not be sufficient when unregulated firms cannot be required to declare unregulated status. Whilst the legal sector is not averse to fair competition we consider that this arrangement would not offer a “level playing field”

We are also sceptical about the value of advance information on pricing particularly in contentious matters. Such information on the website prior to meeting the individual client would have to be hedged about with so many qualifications as to render it meaningless.

About Leicestershire Law Society

Leicestershire law Society was founded in 1860 as an organisation for local solicitors. Its current objects include representing the interests of its members locally and nationally. Further information can be found on our website www.leicestershirelawsociety.org.uk.

2. About you

1.

First name(s)

Ann

2.

Last name

Murphy

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Law society

8.

Please enter the name of the society

Liverpool Law Society

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

LLS have reservations in respect of the price publication requirements, for the reasons that are set out in more detail in response to question two. As such, they do not feel that price publication should be proceeded with.

If price publication is introduced, comprehensive guidance would be needed as to exactly what is included in respect of a particular service. By way of example, in respect of conveyancing, which is often cited as an area where price transparency could work, it would be necessary to distinguish between registered and unregistered land. There would also need to be some mechanism for reflecting the level of fee-earner that would be dealing with the matter for the price published; paying £250 to have a house purchase dealt with by an experience conveyancing partner might well prove to be much better value in the long run than paying £200 for an inexperienced paralegal to deal with it.

LLS feel strongly that ancillary relief proceedings would not lend themselves to price transparency, given that fees are often increased by the parties' own (sometimes unreasonable) conduct; the potential effect of such a factor would be impossible to predict at the start of a retainer.

11.

2) Do you agree with our proposed principles of price transparency?

LLS understand that the objective of the proposals is to try to ensure that consumers will be better informed about the choice of legal services available to them. However, LLS do not think that the price transparency proposals will achieve that. Furthermore, LLS do not consider that this is an regulatory area and note with interest that the services the SRA have suggested to proceed with initially do not on the whole involved reserved activity.

It is difficult to envisage how consumers will be able to make an informed choice about the services available to them if the only information that is published about a particular service is the price. Whilst it is acknowledged that firms will be able to give more information if they choose to do so, LLS envisage that price publishing is likely to give rise to the involvement of price comparison websites. What control would firms then have over the information published on those sites alongside the price of their services?

LLS also have concerns about small, regulated firms who cannot afford to keep their websites updated as prices change e.g. if they use a web publisher.

Adding this extra burden on regulated entities is another example of how the overall regulatory proposals will give rise to a two tier profession. LLS are extremely concerned that the proposed price publication regime will make regulated firms less competitive and that non-regulated entities will just use the published information to undercut them. Put simply, it could precipitate a 'race to the bottom'.

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

Yes, there should be an exemption for firms dealing exclusively with large commercial clients. The exemption could be defined by reference to percentage turnover from individual, lay clients.

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

LLS feel that it would be very difficult to give information about stages and timescale in a one size fits all way for certain types of work e.g. divorce and ancillary relief proceedings.

Often, timescales are outside the control of the regulated entity because of factors such as court listing times, the conduct of the parties themselves and delays by third party service providers such as HMLR, expert witnesses etc. It is also extremely difficult to give an accurate timescale that will apply to a matter before meeting with the individual involved and understanding the particular circumstances of their case or transaction.

The real concern that LLS have in respect of this proposal is that, in trying to give generic timescales based upon work type, regulated firms could well end up inviting complaints if it transpires that a matter takes longer than envisaged. As set out above, that can easily happen through no fault of the firm but a consumer who has chosen the service based upon speed is unlikely to be interested in the explanation.

As regards the proposed requirement in respect of stages, LLS question whether consumers really have the appetite for that kind of information. Their experience of dealing with consumers suggests that whilst they tend to be interested in when their matter will be concluded, they are considerably less interested in the stages that will be gone through to reach that point. If this requirement were to be introduced, guidance would be needed to ensure that firms present information about the stages of a claim/transaction in a similar way, so as to assist comparison.

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

LLS do not agree with the proposal.

LLS have two main concerns:

1. Practical implementation could be costly.
2. They consider the underlying rationale to be flawed. LLS appreciate that the intention is to highlight to consumers which firms have the benefit of SRA regulation. However, they query how many clients are genuinely thinking about regulation at the point of purchase. It is also highly unlikely that the average consumer will have any idea about what an entity being regulated by the SRA means for them.

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

LLS are concerned that as a brand for consumers, this would be starting from grass roots. At present, the vast majority of people do not appear to be aware of the implications of dealing with a SRA regulated entity, as opposed to one that is not.

As per question five, raising consumer awareness will be an uphill struggle because experience suggests that most clients only tend to be concerned about how a firm is regulated and/or what insurance it has when something goes wrong – not at the point of purchase.

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

No – LLS feel that it would create confusion.

17.

8) Do you agree with our proposals on the publication of PII details?

No. Regulated entities are already required to put the above information on their websites. It is disproportionate to have another set of rules covering the same ground.

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

Yes.

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes.

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

LLS have real concerns about this proposal, arising, in particular, from the idea that information in respect of service performance could be shared with third parties. LLS would like to know more about what is proposed in respect of the process for obtaining consent for information to be used in this way. Specifically, how will it be policed? Will there be time limits for keeping the information?

LLS also consider that issues will arise from how third parties manipulate data that they are provided with.

6. Consultation questions: Publishing areas of practice and complaints data

21.

12) Do you agree with our proposal to publish annual information about areas of work and to do so

separately from the online digital register?

No. A lawyer's work type can be highly relevant to the number of complaints that they receive e.g. LLS are all aware that divorce work is known to lead to a comparatively high level of complaints.

LLS do not think that details should be published about the number of people who initiate a complaint. Often, complaints are groundless but the damage to a firm's reputation would already be done if such a complaint then featured in their figures.

22.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

LLS do not support the proposal to publish data about first tier complaints and feel that the current system of publicising complaints that go to LeO goes far enough. LLS are concerned that the additional data cannot be given sufficient context to enable to be considered properly. Further, the proposal carries the inherent risk that commercial pressure will be brought to bear for firms to settle complaints, even where they are not at fault i.e. it will encourage defensive practises. This could well create a climate where we see serial complainants.

23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

For the reasons set out above, LLS does not consider that first tier complaints should be published. However, in the event that the proposal goes ahead, the data ought to at least identify the relevant work type which led to a complaint and sufficient context to enable an objective observer to determine culpability.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

24.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

LLS agree but consider that the information should have to be displayed prominently and accord with a prescribed wording. Where the solicitor opts to give the information in writing rather than in person, LLS are also concerned about how the solicitor/SRA can be sure that the client understands what they are being told. LLS should also be grateful for some clarification as to how the SRA propose to police this requirement. If, for instance, the information is given verbally, how will the solicitor be expected to demonstrate compliance?

25.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

As per question 15.

8. Consultation questions: The draft rules and enforcement

26.

17) Do you have any comments on the drafting of our rules?

As per question 15, LLS agree that the SRA should require solicitors working in non-LSA regulated firms to inform clients that they are not subject to the SRA requirements for compulsory professional indemnity insurance. However, LLS consider that the wording ought to be prescribed and the rules should give some indication of how the requirement will be monitored.

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

LLS advocate an incremental approach.

28.

19) Do you have any further information to inform our final impact assessment?

The SRA needs to raise awareness generally through popular media of the advantages of instructing a solicitor regulated by them. At present, most consumers do not know what it means to be regulated and a logo is not going to solve that issue.

2. About you

1.

First name(s)

Danielle

2.

Last name

Best

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Law society

8.

Please enter the name of the society

Manchester Law Society

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

As is explained in response to question 2, we do not consider that the publication of prices is desirable or will benefit consumers.

11.

2) Do you agree with our proposed principles of price transparency?

Our view is that the information that is proposed to be provided would not assist consumers and would result in attention being focussed just on price. We consider that, if implemented, the proposals would result in a 'race to the bottom' that could lead to falling standards and increased complaints.

In our experience consumers already do shop around and are provided with sufficient information in relation to costs upon making an enquiry and at the outset of a case before any work is commenced. In the majority of cases a fee quote should be a two-way process formulated on the basis of information received from clients regarding the work required and the timescales involved and consideration of the personnel required to complete the work rather than the provision of a one-size-fits-all price. The provision of a simple price could lead to disputes when more work is required than anticipated by the price. Pricings would

therefore need to be heavily caveated in many categories which would likely lead to confusion and render them almost meaningless or misleading. Complaints and disputes would likely follow.

For professionals the increased administrative burden and website costs could present significant difficulties, particularly for smaller firms since the costs of making changes to websites can be prohibitively expensive when external website providers are used. There could also be a need for frequent updating to reflect changes in fees such as court fees or search fees.

An additional layer of expense would be involved if prices are published on comparison websites since the host would want to charge firms for being listed. There would also have to be a disclosure to clients that firms had paid to be on a comparison website and a risk that the public would assume that firms are not good if they were not listed on a comparison website.

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

We adopt the position in the Law Society's response.

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

As is mentioned above, in most cases a meaningful fee quote is the result of a two-way process formulated on the basis of information received from clients regarding the work required and the timescales involved and consideration of the personnel required to complete the work. The provision of descriptions of staff, stages and timescales is unlikely to be meaningful in the absence of this process. Simple statements setting out staff, stages and timescales would have to be heavily caveated and would be difficult for consumers to assimilate. A requirement to provide this information would present an administrative and costs burden and there appears to be little likely benefit to consumers.

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

We adopt the position in the Law Society's response.

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

We adopt the position in the Law Society's response.

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

We adopt the position in the Law Society's response.

17.

8) Do you agree with our proposals on the publication of PII details?

We adopt the position in the Law Society's response.

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

We adopt the position in the Law Society's response.

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

We adopt the position in the Law Society's response.

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

Whilst we are agreeable to the concept, it is difficult to see what difference this will make to the current Find a Solicitor Law Society search which uses SRA information. Most of the public do not know what the SRA is whereas the Law Society is a well-known and trusted brand. The creation of a digital register could be helpful for consumers if the two searches were linked and the information was up to date and correct. The information currently provided is often out of date.

6. Consultation questions: Publishing areas of practice and complaints data

21.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

We adopt the position in the Law Society's response.

22.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

Without context, complaints data can be meaningless and could ruin the reputations of firms if clients do not understand the raw data, which would likely be out of context. Complaints data published by other organisations often identifies the same few firms as having received the most complaints because they are the largest organisations. We consider that client satisfaction data as opposed to complaints data would be more useful.

The SRA proposes to only publish complaints data in relation to authorised firms, thereby excluding sole solicitors, or solicitors working in unregulated entities. This greatly diminishes the value of publishing any such data.

23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

There should be some indication that the larger the firm the more likely they are to have more complaints. The number of complaints should be set out as a proportion of turnover and/or numbers of instructions.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

24.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Whilst we agree with the proposal in theory, it assumes that consumers will have an understanding of what regulation is, what professional indemnity insurance is and the implications of both. This is a significant concern arising from the proposed creation of a two-tier profession.

25.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

We adopt the position in the Law Society's response.

8. Consultation questions: The draft rules and enforcement

26.

17) Do you have any comments on the drafting of our rules?

We adopt the position in the Law Society's response.

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

We adopt the position in the Law Society's response.

28.

19) Do you have any further information to inform our final impact assessment?

We adopt the position in the Law Society's response.

Looking to the future: better information, more choice

About you

First name(s)

Sundeep

Last name

Bhatia

I am responding..

on behalf of an organisation

On behalf of what type of organisation?

Law society

Please enter the name of the society

Middlesex Law Society

How should we publish your response?

Please select an option below.

Publish the response with my/our name

Consultation questions: Asking firms to make more information available to consumers

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

None of them. Compulsory price publication is undesirable for the following reasons

A In unregulated work it gives an unfair advantage to those who are not regulated by the SRA because they are in a position not to publish their prices but to undercut the prices published by their regulated competitors.

B The information can be misapplied by price comparison sites who are likely to compare like with unlike (i.e. regulated with unregulated).

C Price will mask the availability of client protections offered by regulated firms and not offered by unregulated firms. It is only when things go wrong that clients will be fully aware that they do not have such protections. It would be far better to leave it to individual law firms, with the guidance of the law society, to voluntarily publish price information.

D The requirements advocated by the SRA are onerous and would involve significant expense, administrative resources and time to implement and maintain. These provisions would be particularly onerous for small firms. According to Law Society statistics, a majority of BAME solicitors operate in firms of five partners or less. This means that BAME firms will be disproportionately affected. This is a grave concern for the Middlesex Law Society since our constituency has the highest proportion of BAME owned solicitors firms in the country.

2) Do you agree with our proposed principles of price transparency?

No. We do not agree with the compulsory publication of price information for the reasons outlined in our response to question 1.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

The Society does not agree with any exemption for the sake of consistency.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

These proposals are onerous in terms of resources required to publish and update. Please cross refer our answer to question 1. Moreover each case in each area of law is different so that it is not meaningful to stipulate general legal advice which may be inaccurate or misleading in individual cases. The best place to give such information is in a client care letter.

Consultation questions: Regulatory status and protections

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

No. Consumer research conducted by the Law Society shows that awareness of the SRA is low so that the logo would be meaningless to the vast majority of consumers. Moreover, creating awareness of the logo and what it stands for would be costly for the profession and would not happen overnight. It would be far more efficient and cost effective if the SRA were to publish the relevant information on its website and for firms to use links from their websites to the SRA website.

1) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

We believe our suggestion of a link to the SRA site, as put forward in our response to question 5, is a far better idea than using a logo and creating awareness. Please cross refer our answer to question 5.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

No. This carries the same problems as outlined in our response to questions five and six. However it is even less desirable here because the compensation fund is a discretionary one.

8) Do you agree with our proposals on the publication of PII details?

No. These can be misleading. This is particularly so in circumstances where firms have over insured in low risk areas. This may result in consumers selecting a firm for a misguided reason. The fact that firms regulated by the SRA hold compulsory professional indemnity insurance can be published on the same section of the SRA website as referred to in the response to question 5 so that firms can link to it.

9) Do you agree with the proposal for firms to publish details of how to complain?

This is best included in client care letters once a client has formally instructed firms. The fact that all SRA regulated firms, must have such a procedure in place can once again be printed on the SRA website as per our response to question 5.

1) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

We believe that the current position of referring to this in the client care letter is the best one. The availability of access to the Legal Ombudsman, can be referred to on the SRA website for firms to link to.

Consultation questions: Creating a digital register

2) What are your views on the proposed content for the digital register? We have no

strong views since it would just consolidate existing published material in one place.

Consultation questions: Publishing areas of practice and complaints data

3) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

We do not agree as we do not see its use.

4) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

No. Consumers are unlikely to understand it and the possibilities of such data being used or quoted out of context are manifold. We would advocate a maintenance of the status quo.

5) If we do publish first-tier complaints data what (if any) context should we provide?

Please see our response to question 13. The data should not be published.

Consultation questions: Individual solicitors working outside LSA-regulated firms

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

We agree but have difficulty in seeing how this can be successfully enforced because it would require the voluntary cooperation of the unregulated firm since the SRA would have no ability to force the unregulated firm to cooperate.

1) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Please see our answer to question 15. The same applies.

Consultation questions: The draft rules and enforcement

2) Do you have any comments on the drafting of our rules?

The approach of the SRA does not provide clarity to firms on their obligations.

If the "guidance" is supposed to prescribe minimum standards of publication then it cannot be defined as guidance. It is a misdescription to describe it as guidance.

The minimum standards should be set out in regulation and not in guidance.

3) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

We disagree with the use of Digital Comparison Tools because, as we have stated earlier, there is ample scope for information to be compared out of context and for inaccuracies to occur.

Furthermore, there are now doubts raised as to whether they are in fact independent and whether they are impartial. The society understands that the CMA is investigating Hotel comparison sites

4) Do you have any further information to inform our final impact assessment?

The impact assessment does not consider the costs in time and resources of implementing any of its proposals and what we perceive as being the disproportionate effect on small firms. The overall effect on the provider base needs to be considered,

We are particularly concerned about the effect on small high street BAME firms who will be disproportionately affected and who make up a significant percentage of our constituency.

2. About you

1.

First name(s)

Ellen

2.

Last name

Singer

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Law firm or other legal services provider

8.

Please enter your organisation's SRA ID (if applicable)

9.

Please enter your organisation's name

Peninsula

10.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

While we agree with the principle we feel that the inclusion of Employment Tribunals does not fit naturally with the other services. In general, the suggested services are relatively straightforward or matters of minimal dispute and/or with relatively standard costings. Employment Tribunals do not fit this model with the costs involved differing significantly between the different types of cases. They are generally contested and may or may not include the instruction of counsel, who can form a very different view of the case from their instructing solicitor.

Conditional fee arrangements are only available to employees and the estimated value of the claim faces significant reconsideration as the case progresses. The main difficulty for employees in carrying out price comparison is working out the actual value of their potential claim to assess what options suit them best. It may be that some additional information from each firm, such as the average actual cost of different cases overall, the length of time they generally take, the percentage of settlements, the average value of settlements and, in relation to conditional fee arrangements, the percentage of cases not taken to

conclusion where settlement is not reached would give employees a fuller picture for assessing their options.

A significant difficulty in giving an estimate for small businesses is that it will depend on the nature of the claim which can be amended as the case progresses to become significantly more expensive. A general indication can be given as to the likely costs for defending different heads of claim but an indication of the actual value of the claim based on the specific facts is necessary to determine if legal assistance is cost effective, something which cannot be given prior to instruction.

We can foresee a difficulty in providing this comparison information for employment tribunal services where this is incorporated as part of a wider employment advice service. In these circumstances a firm may need to confirm what costs, if any, a small business can expect to incur in defending a tribunal claim where advice has, or has not, been taken and followed on the matter prior to proceedings being issued.

There has always been an issue of the affordability of legal representation compared to the actual value of the claim, especially when the costs of a successful defence can rarely be recovered. We agree that this information should be provided in order to let employers consider their options but we believe that this could reinforce the belief that legal representation under the traditional model offers poor value for money. We are, additionally, concerned that this information on the costs of defending claims could be used to pressure employers into settlement with proposals being made based on the projected costs rather than the actual value of the claim.

We would suggest that where information is provided as to the costs of legal advice, for comparison purposes, that information should also make clear the likelihood of those costs being recovered from the other party so that consumers can appreciate the true cost of litigation and the financial risks in not engaging representatives.

12.

2) Do you agree with our proposed principles of price transparency?

We agree with the proposed principles of price transparency although we are concerned that the information should be sufficient to paint a true picture to consumers of the likely overall cost and value of the legal services if it is taken up. To that end we would suggest that some form of monitoring is needed to see if actual pricing matches the advertised pricing estimates.

Where the costs are on a contingency basis it should make clear the percentage that will apply and any additional costs that the consumer will have to meet. It should also explain the circumstances in which the solicitor will cease to act.

One of the biggest difficulties for consumers is understanding whether or not the solicitor has any experience in their particular issue of concern. In the interests of transparency, we would suggest that there should be consideration over if it is possible to detail the experience of dealing with matters of the type being considered. As has been recognised in other parts of the consultation, PQE is only of limited value in determining experience and expertise. Additionally, the complexity of the case is just as important for deciding the appropriate service in order to ensure that the consumer can properly assess the value of the services on offer against their needs.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

There is no need for any exemption. It should be recognised that there are two parties in litigation and the individual considering pursuing action may be discouraged due to a mistaken belief over the potential costs they will face if pursuing such action. However, even though consumers of this kind may be better positioned to make informed choices that is no reason why they should not be entitled to the same information as other consumers when considering legal action of the same kind.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

We agree with these proposals although we think that clear guidance may be needed to explain that

responsible for overall supervision is not the same as providing supervision. It has been recognised in this consultation that firms will be seeking to maximise the value of the solicitor brand by stressing their regulated status.

It is important that consumers understand how much of the work on their case is actually going to be handled by a qualified solicitor, how much by a paralegal, what is meant by supervision and if the merits of the case are subject to external review later by counsel who may give a significantly different view on prospects.

Of greater value, though, is the relevant experience of the case handlers. PQE is not indicative of experience, or useful experience. More useful information relates to the number of matters handled of the type under consideration. For example, looking at employment tribunal, a solicitor may have 5 years PQE during which they have covered a range of subject areas including employment work. However, they may have only carried out a limited number of employment cases of a straightforward nature. By comparison, a newly qualified solicitor may have spent 2 years previously working exclusively on employment matters across the whole range of issues. Any comparison information would need to let the consumer understand who was most likely to be able to assist them with their specific matter.

It is valuable to identify to consumers the likely stages and timescales involved in litigation so that they know what to expect and can understand the process.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

We agree in part. It is right that consumers should understand whether or not a firm is regulated but the change to the handbook means that individual solicitors are regulated too. The purpose of a practicing certificate and the code of conduct applying to solicitors holding out in that capacity is that they are held to professional standards.

Where the principle of individual certificates and personal responsibility is that the SRA are able to look at the work of that solicitor and take action as appropriate then that solicitor is regulated by the SRA and should be able to state as such.

It will be confusing to consumers for some solicitors to be regulated by the SRA while others appear not to be, even though they are. We would suggest that there should be two logos, one covering regulated firms and one covering individual solicitors with the badge explaining the limit of that regulation.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Provide details of the logo on both the SRA and Law Society websites in general, and the specific part of the sites about finding a solicitor and complaints about a solicitor, with an explanation of what they mean. Multimedia campaigns will also help raise awareness.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

Yes, where the compensation fund is available in relation to the service engaged then consumers should know if it is an option open to them so that they can choose between providers and know their options for recourse in the event of a problem.

18.

8) Do you agree with our proposals on the publication of PII details?

Yes.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

Yes.

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes.

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

We agree that it is appropriate to maintain a register of this kind which will confirm all qualified solicitors along with those who have a current practicing certificate or have had any form of intervention, such as being struck off, suspended or had conditions placed on practice.

However, we are concerned that the general public will not understand that choosing not to renew a practicing certificate, in circumstances where one is not required and the person is not employed as a solicitor, is not an indication that the solicitor is not fit to practice. We would, therefore, suggest that a clear explanation needs to be attached to the register setting out the circumstances where a practicing certificate is not required to avoid any misunderstandings.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

We agree with this in principle but are concerned that this information is of limited use. Any information provided by the SRA on areas of practice is likely to be taken as an indication of expertise and quality. The fact that a firm is willing to take on work in an area does not indicate competence, particularly in relation to more complex areas of law within any given field.

In order for this data to be useful it should give some indication as to the number of cases handled within a particular practice area in the previous year. While further detail would make the information more effective we accept that, realistically, that will require voluntary disclosure by firms on their own websites.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

We agree that it is appropriate to publish appropriate complaints data in order that consumers can have a better indication of the service that they are likely to receive from a firm. However, the information needs to relate to valid complaints and needs to take into account the wider context of what can generate a complaint when it is not warranted.

In our experience, the most common drivers of unjustified complaints are:

- As an attempt to justify the early cancellation of a contract;
- As a negotiating tactic to reduce the price of a contract;
- As an attempt to obtain a contribution towards any award or settlement;
- A refusal to accept responsibility in relation to an adverse assessment or outcome;
- An unrealistic expectation on service, or
- A complaint by the other party who are unhappy that their position is not being accepted.

It is important that invalid complaints from individuals who are disgruntled about an outcome, or are using it as a negotiating tactic, without foundation should not be able to adversely affect the reputation of a firm or individual solicitor. We agree that a time limit of 3 years on collated complaints data is sufficient given that other, specific data will still be available elsewhere as relevant.

There is a subjective quality to complaints, based on expectations, and this can result in the difficulty in not providing accurate comparison data. Similarly, where a firm provides a higher calibre service, a complaint that the service fell below those standards may be justified but could still mean that the service was at the same or higher standard than would have been received from another firm. This can result in a pure

numbers approach giving a misleading impression.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

The first point of context, if all complaints data is being published regardless of outcome, is to breakdown the data into upheld, partially upheld or rejected so that a fairer picture can be granted.

Secondly, complaints need to be compared against the overall number of matters handled, giving both numbers and percentages. For example, two firms have a record of 10 complaints against them. However, one firm handled 100 cases in that subject area while another handled 1,000. For comparison purposes, the percentage is of more use than the numerical amount which can give a skewed perspective.

Finally, information should be provided as to the threshold as to what constitutes a complaint to ensure that firms are providing comparable information.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

No. The relevant issue for consumers is not whether or not the solicitors are covered by compulsory PII but if they are covered by any PII to a sufficient level. It is likely that most non-LSA regulated firms will hold some form of PII, either compulsory through some other regulatory body or voluntarily simply as it makes good commercial sense.

There should be a requirement that solicitors working in non-LSA regulated firms are satisfied that there is PII in place to the appropriate level and that the information on that is available to their clients. This could be done either by notifying the clients themselves as to what PII applied or being satisfied that the firm they work for sets out this information where clients can easily access it.

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

No. The Compensation Fund is designed to cover two circumstances, where solicitors do not appropriately handle client money or where a solicitor should but did not have the required PII in place. The decision has been taken that solicitors in non-LSA firms cannot handle client money and do not need to have PII in place so the Compensation Fund would not apply.

Consumers generally do not understand what the Compensation Fund will cover and a required declaration of this kind is likely to create the false impression that there is no protection in the event of a problem, which is not correct.

The rules for the Compensation Fund should set out who is and is not covered and the circumstances in which a payment can be made. If a declaration is required, then it should be that the Compensation Fund is not applicable rather than it is not available.

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

No.

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

It would be advisable to work with consultation groups including alternative legal providers to ensure that what is communicated will be understood by those who are currently not using solicitors. This avoids the tendency to use language that has a specific meaning within the profession but has a different common meaning in general use and to make sure that the information that is presented is understandable to those

it is intended to assist.

Specific action needs to be taken to ensure that the information is provided in a clear and accessible way to those who are disadvantaged in communication, for example due to language or disability. It would be useful to have assistance from groups set up to help those disadvantaged this way to ensure the information is presented in the most accessible manner and to identify any other information gaps that could interfere with choice.

It would be particularly helpful for disadvantaged groups if the information available included whether or not the services could be accessed by alternate means (email or virtual appointments), home visits, telephone advice or if there were other facilities available to assist such as translation services, advice in another language or adaptive technology. This will help those most disadvantaged to find a service that best suits their particular needs and responsibilities.

29.

19) Do you have any further information to inform our final impact assessment?

No.

2. About you

1.

First name(s)

Kirstie

2.

Last name

Goulder

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Law society

8.

Please enter the name of the society

Peterborough and District Law Society

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

11.

2) Do you agree with our proposed principles of price transparency?

- We understand the rationale for improved price transparency, however we do not agree with the proposed principles suggested.
- There is a broad range of law firms and the legal services they provide. Clients' needs, whether those legal services themselves or the service delivery methods, also vary on a case by case basis. The matrix of fee options required to be produced would therefore be vast and may result in less understanding of the issues involved - and the resultant costs - than the current matter-specific fee estimates produced. Also, it is often not possible to identify issues or solutions until work has been undertaken
- Firms providing legal services (typically commoditised work) which are capable of fixed fees are likely to publish this information already, e.g. wills/LPAs.
- Firms must provide individual price information to clients in the client engagement documentation anyway.

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

- Large commercial clients are more likely to be able to make informed purchasing decisions and appreciate the value of legal advice provided.
- How do you define a large commercial client?
- Where does this end? E.g. is it possible to provide a description of the services and price information in complex litigation where the range of potentially 'affecting factors' we would be required to set out is huge?

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

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5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

6. Consultation questions: Publishing areas of practice and complaints data

21.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

22.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

- No, like most services, customers are unlikely to report back about a "good job". On the contrary, negative reviews are much more common and are often untrue, exaggerated and/or malicious. Misuse is therefore likely.
- Some firms are likely to have higher numbers of complaints than others because of the types of services they offer (an analysis of the source of works giving rise to complaints would no doubt confirm this). We suspect that private client matters will for instance give rise to the vast majority of complaints. Could that put at a disadvantage a firm dealing with both private client and commercial work as opposed to a firm undertaking work only for commercial clients?
- Raw data without context, e.g. whether matters are contentious or non-contentious, simple or complex, is

unlikely to provide meaningful data.

- Non-regulated firms will not have the same requirements, despite the fact they are much more likely to provide legal services to private individuals who require greater protection and more transparency.

23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

24.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

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26.

17) Do you have any comments on the drafting of our rules?

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

28.

19) Do you have any further information to inform our final impact assessment?

2. About you

1.

First name(s)

Rachel

2.

Last name

Rogers

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Representative group

8.

Please enter the name of the group

Resolution

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

Resolution endorses the Law Society's response of December 2017 and our response should be read in conjunction with that.

Although we are setting out our views on some of the detail proposed in the consultation on price and service information, Resolution has overall concerns about the benefit of information that:

- a) is likely to be incapable of dealing with value/quality of advice and service rather than just price and
- b) may have to be so caveated as to confuse rather than clarify. Websites should be simple to use and clear. The need to set out all the caveats for a fixed fee for anything other than perhaps a straightforward undefended divorce, or all the caveats for hourly rates, would mean websites soon becoming clogged with detail.

"There is scarcely anything in the world that some man cannot make a little worse, and sell a little more cheaply. The person who buys on price alone is this man's lawful prey" (John Ruskin English critic, essayist and reformer 1819-1900). The consultation risks a "one size" fits all/"dumbing down" approach to the services provided by regulated firms and solicitors.

When quoting on price, whether fixed fees or hourly rates, firms have to take into account factors like certainty, outcome, complexity, the importance to the client, and urgency. It is hard to see how that can ever translate to a price menu.

If the SRA still decides to proceed it should do so initially in the services which are arguably most commoditised and where online information is most likely to be easily understandable and comparable. This could include undefended divorce (not including, for example, advice on cross-jurisdictional matters) which is usually a straight forward legal process (whether acting for the petitioner or the respondent) and will become a largely digitised process.

Firms should be free to publish price information on dealing with finances on divorce if they wish to do so and offered supporting good practice guidance. But we have real difficulty with proceeding with requirements for price publication for financial disputes arising out of divorce.

This is not a commoditised service in that the range of work is wide. There can be so many variables between cases and how they are resolved and these variables are not always clear to either clients or legal representatives at the outset. Resulting online and intermediary comparisons in this category would not necessarily be comparing like with like.

It is worth noting that many firms have already spent much time thinking about whether fixed fees can be made to work in divorce finance cases. The vast range of variables means that the "fixed" fees would be so heavily caveated as to be meaningless, or would have to be fixed at such a high rate that the majority of clients will pay more, and a small minority will pay less.

Firms should of course be providing an informed costs estimate to clients for this category of service and others at the outset. But we consider that requiring publication of detailed information on firms' websites pre any engagement with the client would have to be caveated so heavily, or the range of possible total costs so wide, as to be lacking in certainty.

There are many factors that could affect costs. For example, the way in which the increasing number of litigants in person deal with matters can heavily impact on the costs of the represented party, say because the unrepresented party won't agree any simple efficiency measures for fear of giving something away. This makes costs harder to predict at the outset. Additionally, the manner in which both parties seek to try to resolve the dispute can have a significant impact on costs, for instance where parties are willing to provide disclosure on a consensual basis this can significantly reduce costs compared to cases where obtaining full and frank financial disclosure presents difficulties.

In our members' experience, there would potentially be such a wide range of costs for, for example, going to a First Appointment and for each of the other stages and different hearings, that publication of average costs is likely to mislead clients. Average costs can be skewed by cases where, for instance, detailed pension actuary or forensic accountant reports are prepared in contrast to cases involving just one property. There is a difference in cost, and in cost benefit, between low, medium and high value financial remedy proceedings.

As the consultation paper recognises, price transparency and other publication requirements before the point of engaging with a firm do not necessarily mean that consumers can judge the benefits of using and quality of the service. Without additional information that benefits consumer choice, such as on specialist accreditation, we are also concerned that comparisons or comparison tools would mean that potential clients only looked at the cheapest option. Whilst the consultation paper identifies this challenge and others with price publication, those challenges do not appear to us to be fully addressed.

In whatever way the SRA decides to proceed, we would ask the SRA to provide full information on how the

impact of any price publication requirements will be gauged, over what time period and when the evaluation will be shared.

11.

2) Do you agree with our proposed principles of price transparency?

As stated in response to Question 1, we are setting out our views on some of the detail proposed, but we have overall concerns about the proposals as set out in the Law Society's December 2017 response.

It is welcome that the principles recognise where it is not practicable to give the total cost at the beginning. However, there are also difficulties around showing hourly rates (see particularly the third and final draft principles) on websites for reasons about differentiating between price and quality/value. There is a difference between quoting fixed fees for say undefended divorce and giving hourly rates. The firm can take a view (subject to exceptions which the SRA fairly recognise might apply) about the work involved in a fixed fee and it can reflect the hourly rates if indeed that is the basis upon which the firm fixes it (many will have undefended divorce as a loss leader).

The suggestion is that hourly rates would be quoted for different types of fee earner but often the rate will vary depending on office location or complexity/urgency. Perhaps a range could be given but this doesn't really help provide clarity and transparency as the actual rate would still fall to be discussed on an individual basis.

The first draft principle might refer to showing total cost 'where possible' rather than 'where practicable'.

We don't think the currently proposed second principle on online quote generators is or should be a principle.

The draft seventh principle might be better worded 'If a fixed fee is given, there should be a detailed 'job' description of what the price includes and excludes, and in what circumstances (if any) it will be exceeded and may have to be revised.'

NB There is no substitute for an accurate estimate. The SRA should also consider giving more guidance to firms around the issue of fixed fees and transparency, particularly in terms of the client understanding the level of fee earner who will undertake the work and how to balance that against cost. For example, the client should have the opportunity to choose between paying a fixed fee where that is offered by the firm but the work may be undertaken by a junior fee earner, and paying for a service at the hourly rate of a more experienced fee earner.

The proposed final principle is not clearly drafted at all. We also fear that firms might lack clarity around compliance and be concerned around justifying what they have not done on the basis that it would be misleading.

Regarding the draft guidance, our comments are:

Undefended divorce

This might refer to a divorce application rather than petition.

This should specify whether it includes or excludes advising on the supporting fact for the divorce.

Examples of likely exceptions could be given, such as advising on jurisdictional issues on divorce.

We suggest that there should be reference to process server fees that are sometimes necessarily incurred even in an undefended divorce. These can be difficult to gauge depending on how easy it is to serve a

party.

There is a view that, where fixed fees are offered for the Petitioner, it could be seen as discriminatory/unethical if no fixed fee service is also available to the Respondent for completion of the Acknowledgment of service.

Financial disputes arising out of divorce

As indicated in response to question 1, we have specific concerns about the SRA's proposed price publication requirement in this area.

It will usually not be possible to give a likely overall price for the financial elements of a case until a client has been seen and their case has been properly assessed. Nor would firms feel able to give a range of average prices based on their experience without seeing the client.

We also think that the current draft guidance on price and service transparency could be read as being largely about the price of making and contesting an application to court for a financial remedy order. This won't necessarily provide that helpful or complete a picture for consumers in terms of all the options for resolving financial issues on divorce, of how they are often resolved (certainly if people use a Resolution member), and of the factors to be taken into account in choosing the right option for you including affordability.

Information should be easy to read and understand but not so limited as to focus, potentially in an off putting way, on the likely most expensive option which might inadvertently discourage the use of a regulated firm at all.

If the SRA proceeds, we think it will be important to provide a far clearer explanation of what is meant by financial disputes arising out of divorce for these purposes for both clients and firms. For example, does this mean the price or average price of:

- all of the different DR processes which the firm offers and/or refers to (including but not limited to mediation) to seek to reach an agreement and/or
- for dealing with a consent order and/or
- for dealing if necessary with the different stages of a contested court application which may or may not result in full or partial settlement at any stage during proceedings and before the final hearing?

But that is too large an amount of untailored and caveated information for firms to provide online and for consumers to digest and understand especially when there are existing online and other resources, such as Resolution leaflets, on options available.

The proposed list of factors and circumstances that could affect costs could helpfully be expanded, such as unrepresented party, albeit that might heavily caveat the online information provided.

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

We are concerned overall at the benefits of what is being suggested by the consultation.

If the SRA proceeds to implementation of any price publication requirements, it would though be unethical to implement such an exemption, for example, for commercial firms undertaking family work - any transparency principles should apply to all firms engaged in any relevant category of work. Any other approach would be divisive and the definition very difficult.

Nor do we see the need for such an exemption. For example, high net worth individuals requiring any services that could be included in price requirements should be entitled to the same type of information. They may be better served by specialist lawyers in a particular area than firms focused on large corporate clients only occasionally carrying out a different type of work.

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

Description of services and stages might provide some context for consumers although it will not provide the full context to compare services, such as in relation to quality of service and expertise.

For example, fixed fees are only useful to the consumer if they are fairly priced and the consumer should have the detail to decide whether they are getting value for money. The mere publication of the fixed fee doesn't allow someone to ascertain whether there is any real benefit to them to instruct on that basis or to make a fair comparison between firms on price and level of service.

Regarding putting details of staff on websites, many small firms struggle with resource to make changes to their websites including having to pay outside providers. Having to keep them up to date with every change of staff/maternity leave etc. on top of changes in the stated pricing structures would be adding to their cost base without a proportionate benefit to the consumer.

Timescales in relation to concluding different types of court proceedings should really be the same whichever firm is instructed, but these can change or be inconsistent across different courts. That information would arguably be better accessed through publication of public information by HMCTS.

For the reasons stated in response to questions 1 and 2 we have concerns about the price and service information proposals overall. We do not consider that financial disputes arising out of divorce should be included in any legal services requiring price publication.

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

17.

8) Do you agree with our proposals on the publication of PII details?

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

Our view is that this is not appropriate on a website giving information to someone who may or may not choose to instruct the firm. It is unlikely to impact on the consumer's choice and would be another website change for firms to fund. We support the existing client care letter requirements which we consider are sufficient.

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Our view is that this is not appropriate on a website giving information to someone who may or may not choose to instruct the firm. It is unlikely to impact on the consumer's choice and would be another website change for firms to fund.

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

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23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

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26.

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27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

28.

19) Do you have any further information to inform our final impact assessment?

Looking to the future: better information, more choice

About you

First name(s)

Jasbindar

Last name

Bhatoa

Please enter your SRA ID (if applicable)

7743

Your email address

jas@row.org.uk

Would you like to receive email alerts about Solicitors Regulation Authority consultations?

Yes

I am responding..

on behalf of an organisation

On behalf of what type of organisation?

Other

Please specify

women's charity

How should we publish your response?

Please select an option below.

Publish the response with my/our name

Consultation questions: Asking firms to make more information available to consumers

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

Rights of Women do not agree with the SRA's reasoning for excluding vulnerable clients. The SRA state at paragraph 43 of page 19 of the consultation, the last bullet point in that paragraph, that services for vulnerable clients with asylum, housing or mental health issues are likely to be provided from the not for profit sector or at legal aid rates. This is inaccurate, we advise many vulnerable migrant women on the telephone that are not eligible for legal aid and that have difficulty in accessing legal representation. Many of these callers are exploited because of their lack of knowledge about what lawyers do, about the meaning of regulation and how much legal services cost. They are regularly being charged excessive fees for legal services. Surely this group are entitled to a higher level of protection and at a minimum, the same level of protection as other consumers of legal services?

2) Do you agree with our proposed principles of price transparency?

Rights of Women recognise that lack of information can be a barrier to accessing legal advice and services. Therefore we welcome any proposals that will provide consumers with information to enable them to make informed choices about which lawyer they wish to use. This is particularly important for vulnerable groups such as victims of abuse and those with disabilities. Price may be the determining factor for some individuals in choosing a lawyer and price information should therefore be made available. We also advise migrant women and for this vulnerable group it is essential that information is concise and accessible ie available in different formats such as online and leaflets. Language and cultural issues will present further challenges which will need to be addressed in the implementation of any proposals. Significantly it is better not to publish detailed information about costs of services if it likely to be misleading. A price range may be preferred in such circumstances.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

We reiterate that any proposals to publish information that will be helpful to consumers to decide on which lawyer to use will be welcomed. However any information published has to be accurate and updated daily to avoid misleading the public.

Consultation questions: Regulatory status and protections

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

In principle the logo may be the preferred option for consumers whose first language is not English. This should be an indication to the consumer that they will be protected if the solicitor is negligent. However the consumer will need to be aware of the logo and understand the significance of the logo for this to be effective. Also it is preferable to have consistency across different mediums to denote regulatory status. ie a logo and the phrase 'authorised and regulated by the SRA' or logo only or phrase only. Interchanging the logo and the phrase is likely to cause confusion to consumers.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

This will be achieved with extensive publicity preferably through the media. Alternatives could be putting up notices and/or circulating leaflets in Citizen's Advice Bureaus, libraries, community centres, hospitals. In fact any places frequented by members of the public.

9) Do you agree with the proposal for firms to publish details of how to complain?

Yes. Many consumers especially vulnerable clients whose first language may not be English are not aware that they have a right to complain if they are not satisfied with any aspect of their legal service. it should be a requirement for all firms to publish their complaints process in simple language.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes for the same reasons as our answer to question 9)

Consultation questions: Creating a digital register

11) What are your views on the proposed content for the digital register?

We welcome these proposals as they will enable consumers of legal services to make informed decisions about which lawyers to use. However consumers will only check the register if they know about it. Again awareness raising is crucial, particularly for vulnerable clients such as migrants who may have limited English.

Consultation questions: Publishing areas of practice and complaints data

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

Is there not a risk that publishing annual information will be misleading? It would be advisable to qualify this information as being updated on a particular date and to mention that it is only updated annually to avoid the risk of misleading consumers.

Consultation questions: The draft rules and enforcement

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

It would be useful for the SRA to speak to other regulators of legal services to consider areas they could work on jointly to protect consumers.

19) Do you have any further information to inform our final impact assessment?

It is important that the needs of consumers including the migrant community are taken into account when implementing proposals and they are adequately protected when they are given negligent or inaccurate advice. Consumers may lose confidence in the legal profession after one bad experience with a lawyer which may deter them from using a lawyer in the future.

More about you

Your age

45-54

Your sex

Female

Sexual orientation

Heterosexual/straight

Do you consider yourself to have a disability according to the definition in the Equality Act 2010?

The Equality Act defines a disabled person as someone who has a mental or physical impairment that has a substantial and long-term adverse effect on the person's ability to carry out normal day-to-day activities.

If you have a condition which fits the Equality Act definition, please tick 'Yes' even if you are not limited by your condition.

No

Your ethnicity

Asian or Asian British

More about your Asian or Asian British ethnic background

Indian

Religion or belief

Sikh

Where did you hear about this consultation?

SRA

SRA Consultation December 2017: Looking to the future: better information, more choice

Response from Slater and Gordon Group UK

Question 1

In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

Answer 1

Those services which are the most straightforward and commoditised could be appropriate areas to conduct an initial trial into price publication, such as conveyancing, drafting of a will, probate/estate administration and drafting lasting power of attorney.

In the case of the other services proposed, namely: family – undefended divorce and financial disputes arising out of divorce; motoring offences; employment tribunals; and personal injury claims, the degree of possible complexity will make price publication less instructive and much less useful from a consumer perspective.

Further, it should be recognised that attempts to fix prices may – like the imposition of any such ‘caps’ – have laudable aims but unexpected and negative consequences on service quality and the supply of providers (a reduction of which would result in less competition and therefore higher prices and/or lower standards of service).

Meanwhile some consumers may see higher prices as an indicator of higher quality, undermining the SRA’s aims (see the existence in economic theory of ‘Giffen goods’, the appeal of which increases as the price does, in violation of basic laws of demand. These may include luxury branded goods.)

We would suggest that the SRA begins with a cautious approach, mandating price publication only for the few simpler services mentioned above and conducts a thorough review into the impact of this into consumer behaviour before it considers extending the programme into other areas with further trials. The SRA’s commitment to evaluating the impact of its final proposals is therefore welcome.

An alternative approach would be for the SRA to publish typical price ranges for different legal services and scenarios, based on a survey of firms/locations. This would inform consumers with fewer risks and fewer costs to firms which will then be passed on to consumers.

[Type here]

Question 2

Do you agree with our proposed principles of price transparency?

Answer 2

While the principles are broadly sensible, as stated above in those services where there is a high likelihood of unpredictability and therefore complexity, price publication may not be instructive. If the purpose of the SRA's proposals is to increase consumer choice, it may undermine this by increasing complexity and making legal services less attractive or understandable.

Fixed pricing for 'straightforward' services may also attract the use of extensive caveats to protect lawyer and client in the event of complexity arising during the course of the matter. Legal matters are often initiated by clients who are not able to articulate the full extent of the requirements or background i.e. the 'unknown unknowns' of the circumstances of their matter which evolve through discovery activity.

As the SRA states, "100 percent certainty will often not be possible when giving a price estimate" and "providing inaccurate information would be worse than providing none at all." This admits that there is considerable risk involved in any attempt to compel price transparency in areas where it is inappropriate. Complex, personalised legal services are likely to be such an area.

Question 3

Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

Answer 3

Our business does not serve the needs of large commercial organisations therefore we are not well placed to answer save to observe that there is more likely to be 'repeat' interaction or greater knowledge equality/commercial acumen that may render the SRA's objectives obsolete in this area.

Question 4

Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

Answer 4

As stated, "the nature of the stages of service and timescales involved can vary significantly across different services" and "in many cases, particularly those involving litigation, [average timescales] may not be practical." As with pricing, the simpler the service, the easier it will be to provide indicative timescales although even with a service such as conveyancing, this can be unreliable and, as stated "the duration of the service may be determined by the actions of another party." The net benefit to consumers of producing such timescales may therefore be negligible or non-existent. It is our experience that articulating average timescales is beneficial when coupled with regular 'sign-posting' and reference to the source documentation to ensure that indicative timescales do not morph into perception of a statement of fact.

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Question 5

Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Answer 5

Yes, providing the intention at all times is to improve consumer information and understanding rather than to provide publicity to the regulator.

Question 6

Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Answer 6

While that is a matter for the SRA, if the logo is accepted by firms and consumers as the 'kite mark' of service quality there is no reason why firms would not want to help increase awareness of its existence through their own marketing activities and client engagement. The SRA will need to give some thought as to how client perception of a kite mark will be managed in the event of complaints which are not legal conduct/competence related i.e. where the SRA is not the point of escalation but rather the Legal Ombudsman is.

Question 7

Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

Answer 7

Yes

Question 8

Do you agree with our proposals on the publication of PII details?

Answer 8

Yes

Question 9

Do you agree with the proposal for firms to publish details of how to complain?

Answer 9

Yes, although the prominence of complaint procedures remains of concern. If the first message given to clients is that they can complain if services are unsatisfactory, the inference could be that this is likely to be the case. Those private-sector organisations which are consistently rated to have the best customer service – John Lewis, Amazon and First Direct, for example – may have excellent complaints procedures but this is not the first thing customers are made aware of when they choose to purchase goods and services from them. Those with some of the worst service records, including Southern Rail, for example, display prominent notices at their physical points of sale suggesting that verbal or physical abuse of staff will not be tolerated. While it of course should not be, the customer will reasonably infer that the quality of service often gives rise to such temptation as a result of unsatisfactory performance.

[Type here]

Question 10

Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Answer 10

Yes, noting the comments made in response to question 9. This information is already provided to clients within the escalation section of the Complaints Procedure and reinforced at the point that a final response is issued. It is important to reflect that the Legal Ombudsman is not (and cannot be) utilised as the first port of call in the event of a complaint.

Question 11

What are your views on the proposed content for the digital register?

Answer 11

The proposed content is acceptable.

Question 12

Do you agree with our proposal to publish annual information about areas of work and to do so separately from the digital register?

Answer 12

Yes

Question 13

Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

Answer 13

While the publication of complaints data may help consumers make more informed choices, it carries with it clear risks. As the SRA states, "We also recognise the risk that unjustified, repeat or vexatious complaints from a small number of clients could distort the figures for a firm." The SRA's proposal to "only report a maximum of one complaint per client per matter" would help address this.

However, nowhere in the SRA's proposals does it suggest that the number of complaints should be published in relation to the overall number of clients, although this is perhaps implied in paragraph 128. Without context, the overall number of complaints is largely meaningless or serves to give competitive advantage to firms with a small number of clients (who may or may not have a small number of complaints). Articulating the complaints as a percentage of active client matters may provide a more useful figure for consumers.

Three years of complaints data seems reasonable but only if issues such as those mentioned above are addressed and adequate options are given for firms to provide a narrative explaining both the number and level of complaints and what has been done to address them, as seen with the

[Type here]

approach taken by organisations such as credit agencies who offer the option to individuals to provide narrative.

Question 14

If we do publish first-tier complaints data, what (if any) context should we provide?

Answer 14

As the SRA states, “there may be a risk that publication will encourage some firms to keep matters out of their complaints system” and so clearly this would be hugely counterproductive and not in the consumer interest. Again, the opportunity for firms to provide a narrative explaining any first-tier complaints could help address this and the other comments made in response to question 13 also apply.

Question 15

Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Answer 15

Yes

Question 16

Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Answer 16

Yes

Question 17

Do you have any comments on the drafting of our rules?

Answer 17

No

Question 18

What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

Answer 18

We would encourage the SRA to continue active engagement with relevant stakeholder groups to support improvement activity where it is in the interest of consumers to advance the activity (noting that the intermediaries would not be subject to SRA regulation).

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Question 19

Do you have any further information to inform our final impact assessment?

Answer 19

Consumers are already given a great deal of information when they become clients, in the form of terms and conditions and conditional fee agreements. The documents are necessarily lengthy and contain so much information much of it cannot be reasonably consumed by the average person. This information is provided to ensure that the SRA outcomes are met, but can leave clients more concerned. This issue should be considered as part of the SRA's work.

-ends-

Sole Practitioners Group Responses to SRA Consultation: Looking to the Future: Better Information, More Choice

This consultation comes from the Competition Market Authority report on consumer issues in the legal services market where their survey groups indicated, possibly in reply to questions which invited a likely answer, that more information produced by solicitors, which could be put onto price comparison websites, would assist consumers of legal services in choosing the best lawyer to carry out their services.

This presupposes that a consumer who has already used a lawyer is unlikely to go back to that lawyer.

Particularly with sole practitioners a relationship is built up between a client and a lawyer and if that relationship is satisfactory then the consumer is likely to go back in the knowledge that one of the significant potential question marks over of obtaining legal advice is no longer a drawback.

Even if the individual solicitor cannot deal with other business required by the existing client, the client will often ask for recommendation and any solicitor will wish to ensure his client gets good advice from a third party.

We are therefore largely left dealing with first-time legal services users or those who do not wish to use their previous solicitors or who have moved to a new area of the country and have to start afresh in looking for legal services.

We are not dealing with a situation where every single new instruction will be sought out by the clients through comparison of websites. There will be numerous clients who are can entirely happy with their existing solicitors and will not see the need to use websites to help them choose another.

Obviously price is important and under the current regulations price has to be made clear at the beginning of any instructions. If a new client or an existing client has any qualms about the price estimated in the client care letter then they can research around other firms who will give that information when asked.

There are existing numerous ways in which clients can receive comparative price information. There will no doubt be firms who will be prepared to

advertise their own prices on their own websites. If they do that then they may or may not have a comparative marketing advantage.

In this situation the SRA wishes to follow the advice of the Competition and Markets Authority and impose a regulated form of price comparison. This is limited at the moment to two or three services which can be commoditised more easily than other areas of law but, on the basis of the SRA's view of the "success" of the regulatory scheme will no doubt be enlarged.

Firstly what is the mischief which is being sought to be overcome? Is there any demand in the press or the public that the lack of pre-instruction price comparison is putting the potential client at a disadvantage. The question may have been asked by surveys but there is no evidence that it has ever been put by the public as a complaint.

The Sole Practitioners Group supports the more detailed survey produced by Third which outlines a more nuanced approach to the views of the public.

There is no doubt that there are members of the public who would like to access their legal services remotely through websites involving large computerised conveyancing practices at low prices without any significant interaction with individuals, particularly in the conveyancing market. Those clients may benefit, but they are looking for larger organisations.

Sole practitioners normally work entirely on their own or with a few staff who work closely with the sole practitioner following the ethos of sole practice which is to give a personal service, because sole practice by its essence depends on the individual character and expertise of the sole practitioner.

Clients go to those practices largely because they value a relationship with an individual. They can also expect reasonable prices because sole practitioners often have lower overheads than larger firms.

Onto this current position, the SRA prompted by the CMA survey would like to impose an additional level of regulation on the relationship of solicitors with the public, before those members of the public have become clients. There is currently a heavy regulation on the relationship between solicitors and those who are forming or have formed a solicitor client relationship.

Obviously any professional person as a solicitor has a significant professional duty to those people who have chosen to form a professional relationship and that relationship should be properly regulated.

A solicitor has a professional duty to uphold his or her profession in helping, or at least not disadvantaging, those who are not yet his or her client, but to take that to the point of going into the marketplace with one's fees in a way which will have to be heavily caveated because of the uncertainties of legal work, is imposing a completely unnecessary regulatory burden, particularly on sole practices, when there is no evidence that clients are disadvantaged by the fact that these procedures are not regulated.

The Sole Practitioners Group support the analysis in The Law Society's response as to the nature of legal services in paragraph 12 of their response and in particularly paragraph b

"where a specific need arises, many consumers still rely on recommendations from friends family and other professionals to identify and select an appropriate provider. This may be due to the level of trust in the person providing the recommendation, and the complexity of the relevant legal problem"

And c

"solicitors perform a diagnostic role. While clients may know the key circumstances giving rise to a legal need, solicitors assist clients in identifying and understanding the true nature of their legal needs. This is inherent to the professional role solicitors play. What appears at first to be relatively unimportant and simple can become larger and more complicated when the full implications are explored and understood".

This often applies more in the case of a many more general sole practitioners who can cover a wide range of issues on behalf of their clients

Responses to individual questions

Question 1

In which the services suggested (currently conveyancing, matrimonial, employment tribunal) do you think we should proceed initially with

requirements of price publication and are there any other additional categories that we should consider?

Question 2

Do you agree with our proposed principles of price transparency.

The real answer here, which is admirably analysed and responded to in The Law Society's response, is whether any of this regulated provision of price transparency is required. That should therefore be Question 1 and then if answered in the affirmative then the question should then be which categories should be considered. There is therefore no need to answer Third 1 if Question 2 is answered in the negative.

The SPG fully endorses the fact that the effect of the SRA's consultation regulation is going to be detrimental to more vulnerable clients. From the point of view of solicitors involved in a professional service, it is more important that vulnerable clients are not disadvantaged by this procedure than that a few ordinary clients who are well able to look after their own interests, might or might not receive a marginal benefit.

Question 3

Is there a need for any specific exemption from the price publication proposals the firms dealing exclusively with large commercial clients?. If so how should any exemption be defined and operate

The SPG agree with The Law Society that no sector of solicitors should be treated differently for the purposes of regulation except where necessary and the very fact that is thought necessary to exclude people from the system shows the fallibility of the system of regulation proposed.

Question 4

Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication

The very need to ask this question shows the complexity of what is being proposed by the need to specify all these individual issues which will make comparisons invidious and complicated and lead to misunderstanding as to the reasons upon which clients have entered into retainers with solicitors.

Question 5

Do you agree with our proposals to introduce an “SRA regulated” logo and digital badge?

Logos are misleading. The meaning of the word solicitor is well known and the object of the SRA should be to uphold the meaning of “solicitor” and its branding rather than to allow it to be diluted by the provision of other forms of legal services.

Question 6

Do you have any suggestions as to how we can best increase consumer awareness of the logo

Question 7

Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo

Not another logo!

Question 8

Do you agree with our proposals on the publication of PII details

We agree with The Law Society that any prospective client would expect that a solicitor would be adequately insured and this information can be dealt with within the terms of business.

Question 9

Do you agree with the proposal for firms to publish details of how to complain

Question 10

Do you agree with our proposal the firm should publish details of how to complain to the Legal Ombudsman

What on earth is the reason to publish details of how to complain before a retainer agreement has been entered into, except to encourage the sort of client who expects to complain normally has a way of reducing the final invoice. It is clearly set out in the retainer letter which goes as far as is necessary for the protection of the client.

Question 11

What are your views on the proposed content for the digital register

We have no comment on the fact that information which is required to be published in relation to solicitors, should be in one place

Question 12

Do you agree with our proposal to publish annual information about areas of work and to do so separately from the digital register.

This surely is something which the solicitor themselves can publish on their website if they wish.

Question 13

Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose

Question 14

If we do publish first-tier complaints data, what (if any) context should be provide?

For the reasons set out by The Law Society sole practitioners also strongly disagree with the proposal to publish complaints data and have significant concerns about this proposal. There are numerous reasons why clients make complaints. No doubt many are justified but many are brought in order to reduce costs. The fact that it is proposed that complaints themselves regardless of upheld complaints are intended to be published gives the client an enormous bargaining power to achieve a settlement over an argument over costs before the matter becomes a complaint which has to be centrally publicise on the complaints register.

The whole proposal is open to wholesale abuse and the Legal Ombudsman and the SRA have the necessary powers to ensure that any firm whose complaints record should be made available to the wider public in the interests of the public, is brought to the public's attention.

So far as the sole practitioners are concerned their opposition to this proposal is a red line.

Question 15

Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII

Question 16

Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the compensation fund

The public expect solicitors to have PII and it is widely known that there is a compensation fund.

It is not at all widely known that some solicitors do not have this because of changes allowed by regulation.

It is a duty of the SRA to bring this to the public's attention.

Question 17

Do you have any comments on the drafting of our rules

The rules are unnecessary because there are no circumstances in this response where the SPG or in fact the law society agree that regulation is necessary

Question 18

What more does the SRA need to do to work with others such as third-party intermediaries to deliver improvements in the information available to consumers

We agree that the SRA should do its best not to discourage the use of price comparison websites which are an unnecessary introduction into legal services where price comparison is not easy and needs to be treated with considerable care. We do not want to give the opportunity for another price comparison site populated by meerkats dressed as lawyers.

Question 19

Do you have any further information to inform our financial impact assessment

There is a good argument to say that the whole of this exercise is summed up in the phrase: "If it ain't broke don't fix it"

2. About you

1.

First name(s)

John David

2.

Last name

Sinclair

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Representative group

8.

Please enter the name of the group

Solicitors for the Elderly

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

We feel that this is very difficult to achieve in any areas of law that our members practice in, which consists of Wills, Probate, Lasting Powers of Attorney and Court of Protection work.

We feel that the current rules as they are, whereby the costs are stated in the client care letter which has to be agreed by the client before any work is undertaken, is a sufficient safe guard for clients. Our members feel that clients are shopping around more for quotes in practice.

We feel that it would be very difficult to provide fixed fees for Probate/Estate Administration from a website as each case is so different and a solicitor needs to speak with the client first to determine the likely cost.

We can't comment on the other areas of law, as our members don't generally deal with these matters and they are not covered by our organisation.

11.

2) Do you agree with our proposed principles of price transparency?

Generally, we welcome the principle of price transparency, but feel that this proposal is too prescriptive, and we also feel that we are already governed by the SRA on this. At present, our members have to give clients their best estimate of costs for the work up front, before they agree to carry out any work for them.

We encourage all our members to be open and transparent with all the costs of their services and to provide written quotes before clients engage with their services. We feel that in the areas of Wills, Powers of Attorney and Probate, our members are generally being asked to provide quotes before engaging with their clients and we can see that consumers are increasingly shop around. With regards to probate, the public are increasingly making personal applications for probate themselves and also making Lasting Powers of Attorney themselves. Therefore, these services are already accessible to people with limited means.

We feel that there is a potential risk of 'price fixing' in areas where firms don't want to compete with each other on price. We also have grave concerns about serial price undercutting to the extent that the level of service that consumers expect will no longer be commercially viable and will drive consumers to unregulated/untrained and poor quality alternatives. Maybe the introduction of minimum pricing, depending on area, could alleviate this concern.

There is a difficulty in providing fixed fees for all areas of law that our members undertake, as they are often dealing with complex issues such as mental capacity, family disputes, all of which may not always be apparent at the beginning of a matter.

As part of the SRA's communication strategy, we would suggest that you make it clear to consumers that they should obtain several quotes so that they get a good idea of the costs, before they instruct a solicitor. Giving fixed fees through a website is not necessarily what the consumer will understand, bearing in mind that every matter and individual are different and so this may be an unfair burden on smaller firms who do not have the marketing expertise to present this well. We feel that fees are already very competitive and that the general public are used to making enquiries before they instruct a solicitor, particularly for Wills and Powers of Attorney.

Putting fixed fees on the website stops the personal interaction with the solicitor, which is an important element of choosing the right person to look after your matter. We feel that consumers will generally just go for the cheapest option, which may not be in their best interests and that service and quality of the work they receive are equally important.

We are concerned that a large number of solicitors have very dated websites and would incur great costs in updating their websites to meet this requirement. A great concern for us would be that the SRA may end up policing solicitors' websites for non-compliance and that this may take resources away from more critical functions.

We also feel that the proposals will be of little benefit to older and vulnerable clients who may not have access to a computer or the internet.

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

Not our area of expertise.

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

As an organisation that is championing best practice and the highest standards of client care, we would welcome this proposal. Templates will need to be provided by the SRA to assist smaller firms and sole practitioners to achieve this goal.

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

This is a good idea, but it needs to be backed up with a marketing budget/communications plan, as its very difficult to get the whole concept of regulation and its advantages across to the public.

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

See answer to question 5 - it needs a detailed marketing strategy.

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

On the basis that there is a proper marketing strategy for the SRA logo itself, this could encompass the existence of the compensation fund without the need for a separate logo which may worry clients. We feel that this is particularly the case with our elderly and vulnerable clients.

17.

8) Do you agree with our proposals on the publication of PII details?

We have no objection in principle.

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

We feel that this is already in our client care materials. The public generally are very much aware of how to complain and we wouldn't want to overburden our members with unnecessary complaints, which take time to deal with.

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

We feel that this is already given to clients as part of the client care procedure and that that is sufficient for clients. Maybe, it would be good to identify the 'complaints partner' online, who can then explain the role of the legal ombudsman and the complaints procedure.

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

We feel that it is a good idea.

6. Consultation questions: Publishing areas of practice and complaints data

21.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

We do not agree with this proposal as it will distort the way firms or individuals generally provide services to their clients. There is a risk with all firms' comparison sites that the true nature of the firm or individual will be misrepresented. Particularly in our area of law where we are dealing with clients who are often in a highly emotional state and may make a first tier complaint and then regret it, but it will still be recorded under your proposals. We would propose that only the complaints that are upheld by the legal ombudsman be recorded.

The proposal could also affect older firms more than newer firms or individuals who have a clean record.

22.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

We feel this gives an unfair representation of solicitors and firms without balancing it with good work and positive actions and simply runs alongside price. If price comparison sites use a star rating and only have complaints and prices to refer to, how could this reflect the true nature of the accredited service our members give?

23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

The context should make it clear that all solicitors will at some point in their career have complaints made against them for such things as slow service, failure to communicate and costs and that this does not necessarily reflect on the expertise or suitability of the solicitor in question. But we feel that this is an impossible task as customers will just view this negatively. Firms may use this information to control staff and could form grounds for dismissal. It doesn't take into account the workload of an individual solicitor who will generally be working under considerable pressure from both clients and the firm. The number of complaints will differ, depending on the nature of work undertaken and the location of the firm. Complaints need to identify the area of work they relate to, as many of our member firms undertake conveyancing and private client work where the level of complaints will be higher.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

24.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes

25.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes

8. Consultation questions: The draft rules and enforcement

26.

17) Do you have any comments on the drafting of our rules?

Anything that reduces the burden of regulation is welcome, whilst ensuring that the fact we are regulated and the advantages of regulation, are made clear to consumers. We welcome any rules that protect the integrity of solicitors, whilst being rigid enough to identify those who bring our profession into disrepute.

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

We feel that the SRA needs to work more closely with organisations such as ourselves, who represent the profession and the day to day issues that we face, to ensure that the SRA upholds the advantages of using a solicitor when speaking to third party organisations.

28.

19) Do you have any further information to inform our final impact assessment?

No.

STEWARTS' RESPONSE TO THE SOLICITORS REGULATION AUTHORITY CONSULTATION PAPER: *LOOKING TO THE FUTURE: BETTER INFORMATION, MORE CHOICE.*

About Stewarts Law LLP

Stewarts is the UK's largest litigation only solicitors' firm and specialises in high value and complex disputes. The firm acts for both corporate and individual clients and has leading and specialist departments in aviation and travel, clinical negligence, commercial litigation, competition litigation, divorce and family, employment, international arbitration, investor protection litigation, personal injury, tax litigation and trust and probate litigation.

Stewarts has strategic partnerships in place with other specialist solicitors' firms across the world, enabling its clients to take a global approach to litigation. The firm is top ranked in both the Legal 500 and Chambers and Partners, the leading guides to the legal profession in the United Kingdom.

Introduction

Stewarts welcomes the opportunity to respond to the Solicitors Regulation Authority consultation: *Looking to the future: better information, more choice.*

Stewarts echoes the comments made in the consultation summary that "*high standards in the legal sector are crucial and that most people rarely use legal services but when they do, it is usually at important moments in their life and it is vital they can access solicitors that they can trust to meet high professional and ethical standards*".

However our response also sets out Stewarts' concerns over the proposals to require firms to publish information on price and description of services for certain legal services and whether these proposals will in actual fact achieve the aim of providing consumers with better information and more choice particularly in the highly complex and high value cases, which Stewarts specialises in.

General comments

Stewarts further supports the SRA's proposals to:

- Develop a digital register of the firms and individuals they regulate.
- Introduce requirements to show regulatory status and protections through the use of an SRA logo and digital badge.

Stewarts note the SRA intend to "gauge the impact" of their proposals but does not specify how it proposes to do this, for example whether this would involve a detailed assessment or review of consumer behaviour post implementation of the proposed regulations on pricing and transparency to determine whether it has elicited any behavioural change, be it positive or negative. The Financial Conduct Authority (FCA) undertook a large amount of work on information based remedies in advice work (see: *Smarter Consumer Communications* FS16/10 October 2016) and found little behavioural

change. There is therefore, a risk of regulating but without achieving any positive impact.

Q1: Which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

We believe the proposals for price transparency, if they are to proceed along the terms of the SRA's proposals, should be limited to uncontentious, commodified areas of law which include 'all inclusive' legal services with a defined outcome and which are subject to a fixed price, like residential conveyancing or will drafting.

Legal services especially for complex and high value litigation (including employment tribunal claims) cannot be easily itemised or priced in a 'standard' or uniform way to enable true comparison, given the lack of a single set of standard outcomes, the huge number of variables in the litigation process and the variety of service delivery methods.

Q2: Do you agree with our proposed principles of price transparency?

Stewarts supports the broad principle of price and service transparency for clients.

However, on issues such as transparency of pricing we do not agree that this should be done by way of regulation.

We believe it is the market which is best placed to develop solutions and drive behaviour change in suppliers and indeed consumers. Regulation is not agile enough to keep pace with a fast changing market for legal services and is therefore at risk of stifling the necessary innovation and change required for successful market development.

Regulation should focus on seeking to prevent those issues which pose the greatest risk to consumers and for which there is evidence of harm or potential harm which the joint Law Society and Legal Ombudsman's commissioned research Law Society's commissioned research from London Economics and YouGov in November 2017 found there was no evidence of harm. In addition, one could argue whether this further regulation is necessary given consumers right to cancel within 14 days under the Consumer Contract Regulations?

Solicitors do a lot of good work to ensure that their clients get the right information, at the right time and in a manageable form. In accordance with Principle 4 of the SRA Handbook, solicitors must act in the best interests of clients and prospective clients. We believe that appropriate price and service information for litigation matters can only be provided once the solicitor and client have met or spoken and the solicitor then provided an outline case plan, case specific cost estimate, tailored details of who will work on the case and their hourly rates. Further, the consumer client also has the right to terminate their retainer with their solicitor and instruct other solicitors if within the first 14 days they simply change their mind, or later if they do not feel they are getting a good service at an appropriate price. In addition to this, the introduction of cost budgeting in multi-track civil litigation has served to counteract arguments that costs are disproportionate and unreasonable.

A regulatory approach risks driving competition on price (or sub-components of price like hourly rates) alone, rather than other important considerations such as quality, consumer protections, client service and client outcomes. This risk was acknowledged in the CMA's recent report on digital comparison tools. Further, as the Law Society have stated in their consultation response "*there is a clear risk that consumers anchor to the most obvious and easily understood information (price) and either stop searching or overlook other important features*". This is of particular importance to Stewarts clients, given we specialise in high value and complex litigation cases. The majority of our cases are so varied in character that they do not lend themselves to any generic price comparison criteria. There are simply too many variables at the outset of a matter, that are not in the control of the party or their solicitor, for any estimation given prior to a full consideration of the case specific facts to be accurate or to have any real meaning for a potential client.

LJ Jackson made a similar distinction for complex claims when devising the new intermediate track for civil litigation costs, in his *Review of Civil Litigation costs: supplemental report*. The criteria specified for cases to be included in the new intermediate track have been set out specifically to exclude complex personal injury claims.

This point was further acknowledged in LJ Jackson's decision not to extend the reach of fixed recoverable costs to certain types of cases i.e. clinical negligence claims worth over £25,000, some multi-party action claims, child abuse claims and claims against the police. His rationale was that the claims and resultant costs were too variable for a fixed cost approach. They were better suited to the tailored approach of cost budgeting. The same concept applies to providing useful cost information to the clients at the outset of such claims.

If the SRA are committed to bringing in regulation then they need to avoid requiring too much information or information of a type that is not most relevant to the client's legal issue. We refer to the Law Society's research which shows that publishing large amounts of information does not lead to consumers making more informed choices. This is supported by the FCA who found in their October 2016 *Smarter Consumer Communications* report that "*information alone is not sufficient to empower consumers to make informed choices as different people engage with information in different ways...when disclosure gets too much, it could lead to information overload.*"

The SRA should also refer to the Office of Fair Trading in their 2010 study *Behavioural biases and competition policy* which found that behavioural biases prevent consumers operating as the rational framework predicts. There is evidence in the UK that behavioural biases can make regulatory interventions ineffective, and in the retail financial market more information can lead consumers to make poorer decisions because the additional information distracts them or makes them react emotionally¹.

The Law Society's commissioned research, further supports another of our concerns, namely that the danger with compulsory price publication is the risk of bias in consumer

¹ Bertrand, Met al (2010). "What's Advertising Content Worth? Evidence from a Consumer Credit Marketing Field Experiment". *Quarterly Journal of Economics*, 125(1)

decisions in favour of lower price over other important factors such as quality, high professional standards, experience, track record of outcomes in comparable cases and consumer protections such as indemnity insurance.

The quality of legal services is hard to define or measure because they have credence characteristics (i.e. it is difficult to assess the quality of the service at the point of search and selection, and even after completion).

In the 2016 SRA paper *Assessment of the market for Personal Injury*, the SRA raised concerns about solicitor competence in relation to the running of serious injury claims and how some smaller firms had diversified into serious injury law when they did not have the necessary experience to do so. As a result, cases were being triaged wrongly, incorrectly valued, the necessary evidence was not obtained; cases were poorly supervised and were not prepared well for hearings at court. This could lead to victims of serious and catastrophic injuries missing out on vital rehabilitation in the crucial period after their accident because the firm dealing with their claim is not experienced enough to know how to run such a case. Stewarts are concerned that these current consultation proposals especially in relation to pricing could exacerbate this very risk identified by the SRA in 2016 by leading consumers to focus on the wrong thing and not see the bigger picture. So for example the cost shortfall faced by most of our seriously injured clients is less than 10% of their damages and in some cases is nothing, or just a few percent.

In contrast when we take over cases in their latter stages for clients with catastrophic injuries, we frequently undertake work which adds in excess of £1 million to the damages claimed by the previous solicitors, but with those previous solicitors having under-estimated the cost budget. Almost invariably getting the right damages outcome through the skills, experience and dedication of the legal team has a bigger net outcome for the client than the differential in hourly rates or the gross costs.

The Spinal Injuries Association conducted a poll of 136 catastrophic injury claimants, which listed the lack of control, poor communication and lack of interim payments as amongst the main concerns of those claimants. The Law Society Gazette summary of the findings of that poll makes no mention of price transparency being an issue for those claimants:-

<https://www.lawgazette.co.uk/news/seriously-injured-say-legal-system-is-failing-them/5061253.article>

It quotes the SIA's chairwoman as commenting that "there was a 'clear divide' between respondents who were happy with their claim because their legal team was knowledgeable, experienced and communicative, and those who felt their lawyers lacked these qualities".

The Law Society's research found, that as consumers were made aware of more complex situations and unforeseen events that might occur, the weight given to price decreased, and consumers' priorities moved towards factors such as experience, regulation, and protections. Of course, because of the diagnostic role of a solicitor, a client may not know at the outset whether their needs are simple or complex, and therefore may make a decision that is not appropriate to their needs nor is accurate.

Fees are inextricably linked to outcomes, but it is more relevant for the consumer to understand that they may be better served by a solicitor who charges a higher hourly rate but has the experience and expertise in the field and therefore has demonstrable better case outcomes than their rival firms who may charge a lower hourly rate but recover less of an award. So any requirement to publish price ought to be matched by requirement to publish outcome information (eg average monetary award won/recovered/preserved or perhaps showing the average ratio or percentage of claim outcome v costs). Simple win/loss ratios would not be the solution to this problem, because it would superficially make firms who only ever act in straight forward claims appear better than those who accept instructions in complex cases.

In addition, accessing specific information on a website may also require a consumer to know or consider certain information to be useful, and be able to find that information. Some consumers will not be able to assess the extent of their legal needs at the time of initial enquiry and will not know if they have a case and how complex it may be. Further, the Law Society's research has shown that consumers often do not read the fine print of documents or websites for legal services, and a number of participants in the Law Society's research admitted this.

It is therefore unlikely that accurate and meaningful price information can be provided on a website, aside from in relation to simple commoditised services with a defined outcome. Consumers with more complex litigation claims will be no better informed by 'shopping around' websites nor any more able to make an assessment of the likely real cost of their case. That will only occur as a result of direct contact with the solicitors firm, who is then obliged by the Outcomes already contained in the current SRA Code of Conduct to give the best information they can on a case-specific basis, tailored to the client's needs.

There is a clear risk that any information provided to consumers is so generalised and non-specific that it is meaningless or even misleading. In addition how will the SRA ensure that consumers read and understand the additional information that is relevant to them, which could involve different potential funding arrangements and consequent deductions from damages? This would involve understanding more about how consumers' information needs are best met in today's digitalised context without forgetting vulnerable consumers or those who are not adept with modern technology or social media.

The pricing and outcomes information that is genuinely useful to clients varies significantly between practice areas and even within practice area depending on the complexity, value and importance of the client's matter. So for example, the following information might be most useful to clients with the following types of legal issue:

1. Residential conveyancing & wills - fixed or tariff-pricing;
2. Injury: Small Claims & Fast-Track - fixed pricing, capped or average deduction from damages;
3. Injury : Multi-Track – net average monetary award after cost deductions or the average ratio or percentage of claim outcome v costs
4. Divorce – average ratio of matrimonial assets to cost.

There is no one size fits all solution to providing price information for legal services as they vary so much. However, the danger of casting regulations in very broad terms that leave it to the firms to decide what to publish is that makes it impossible for clients to compare like with like.

Finally, Stewarts would like to understand more about the SRA's proposed approach to implementing its proposals. It appears that the SRA are seeking to set mandatory minimum standards but have described these standards as 'guidance', rather than regulations or obligations. If regulations are to be imposed, clarity is required. For example, can enforcement action be taken against a firm that does not provide price information for services in the manner set out on page 7 of its guidance?

In conclusion, Stewarts agrees with the Law Society that the decision to intervene in a market and regulate requires, in our view: (1) a clear and robust problem definition; (2) evidence that non-regulatory options are insufficient; and (3) if 1 and 2 are satisfied then evidence that the proposed solution will address that problem, as well as evidence that the risks and costs are proportionate.

We are unconvinced that the SRA's regulatory proposals as outlined in this consultation are necessary or justified for anything other than the simplest of commoditised legal services and could be positively misleading or distracting for clients with high value and complex litigation/tribunal claims.

Q3: Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

In response to the SRA's suggestion of exemptions in certain circumstances such as services provided to large commercial or high net worth clients, we agree that such clients have less need for upfront information on websites. We would, in accordance with the SRA's own position, be largely supportive of their being an exemption from the price publication proposals for solicitors dealing with sophisticated/self-certifying clients such as large commercial or high net worth clients.

This view accords with the SRA code of conduct rules, indicative behaviour 3.6, and the distinction made between sophisticated/ self-certifying clients and lay clients in the SRA's consultation which resulted in the current drafting of the Outcomes and Indicative Behaviours setting out exceptions to the prohibition against acting in scenarios where conflicts of interests arise between sophisticated clients.

This distinction between sophisticated and lay clients was seen again more recently in an article from the Law Gazette on 14 December 2017, which quoted the SRA's Chief Executive, Paul Philip, commenting on the price transparency proposals set out in the consultation paper, as saying "*the requirement would be aimed at high street firms as it was considered that larger firms would be better equipped to look after themselves and make decisions.*"

We therefore think there could be specific exemptions from price publication for all those clients that fall within the definition of a sophisticated client, as envisaged by the SRA in the Code of Conduct Outcomes.

We agree that the definition of a sophisticated client should be done in a way that ensures the firm retains some responsibility for the decision. However, input from the client is essential, and we have dealt with this as part of the confirmation required in a written consent.

The high net worth or sophisticated client exemption is difficult to apply to whole firms or individual departments who might have a minority of clients that do not meet that description. Would they be required to publish that information on their website for just the percentage of their clients who were not exempt?

However, our broader point is that the exclusions the SRA is contemplating are far too narrow. A better approach would be to focus on the types of client matters that could be subject to mandatory price publication regulations in a way that would genuinely and usefully inform the client's choice of solicitor. We contend that would be limited to:

1. Commoditised legal services like wills and residential conveyancing;
2. Small Claims Court, Claims Portal and Fast Track-Litigation.

A threshold would need to be set to exempt law firms whose client/case load (or turnover) demonstrated that such client matters did not represent the majority (or a defined percentage) of their business model. In medium and large law firms such thresholds could be set for individual departments.

Q4: Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

The SRA's rationale for this proposal is to help consumers to understand the value of services, and not simply to focus on price. However we do not agree that setting out descriptions, staff, stages and timescales will assist clients. In our experience and as supported by the Law Society's research, the views of prospective new clients' on what is useful information varies between practice area. The Law Society's research for example found that divorce clients valued expertise and rapport with a provider, and were more likely to look for photos of individuals on websites whereas conveyancing clients were more interested services being delivered in a timely manner. In both examples client service is considered more important to consumers than price.

As set out in our answer to question 2 above, some areas of law present significant problems in terms of predictability of cost, and these problems equally apply to the provision of service information regarding timing of key stages. Similar concerns were raised with the introduction of CFAs (*Conditional Fees: The Challenge to Ethics*, Yarrow and Abrams 1999) and serve as a reminder that information can be as confusing as it is helpful. Further, this proposal is reminiscent of the vast volumes of information associated with the client care letters when they were first introduced by the Law Society.

In addition, there is also the risk of firms applying composite rates across the board irrespective of the experience and seniority of the fee earner. This approach runs the risk of leading to higher costs being incurred than applying the standard variable hourly rate depending on the fee earner. It also runs the risk of a consumer believing they have

choice about the level of the individual fee earner working on their case and may lead to complaints if the work is mainly performed by less experienced solicitors than they were expecting, or unqualified staff. Further it makes it harder for the consumer to accurately compare both the service offered and its likely cost. It is likely to result in clients placing undue reliance on hourly rates alone.

The proposal to provide indicative timescales could also build false expectations or confuse clients, especially vulnerable clients, rather than help them as it would be so hedged with exceptions.

Further, the proposal to require firms to publish information on the staff delivering a service – e.g. hourly rate, qualifications – does not reflect the reality of some firms' operation. For example, in many of our specialist litigation areas (including complex injury and high value divorce claims) we have more than one fee earner involved in the day to day running of a case, in order to progress the claim rapidly and manage costs appropriately. The work ranges from substantive drafting and analysis of documents, through to routine (but important) filing and administration work. We also have non-admitted fee earners who assist on matters. Staff may have a broad range of qualifications and experience, and the SRA has not made clear whether staff experience requirements would only apply to solicitors or other legal professionals, or to all fee earning staff who may be involved in a matter. To publish all this information would overload the consumer and it would be difficult for the consumer to form a useful opinion about how the information would apply to their particular case. In any event the staffing on a matter is often determined after acceptance of a matter, dependent on the requirements of the case.

The FCA found in their October 2016 *Smarter Communications report* that whilst consumers are increasingly using price comparison websites for greater information and product choice, price comparison websites' commercial arrangements are also leading them to focus on headline prices alone, with the risk that their choices might be unsuitable.

The SRA's impact assessment notes that its proposals are less likely to provide benefits to more vulnerable consumers, who are unlikely to have the capacity to engage with more information. The Law Society's research shows there are risks that vulnerable consumers overly focus on price information to the detriment of other important factors. There is a clear risk that the SRA's proposed approach would in fact prove detrimental to more vulnerable consumers. As a firm we deal with numerous vulnerable clients in our injury teams specifically and this is therefore a real concern for us.

The SRA may find it helpful to refer to the work done by the FCA on smarter communication including the *Occasional Paper (OP) No. 8* where they explore the FCA's role in protecting consumers in vulnerable circumstances and *OP No. 17* on 'Access to Financial Services' in the UK. The FCA's work on the ageing population would be a useful resource to assist firms in improving their engagement, particularly with older and more vulnerable consumers. This will hopefully ensure that any additional information provided is given in a way that the intended consumers understand.

Overall the proposals are disproportionate and unlikely to achieve the SRA's aim of providing valuable gains for the consumer. It is also a prime example of the kind of micro regulation which the SRA has sought to distance itself from too when it changed its approach to regulation to becoming more outcomes focussed and less detailed and prescriptive to ensure it remained a fit for purpose regulator to coincide with the new legal landscape introduced by the Legal Services Act 2007.

Stewarts

20 December 2017

2. About you

1.

First name(s)

Kyle

2.

Last name

Blackburn

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Representative group

8.

Please enter the name of the group

The Black Solicitors Network

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

Subject to satisfactory safeguards to protect those firms who employ or are managed by BAME solicitors, we, The Black Solicitors Network ("The BSN") believe the areas currently identified in the SRA's proposals might be suitable for price publication.

11.

2) Do you agree with our proposed principles of price transparency?

The BSN do not agree entirely with the SRA's proposed principles on price transparency. We believe the proposals may disproportionately affect smaller firms, a significant portion of which are black, Asian and ethnic minority (BAME) owned law firms and/or the firms where black and ethnic minorities solicitors are predominantly employed.

We are committed to ensuring BAME firms and solicitors are afforded an equal opportunity within the legal profession, irrespective of the size of practice or the type of work they undertake.

Therefore, with the requirement for price transparency, we anticipate that it could yield the following issues:

- Disproportionate effect on pricing – with the requirement to publish price information in respect of the different streams of work set out above, it would inevitably lead to competitive rates for the average consumer. However, with the price transparency, it will very likely result in smaller firms competing against each other for this particular aspect of work. This will drive down the price of legal services in the respective areas of expertise (set out above) and will disproportionately affect smaller firms in this sector whose work predominantly comprise of this type of work.

In our view, the effect of competitive pricing may provide benefit to the consumer but it will mean that the work carried out will be less profitable for the law firms engaged in this sector.

- Disproportionate effect on quality - with the commoditisation of legal services, together with the SRA's proposals for price transparency in our view could lead to an impact on the quality of the legal services provided in this sector. The sector, which has already encountered competition from alternative business structures, will be affected further with these proposals.

If there is a requirement for price transparency it is likely that the alternative business structures will be aware of their competitors pricing structure and be able to provide a more competitive pricing structure than smaller law firms. With the requirement to publish pricing it will result in smaller firms having to consider alternative ways of delivering a more cost effective service. This could lead to an impact on the quality of the service that they provide.

- Cost implications and administrative burden – the requirement for price transparency for certain transactional work (as set out above) would place an administrative burden on smaller firms. There would be a requirement to potentially revise any marketing literature, documentation and/or websites. This would have cost implications for smaller firms in order to comply with the SRA's proposal. Further, there would be a requirement to continually review the pricing structure and to make changes in the event that the pricing structure is revised.

Further, there would be an associated cost in revising marketing literature and publicising pricing on websites. This could also mean that those small firms who may not have websites or marketing literature will be required to obtain them in order to comply.

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

The BSN do not believe that there should be a specific exemption from the pricing publication proposals for firms who deal exclusively with large commercial clients. In our view, this does not provide a level playing field as smaller firms will be held to a stricter regulatory standard in respect of price transparency rather than larger firms who have the resources and capabilities to produce a pricing structure and the resources to implement it.

However, we do acknowledge that with larger commercial clients, it is difficult to provide fixed cost pricing for commercial clients where their needs and requirements may differ from an average consumer.

However, if such an exemption is applied, it should only be for bulk commercial work where the cost of the transaction for legal services exceed a certain cost threshold. It is usually in these circumstances whereby a more bespoke quote is required. Therefore, if firms dealing exclusively with large commercial clients are undertaking work of a similar nature and value (albeit at a more higher volume), larger firm should be subject to the same regulation as smaller firms when they attempt to compete for the same type of clients.

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

We do not agree with the proposals for firms to be required to provide a description, staff, stages and timescales for any legal services where the SRA decide to require price publication.

It is our view that this will be disproportionately onerous for smaller firms, a significant proportion of which

are owned by and/ or employ BAME solicitors.

This level of detail required as part of the price publication, in our view is unnecessary as this can be discussed with the client at the time of engagement of the legal services. All law firms are required to provide a letter of engagement to their clients which provides the necessary information in respect of the description of legal services, staff, the stages of the work and timescales for completion.

If as part of the price publication, this level of detail is required, this could lead to issues in respect of client expectations. Consumers who do not regularly use law firms, may not understand if a transaction or the legal services provided are not carried out in the manner initially referred to as part of the pricing publication. Therefore, lead to an increase of complaints and issues if prior to instruction there is significant detail as to how a transaction should be carried out and the pricing structure.

As part of the letter of engagement, the client and the law firm have the opportunity to engage with one another to understand the scope of the work and a letter of engagement is produced detailing the stages of the transaction and the manner in which the services will be carried out following a discussion with the client. However, if this is required at the very initial stages prior to the law firm engaging with the client to understand the scope of the work, this could lead to difficulties in respect of managing the client expectations and an increase in complaints.

However, if the SRA intend to proceed with these proposals, our view is that any information relating to the above should be a guide to the consumer and should comprise of a brief description of the services, the stages to expect and the likely timescale. Any detailed information should be confined to the letter of engagement.

Alternatively, the SRA could produce its own user-friendly guide for consumers who wish to engage a law firm to provide these specific legal services. The guide would be able to provide them with the necessary information relating to for instance writing a will or buying a house. The consumer would then be able to review this prior to engaging a law firm. This could assist with informing the consumer about the services in general and what to expect. Moreover, if law firms are required to produce this information, each firm's description may be vastly different and may leave the consumer confused as to what to expect from each law firm.

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

The BSN agrees with the SRA's proposal to introduce an "SRA regulated" logo and digital badge subject to the caveat that it does not unfairly prejudice BAME solicitors.

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

The SRA can mandate all SRA regulated firms to publish this logo on their websites and other marketing materials and recommend this logo on correspondence with clients on their engagement letter.

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

The BSN agrees with the SRA's proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo. This would raise awareness of the compensation fund and boost customer confidence.

17.

8) Do you agree with our proposals on the publication of PII details?

The BSN agrees with the SRA's proposals on the publication of PII details.

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

The BSN agrees with the SRA's proposals for firms to publish details of how to complain.

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

The BSN agrees with the SRA's proposals for firms to publish details of how to complain to the Legal Ombudsman.

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

The BSN does not object to the overall decision to implement a digital register. However, there are concerns in respect of the proposed content. In our view, this content should be limited to the type of firm, description of the services, insurance information and how a consumer should make a complaint. However, the register should not include details relating to price for the reasons set out above.

6. Consultation questions: Publishing areas of practice and complaints data

21.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

The BSN does not object to the proposal to publish annual information about areas of work separately from the digital register.

22.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

We do not agree with The SRA's proposed approach to publishing complaints data. It appears under the proposals that the complaints data will only incorporate any first-tier complaints relating to the firms concerned. It is evident that the average consumer who does not engage with legal services is more likely to complain than a large commercial client. Therefore, smaller firms who engage in the type of legal services detailed above are likely to receive a higher proportion of complaints. This will result in those firms who are owned by individuals from a BAME background and/or who predominantly employ black ethnic minority solicitors will be disproportionately affected.

Further, first-tier complaints tend to generally consist of complaints from consumers due to the law firm not managing expectations cost, delay and/or matters that can be easily resolved by the firm following the complaint. If all complaints data is published, it may not be representative of the level of service, quality of the legal services provided by that law firm but simply that they engage more in the type of work that is likely to yield complaints. This could lead to skewed data that would disproportionately affect smaller firms and their image in the legal marketplace.

It is our view that if The SRA are considering publishing complaints data, it should not consist of first-tier complaints but only any complaints that are upheld by The SRA or any legal ombudsman. This will be a more representative sample of any firms who are providing a poor-quality service or are not complying with regulatory obligations. This will provide the consumer with a more accurate representation of those firms failing to comply from a service level perspective and/or SRA requirements.

23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

As set out above, if The SRA does proceed to publish first tier complaints, it is our view that detailed information will be required to contextualize each complaint.

If complaints are published, the detail of the complaint should be published together with any resolution achieved. It is normal that with first-tier complaints, they can be resolved fairly easily by the law firm concerned without intervention by The SRA and/or a legal ombudsman. Therefore, if complaints are made, it should detail if the complaint was resolved and how quickly the firm concerned resolved the particular complaint.

Further, the data should be categorised in respect of the type of complaint whether it was attributable to poor service levels, delay, cost, negligence etc. This will help to provide a more representative view as to the issues arising from the service provided by the law firm. It will also assist to contextualize the type or services that yield higher complaint and categorise law firms who predominantly undertake this type of work. This should assist the consumer to understand why a particular law firm is receiving a higher proportion of complaints.

In our view, there should be a mechanism whereby if a law firm is continually receiving vexatious complaints from a consumer or that the complaint was unfounded, there should be a mechanism in which The SRA record and publish this data. This would avoid some firms who receive a high number of vexatious complaints from a particular consumer/s and/or due to the type of work concerned having a disproportionate number of published complaints.

We agree with The SRA's proposal to limit the number of complaints recorded as one per client to mitigate this issue.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

24.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

The BSN does not object to this proposal.

25.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

The BSN does not object to this proposal.

8. Consultation questions: The draft rules and enforcement

26.

17) Do you have any comments on the drafting of our rules?

The BSN does not wish to comment any further in this regard.

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

In our view, we need to consult with third-party intermediaries and share information in respect of the services we provide and any proposed changes relating to pricing as set out above. Further, we need to attempt to disseminate the information in a way that reaches not only the consumer but third-party intermediaries in order that they can also share the information in a more consumer-friendly manner.

The SRA might wish to consider promoting the profession and its services to consumers regularly to share information about the profession and to demystify the consumer's views of the profession.

28.

19) Do you have any further information to inform our final impact assessment?

The BSN does not wish to comment any further in this regard.

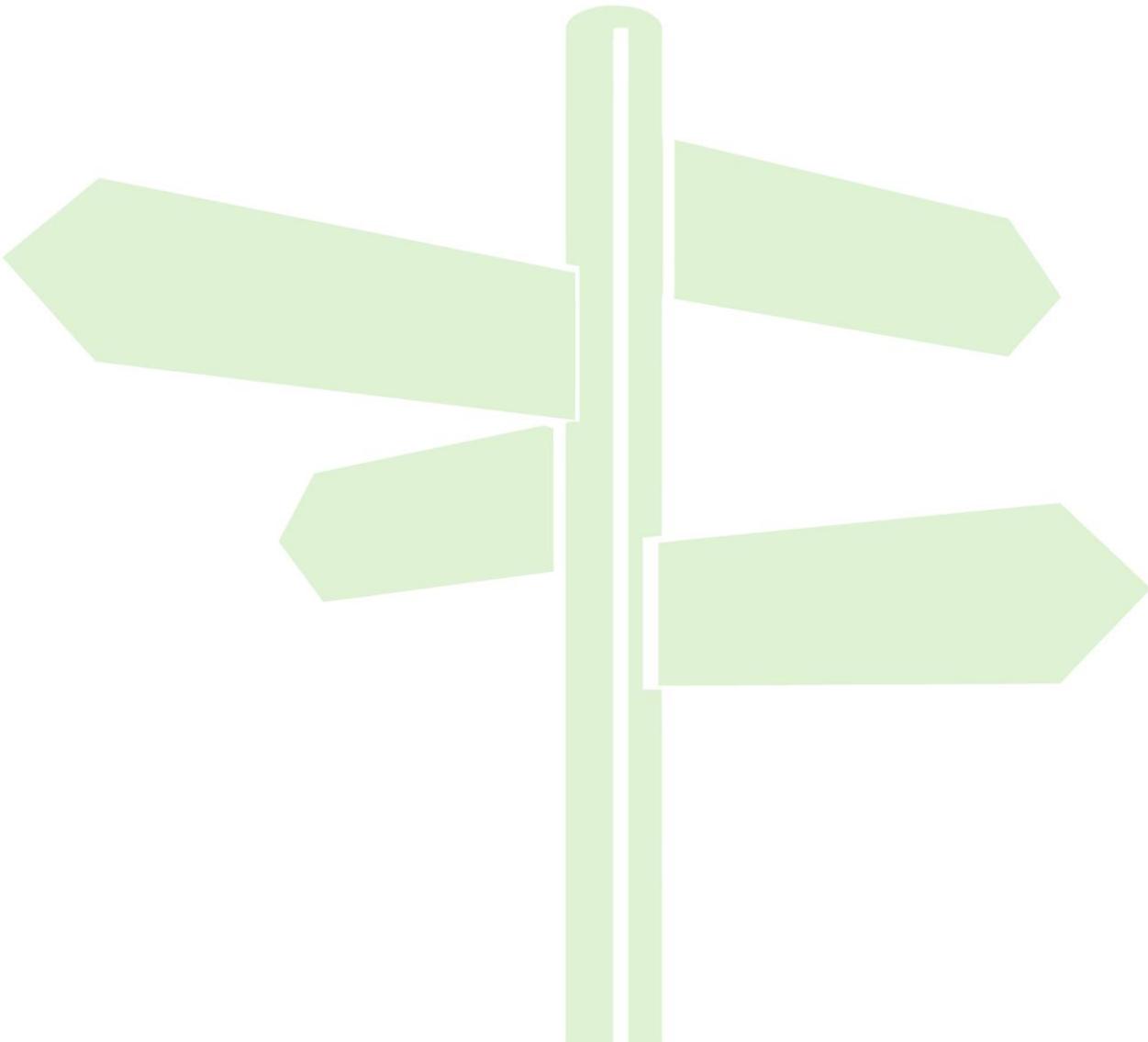


The Law Society

***SRA consultation:
Looking to the future: better information, more
choice***

Law Society response

December 2017



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Executive Summary

1. We do not support the proposals set out by the Solicitors Regulation Authority (SRA) in its consultation. In reaching this conclusion, we have considered the SRA's proposals for information transparency with three key foundations: the role that we can play, the inherent complexities of the legal services market, and the reality of consumer behaviour.
2. Building on these foundations, the decision to intervene in a market and regulate requires, in our view: (1) a clear and robust problem definition; (2) evidence that non-regulatory options are insufficient; and (3) if 1 and 2 are satisfied then evidence that the proposed solution will address that problem, as well as evidence that the risks and costs are proportionate. We do not feel that the case for regulation has been supported by robust evidence. We are not convinced that the SRA's regulatory proposals are necessary or justified.
3. It is important that consumers make informed choices. However, regulating to require more information on websites will not ensure this; we are firmly of the view that the *right information* at the *right time* leads to better choices. Non-regulatory methods to ensure the right information at the right time are more flexible and responsive to consumer needs, competition and innovation.
4. Solicitors do a lot of good work to ensure that their clients get the right information, at the right time and in a manageable form. In accordance with Principle 4 of the Handbook, solicitors act in the best interests of clients and prospective clients. The Law Society also works to assist solicitors in improving the way they practise in all areas, just one of which is providing transparent information. That is why we published the Price and Service Transparency Toolkit.¹ We are looking at how we can build on the Toolkit based on feedback from members, as it is a living document.
5. To further assist our members and their clients, we commissioned our own research on consumer behaviour. The research was conducted by London Economics and YouGov, and the report is attached to this response. This has allowed us to better understand consumer behaviour in a more sophisticated way

¹ The Law Society, *Price and Service Transparency Toolkit*, 2016. Available at: <https://www.lawsociety.org.uk/support-services/advice/articles/price-and-service-transparency-toolkit/>

that goes beyond the simplistic, often survey-based research that has largely been conducted to date. There are a number of basic consumer biases that can affect purchasing behaviour. However the SRA's proposals assume that publishing large amounts of information will lead to consumers making more informed choices. Our research does not support this view, and illustrates some of the complexity of real world behaviour that must be accounted for. In addition, compulsory publication may bias consumer decisions in favour of lower price over other important factors such as quality, high professional standards and consumer protections such as indemnity insurance.

6. As a result, we believe that the SRA's proposals are unnecessary and are unlikely to result in the changes it is seeking to make.
7. The SRA's approach to implementing its proposals is also concerning. It is not appropriate to set mandatory minimum standards in what is described as guidance, while having regulations with very little detail. This approach does not provide sufficient clarity for firms regarding their obligations, and it is not clear what would happen in terms of Legal Services Board (LSB) scrutiny of the changes.

Structure of this response

8. This response has been developed after engagement with members and local law societies, and with the Law Society's internal policy committees. The structure of our response is as follows:
 - a. introductory comments on issues which underpin our analysis – such as our role, the inherent nature of legal services, and the complexities of consumer behaviour;
 - b. our overall analysis of the SRA's proposals using a structured set of policy questions;
 - c. discussion of issues that apply to the consultation generally;
 - d. responses to the SRA's specific consultation questions.

Introductory comments

The role of solicitors and the Law Society

9. The Law Society of England and Wales is the professional body for the solicitors' profession in England and Wales, representing over 170,000 registered practitioners. We represent the profession to Parliament, government and regulatory bodies and have a public interest in the reform of the law.
10. We encourage our members to provide the best service and advice they can to their clients. We also encourage the public to use a solicitor to help them deal with their legal needs. It is clearly in the public interest that there is broad access to solicitors, and that clients receive good quality legal advice and service. As noted in our response to the CMA's interim report, we are well-placed to assist here. Through tools such as guidance and training, we can support firms to build on the work they already do to further improve engagement with consumers.²

² The Law Society, *Competition and Markets Authority's Interim Report on the Legal Services Market Study: the Law Society response*. August 2016.

11. To support our thinking and encourage best practice, we commissioned independent research on consumer understanding and behaviour when purchasing certain legal services.³

The nature of legal services

12. There are some features of the legal services market which underpin our response to the SRA's consultation, which we outline briefly below:
 - a. Many consumers require legal assistance due to specific needs that arise or are identified elsewhere in their lives, and these differ according to the type of legal service that is required. For example, conveyancing needs arise from decisions to buy or sell houses; the need to make a will often arises from triggers such as marriage, divorce, or a conscious decision to deal with long term planning after death.
 - b. Where a specific need arises, many consumers still rely on recommendations from friends, family and other professionals to identify and select an appropriate provider. This may be due to the level of trust in the person providing the recommendation, and the complexity of the relevant legal problem.
 - c. Solicitors perform a diagnostic role. While clients may know the key circumstances giving rise to a legal need, solicitors assist clients in identifying and understanding the true nature of their legal needs. This is inherent to the professional role solicitors play. What appears at first to be relatively unimportant and simple can become larger and more complicated when the full implications are explored and understood. The Legal Needs⁴ survey illustrates this. When an issue arose, on average only around one quarter of participants recognised it was a legal problem. However this varied across different services: for divorce 47% recognised that their problem was a legal issue, while for wills this figure was 30%. When participants were asked about their initial understanding of the legal position, two-thirds of wills participants thought they completely or mostly understood their legal position, while the figure for divorce participants was 45%.
 - d. The quality of legal services is hard to define or judge because they have credence characteristics (i.e. it is difficult to assess the quality of the service at the point of search and selection, and even after completion). A successful outcome is not necessarily directly linked to good service.
 - e. Many variables are not known at the outset of a matter, or are not in the control of the party or their solicitor – this is a particular issue where litigation is involved, and can also be true of conveyancing where chains are involved.
 - f. Legal services cannot easily be itemised or priced in a "standard" or uniform way to enable true comparison, given the lack of a single set of standard outputs and the variety of service delivery methods.
 - g. In the areas of law under consideration, it is likely that the services are predominantly delivered by smaller and medium-sized firms, and the

³ London Economics, *Consumer behaviour research: A report by London Economics and YouGov for the Law Society* (November 2017).

⁴ Ipsos MORI, (for Law Society and Legal Services Board) (2016) *Online survey of individuals' handling of legal issues in England and Wales 2015*. Available at: <http://www.lawsociety.org.uk/news/press-releases/largest-ever-legal-needs-survey-in-england-and-wales/>

proposals risk disproportionately increasing compliance and administration costs for these firms. The SRA impact assessment also shows that as a whole the solicitors' profession has a significant proportion of small firms – 54% of the 10,102 regulated firms are small firms.⁵

- h. Legal services are not all regulated equally. The market is made up of unregulated providers as well as those such as solicitors who are subject to title-based regulation. Certain services are reserved activities, and overall this results in a complex picture of regulatory status and protections for consumers to understand.

The nature of consumer behaviour

13. The CMA's report and the SRA's proposals largely proceed on the basis of a rational consumer who knows their problem, searches for the appropriate services from a range of providers, compares each offering, and decides calmly and rationally which option best suits their needs. In most markets consumers do not behave in this way. Regulators in the United Kingdom and around the world have recognised that behavioural biases prevent consumers operating as the rational framework predicts.⁶ There is evidence in the UK that behavioural biases can make regulatory interventions ineffective, and in the retail financial market more information can lead consumers to make poorer decisions because the additional information distracts them or makes them react emotionally.⁷
14. In order to better understand consumer behaviour, the Law Society commissioned independent consumer research, carried out by London Economics in conjunction with YouGov. The full report is attached to this response. The research focused on how consumers use and understand information when searching for three legal services – conveyancing, will writing and divorce services. The findings have highlighted that providing more information will not on its own result in consumers making more informed choices.
15. A number of important behavioural biases were explored in the research, and these must be factored into the design of any proposals, including:⁸
 - a. Limited attention: individuals' attention spans are limited, and research suggests human brains function with two systems: a spontaneous system active in taking intuitive decisions (system 1), and a more deliberative system requiring effort to analyse complex decisions (system 2). There may be a tendency for consumers to rely more on system 1 thinking as they try to simplify complex tasks. For example, up-front prices may be given disproportionate weight in decision-making at the expense of other service attributes.
 - b. Probability weighting: individuals can misinterpret probabilities. Consumers tend to undervalue likelihood of high impact events occurring,

⁵ The SRA defines small firms as those that generated less than £400,000 turnover and have four or fewer partners.

⁶ The former Office of Fair Trading in 2010 in their study *Behavioural biases and competition policy* drew attention to this.

http://webarchive.nationalarchives.gov.uk/20140402182927/http://www.offt.gov.uk/shared_offt/economic_research/oft1224.pdf

⁷ For example, Bertrand, Met al (2010). "What's Advertising Content Worth? Evidence from a Consumer Credit Marketing Field Experiment". *Quarterly Journal of Economics*, 125(1)

⁸ London Economics, *Consumer behaviour research*: A further list of list of biases is in section 1.1.

and overvalue the likelihood of low impact events occurring. For example, this could be seen in a tendency to insure against small losses (e.g. loss of a mobile phone) and under-insure high value losses (e.g. property insurance).

16. The design and approach of the research was qualitative, and involved the use of a range of methods to explore consumer behaviour in relation to three areas of law: divorce, conveyancing and will writing services.
17. The first element was a set of behavioural forums, which involved a controlled behavioural experiment involving 74 participants in total across the three areas of law. The forums allowed actual behaviour to be observed in the context of changing case complexity and unforeseen events that may occur in future.
18. The second element involved focus groups and in-depth interviews conducted after the forums. These sessions adopted a deliberative approach, where participants were guided through a series of questions and points to consider, in order to stimulate learning and understand further how decisions may change.
19. Some of the key findings include:
 - a. Low awareness of regulation and the associated protections – consumers often assume all legal services are regulated regardless of whether provided by a solicitor or unregulated provider: therefore publicising SRA regulation, professional indemnity insurance (PII), and complaints information is unlikely to make a difference to behaviour on its own as consumers will already have assumed this exists.
 - b. Consumers tend to focus on price as a simple “rule of thumb”⁹, particularly when they consider their legal needs to be simple and that they are unlikely to suffer harm from mistakes. While consumers generally tend to focus on price, “this tends to be more prevalent in potentially more vulnerable lower social grade consumers.”¹⁰
 - c. As consumers were made aware of more complex situations and unforeseen events that might occur, the weight given to price decreased, and consumers’ priorities moved towards factors such as experience, regulation, and protections. Of course, when making a real-life purchasing decision using website information, consumers are unlikely to be warned beforehand about the risks of unforeseen events, so they would be likely to continue to place disproportionate emphasis on price.
20. The findings of this research are a strong base from which we can further understand consumer behaviour.

Small business customers

21. We acknowledge that the research above and much of our response does not specifically mention small business customers. However we would expect that many of the findings of the consumer behaviour research would apply to the owners of small businesses.¹¹ This approach is adopted elsewhere, for example,

⁹ In behavioural research, these are referred to as heuristics.

¹⁰ London Economics, *Consumer behaviour research*. Key findings.

¹¹ We did however note that some consumers were more aware of PII due to their experience in other aspects of their life – e.g. as business owners.

redress via the Legal Ombudsman and the Financial Ombudsman Service is open to both individual consumers and microenterprises. The Financial Ombudsman Service also notes that many problems encountered in consumer complaints can also apply to microenterprises.¹²

22. Small businesses share some similarities with individual customers regarding the ways in which they select a legal service provider. The 2015 report on the legal needs of small businesses surveyed businesses with 50 employees or fewer.¹³ The report noted that the most important reasons for choosing a particular provider were reputation, legal specialism and prior use, above cost concerns. Recommendations from family, friends, accountants and trade bodies were also important. These correspond with existing research and are broadly consistent with our own consumer research.
23. Later in our response, we suggest that if the proposals are implemented, then the SRA should define the types of business it has considered within its consultation paper, and specifically focus its proposals on micro-enterprises.

Our analysis of the SRA's proposals

24. Taking into account the nature of legal services and the reality of consumer behaviour, we have assessed the SRA's proposals. We recently set out a proposed set of questions that the SRA should consider in its policy making function.¹⁴ Based on that and a market intervention framework, we set out below our approach to assessing the proposed changes:
 - a. What is the precise problem to be addressed?
 - b. Are there non-regulatory solutions that can be used to address the problem?
 - c. How will the proposed regulatory solution mitigate this problem?
 - d. What risks and costs will the proposed solution introduce and are they proportionate?

The problem

25. We recognise that the CMA's report is a major driver of changes for the SRA and other legal regulators.
26. The CMA's report identified some areas where there is room for improvement across the legal sector, and these related to information asymmetry – where one party to a transaction or service knows more than the other. We feel that the inherent complexity of legal services and the nature of professional advice means that some degree of information asymmetry will always be present when a client

¹² Financial Ombudsman Service, *micro-enterprises and financial services: a review of complaints*, August 2015. Available at: <http://www.financial-ombudsman.org/publications/pdf/Micro-enterprise-complaints-Aug-2015.pdf>

¹³ Robert Blackburn, John Kitching and George Saridakis Small Business Research Centre Kingston University (2015), *The legal needs of small businesses: An analysis of small businesses' experience of legal problems, capacity and attitudes*. Available at: <https://research.legalservicesboard.org.uk/wp-content/media/PUBLISH-The-legal-needs-of-small-businesses-19-October-2015.pdf>

¹⁴ The Law Society, *SRA corporate strategy 2017-2020 - Law Society response*, September 2017. Available at: <http://www.lawsociety.org.uk/policy-campaigns/consultation-responses/law-society-response-to-sra-corporate-strategy-2017-2020/>

is compared with a solicitor. The question is how to minimise this asymmetry in a proportionate way.

27. The SRA's impact assessments sets out the problems the proposals seek to address. The first is related to **choice**: consumers feel they have limited choice of services, and do not shop around to achieve best value.
28. Our view is that there is no robust evidence that consumers feel they have limited choice. The Legal Services Consumer Panel 2017 tracker survey shows 71% of consumers report having a fair deal or great deal of choice, up slightly from 68% in 2016. In certain areas of more frequently used legal services such as will writing and conveyancing the proportion is higher. The same tracker survey reports trends in consumers who feel they received value for money broadly remained the same since 2012.¹⁵ We are not aware of comparative data for other sectors on these specific issues, so we are unable to put this in context. However, the data does not appear to reflect widespread dissatisfaction.
29. The second issue is around **price transparency**: the SRA argues that consumers do not access legal services because of perceived cost, and that consumers cannot compare prices between providers. We understand that perceived cost may be an issue, but argue that it is far less of a problem than suggested by the SRA in the subsectors it is considering for price publication requirements. The Legal Needs survey suggests that perceived cost is an issue for a relatively small proportion of consumers. For example, for conveyancing and wills, between 5% and 8% of people who resolved an issue themselves did so because they thought legal costs were too high.
30. The third is **legal knowledge and capability**: consumers generally lack the following:
 - a. an understanding of how legal services operate and what is required to make informed purchasing decisions;
 - b. confidence and awareness of how to raise a complaint; and
 - c. an understanding of the differences between legal providers and protections associated with each provider type.
31. We agree that consumers would benefit from greater education and understanding of legal services. Our research has demonstrated the low levels of consumer understanding relating to the differences between legal providers and the associated protections. One thing that would help is a degree of regulatory stability so consumers know what regulatory protections they are getting when they see a solicitor. Unfortunately the complexity of legal services regulation is, we would argue, being exacerbated by the wider *Looking to the Future* reforms the SRA is pursuing, creating different tiers of solicitors.

Non-regulatory alternatives

32. Before regulatory options are developed, there is a need to consider what non-regulatory options can address. A key non-regulatory approach is to allow competition to drive changes. Our view is that firms should be free to publish the

¹⁵ Legal Services Consumer Panel, *Tracker Survey 2017 - Briefing note: how consumers are choosing legal services*. Available at: http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/How_consumers_are_choosing_Final_2017.pdf

best information for their clients, prospective clients and their market. If better information on price and services is of value to consumers, then those firms providing the best quality information should gain a competitive advantage. Consumer demand for better quality information should help drive greater transparency. It is crucial that the right information is provided, and in the right way, to have this impact. Given the complexities of consumer behaviour and legal services, there is not a standard set of information and way of providing it that all consumers will benefit from. Regulation also risks stifling innovation and the emergence of differing approaches to meet consumer needs. A regulatory approach risks driving competition on price alone, rather than other important considerations such as quality or protections.

33. The Law Society can also help drive change where needed without regulatory intervention. We see our role as both member-focused and upholding the public interest and the rule of law. It makes sense for our members and for the public interest that clients make informed choices about who can provide assistance to address their needs. That is why we developed our Price and Transparency Toolkit¹⁶ – to stimulate thinking among our members on how to provide the right information at the right time to clients. The toolkit looks at information throughout the course of a legal issue, from website promotion through to client care letters, and feedback. We are confident it represents a good basis on which to encourage improvements in practice. We are actively looking at how to further develop the toolkit.
34. The consumer research we commissioned also strengthens our understanding of consumer behaviour and choices. We are considering the ways in which we can best use the findings of the research to support members and assist consumers.

Will the proposals address the problems?

35. As outlined above, we do not think the proposals will drive the changes to behaviour the SRA seek – in part because the behavioural change being sought is not realistic, and in part because the changes being sought are based on a simplistic approach. Below we adopt an analytical approach based on the Access, Assess, Act framework used by the CMA to illustrate our views.¹⁷

Will consumers access all information being set out?

36. Many consumers select a legal service provider on the basis of recommendations from friends, family or other professionals. A significant number of consumers therefore may not conduct their search for a provider online. Our research has shown that some consumers who receive recommendations from trusted sources are likely to do no further research on a provider – they may simply call or visit the provider to validate the recommendation. Others may do limited online

¹⁶ The Law Society, *Price and Service Transparency Toolkit*, 2016. Available at: <https://www.lawsociety.org.uk/support-services/advice/articles/price-and-service-transparency-toolkit/>

¹⁷ This framework was initially set out in Office of Fair Trading (2010), 'What does Behavioural Economics Mean for Competition Policy?'. It was subsequently used in various studies, such as 'Behavioural economics and its impact on competition policy', a report for the Netherlands Authority for Consumers and Markets (2013), 'What can behavioural economics say about GB energy consumers?', a report by the UK energy regulator (2011), Consumer Vulnerability in Key Markets in the EU, a report for the European Commission (2016).

research then select a small number of providers to check they fit their needs, are approachable and professional, and to ask key questions about price, timeframes and next steps.

37. Accessing specific information on a website may also require a consumer to know or consider certain information to be useful, and to find that information. Our research has shown that consumers often do not read the fine print of documents or websites for legal services, and a number of participants in our research freely admitted this. For example, in behavioural forums consumer behaviour and decision making were tested with a small amount of information on price, services, and regulation. Even in this setting more than a third did not read the small print. We argue that the volume of information that is required under the new SRA proposals makes it almost inevitable that there will be reliance on small print to convey the information.

Will consumers be able to effectively assess and analyse this information?

38. Consumers do not always assess and analyse all available information and our research provides evidence of this.
39. For example, there was a tendency for consumers to focus on price information when comparing providers, and “this tends to be more prevalent in potentially more vulnerable lower social grade consumers”. This is in part because price is a simple concept used as a mental shortcut, and is given more weight than other service features which may also be important. Price was also observed to be a deciding factor when providers appeared similar to each other on factors such as expertise or experience.
40. There is a clear risk here that consumers anchor to the most obvious and easily understood information (price) and either stop searching or overlook other important features.
41. Consumers do value some, but not all, service-based information as envisaged by the SRA. We found that information on expertise and experience was useful for clients but that when asked to trade off against cost, the importance varied by service attribute and area of law. For example, conveyancing consumers valued speed more than wills or divorce consumers; while wills consumers showed a preference for expertise over other areas.
42. Our research has demonstrated the low consumer awareness of regulatory arrangements and implications – but the high value consumers place on regulation of some kind. For example, many consumers did not clearly understand the differences between the terms solicitor and lawyer. When asked about regulation, many assumed the existence of some form of regulation but were unaware of who regulated, or what regulation meant. There was little awareness of the SRA, which is noteworthy given it is the regulatory body for the most commonly accessed legal services providers. There is a clear need to raise awareness of what regulation means.
43. Further, the research suggests there may be a tendency to assume all legal services and providers are regulated in the same way. When informed later in the research that different providers (for example, solicitors, unregulated will writers and unregulated divorce lawyers) have different levels of regulatory oversight and consumer protections, consumers were frequently shocked, upset, or dissatisfied.

This suggests that providing a “regulated by the SRA” logo and details of PII cover will do little to aid consumers’ ability to assess and analyse information. We also found that many consumers believed all providers should be regulated to the same level and therefore would not be willing to pay more for a regulated provider. This may bring into question the wider Handbook reforms – which are based on an assumption that consumers will be prepared to make a conscious trade-off between regulatory protections and price.

44. The cumulative effect of the SRA’s proposals is that large volumes of price and service information are to be published on firms’ websites in relation to each area of law. This heavily prescriptive approach may result in extensive and detailed information that only very sophisticated and well-informed consumers can use. However, it is also possible that consumers view this level of price and service information as too generic and heavily caveated.
45. To illustrate just one aspect of the volume of information required, we set out below our view of some of the service information that a firm would be required to publish for employment tribunal services. The timings for each stage could be affected by a range of factors such as:
 - a. The volume of documents a party is seeking to rely on – this may be extensive, particularly where the other party does not have legal representation;
 - b. The variation in the number of witnesses called to give evidence and the number of allegations;
 - c. How many pre-trial appearances or procedures are required for disclosure if the tribunal wishes to assess whether arguments proceed to full hearing;
 - d. If a settlement is reached prior to a hearing, and at what stage this is reached;
 - e. If the other party changes the basis of their defence or asks for more time to prepare for a previously scheduled hearing;
 - f. The tribunal may have a large number of cases and find scheduling of hearings difficult;
 - g. The client may realise further information is relevant which requires analysis by the solicitor;
 - h. The client’s approach to the case may change over time.
46. This information relates only to how the timings of a case may vary, and presents a particular challenge for consumers to understand and apply to their own case, particularly if the consumer does not have a clear understanding of how employment tribunal cases are handled. The specific points above are equally applicable to any area of law involving litigation.
47. As noted above, many consumers do not read all of the "small print" on websites. However, even if consumers do read all of this information, they are unlikely to be able to understand and contextualise the information with regard to their own needs. This is because many consumers do not identify what facts are relevant to their situation, or fully understand their own legal needs, and consumer biases mean there are tendencies to discount future problems arising.
48. The final point is that behaviour and decisions can change based on a range of factors. As noted earlier, the research explored how decisions changed as context changed, through a deliberative approach. When consumers were faced with a more simple legal situation they considered cost and speed to be more

important factors in a decision. When faced with a more complex situation, consumers tended to value expertise and qualifications. Because of the diagnostic role of a solicitor, a consumer may not know at the outset whether their needs are simple or complex, and therefore may make a decision that is not appropriate to their needs.

Will consumers act on this information?

49. The final requirement here is that consumers act on the information they have accessed and assessed.
50. Digital comparison tools (DCTs) are seen by the SRA as a useful tool for consumers to understand and shop around for services, to help plug this “gap”. We remain of the view that it is unlikely that these changes will help to drive the growth of digital comparison tools. As outlined in the CMA’s report,¹⁸ there are a number of barriers to greater DCT use in the sector that are inherent to legal services – the one-off nature of many legal services, the lack of standardisation in charging structures and services, the presence of offline intermediaries and the difficulties of pricing complex services in a comparable manner. While there has been some growth and take up of digital comparison tools, the SRA’s proposals cannot address all of these fundamental issues. As outlined further in this response, we have further concerns about the use of DCTs in the legal sector.
51. In addition, our research demonstrates that consumer views on the practicality and desirability of digital comparison tools varies widely. After the deliberative approach that educated consumers on legal services, many participants felt legal services were such a complex, personal service that it could not be expressed on a price comparison website. While some could imagine legal services being on such sites, they would not personally use one to select a provider. Some also thought such a move might impact on the reputation and standing of legal services, for example that they would become “tacky”. The CMA’s recent report on digital comparison tools has highlighted some concerns from other sectors’ experiences that would be equally applicable to the legal sector – including that DCTs do not always adequately set out the key information for consumers.¹⁹

Unmet need and vulnerable consumers

52. The SRA notes in its impact assessment that the changes are unlikely to benefit consumers of lower social grade, who have less capacity and ability to access and assess more information. This also suggests that the proposals will have a limited benefit on those consumers for whom price is a barrier – consumers who are far more likely to have an unmet legal need.
53. We agree that access to justice is important. However the SRA’s view of unmet need is overly simplistic and an examination of some specific services illustrates this. Conveyancing is a service necessary for the purchase of a house, so unmet need on the basis of cost as a barrier is unlikely to be an issue here, as the size of the market is not influenced by legal costs. The decision to make a will

¹⁸ Competition and Markets Authority, *Legal services market study: final report*, December 2016, chapter 3.158-160.

¹⁹ Competition and Markets Authority, *Digital comparison tools market study: final report*, September 2017.

involves entirely different drivers and barriers to overcome, either a specific life event, or a conscious decision to think about future arrangements after death. Our research illustrates this through a case study where a man sought to make a will, but his wife refused to engage with the concept of death.²⁰

54. We also argue that broader issues of affordability are important when considering unmet needs. Complex legal services with reduced consumer protections are not a suitable substitute for a properly funded legal aid system.

Risks and costs

55. The final step requires analysis of whether the risks and costs of the proposals are proportionate and justified.
56. We have outlined above the key consumer costs and risks.
57. With regard to firms there are a number of costs and risks. Most firms will need to seek external assistance to comply with the new requirements. For example, to understand the nature of any new requirements, and how to comply with the requirements by framing the descriptions of their services in the appropriate manner. Firms will need to update their websites, and some may require upgrades to different platforms to allow for full implementation. It is also likely that in future, any changes to a firm's service delivery approach or pricing structures (some elements of which are outside of the control of solicitors) will require frequent updating. For example, changes in filing fees or search fees, or estimated times for scheduling hearings, may all prompt the need for frequent changes to website information.
58. Smaller firms are likely to face proportionately higher costs of implementation. We acknowledge that the SRA has provided some initial analysis in its impact assessment. However it looks mostly at whether smaller firms carry out work in certain areas of law. It does not fully capture the complexity and nature of the impact on smaller firms. A small, high street firm may offer multiple services captured by price and service publication requirements. For each area of law captured, firms would be required to carry out the above steps each time there is a change in services. The costs of such changes (in time and resources) would be proportionately higher for smaller firms. It is also noteworthy that smaller firms are more likely to have black and ethnic minority (BAME) practitioners, so these proposals risk having a disproportionate impact on BAME solicitors.
59. We also see some potential risks and costs for the SRA. The SRA will need to assist firms in complying with any new requirements by developing guidance and other sources of assistance such as helplines. The potentially wide application of its proposals, and principles-based approach to publication is likely to prompt a large number of queries and requests for assistance. We note that the implementation of these proposals, if adopted, is likely to be at a similar time or shortly after the implementation of the remainder of the *Looking to the Future* reforms. The scale of change in the profession may strain the resources of the SRA to provide assistance to the profession.

²⁰ London Economics, *Consumer behaviour research* Figure 15 - Case Study of a social grade B consumer who considers regulation and insurance to be important in his choice of legal service provider

60. We acknowledge that the SRA does not have full control of the legal services market and cannot address many of the inconsistencies of the regulatory framework. However, the transparency proposals in the *Looking to the Future* programme will exacerbate these inconsistencies. The proposals in this consultation, if implemented, would result in solicitors being required to publish more information than unregulated providers providing the same legal services. The findings of our research show consumers have very low levels of awareness of different providers' regulation and protections. The SRA's creation of new categories of providers with lower levels of protections only makes the task of public education more difficult.

Comments on further general issues

The position of freelance solicitors

61. This consultation proposes new requirements relating to authorised firms publishing information on their websites and to solicitors working in unregulated firms. However it is silent on the position of freelance or sole solicitors, a new form of practice proposed in the *Looking to the future: phase two of our Handbook reforms* consultation.
62. Based on our analysis, sole solicitors would not be subject to the new website publication proposals because these requirements will only apply to authorised bodies. We consider that for consistency, if these proposals are implemented, then they should equally apply to sole solicitors. If the SRA believes that its proposals for more information are valuable to consumers, then this should be the case regardless of the type of entity delivering those services. One reason the SRA has proposed different requirements for solicitors in unregulated entities is that it cannot impose requirements on entities it does not regulate. This does not apply to sole solicitors. Therefore the SRA should apply a consistent approach. The SRA should also consider if specific publication requirements are needed in order to distinguish sole solicitors from sole practitioners and other solicitor firms.

Public education and Legal Choices

63. There is a clear role for more education in addressing some of the shortfalls in consumers' legal understanding. For example, education on the different types of legal providers and regulatory protections is in itself a major challenge. We would appreciate further detail on the regulators' plans for Legal Choices, given its role in assisting consumers in relation to all legal service providers. We are also considering what the Law Society can do to better assist consumers in their dealing with solicitors. The findings of our research will be central to our work, and we hope that the SRA and others are able to also use these findings to improve consumer awareness.

Implementation

64. We would appreciate further detail on various aspects of implementation of the proposals in this paper.
65. The consultation notes that the proposals would not be implemented before autumn 2018. Not all aspects of the proposals will necessarily need to be linked

to the *Looking to the Future* programme, and not all require implementation at the same time. If the SRA proceeds with its proposals, preparation and implementation would require substantial lead-in time and resource for firms and solicitors. We would therefore appreciate further details on the timing of implementation of any proposals which are carried forward, as they become available. The profession must be given sufficient advance notice of implementation dates to prepare for any new obligations.

66. With regard to preparation, the consultation refers to various planned pieces of guidance to assist firms with compliance. As highlighted throughout our response, we see a number of difficulties with implementing the proposals. We would appreciate further information on the SRA's planned guidance, as it may determine whether firms and solicitors are able to comply with the new requirements.
67. If these proposals are implemented, we foresee a significant increase in queries from solicitors and firms seeking assistance to implement the price and service transparency proposals. It is also likely that firms and solicitors will seek assistance on the full suite of "Looking to the Future" proposals during the same time period. We would like to emphasise here the need for the SRA to ensure it is sufficiently resourced to deal with these changes.

Use of guidance

68. We are concerned about the way in which the SRA is planning to implement its proposals through the use of guidance. The intended approach appears to be that the draft regulations require publication of information regarding price and service in the manner prescribed. The draft guidance sets out what are referred to as minimum standards, however by calling it guidance the implication is that it is not mandatory. This approach creates:
 - a. Uncertainty as to what is mandatory and what is not: are the principles of price publication set out in guidance mandatory? Can enforcement action be taken against a firm that does not provide price information for undefended divorce services in the manner set out on page 7 of its guidance? This is not clear.
 - b. Difficulties for the SRA: there may be large numbers of queries from firms during implementation, and supervision and enforcement could be more difficult with such uncertainties;
 - c. Lack of clarity regarding scrutiny of changes: if the SRA sets out such obligations in guidance, is the LSB able to scrutinise the changes in the same way as with rules or regulations?
69. These problems must be resolved. In response to question 17, we set out suggestions for how the SRA can address these problems.

Responses to individual questions

Question 1

In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

Question 2

Do you agree with our proposed principles of price transparency?

70. As outlined above, we do not consider the price and service publication proposals to be necessary, and take the view that non-regulatory options will be far more effective in achieving the desired aims. This would allow the market and consumer demand to drive the provision of the right information at the right time for each area of law. We also consider that some aspects of the proposals may risk causing confusion to consumers, or may be misleading.
71. Every area of law involves a different set of consumer circumstances, behavioural drivers, routes to selecting a provider, and set of relevant information. Our consumer research has started to illustrate the differences with three areas of law. For example, wills customers were more likely to say that the final price should not vary from an estimated or fixed price provided at the beginning, while divorce and conveyancing customers were more likely to understand unforeseen complications could cause price changes. Wills customers were also less likely to trade off insurance and expertise in relation to costs.
72. As noted below, some consumers will not be able to assess the extent of their legal needs at the time of initial enquiry. It is therefore unlikely that accurate and meaningful price information can be provided on a website. Consumers in that category will be no better informed by “shopping around” or any more able to make an assessment of the real cost. That will only occur as a result of direct contact with one or more potential providers. If the provider is a solicitor, then the solicitor is obliged by the current Handbook to give the best information they can on a case-specific basis, tailored to the client’s needs. To illustrate this problem, we briefly consider will-writing. The SRA’s guidance does not cover the preparation of a letter of wishes, which consumers may only realise would be suitable for them after speaking to a solicitor.
73. Some of the greatest difficulties lie in the less commoditised areas of law, as outlined earlier using an example of employment tribunal services. Several of the areas of law will involve a range of steps with uncertain timings, costs and variations. Some aspects of certain areas of law themselves present difficulties – for example, any elements of litigation or disagreement can result in uncertainty, meaning family law disputes and employment tribunal actions can present particular problems here. Even more commoditised areas of law have their own challenges. For example, conveyancing poses a number of variables depending on property title, the changing situation of parties and the number of linked transactions in a chain.
74. The listed areas of law also span both reserved and non-reserved activities under the Legal Services Act – for example, employment tribunal actions and will writing. Selecting such areas for price publication risks exacerbating the

inconsistency of regulation and the unlevel playing field for regulated and unregulated providers.

75. We note the principles as being a first attempt to provide clarity and flexibility on price publication. However, we still see significant challenges with their application to specific areas of law, and getting the right balance of information in practical terms will be difficult. There is a clear risk that any information provided to consumers is so generalised and non-specific that it is meaningless or even misleading.
76. The SRA's impact assessment notes that its proposals are less likely to provide benefits to more vulnerable consumers, who are unlikely to have the capacity to engage with more information. As noted above, our consumer research shows there are risks that potentially more vulnerable consumers over-focus on price information to the detriment of other important factors. There is a clear risk that the SRA's approach is in fact detrimental to more vulnerable consumers.

Question 3

Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

77. For the sake of certainty and consistency, no section of the solicitors' profession should be singled out for differing treatment, and obligations should apply as consistently as possible to clients in any sector.

Defining small business customers

78. The consultation mentions several times an intended focus on small business customers but provides little further guidance on what a small business customer might look like in the context of the price publication information. We would suggest that for clarity, the SRA adopt a specific definition for the small businesses it has in consideration. For example, the SRA could adopt the definition of micro-enterprise that is used to determine eligibility to complain to the Legal Ombudsman.²¹

High net worth individuals

79. The SRA also raises the issue of whether an exemption is needed for circumstances such as services provided to high net worth clients. We are aware that such clients may have less need of upfront information on websites. However for consistency we consider that the price and service publication proposals should apply to all individual consumers in the same way. If the SRA contends that its proposals for more website information are good for individual consumers, then this should be true regardless of the wealth of the consumer.

²¹ The Legal Ombudsman Scheme rules use the European Commission definition, which is broadly a business or enterprise with fewer than 10 employees and turnover or assets not exceeding €2 million.

Question 4

Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

80. The SRA's rationale for this proposal is to help consumers to understand the value of services, and not simply to focus on price. However we do not support this proposal as it is unlikely to be of use for consumers.
81. As noted above, some areas of law present significant problems in terms of predictability of cost, and these problems equally apply to the provision of service information regarding timing of key stages.
82. Our research also demonstrated that consumers' views of the most useful information vary between different areas of law and different contexts. We found that conveyancing consumers value services delivered in a timely manner; while divorce participants valued expertise and rapport with a provider, and were more likely to look for photos of individuals on websites. Our research also explored how consumers' decisions changed when more complex situations were introduced, and when unforeseen events occurred. In simpler situations, just over three fifths of participants listed skills and expertise as one of the top three attributes to consider. As the situation become more complex, this increased to 89%.
83. The proposal to require firms to publish information on the staff delivering a service does not reflect the reality of some firms' operation. For example, personal injury or conveyancing services in some firms have large numbers of staff involved in specific aspects of the service – ranging from substantive drafting and analysis of documents, through to routine (but important) filing and administration work. Staff may have a broad range of qualifications and experience, and the SRA has not made clear whether staff experience requirements would only apply to solicitors or other legal professionals, or to all types of staff involved.
84. As with price information, publishing service information will exacerbate the unlevel playing field for regulated versus unregulated providers. With regard to service information, we consider it unlikely that unregulated providers would publish service information regarding the expertise of their employees, particularly where the provider is competing with more qualified providers such as solicitor firms.

Question 5

Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

85. Such a logo is unlikely, on its own, to provide a significant benefit to a large number of consumers. While there is a low level of knowledge and understanding of regulation, the SRA does not appear to be a well-known and understood regulator among many consumers so the introduction of an SRA-regulated logo may not be particularly useful.
86. We agree that there is a need to raise consumer awareness of regulation and protections. However, our preferred approach to this differs from that of the SRA.

The consumer research we commissioned demonstrates that there is low awareness of regulation and protections, but also demonstrates that many consumers do not read “small print” and may rely on simple rules of thumb when considering legal service providers.

87. It would be far more effective if, instead of such a logo, the SRA had a clear, accurate and easy to read section on its website that set out the protections consumers receive from going to a solicitor. This would provide a consistent set of information for consumers. Firms and solicitors could then provide a link to this page from their own websites, behind a short piece of text or image promoting and explaining regulation.
88. If the Handbook changes were to be implemented, consumers will be expected to understand the differences in protections associated with different types of services. In this case, the SRA should outline in consumer-friendly language the differences in protections for consumers. This may help to reduce the confusion if different terminology were adopted by different firms.
89. We consider that this approach is more desirable because:
 - a. It reduces the volume of complex information consumers are expected to read and understand;
 - b. It allows the SRA to clearly set out what it means to be a regulated solicitor firm in a clear, consistent and consumer-friendly way;
 - c. It allows the SRA to reduce the confusion caused by new categories of solicitors created by its Handbook reforms;
 - d. It reduces confusion caused by different terminology being adopted by different firms to describe the complex nature of legal services regulation and protection.

Question 6

Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Question 7

Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

90. Awareness of the Fund or any logo is likely to be extremely low. We would suggest that consumers are unlikely to search for information about the Compensation Fund, or understand any of this information at the moment or in the near future. The SRA will need to be careful about the messaging associated with a logo for the Compensation Fund, and comparisons drawn with the Financial Services Compensation Scheme (FSCS). Unlike the FSCS, payment of a claim on the Compensation Fund is discretionary. Our research suggests consumers may use experiences in other sectors to understand legal services, so there is a risk consumers expect the Compensation Fund to operate in the same way as the FSCS. A lot of work is needed to raise consumer awareness of regulation and protections, and we are considering what role we can play in this area.
91. Our suggestion in response to question 5 would be applicable here.

Question 8

Do you agree with our proposals on the publication of PII details?

92. We consider that publishing PII information is unlikely to have significant benefits for consumers. As noted above, consumers have little understanding or awareness of PII, and if they are aware of indemnity insurance often assume some form of insurance is in place for all legal service providers. Consumers are unlikely to seek out details about PII cover of a firm during a search process, and many will assume there is coverage. Even if the information is sought out and found, many consumers do not have an understanding of the nature of PII or the differences between cover levels.
93. There is a small risk that some consumers find PII cover information, and opt for the firm which has a higher level of cover when faced with a choice between £2m or £3m of cover depending on whether liability is limited without an understanding of whether there is a need for additional coverage. However this is unlikely to occur for the reasons set out above.
94. We understand that the SRA may be required to create a requirement for the purposes of the Insurance Distribution Directive. However, we would suggest that the SRA do the minimum necessary to implement the Directive. Beyond the Directive requirements, we would suggest the SRA adopts our approach set out in response to question 5.

Question 9

Do you agree with the proposal for firms to publish details of how to complain?

Question 10

Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

95. Requirements to publish information on how to make a complaint to a firm appear reasonable but we question the need to post that information on a firm's website given the cost to businesses which we have already alluded to. We also consider that publishing this information is unlikely to impact on consumer's choice of provider. Solicitors provide information on how to complain in their client care letters, as required by the SRA, and this is a more appropriate location for such information.

Question 11

What are your views on the proposed content for the digital register?

96. In principle the single register appears reasonable. We have no strong views on the content given it will simply draw existing content together in a single place. We are sceptical about the number of consumers who would in fact check the register to validate a firm or solicitor. The SRA's view as outlined in its Phase two consultation, that consumers would use the register to validate the experience of a newly qualified solicitor and their firm, appears unlikely to be practical. However we do not see significant risks or costs to consumers, solicitors or the wider legal services market from this proposal.

Question 12

Do you agree with our proposal to publish annual information about areas of work and to do so separately from the digital register?

97. We do not see the value in publishing information on areas of law that a firm provides services in, and it appears on its own to have limited use for either consumers or third parties.

Question 13

Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

Question 14

If we do publish first-tier complaints data, what (if any) context should we provide?

98. We do not agree with the proposed approach of publishing complaints data and have significant concerns about this proposal.
99. We see little value in such data being published, either directly for consumers or for digital comparison tools to use. Our research suggests that consumers have a low level of understanding of complaints data in other sectors, even including the financial sector. Very few participants mentioned using or being aware of such data. There are also concerns about the accuracy of information provided to consumers through digital comparison tools in other sectors. For example, the CMA recently opened an investigation into hotel booking sites.²²
100. The complaints data collected by the SRA does not accurately reflect or indicate the quality of service of a firm. In order to reach a clear understanding of complaints data, a consumer or digital comparison tool operator would need to put the data into context, in any number of possible ways. Benchmarking against other providers, or using the number of legal matters dealt with to arrive at a proportion, may assist but the end result would still be deficient.
101. The SRA also proposes to only publish complaints data in relation to authorised firms, and so the SRA would not publish data on sole solicitors, or solicitors working in unregulated entities which severely undermines the value of publishing any such data. Publishing data in this way would continue to exacerbate the uneven playing field between regulated firms and unregulated providers.
102. These are not simply our concerns. The Council for Licenced Conveyancers is also doubtful of the value of complaints data for consumers. It mentioned its reservations in relation to firms' publication of first tier complaints: given the significant amount of contextualisation necessary, it had doubts around whether this data would be the accessible and useful guide to that service that consumers needed. The CLC later states: "we consider that complaints information does not fall into the category [of] easily understood information on service quality that can help consumers."

²² Competition and Markets Authority, "CMA launches consumer law investigation into hotel booking sites", October 2017. Available at: <https://www.gov.uk/government/news/cma-launches-consumer-law-investigation-into-hotel-booking-sites>

Question 15

Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Question 16

Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

103. These proposals are essential – it is important that these consumers are informed of reduced protections – however they do illustrate inconsistency of approach brought about by the limitations of the wider Handbook reforms.
104. The clients of solicitors working in unregulated firms will receive lower levels of consumer protection than those in solicitor firms. It is prudent for these solicitors to inform clients of this reduced level of cover. However, if the SRA view is that putting this information on a website is a better point at which to impact the choice of provider, then providing it at a later stage is inconsistent. Our research also suggests that consumers may not have a clear understanding of the meaning of this information.
105. The SRA notes it cannot impose requirements on firms it does not regulate and so breaches by individual solicitors working in unregulated firms are going to be very difficult to monitor and effectively enforce. The SRA would require the voluntary cooperation of the unregulated firms to identify any instance of wrongdoing or failure to comply with obligations. Any investigation or enforcement action may also require voluntary cooperation to pursue, which may not be forthcoming. This proposal illustrates the flaws in the Handbook reforms – that solicitors may be individually regulated but that the regulation and protections vary based on firm structure. Solicitors in unregulated firms will be subject to a range of pressures from the firm, their manager, and their client that may not be in line with their professional obligations.

Question 17

Do you have any comments on the drafting of our rules?

Use of guidance to create enforceable obligations

106. The SRA's proposed approach to implement its price and service publication proposals is to use the regulations to create a general rule. The guidance in annex 2 is intended to require price and service information to be published in certain areas of law. The guidance includes definitions of the services and information expected to be published, with reference to minimum standards.
107. We are concerned that this approach does not provide clarity to firms on their obligations. If the SRA's guidance is intended to prescribe minimum standards of publication, then by definition it is not guidance and inappropriate to refer to it as such. If firms are expected to adhere to certain minimum, enforceable standards, then for clarity and certainty those standards should be set out in regulation - and not hidden in guidance. We also have concerns that if the SRA sets out minimum standards in guidance, it is not clear what would happen in terms of LSB scrutiny of the changes.

108. We therefore consider that the following should be removed from guidance and instead contained in rules or regulations:
- a. principles of price publication;
 - b. The legal services to which the new obligation applies and respective definitions;
 - c. Any specific detail that is required to be provided; and
 - d. Any exemptions.
109. This approach would then allow for the SRA to create guidance to set out acceptable ways in which firms could meet requirements.

Missing points

110. We have also noted the following points that appear to be missing from the draft rules and guidance:
- a. The SRA notes that it does not intend for price publication requirements to be applied to work funded by the legal aid agency. However there does not appear to be an exemption providing for this.
 - b. There also does not appear to be any reference to firms being required to publish details of how to make a complaint to the Legal Ombudsman.

Question 18

What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

111. As noted earlier, there are several inherent features of legal services listed by the CMA in its legal services market study that limit the growth of intermediaries such as DCTs. However these were not addressed by the CMA or the SRA. There are risks associated with digital comparison tools identified in our research that are relevant – in particular some consumers may over-focus on price, and may not be aware of the nature of their legal needs.
112. As this consultation response makes clear, information on price and service quality for legal services is meaningless without being put into the context of the client's individual circumstances. Yet digital comparison tools would inevitably provide information without this contextual information, to the detriment of consumers and the profession.
113. The CMA's recent report on digital comparison tools also identified a number of concerns relevant to the legal services market – in particular that there were risks of consumer focusing on price rather than quality.²³ It is also noteworthy that the CMA's report considered a range of products and services that are simple and that consumers are relatively familiar with, compared with legal services. The CMA in late October further opened an investigation into hotel booking sites, expressing concerns about the presentation of clarity, accuracy and presentation of information and the effects on consumers.²⁴

²³ Competition and Markets Authority, *Digital comparison tools market study: final report*, September 2017.

²⁴ Competition and Markets Authority, "CMA launches consumer law investigation into hotel booking sites", October 2017. Available at: <https://www.gov.uk/government/news/cma-launches-consumer-law-investigation-into-hotel-booking-sites>

114. We would expect the SRA to consider the recommendations made by the CMA in its report on price comparison websites, and how it will avoid the issues identified.

Question 19

Do you have any further information to inform our final impact assessment?

115. As noted above, we consider that the impact assessment does not adequately capture the impact of the proposals on firms, and small firms in particular. The assessment considers the likelihood of a firm carrying out work in the areas of law identified but this is only part of the picture. The impact assessment does not consider the costs in time and resource of implementing any of its proposals for firms and solicitors. We have outlined in our response some of the steps we would expect firms and solicitors to take in implementing any proposals. For completeness, we would also suggest that the impact assessment should consider the overall impact on the provider base.
116. The SRA's recently released report on the diversity of the profession²⁵ provides further information that should be incorporated into the SRA's impact assessment. The report categorises firms into several profile types, and the profile most likely to provide services to individuals is the "high-street firms" profile – these tend to be smaller, more likely to be based in regions, and provide a mix of retail and commercial legal services. This profile also includes a significant proportion of wholly BAME-staffed firms. The analysis in this report may provide further information regarding the impacts of the proposals on BAME solicitors and smaller firms.
117. The impact assessment should also take into consideration both the upfront costs to the SRA in time and resource for implementation and the further ongoing costs of supervision and enforcement. The proposals in this document may be implemented at or around the same time as the wider *Looking to the Future* reforms – firms and solicitors may therefore be expected to request a significant amount of guidance and assistance from the SRA during the implementation period. The SRA will need to consider how it can provide, clear, consistent and useful guidance for the profession on a range of complex issues at the same time.

²⁵ Dr. Sundeep Aulakh, Professor Andy Charlwood, Professor Daniel Muzio, Professor Jennifer Tomlinson, Dr. Danat Valizade (2017), *Mapping advantages and disadvantages: Diversity in the legal profession in England and Wales* available at: <http://www.sra.org.uk/sra/how-we-work/reports/diversity-legal-profession.page>

Consumer behaviour research

A report by London Economics and YouGov for the
Law Society



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November 2017

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Executive Summary

In September 2017, London Economics and YouGov implemented a series of behavioural insight methods to explore the consumer journey when searching for legal service providers. The objective was to assist the Law Society to better understand the most useful information that solicitors can provide to consumers.

The study was conducted in the context of the Competition and Market Authority's (CMA) final report of its legal services market study.¹ The report broadly concluded that the legal services market is not working well for consumers. The CMA found that consumers often lack experience in this market and find it difficult to make informed choices due to asymmetric or missing information in regard to price, service and quality.

In light of these findings the CMA recommended that regulators develop new minimum standards for disclosures of price, service, redress and regulatory status, and require legal service providers to adhere to them.

The Solicitors Regulation Authority published its consultation paper in September 2017. The SRA is consulting on a series of regulatory interventions that seek to address these information problems:

- That firms publish their prices and provide a description of the services they offer;
- Firms provide information on SRA regulatory protections including a digital badge that verifies SRA regulation, and a second regarding access to the compensation fund;
- The SRA proposes to publish data on first-tier complaints made against firms the SRA regulate;
- The SRA proposes to build a digital register that holds key regulatory data about solicitors and firms the SRA regulates and to publish this data; and,
- The SRA proposes to require solicitors working in non-Legal Services Act regulated firms to inform clients that they are not subject to the SRA requirements for compulsory professional indemnity insurance.

Within this context the Law Society is seeking to better understand the most useful information that solicitors can provide to consumers. To assist the Law Society, London Economics and YouGov implemented a series of behavioural insight methods to explore the consumer journey when searching for legal service providers.

Consumer decision-making in the legal services market

The legal services market is characterised by a number of features that mean consumer behavioural biases are particularly pervasive. This arises for a number of key reasons:

- Purchasers of legal services have unique needs, no one situation is exactly like another;
- Legal services are (often) infrequently purchased, and as such learning is limited in the legal services sector;
- Consumers are often in situations of emotional stress/vulnerability;

¹ <https://www.gov.uk/cma-cases/legal-services-market-study>

- Legal services have credence characteristics (difficult to assess quality at point of search and selection, and sometimes after service completion) – a successful outcome is not necessarily directly linked to good customer care;
- There is information asymmetry – consumers are not legal professionals;
- Reputation and word of mouth/recommendations are important in choice; and,
- Legal service providers’ regulation is complex.

Behavioural biases interact with information asymmetry (or missing information) to magnify the difficulties consumers face. Together they can hinder the ability of consumers to make effective decisions and to drive competition.

The interaction between the market failures of information asymmetry and behavioural biases means that information remedies as proposed by SRA must be carefully considered, designed and tested.

When relevant information in the market may be missing or difficult for consumers to access and assess and consumers make poor choices as a result, regulators may intervene requiring firms to provide this information. However, due to consumer behavioural biases, such interventions will only help consumers if the information is presented in the right way. Consumers’ limited attention makes them susceptible to framing, meaning they often focus on headline figures and ignore additional information about other service features and charges that is provided to them.² Provision of information can also lead consumers to make poorer decisions because additional information distracts them³ or makes them under-or-over react emotionally.⁴ Behavioural biases can mean that regulatory interventions that seek to address information problems can be ineffective and even harmful to consumers (Financial Conduct Authority, 2013).⁵

Research approach

The CMA has recommended that regulators consider conducting behavioural research in order to better understand how consumers respond to alternative information remedies, and styles and formats of information presentation.⁶

This study for the Law Society used behavioural research techniques to explore the consumer decision-making process when searching for will writing, divorce and conveyancing legal services. All study participants had searched, or were searching, for a legal service provider within the last 12 months.

The research comprised two key approaches. Behavioural forums were conducted to understand individual behaviours and choice, and focus groups and depth interviews were employed to understand views and deliberations.

² Chater, N., Huck, S. And Inderst, R. (2010). Consumer decision-making in retail investment services. Report to the European Commission.

³ Bertrand, M., Karlan, D., Mullainathan, S., Shafir, E. and Zinman, J. (2010). What’s Advertising Content Worth? Evidence from a Consumer Credit Marketing Field Experiment. *Quarterly Journal of Economics*, 125(1)

⁴ Charter et al., (2010).

⁵ Applying behavioural economics at the Financial Conduct Authority (2013) <https://www.fca.org.uk/publication/occasional-papers/occasional-paper-1.pdf>

⁶ CMA Legal services market study final report (2016)

Three online behavioural forums were implemented in total, one for each service. Each forum had between 10 and 15 participants. In total across all services 74 participants completed the forums. Three online focus groups were conducted (one for each service) with between 8 and 10 participants per group. Twenty eight participants in total completed the focus groups; and, twenty-four individual depth interviews were undertaken, with 8 interviews for each service.

The behavioural forums were designed to place the consumer in the situation of searching for and choosing a service provider. The forums were set-up as a controlled behavioural experiment. Forum participants were provided with scenarios that described a legal issue they were searching for a provider to assist them with. Within the experiment participants selected a provider and rated the provider attributes important in their choice.⁷ Surveys and focus groups cannot generate observed behaviour, and it is well known that statements about future behaviour are often very different from actual behaviour.

Decision context is also of great importance. What is completely natural in one context is completely peculiar in another; and, humans are generally poor at forecasting into the future. Individuals tend to underestimate the likelihood that a negative event may occur (overconfidence bias), undervalue the likelihood of a low probability but high impact event occurring (probability weighting) and tend to focus excessively on the present and fail to appreciate events happening in the future (present bias).

In order to account for context, the behavioural experiment introduced an unforeseen event that simulated harm to the consumer. The nature of the event meant that the consumer would be better off if the provider they selected, prior to the event occurring, had consumer protections offered by a regulator (although participants were not told this), in this study the SRA or the Council for Licensed Conveyancers. Following the event participants were asked to make their selection of provider again, either staying with their previous choice or changing to the other provider, and explain their reasoning.

As case complexity is also an important contextual issue when searching for a legal service provider, the experiment introduced a second more complex scenario and associated unforeseen event. The experiment was then re-run to determine if, how and why consumer decision-making may change as complexity and scale of harm increases.

The focus groups and face-to-face depth interviews were conducted with the same participants as the behavioural forum, either directly after the forum (interviews⁸) or one week later (focus groups). The methodology employed a deliberative approach. Deliberative approaches provide an opportunity for participants to find out more about a topic during the course of the research. The approach simulates learning and allows researchers to understand how decision-making changes as the context changes and consumers become more informed about the nature of the market. The interviews and groups took participants through the key stages of the consumer decision-making framework of access, assess and act. This framework is key Theme 1 in the CMA's market study final report.

⁷ Two providers were shown and each provider displayed price, information on regulation or professional body membership, text describing service quality, small print on protections or code of conduct; and, details on what price includes. The approach generates observed choices.

⁸ In the face-to-face depth interviews participants completed the forum and interview questions in the same 1.5 to 2 hour sitting. The forum was implemented using paper based materials.

Key findings and conclusions

The forums, focus groups and interviews show that:

Finding: Recommendations are an important route to finding a provider

Trust plays an important role when consumers search for and choose a legal service provider, as do recommendations from family and friends, or other sources such as real estate agents (conveyancing). Trust is linked with the behavioural drivers of social norms and social proofing (people can be influenced by signals about how other people behave), and is used as a method to simplify search and decision-making. People tend to feel more comfortable with a decision (or are more likely to make a particular decision) if someone they identify with has previously made the same decision.

The focus groups and interviews found that consumer awareness of regulators in the legal sector is low. Only 1 – 2 participants in each of the three focus groups when specifically asked if they had heard of the Solicitors Regulation Authority said they had.

If a digital badge is used that verifies SRA regulation and access to the compensation fund it will only be effective if consumers know who the SRA is, what the compensation fund is and what regulation by the SRA means.

Conclusion: There is a general need to take steps to ensure consumers are informed as to the identity and function of the regulators and what regulation by the SRA and other regulators means, to enable consumers to understand the difference between regulated and unregulated firms in terms of performance monitoring, quality standards, provider suitability and consumer protections.

Finding: Digital comparison tools may lead to over reliance on price

Online search is important when trusted recommendations are not available. Search engines and visits to individual provider sites, followed by phone calls and/or face to face visits is the most common route. When asked in an open question at the beginning of the focus groups and interviews what actions participants took in their legal service search, very few stated they used comparison sites, although almost half used these sites for other services such as utilities. Those that did, used them for conveyancing services. This is most likely because there are very few commonly used comparison sites for legal services in the UK.⁹

The CMA in its market study final report suggests that price comparison sites (Digital Comparison Tools) could ‘have a very useful impact’ in the legal services market by ‘providing a straightforward tool’ for consumers to find the best value-for-money legal services provider.

Comparison sites seek to overcome cognitive biases by bringing information into one place in a simple format, reducing the costs to consumers of accessing information and assisting comparability.

⁹ The CMA (2016) reports that MoneySuperMarket is the only one of the large comparison sites in the UK that includes legal services, and it covers only conveyancing.

During the focus groups, consumers learned that not all legal service providers are regulated, have compulsory professional indemnity insurance, and that prices for services may vary due to events that occur during the service provision. After learning this information, almost all participants said they would not find price comparison sites for legal services useful.

Participants reported that they thought comparison sites would put too much emphasis on price, and that due to the personal nature of the service, there are many factors other than price that need to be considered which could not be expressed on a comparison site. Participants expressed lack of trust and thought it would be risky to use a comparison site for legal services. Participants also thought that price comparison sites would lower the tone of the legal profession and were 'tacky'.

The CMA in its recent Digital comparison tools: market study final report (September 2017), found that DCTs worked less well in sectors where DCT operators could not obtain information that would improve consumer comparisons. For example, the broadband market where broadband speed depends on a number of consumer location specific factors which are not known with certainty prior to service delivery. Further, while the CMA did not find any evidence for hollowing out (a reduction in service/product quality as a result of undue focus on price), the CMA did recommend that regulators should work with the DCT sector and suppliers to improve the effectiveness of quality metrics to minimise the risk of hollowing out.

Conclusion: The way information is presented to consumers has significant impacts on understanding and behaviour. Due to limited attention and framing effects, consumers anchor to the most obvious and salient information. Previous behavioural research by the Office of Fair Trading (2010) found that presenting price up-front and detailed information about additional charges on later online pages ("drip-pricing") lead to significant consumer harm.¹⁰

Finding: Price is a key factor for potentially more vulnerable consumers

Advertised price is given considerable weight in consumer decision-making, with less weight given to smaller print on what is included in the price and details on protections and/or code of conduct. This is particularly the case with consumers who may be in vulnerable circumstances such as consumers in lower social grades.

Participants in the behavioural forum were asked to compare and choose between two providers. Before the unforeseen event had been introduced, participants indicated that price was the most important factor. While information on consumer protections and price estimation was shown to participants below and in smaller font than price, very few participants indicated these factors were important in their choice of provider.

As participants progressed through the research, they experienced an unforeseen event that led to harm in the behavioural experiment, and learned about regulation, insurance and pricing in the focus groups and interviews. As participants considered the possibility of harm, or learned additional information, the weight placed on price decreased and priorities moved towards other service attributes such as experience, regulation, protections and sufficient insurance.

¹⁰ OFT (2010) The impact of price frames on consumer decision-making http://webarchive.nationalarchives.gov.uk/20140402165040/http://oft.gov.uk/shared_oft/economic_research/OFT1226.pdf

For Will writing and Conveyancing sufficient insurance was considered to be of greater importance relative to cost. Expertise in Will writing was also considered of particular importance. For Divorce, expertise was given more weight than cost.

Conclusion: A number of large scale quantitative behavioural experiments have illustrated that how prices are presented can have significant impact on consumer decision-making, including generating harm. This is because consumers anchor to the price, and may stop searching when in fact they should continue to search¹¹, and consumers overlook important information leading them to make poorer choices¹².

Probability weighting and overconfidence means consumers underestimate, or do not consider at all, the chance of something going wrong during the service or much later in the future after the service is completed. Combined with present bias, an over weighting on price can occur.

Due to the bespoke nature of legal services, limited consumer understanding and experience, and complexity in consumer needs between different services, providing relevant but missing information will only help consumers if presented in the right way, and may harm consumers if it leads them to overlook or discount other relevant service information.

Finding: Legal service knowledge is low

Consumers' knowledge of legal services regulation is low, and understanding that there are regulated and unregulated providers of (some) legal services is very limited.

Participants reported that they value regulation, but most were not aware of what it involved. Participants did not know what it means for providers to be regulated by the SRA when directly asked e.g. what are the key factors, what assurances are provided to consumers, or which organisations regulate solicitors. The majority of participants believed that all legal service providers were regulated in the same way due to the importance of the service provided. Participants expressed shock, concern and dissatisfaction when informed in the groups and interviews that not all providers are regulated or have compulsory professional indemnity insurance.

In the behavioural forum, once an event that generated harm occurred, participants that had previously selected the cheaper provider, and in the case of wills and divorce was not regulated, often changed their mind selecting instead the provider that was labelled as a "solicitor" and stated that they (the provider) were regulated by the Solicitors Regulation Authority. Participants' reasoning was that they valued solicitors' skills, choosing a regulated provider provided them with peace of mind and that they felt they would have a higher level of protection from the "solicitors' regulator". It seems that while consumers may have low knowledge of regulation in the sector, regulation is important and valued by consumers especially when things go wrong.

Participants drew upon their knowledge of regulation in other sectors in which they interact more frequently, such as utilities and finance. Consumers may get confused if they try to transfer their understanding of regulation from other sectors because different sectors have different regulatory

¹¹ OFT (2010) The impact of price frames on consumer decision-making; OFT (2013) Partitioned pricing: behavioural research http://webarchive.nationalarchives.gov.uk/20140402165048/http://oft.gov.uk/shared_oft/economic_research/OFT1501A.pdf

¹² European Commission (2016) Understanding consumer vulnerability across key markets in the EU http://ec.europa.eu/consumers/consumer_evidence/market_studies/vulnerability/index_en.htm

models. For example, all providers that advertise to be financial advisors must be approved and authorised by the FCA but not all providers of legal services must be regulated by the SRA.¹³

Conclusion: There is a general need to inform and educate consumers who use legal services.

¹³ Specialised conveyancers are regulated by the Council for Licensed Conveyancers.

1 Introduction

In September 2017, London Economics and YouGov implemented a series of behavioural insight methods to explore the consumer journey when searching for legal service providers. The objective was to assist the Law Society to better understand the most useful information that solicitors can provide to consumers.

The study was conducted in the context of the Competition and Market Authority's (CMA) final report of its legal services market study.¹⁴ The CMA broadly concluded that the legal services market was not working well for consumers and made recommendations to legal services regulators to remedy the problems.

The Solicitors Regulation Authority (SRA) published its consultation paper *Looking to the future: better information, more choice*¹⁵ in September 2017. The SRA set out their proposed changes to the market with the aim to help consumers make more informed choices and to promote competition.

The SRA is consulting on the following requirements for firms regulated by the SRA:

- That firms publish their prices and provide a description of the services they offer;
- Firms provide information on SRA regulatory protections including a digital badge that verifies SRA regulation, and a second regarding access to the compensation fund;
- The SRA proposes to publish data on first-tier complaints made against firms the SRA regulate;
- The SRA proposes to build a digital register that holds key regulatory data about solicitors and firms the SRA regulates and to publish this data; and,
- The SRA proposes to require solicitors working in non-Legal Services Act regulated firms to inform clients that they are not subject to the SRA requirements for compulsory professional indemnity insurance.

1.1 Consumer decision-making in the legal services market

Markets work well when interactions on both the demand (consumer) side and the supply (firm) side are efficient. Confident consumers drive competition by making well-informed and well-reasoned decisions. In turn, these decisions reward providers that best satisfy consumer needs. On the supply side, competition incentivises providers to deliver what consumers want as efficiently and as innovatively as possible. When both sides function well, a virtuous circle¹⁶ is created between consumers and competition.

In order for consumers to drive competition effectively they need to:

- Search for and access information about the alternative providers and products in the market;

¹⁴ <https://www.gov.uk/cma-cases/legal-services-market-study>

¹⁵ <https://www.sra.org.uk/sra/consultations/lttf-better-information-consultation.page#download>

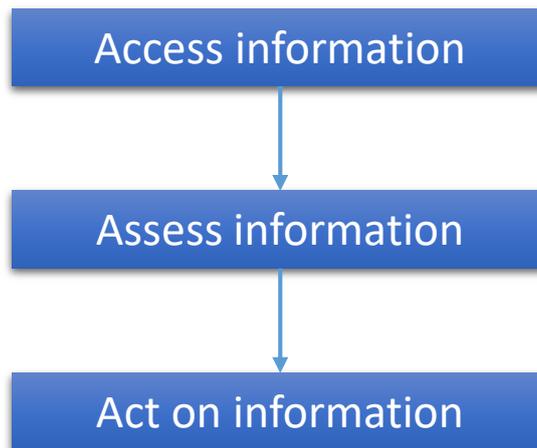
¹⁶ The term virtuous circle was used by the (former) Office of Fair Trading 2010 in their study *Behavioural biases and competition policy*. The responsibilities for the OFT were passed to number of organisations in 2014 including the CMA and the Financial Conduct Authority.

- Assess and analyse the information they have acquired; and,
- Act on this information and analysis by purchasing the good or service.

The CMA focused on the consumer decision-making process as one of the key themes in its Legal Services market study final report. If this decision-making process breaks down, the ability for consumers to drive effective competition can be hindered.

Figure 1 presents the steps in the consumer decision-making process.¹⁷

Figure 1 The consumer decision-making process



The fully rational consumer effectively drives competition by weighing up the costs and benefits of different alternatives before choosing the alternative that maximises her/his utility. When doing so, the rational decision-maker makes use of all available information unless obtaining it is too costly.

Regulators and policy makers have long recognised that consumers do not operate as the rational framework predicts. Indeed, behavioural biases have been recognised as a market failure for nearly a decade in the United Kingdom.¹⁸ These biases can lead to a breakdown in the decision-making process resulting in a lack of competition from the demand side.

The legal services market is one in which consumer behavioural biases are particularly pervasive. This arises for a number of key reasons:

- Purchasers of legal services have unique needs, no one situation is exactly like another;

¹⁷ The consumer decision-making framework of access, assess and act was first introduced by the Office of Fair Trading (2010), 'What does Behavioural Economics Mean for Competition Policy?'. The framework has subsequently been used in various studies, such as 'Behavioural economics and its impact on competition policy', a report for the Netherlands Authority for Consumers and Markets (2013), 'What can behavioural economics say about GB energy consumers?', a report by the UK energy regulator (2011), Consumer Vulnerability in Key Markets in the EU, a report for the European Commission (2016).

¹⁸ First reported by (former) Office of Fair Trading 2010 in their study *Behavioural biases and competition policy*. http://webarchive.nationalarchives.gov.uk/20140402182927/http://www.offt.gov.uk/shared_offt/economic_research/oft1224.pdf

- Legal services are (often) infrequently purchased, and as such learning is limited in the legal services sector;
- Consumers are often in situations of emotional stress/vulnerability;
- Legal services have credence characteristics (difficult to assess quality at point of search and selection, and sometimes after service completion) – a successful outcome is not necessarily directly linked to good customer care;
- There is information asymmetry – consumers are not legal professionals;
- Reputation and word of mouth/recommendations are important in choice; and,
- Legal service providers’ regulation is complex.

In light of these characteristics, when analysing the consumer decision-making process in the legal services market, it is of importance to account for these biases and to take them into consideration in remedy design.

Behavioural biases of particular importance in the legal services market include:

- **Limited attention:** Individuals’ attention span is not unlimited. Human brains are said to function with two systems: a spontaneous system which is active in intuitive decisions (System 1) and a more deliberative system which requires effort to analyse more complex decisions (System 2). Because System 2 requires more effort and analytic resources, we often try to simplify complex tasks such that we can rely on the easier System 1 to find solutions. This can influence the way consumers search for and access information. Consumers may tend to focus on service features that stand out and capture their attention while ignoring important but less obvious or less salient information.¹⁹ For example, up-front price may be given more weight in decision-making than other service features presented less prominently or on further detailed information pages.²⁰ This bias was observed in the behavioural forums, focus groups and depth interviews. When participants were first asked at the beginning of the behavioural forums what was most important in their search and comparison between providers, the majority of respondents ranked price as one of the most important factors. However, once respondents became aware, later in the forums, that ‘things could go wrong’ with their legal issue, and that some providers may not be regulated and that they may have different levels of insurance (information provided towards the end of the focus group and interview deliberative process), participants placed more weight on other service features including experience, qualifications and regulation.
- **Framing effects:** The way information is presented to consumers can affect how information is accessed and searched for.²¹ This can have particular effects in the legal services market as consumers’ awareness and understanding of different types of service providers is low. The majority of focus group participants and interviewees in this study

¹⁹ Della Vigna (2009) ‘Psychology and Economics: Evidence from the Field’. Bordalo, Shleifer and Gennaioli (2012) ‘Saliency Theory of Choice Under Risk’, *The Quarterly Journal of Economics* 127 (3).

²⁰ The behavioural experiment ‘The impact of price frames on consumer decision-making’, London Economics for the Office of Fair Trading (2010), found that placing important additional price information on subsequent pages during an online purchasing process decreased consumer welfare by 25%.
http://webarchive.nationalarchives.gov.uk/20140402165040/http://oft.gov.uk/shared_oft/economic_research/OFT1226.pdf

²¹ Tversky, Kahneman (1981) ‘The framing of decisions and the psychology of choice’, *Science*.

did not know the difference between a solicitor and lawyer, and assumed they were the same.²²

- **Probability weighting:** Individuals are said to be poor statisticians as they tend to misinterpret probabilities.²³ Consumers tend to undervalue the likelihood of a high impact event occurring, but overvalue the likelihood of low impact event occurring. This can be seen in the tendency for consumers to insure against small losses (e.g. loss of a mobile phone), but to underinsure for large losses (e.g. property insurance). This also means that we tend not to believe or foresee that a negative event can happen to us. When searching for legal service providers, most participants in the focus groups and depth interviews reported that they had never considered the issue of insurance in case of something going wrong with their legal issue due to the error of the legal service provider. Many said they had never considered this, but had learnt that things could go wrong in the behavioural forum where they were introduced to increasing case complexity and an unforeseen negative event. When respondents had been specifically informed during the deliberative process of the groups and interviews that that insurances can vary, and that issues can arise during the legal process, participants then tended to account for potential future outcomes and the protections that they would consider important to have in place.
- **Present bias:** Individuals tend to be present biased, meaning that they focus excessively on the present and fail to appreciate events happening in the future.²⁴ This was observed in the behavioural forum, when participants tended to focus on the price of the service (which must be paid in the near future) over other features such as qualifications, regulation or membership of a professional body. This was particularly prevalent in groups that may be considered vulnerable, such as low income groups who face tight budget constraints, or people going through a particularly stressful situation such as divorce, where emotions regarding the amount of money they would have left after the divorce was at the forefront of their mind.
- **Trust:** Consumers may make decisions based on feelings of trust, whether towards a sales person or advisor, or towards a specific firm or brand. Trust plays a particular role in legal services due to the credence nature of the service: It is difficult (if not impossible) for the consumer to assess quality at point of search and selection, and sometimes (even) after service completion. This is compounded by the complexity of legal services and the fact that consumers only engage in the market a limited number of times in their life such that learning is limited. The role of trust in choice of service provider was observed in the focus groups and depth interviews. Participants, if they trust a broker or real estate agent, may rely on their recommendation and will not conduct any further search.

In addition to market failures due to behavioural biases, the legal services market is also one in which problems of information asymmetry and limited consumer knowledge hinders effective decision-making. Overwhelmingly, participants in the study did not know what the Solicitors Regulation Authority was, and were not aware of their regulatory role for the sector. Furthermore, participants were not aware and struggled to understand when informed (during the research)

²² The focus groups and interviews were implemented after the behavioural forums, and the majority of participants were the same in both methods. Even after participants had completed the forum in which they learnt about increasing case complexity, that 'things can go wrong' and they were shown different types of legal service providers, the majority of participants were unaware of differences between different types of legal service providers.

²³ Tversky and Kahnemann (1992) 'Advances in prospect theory: Cumulative representation of uncertainty', *Journal of Risk and Uncertainty*, Volume 5, Issue 4.

²⁴ Laibson (1997) 'Golden Eggs And Hyperbolic Discounting', *Quarterly Journal of Economics*.

that some legal services providers are regulated and some are not; and what regulation involves in terms of protections to the consumer. Participants did not know what type of insurance legal service providers may have, and did not understand that different legal service providers may have different levels of insurance.

Information asymmetry and behavioural biases interact. This interaction means that the provision of more information can lead to increased difficulty and negative outcomes for consumers. This has been well recognised by a number of UK regulators including the Financial Conduct Authority (FCA, 2013). The CMA in its market study final report raises the point that behavioural research (and testing) can provide significant insights into how consumers are likely to respond to information remedies.

Behavioural biases can mean that regulatory interventions that seek to address information asymmetries can be ineffective (FCA, 2013). When relevant information is missing in the market and consumers make poor choices as a result, regulators may intervene requiring firms to provide this information. However, due to consumer behavioural biases, such interventions will only help consumers if the information is presented in the right way. Consumers' limited attention makes them susceptible to framing, meaning they often focus on headline figures and ignore additional information about other service features and charges that is provided to them.²⁵ *"Information disclosures that do not take into account how consumers process information are likely to be ineffective or even counterproductive"* (FCA, 2013 p. 25). For example, the European Commission (2010) in a behavioural experiment that tested the impact of disclosing financial advisors' commission, found that this information disclosure remedy may actually lead to worse consumer decisions.²⁶

Regulatory interventions that seek to address information problems can even be harmful when consumers are biased (FCA, 2013). Evidence from the retail financial market indicates that extra information can lead consumers to make poorer decisions, because the additional information distracts them²⁷ or can make them under-or-over react emotionally²⁸.

1.2 Research approach

The approach used behavioural research techniques to explore the consumer decision-making process when searching for legal services. The methods specifically avoided a survey approach which is not well suited to asking a consumer what they would do in the future. Survey respondents tend to state a certain course of action, but when the action is actually undertaken they make a different decision. Surveys are also limited in their ability to change the context in which a consumer makes a decision. The context in which a decision is made is of particular importance when considering consumer decision-making in the legal services sector due to the behavioural biases mentioned above. For example, consumers may fail to consider (or underestimate) the importance of

²⁵ Chater, N., Huck, S. And Inderst, R. (2010). Consumer decision-making in retail investment services. Report to the European Commission.

²⁶ Chater et al., (2010)

²⁷ Bertrand, M., Karlan, D., Mullainathan, S., Shafir, E. and Zinman, J. (2010). What's Advertising Content Worth? Evidence from a Consumer Credit Marketing Field Experiment. Quarterly Journal of Economics, 125(1)

²⁸ Charter et al., (2010).

protections provided by regulation and insurance because they do not believe that a negative outcome will happen to them. This is due to present bias and probability weighting.

The methods used were online focus groups and one to one depth interviews, combined with behavioural forums that implemented a quasi-behavioural experiment.²⁹ The same participants completed the forums and the focus groups/depth interviews. The behavioural forums were completed first followed by the focus groups/depth interviews.³⁰ The methodology employed a deliberative approach. Deliberative approaches provide an opportunity for participants to find out more about a topic during the course of the research. The approach simulates learning and allows researchers to understand how decision-making changes as the context changes and consumers become more informed about the nature of the market. All study participants had searched, or were searching, for a legal service provider within the last 12 months for will writing, divorce or conveyancing. Participants were sampled based on key socio-demographic characteristics to ensure a mix of age, gender and social grade; and, a balance across geographic regions. In addition, participants were sampled based on their personal case complexity. This was considered important as knowledge, awareness and behaviour may differ due to complexity of the personal legal issue.³¹

The research was qualitative in nature; as such, the sample sizes are small. Three forums were implemented in total, one for each service. Each forum had between 10 and 15 participants. Three online focus groups were conducted (one for each service) with between 8 and 10 participants per group. Twenty-four depth interviews were undertaken, with 8 interviews for each service.

The observations from the qualitative research aim to provide detail in regard to the consumer decision-making journey, particularly as consumers become more informed, are educated about the nature of the legal services market and when they experience more complex situations combined with unforeseen events that generate personal harm.

The behavioural forums were designed to place the consumer in the situation of searching for and choosing a service provider.³² Specifically, the forums presented the participants with a hypothetical legal issue for which they were searching for a legal service provider to assist them.³³ Subsequently an unforeseen event occurred which simulated a situation of harm to the consumer. Box 1 presents the scenario and unforeseen event presented to participants in the conveyancing forum.

²⁹ We use the term quasi-behavioural experiment because the experimental technique was embedded in a qualitative forum.

³⁰ The online forums were conducted approximately one week before the online focus groups. The face-to-face forums were conducted in the same 2 hour session but before the depth interviews. The same design was implemented both online and face-to-face.

³¹ The sampling approach is presented in the separate research annex.

³² The scenarios were provided by experts in the specific legal service (wills/divorce/conveyancing) who were advisors to the research team for this project.

³³ Behavioural experiments are a simulated environment. The approach tests consumer decision-making under different scenarios. The abstract nature of the experimental setting can sometimes lead to the perception that lessons from experiments cannot be transferred to the more complex real world. This is a misperception. There is good evidence to suggest that experimental results can reliably predict the presence and relative size of the effects of particular features of interest on consumer behaviour in real-world markets. Financial Conduct Authority (2014) *A practical application of behavioural experiments in financial regulation* <https://www.fca.org.uk/publication/occasional-papers/occasional-paper-3.pdf>

Box 1 Example scenario and unforeseen event used in the behavioural forum (conveyancing)

Imagine you are purchasing a property in the UK on your own. You have arranged a mortgage which is 70% of the purchase price. The property is freehold. You have no other property to sell.

You are searching for a legal service provider to undertake the conveyancing for you. You require the provider to undertake all required checks on the property, liaise with the lender, attend to completion and lodge all required documents.

Unforeseen event

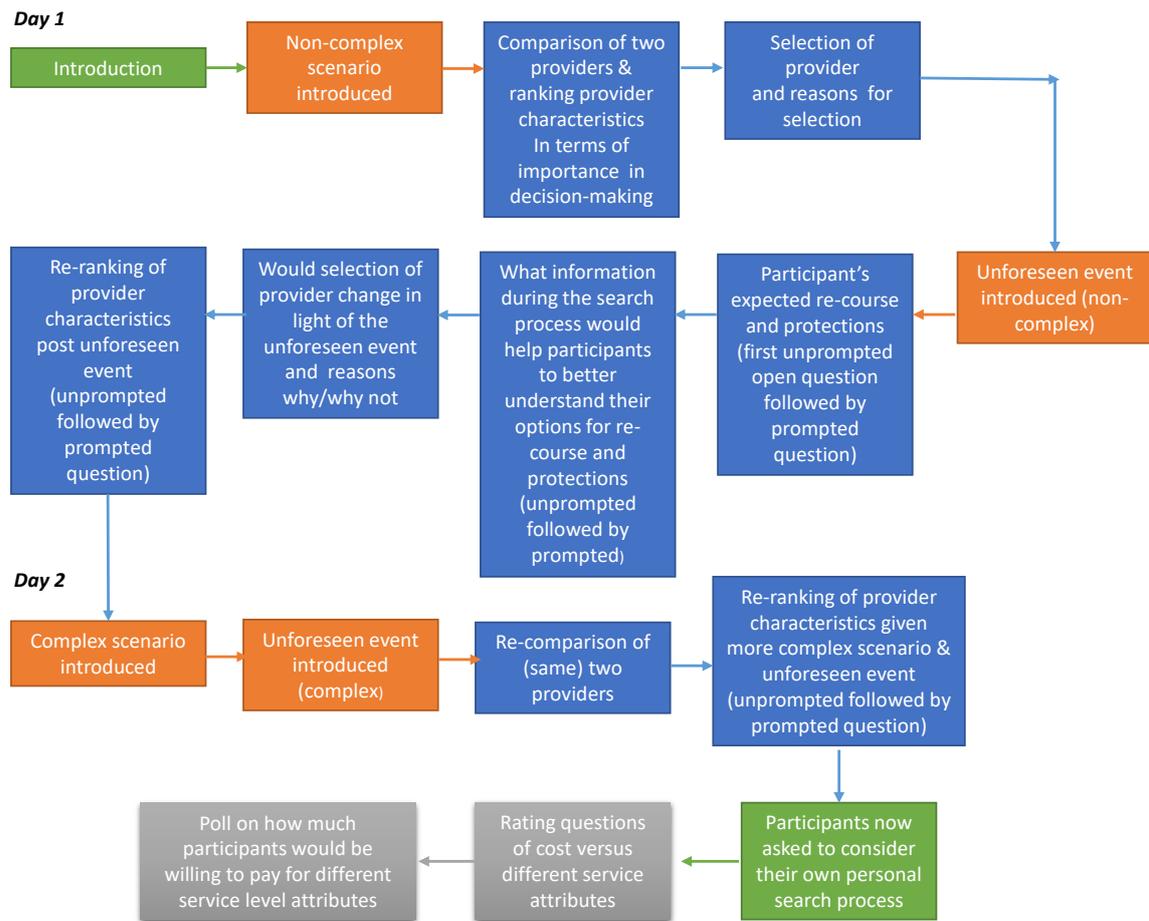
Imagine years later you want to sell your property. The new buyer's legal service provider discovers that the small piece of land which you always use to enter your property is in fact not part of your property or the public highway, but belongs to someone else. Your legal service provider when you bought the property did not identify this problem. While this has not been an issue for you, the new buyer is very concerned and requires this to be corrected. This will result in additional cost to you to correct this issue before you can sell the property, and will lead to a delay in the sale.

The forum took participants through two scenarios of increasing complexity and two unforeseen events. The harmful event was commensurate with the complexity of the scenario.³⁴ The forums objective was to assess if and how decision-making changes as the context in which the decisions are made change. The online forums were conducted over two consecutive days.³⁵ The face-to-face forums were conducted during the depth interviews.

³⁴ The full design of the behavioural forum is presented in the separate research annex.

³⁵ The forums were open for 3 days in total to ensure all participants had the opportunity to complete all parts.

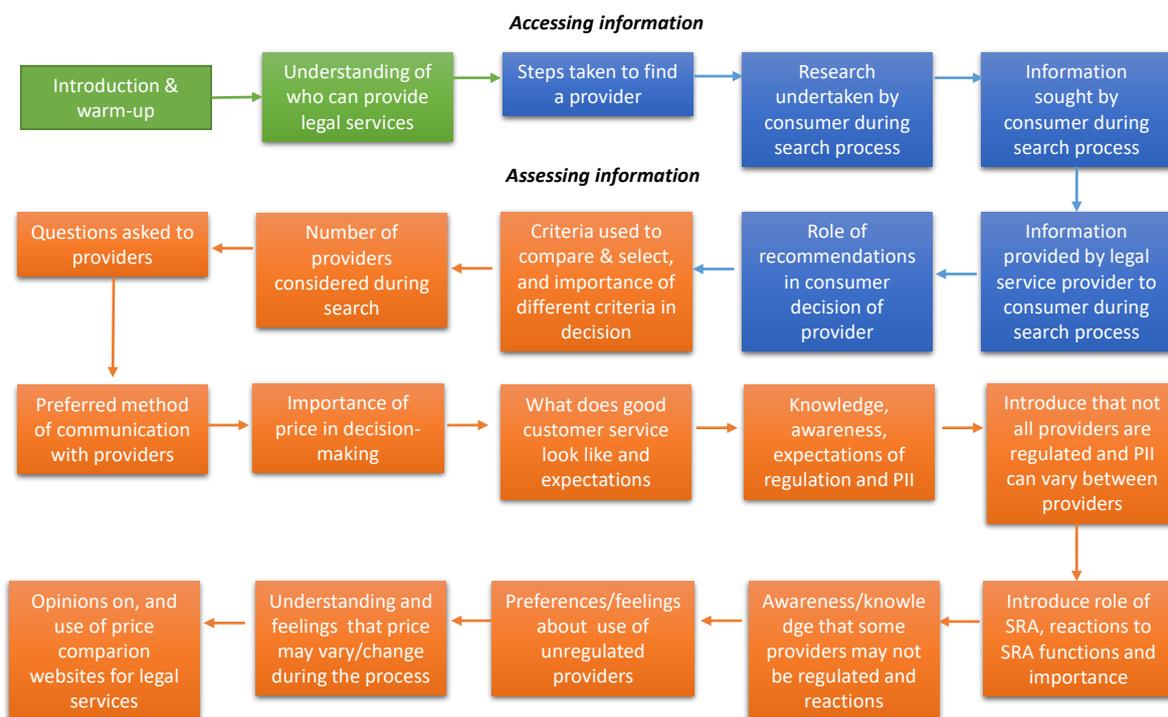
Figure 2 Behavioural forum



London Economics and YouGov Behavioural Forum

The focus groups and depth interviews were deliberative and were designed to explore consumer decision-making as participants gained knowledge during the course of the groups/interviews about the legal services market.³⁶ Figure 3 presents an outline of the process.

³⁶ The full design of the focus groups and interviews is presented in the separate research annex.

Figure 3 Online focus group and face-to-face depth interview outline

London Economics and YouGov focus groups and depth interviews

The research was conducted jointly by London Economics and YouGov. London Economics and YouGov designed the fieldwork materials in consultation with the Law Society. YouGov implement the fieldwork and provided the data to London Economics. London Economics analysed the data and undertook the reporting.

2 Fieldwork findings

This chapter first summarises the key findings from the behavioural forums, focus groups and depth interviews in regard to consumers accessing, assessing and acting on information when making decisions in the legal services market; and, the behavioural drivers behind these observations. The chapter then presents the observations in detail for each stage of the decision-making process. In addition to the qualitative research, the study references findings from the Legal Services Board Legal Needs Survey (2016) to draw together the quantitative findings from this large study with the themes covered in the focus groups, interviews and behavioural forums.

2.1 Key fieldwork findings

Accessing information

- Recommendations from people participants trusted was a key route to finding a provider, and often meant they did not conduct further search. Participants reported relying on trusted friends and family, or other sources such as real estate agents (conveyancing). The role of recommendations has been identified previously within the legal services sector

(CMA market study final report (2017)³⁷; and, the Legal Services Board Legal Needs Survey (2016)³⁸). Trust is often used to make decisions in complex environments, where (own) experience and learning is limited, as is the case with legal services. It can be seen as a method to simplify the search and decision-making process. Trust is also linked with social-norms and social proofing. That is, humans tend to feel more comfortable with a decision (or are more likely to make a particular decision) if someone they identify with has previously made the same decision.³⁹ Therefore who provides the 'recommendation' can be of importance, and the consumer needs to be aware of who the person or organisation is and have trust in that person/organisation. This will also relate to the use of quality marks.

- Participants tended to report greater awareness when they had prior experience with legal services, or they or their friends and family had experience in professional services such as the law or finance.
- Online searches were commonly used in the initial stages of search, followed by telephone calls to a small set of providers (1-3). The more complex the legal issue or the more personal (e.g. divorce) the more search participants undertook. Very few participants in the focus groups and depth interviews reported using comparison websites, advice sites or reviews in their search when they were asked an open question about what actions they undertook in their search. This is most likely because there are very few comparison sites commonly used for legal services in the UK. The CMA (2016) reports that MoneySuperMarket is the only one of the large comparison sites in the UK that includes legal services, and it covers only conveyancing.
- Online search is rarely the only source of information. Participants stated that they liked to talk to the provider either by phone or face-to-face to get a sense of rapport/approachability. This is particularly the case when they felt that their situation was complex.
- Consumers tend not to trust, or use, marketing materials, social media and TV/radio adverts. Some participants associated these sources of information with 'ambulance chasing' firms.
- Information most often requested by participants during the search process was price and time-frames for completion of the work.
 - Participants in the divorce focus groups were more likely to report that they were searching for specialism, contact information and whether they could contact providers out of hours.
 - Participants in the will focus groups were more likely to say that they would look for details about regulation on a legal provider's website.
- Participants reported that the information provided to them by the legal service provider during their search tended to be a factsheet or contracts with terms and conditions, and likely cost of service.
- Participants reported that they do not read small print in documents; and, they did not read the small print presented by providers in the behavioural forums.

³⁷ <https://www.gov.uk/cma-cases/legal-services-market-study>

³⁸ <http://www.lawsociety.org.uk/news/press-releases/largest-ever-legal-needs-survey-in-england-and-wales/>

³⁹ Nudging taxpayers to do the right thing, *Bloomberg*. <https://www.bloomberg.com/view/articles/2014-04-15/nudging-taxpayers-to-do-the-right-thing>

Assessing information

- Participants tended to focus on price when comparing providers, and this tended to be more prevalent in potentially more vulnerable lower social grade participants. Price is a simple method of comparison, and can be used as a heuristic short-cut. Due to consumers' limited attention, price may be given greater weight over other service features, particularly if these feature are presented in smaller print (framing) or further down on a page (or on subsequent pages) of information provided to the consumer at the point of search and comparison. Further, the cost incurred in the more immediate future is given more weight than potential (negative) outcomes in the longer term due to present bias.
- Price is a deciding factor when providers appeared (to participants) to be similar on other features such as expertise and experience.
- Participants' priorities and choices regarding legal service providers changed as they become more aware of how their legal needs might develop, or that an unexpected event may occur during the process which could potentially generate harm or difficulties in the future.
 - At the beginning of the research, participants tended to focus on price when comparing providers and this was more prevalent in potentially vulnerable lower social grade participants and participants with lower incomes. As participants became more informed during the research, priorities tended to move towards other service attributes such as experience, regulation and protections and sufficient insurance in the event something goes wrong.
- Participants did not seem to be aware of kite marks. Kite marks were generally ranked as low in terms of importance in decision-making when participants were specifically asked what information they would use to select a provider (no specific form of kite mark was presented, the question asked about kite marks or indications of quality assurance). In addition, participants struggled to understand the role of kite marks as they generally assumed providers were qualified and regulated anyway.
- When participants became aware that things can go wrong with their legal issue which may mean they suffer a detriment, they then considered that expertise and protections/regulations were of greater importance than price. This is driven by probability weighting. Consumers underestimate the possibility (or do not even consider) that things can go wrong with their legal issue at the point when they choose their legal service provider.
- Participants reported that they wanted to trust in their provider's expertise, and this increased when they became aware that some providers have different levels of protections and insurance if things go wrong.
- Participants did not understand:
 - the difference between a provider who is regulated and an unregulated provider;
 - That some providers are regulated and some are not;
 - Who the regulating organisations are; and,
 - What regulation involves – specifically that regulated providers are required to carry sufficient insurance to protect consumers against providers' possible negligence.

This is most likely due to lack of knowledge about legal services, and the fact that most consumers only engage with legal services providers a limited number of times in their life.

- Participants generally had a low awareness of regulation in the legal sector, and their understanding of regulation seems to come from utilities or finance where different regulatory models apply.⁴⁰
 - This transfer of understanding from other sectors to the legal services sector may magnify confusion for consumers. Other sectors have different regulatory models. For example, all providers that advertise to be financial advisors must be approved and authorised by the FCA but not all providers of legal services must be regulated by the SRA.⁴¹
- When specifically prompted to consider regulation, most participants reported that it is important but they assumed that all providers of legal services are regulated because legal advice is such an important service. However, very few actually understood what regulation means in practice; they simply had a feeling that it provides them with more protection.
- Participants tended not to know what type of insurance legal services providers have, and did not understand that different legal service providers may have different levels of insurance.
- The most common reaction when informed that legal service providers may have different levels of insurance, and that some legal service providers may not be regulated, was shock, upset, outrage, concern and dissatisfaction.

Acting on information and choice of provider

- Participants generally did not know the difference between different types of legal service providers. In particular they thought that professionals calling themselves solicitors are the same as those calling themselves lawyers. This is due to general limited knowledge about the legal services profession.
- When participants' suffered detriment in the behavioural forums due to the behaviour/negligence of the legal service provider they expected to be able to request the issue be solved at the cost of the provider. They also often changed their mind in terms of the type of provider they chose, moving away from an alternative provider to a provider that is regulated and thereby offers protection (to the regulatory required level) in the case of something going wrong.
- In order to help participants understand their rights and recourse in the event that something goes wrong, participants reported that they would like more information about the protection guaranteed by the regulator or professional association. Some would also welcome more details about the legal service at the point of sale, including what problems could arise and the solutions the company can provide. Others thought more information about the expertise or experience of the legal service provider could help them avoid the unforeseen complications.
- When participants were specifically informed as to what regulation involves, they usually reported that they value it and frequently indicated that they would not choose an unregulated provider for future work.
 - However, they would not always pay more for a regulated provider, since they often said that they believe that all providers should be regulated.

⁴⁰ For example in the financial sector financial advisers providing advice to the public need to be regulated by the Financial Conduct Authority.

⁴¹ Specialised conveyancers are regulated by the Council for Licensed Conveyancers.

- Participants often use price comparison sites for services such as banking, insurance, holidays and utilities. This is because these sites are convenient, provide more choice, offer cheaper prices, accessible 24 hours a day and do not require travel. Some participants expressed suspicion about sites as not all companies may be on price comparison sites. Or they thought that some sites had deals with certain companies to be prominently featured.
- After taking part in the research and having been informed that things can go wrong, that prices may vary for services and that regulation and insurance can differ between different providers, the majority of participants thought that it was not practical or appropriate for legal service providers to be on a price comparison website. Participants thought that:
 - Comparison sites may not show other information needed to make sensible decisions (e.g. qualifications, expertise, communication methods available and if the provider is regulated or not).
 - Participants did not believe that they could gauge the level of service reliability on such sites and therefore would still need to call or visit the providers.
 - Being on price comparison sites would lower the tone of the legal profession.
 - Legal work is a personal service, and that there are so many different factors other than price to consider, that could not be accurately expressed on a price comparison site.
 - It is necessary to do their own research and call/meet providers to make the final decision, even if they use price comparison sites to perform initial search.
 - If participants elect to use price comparison sites it would just be an initial gauge to the range of prices to enable them to work out an average price to judge providers against during their own search.

2.1.1 How different consumers access, assess and act

The study employed a qualitative approach and as such the sample size does not allow segmentation of consumers, however high level themes of how different consumers access, assess and act can be observed from the research.

Accessing information

- Consumers who receive recommendations from trusted family or friends, or in the case of conveyancing, mortgage brokers or real estate agents, tend to engage in no further search. In these cases, consumers make their choice of provider following a phone call to the recommended provider or following a browse of the provider's website.
- Consumers who do not receive a trusted recommendation have a greater tendency to engage in search. They tend to do some initial online search entering search terms such as 'solicitor, divorce/will/conveyancing solicitor, local solicitors and law firms' and then typically visit 1 – 4 provider websites, followed by phone calls or visits to providers in person.
- Consumers who are not digitally confident, and who do not receive trusted recommendations, tend to call or visit the provider.

Assessing information

- Vulnerable consumers (e.g. those in lower social grades) are more likely than others to focus on price in their decision-making. This is because they face a limited available budget.

- Consumers across all groups and services tend to underestimate the probability that something can go wrong with their case, and this was the situation even after they had been specifically informed that unforeseen events can occur in the behavioural forum.
- Provider trust, approachability and experience is an important feature for all consumers, and is of particular importance for consumers who perceive their case to be more complex, and participants in the divorce groups who sought empathy and to minimise stress in an already stressful situation.
- Consumers in general understand that costs may vary once service provision has started, however they view these costs as (known) “bolt-ons”/“menu options” which should be clearly explained by the provider at the beginning of service provision. Few understand or expect upfront that final price may vary due to unforeseen or unexpected complications. If this is explored further, most consumers think it reasonable for prices to vary from estimates, but only if this is clearly justified by the provider.

Acting on information

- When consumers experience an unforeseen event and as the scale of harm associated with the event increases, they prioritise different service attributes. In simple settings consumers tend to focus on price, if an unforeseen event occurs and if that unforeseen event leads to an increasing scale of harm, consumers give greater priority to skill/expertise and qualifications over price. This was seen in the behavioural forums when priorities changed following the unforeseen event simulation.
- Consumer choices about the provider they select may change if they experience an unforeseen event. When the simulated event was introduced in the behavioural forum for this study, almost half of participants who initially chose the alternative provider indicated they would change their mind and select the solicitor. Their reasons for changing their mind were that they valued the solicitor’s skill or expertise, and that choosing a regulated provider gave them piece of mind. This was particularly the case for divorce and will writing (whereas conveyancers were either regulated by the SRA (solicitors) or the CLC (licensed conveyancers)).

2.2 Accessing information

This section explores the first step in the consumer decision-making process, how consumers access information relating to legal service providers. It explores consumers’ journeys to selecting a provider, as well as the information they look for and receive from legal services providers.

2.2.1 Steps taken to find a legal service provider and sources of information used

Consumers follow different journeys to selecting a provider, depending on their needs – for example, cost, speed, consumers’ previous experiences or how complex consumers perceive their case to be.

The role of recommendations

Recommendations were often identified as a route to finding a provider by focus group participants. Many participants chose their providers based on word of mouth. They especially valued recommendations from a trusted professional (e.g. estate agent), mediator or friends/family in the legal profession.

Trust is linked with behavioural drivers of social norms and social proofing (people can be influenced by signals about other people behave), and is used as a method to simplify search and decision-making. People tend to feel more comfortable with a decision (or are more likely to make a particular decision) if someone they identify with has previously made the same decision.

The Legal Needs Survey (2016)⁴² also found that recommendations play a role in the way people find their legal service provider. 19% of respondents to this survey (N=5,945) reported that they found their provider through a recommendation from a friend or relative, and 7% following a referral by another advisor e.g. a social worker.

Across all three legal services (conveyancing, divorce and wills), when participants received recommendations from sources they trusted, they often did no or very limited further research. These consumers, usually made their selection after a phone call, face-to-face visit or quickly browsing the provider's website.

"We wanted a fast process due to my baby arriving imminently so it was just easier for us to go with the company recommended by the estate agent." (Cheyenne, Conveyancing)

"We trusted the friends who recommended the solicitor to us. As we didn't know any other solicitor in the area it seemed the obvious choice." (Pauline, Will)

"In such a personal matter I would not trust advertising or promotional material, I would need personal experience or trusted recommendation." (Jonathan, Divorce)

"We used recommendations because using [a] legal service is expensive and important you want someone who will do the job right." (Emma, Conveyancing)

While consumers welcomed recommendations based on previous experience of friends/family/colleagues, many also wanted to conduct their own research to confirm or 'get a sense' for themselves.

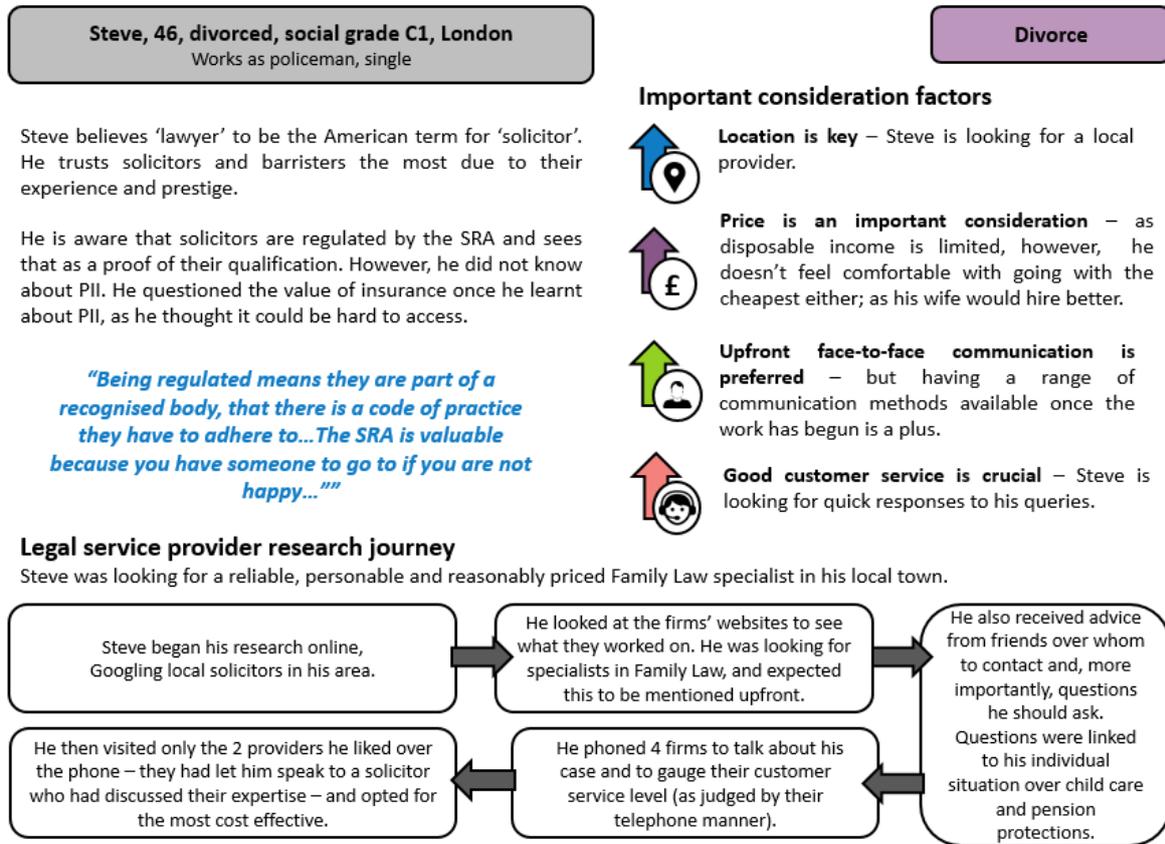
"I trust friends and family to be honest with me so value their opinion, online research allows me to get a broad range of information to finalise my choices, and telephone contact allows me to answer questions and get a feel for the office I might select." (Andrew, Will)

Comparing between providers

Most focus group participants reported doing some initial online research (see Figure 4 for a case study). This is particularly the case if they do not have a recommendation from a trusted provider/family/friend. They typically start by searching for key terms, such as 'solicitor, divorce/will/ conveyancing solicitor, local solicitors and law firms'. Participants then typically visited 1-4 providers' websites.

⁴² Ipsos MORI (2016). 'Online survey of individuals' handling of legal issues in England and Wales 2015.'

Figure 4 Case study of a consumer who conducted online search, followed by phone calls and face-to-face visits



Source: YouGov depth interviews

Very few focus group and depth interview participants, in an open question about their legal search, said that they looked at price comparison websites. The few participants who did say they used comparison sites were conveyancing customers.

"I used price comparison websites "to respectable quotes" and then did research on each of the potential providers. I didn't have a solicitor recommended to me by friends" (Katy-Anne, Conveyancing)

"I typed in quotes for conveyancing costs; a website like confused.com came up – I put some details in and they gave quotes from 3 different firms. I could compare core costs and charges for searches etc. don't all charge the same, but did a bit of a comparison. Some charged more, and I put that down to them being a bigger firm, so able to charge a bit more" (Steve, Conveyancing)

One participant said they visited the Law Society's website.

After carrying out online research, many participants then called 1-3 providers to check that they fit their needs, were approachable and professional and to ask key questions, such as price (fixed fee or not), location, next steps and timeframes.

Participants tended to research and call more providers depending on the legal work they were looking for: for example, participants in the divorce groups tended to be more likely to say they researched many providers, compared to conveyancing. Similarly, participants tended to do more research if they felt their case to be complex, compared to those who thought their work would be straightforward. When participants felt that their issue was sensitive or complex, they wanted to assess, in-depth, the provider's expertise, approachability and understanding of their personal situation.

Do consumers of different legal services take different steps to finding a legal provider?

Participants in the divorce groups, and participants who believed they have a complex case, were also more likely to want to meet the potential provider to 'get a sense of them' and to have the chance to ask questions. Participants in the divorce group were more likely to say that it was especially important for them to get a sense of the rapport between themselves and the provider, and to see if they felt comfortable with the provider. Divorce group participants wanted to feel confident that their provider would 'fight for them', and that they could open up about their case.

"I like to research online as much as possible and go to see places and speak to people to gain a gut instinct." (Claire, Divorce)

"That hour spent with her, I felt a lot more settled and I trusted her. I felt that bit more reassured that it came from a recommendation from a parent – you would never recommend someone who wasn't good" (Hazel, Divorce)

"I felt really calm around her. It felt good to be in her company which felt like a lot." (Nina, Divorce)

"She was personable and relaxed and had a sense of humour. She was likeable. This was a factor." (Steve, Divorce)

Divorce group participants also tended to search for, or value, a free initial consultation compared to conveyancing customers.

"[I searched on the provider's website] whether they offer a free initial consultation" (Adrian, Divorce)

"Might be useful as it's clearer but I believe everything can be said via email" (Lucy, Conveyancing)

Across all three legal services (conveyancing, divorce and wills), participants tended not to trust, or use, marketing materials, or social media and TV/radio advertisements. Some participants associated them with 'ambulance chasing' firms. Often they did not read this type of communication thoroughly.

"I don't take notice of leaflets." (Bob, divorce)

"[Promotional material, TV/radio advertisements] are all marketing ploys and will say what they want to grab your attention" (Katy-Anne, Conveyancing)

"Adverts are by actors, flyers are marketing bumpf. They have no worth." (David, Will)

Many participants admitted that they did not read the fine print sent by their legal providers. This is driven by limited attention. Humans tend to focus on information that stands out while ignoring important but less obvious information.⁴³

“i did not read the small print, because i was too busy.” (Gabriella, Conveyancing)

“I’m very naughty, and don’t often read the small print” (John, Will)

2.2.2 What information do consumers search for and receive from legal providers?

Focus group participants indicated that they usually asked for a price estimate and estimated time-frames for the work. Most participants said that they received a price estimate, either verbally or via letter, or email. Some participants said they received a factsheet. Few participants said they received information about time-frames, without specifically requesting this information.

Participants reported that they received factsheets or contracts with terms and conditions from providers, but most admitted to not reading the ‘fine print’ in these documents. This is in line with the behavioural forums, which were conducted before the focus groups and interviews, in which just over a third (36%) of participants (N=75) reported that they took into account the ‘small print’ that explained the meaning of regulation or professional membership of legal services providers when asked at the beginning of the forum and before the unforeseen event had occurred.

Do consumers of different legal services report that they search for different information?

Participants across all three services reported that they searched for cost information. However, divorce group participants were more likely to report that they were searching for specialism, contact information and whether they could contact providers out of hours. This may reflect the fact that divorces can be contentious and consumers may be reassured by being able to speak directly to their provider about sensitive issues.

“[I search for] opening hours and if they provide an out of hours service.” (Claire, Divorce)

Participants in the divorce group were also more likely to report that they looked for photographs of individuals on the website, which may be related to divorce group participants often wanting to make sure they had a rapport with their provider (see Section 2.2.1).

“[I search for] contact details, quantity of years of experience, possible photographs of solicitors and their qualifications, reviews from consumers...” (Suzanne, Divorce)

“[I search for] Cost of various communication forms. contact numbers email addresses and pics of the sols.” (Julie, Divorce)

Will customers were also more likely to say, unprompted, that they would look for details about regulation on a legal provider’s website, but usually did not indicate what they expected regulation to involve (see Section 2.3.1 for more details).

⁴³ Della Vigna (2009) ‘Psychology and Economics: Evidence from the Field’. Bordalo, Shleifer and Gennaioli (2012) ‘Salience Theory of Choice Under Risk’, *The Quarterly Journal of Economics* 127 (3).

“[I search for] who they are regulated by, what they can offer and a brief estimate of the cost involved.” (Christine, Will)

“[I search for] some statement of how they are regulated, where to get information if they have made an error.” (David, Will)

“[I search for] regulation details, qualifications, outline of services, contact information.” (Martin, Will)

Participants across all three services when asked what they expected to see on providers websites tended to report that they expected to see information about fees, the services offered by the legal provider and contact details.

“looking for what services they provide and indicative cost and to request quotes” (Emma, Conveyancing)

“Looking for if they provided conveyancing work, and contact details” (Lucy, Conveyancing)

“Levels of service offered, clear pricing structure” (Jonathan, Divorce)

“An outline of the services they offer, some information about key staff members, contact details, a general idea of fees, who they are regulated by etc” (Andrew, Will)

Do consumers of different services receive different information from their providers?

Participants across all services reported that they received price estimates during their search. However, will and conveyancing customers frequently reported that they received a factsheet, while divorce group participants frequently reported that they did not receive any information from their providers before meeting with them for a face-to-face consultation.

“[I received] Price estimates. Also fact sheets from one I opted not to use.” (Paul, Conveyancing)

“I was emailed a fee structure with the confirmation of my appointment, and this included contact details for the staff member who would be working with me.” (Andrew, Will)

“I was sent a fact sheet” (Martin, Will)

“[I received] just bumf through the post” (Claire, Divorce)

“[I received] Nothing” (Adrian, Divorce)

The Legal Needs Survey (2016) asked respondents what information they wanted before obtaining legal advice that would help them choose their provider. Just over half of divorce, wills and conveyancing customers (54%, 54%, 51% respectively) reported they wanted to know the cost of service. A third sought information about expertise or experience of the provider (42%, 30%, 32%) and the quality of services (37%, 31%, 30%). Other frequent answers included information about how long it would take; how quickly services could be accessed; and information about regulation of services (N=227, 602, 966 for each service respectively).

The survey also asked respondents how easy or difficult it was for them to find the information they wanted. While for most will writing and conveyancing customers it was either “quite easy” or “very easy” to find the cost of service (90% and 81%, respectively), divorce group participants reported

more difficulties, with only 63% saying it was easy, and 16% saying it was “quite difficult” or “very difficult”. Similarly, participants in the divorce group found it more challenging to find information about regulation and about the quality standard of services, but due to small sample sizes for this question these findings are less robust.⁴⁴

The Legal Needs Survey (2016) also found that the key information provided to consumers at the point of instruction was the ‘likely cost’ of the service (0). Survey respondents were also asked what they were told when they first instructed their legal service provider to go ahead with the matter for each issue where advice was provided.

Table 1 Information provided at the point of service instruction, by type of provider

Information provided	Solicitors	Other reserved providers	Other unreserved providers
The likely cost	60%	52%	26%
Potential problems with addressing legal issue	22%	25%	29%
Potential additional costs	27%	32%	16%
How to complain if things go wrong	15%	13%	18%

Source: Ipsos MORI Legal Needs Survey (2016), N=5,942

The Legal Needs Survey (2016) also found that conveyancing, divorce and wills providers most frequently offered consumers information about the likely cost of the service. Providers of more contentious services (e.g. divorce), were more likely to discuss potential problems with addressing the legal issue (Table 2).

Table 2 Information provided at the point of service instruction, by type of service

Information provided	Conveyancing	Will	Divorce
The likely cost	60%	73%	57%
Potential problems with addressing legal issue	17%	8%	31%
Potential additional costs	25%	11%	48%
How to complain if things go wrong	16%	11%	17%

Source: Ipsos MORI Legal Needs Survey (2016), N=5,942

The Legal Needs Survey also sheds light on the payment terms people were given. More than half of the respondents (58%) said that they paid the fixed price they were quoted at the beginning. A little over a quarter (27%) were given an estimate of what the advice might cost; 9% were given a breakdown of costs. The same percentage of surveyed respondents (5%) reported that they received a pricing structure, an hourly rate but no estimate of the hours needed for the work, or that they paid a fixed price different from the one quoted. 3% said they were not told what the price would be.

⁴⁴ For example, only 16 divorce participants answered the question how easy or difficult it was for them to find information about regulation.

How should information be provided to consumers

The study did not explicitly assess how consumers thought information should be provided to them. However, one question in the behavioural forum which explored participants' beliefs about insurance also asked how this information could best be provided.

When asked in an open (unprompted) question what they consider the best way for legal service providers to inform customers about their insurance, the forum participants most frequently mentioned the providers' marketing materials; the customer's initial contact with the provider (e.g. face to face or phone consultation); the T&Cs in the written contract, or the "welcome pack" received once service terms are agreed. A small number also mentioned it should be presented on providers' websites.

"Should be on their website and on the walls in the office. They should talk to you about it- to reassure you that you are safe." (Nicola, Wills)

"Not in small print. Put in advertising / website - not hidden away somewhere." (Terry, Wills)

"If required, this should be in marketing materials and/or websites - perhaps as a link to the relevant industry body or association." (Adrian, Divorce)

Many participants reported that the information should be clearly communicated in all, or a combination, of these methods. Some also highlighted that the information should be presented in a way that is understandable to a lay audience. Those who said the provider's insurance should be mentioned in the marketing materials often expected this information to be contained in the "small print". In a number of instances, those who would like to be informed about the provider's insurance in the initial information pack asked for a separate explanatory leaflet or document. A large majority agreed that the information must be conveyed *at some point*, while a smaller number of participants maintained that it's sufficient if such information is available "upon query". There were no clear differences in expectations across the three types of service.

"I think that the information should be given in both marketing materials and in first contact to ensure the customer has understood." (Debbie, Divorce)

"The provider's insurance cover should be mentioned in the marketing material, and mentioned at the first face to face meeting. It should also be highlighted in the terms and conditions of the contract." (David, Will)

"This should be a standard clause in terms and conditions, it should be explained in the small print in any leaflets or marketing materials printed and handed to customers, and it should also be something verbally explained in the initial telephone/face to face contact, or written in clear english if email is the first point of contact." (Andrew, Will)

"it should be in their marketing / welcome pack....should be in the main body, but it's usually in the small print. We always tell our customers to never sign a contract without reading the small print." (Michaela, Divorce)

"I think in a leaflet sent with the initial pack. Which could be handed at a face to face meeting or sent out with documents, also perhaps a further follow up once the sale has gone through to check everything went ok and if there are any outstanding issues and what to do if we have had a problem." (Dana, Conveyancing)

"[I]n layman's terms, on first contact." (Kara, Conveyancing)

“An information leaflet upon query.” (Cheyenne, Conveyancing)

2.2.3 Do vulnerable consumers have particular difficulties accessing the information they need?

Consumers in particular circumstances may have difficulties accessing, or assessing, the information that they need to make a decision in relation to the purchase of legal services. For example, the Solicitors Regulation Authority (2017)⁴⁵ has identified consumers who are not digitally confident, older consumers, and consumers of social grade C2DE as being vulnerable. In addition, often life changing events such as illness, job loss or divorce can put people in vulnerable situations, and impact on their ability to assess information and their decision-making process. These situational drivers have been recognised as key indicators of vulnerability in other regulated sectors such as the water sector (Ofwat, 2015)⁴⁶, energy (Ofgem)⁴⁷; and, finance (European Commission, 2016)⁴⁸.

The research conducted for this study indicates that consumers who are not digitally confident may have difficulties accessing the information that they need to search for and to compare between providers. For example, many participants reported that they carried out some initial internet research, especially if they did not have recommendations from trusted sources, which would be difficult for consumers who are not comfortable online. In addition, consumers who are not digitally confident may prefer to visit providers face-to-face before making a decision.

“I don’t like websites or computers. On a website you don’t talk to people. I would call and go into the office. Websites are too distant.” (Bob, Divorce, 57, Social grade E)

Visiting providers in person requires consumers to have physical access to a number of providers’ offices, which may be difficult for consumers whose mobility is limited or who live in remote areas.

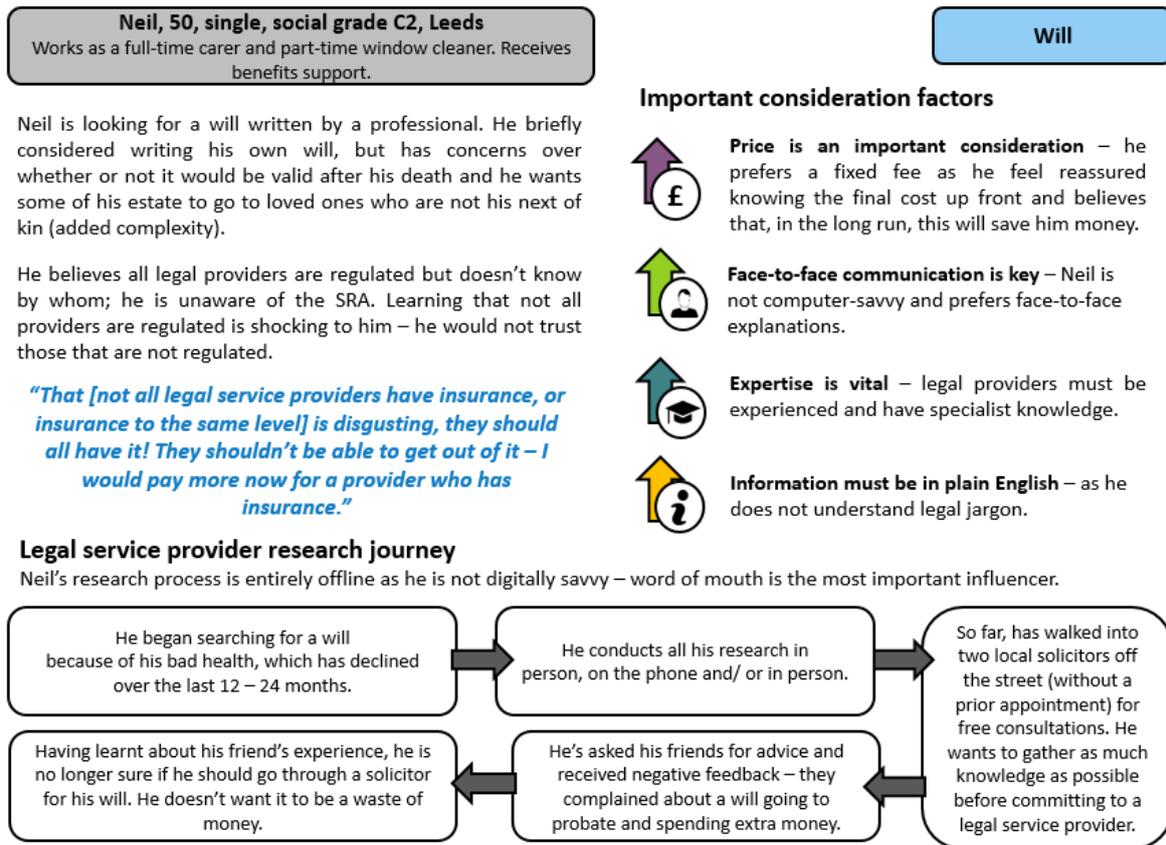
⁴⁵ Solicitors Regulation Authority (2017), Looking to the future: better information, more choice: Initial Impact Assessment

⁴⁶ Ofwat Vulnerability report (2016)

⁴⁷ Ofgem Consumer vulnerability Strategy (2013)

⁴⁸ European Commission Consumer vulnerability across key markets in the EU (2016)

Figure 5 Case study of a full-time carer who is not digitally savvy and does all his research offline



Source: London Economics and YouGov depth interviews

2.3 Assessing information

This section explores the second step in the consumer decision-making process, how participants assessed information about legal service providers, and made choices between them. The research was designed to explore what participants' decision-making factors were, what they understood about the differences between different legal services providers, and whether they would make different choices depending on their situation, or the information that they were given.

2.3.1 Consumers' decision-making factors

The research explored consumers' key decision-making factors, including price, provider expertise/qualifications, and whether the provider was regulated.

Focus group participants and depth interviewees, following the behavioural forum, were asked about their key decision-making criteria when choosing a provider, and participants in the behavioural forums, conducted prior to the focus groups and interviews, were shown two alternative legal service providers. Figure 6 presents the two providers shown in the divorce forum⁴⁹.

⁴⁹ The choice screens for will writing and conveyancing are presented in the separate research annex.

Figure 6 Example choice screen between a solicitor and an alternative provider (divorce)

<p>Osbourne & Nichol <i>Solicitors</i></p> <p>We typically charge between £750 – £850 plus VAT for a standard divorce*</p> <p>We are authorised and regulated by the Solicitors Regulation Authority.**</p> <p>Our solicitors are highly experienced with specialist knowledge</p> <p><small>*This is an estimated fee for considering a draft agreement, dealing with basic amendments and completing other paperwork associated with the filing of the documents. Prices may vary depending on the complexity of the situation. **SRA regulation means that we protect our clients with assured Confidentiality, Professional Indemnity Insurance and Compensation.</small></p>	<p>Shaw & Peters <i>Lawyers</i></p> <p>We typically charge £450 - £550 plus VAT for a standard divorce*</p> <p>We are a member of the Law for Families Association**</p> <p>Our specialists are highly experienced in providing effective collaborative solutions</p> <p><small>*This is an estimated fee for personal case handling service and drafted agreement. Prices may vary depending on the complexity of the situation. ** We follow the Association Code of Practice for customer care and professional conduct</small></p>
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Note: The mock-up presentation was based on desk research and consultation with the Law Society project team. The presentation is deliberately simple (without colours, photos and other information seen on real world websites or marketing materials) in order to isolate the impact of different features on consumer choice.

Source: *London Economics and YouGov Behavioural Forum*

The importance of price in decision-making

At the beginning of the experiment most focus group participants said that they thought price was important in their choice, and a majority (88%) of behavioural forum participants (N=75) reported that price would be included in their decision-making.⁵⁰ In the behavioural forum, the price of the provider was one of the most highly-ranked attributes. However, this was only the case before the unforeseen event was introduced, which told the participants that something had happened which had led to harm/loss to them. Once the unforeseen event was introduced and the decision context changed, the relative ranking between price and other service attributes changed (see Section 2.4.2).

Price was ranked as particularly important by people in lower social grades (with an average ranking of 9.4 out of 10), consumers whose case was not complex (9.3), and those in the divorce group (9.3).⁵¹

“The most important from my point of view is the cost. I don't think it matters about the association the solicitor belongs to.” (Paul, Divorce, social grade C2DE)

“If the case is relatively uncomplicated why pay more?” (Michelle P, Divorce, less complex case)

⁵⁰ This was price for either provider.

⁵¹ In the behavioural forum 1 was most important and 10 was least important. For the purpose of presentation this scale has been flipped such that 10 is most important and 1 is least important.

“Price and the division of divorce costs between the two parties would be my first consideration.” (Michelle W, Divorce, less complex case)

Focus group and depth interviews participants were also more likely to say that price was a key factor if they were from lower social grades or thought that their personal issue was simple.

“[My decision] to appoint [my solicitor was] driven by cost and the estate agent offering in house conveyancing – negotiated a discounted price to bring sale conveyancing in house... the estate agent can offer a one stop package.” (Steve, Conveyancing, Social grade C2)

“I was after cheapest because there was no complications.” (Susan, Divorce)

“First it was to work out how complex my will was, then when I assessed it was easy it was cost and trust in the company I was considering.” (Martin, Will)

Participants were also more likely to say that price was the deciding factor if providers seemed to have similar levels of expertise and experience.

“In the end it was down to cost. Many of the providers I had looked at had the same level of experience.” (Katy- Anne, Conveyancing)

Most focus group participants and depth interviewees, across socio-demographic groups and legal services, also preferred a fixed price over an hourly rate, so that they knew how much they would be charged at the end.

“You could worry they would drag [the case] out themselves to make more money”. (Bob, Divorce, 57, Social grade E)

“Fixed Price better than an hourly rate- as you would know more what it is to be. Hourly rate could get high.” (Steve, Divorce, 46, Social grade C1)

“[Key considerations include] fixed price (per hour: it would be loads because things do crop up).” (Laura, Conveyancing, 35, Social grade C1)

“Fixed price is key” (Nicola, Will, 51, Social grade B)

The Legal Needs Survey (2016)⁵², also found that consumers frequently ranked ‘cost of advice’ as one of their top three decision-making factors when choosing a provider (48% of divorce, 52% wills, 51% conveyancing). Other key decision-making factors were the provider’s reputation (59% divorce, 51% wills, 53% conveyancing), and that the provider is a specialist in the area of law (46% divorce, 42% wills, 33% conveyancing).

Do consumers understand that the estimated price can change?

Many participants understood that the estimated price may change if an additional search or service is needed (‘bolt on’ costings) - as this is often clearly explained by the provider in person or in writing during the search process. However, not all understood or expected that the final price can change due to other unexpected complications/events prior to specific prompting in the focus groups and depth interviews.

⁵² Ipsos MORI (2016). ‘Online survey of individuals’ handling of legal issues in England and Wales 2015.’

Will customers were more likely than conveyancing and divorce to say that the final price should not vary, especially if the work was simple.

“If you are on a fixed price then nothing should affect the final price” (Pauline, Will)

“I’m not sure as we had a fixed price and ours was relatively simple.” (Jayne, Will)

“Presumably a more complex situation that requires more attention to the inheritance structure will push the price up. They should determine this at the interview though, so any further increase would be caused by me not having given enough information at the beginning perhaps.” (David, Will)

While conveyancing and divorce participants were more likely to say that unforeseen complications could cause the price to vary.

“Unexpected complications in the deeds, boundary disputes, problems highlighted in the searches...” (Caro, Conveyancing)

“sometimes there are complications” (Gabriella, Conveyancing)

“if there are issues that crop up during the process that weren’t expected” (Claire, Divorce)

“If an agreement can’t be made then the to and fro costs extra.” (Julie, Divorce)

“Any complications, any extra work which is needed other than the agreed - anything which takes up more time than expected” (Andrew, Will)

Moreover, consumers may frequently underestimate the likelihood that they may experience a negative event - a cognitive bias known as ‘overconfidence bias’ (Taylor and Brown, 1988⁵³). In the focus groups and depth interviews, participants often tended to assume that they wouldn’t suffer an unforeseen event. This was the case even though participants had been previously informed in the behavioural forums that things can go wrong.

“I’m the sort of person who would say ‘oh that will never happen to me’.” (Laura, Conveyancing)

But when participants were specifically prompted in the focus groups and depth interviews to explore events that could add to the complexity or timeframe of a case, most participants across all three services⁵⁴ thought it was reasonable for prices to vary from estimates, but only if clearly justified.

“This is reasonable - it just stands to reason that more time or added complexity will mean a higher price.” (Andrew, Will)

“Yes, this is as I would expect. Although I think providers have a responsibility to try and anticipate as much as possible in order to give an accurate guide price.” (Jayne, Will)

⁵³ Taylor, S., Brown, J. (1988). "Illusion and well-being: A social psychological perspective on mental health". *Psychological Bulletin*. 103 (2): 193–210.

⁵⁴ There were no substantial differences between socio-demographic groups regarding whether participants thought that it was reasonable for prices to vary from the estimates.

“I think that it is reasonable as long as it is set out just what and how much could affect the cost, as the solicitor I chose did for me.” (Debbie, Divorce)

“I think that’s quite reasonable (if price changes), if something is more complicated and it’s explained to you, not in a jargon way, you’ve just got to trust the fact that they are looking after your best interests.” (Tara, Conveyancing)

“You’re going to get nasty divorces and amicable divorces – some are more complicated – realistically I think it might go smoothly but they are doing a job and if it goes out of that smoothly bracket then they need to make their money (as long as they are not taking the micky).” (Michaela, Divorce)

“Variation in price is expected. When you put a price online, they should make you aware that the price could change... I will question a fixed price. They need to give me reasons for what they charge.” (Albert, Will)

The importance of expertise in decision-making

While participants often said that price was important, it was not always the deciding factor.

For example, at the beginning of the behavioural forum, over three quarters (79%) of participants (N=75) would use the information the provider gives about their expertise and experience. Focus group participants and depth interviewees, after the behavioural forum, also reported that they wanted to be able to assess their provider’s approachability and expertise in-depth (see Section 2.2.1).

Focus group participants and depth interviewees also indicated that they wanted to be able to trust in their provider’s expertise and that they would represent them effectively, since their situation was already ‘stressful enough’. Divorce group participants, and participants who thought their case was complex, tended to rank price below other factors e.g. ‘gut sense’, approachability and whether the provider was recommended by someone the participant trusted (see Section 2.2.1).

“To achieve the required result I’m looking for when representing me to give me the best result I could possibly get.” (Claire, Divorce)

“For me, it’s a gut feeling that the provider I choose is right for me - this will be based on personal perception, overall value, relevance of service, experience, qualifications and so on.” (Andrew, Will)

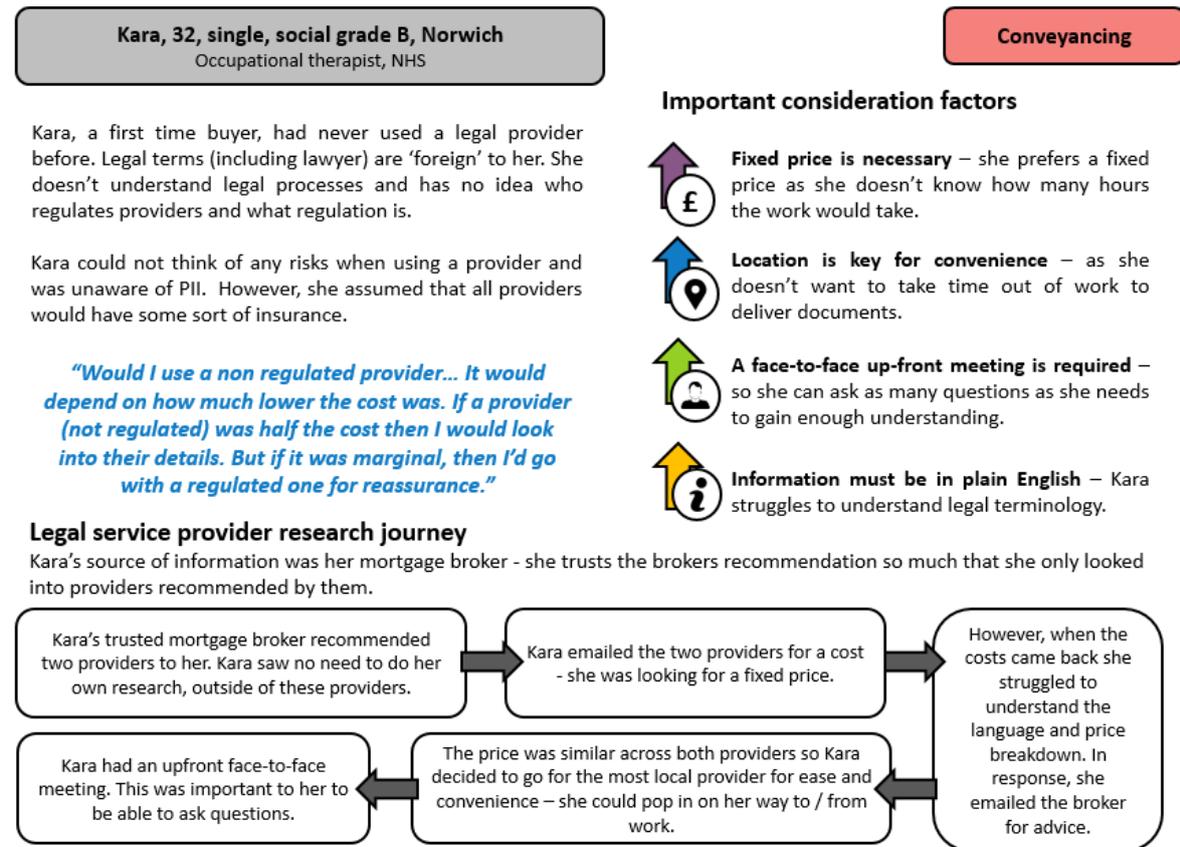
“I just want a good level of service buying a house is stressful enough..... Providers that were too good to be true were ruled out....” (Emma, Conveyancing)

The importance of location in decision-making

Focus groups and interview participants also frequently valued the provider being in a convenient location, which was not costly to reach. Working participants especially valued being able to have a face-to-face consultation (in an easily accessible location) and it being easy to drop paperwork into their provider’s office on the way to work.

“You don’t have time to take off work to be dipping in and out of opening times.” (Kara, Conveyancing)

Figure 7 Case study of a customer who valued location when choosing a legal services provider



Source: London Economics and YouGov depth interviews

Some participants also mentioned that they wanted to support their local community, or that a local provider would know the local area better (conveyancing).

“[I] looked for local firm-didn’t want to use a big chain as how we have been brought up- we like local things. If the price had been hugely more for local firm then may have considered a national firm.” (Anna, Will)

“Local with a good reputation for a quality service, and able to sort out any problems which may occur quickly.” (John, Will)

Divorce and will customers were also more likely to value being able to discuss issues face-to-face, compared to conveyancing customers. This may be related to the fact that divorces and wills can sometimes be sensitive or distressing, and consumers may find it important to be able to discuss their issues face to face.

“I think will writing is a personal and emotive subject best dealt with face to face with someone you trust. I also needed someone trusted and kind because my mother was bereaved and upset” (Diane, Will)

“face-to-face every time, you really can’t beat it.....far better, you get to see and get a feel for the person who will guide you through the proceedings.” (Paul, Divorce)

“Online don’t know if just getting stock answers” (Andy, Divorce)

“i think face to face is better than online. you have an immediate response from the person and can tell a lot from body language etc” (Debbie, Divorce)

In the behavioural forum, older participants and members of other vulnerable groups, both before and after the unforeseen event had been introduced, stressed the importance of face to face communication when interacting with their legal service provider. Many of these participants took part in the behavioural forum through a face-to-face approach because in a number of cases they lack computer confidence or literacy.

“[A]s a man of 66 I feel that the human touch is required for these tasks.” (David, 66, Will)

“I wouldn’t want to go online, I don’t know how you can discuss your circumstances online. I don’t feel comfortable doing the online stuff.” (Veronica, 63, Will)

“I go for the face-to-face approach...I like to be able to see the person I’m dealing with...it’s part of building trust.” (David, 73, Will)

“I am of the generation who prefer to speak to someone personally.” (Mary, 73, disabled, Will)

“I don’t use the internet- I don’t like it or know how to use it.” (Bob, 57, disabled, social grade E, Divorce)

The importance of regulation in decision-making

When focus group and interview participants were asked in a prompted question at the beginning of the deliberative process what information they took into account when choosing a legal service provider, almost no one said that they looked for whether the legal service provider was regulated and by which organisation. When directly asked if they thought solicitors were regulated, most participants assumed they were but did not know by whom. Awareness that the SRA is the regulator was very low with only 1-2 participants per group saying they had knowledge of the SRA and know what they do.

“I would imagine that they have to be part of a regulatory body, but I would have no idea what that would be.” (Debbie, Divorce)

“I’ve no idea who would be the regulatory body for this.” (Jayne, Wills)

“A regulatory authority but wouldn’t know names.” (Cheyenne, Conveyancing)

Observations from the research suggest that very few participants were aware of the differences between regulated and unregulated providers. Participants had very low awareness of the differences between solicitors and alternative providers (will writers (who are not solicitors)), licensed conveyancers, chartered legal executives, paralegals and barristers (direct access).

When participants were specifically prompted to think about regulation, they often thought that it was important to their decision-making.

For example, depth interviewees and focus group participants usually did not spontaneously mention without specific prompting that they considered regulation when searching for a legal provider. However, this may be because most participants assume that all legal providers have appropriate regulation and insurance levels.

“I don’t know by whom they’re regulated... I wouldn’t look for that, because I assume when something is ‘legal’ it’s going to be regulated – but it’s something as a client you should look into” (Denise, Will)

When participants were prompted, they generally felt that regulation and insurance were very important as they provided consumers with protection against mistakes or rogue/unqualified providers. When participants were asked what the term ‘to be regulated’ meant to them, they commonly said consumer protection against wrongful advice, a code / rules of conduct, set of standards, a means of redress and an independent / official body who oversees solicitors.

This is in line with the findings of the behavioural forum when participants were asked to indicate the features of importance at the beginning of the forum when comparing between two different providers (one was regulated by the SRA and the other was not). Three quarters (75%) of participants (N=75) thought information about SRA regulation was important in their decision-making and half (52%) indicated that supervision by the Council of Licensed Conveyancers or membership in a professional association mattered.

Behavioural forum participants who reported that they would use information about the SRA to choose a provider attached a high average score of 8.7 out of 10 to the fact that the provider was regulated by the SRA (Figure 8).⁵⁵ People who had faced a more complex issue in their recent experience with a legal service provider were more likely (both) to mark regulation as relevant information and to attach higher importance to it.

“If they are regulated this gives me peace of mind they have been audited and proven to provide a good level of professional standards ... I would not mind paying more for a regulated company which implies the process will be smooth, efficient and legally sound.” (Charlotte, Will)

“The most important thing is being regulated by the professional body (Solicitors Regulation Authority). This guarantees a peace of mind that the solicitor is bound by conduct requirements to best serve their client.” (Adam, Will)

Features consumers considered important in their decision-making

Figure 8 presents the importance of different provider features to participants in the behavioural forum. Participants undertook this exercise before they had been made aware that an unforeseen event could occur and before they had experienced a more complex scenario within the forum.

At this stage in the behavioural experiment participants were shown two providers. One provider was a solicitor regulated by the SRA and the other was an alternative provider. In the case of will writing and divorce the alternative providers did not state anything about regulation but reported they were a member of a professional association. In the case of licensed conveyancers the providers reported that they were regulated by the Council for Licensed Conveyancers (see previous Figure 6).

Participants were asked to mark from 1 to 10 (with 10 being the most important and 1 being the least important) what features shown by the two providers they considered important in their decision-making.

⁵⁵ Participants were asked to mark the features of the providers they considered important in their decision-making. One provider specifically stated they were regulated by the SRA.

The columns in Figure 8 present the proportion of participants who thought the feature was important in their decision-making (i.e. it was included somewhere in their ranking between 1 and 10), and the diamonds present the average rating (from 1 to 10) that the feature was given by participants who had included it in their ranking.

The lighter blue columns shown on the left-hand side of the figure present the features shown by the solicitor who was regulated by the SRA. The darker blue columns on the right-hand side of the figure present the features shown by the alternative provider.

For example, the figure should be read in the following way:

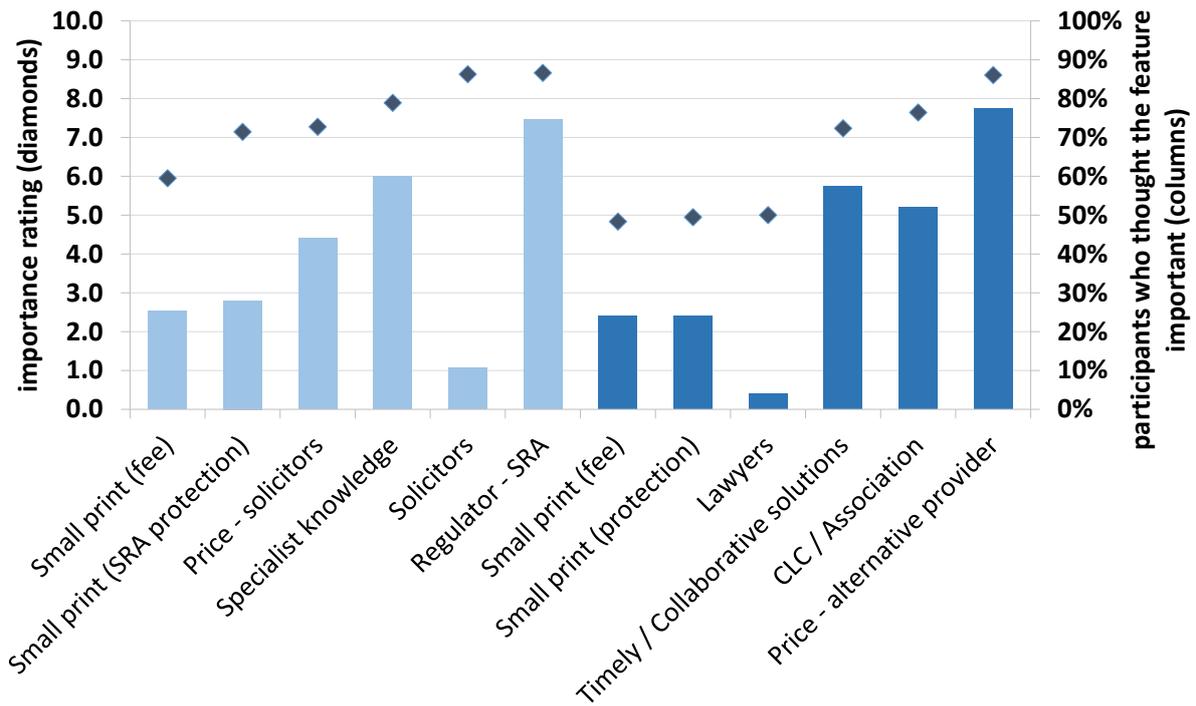
- Three quarters (75%) of participants in the behavioural forum indicated that regulation by the SRA was important in their decision-making when comparing between the two providers. This is shown by the light blue column 'Regulator –SRA'. The average importance rating given to this feature by these participants was 8.7 out of 10 (where 10 is most important and 1 is least important) shown by the diamond above this bar.
- Just over three quarters (77%) of participants indicated that the lower price of the alternative provider was important and the average ranking given to this feature by these participants was 8.6 out of 10.

A large proportion of participants also considered the provider's relevant experience and expertise as important.

Information about fees and protection assured by the SRA which was shown in the small print given to participants was selected by a relatively small proportion of the participants, who also tended to give it a lower importance score.

Price was a relatively more important consideration for divorce group participants compared to the other services.

Figure 8 Perceived relevance and importance of elements in service description (N=75)



RHS axis (columns) shows the share of people who reported that the feature was important in their decision-making. LHS axis (diamonds) shows how much importance people ascribe to the given service feature, given they reported it was relevant to their decision-making.

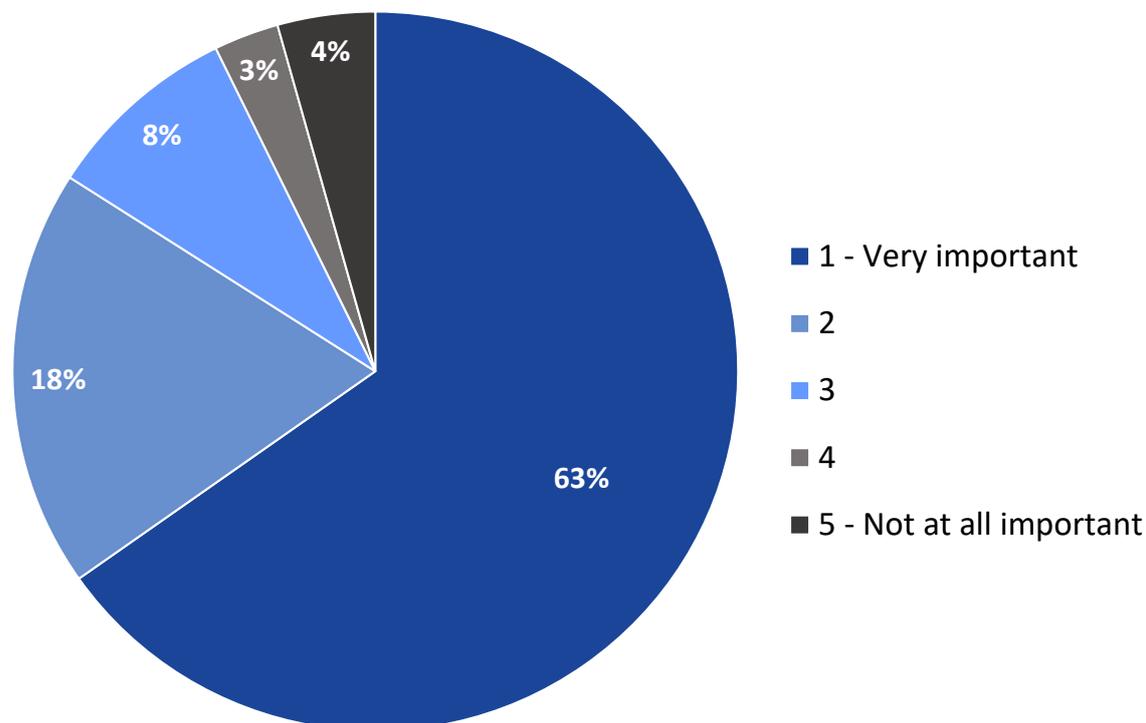
London Economics and YouGov Behavioural forums

The results of the Legal Needs Survey (2016)⁵⁶ reveal similar patterns. Just under half (48%) of those who obtained legal advice (N=5,945) had checked whether their legal service provider was regulated (46% in divorce, 64% in wills, 59% in conveyancing). The survey then asked those who did not check why they did not. More than half (54%) reported that it was because they “assumed they would be regulated”. Among those who obtained advice for wills and conveyancing, this share was (statistically) significantly higher than the average across all services, 66% for will writing and 63% for conveyancing.

The behavioural forum participants were also asked how important they thought it is for legal service providers to inform customers clearly about the insurance they have (Figure 9). This question was asked towards the end of the forum, after the unexpected negative event had been introduced. Therefore, participants were informed that things could go wrong when answering this question. On a scale from 1 (very important) to 5 (not at all important), the average score was 1.7, with just over three fifths (63%) choosing the “very important” category.

⁵⁶ Ipsos MORI (2016). ‘Online survey of individuals’ handling of legal issues in England and Wales 2015.’

Figure 9 The importance of being informed about the provider’s insurance – results of the behavioural forum



Note: Question: “How important do you think it is for legal service providers to clearly inform customers about the insurance they have in the event something goes wrong?” N=73

London Economics and YouGov Behavioural forum

Participants across all three legal services indicated that they believed it was important for providers to inform consumers about the insurance they carry.

“You should enter a contract fully informed about your rights.” (Nicola, conveyancing, chose “1”)

“Surely it’s a part of their product, so they should explain what’s in it. I wouldn’t expect to buy a tin of soup, & not have the contents of it included.” (Kim, wills, chose “1”)

“I think clients need to be made aware so that they have peace of mind. However, I don’t think it needs to be made into a big thing as most cases don’t result in errors, and it could dent the client’s confidence in the provider.” (Alison, divorce, chose “2”)

The importance of kite-marks and quality assurance in decision-making

In general, focus group participants and depth interviewees across all three legal services⁵⁷ showed very low awareness of kite marks and quality assurance indications. Focus group and interview

⁵⁷ Data was insufficient to determine whether there were substantial differences between socio-demographic groups regarding whether participants accounted for kite-marks.

participants were asked to indicate from a list what factors they took into account when selecting a provider almost no one said they would use “kite marks or indications of quality assurance”.⁵⁸

“Didn’t look at regulation, insurance or kite marks.” (Laura, Conveyancing)

“Least influential factors: kite marks, location, hourly rates.” (Barbara, Conveyancing)

“I didn’t know that there were kite marks.” (Raymond, Conveyancing)

“[When asked about the least influential decision-making factors]: kite marks (trading standards), [I] didn’t know about insurance, or fixed price.” (Don, Divorce)

“What is kite marks??? That wouldn’t affect me” (Nick, Divorce)

In many cases, participants indicated that they wouldn’t consider kite marks because they would assume their provider was regulated or qualified anyway.

“[When asked about the least influential decision-making factors]: per hour, level of service for a will, kite marks (as [the provider was] regulated)” (Anna, Will)

“Regulated, insurance, kite marks just wouldn’t have crossed my mind – assumed qualification already there.” (Tara, Conveyancing)

Do consumers have greater awareness or knowledge if they have friends or family in professional services?

Participants tended to report greater awareness or confidence in the search process if they had worked, or had friends and family, in professional services such as legal or financial services.

“Solicitors can’t act in the high court, they have to instruct a barrister.....[I] know this because [I] was a barrister’s clerk for about 20 years.” (Raymond, Conveyancing)

“My sister in law works for a solicitors – I picked up the phone and she advised me. It was cheating really – they said we can look after you... I went in to meet the solicitor she recommended. I didn’t look at the website because I trusted her. That was my direct route.” (Tara, Conveyancing)

“Lawyers- as a term. Not real solicitors.....[I] Know solicitors from [my] job as police man.” (Steve, Divorce)

Participants also tended to report greater awareness if they had used legal service providers for previous work.

“....learnt from time in bank, but also recent house move I’ve researched the structure in the conveyancing world, what they can do...” (Steve, Conveyancing)

“Who regulates solicitors? SRA. SRA are qualified solicitors....Used a solicitor for speeding and conveying” (Steve, Divorce)

⁵⁸ The specific kite mark was not specified it was simply presented as a kite mark or indications of quality assurance.

2.4 Acting on information - choice of legal service provider

The research suggests that consumers are frequently unaware of the differences between legal services providers – for example, participants were often unaware that not all providers were regulated (see Section 2.3.1 and Section 2.4.4). Therefore, consumers may make decisions based on price, believing that all providers offer the same levels of consumer protection.

2.4.1 Understanding the differences between providers

In general, focus group participants and depth interviewees seemed to have low awareness of what the term ‘solicitor’ means, compared to ‘lawyer’. Some participants believed that they were the same thing or very similar, with the only difference being that ‘solicitor’ was an English or European term while ‘lawyer’ was American or Scottish.

“I see it as the same as a lawyer just a different name.” (Christine, Will)

“Similar to a lawyer, I usually think of a lawyer being a US term, and solicitor being more of a European term.” (Andrew, Will)

“I always think of both as being broadly similar. Lawyer in Scotland and solicitor in England.” (Heather, Conveyancing)

Others seemed to think of solicitors as handling more ‘day to day’ legal work, compared to lawyers who were seen in court.

“A solicitor deals with more everyday legal requirements whilst a lawyer is more involved with more complicated (and expensive) stuff.” (John, Will)

Understanding/beliefs about who can provide services

Participants also tended to have a low awareness of legal service providers apart from solicitors, though some conveyancing customers were aware of licensed conveyancers without prompting. When prompted most were aware of barristers, licensed conveyancers and paralegals, although they weren’t sure what paralegals were.

Most participants were looking for a solicitor to undertake their work, mainly because they were not aware of other providers when searching. A few were not sure who they had selected in the end (after learning about other providers in the focus groups).

Participants tended to assume that the main differences between providers were their qualifications, level of expertise and specialisms. For example, some participants thought that solicitors and licensed conveyancers were similar, except for their specialism in property law.

“I thought licenced conveyancers were similar to solicitors.” (Katy-Anne, Conveyancing)

“Conveyancer is qualified in property law but not a fully qualified solicitor.” (Emma, Conveyancing)

“I am guessing they are only licensed to do conveyancing, whereas solicitors practise law in more general terms.” (Caro, Conveyancing)

Some participants were unsure what a will writer is. A number of interviewees mentioned online video tutorials on writing a will yourself, or thought a will writer could be anyone with a self-made will pack, or DIY pack.

Motivations for choice of legal services provider

If consumers are not clear about the differences between different legal services providers, they may often make their decision based on who is cheaper. In the behavioural forum, before the unforeseen event occurred, just over half of all participants (N=75) selected the lower priced alternative provider rather than the provider that was specifically regulated by the Solicitors Regulation Authority, across all services. Once the unforeseen event occurred and as the simulated situation increased in complexity this choice tended to shift towards the more expensive SRA regulated provider (see Figure 13).⁵⁹

In the situation prior to the unforeseen event, in the case of will writing, one third of participants chose the alternative provider (N=26). For divorce two thirds chose the alternative provider (N=25) and in conveyancing 56% selected the licensed conveyancer (N=24).⁶⁰

The main reason participants gave for choosing the alternative provider, before the unforeseen event occurred, was that the alternative provider was cheaper (see Figure 10). Participants who chose the alternative provider also rated price as more important compared to those who chose the solicitor regulated by the SRA: on average, participants who chose the alternative provider rated the price/cost of the service at 6.8 (out of a maximum of 9⁶¹), compared to 4.8 for participants who chose the solicitor.

When probed about the reasoning for their decision, participants also suggested that they did not see much difference between the two, and consumers frequently let price be the deciding factor if they believe providers are otherwise identical or similar (see Section 2.3.1).

“...because there is a small chance it might be slightly cheaper. Apart from the price, there really isn't much difference between the two. Both are regulated and both have estimated fees. I dismissed both the general statements regarding expertise because that is simply an advertising trick.” (Katy-Anne, Conveyancing)

“only because they are cheaper” (Sandra, Will)

“The divorce process is notorious for taking a long time and the money can run out quickly.” (Julie, Divorce)

Other reasons included an impression that the alternative provider was more specialised, provided services in a timely manner (conveyancing) or took a collaborative approach (wills and divorce). These findings are also in line with the Legal Needs Survey (2016)⁶², which found that consumers

⁵⁹ The experiment was designed such that the alternative provider was always cheaper than the SRA regulated provider. Prices were informed by research conducted for the Legal Services Board report “Prices of Individual Consumer Legal Services” (2016),

⁶⁰ Very little difference between social grades was observed.

⁶¹ In this exercise, people ranked only 9 service attributes, so 9 is the highest score, representing maximum rank, compared with the exercise represented in Figure 2, where participants could rank up to 10 pieces of information, giving a maximum rank of 10.

⁶² Ipsos MORI (2016). ‘Online survey of individuals’ handling of legal issues in England and Wales 2015.’

valued “Specialism in the area of law” (46% of divorce, 42% will, 33% conveyancing) and “speed of delivery” (18% of divorce, 16% will, 24% conveyancing). (N=225,601,938)

“specialist and timely” (Laura, conveyancing)

“Price would be a factor, but not the primary reason - I like the mention of providing collaborative solutions. ... I like the mention of customer care.” (Jayne, Will)

“They are members of the will writing association so should have more knowledge on the subject.” (Christine, Will)

Some focus group participants and depth interviewees also reported that they thought will writers would be more specialised and experienced in will writing than solicitors.

“Solicitors are dealing with all different types of law, so maybe a will writer who only does wills would take less time.” (Denise, Will)

“[I trust] will writers – they are specialised. Others cover wider aspects.” (Terry, Will)

Figure 10 presents a word cloud illustrating participants’ motivations for choosing the alternative provider when asked to make a choice before the unforeseen event occurred and before the scenario complexity was increased. The word cloud shows how frequently participants used a certain word when describing why they chose the alternative provider. Frequently-used words appear larger in the cloud. For example, the largest word in the cloud is ‘cheaper’, suggesting that participants most frequently chose the alternative provider because they were cheaper.

“Lawyers are good at telling lies in court but solicitors have studied the laws.” (Neil, Will)

“They sound more authentic” (Albert, Will)

Focus group participants and depth interviewees reported that they tended to trust solicitors and barristers the most because participants believed they were the most highly qualified; some also mentioned that they trusted solicitors and barristers most because they were regulated.

Participants tended to report that they trusted will writers least because they thought they were the least qualified.

“[when asked whether they would trust will writers who are not solicitors] I don’t think he’s professionally qualified... It means I could do this myself!” – “I would never pay for that!” (Albert, Will)

Figure 11 shows a word cloud describing participants’ motivations for choosing the solicitor in the behavioural forum before the unforeseen event was introduced and before the scenario increased in complexity. The terms ‘solicitor’, ‘SRA’, ‘professional’, and ‘knowledge’ are large in the cloud, suggesting that participants chose the solicitor because they valued the fact that solicitors are regulated, and/or that they perceived solicitors to be more professional and to know more about the legal work they require.

Several participants who chose the solicitors also mentioned that the given scenario was simple, but they acknowledged that it was important for consumers to be protected if there were unforeseen complications.

“Although the cost of the other firm is lower ... the complexity involved in splitting assets and disclosure etc. may become more complex than expected, especially if either spouse is involved in a new relationship.” (Michelle, Divorce)

“[The solicitors’] advert directly mentions their specialist knowledge and how they are highly experienced. Even though the will writing is probably fairly simple in this case, it inspires some confidence that they’ll do a good job. Mentioning their authorisation by the Solicitors Regulation Authority means there will be a formal procedure I could follow if I was dissatisfied with the legal services they offer.” (Adam, Will)

2.4.2 How do key decision-making elements change as consumers experience more harm?

The behavioural forum assessed whether, and how, consumers changed their priorities about different service attributes, if their situation became more complex and as the harm suffered in the case of an unforeseen event increased.

Figure 12 shows how the importance participants place on service attributes changes as the scale of harm due to the unforeseen event increases.

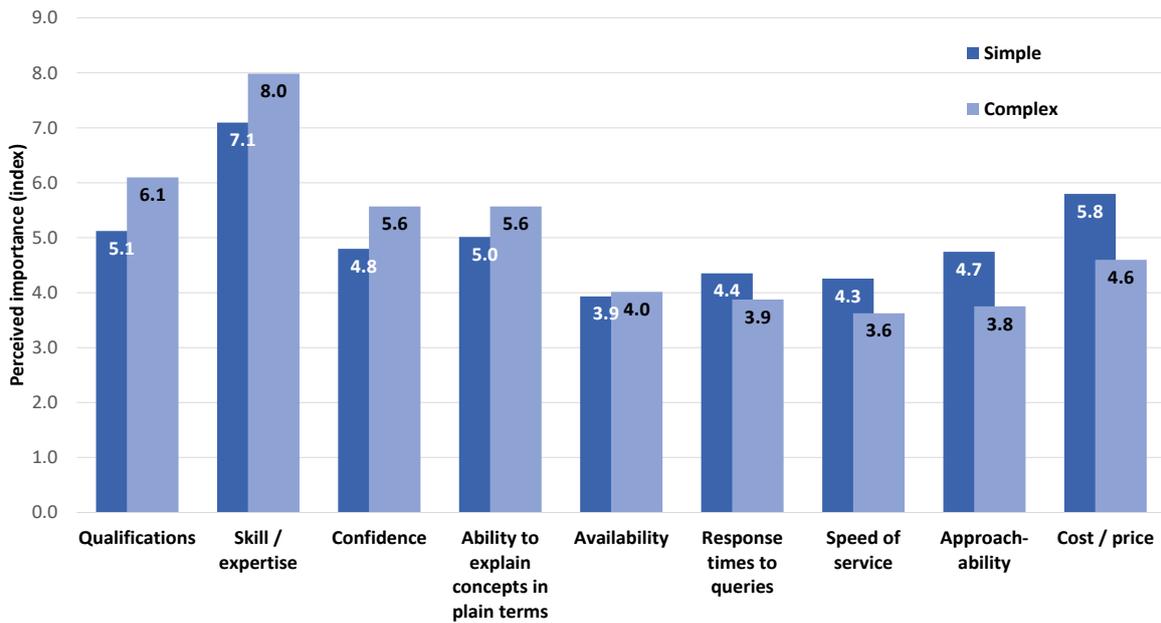
When faced with a simpler situation, and a lower scale of harm, participants were more likely to indicate that the cost/price of the service was of particular importance (an average score of 5.8 out of 9 across all services) compared to when the situation was more complex and scale of harm greater (an average of 4.6). In the simpler situation, half (51%) of participants (N=74) listed price/cost as one of their top three attributes to consider; as scale of harm increased, this share dropped to just under one third (28%).

In the case of qualifications and expertise, the importance given to these attributes increase as complexity and harm increase (from an average of 5.1 to 6.1 in the case of qualifications and 7.1 to 8.0 for skill). In the simpler situation, just over three fifths (69%) of participants (N=74) listed skill/expertise as one of their top three attributes to consider; as scale of harm increased, this share rose to 89%. The corresponding shift in importance of qualifications was from 39% to 54%.

The observed change in the importance of these attributes as consumers experience an unforeseen event and case complexity increases, is statistically significant at the 5% level in the case of all attributes except speed of service and availability of the legal service provider.⁶³

⁶³ The changes in the average ranking of skill/expertise and approachability were significant at 1% level. The changes in the ranking of price and qualifications at 0.1% level.

Figure 12 Reported importance of service attributes as scale of harm changes (N=74)



The Index of perceived importance shows the average importance ranking across all services (divorce, will writing and conveyancing). In the forums participants were asked to rank importance of each attribute between 1 and 9, where 1 was the most important attribute and 9 was the least important attribute. For presentational purposes the rank has been inverted in the figure. Where 9 is most important and 1 is least important.

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Participants who had originally stressed the provider’s service costs, timeliness or approachability, often reconsidered in the more complex and harmful situation and reported that a reputable, qualified and experienced professional was important. Similarly, while often appreciated in the simpler scenario, specialisation now gives way to expertise in people’s priority rankings across all legal services.⁶⁴

“Previously, because I thought what I needed was straightforward I was looking to cost as an important issue for me. As this situation is more complicated I would be looking for someone who had the expertise to guide me through this and who I knew would be able to resolve any issues should they arise.” (Pauline, Will)

“Cost would become less important and skill and expertise would be there much more, as well as ability to talk about the matter in plain English.” (Kara, Conveyancing)

“Cost would ... be less important. Assurance of experience and an easy to understand explanation would become more important.” (Diane, Will)

“It would be a terrible experience if this happened to me. ... I would not save money to get a conveyancer who charges much less than a qualified solicitor. A solicitor is a qualified lawyer, with extensive training in many aspects of law, and can offer full legal services.” (Lucy, Conveyancing)

⁶⁴ The research identified no substantial difference between socio-demographic groups as to whether participants changed their priorities regarding provider attributes in the event of harm.

“[J]ust excelling in conveyancing might have hindered this situation; maybe a service provider who has a wider range of experience may have been more useful.” (Cheyenne, Conveyancing)

“The timely presentation of solutions in particular, with this scenario in mind, sounds like skimping on due process and attention, so it would be more important to me that someone stresses their professional experience and knowledge, rather than time efficiency.” (Vanessa, Conveyancing)

Nevertheless, confusion does remain. Participants may feel that expertise and qualifications are more important when a serious event occurs but they are unsure what to look for.

“it does make me think maybe I should put more preference into skills and qualifications, although, I don’t know what the different qualifications mean.” (Dana, Conveyancing)

2.4.3 Does choice of provider change once a negative event is experienced and why?

The research indicates that consumers may frequently choose cheaper providers because they believe that their situation is simple, or that nothing is likely to go wrong (Section 2.4.1). However, consumers’ choices and priorities may change if they experience an unexpected negative event.

The behavioural forum was designed to assess how consumers’ choice of provider and the importance of different service features (including price) may change when a negative event occurs that generates harm to the consumer.

For each service a negative event was developed based on real situations.⁶⁵

The event was presented to the forum participants and they were asked if they would make the same choice of provider (as previously) given the event had occurred.

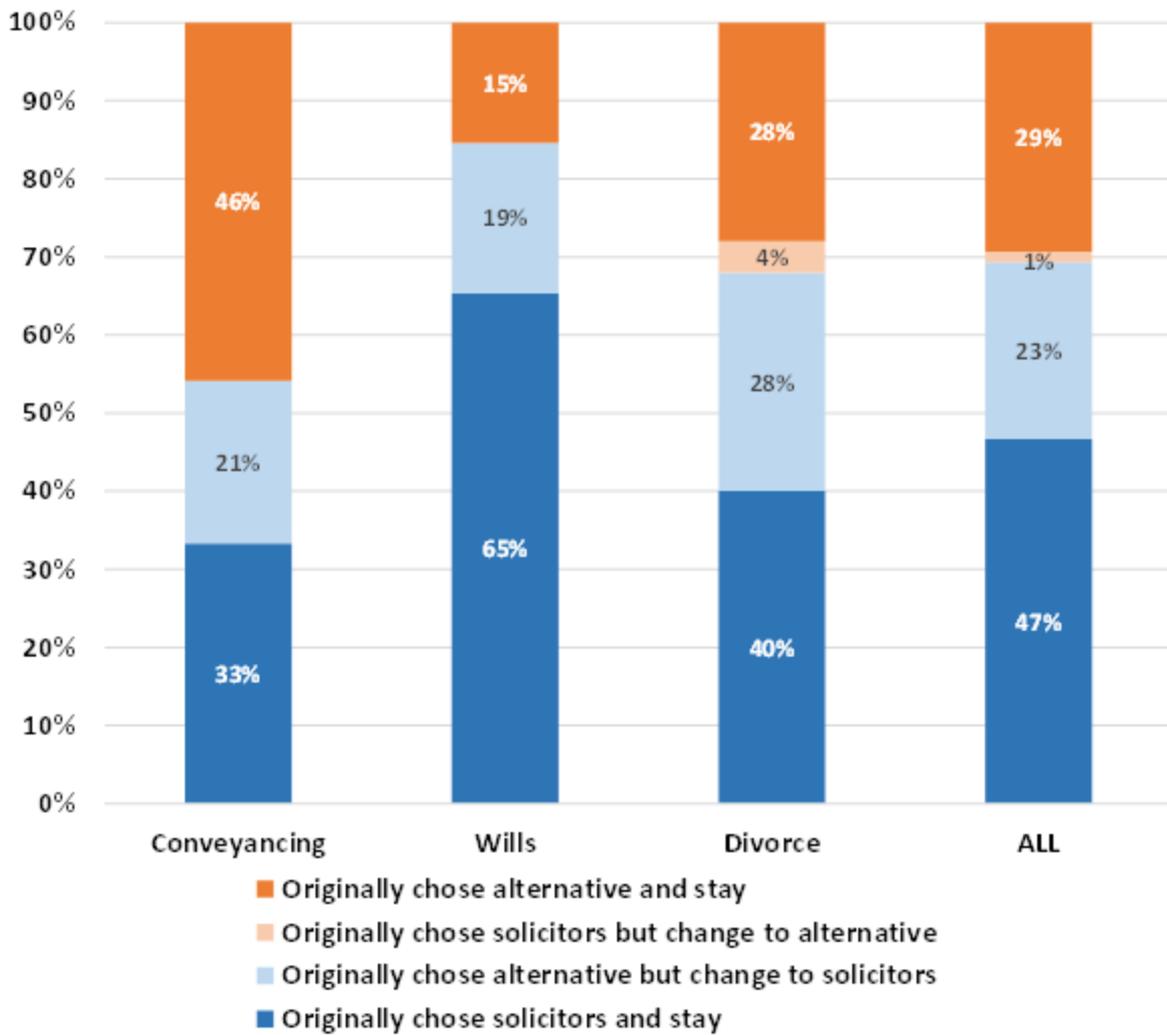
Figure 13 presents the choice made by participants once the negative event had been introduced. When confronted with an unexpected negative event, the overall share of participants who would choose the alternative provider decreased from half (52%) to under one third (29%) of the sample (N=75), as almost half of those originally choosing the alternative provider reported they would have reversed their choice. This proportion was 31% in the conveyancing group (N=24), 56% in wills (N=26) and 50% in divorce (N=25).⁶⁶

Given the unexpected event, the overall share of people who would choose the solicitor rose to 71% (54% conveyancing, 85% wills, 72% divorce).

⁶⁵ The negative events were provided by advisors to the study. Each event is presented in the separate research annex.

⁶⁶ The research did not identify substantial differences between socio-demographic groups regarding the choice of legal services provider in the event of a negative event.

Figure 13 Choice of provider before and after an unforeseen negative event (N=75)



Sample size: Conveyancing: 24, Wills: 26, Divorce: 25

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Participants who chose the solicitor frequently reported that they valued the solicitor’s skill or expertise, and also frequently mentioned that choosing a regulated provider gave them peace of mind (see Section 2.4.1).

These patterns were repeated among participants who changed their choice of legal services provider after the negative event had occurred. The main reason for participants to change their choice was that they felt they would have enjoyed a higher level of protection from the solicitors’ regulator.

“In light of this I might be tempted to change ... I imagine [the solicitors] would be more held to account. Specialists might be much less governed.” (Tara, Conveyancing)

“I would have chosen the other provider regulated by the solicitors’ regulation authority because I feel this would have offered me greater protection for unforeseen situations and procedures would be in place for events like this.” (Adrian, Will)

Many also suggested that the solicitors would have been less likely to make the mistake that led to the unforeseen event.

“I may have chosen [the solicitors], as their specialist knowledge would appeal more to my notion that they would have discovered this mistake.” (Vanessa, Conveyancing)

However, some forum participants believed that there was no substantial difference between the regulated and unregulated provider, in line with many focus group participants and depth interviewees who were not aware of the differences between different providers (see Section 2.4.1). In addition, the research indicates that consumers may not be aware of what protections regulation provides consumers (see Section 2.4.4).

Those who would remain with the alternative provider typically maintained that the level of protection or probability of mistake are no different between the regulated and alternative provider.

“[U]nfortunately errors can happen, not everything is always picked up, I would still make the same decision as I don’t believe this problem would have been picked up necessarily when using the solicitor either, think it would be probably down to the experience and aptitude of the individual conveyancer not because he wasn’t a solicitor.” (Emma, Conveyancing)

“I feel I would have still picked the same company. My reason for this decision is that although it is not covered by the same association it is still covered for professional conduct and therefore is liable for the mistake made.” (Paul, Divorce)

Only one person of the 36 who originally chose the solicitors would switch to the alternative provider, explaining that *“lawyers are more higher than solicitors. [They] know what they are doing more than solicitors (higher in court). Not sure of differences but a sense that lawyers are good. Lawyers would be better able to fight my corner” (Jayne, divorce)*

2.4.4 Awareness of and expectations about regulation and insurance

The research indicates that participants value regulation, but most did not seem aware of what it involved. For example, most participants did not know what it means for providers to be regulated e.g. what are the key factors, what assurances are provided to consumers, or which organisations regulate solicitors.

Do consumers’ understanding of regulation come from sectors such as finance or utilities?

In general, across all three services, participants tended to have low awareness of regulation in the legal sector. When participants were asked about regulation, they often mentioned the Financial Conduct Authority (FCA), and in some cases reported that they thought the FCA regulated legal service providers.

“[When asked about which organisations offer consumer protections for dissatisfied legal services consumers]: I could go to legal ombudsman (know from [my] finance role- [my] bank is regulated and has financial ombudsman. FCA).” (Daniel, Conveyancing)

“Two providers that need to be regulated come to mind- solicitor regulation and FCA?” (Cherly, Conveyancing)

“[I’m] not aware if it is something they have- it is not advertised in the same way as holiday companies advertise ATOL.” (Hazel, Divorce)

“Solicitors regulated? Yes I expect them to be. Don’t know who regulates them? FCA?” (Anna, Will)

“SRA- I think it means accountability to another body who have no influence. Like utility companies. Ombudsman is detached from the firm.” (Nicola, Will)

The fact that consumers take their knowledge/beliefs of regulation from other sectors such as financial services may magnify confusion for consumers in the legal services sector. For example, providers of financial advice who call themselves financial advisors must be approved or authorised by the FCA. This provides consumers with protection via FCA regulation, the Financial Services Compensation Scheme and the Financial Ombudsman. Consumers in the legal services sector, based on the research for this study, may therefore as a default believe all providers are regulated in the same way. Indeed this was found in focus group and interview responses (section 2.3)

Awareness of which organisations regulate solicitors

In an open question, most participants assumed that solicitors were regulated, but relatively few could identify which organisations regulate solicitors. When directly asked if they had heard of the SRA, there was little awareness of the SRA and its role across all three legal services – only 1 – 2 participants per group were aware of the SRA being the regulator.⁶⁷

“I would imagine that they have to be part of a regulatory body, but I would have no idea what that would be.” (Debbie, Divorce)

“I’ve no idea who would be the regulatory body for this.” (Jayne, Will)

“A regulatory authority but wouldn’t know names.” (Cheyenne, Conveyancing)

“Solicitors regulated? Yes I expect them to be. Don’t know who regulates them? FCA?” (Anna, Will)

Awareness of types of consumer protection offered by regulated providers

Most participants were also not aware of the types of protections offered by regulated legal services providers. For example, most participants did not know what type of insurance some providers have, and assumed that all regulated providers would need to carry sufficient insurance.⁶⁸ Most participants were shocked, upset, worried and dissatisfied when they found out that not all providers are regulated or have sufficient levels of insurance.

“...Why not? They’re providing a service telling me what’s right and then they don’t have insurance... I had not realised that”. (Denise, Will)

⁶⁷ Data was insufficient to assess whether there were any substantial differences between socio-demographic groups regarding awareness of which organisations regulate legal services providers.

⁶⁸ Data was insufficient to assess whether there were any substantial differences between socio-demographic groups regarding awareness of the types of protections offered by regulated providers.

“It makes me feel angry, they should all have to go by the same rules and regulations.”
(Claire, Divorce)

“I think they should all be regulated. I’m quite shocked that you can offer legal advice and not be regulated! I bet they still charge plenty!” (Debbie, Divorce)

“Customers should be protected by law and all providers should have to be regulated.”
(Caro, Conveyancing)

Nearly all participants believed that barristers and solicitors are fully protected, as they viewed them to have high status and to be highly qualified. When participants were probed, they reported a ‘gut feeling’ that Chartered Legal Executives, followed by paralegals, were the least likely to be fully covered by insurance.

Awareness of protection if the solicitor has been negligent

Similarly, in the behavioural forum, participants were confronted with an unforeseen negative event. The complication is designed such that it involves some sort of negligence on the part of the legal service provider, which leads to harm to the consumer. Facing this situation, participants most frequently appeal to the protection they assume or expect is assured by the regulator or professional association, but typically in vague terms, and participants were unsure of the extent of protections. Participants in the conveyancing group were in general more confident in the protection they were entitled to under both regulatory bodies (SRA/Council of Licensed Conveyancers).

“It feels as though I would be protected – it’s an error that they made, that they should have picked up on but didn’t – but it feels as though the SRA are there for that – they would have to put it right... Don’t know the protections they offer but I imagine that it’s an escalating process, similar to financial ombudsman...” (Cheryl, Conveyancing)

“I don’t know if I have any protections - if I do I’m not aware of them, but I would tell the provider that if I am not satisfied with their response I will make a complaint to the association they belong to (CLC).” (Caro, Conveyancing)

“In this case I would read up about the conditions of insurance and compensation that I am entitled to according to the CLC. I would highlight what I am entitled to, and bring it to the attention of [the provider] ... If they were unwilling to discuss, I would get in touch with the CLC to raise awareness of the situation, and ask them to intercede on my behalf.” (Vanessa, Conveyancing)

“The association that they belong to should have the power to do something for the family.”
(Christine, Will)

“The [professional association’s] Code of Conduct ensure their work is regulated; therefore, they should resolve the matter at no cost to the client.” (Julie, Divorce)

Some also mention the possibility to raise the issue with the Legal Ombudsman, seek help from Citizens Advice or rely on the provider’s goodwill. Others anticipate such event to be covered by the provider’s professional indemnity insurance; some suggest suing the company as a last-resort option.

“legal ombudsman?” (Joseph, Divorce)

“I could ask my cousin who works at CAB or go to another solicitor. Wouldn’t know what to do.” (Bob, Divorce)

“I wouldn’t expect them to be bound by any formal legal responsibility and would hope they would do this out of goodwill. It would certainly stop me from using or recommending the firm in the future if they did nothing to help.” (Dana, Conveyancing)

“They should indemnify you against this. It could probably be solved by a small insurance. I believe the professional S[R]A rules would ensure they acted properly.” (Paul, Conveyancing)

“My surviving family that have been left items in my will should sue the company.” (Sandra, Will)

Participants who reported that they had a low level of knowledge about their legal rights also tended to have a low level of awareness regarding protections provided by regulation. This was also the case for participants of low social grades and participants with low educational attainment.

“Not thought of this before. I don’t know about my protections.” (Daniel, low legal knowledge, low education attainment, Conveyancing)

“That’s when I’d have to go to the SRA, but I have no idea what they would do to help me” (Veronica, low legal knowledge, low educational attainment, Will)

“I have no idea what protections my family would be entitled to and to be honest this wasn’t something I’d considered at the time of choosing [the provider in the simulated situation]. The advert I chose made no mention of protection or compensation as the other one did.” (41, low legal knowledge, social grade D, Will)

Figure 14 shows a word cloud describing participants’ expectations of their legal service provider if an unforeseen negative event occurred. The words ‘protection’, ‘regulation’ and ‘compensation’ are large, suggesting that participants frequently expected that they would be protected by regulation, and that they might be compensated for the harm they suffered. However, the term ‘SRA’ is smaller, suggesting that although participants may have expected regulation to play a role in consumer protection, they were not aware of which were the regulatory organisations to approach. This is consistent with the focus groups and depth interviews, where participants often did not seem to be aware of regulatory organisations or what regulation involved.

“Well 2 isn't really an option for me, it's so ‘American’ to do this. I am more understanding and would allow for ‘human error’, but I would expect them, to rectify the situation ... so I guess 1 would come into play, as it is ‘their’ error or incompetence that has brought about this situation and they should pay the costs to correct it. If this doesn't happen, I would leave instructions for my son to bring about 3.” (Kim, Will)

“3. and 1. (if can negotiate a reasonable fee). 2. would be too expensive and possibly drag on for too long.” (Michelle, Divorce)

“I don't know how many people would sue a law firm - they have more resources and more knowledge and it would just end up costing lots of money. [J]ustice means money. [H]opefully one would be able to reach an agreement before it came to suing but you should have the right.” (Nina, Divorce)

Awareness of Professional Indemnity Insurance

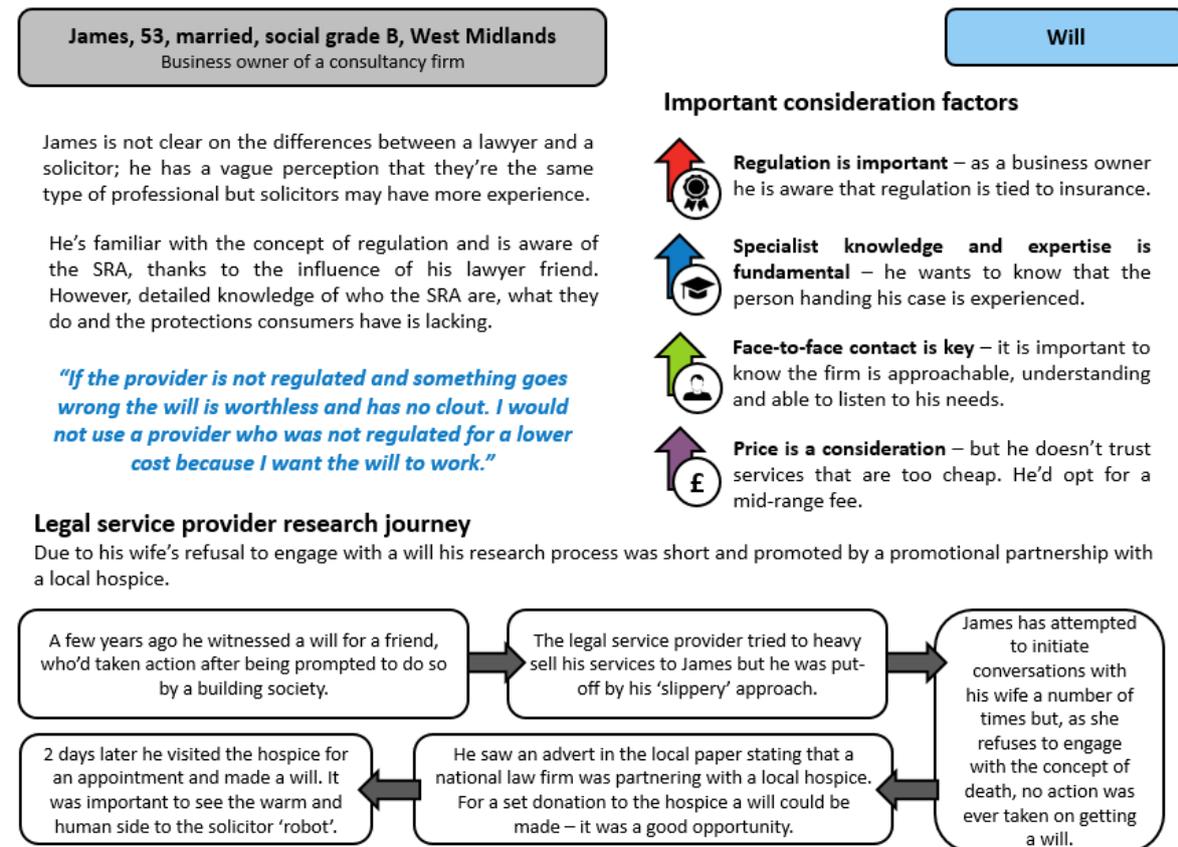
Less than one fifth (17%) of participants in the behavioural forums had previously considered the issue of legal service providers having sufficient insurance to compensate customers if something goes wrong. While there was not a major difference between those with more complex personal issues and those with simpler experience, there was a notable difference across social grades. More than a quarter of people in the higher social grades A and B had considered PII before, compared to only one in ten respondents from social grades C, D and E. People who had considered PII before were often business owners who have personal experience with purchasing PII in other contexts (see Figure 15 for a case study).

“[In] my own business I have to have professional indemnity insurance - it gives clients a sense of security ... others don't inquire but it's their T&Cs.” (James, Will, social grade A)

“I had not even thought about legal service providers having insurance until taking part in this forum.” (Susan, Divorce, Social grade D)

“I have, this is something I specifically checked for in paperwork before signing.” (Andrew, Will, Social grade A)

Figure 15 Case Study of a social grade B consumer who considers regulation and insurance to be important in his choice of legal service provider



Source: London Economics and YouGov depth interview

A number of participants reported that they had never explicitly considered the issue of PII when choosing a legal service provider because they had *assumed* the provider would have sufficient insurance and/or the regulator is there to make sure of it.

"I have always assumed that they would have the necessary insurance and that this would be required by the Law Society or whichever is the regulating body for the provider." (Heather, Conveyancing)

"I had not really considered this if I am honest. I would assume that all conveyancers are regulated by the SRA or CFLC and would therefore need to have sufficient insurance in order to be able to practice." (Katy-Anne, Conveyancing)

"Not before – just assumed it was there. Would expect it... so wouldn't look for it." (Cheryl, Conveyancing)

"No, not really. I take for granted respectable institutions have insurance and do take note of when certificates are displayed on premises but not really thought about the implication to myself." (Charlotte, Will)

The findings of the Legal Needs Survey (2016)⁶⁹ confirm that people rarely take into consideration indemnity insurance when choosing a provider. The share of respondents who listed PII among the three most important factors when choosing a provider was only 2% of those who had searched/purchase legal advice on divorce (N=225), 4% for will writing (N=601) and 3% for conveyancing (N=938). Across all services considered by the Legal Needs Survey, the share was 4%. (N=5809). This may be because respondents assumed that all providers have insurance as was found in the focus groups (above).

2.4.5 Do consumers value regulation once they are informed about what it involves?

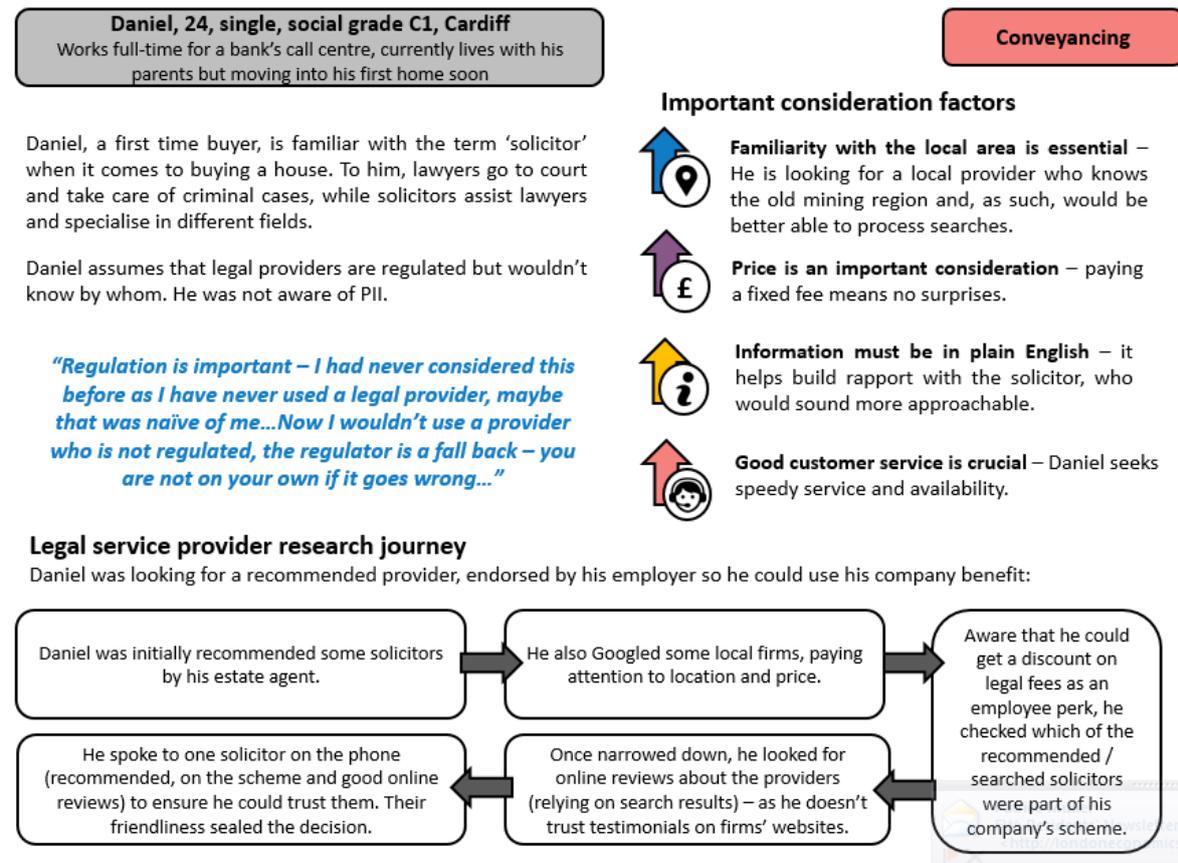
When participants were informed in the focus groups about what SRA regulation means, they generally thought that the protections were highly valuable (see Figure 16 for a case study), especially having access to the Legal Ombudsman, providers having the correct qualifications and having sufficient professional indemnity insurance (PII).

“Each of these elements give the idea that I am dealing with a professional company, they give me reassurance that I will be looked after if things go wrong and give the impression that whoever I am dealing with meets minimum standard requirements.” (Andrew, Will)

“I would like to think I could tell my firm they are wrong and they would sort it out” (Bob, Divorce)

⁶⁹ Ipsos MORI (2016). ‘Online survey of individuals’ handling of legal issues in England and Wales 2015.’

Figure 16 Case study of a consumer who valued regulation once he was informed about the protections offered by regulated firms



Source: London Economics and YouGov depth interviews

Many behavioural forum participants pointed out that the forum helped them recognise the importance of PII and they would consider it in the future. After participating in the forum, and experiencing the negative outcome, respondents considered sufficient insurance of the legal service provider a more important consideration than price. On a scale from 1 (cost is much more important) to 5 (sufficient insurance is much more important), the average score was 3.4, with the highest (3.8) among those in the Wills group and the lowest (3.0) in the Divorce group.

"I have never really considered it but having done this forum, I can see its importance." (Carla, Conveyancing)

"Never thought about it before this forum. It is actually pretty important though, seeing as there is no guarantee that the work is being carried out properly." (Nicola, Conveyancing)

"No I have not and now it has been brought to my attention it is something that I will consider in the future." (Christine, Will)

However, some focus group participants and depth interviewees were confused by what the compensation fund was, and a number assumed that all providers offered confidentiality regardless of being regulated or not.

"Why doesn't insurance cover [issues covered by the compensation fund]?...Insurance needs to cover it all – if not what is the point of it?" (Bob, Divorce)

“The fund is surprising... what doesn’t the insurance cover? I don’t know if it’s valuable...”(James, Will)

Some participants thought that consumers could go to the Legal Ombudsman regardless of whether a provider is regulated by the SRA or another approved regulator (which in this study was the Council of Licensed Conveyancers).

“Could maybe go to the Legal Ombudsman via other routes” (Barbara, Conveyancing)

2.4.6 What would help consumers to understand their rights and protections?

When participants were asked what would help them to understand their options if an unforeseen event happened (this was asked in the behavioural forum after the unforeseen event had occurred), nearly all said that it would be helpful to have more information about the protection guaranteed by the regulator or professional association. Some would also welcome more details about the legal service at the point of sale, including what problems could arise and the solutions the company can provide. Others think more information about the expertise or experience of the legal service provider could help them avoid the unforeseen complications.

“I would want more information about levels of protection and what exactly is covered by the Indemnity Insurance and Compensation schemes offered by the two professional organisations.” (Caro, Conveyancing)

“Explanation of protection afforded by SRA...including compensation. What, by contrast, is the ‘Will Writers Association’. We aren’t told enough.” (David, Will)

“I think what happens if the will is lost should be very clearly explained in the advert.” (Martin, Will)

“For myself, it would have to be, a meeting to “break down” what is actually being offered. Make the ‘terms’ and its wording more simplistic for those of us who haven’t had the luxury of a University education.” (Kim, Will)

“When meeting them, make people aware of what these regulations mean. Letting clients know what you’re getting if things go wrong in the future. Inform about regulation in the beginning and that you are able to go back.” (Hazel, Divorce)

2.4.7 Do vulnerable consumers experience specific difficulties in assessing the information they need to choose a provider?

The research indicates that consumers generally valued regulation and would prefer to use a regulated provider. This was particularly the case in situations where the legal issue was more complex, they were made aware of what regulation meant in terms of professionalism and protections, or once they were informed that a negative even can occur.

However, consumers also generally had low awareness of legal providers’ regulation and what regulation and insurance involves. In particular, participants who reported low awareness of their legal rights, had low educational attainment or were of lower social grades had a lower awareness of what regulation meant e.g. sufficient insurance (see Section 2.4.4).

Consumers from lower social grades also tend to prioritise price (see Section 2.4). This was particularly the case in the behavioural forum before they were made aware that things can go wrong. Therefore, lower income consumers may be at risk of choosing lower cost providers who are not (necessarily) required to provide them with adequate consumer protection, if they are not aware of the difference between regulated and unregulated providers.

2.5 Trade-offs between service attributes

As part of the behavioural forums, participants were asked to assess how much importance they place on cost relative to expertise, speed of the service, and the provider's insurance. These questions were asked at the end of the forum, after the negative event had occurred and case complexity had increased.⁷⁰

Participants were asked to indicate the relative importance of attributes on a scale from 1 (cost is much more important) to 5 (expertise/speed/insurance is much more important), with a score of 3 meaning that the provider thought that cost was as important as the other attribute.

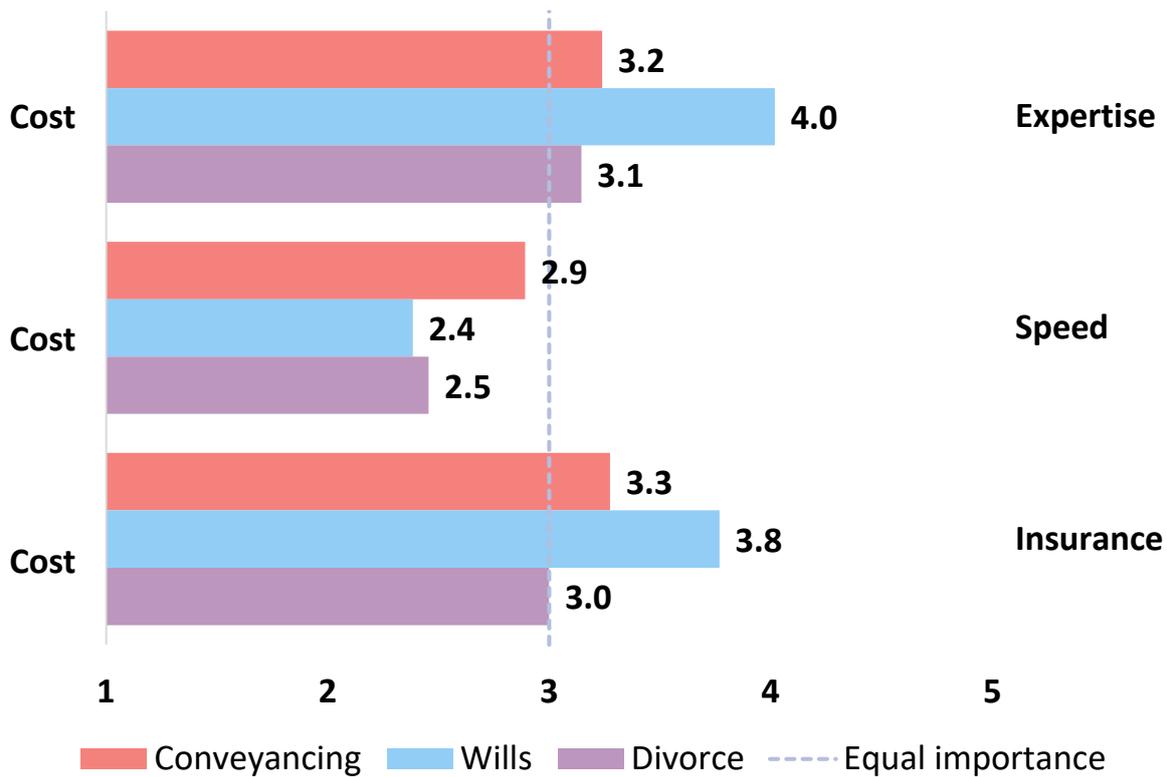
The average score for expertise was 3.5, indicating that participants think expertise is somewhat more important than price. Speed received the average score of 2.6, revealing that the participants care slightly more about the cost than speed. Finally, with a score of 3.4, the provider's insurance was considered slightly more important than price of the service.

The scores differed substantially between types of service and complexity of personal situation.

For example, participants in the wills group placed more importance on expertise (an average score of 4.0) than other participants (e.g. an average score of 3.1 for divorce and 3.2 for conveyancing). Wills customers also placed relatively less importance on speed (2.4 compared to an average of 2.9 for conveyancing customers), and more on insurance (3.8 compared to an average of 3 for divorce) than participants in the other two groups (Figure 17). Participants who faced a more complex issue generally placed less importance on price, valuing expertise, speed and insurance compared to participants who had less complex situation.

⁷⁰ The objective of these questions is to assess the relative importance of attributes rather than simply asking respondents if they think an attribute is important - yes or no. The latter question formation tends to always get a yes response (all attributes are important), while a scale provides more nuanced information.

Figure 17 Trade-offs between service cost and other service attributes by type of service



Average scores assigned in attribute trade-offs. Conveyancing N=23, Wills N=26, Divorce N=24. The dashed line represents a score of 3, which indicates that cost is as important as the other attribute. A score less than 3 indicates that cost is more important and a score greater than 3 indicates that the expertise, speed or insurance is more important than cost.

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Cost versus expertise

In general, across all services,⁷¹ participants tended to value expertise over cost, as they may experience harm if their work was not done carefully.

“Assessing the level of expertise is more important as it can create “savings” down the line - any future costs because of careless work.” (Vanessa, Conveyancing)

“It’s obviously essential that the company know what to do and that they do it well. But cost is important because there isn’t much spare money when buying a house.” (Emma, Conveyancing)

“As I am a single mum, cost is a big factor. I would assume anyone who you go to has certain qualifications and experience within the field. I would expect the expertise.” (Tara, Conveyancing)

⁷¹ The research did not identify substantial differences between socio-demographic groups regarding the importance of cost versus other service attributes.

“ I want someone who knows what they are doing, not the 99p store end of the market. It's about having someone who knows what they are doing - if it's a complete hash it will cost more at the end of the day anyway.” (James, Will)

“My divorce was easy, I thought as myself and my husband had agreed to split amicably, we had split the finances fairly and agreed on everything so I looked online and used a divorce company online. ... It was an easy process and we filled out the forms they asked for and they then completed and sent out all the legal forms, inc consent order for the court which we signed but the court then rejected it twice, I didn't feel I had good support and information from the divorce company and the delay cost me a lot of money on my mortgage as I can't re-mortgage without the consent order approved. In hindsight I should have spoken to my family solicitor and dealt with it differently as its cost me way more than I hoped or expected in the long term.” (Cheryl, Divorce)

Trading off cost versus speed

Participants tended to make different cost/speed trade-offs, depending on the legal service. Conveyancing customers were more likely to say that they would pay extra to have their work done quickly, whereas wills customers were more likely to say that they could wait but that they wanted the work done well and carefully.

“Whilst speed is important i would rather wait a few extra weeks if it means I can save a significant amount of money.” (Emma, Conveyancing)

“it's so stressful that you just want it done...if it means paying a few hundred pounds more for having it done earlier it's worth it.” (Laura, Conveyancing)

“For me, its not so much the speed is important but that they would stick to the timescales agreed. I can then plan around what is happening.” (Neil, Will)

“So long as there is no impending death speed is not a great issue.” (Diane, Will)

Divorce group participants varied regarding how much they valued speed, depending on factors such as their relationship with their partner.

“Speed was never an issue with our divorce as we had been separated for 7 years, remaining best friends, and we only decided on divorce after she had met someone.” (Paul, Divorce)

“There are so many factors that can cause a delay in a divorce so it really helps if the provider gets on with what needs doing.” (Alison, Divorce)

Trading off cost versus knowing the provider has sufficient insurance

Behavioural forum participants tended to say that they would not even consider insurance as a factor since they would assume that all providers would have enough insurance. This is in line with the focus groups and depth interviews, which found that participants generally did not know that some providers may not be regulated (Section 2.3.1) and that participants did not know that different providers offer different levels of consumer protection (Section 2.4.4).

“I wouldn't even consider this aspect..... I would assume it was adequately insured” (Natasha, Conveyancing)

“I would hope that all reputable service providers would have the requisite insurances in place. This peace of mind is slightly more important than overall cost.” (Heather, Conveyancing)

“I would slightly favour cost over insurance because if there is an issue that cannot be resolved through insurance there are other process available to me such as compensation and legal action/Ombudsman.” (Katy-Anne, Conveyancing)

“This is not something I would normally consider, I don’t think i would be prepared to pay extra for this as If they made a mistake I would expect them to fix it regardless of weather they had adequate insurance or not.” (Dana, Conveyancing)

However, some forum participants pointed out that they would want the peace of mind of knowing that their provider had enough insurance, if something went wrong.

“Given the complex nature and possible issues that could arise insurance would be a big priority.” (Martin, Will)

“It’s about thinking ahead. Peace of mind comes with knowing your provider has cover enough BUT this is at a cost. If there isn’t the money you can’t pay for it.” (Julie, Divorce)

Trading off cost versus regulation

In the focus groups and depth interviews, nearly all participants across all legal services said that they would not use a provider who was not regulated (since taking part in the research).

“I think it’s very important that they are regulated by the SRA and I would be prepared to pay the extra money” (Raymond, Conveyancing)

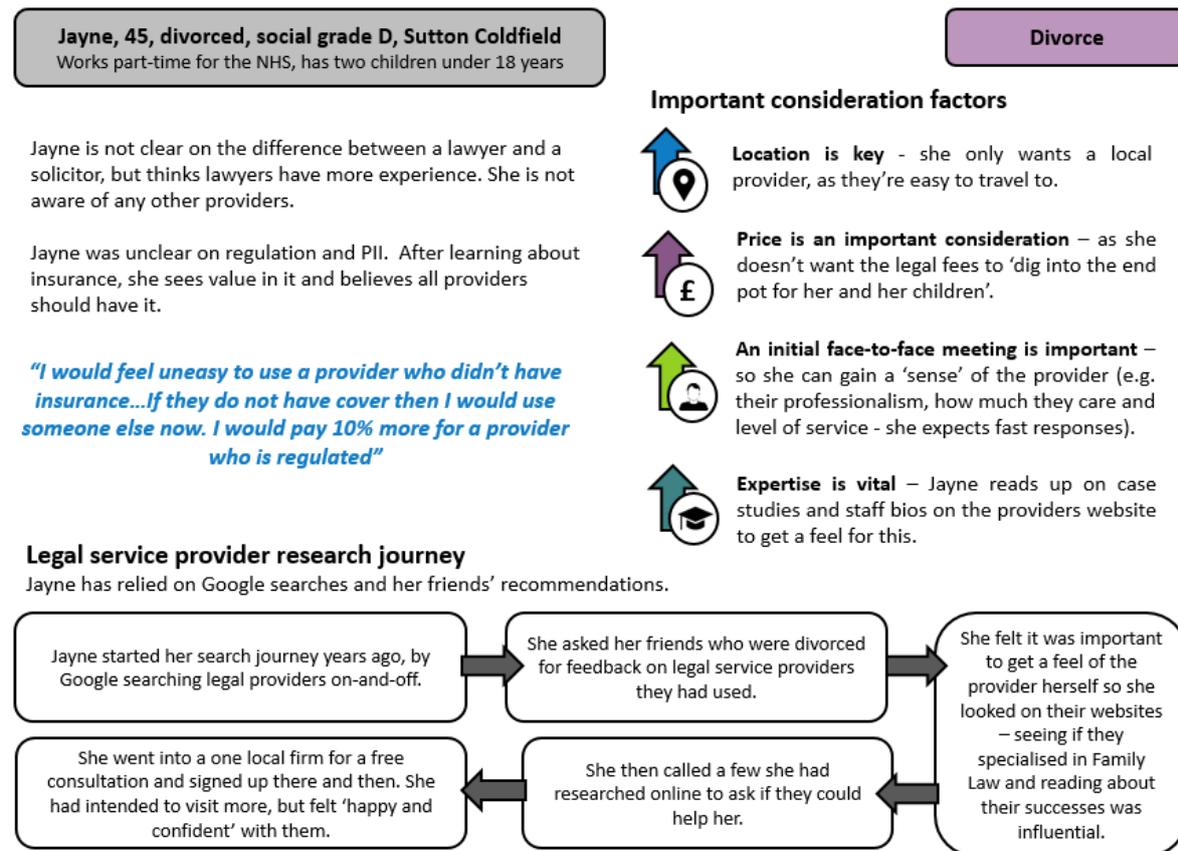
“I would not use any provider that is not regulated.” (Albert, Will)

“I would not use providers that are not regulated.” (Lucy, Conveyancing)

“Yes, it is worthwhile [to pay more for a regulated legal services provider]. Wish I had looked into this before. I would pay a little bit more but not a vast amount more.” (Barbara, Conveyancing)

“It’s very important – never really thought about that – even with confidentiality. It’s a good thing that you have someone else you can go to complain. I would pay more to go to a regulated provider – they’re looking out for customers as well. You’ve got a backup”. (Hazel, Divorce)

Figure 18 Case study of a consumer who would be willing to pay more for a regulated provider



Source: London Economics and YouGov depth interviews

However, not all participants were willing to pay more for a regulated provider, especially if price was their main decision making factor, participants believed their case was simple or unlikely to have any unexpected issues/events.

“For a complex will I would only use firms under the SRA. I would compare prices between firms under it.” (Martin, Will)

“If I could choose from two firms and one didn’t have this back up then I probably wouldn’t use them. It’s not the most important thing if there is come back in another way.” (Bob, Divorce)

A number also wouldn’t pay for a regulated provider as they believe that they shouldn’t have to pay more, as all providers should be regulated.

“No as I expect them to be regulated. So I shouldn’t have to pay more. I wouldn’t then go with the others- can’t trust the other ones now.” (Neil, Will)

2.6 Willingness to pay for different service attributes

The majority (96%) of the behavioural forum participants (N=73⁷²) said they would pay more for a provider who has extra experience, out of standard office hours, free initial face to face consultation and available by more methods of communication. 86% would pay at least 10% more.

Among participants who would pay at least 10% more, 73% mentioned more ways to contact the provider as a reason why they would be willing to pay more; 70% said face to face consultation was a factor; 67% and 57% reported that their decision was influenced by the additional experience and out of standard hours, respectively.

When participants were asked why they valued different combinations of service levels, they pointed out that they valued personal interaction, especially for complex legal work.⁷³

“When working full time it is good to be able to contact a business outside working hours as it takes the stress out of trying to make serious phone calls in lunch breaks etc. I would want a face to face consultation as it gives me the chance to meet someone from the company and weigh up whether I would like to deal with them, this is much easier in a human interaction than a 'one size fits all' online enquiry. Writing a will can be emotional and I would want any initial questions to be answered face to face to gauge the reaction of the solicitor and put myself at ease.” (Charlotte, Will)

“as a busy working parent it is helpful to be able to contact out of hours and have the option of speaking to someone over the phone or face to face -particularly when understanding complex processes.” (Jayne, Will)

“I like the idea of having that face-to-face meeting first of all - you need to have some sort of connection with them. With divorce you do need to talk about sensitive issues.” (Hazel, Divorce)

“For my basic will - I want to be able to speak with someone in office hours. As long as I am given a completion date I am in no hurry. But I want a friendly person not a robot that is reading from a script. With a complex will I am paying more for I want a better more personal service with updates etc.” (Martin, Will)

2.7 Do consumers think it would be useful for legal services providers to be on price comparison websites?

The research explored participants' online behaviour and whether they typically used reviews and complaints data in the search process. After introducing the concepts of regulation and insurance, and the fact that some legal service providers are not regulated and that insurance can vary, participants were asked whether they would find it useful for legal service providers to be on price comparison sites.

⁷² One participant did not complete the final part of the behavioural forum this is why N=73 in this section when previously N=74.

⁷³ The research did not identify substantial differences between socio-demographic groups regarding willingness to pay for different service levels.

2.7.1 Participants' online behaviour

Most focus group participants used online providers regularly for a range of purchases and services, including shopping, banking, travel requirements, insurance and utilities. The key reason for using online services/online purchases was convenience, as access is available 24 hours a day and does not require travel. This was especially true if consumers have mobility issues, young children, poor local transport and/ or live in a remote area.

"I do most of my shopping online, its easier with 2 children under 2!" (Cheyenne, Conveyancing)

"Yes, I buy food, clothes, music and books online - several times per month on average. I am in a relatively remote location with limited local shopping." (Jonathan, Divorce)

"yes i often buy things on line its so much easier for me as i have fibromyalgia and i cannot walk to far." (Susan, Divorce)

Participants also said that they believed they would find 'cheaper' deals and there was more choice online.

"I do it all the time - through choice as I find it easier to find what I want, the choice is better and it is more comfortable. It's also a better way to research the options available." (Adrian, Divorce)

2.7.2 Using reviews and complaints data

At the beginning of the focus groups and interviews participants were asked if when looking for providers online, for any service, if they ever searched for or used complaint data. Some participants said that they read customer reviews (for products and services other than legal services), but not many accessed formal complaint data for any services, because they were not aware of its existence or how to find it.

"I have never heard of complaint data therefore have never used it." (Pauline, Will)

"[Customer reviews] may be useful, but I'd take with a pinch of salt." (Paul, Conveyancing)

The few participants who had accessed complaints data, indicated that they used complaint data to rule out providers who received many complaints.

"Yes customer complaint data can be really useful sometimes.....It's useful to decide whether a service is reliable/trustworthy etc."(Lucy, Conveyancing)

"It would be useful, for example, to find out what issues others have had with the service and whether people complain more about one company compared to another" (Gabriella, Conveyancing)

Some participants were cautious about complaints and reviews for services, because they couldn't always judge whether the complaints were fair.

"sometimes with reviews the complaints can be quite petty so I would rather judge a product for myself" (Cheyenne, Conveyancing)

"Some people complain about things that are their own fault" (Adrian, Divorce)

“am always wary of competitors posting fake and false reviews” (John, Will)

When asked at the beginning of the focus groups and interviews if they used online comparison sites for goods and services in general, nearly half of the participants reported that they used price comparison sites mainly for utilities, holidays and insurance products as they believed they can save money. However a few were ‘suspicious’ of them as not all companies are on price comparison sites and / or they thought that some sites had deals with certain companies to be prominently featured.

“[The website] might not be impartial and cheaper/ better providers might not be listed.” (Caro, Conveyancing)

“The downside is that sometimes if you approach the company directly they can be cheaper.” (Christine, Will)

“I also don't like that once you sign up to a comparison site (e.g. Moneysupermarket) you get pestered with lots of spam mail.” (Adrian, Divorce)

2.7.3 Do users think it would be useful for legal service providers to be on price comparison sites?

After taking part in the research, most participants did not think it was practical or even appropriate for a legal service provider to be on a price comparison site. Some could imagine legal providers being on one, as so many other services are – however they would not personally use one to select a provider.

Many participants from middle and lower social grades pointed out that price comparison sites would lower the tone of the legal profession, that they were ‘tacky’ and put too much stress on price.

“[I]t's life changing things they deal with, it's mocking what they do to put them on a comparison website.....It's too tacky for this type of industry.” (Laura, Conveyancing, social grade C1)

“It's like buying a second hand car. I wouldn't use it. It would feel like ‘Pick me I am cheap’ – like hawkers at the fair. It wouldn't seem as credible. I don't think you should consider price too much”. (Bob, Divorce, social grade E)

“I am a bit hesitant. Does it reduce the professionalism of the person? Is it a little bit hawking out the services? I am not sure. But does it chip away at the fact that they are professional people?? Could you do one for doctors or accountants... doesn't fit that well for her” (Barbara, Conveyancing, social grade C1)

“Price comparison website not very professional – [providers] can do it cheaper and they might be tempted to cut costs. If looking for holiday then it's different. Larger firms might be able to cut costs and smaller firms might not be able so go out of business...” (Terry, Will, social grade C2)

“The image of a solicitor and then being on a price comp site...they like to show they have been established/ xxx amount of partners- so amusing to see this on a price comp site and they put themselves there. Is a bit odd” (Steve, Divorce, social grade C1)

“could open you up to people who would rip you off and not have right qualifications. Need to be vetted” (Don, Divorce, social grade D)

Generally, participants in middle and higher social grades pointed out that legal work was a personal service, and that there were so many different factors other than price to consider, that could not be expressed on a price comparison site.

“I would hope that they are not on a price comparison website, it just doesn’t feel right. With car insurance you’re getting the same amount of cover the cheapest price – for this it’s more about the expertise and what they can do for you. Personally I wouldn’t use it...Your just going to look at the price. The cheapest one isn’t going to be the one that fights for me – I want the personal touch. They are not just there to do a job.” (Michaela, Divorce, social grade C1)

“If there is/was such a site for legal service providers, I probably wouldn’t use it...because it’s a more geographical choice and more about recommendations than price.” (Caro, Conveyancing, social grade A)

“I wouldn’t trust it I would need to do additional research ask for recommendations.” (Emma, Conveyancing, social grade A)

“No I don’t think they should be on a price comparison. It would imply that people can choose the cheapest and get the same service.... I think it would actually encourage people to automatically go cheaper as that’s what these sites are for really..... I think it would be too risky, I need to have trust.” (Debbie, Divorce, social grade C1)

“It’s the difference between flat price and value for money. Only value for money is important with legal advice....Legal advice isn’t a commodity and personal service counts for a lot.” (Adrian, Divorce, social grade B)

“Because of the variables and differences in every case, I do not see how they could possibly be on a comparison site - it just wouldn’t work..... I cannot see how the comparison sites would be able to quantify the innumerable variables everyone has with their needs.” (John, Will, social grade C1)

“[When asked if there are any downsides] Rogue companies setting up.” (Christine, Will, social grade C1)

“I wouldn’t trust a price comparison website – you’re not comparing apples with apples – it’s not travel insurance – the variables are massive... such a narrow field in which a comparison website would operate...” (James, Will, social grade B)

“cant put price down without knowing the will/ what is needed. They can only put an estimated price e.g. standard and complex will. So you wouldn’t get a proper price- only way to get a proper price you would need to visit them” (Neil, Will, social grade B)

Even when participants said they would use a price comparison site for legal providers, most said they would not use it as their sole source or to make the final selection/purchase on. They would still need to do their own research and call or meet the provider to feel confident and comfortable that they were professional and approachable.

Participants across all social grades felt that price comparison sites could instead be used to help consumers to assess whether providers were charging a too high, or too low, price. Price comparison sites could be used to give consumers a benchmark of the range of prices to enable them to work out an average price, to judge providers against during their own search.

"I see comparison sites as a starting point for personal research.... it would be helpful if those sites clearly indicated which providers were SRA regulated." (Jayne, Will, social grade D)

"I'm not sure how practical it is really. It could be a starting point, you could weed out ones widely out of your price range and ones that were ridiculously cheap....and then you could have the tick boxes to see what they had covered" (Kara, Conveyancing, social grade B)

"I would use the site as a stepping stone, to give me an idea about what's out there, not to purchase on it." (Albert, Will, social grade B)

"[I] wouldn't get as good a feel, [I] still need to see them. [I] wouldn't commit from the site and would then call. It would just be an additional step. [I] would still need to do research and wouldn't buy off the site, definitely not for a divorce. [I] would need to see the solicitor. However it may be fine for wills." (Jayne, Divorce social grade E)

"I would not pick it and speak to them online only. You would be a fool to do so. You need the personal side" (Steve, Divorce, social grade C1)

3 Conclusions

The research makes a number of conclusions.

Accessing information

Consumers use a combination of methods to find a legal service provider. Recommendations from trusted sources is a key route. Many consumers will not engage in further search if they have a recommendation from a trusted family member, friend; or, a real estate agent or mortgage broker (in the case of conveyancing). Trust is an important behavioural driver, and plays a particular role in legal services due to the credence nature of the service: It is difficult (if not impossible) for the consumer to assess quality at point of search and selection, and sometimes (even) after service completion. This is compounded by the complexity of legal services and the fact that consumers only engage in the market a limited number of times in their life such that learning is limited.

Consumers who do not receive a trusted recommendation will commonly conduct online searches using search engines and search terms such as solicitor, lawyer, divorce, conveyancing, or wills.⁷⁴

For consumers who engage in search, online search is rarely the only source of information. Consumers like to talk to the provider either by phone or face-to-face to get a sense of rapport/approachability. This is particularly the case when the consumer feels their situation is complex. During the search process consumers generally ask providers for information on price and timeframes for completing the work. Consumers often receive fact sheets or contracts with terms and conditions, and likely cost of service from providers during the search process. But consumers admit they do not read the small print of documents.

While consumers may use price comparison sites for other services such as utilities, holidays and insurance, participants in this research did not report they had used price comparison sites for legal

⁷⁴ All participating consumers in this study had or were searching for a legal service provider for conveyancing, will writing or divorce within the last 12 months.

services.⁷⁵ At the end of the deliberative research, when participants were directly asked whether they thought it would be practical for legal services to be on price comparison sites, almost all participants said no. Participants reported that they thought comparison sites would put too much emphasis on price, and that due to the personal nature of the service, there are many factors other than price that need to be considered which could not be expressed on a comparison site. Participants expressed lack of trust and thought it would be risky to use a comparison site for legal services. Participants also thought that price comparison sites would lower the tone of the legal profession and were 'tacky'.

SRA regulatory proposal: The SRA is consulting on requiring firms to provide information on SRA regulatory protections including a digital badge that verifies SRA regulation; and a second regarding access to the compensation fund.

As observed in this research, trust and recommendations play an important role in consumers search and selection of a legal service provider. Trust and recommendations are linked to behavioural drivers of social norms and social proofing, and are used to simplify search and decision-making. People tend to feel more comfortable with a decision (or are more likely to make a particular decision) if someone they identify with has previously made the same decision. Therefore, it is important to consumers who makes the recommendation. This also applies to kite marks or quality marks.

The effectiveness of an SRA digital badge in helping consumers to understand information about providers, will be linked to consumers' knowledge and awareness of who the SRA is, what its functions are and what regulation by the SRA means.

Evidence from the focus groups is that consumers' awareness of the SRA and what it does is very low.

Conclusion: There is a general need to take steps to ensure that consumers are informed as to the identity and functions of the regulators and what regulation by the SRA and other regulators means, to enable consumers to understand the difference between regulated and unregulated firms in terms of performance monitoring, quality standards, provider suitability and consumer protections.

CMA suggestion: The CMA in its market study final report suggests that price comparison sites (Digital Comparison Tools) could 'have a very useful impact' in the legal services market by 'providing a straightforward tool' for consumers to find the best value-for-money legal services provider.

Comparison sites seek to overcome cognitive biases by bringing information into one place in a simple format, reducing the costs to consumers of accessing information and assisting comparability. Thereby helping consumers to drive competition from the demand side.

Conclusion: Comparison site operators and legal service stakeholders reported in the CMA market study final report (2016) that legal services can be complex and hard to price in a comparable manner.

⁷⁵ Participants were asked in an open question what actions they had undertaken/planned to undertake in their search. Very few said price comparison sites. Those who did say they had used, or considered using, a comparison site were searching for conveyancing services.

The way information is presented to consumers has significant impacts on understanding and behaviour. Due to limited attention and framing effects, consumers anchor to the most obvious and salient information. Previous behavioural research by the Office of Fair Trading (2010) found that presenting price up-front and detailed information about additional charges on later online pages (“drip-pricing”) lead to significant consumer harm.⁷⁶

Assessing information

Consumers tend to focus on price when comparing providers and this tends to be prevalent in potentially more vulnerable lower social grade consumers. Participants in the behavioural forum were asked to compare and choose between two providers. Initially, participants were asked to make their choice before introducing an unforeseen event that may cause them harm or difficulty. Before the unforeseen event had been introduced, participants indicated that price was the most important factor. While information on consumer protections and price estimation was shown to participants on the same page, but below and in smaller font than price, very few participants indicated these factors were important in their choice of provider.

There are two key behavioural drivers at play here. First, Individuals’ limited attention means that they tend to focus on service features that stand out and capture their attention while ignoring important but less obvious or less salient information.⁷⁷ In this case, participants focused on price, which was shown in larger font compared to other service features. Second, probability weighting, which means humans tend to undervalue the likelihood of a high impact event occurring, but overvalue the likelihood of low impact event occurring. This also means that humans tend not to believe or foresee that a negative event can happen to them. Together, these biases reinforced the tendency for participants to make their choice focusing on price.

Consumers who took part in the behavioural forums, interviews and focus groups tended to change their priorities as they became more aware of how their legal needs may develop, or that an unexpected event may occur during the process which could potentially generate harm or difficulties in the future. As participants became more informed, priorities tended to move away from price towards other service attributes such as experience, regulation and protections, and sufficient insurance in the event something goes wrong.

The context in which a decision is made, or a choice framed, is very important. At the beginning of the research, participants self-reported that they did not believe that something could go wrong (probability weighting) and if they did even consider this possibility, present bias would most likely come into play meaning they would underweight any future negative outcome. By informing participants during the research, it was possible to change the frame or context in which they made their choice, and this helped to reduce the impact of these biases in their decision-making. This research observation does not suggest that providers should inform consumers of possible negative events or outcomes, but it does illustrate that there is a tendency for consumers place undue weight

⁷⁶ OFT (2010) The impact of price frames on consumer decision-making http://webarchive.nationalarchives.gov.uk/20140402165040/http://oft.gov.uk/shared_oft/economic_research/OFT1226.pdf

⁷⁷ Della Vigna (2009) ‘Psychology and Economics: Evidence from the Field’. Bordalo, Shleifer and Gennaioli (2012) ‘Salience Theory of Choice Under Risk’, The Quarterly Journal of Economics 127 (3).

on price due to lack of knowledge, experience and limited learning (due to the fact they probably only interact in the market a few times in their life) in the legal services market.

Trust in their legal service provider is important to consumers, particularly in relation to the provider's expertise. When participants were informed during the research that legal service providers may have different levels of insurance, and that some legal service providers may not be regulated, their response was shock, upset, outrage, concern and dissatisfaction.

Overall, consumers do not understand that there are regulated and unregulated providers of (some) legal services. Consumers generally believe that all providers are regulated due to the important nature of the service they provide. Nor do consumers understand that insurance and protections may differ between regulated and unregulated providers.

SRA regulatory proposal: That firms publish their prices and provide a description of the services they offer.

Providing relevant but missing (or difficult to access) information will only help consumers if presented in the right way, and may harm consumers if it leads them to overlook or discount other relevant service information such as protections, qualifications, and regulation which are important to consumers. This is particularly the case when consumers have little knowledge that protections can vary and that not all providers are regulated.

A number of large scale quantitative behavioural experiments have illustrated that how prices are presented can have significant impact on consumer decision-making, including generating harm. This is because consumers anchor to the price, and may stop searching when in fact they should continue to search⁷⁸, and consumers overlook important information leading them to make poorer choices⁷⁹.

Probability weighting and overconfidence means consumers underestimate, or do not consider at all, the chance of something going wrong during the service or much later in the future after the service is completed. Combined with present bias, an over weighting on price can occur.

Conclusion: Due to the bespoke nature of legal services, limited consumer understanding and experience, and complexity in consumer needs between different services, providing relevant but missing information will only help consumers if presented in the right way, and may harm consumers if it leads them to overlook or discount other relevant service information.

Information presentation could be tested using online behavioural experiments as has been done in other sectors (such as finance – high cost short term credit and insurance) or randomised

⁷⁸ OFT (2010) The impact of price frames on consumer decision-making; OFT (2013) Partitioned pricing: behavioural research http://webarchive.nationalarchives.gov.uk/20140402165048/http://oft.gov.uk/shared_oft/economic_research/OFT1501A.pdf

⁷⁹ European Commission (2016) Understanding consumer vulnerability across key markets in the EU http://ec.europa.eu/consumers/consumer_evidence/market_studies/vulnerability/index_en.htm

controlled trials.⁸⁰ Price presentation (and framing) has been shown to have significant (and sometimes) harmful impacts on consumer decision-making (OFT 2010 and 2013)⁸¹.

Acting on information

Consumers' choice of legal service provider can change if the consumer is informed about the nature of the legal services market (particularly regulation and protections); and/or they consider that sometimes things can go wrong either during the service provision or in the future. In the behavioural forum, after participants had experienced the unforeseen event that generated harm to them, a large proportion of participants changed their initial choice and chose the provider that was labelled as a "solicitor" and stated that they (the provider) were regulated by the Solicitors Regulation Authority.

As previously, this is driven by context, framing, probability weighting and present bias. As consumers do not engage in the legal services market very often, there is little learning and feedback. Due to limited opportunities to learn, consumers are unable to naturally (through experience) overcome or minimise these biases. By informing and educating the consumers, these biases can be reduced.

While consumers value regulation, their knowledge of what it means is limited. Participants drew upon their knowledge of regulation in other sectors in which they interact more frequently, such as utilities and finance. Consumers may get confused if they try to transfer their understanding of regulation from other sectors because different sectors have different regulatory models. For example, all providers that advertise to be financial advisors must be approved and authorised by the FCA but not all providers of legal services must be regulated by the SRA.⁸²

Conclusion: There is a general need to inform and educate consumers who use legal services.

⁸⁰ Randomised control trials actually implement price presentation changes in the field with a sample of actual firms/consumers. Any trial would therefore need to be carefully designed to ensure that consumers/firms in the trial do not make poor decisions which may impact their welfare. Online experiments avoid these possible negative outcomes as they run the tests in a controlled environment and act as a road-test for the performance of possible future changes.

⁸¹OFT (2010) The impact of price frames on consumer decision-making; OFT (2013) Partitioned pricing: behavioural research http://webarchive.nationalarchives.gov.uk/20140402165048/http://oft.gov.uk/shared_oft/economic_research/OFT1501A.pdf; OFT (2013) Partitioned pricing: behavioural research http://webarchive.nationalarchives.gov.uk/20140402165048/http://oft.gov.uk/shared_oft/economic_research/OFT1501A.pdf

⁸² Specialised conveyancers are regulated by the Council for Licensed Conveyancers.

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Consumer behaviour research

Research annex



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Annex 1 Research screener

Recruitment criteria

PHASE 1		
<p><u>3 online forums</u></p> <p><u>15 participants per forum</u></p> <p><u>2 days</u></p> <p>Wednesday 13th & Thursday 14th September</p>		
Legal service experienced: Will	Legal service experienced: Divorce	Legal service experienced: Conveyancing

PHASE 2		
<p><u>3 online focus groups</u></p>		
Legal service experienced: Will Monday 18th September 6:30pm – 8:30pm 8 – 10 people per group 1.45hr	Legal service experienced: Divorce Monday 18th September 8:00pm – 10:00pm 8 – 10 people per group 1.45hr	Legal service experienced: Conveyancing Thursday 21st September 6:30pm – 8:30pm 8 – 10 people per group 1.45hr

RECRUITMENT CRITERIA for phase 1 and phase 2

Demographics & life situation

- Mix of gender, social grade, education level
- Age to fall out naturally and will mirror the Legal Needs Survey
- Include 2 – 3 people per group whose ethnicity is not white British and / or who fall into a vulnerable audience (i.e. living with a disability, receive benefits / income support)
- Spread of location across England (inc. mix of rural and urban)
- Mix of working situation (working, full-time, part-time, unemployed, retired etc.)
- Mix of living situation

Legal services experience

- All to have started to research legal service within the last 12 months, with a positive skew towards those who have started to look for information within the last 6 months
- To include some who have experience with using the same legal service previously, where possible – and a mix of satisfaction with the service received
- To include a mix of case complexity – as defined in the complexity matrix below
- Mix of self-reported legal knowledge/awareness of legal rights
- Mix of consumers who actively searched and consumers who went with a recommendation from friends/family/other service provider e.g. estate agent or bank.
- Include a mix of those looking to use local / national law firms
- Include a mix of those using online / face to face services

Other

- Recruit a mix of digital competency

Screener

The following data is held and updated on every panellists on the YouGov panel. As such, we don't need to re-ask potential participants these questions.

[age_pdl if 0] {pdl-update age}

#Recruit a mix – fall out

[profile_gender_pdl if 0] {pdl-update profile_gender}

#Recruit a mix

[profile_GOR_pdl if 0] {pdl-update profile_GOR}

#Which region do you live in?

<1> North East

<2> North West

<3> Yorkshire and the Humber

<4> East Midlands

<5> West Midlands

<6> East of England

<7> London

<8> South East

<9> South West

<10> Wales

<11> Scotland

<12> Northern Ireland

<13> Non UK & Invalid

#Exclude those living in Scotland, NI and Non UK & Invalid

#Recruit a mix across UK

[profile_socialgrade_cie_pdl if 0] {pdl-update profile_socialgrade_cie}

#Recruit a mix

[ethnicity_new_pdl if pdl.ethnicity_new.last > months(6)] {pdl-update ethnicity_new}

#{single varlabel = "Ethnicity"} To which of these groups do you consider you belong? Please select one option only. (We ask the question in this way so that it is consistent with Census definitions.)

#

#<1> English / Welsh / Scottish / Northern Irish / British

#<2> Irish

#<3> Gypsy or Irish Traveller

#<4> Any other White background

#<5> White and Black Caribbean

#<6> White and Black African

#<7> White and Asian

#<8> Any other Mixed / Multiple ethnic background

#<9> Indian

#<10> Pakistani

#<11> Bangladeshi

#<12> Chinese

#<13> Any other Asian background

#<14> African

#<15> Caribbean

#<16> Any other Black / African / Caribbean background

#<17> Arab

#<18 fixed> Any other ethnic group

#<19 fixed> Prefer not to say

#Recruit a mix - Include 2 – 3 people per group whose ethnicity is not white British

[profile_education_level_pdl if pdl.profile_education_level.last > months(6)] {pdl-update profile_education_level}

{single varlabel="Education qualification (highest attained)"} What is the highest educational or work-related qualification you have?

<1> No formal qualifications

<2> Youth training certificate/skillseekers

<3> Recognised trade apprenticeship completed

<4> Clerical and commercial

<5> City & Guilds certificate

<6> City & Guilds certificate - advanced

<7> ONC

<8> CSE grades 2-5

<9> CSE grade 1, GCE O level, GCSE, School Certificate

<10> Scottish Ordinary/ Lower Certificate

<11> GCE A level or Higher Certificate

<12> Scottish Higher Certificate

<13> Nursing qualification (e.g. SEN, SRN, SCM, RGN)

<14> Teaching qualification (not degree)

<15> University diploma

<16> University or CNAA first degree (e.g. BA, B.Sc, B.Ed)

<17> University or CNAA higher degree (e.g. M.Sc, Ph.D)

<18> Other technical, professional or higher qualification

<19> Don't know

<20> Prefer not to say

#Recruit a mix

[profile_work_stat_pdl if 0] {pdl-update profile_work_stat}

#[profile_work_stat_pdl if pdl.profile_work_stat.last > months(6)] {pdl-update profile_work_stat}

{single varlabel="Employment Status Main"} Which of these applies to you?

<1> Working full time (30 or more hours per week)

<2> Working part time (8-29 hours a week)

<3> Working part time (Less than 8 hours a week)

<4> Full time student

<5> Retired

<6> Unemployed

<7> Not working

<8> Other

#Recruit a mix

[profile_house_tenure_pdl if pdl.profile_house_tenure.last > months(6)] {pdl-update profile_house_tenure}

{single varlabel="House Tenure"} Do you own or rent the home in which you live?

#<1>Own – outright

#<2>Own – with a mortgage

#<3>Own (part-own) – through shared ownership scheme (i.e. pay part mortgage, part rent)

#<4>Rent – from a private landlord

#<5>Rent – from my local authority

#<6>Rent – from a housing association

#<7>Neither – I live with my parents, family or friends but pay some rent to them

#<8>Neither – I live rent-free with my parents, family or friends

#<9>Other

#Recruit a mix

The following questions will be asked to each person who completes the screening questionnaire

Q1. Is English your first language?

<1> Yes

<2> No

Q2. Which of the following best describes the area in which you live?

<1> Urban – I live in a city centre

<2> Town / urban fringe – I live on the outskirts of a city centre or in a town

<3> Rural – I live in the countryside

<4> Other

#Recruit a mix

Q3. What is your current marital or relationship status?

<7> Divorced

<2> In a civil partnership

<5> In a relationship, but not living together

<4> Living with a partner but neither married nor in a civil partnership

<1> Married

<3> Separated but still legally married or in a civil partnership

<6> Single

<8> Widowed

#Recruit a mix

Q4. Are your day-to-day activities limited because of a health problem or disability which has lasted, or is expected to last, at least 12 months?

<1> Yes, limited a lot

<2> Yes, limited a little

<3> No

Q5. Which, if any, of the following government benefits are you currently claiming?

<1>Council tax reductions

<2>Disability benefit

<3>Carers allowance

<4>Housing benefits

<5>Means-tested benefits

<6>Health benefits

<7>Heating benefits

<8>Child benefit

<9>Child tax credit

<10>Income support

<11>Pension credit

<12>The Social Fund

<98 fixed xor>Prefer not to say

<99 fixed xor>None of these

Q6. How many of the people in your household are under 18?

<1> 0

<2> 1

<3> 2

<4> 3

<5> 4

<6> 5

<7> 6 or more

<8> Don't know

<9> Prefer not to say

#recruit a mix

Q7. Which, if any, legal services have you researched or used over the last 12 months? Please tick all that apply. {order=randomize}

<1> Conveyancing (i.e. legal work involving buying, selling or transferring property)

<2> Will writing

<3> Probate (i.e. legal process of managing the estate of a deceased person by resolving all claims and distributing the deceased person's property under a valid will)

<4> Divorce

<5> Accident or injury claims

<6> Any offences or criminal charges

<7> Immigration and asylum matters

<8> Power of attorney (i.e. a legal document allowing one person to act on behalf of another)

<9> Litigation

<9> For your business

<10> Other

<11> Don't know/ can't remember

<12> Not applicable

#Screen out if not 1,2,4 – all must be currently using or planning to use a legal service for a will / divorce / conveyancing

Q8. Who did you / are you completing this service on behalf of?

<1> Yourself

<2> Your partner

<3> A parent

<4> A child

<5> Another relative

<6> Other, including small business

#Screen out if not completing this service on behalf of themselves

Q9. And which of the following best describes where you are on your divorce / will / conveyancing journey?

<1> I haven't started research yet

<2> I'm still researching legal firms and making a decision about who to use

<3> I've decided the firm I'm going to use, and am in the process of starting work

<4> Work is in progress

<5> Work has completed within in the last 6 months but there are some outstanding issues that need to be resolved

<6> Work has completed within the last 6 months and there are no outstanding issues that need to be resolved

<7> None of the above

Screen out if answer 1 or 7

Positive skew to those who answer 2 and 3

Q10. How many months ago did you first start the legal divorce / will / conveyancing process (by this we mean when you first started searching / researching a legal provider)

#positively skew towards more recent cases – last 6 to 12 months if possible

Q11. Before this most recent matter regarding divorce/ will/ conveyancing, had you previously used a legal service in the last 3 years? Please tick all that apply

<1> Yes, I have previously used a legal services to handle a divorce

<2> Yes, I have previously used legal services to handle conveyancing matters

<3> Yes, I have previously used legal services to handle a will(s)

<4> Yes, I have previously used legal services to handle other legal matters

<5> No, I have not previously used a legal service

#Recruit a mix

Ask if have previously used a legal service in Q11

Q12. On a scale of 1 to 5, where 1 is not at all satisfied and 5 is very satisfied, how satisfied were you with the service you received the last time you used a legal service?

<1> 1 – not at all satisfied

<2> 2

<3> 3

<4> 4

<5> 5 – very satisfied

#Recruit a mix

Ask if have previously used a legal service in Q11

Q13. If you'd like to provide details on your reason for level of satisfaction, please do so in the text box below

RECRUIT A MIX OF COMPLEXITIES FOR EACH AREA:

Complexity matrix:

<p><u>A complex will case</u></p>	<p>Case is complex if participant:</p> <ul style="list-style-type: none"> - Has a will which isn't a standard will and / or - Has combined assets valued over £325,000 if not married / in a civil partnership; or combined assets valued over £650,000 if married / in a civil partnership and / or - Has step children and / or - Has adopted children and/or - Has assets owned outside of England and Wales
<p><u>A complex divorce case</u></p>	<p>Case is complex if participant:</p> <ul style="list-style-type: none"> - The terms of the divorce are being contested and / or - Has children under the age of 18 and / or - Has a family trust(s) for you or your spouse
<p><u>A complex conveyancing case</u></p>	<p>Case is complex if participant:</p> <ul style="list-style-type: none"> - Is buying and selling a property and / or - Another person will be living in the property rent free and / or - A cash gift / loan was involved in raising the deposit for the property; and / or a bridging loan was used and / or - More than 1 property was involved in the purchase and / or - There were 2 or more properties in the chain and / or - Property is leasehold and / or - New build property And / or - Property is help to buy / shared ownership And / or - It was purchased in an auction

SET OF QUESTIONS ASKED TO ONLY THOSE WHO HAVE COMPLETED OR PLAN TO USE A LEGAL SERVICE FOR A WILL

Q14. Thinking about your most recent will – how complicated or straight forward do you think your individual case is? Do you think it's typical of other cases? Please explain your answer

#Assess self-reported levels of complexity from a subjective perspective

Q15. Which of the following best describes your will?

<1> A standard will

<2> Other (e.g. involves the creation of a trust and inheritance tax planning)

#Record – will type will fall out during recruitment

Q16. How many of the following are involved in your will?

	Biological children aged under 18	Biological children aged over 18	Step-children aged under 18	Step-children aged over 18	Adopted children aged under 18	Adopted children aged over 18
0						
1						
2						
3 or more						

Ask if not married / not in a civil partnership

Q17. Thinking about the assets that you personally own, which of the following best describes the total combined current value of your assets?

<1> In total, the assets that I hold are valued below £325,000

<2> In total, the assets that I hold are valued above £325,000

Ask if married / in a civil partnership

Q18. Thinking about the assets that you and your partner personally own, which of the following best describes the total combined current value of your assets?

<1> In total, the assets that we hold are valued below £650,000

<2> In total, the assets that we hold are valued above £650,000

Q19. And roughly what proportion of your assets are held outside of England and Wales?

<1> None

<2> 1% - 10%

<3> 11% - 25%

<4> 26% - 50%

<5> 51% - 75%

<6> 76% - 100%

<7> I don't know

SHOW THE NEXT SET OF QUESTIONS TO ONLY THOSE WHO HAVE COMPLETED OR PLAN TO USE A LEGAL SERVICE FOR A DIVORCE

Q20. Thinking about your divorce – how complicated or straight forward do you think your individual case is (e.g. do you think it is typical of other cases in terms of the assets involved, whether the terms were contested or not etc.)? Please explain your answer

#Assess self-reported levels of complexity from a subjective perspective

Q21. Which of the following best describes your divorce experience?

<1> Both parties were / are able to agree upon the terms of the divorce

<2> The terms of the divorce were / are being contested

<3> I am not sure yet

#Recruit a mix

Q22. How many children aged under 18 do you have?

<1> None

<2> 1

<3> 2

<4> 3

<5> 4 or more

#Recruit a mix

Q23. Thinking about the assets that you currently own, which of the following best describes their total combined value?

<1> In total, the assets that I hold are valued below £325,000

<2> In total, the assets that I hold are valued above £325,000

#Recruit a mix

Q24. Do you or your spouse have a family trust?

<1> Yes

<2> No

<3> Don't know

Q25. If you'd like to share some more details about your divorce and the grounds for it please do so in the text box below. If you'd rather opt out of answering this question please write 'N/A'. Note that this as we move forward this research will not focus on the details of individual cases.

SHOW THE NEXT SET OF QUESTIONS TO ONLY THOSE WHO HAVE COMPLETED OR PLAN TO USE A LEGAL SERVICE FOR CONVEYANCING

Q26. Thinking about your most recent conveyancing matter – how complicated or straight forward do you think your individual case is? Do you think it's typical of other cases? Please explain your answer

#Assess self-reported levels of complexity from a subjective perspective

Q27. Which of the following best describes your conveyancing need?

<1> Buying a property only

<2> Selling a property only

<3> Buying and selling a property

<4> Re-mortgaging a property

Q28. Which of the following best describes the type of property involved in this conveyancing matter?

<1> Private property, which you will personally live in

<2> Private property, which someone other than yourself will live in but won't pay rent

<3> An investment property (e.g. rental property)

<4> Commercial property

#Screen out if commercial property

Q29. Which of the following describes the ownership of the property in questions?

<1> I own / will own the property outright (without a mortgage)

<2> I own / will own the property with a mortgage

<3> I part own / will part own the property (through a shared ownership scheme and pay part mortgage and part rent)

<9>Other

Q30. And who, if anyone, will you own the property with?

<1> I am / will be the sole owner of the property

<2> I own / will own the property with my legal spouse

<3> I own / will own the property with my partner

<4> I own / will own the property with my friend

<5> Other

<6> Don't know

Q31. Is this property...

<1> Long leasehold

<2> Freehold

<3> Don't know

Q32. And is it a new build property?

<1> Yes

<2> No

<3> I don't know

Q33. In which of the following ways did you raise the deposit for the property? Please tick all that apply

- <1> Sale of another property
- <2> Inheritance
- <3> Personal savings
- <4> A cash gift from a living relative / friend
- <5> A loan from a living relative / friend
- <6> A bridging loan
- <6> Other

Ask the following to those buying a private property for personal residential purposes

Q34. Before this property, how many properties have you purchased?

- <1> None, this is my first property
- <2> 1
- <3> 2
- <4> 3
- <5> 4
- <6> 5
- <7> 6 or more

#Recruit a mix

Ask if a first time buyer

Q35. And did you purchase this property on a help to buy scheme?

- <1> Yes

<2> No

Ask the following to those buying a private property for personal residential purposes

Q36. Was this property purchased in an auction?

<1> Yes

<2> No

Ask the following to those buying a private or rental property

Q37. Was this / is this property part of a chain?

<1> Yes

<2> No

<3> I don't know

#Recruit a mix

Q38. And how many properties did you / are you planning to purchase in this transaction?

<1> 1

<2> 2

<3> 3

<4> 4 or more

ASK THE FOLLOWING QUESTIONS TO ALL

Ask if have already started / completed work

Q39. Thinking about your most recent legal matter, which of the following best describes the firm that you used to conduct the work on your behalf?

<1> A local law firm

<2> A national law firm

<3> Don't know

Ask if have not already started work and are still in research stage

Q40. Thinking about your most recent legal matter, which of the following firms would you be willing to use to conduct the work on your behalf? Please tick all that apply.

<1> A local law firm

<2> A national law firm

<3> Don't know

Q41. How did you first contact your legal provider?

<1> Online – (e.g. via email, messaging services, online portal)

<2> Face to face

<3> Telephone

<4> Other

<5> I haven't contacted a legal provider yet

Ask if have already started / completed work

Q42. And how does / did your legal provider mainly communicate with you after the initial contact?

<1> Online – (e.g. via email, messaging services, online portal)

<2> Face to face

<3> Telephone

<4> Other

<5> Don't know / can't remember

Ask if have not already started work and are still in research stage

Q43. And through which of the following methods does the firm(s) you are considering mainly deliver their services (e.g. provide updates on progress)?

<1> Online – (e.g. via email, messaging services, online portal)

<2> Face to face

<3> Telephone

<4> Other

<5> Don't know

Q44. When researching your law firm which, if any, of the following sources did you use? Please tick all that apply.

<1> Recommendations from friends and family

<2> Recommendations / information provided from your bank or estate agent

<3> Recommendations / information provided from another service provider (e.g. Citizens Advice Bureau, a charity)

<4> Returned to a firm used previously

<5> Research online

<6> Promotional material e.g. flyers, leaflets and posters

<7> Information from TV or radio adverts or programmes

<8> Face to face visit(s) to providers

<9> Telephone call(s) to providers

<10> Other – please specify

Q45. How much do you think you know about your legal rights? Legal rights are what you can and can't do by law. This includes criminal law and laws which protect people's rights, such as employment law

1. Nothing at all
2. A little bit
3. Quite a bit
4. A lot
5. Not sure

Q46. Thinking about the time the problem or issue first arose regarding your most recent legal matter, to what extent did you understand your legal position - for example, what your legal rights were?

1. Completely
2. Mostly
3. Partly
4. Not at all
5. Don't know

Q47. When it comes to technology, please rate yourself on a scale of 1-7 (where 7 = strongly agree and 1 = strongly disagree) against the following statements

<A> I enjoy keeping up with the latest developments in technology

1 2 3 4 5 6 7

 I do all my shopping online

1 2 3 4 5 6 7

<C> I am confident doing my banking and life admin online

1 2 3 4 5 6 7

<D> I do everything on my computer / tablet / smartphone

1 2 3 4 5 6 7

#Recruit a mix

Annex 2 Behavioural forum design

Key: *Red text scripting instruction, blue text shown to participants*

[Introduction shown to participants]

INTRO: *The purpose of this forum is to understand what is important to customers when searching for a legal service provider.*

We will give you a hypothetical/ imaginary situation which may or may not be similar to your own situation. We want you to use the situation you are given in this forum (and not your own personal situation) to answer the forum questions.

There are no right or wrong answers to any of the questions. Please answer the questions based on your own opinions and say as much as possible in your answers. Thank you!

Q1. *Please imagine that you have decided to use a legal service provider for a divorce/ will / conveyancing matter and that your situation is as detailed below. Please read the imaginary situation below carefully.*

[SHOW UNCONTESTED DIVORCE/ SIMPLE WILLS/SIMPLE CONVEYANCE DEPENDING ON THE SPECIFIC FORUM]

<p>Divorce (Uncontested/simple)</p>	<p>Situation 1:</p> <p>Imagine you are filing for divorce from your spouse on grounds of unreasonable behaviour. The divorce is amicable, and there are two adult children who are not dependant. You and your spouse have come to an agreement on the allocation of assets.</p> <p>You are searching for a legal service provider to handle all details of the divorce for you.</p>
<p>Will writing (Simple)</p>	<p>Situation 1:</p> <p>Imagine you are seeking to set up a will.</p>

	<p>You are married and have two adult children with your spouse.</p> <p>The beneficiary of your will would be your spouse. If your spouse dies before you, your assets would be split equally between the two children.</p> <p>The executor of the will is one of the children from your current relationship.</p> <p>The estate includes a single property in the UK, and some gifts such as a car and jewellery.</p> <p>You are seeking no tax advice.</p> <p>You request your legal service provider to store the will for safe keeping. Upon your death the executor of your will shall arrange for allocation of assets to your beneficiaries.</p> <p>You are searching for a legal service provider to handle all details of the will writing for you, and to store the will for you.</p>
<p>Conveyancing (Purchase only/freehold) (Simple)</p>	<p>Situation 1:</p> <p>Imagine you are purchasing a property in the UK on your own. You have arranged a mortgage which is 70% of the purchase price. The property is freehold. You have no other property to sell.</p> <p>You are searching for a legal service provider to undertake the conveyancing for you. You require the provider to undertake all required checks on the property, liaise with the lender, attend to completion and lodge all required documents.</p>

Q2. Keeping this situation in mind, please imagine you have conducted a search for a legal service provider and you have found the following information regarding two providers which you are now comparing.

What information in order of importance would you use to compare and select a provider? Please indicate your ranking and explain why.

[Insert Divorce mock-ups for Divorce forum]

Osbourne & Nichol*Solicitors*

We typically charge between **£750 – £850 plus VAT** for a standard divorce*

We are **authorised** and **regulated** by the Solicitors Regulation Authority.**

Our solicitors are highly experienced with specialist knowledge

*This is an estimated fee for considering a draft agreement, dealing with basic amendments and completing other paperwork associated with the filing of the documents. Prices may vary depending on the complexity of the situation.
SRA regulation means that we **protect our clients with assured Confidentiality, Professional Indemnity Insurance and Compensation.

Shaw & Peters*Lawyers*

We typically charge **£450 - £550 plus VAT** for a standard divorce*

We are a **member** of the Law for Families Association**

Our specialists are highly experienced in providing effective collaborative solutions

*This is an estimated fee for personal case handling service and drafted agreement. Prices may vary depending on the complexity of the situation.
** We follow the Association Code of Practice for **customer care** and professional conduct

[Insert Will mock up for Will forum]

Osbourne & Nichol*Solicitors*

We typically charge between **£160 – £210 plus VAT** for a standard will*

We are **authorised** and **regulated** by the Solicitors Regulation Authority.**

Our solicitors are highly experienced with specialist knowledge

*This is an estimated fee for a drafted will and completing other paperwork associated with the filing of the documents. Prices may vary depending on the complexity of the situation.
SRA regulation means that we **protect our clients with assured Confidentiality, Professional Indemnity Insurance and Compensation.

Shaw & Peters*Lawyers*

We typically charge **£100 - £150 plus VAT** for a standard will*

We are a **member** of the Will Writers Association**

Our specialists are highly experienced in providing effective collaborative solutions

*This is an estimated fee for personal case handling service and a drafted will. Prices may vary depending on the complexity of the situation.
** We follow the Association Code of Practice for **customer care** and professional conduct

[Insert Conveyance mock up for conveyancing forum]

<p>Osbourne & Nichol Solicitors</p> <p>We typically charge between £700 – £750 plus VAT for a standard conveyance*</p> <p>We are authorised and regulated by the Solicitors Regulation Authority.**</p> <p>Our solicitors are highly experienced with specialist knowledge</p> <p><small>*This is an estimated fee for undertaking conveyancing work for a standard freehold residential property. Prices may vary depending on the complexity of the situation. **SRA regulation means that we protect our clients with assured Confidentiality, Professional Indemnity Insurance and Compensation.</small></p>	<p>Shaw & Peters Lawyers</p> <p>We typically charge £650 - £700 plus VAT for a standard conveyance*</p> <p>We are regulated by the Council of Licensed Conveyancers**</p> <p>Our specialists are highly experienced in providing effective timely solutions</p> <p><small>*This is an estimated fee for a standard freehold conveyance. Prices may vary depending on the complexity of the situation. ** CLC Regulation means we protect our clients under the CLCs Code of Conduct, Professional Indemnity Insurance and Compensation</small></p>
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Q3. Which provider (Osbourne & Nichol or Shaw & Peters) would you choose to use. Why have you chosen this provider? Please say as much as possible.

Q4. Now imagine that the following event occurs after the legal service has been completed. Please read the information about the event carefully.

[Insert description of event and impact on consumer for simple scenario for each forum]

<p><i>Divorce simple</i></p>	<p>Event 1:</p> <p>Imagine that a number of years after you are divorced you find out that the allocation of financial assets between you and your spouse was not correctly finalised during the divorce process. This is because a Consent Order, which is a legally binding agreement regarding the allocation of assets, was not completed.</p> <p>At the time of your divorce both you and your then spouse believed this had been finalised and legally agreed so that there would be no dispute in the future.</p> <p>Given certain circumstances that have now arisen, you and your previous spouse are now in dispute over the assets which you had both believed was settled at the time of your divorce.</p>
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<i>Will writing simple</i>	<p>Event 1: Imagine you requested that your legal service provider store your will for safe keeping, but many years later, after your death, when your family need the will they discover the will has been lost.</p>
<i>Conveyancing simple</i>	<p>Event 2: Imagine years later you want to sell your property. The new buyer's legal service provider discovers that the small piece of land which you always use to enter your property is in fact not part of your property or the public highway, but belongs to someone else. Your legal service provider when you bought the property did not identify this problem. While this has not been an issue for you, the new buyer is very concerned and requires this to be corrected. This will result in additional cost to you to correct this issue before you can sell the property, and will lead to a delay in the sale.</p>

Q5. Remembering the provider your chose, what do you think the provider should do if this event occurred? As the customer, what protections if any, do you think you have if this event occurred?

Please do this based on what you remember reading and please do not click back.

Q6. Please look again at the information about the two legal service providers shown previously (see whiteboard).

[Re-show the two provider mock-ups on white board for each forum first shown at Q2]

Q6a. Would you have made the same choice of which provider to use given this unforeseen event has occurred? Please explain why or why not.

Q6b. What would have helped you to understand your options when the unforeseen event occurred (e.g. what your provider could do and the protections you have)?

Q6c. What if any of the following do you think you should be able to request from the legal service provider (you can type the relevant numbers)? Please say why you think you should be able to request this and if there is anything else you think you should be able to request.

1. To pay the cost to correct the situation
2. Sue the legal service provider
3. Complain to the legal ombudsman

Q7a. Thinking about your house purchase/ will/ divorce, what do you consider important when selecting a legal service provider. Please list these in order of importance, starting with the most important. After each one, please write why you think it is more / less important.

E.g.

1 = XXXX . I think this is important because xxxxx

2 = xxxx. I think this is important because xxxx but it is less important than 1 because xxxx

Q7b. Please consider the following and rate these in order of importance when selecting a legal service provider. Please also explain why you rate them this way.

- Cost/price of the service
- Skill/expertise of the legal service provider
- Speed at which the service is completed
- Qualifications of the legal service provider
- Confidence of the legal service provider
- Approachability of the legal service provider
- Ability of the legal service provider to explain complex legal concepts in plain terms
- Availability of the legal service provider
- Response times to your queries

Day 2

Q8. Yesterday you were given the scenario shown on the left hand side of your screen, please compare this first scenario with a slightly different scenario which is shown on the right hand side of your screen. Please read this information carefully.

[Insert simple situation on left hand side of screen and insert complex situation on right hand side of screen for the specific forum Divorce/Wills/Conveyancing]

<p>Divorce (Uncontested/simple)</p>	<p>Imagine you are filing for divorce from your spouse on grounds of unreasonable behaviour. The divorce is amicable, and there are two adult children who are not dependant. You and your spouse have come to an agreement on the allocation of assets.</p> <p>You are searching for a legal service provider to handle all details of the divorce for you.</p>
<p>Divorce (Contested/complex)</p>	<p>Situation 2:</p> <p>Imagine you are filing for divorce from your spouse on grounds of unreasonable behaviour. There are two young children who are dependant. There are financial assets and property to divide and you have not come to an agreement with your spouse regarding this split.</p> <p>You are searching for a legal service provider to handle all details of the divorce for you.</p>

<p>Will writing (Simple)</p>	<p>Imagine you are seeking to set up a will.</p> <p>You are married and have two adult children with your spouse.</p> <p>The beneficiary of your will would be your spouse. If your spouse dies before you, your assets would be split equally between the two children.</p> <p>The executor of the will is one of the children from your current relationship.</p> <p>The estate includes a single property in the UK, and some gifts such as a car and jewellery.</p> <p>You are seeking no tax advice.</p> <p>You request your legal service provider to store the will for safe keeping. Upon your death the executor of your will shall arrange for allocation of assets to your beneficiaries.</p> <p>You are searching for a legal service provider to handle all details of the will writing for you, and to store the will for you.</p>
<p>Will writing (Complex)</p>	<p>Situation 2:</p> <p>Imagine you are seeking to set up a will.</p> <p>You are married and have two adult children with your current spouse, and you have one child from a previous relationship who lives outside the UK.</p> <p>The beneficiary of your will would be your spouse. If your spouse dies before you, your assets would be split equally between the two children.</p> <p>The executor of the will is one of the children from your current relationship.</p> <p>The estate includes a property in the UK and a property outside the UK, and some gifts such as a car and jewellery.</p> <p>You also have a family trust which you have set-up for all your children</p> <p>You request your legal service provider to store the will for safe keeping Upon your death the executor of your will shall arrange for allocation of assets to your beneficiaries.</p> <p>You are searching for a legal service provider to handle all details of the will writing for you, and to store the will for you.</p>

<p>Conveyancing (Purchase only/freehold) (Simple)</p>	<p>Imagine you are purchasing a property in the UK on your own. You have arranged a mortgage which is 70% of the purchase price. The property is freehold. You have no other property to sell.</p> <p>You are searching for a legal service provider to undertake the conveyancing for you. You require the provider to undertake all required checks on the property, liaise with the lender, attend to completion and lodge all required documents.</p>
<p>Conveyancing (Purchase and Sale/freehold) (Complex)</p>	<p>Situation 2:</p> <p>Imagine you are selling a property in the UK with your partner. The property is leasehold. You currently hold the property equally (as joint tenants).</p> <p>You are also buying a new property in the UK with your partner.</p> <p>You need to sell your current property before you can buy the new property.</p> <p>Upon sale of your current property the mortgage on this property will be discharged, and you will have a mortgage on your new property which will be 70% of the purchase price.</p> <p>You are searching for a legal service provider to undertake the conveyancing on both properties for you. You require the provider to undertake all required checks on the property, liaise with the lender, attend to completion and lodge all required documents.</p>

Q9. Thinking about this second scenario (shown on the right hand side of the screen), please now imagine that the following event occurs after the service has been completed. Please read the information on the whiteboard and reflect on how it is different to the event shown yesterday. You can click back to see yesterday’s event if needed.

[Insert description of complex event and impact on consumer]

<p><i>Divorce complex</i></p>	<p>Event 2:</p> <p>Imagine, following your divorce you find out that the Capital Gains Tax which you are required to pay on the shares you gave your spouse has not been accounted for.</p> <p>Capital Gains Tax is a tax on the profit when you sell (or ‘dispose of’) something (an ‘asset’) that’s increased in value.</p>
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	You now find that you need to pay substantial tax on these shares to the tax office.
<i>Will writing complex</i>	Event 2: Imagine, after your death the executor of your will disagrees with other family members as to how the assets should be shared. This leads to complex issues between the beneficiaries of your will, which become very difficult to resolve.
<i>Conveyancing complex</i>	Event 2: Imagine, years later you are selling your leasehold property and the new buyer's legal advisor discovers that a share in the freehold of the property should have been transferred to you when you originally purchased, but this was not dealt with at that time. This means you are unable to sell the property to the new buyer because the new buyer cannot get a mortgage for the property until you are in a position to transfer a share in the freehold.. The sale falls through and you need to pay to correct this issue before you can sell the property to another buyer.

Q10a. *Have your views on what you consider to be important when selecting a legal service provider changed after reading today's situation and event, compared to the situation and event you were shown yesterday? If so how and why?*

*If so, what has become more and / or less important to you? Please say why
If not, why not?*

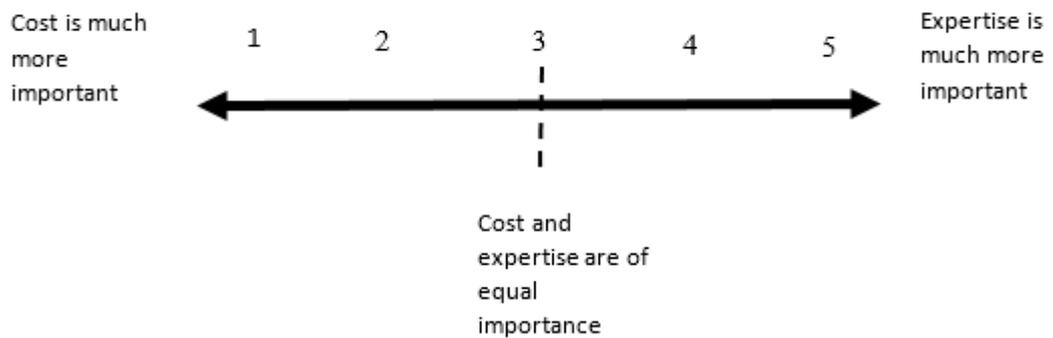
Q10b. *How important are these factors given the event explained you have just read. Please rate these in order of importance. If you have rated these differently to yesterday please explain why (thinking about the event shown yesterday compared to the event shown today).*

- *Cost/price of the service*
- *Skill/expertise of the legal service provider*
- *Speed at which the work is completed*
- *Qualifications of the legal service provider*
- *Confidence of the legal service provider*
- *Approachability of the legal service provider*
- *Ability of the legal service provider to explain complex legal concepts in plain terms*
- *Availability of the legal service provider*
- *Response times to your queries*

Q11. Please now think about your own personal search process for a legal service provider for your Divorce/Will/Conveyance .

When searching for and choosing a legal service provider, how much importance do you place on cost relative to expertise? (By cost we mean the price you pay for the service, and by expertise we mean the skill and experience of the legal service provider).

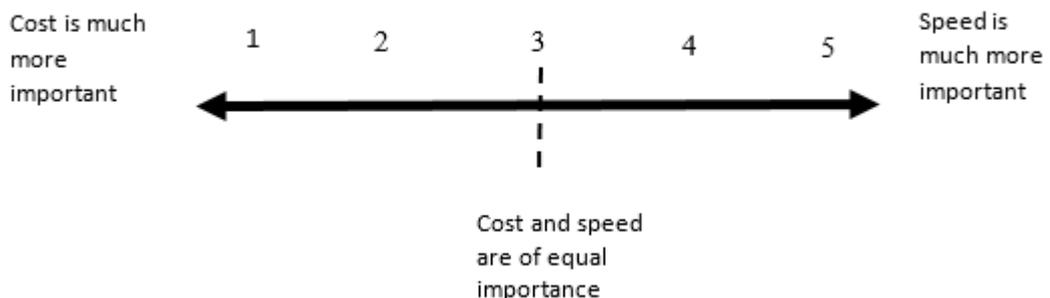
Please indicate the relative importance of these two characteristics by dragging the marker on the scale below under the relevant number.



Please explain your reasoning for where you placed the marker in as much detail as possible.

Q12. And what about cost relative to speed at which the legal service provider undertakes/completes the work.

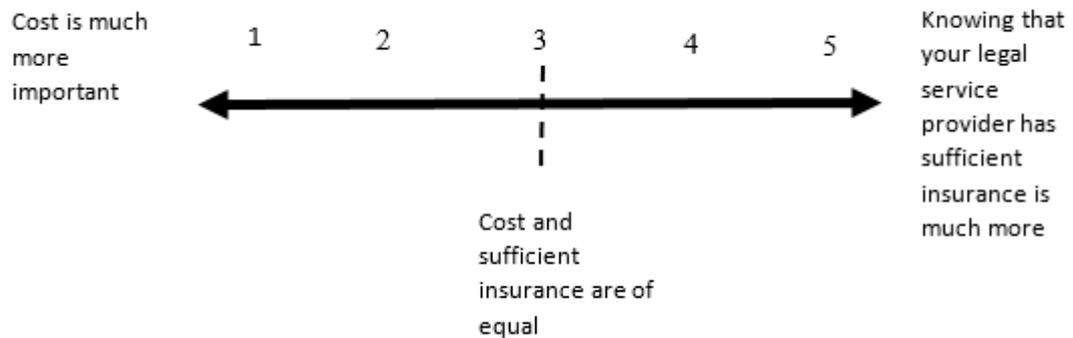
Please indicate the relative importance of these two characteristics by dragging the marker on the scale below under the relevant number.



Please explain your reasoning for where you placed the marker in as much detail as possible.

Q13. Thinking about legal service providers in general how important is cost relative to knowing the legal service provider has enough insurance to compensate customers if the legal service provider makes a mistake?

Please indicate the relative importance of these two characteristics by dragging the marker on the scale below under the relevant number.



Please explain your reasoning for where you placed the marker in as much detail as possible.

Q14. Have you ever considered the issue of legal service providers having sufficient insurance, before taking part in this forum? And what does sufficient insurance mean to you?

Q15. And how important do you think it is for legal service providers to clearly inform customers about the insurance they have in the event something goes wrong. Please explain your answer.

Q16. What would be the best way for legal service providers to give customers information about their insurance? E.g. in their marketing materials, first contact with perspective customer (face to face, phone call or letter etc)

Q17. We will now show you three new sets of information about imaginary legal service providers. Please see the first set on the whiteboard.

[Insert Comparison 1]

Set A

Provider A

We are **authorised** and **regulated** by the Solicitors Regulation Authority.**

Our solicitors are **highly-trained professionals**, and your work will be undertaken by a solicitor with at least **8 years** professional experience

We are contactable **out of standard office hours**

We offer a **free initial face-to-face consultation** for 1 hour

You can contact us by **e-mail, telephone, and via our website**

SRA regulation means that we **protect our clients with assured Confidentiality, Professional Indemnity Insurance and Compensation

Set B

Provider B

We are **authorised** and **regulated** by the Solicitors Regulation Authority.**

Our solicitors are **highly-trained professionals**, and your work will be undertaken by a solicitor with at least **4 years** professional experience

We will respond to all **queries within 48 hours**

We offer a **free online consultation** for 1 hour

You can contact us **via our website**

SRA regulation means that we **protect our clients with assured Confidentiality, Professional Indemnity Insurance and Compensation

Q18. Which provider would you be willing to pay more for? Please indicate Provider A or B and please explain why.

Q19. Would you be willing to pay 10% more for this provider? And why/why not?

If the participant answers 'Yes', they are asked:

Q20. And would you be willing to pay 20% more for this provider? And why/why not?

If the participant answers 'No' to Q18, they are asked:

Q21. And would you be willing to pay 5% more for this provider?

Ask all participants:

Q22. What would be the maximum you would be willing to pay for this provider (in terms of a % increase)? Please say why?

[Insert comparison 2]

Q23. Now please look at the 2nd set of imaginary legal service providers and answer the following questions

Set A

Provider M

We are **authorised** and **regulated** by the Solicitors Regulation Authority.**

Our solicitors are **highly-trained professionals**, and your work will be undertaken by a solicitor with at least **8 years** professional experience

We are contactable **out of standard office hours**

We offer a **free initial face-to-face consultation** for 1 hour

You can contact us by **e-mail, telephone, and via our website**

SRA regulation means that we **protect our clients with assured Confidentiality, Professional Indemnity Insurance and Compensation

Set C

Provider S

We are **authorised** and **regulated** by the Solicitors Regulation Authority.**

Our solicitors are **highly-trained professionals**, and your work will be undertaken by a solicitor with at least **8 years** professional experience

We will respond to all queries **within 48 hours**

We offer a **free online consultation** for 1 hour

You can contact us **via our website**

SRA regulation means that we **protect our clients with assured Confidentiality, Professional Indemnity Insurance and Compensation

Q24. Which provider would you be willing to pay more for? Please indicate Provider M or S and please explain why.

Q25. Would you be willing to pay 10% more for this provider? And why/why not?

If the participant answers 'Yes', they are asked:

Q26. And would you be willing to pay 20% more for this provider? And why/why not?

If the participant answers 'No' to Q18, they are asked:

Q27. And would you be willing to pay 5% more for this provider?

Ask all participants:

Q28. What would be the maximum you would be willing to pay for this provider? Why?

[Insert comparison 3]

Q29. And finally please look at the 3rd set of imaginary legal service providers and answer the following questions

Set A

Provider K

We are **authorised** and **regulated** by the Solicitors Regulation Authority.**

Our solicitors are **highly-trained professionals**, and your work will be undertaken by a solicitor with at least **8 years** professional experience

We are contactable **out of standard office hours**

We offer a **free initial face-to-face consultation** for 1 hour

You can contact us by **e-mail, telephone, and via our website**

SRA regulation means that we **protect our clients with assured Confidentiality, Professional Indemnity Insurance and Compensation

Set D

Provider J

We are **authorised** and **regulated** by the Solicitors Regulation Authority.**

Our solicitors are **highly-trained professionals**, and your work will be undertaken by a solicitor with at least **4 years** professional experience

We are contactable **out of standard office hours**

We offer a **free initial face-to-face consultation** for 1 hour

You can contact us by **e-mail, telephone, and via our website**

SRA regulation means that we **protect our clients with assured Confidentiality, Professional Indemnity Insurance and Compensation

Q30. Which provider would you be willing to pay more for? Please indicate Provider K or J and please explain why.

Q31. Would you be willing to pay 10% more for this provider? And why/why not?

If the participant answers 'Yes', they are asked:

Q32. And would you be willing to pay 20% more for this provider? And why/why not?

If the participant answers 'No' to Q18, they are asked:

Q33. And would you be willing to pay 5% more for this provider?

Ask all participants:

Q34. What would be the maximum you would be willing to pay for this provider? Why?

Q35. If you have any documents you received from legal service providers, during the search process (before you started the legal work) that you would be comfortable sharing with us, then please upload them into the forum. To upload documents please click on the paperclip image below or email them to yougovresearch@yougov.com

Please make sure that you blackout the name of the legal service provider (the company name) and your own name and address if shown on the documents.

Please tell us here what you found easy to understand and what was difficult to understand in each document in as much detail as possible e.g. language, price, format etc.

Annex 3 Focus group and depth interview guide

Draft discussion guide for online focus groups with consumers of will, divorce and conveyancing legal services

The Law Society Consumer Behaviour Research, September 2017

Introductions and legal knowledge (15- 20 minutes)

Good evening and thanks for being on time. My name is Olivia/Lorien and I will be moderating the session for the next 1.45 hours.

Just a few points before we start. Today's discussion is a very informal session - I am here to hear your thoughts and opinions. So please be as open and honest as possible, and the more you have to say, the better!

Everything you share is anonymous and will not be attributed to you.

Please also remember that there are no right or wrong answers and please also respect each other's views even if they are different from your own.

Tonight, we will be discussing your experiences of searching and selecting a legal provider- we are NOT focusing on your experiences of the actual service (once selected / instructed). Please note that we will also not be exploring any personal reasons for you needing to access the legal service.

- Please start by introducing yourself by your first name, age, who else is in your household, job role (if relevant) and which region you live in
- Do you ever access services or purchase things online? Why or why not?
 - Do you ever use online comparison websites? Why or why not?
 - Are there any downsides of using online comparison websites? If so, what?
- When looking for providers online, for any service, have you ever searched for or used complaint data? Why or why not? If so, for what type of service?
- What images, words, feelings and associations come to mind when you see the word 'Lawyer'?
 - How would you describe a lawyer's role(s)? Are there different types of lawyers?

- Where have you gained your knowledge and perceptions from? *E.g. education system, previous legal experience, friends/ family, media, legal service etc*
- What images, words, feelings and associations come to mind when you see the word 'solicitor'?
 - What is the role of a solicitor?
 - Are there any differences between solicitors and lawyers? If so, what?
 - Can people other than solicitors provide xxxxx legal service?
 - Are solicitors regulated? If so, who regulates solicitors? (Please don't Google this)
 - Have you heard of the Solicitors Regulation Authority (SRA)? If so, what is their role?
 - Do they protect consumers in any way? If so, how?
Where have you gained your knowledge and perceptions of the SRA from? *E.g. education system, previous legal experience, friends/ family, media, legal service etc*
- Who can provide divorce, will writing or conveyancing legal services- what are their job titles?
 - **Then show the board..... On the board is a list of legal service providers.** When you first started searching for a provider had you heard of any of the alternative providers who are not solicitors? *You can type the number(s)*
 - Are there any differences between these providers, if so what?
 - What type of providers would you trust most and why? (Including solicitors)
 - What type of providers would you trust least and why? (Including solicitors)
 1. *Solicitors*
 - Alternative providers who are not solicitors:*
 2. *Will writers (who are not solicitors)*
 3. *Licensed conveyancers*
 4. *Chartered Legal Executives*
 5. *Paralegals*
 6. *Barristers (direct access)*
- **We understand from the recruitment survey, that you have been researching and looking for xxxxx legal service within the last 12 months.** When did you decide you needed to access this service?
- After deciding you needed to access xxxx legal service, when did you first start the process of finding/ researching a provider?
- What type of provider were or are you looking for and why? *E.g. solicitor, paralegal, will writer, conveyancer, not sure yet etc.*

Section 2: Accessing services (25- 30 mins)

Just a reminder that tonight, we will be discussing your experiences of searching and selecting a legal provider- we are NOT focusing on your experiences of the actual service (once selected / instructed) or why you need to access the service.

- **Please now think back to when you first decided you needed to access xxxx legal service.....**what were the steps you took to find a legal service provider? Please explain in detail. Why did you do this?
 - Did you do any research to find a provider- why or why not?
 - How many providers do you think you researched initially? Why?
 - How many did you contact? Why?
 - If you did contact any providers- how did you do this and why did you choose this initial communication method? E.g. email, phone, f2f visit
 - If you contacted them again (before making your final decision), which method did you use and why?

Detailed probes:

- Did you use any of these **sources of information** and if so what role did they play in your decision making process?
 - 1. Recommendations from friends and family*
 - 2. Recommendations / information provided from your bank or estate agent*
 - 3. Recommendations / information provided from another service provider (e.g. Citizens Advice)*
 - 4. Research online*
 - 5. Promotional material e.g. flyers, leaflets and posters*
 - 6. Information from TV or radio adverts or programmes*
 - 7. Face to face visit(s) to potential providers*
 - 8. Telephone call(s) to potential providers*
 - 9. Providers used before*
 - 10. Other- if so what?*
 - Why did you seek or engage with these sources of information?
 - How did they help or hinder your decision making process?
 - Which sources of information (shown on the board) would you trust the most when looking for a legal service provider – why?
 - Which sources of information (shown on the board) would you trust the least when looking for a legal service provider – why?
 - *If searching online:*
 - Did you use any of the following online sites to find out information on providers and why:
 - **Search engine** – if so, which search terms did you use?
 - **Specific law firm website**
 - **Advice site** - which one?
 - **Law Society website / Find a Solicitor**
 - **Customer review sites**- which one?

- **Comparison site** - which one?
- **Social media site** - which one?
- **Other online site / tool**

- What kind of information would you expect to be on a legal provider's website? Why?
 - *Probe:* service information in plain language, contact details, staff expertise / qualifications, offer of interview (if so, do they expect this to be free or at a fixed price), timeframes for the service
 - *If they say price:* What elements of price would you expect to see? (e.g. hourly rate, fixed price)
 - *Probe:* are they looking for general information (e.g. about the firm) or specific information (e.g. related to the legal service they require)

- ***If they used recommendations:*** Did you also use any other sources of information or did you just go by the recommendation? Why or why not?

- What type of **information/ documents (hard copy or digital)** did you receive from any providers during your search stage (if any) e.g. *contract, price estimate or price quotes (e.g. per hour), timeframes, experience of staff, fact sheet?*
 - Please describe what it covered e.g. price, topic
 - Did you ask for this information or were you just given it? At what stage?
 - How influential was it on your decision on which provider to use?
 - How easy was it to understand the information? Why do you say this?
 - Do you remember reading any small print when reviewing these documents? Why is this? (e.g. *rarely read small print, typically don't understand language often used in small print, lack of time etc.*)
 - Was a free interview offered? Was a fixed fee interview offered?

Section 3: Assessing services (35- 40mins)

- When conducting research for a legal service provider - what are/ were you looking for to help you make a decision on which provider to use?
 - What are the most important criteria you require a legal provider to fulfil? Why?
 - What are the least important criteria you require a legal provider to fulfil? Why?
 - How many providers at the research stage did you seriously consider using?
 - What made you seriously consider some providers over others? What criteria did they fulfil in your mind?

- What type of **questions, if any,** did you ask or seek out from the providers when considering to use them or not?
 - Why did you ask this? How important was their answer to you?
 - How did you ask them e.g. *over the phone, in writing, via email, via their website contact form or live chat?*

- Then probe if they sought any of the below from the provider: why or why not?
 1. Price e.g. fixed amount, hourly rate and rates of staff
 2. If there will be any extra costs and what for
 3. Staff roles/ titles e.g. solicitor, conveyancer, paralegal, will writer
 4. Staff qualifications and expertise
 5. Who will be working on the case e.g. roles / titles / seniority
 6. Communication methods and frequency
 7. If regular updates will be provided proactively or will I need to enquire
 8. If they can be contacted out of business hours if needed
 9. Timeframe for the work to be completed
 10. Other

- Did you or are you currently taking into account any of the following when deciding which provider to use...(Please see the board and say the relevant numbers) - why or why not?
 1. A fixed price provided
 2. Being able to pay per hour (hourly rate)
 3. Location of the provider/ geographical convenience
 4. Method of communication with the provider if instructed e.g. phone, online, f2f, skype or mixed method
 5. Providers qualifications and expertise
 6. Feedback from previous clients
 7. Level of service e.g. frequency of communication, availability of provider such as out of hours / weekends / during bank holidays
 8. Information on whether they are regulated and by which organisation
 9. If they have professional indemnity insurance and to what level
 10. Any kite marks or indications of quality assurance
 11. Other - if so what?
 - **From the list on the board....**Please say what are the 3 most influential factors in your decision making process and why?
 - Please say what are the 3 least influential factors in your decision making process and why?

Explore in depth:

- **Communication methods:** How did / do you want to communicate with your chosen provider of xxx legal service? E.g. method and frequency - probe if their needs vary in regards to purpose of the contact and stage. Why?
 - How important is it to you when selecting a legal provider that you can meet them face to face? Why? How does this benefit you?
 - Would a Skype or equivalent (video conference call) be acceptable as an alternative? Why or why not?

- Are there any downsides to this method vs face to face meetings?
 - Would communication entirely by email or remote site-access / text based communication be acceptable? Why or why not?
 - Are there any downsides to this method vs face to face meetings?
- **Price:** How important was/is price to you in your decision making in relation to this legal matter? Why?
 - Did you or do you have a concept of what a 'reasonable' price is for the legal service you required? If so, what was / is this price?
 - What / who has shaped this perception? *E.g. research, communication from the providers, word of mouth, previous experience, perception of complexity of the case etc.*
 - How did the providers explain the price to you, if at all? Did you have to ask for it or did they offer you the price information?
 - Do you know how price can be calculated?
 - If a fixed fee is not feasible, are you aware of how legal providers can charge? (probe hourly rates, no win no fee)
 - Thinking about any conversations or information received about price - how clear or complex has the price been to you? Why do you say this?
 - What if anything, can affect the final price (while the legal provider is doing the work)? Why do you think / know this?
 - Did the provider tell you that the final price can vary? If so, when? How?
 - On the board:

The final price for a legal service can vary from the estimated price provided before the work begins. It may vary based on the complexity of the case and unexpected complications e.g. parties disagreeing on terms

 - What are your initial reactions to this?
 - Is this reasonable or not to you? Why?
- **Level of service:** When choosing a provider did you / are you considering the likely level of customer service?
 - What would 'good service' look like to you - what do you expect? (*Probe if needed e.g. seniority of allocated legal advisor, level of expertise, contact hours and speed, ability to communicate complex concepts in simple ways, and empathetic or collaborative approach*)
 - How do or did you assess likely level of service when deciding on a provider? *E.g. online research, talking to previous clients, client care letter, communication style, website, price, other communication documents*
 - Which, if any, of the following elements of service (see the board) would you be willing to compromise on for a lower price? Why?
 - Are there any elements of service you would not compromise on?

Show board- service elements:

1. Frequency of communication
2. Access via a range of methods e.g. phone, email and face to face
3. Speed of communication and work
4. Information and communication presented in clear and plain language
5. Approachable, empathetic, collaborative and polite staff
6. Availability to staff out of normal working hours e.g. weekends
7. High level of expertise
8. An allocated adviser

Probes about protections (insurance and regulation):

- Can you imagine any **risks or problems** that may occur when using xxxxx legal services? What could go wrong?
 - How do you know this? *E.g. provider informed you or you asked the provider, past experience, word of mouth etc.*
 - Do you know if legal providers have anything in place to deal with risks and to protect customers? If so, what? How do you know this?
 - Probe awareness of insurance
- Before taking part in this research, what did you think **professional indemnity insurance** was in the context of legal providers? What protections does it offer customers of legal services do you know? How do you know this?

On Board:

"Professional indemnity insurance (PII) covers the cost of compensating customers for any loss or damage resulting from serious errors in the advice or services they receive from their solicitor. The SRA (the regulator) requires all solicitors to have PII above a certain minimum level, to protect customers.

For example, a customer could sue a solicitor if their advice was seriously wrong, or complain to an ombudsman if the solicitor makes a mistake. If the customer is entitled to compensation for this, PII generally covers payment of this compensation."

- What are your views on this? How important is it to you to know that your legal service provider has enough insurance? Why?
- Would you be willing to pay more to guarantee that your provider has enough insurance to cover any risks you may face? Why or why not? If so, how much more (e.g. 5%, 10%, 20%, 50%, 100% etc. more)? Why?
- Do you think any of the following providers (on the board) are required to have a sufficient level of professional indemnity insurance cover? Why do you think this?

1. Solicitor firms

Alternative providers who are not solicitors:

2. Will writing firms (who are not solicitors)
3. Licensed conveyancing firms
4. Chartered Legal Executive firms
5. Paralegals
6. Barristers (direct access) firms

- Were you aware that some legal providers do not have professional indemnity insurance or that some have more protection than others?
 - Would this have any impact on which provider you selected - why and in what way?
- Do you think any of the alternative providers (on board) are required to be regulated by the Solicitors Regulation Authority or another body?
 - If so, which body? How do you know this?
 - What does it mean for them to be required to be regulated? What does it mean for you, the customer?
- *I will now show you some information about what the Solicitors Regulation Authority (SRA) provide and ensure regulated solicitors follow:*

We also make sure that solicitors have the right qualifications and that businesses we regulate are well-run and properly insured. Some of our key functions are:

- monitoring the performance of organisations
- providing training courses for people wishing to become solicitors
- setting standards that people need to meet in order to qualify to provide legal services in England and Wales
- assessing the suitability of people who need to be regulated by us
- keeping the roll of solicitors
- making sure that lawyers from overseas meet our standards of training and suitability before they can practise as solicitors in England and Wales.

We set standards that have to be met by those we regulate

- What are your reactions to these functions? How valuable are they to you as a customer? Why?
- Is there anything here you don't understand / are not clear on?
- *The SRA also ensure customers of firms they regulate have access to:*
 1. *Providers with relevant professional qualifications (all must have a practicing certificate from the SRA)*
 2. *A complaints procedure and access to the Legal Ombudsman (if a customer is not happy with the final response from a solicitor they can complain to the Legal Ombudsman, an independent external agency)*
 3. *A fund which, under certain circumstances, can cover issues that insurance doesn't*
 4. *Legal professional privilege (this ensures that customers' communication with their solicitor is confidential)*
 5. *The benefit of knowing that the solicitor holds sufficient insurance*
 - What are your reactions to these functions? How valuable are they to you as a customer? Why?
 - Is there anything here you don't understand / are not clear on?
 - Were you aware that this is what the SRA provided? If so, how?
- Were you aware that some legal providers are not regulated or are not regulated to the same level?
 - Would this impact your decision on which provider to use or how much you would be willing to pay? Why and how?
 - Do you think there could be any downsides for a customer if they use a xxxxxx legal service provider is not regulated?
- Now you have learnt more about what it means for a legal provider to be regulated. How important or not is it now that your legal service provider is regulated? Why?
- Would you be willing to pay more for a provider who is regulated? Why or why not? How much more (e.g. 5%, 10%, 20%, 50%, 100% etc. more)? Why?

Conclusions and close (5-7 mins)

- What if anything have you learnt tonight?
- Given what we've discussed tonight about legal providers regulated by the SRA and legal providers not regulated by the SRA - the different levels of insurance cover that they can hold and differences in qualifications - would you consider using a provider not regulated by the SRA for a lower cost? Why or why not?
- We have discussed tonight that the final price can vary from the estimated price, due to complexity and unexpected complications... Do you think it's practical for legal services to be on a price comparison website? Why or why not?
 - Given what you've learnt tonight, would you trust and rely on the information provided about a legal service and its price on a comparison website - why or why not?

- Could you imagine any challenges or downsides to them being on price comparison websites? (E.g. would these sites be able to take into account the range of factors at play)? (probe: knowledge of qualifications, how clear and plain the legal providers' communication is, understanding the legal providers level of expertise, understanding the level of insurance the provider has)

Any other comments? Thanks and close



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+44 (0)20 3701 7700

2. About you

1.

First name(s)

David William Martin

2.

Last name

Barraclough

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Law society

8.

Please enter the name of the society

The Yorkshire Union of Law Societies, the umbrella organisation for all the local law societies in Yorkshire representing over 8000 solicitors

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

We are opposed to the requirements for price publication in principle. Consumers are frequently unable to ascertain what legal services they require until they have discussed those requirements with a solicitor and until a solicitor has discussed those requirements and estimated what work will be involved in meeting those requirements it is difficult and some cases impossible to put a price on the provision of those services. For that reason price information published on a website will have to be so heavily qualified to the extent that it will be extremely difficult for consumers to understand and risk becoming meaningless. This is particularly so in the extensive less commoditised areas of law.

The current Handbook obliges solicitors to give to the client the best information they can at the outset of the transaction after discussing all aspects of the transaction with the client.

11.

2) Do you agree with our proposed principles of price transparency?

As indicated above and for the reasons we have given we are opposed in principle to the requirements for price publication. We would add that some areas of law for example, employment tribunal proceedings,

divorce proceedings and litigation proceedings can involve various stages with unknown timescales and costings which would make accurate price publication impossible.

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

We do not think that different types of firms should be subject to different regulation. In practice, large commercial clients are sophisticated consumers who will as a matter of best practice discuss their legal transactions in detail with their solicitors with the sole object of agreeing a detailed fee quote or a fixed fee with their solicitors prior to issuing instructions to their solicitors. In those circumstances the solicitors would have as much information as is available to prepare a detailed fee quote or propose a fixed fee. It is then open to the clients whether or not to instruct those solicitors. We are aware that large commercial clients will frequently obtain detailed fee quotes or proposed fixed fees from more than one firm of solicitors prior to issuing instructions.

We very much doubt that large commercial clients would look at published prices as they would understand that published prices on a website for a generic transaction and a detailed fee quote or an agreed fixed fee for a particular transaction that has been discussed in detail with the solicitor giving the quote or proposing the fee are completely different and not interchangeable.

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

Again as indicated above and for the reasons given we are opposed in principle to the requirements for price publication. If requirements in relation to description, staff, stages and timescales were added to requirements relating to price the resultant information would have to be so heavily qualified as to be rendered meaningless.

There is also the danger that unregulated providers would not publish information about their staff particularly where the unregulated provider is using staff less qualified than the staff of the regulated provider. The playing field between regulated providers and unregulated providers should be at all times completely level to enable consumers to make a true like for like comparison.

Solicitors with Lexcel accreditation are obliged to give descriptions of transactions and details of staff, stages, timescales and prices in their client engagement letters and inevitably those descriptions and details will be far more accurate and far more helpful to the client because the client engagement letter will have been prepared after the solicitor has discussed the transaction and the client's requirements in detail with the client.

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

We are not convinced that a logo in isolation would benefit consumers unless that logo was linked to a clear unambiguous statement on the SRA's website (to which reference could be made in client engagement letters) setting out the level of protection consumers receive when using a solicitor in a regulated firm and how that level of protection differs when using a solicitor in an unregulated firm.

The combination of the logo and the statement would be useful and enable regulated entities to be distinguished from non-regulated entities.

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

As stated in 5 we consider that there should be an unambiguous statement on the SRA website which sets out in simple terms the difference in the level of protection benefitting the consumer using a solicitor in a regulated firm compared with the level of protection benefitting the consumer using a solicitor in a non-regulated firm.

We consider that in relation to the travel industry most consumers are aware of the benefit of the protection offered when using an ABTA regulated travel company. The aim of the SRA should be to achieve the same level of consumer awareness of the benefit of the protection offered when using a solicitor in a regulated entity as distinct from using a solicitor in a non regulated entity.

The danger is that if a two tier profession is created with some solicitors regulated and some solicitors not regulated there will be confusion among consumers. If all solicitors had to be regulated in the same manner that confusion would be eliminated and in those circumstances instructing a solicitor would simply mean instructing a solicitor with all the attendant profession wide protection. The SRA tin would say what protection and safeguards came with instructing a solicitor so that instructing a solicitor would be doing what is says on the tin.

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

As stated in 5 and 6 above we consider that the use of a logo to publicise the existence of the Compensation Fund should be linked to a clear unambiguous statement on the SRA's website setting out how the Compensation Fund can protect the consumer using a solicitor in a regulated firm as distinct from using a solicitor in a non-regulated firm. The statement on the SRA's website should explain that using a solicitor in a regulated firm automatically gave a package of protection including access to the Compensation Fund as distinct from using a solicitor in a non-regulated firm.

It would be analogous to buying a car with the full manufacturers warranty from a franchise dealer.

17.

8) Do you agree with our proposals on the publication of PII details?

We do not agree with the proposals. We consider that it would be more helpful if the statement on the SRA's website referred to in 6 and 7 above simply made it clear that as part of the package of protection that came with instructing a solicitor in a regulated firm there would be a minimum level of PII cover.

We suspect that most consumers simply assume that all solicitors have PII cover. What is important is that consumers are made fully aware before giving instructions to a solicitor if that solicitor does not have the minimum level of PII cover or the other elements in the package of protection referred to above.

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

We would have no strong objection to the publication of details of how to complain though it is probably unnecessary given that all Lexcel accredited firms should give full details of how to complain in their client engagement letters.

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Similarly we would have no strong objection to the publication of details of how to complain to the Legal Ombudsman though again it is probably unnecessary given that all Lexcel accredited firms should give full details of how to complain to the Legal Ombudsman in their client engagement letters.

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

We suspect that few consumers would check the validation of a firm or solicitor before instructing a firm or solicitor and would be far more likely to look at the website of the firm or solicitor. If that website states that the firm is regulated by the SRA few consumers would look further.

6. Consultation questions: Publishing areas of practice and complaints data

21.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

We do not see the value in publishing annual information about areas of work. Some firms will for reasons of self promotion state that they handle wide ranges of work irrespective of whether or not expertise in those fields actually exist in the firm. Such information gives little information about the real areas of expertise within the firm and what the firm is actually good at.

22.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

We do not agree with the proposed approach to publishing complaints data. Complaints can vary widely between unfounded complaints and serious complaints involving dishonesty. We consider that the publication of raw data about complaints is unlikely to assist consumers who have little or no appreciation of the range of complaints and that there would have to be a sophisticated understanding of that range of complaints before any complaints data could be used by a digital comparison site in any meaningful or accurate manner.

23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

As stated above we do not agree with the proposed approach to publishing complaints data and have significant concerns that data published could be easily misunderstood and easily misused. We also consider that it would be wrong to only publish data relating to regulated firms and not unregulated firms.. That approach is at best misleading and at worst hides complaints about unregulated firms giving that impression that no complaints have been made about unregulated firms.

As stated above if there is to be a two tier profession the playing field must be completely level.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

24.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

That is essential for the protection of consumers and that information should be available, understood and formally acknowledged before any instructions are accepted. The information should not be hidden away in terms and conditions issued after instructions have been given.

25.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Again that is essential for the protection of consumers and that information should be available, understood and formally acknowledged before any instructions are accepted. The information should not be hidden away in terms and conditions issued after instructions have been given.

8. Consultation questions: The draft rules and enforcement

26.

17) Do you have any comments on the drafting of our rules?

We are concerned that the approach adopted by the SRA is to move from rules to regulations which create a general rule with a resultant loss of clarity. Solicitors by virtue of their training like to have clear rules which can be observed or not observed without any need to exercise subjective judgement or interpretation. The minimum standards to which firms are expected to adhere should be set out in clear terms that are easily and quickly understood without the need to exercise subjective judgement.

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver

improvements in the information available to consumers?

We are sceptical that working with third party intermediaries particularly third party intermediaries who use digital comparison tools will assist the SRA. The Competition and Markets Authority have flagged up the problems legal services present to the use of digital comparison tools. Price is only one factor that consumers should taking into account when choosing legal services but because price is more easily understood by consumers than those other factors there is a risk that consumers may place excessive emphasis on price to their detriment.

28.

19) Do you have any further information to inform our final impact assessment?

We consider that further work needs to be done to the impact assessment to fully address the impact on the whole spectrum of legal firms particularly in relation to the costs that will be incurred and the resources that will be required to implement the proposals.

2. About you

1.

First name(s)

Rosemary

2.

Last name

Rogers

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Other

8.

Please specify

conveyancing comparison site

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

Conveyancing (the area we focus on). Cannot comment on other legal services.

11.

2) Do you agree with our proposed principles of price transparency?

Yes. Price transparency and comparison is the bedrock of 21st century services.

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

No comment

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

Definitely.

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Yes. This would be most helpful to potential clients, especially in the increasing age of fraud.

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Work with third party providers, such as ourselves. reallymoving.com would be happy to include a digital link on the quotes we generate. It helps us prove we work with qualified and regulated firms.

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

Yes, again, this helps with reassurance and comfort messaging.

17.

8) Do you agree with our proposals on the publication of PII details?

No comment

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

Yes - although I believe Complaints Handling Processes are meant to be sent to all conveyancing clients at the start of the process?

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes, but I suggest a standard text that all firms should use. Unedited.

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

Strongly support this idea to help with fraud and to help companies such as ours keep up to date with changes. An email alert from the register would be useful - allowing us to receive alerts on specific firms.

6. Consultation questions: Publishing areas of practice and complaints data

21.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

Not sure why this needs to be kept separate? No.

22.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

Yes, but only publish complaints that have been through the mediation process.

23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

no comment

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

24.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes

25.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes

8. Consultation questions: The draft rules and enforcement

26.

17) Do you have any comments on the drafting of our rules?

No

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

Access to an up to date digital register. Account area for approved third parties who can create a mini-register of companies they work with and receive alerts of changes. ALSO, the ability for approved third party intermediaries to flag up concerns at an early stage.

28.

19) Do you have any further information to inform our final impact assessment?

Dear Mc Williams

Re: Presentation — 22nd November 2017

I attended your presentation at the Cox Mahon seminar on the 22nd November 2017 in Stafford. I thank you for your very clear presentation. However, I was very dismayed by the proposals of the SRA and the proposed changes to regulations. Therefore, if there is going to be effective consultation with regard to the changes, I would be happy to give my views, in writing or in person. I believe consultations continue generally and you notified all those present that consultations are taking place with the PII and Compensation Fund in early 2018.

Although this letter is on headed notepaper, so you can see where I work, I stress that the enclosed comments and views are my own and this is not written on behalf of Pickering & Butters (though I suspect some of my fellow Partners would share my views).

By way of history, I have been a qualified solicitor for 24 years at Pickering & Butters. We have two offices with eight Partners and 37 other members of staff. Cox Mahon have been our insurance brokers for as long as I can remember. We currently have 2,500 open and live client file matters. I am the Risk Review Partner and annually analyse client care, strategic planning, regulatory requirements and risks and profitability. We have been Lexcel accredited since 2004 and I am responsible for compliance, both regulatory and for Lexcel. As I deal with personal injury, I am a member of the Law Society's Personal Injury Panel and as a firm we are members of Abbey Legal Protection/Accident Line and have been subject to their external review. I am also the Claims and Complaints Partner and the Partner contact with Cox Mahon as I am responsible for PII assessment and renewal. Our claims history has been described as "exceptional".

As I review annually all claims and complaints and all client questionnaire surveys (they are sent to every client on the completion of a matter), I believe that I have an understanding of clients' requirements and needs for a middle sized firm in "middle England". The reasons for the changes were that whilst a lot of adults have a need for legal services, fewer than one in ten people with a legal need use a solicitor or barrister and you believe the majority of people who do not seek professional advice is because they think legal services are expensive. It is my view that "Jo Public" does not use a solicitor through a lack of trust in the profession. You maintained in your talk that the SRA badge is one for quality which a member of the public can trust and, therefore, I cannot see that the SRA advocating that solicitors can provide non-reserved legal services to the public through a non-authorized body can be in any way a good thing. The public will have no perception at the difference between regulated and non-regulated services.

I would liken the part regulated/part not-regulated analogy to those of NHS consultants/cosmetic surgeons. All consultants are regulated by the GMC but cosmetic surgeons/consultants are not. The public have no perception that when they pay a lot of money at cosmetic surgery practices that the "surgeons" are not regulated and quite incredulously, do not even have to be insured. Sadly, I have had to take action for negligence against consultants who practice cosmetic surgery who are not insured. This has resulted in me having to take action personally against them. In the public's perception, there is no difference between seeing a consultant privately at a private hospital and visiting one at a cosmetic surgery clinic. I cannot see that trying to make individuals more responsible for their own actions will have little practical effect given PII and Employer's Liability requirements.

I very much advocate that standards should be maintained, there should be regulation and integrity and anything which is a "dumbing down" or a dilution of that, either in practical terms or perception, can not be for the better of the profession.

I have been dismayed (though regrettably like many in my profession have shown apathy and done nothing) at the changes and deregulation allowed by the Law Society. As a firm, we would never deal with any company which wished to have referral fees and it is my view that the buying and selling of clients is wrong. Whilst I agree with you that offering non-reserved services to the public prevents opportunities for solicitors, I believe that this is to the detriment of consumers. Consumers will be offered more choice but I do not think they will have a perception of the differences and it will be misleading. Currently, we can not describe a nonqualified person within the firm as a "lawyer" but you are proposing that a solicitor can provide non-reserved legal services which, in my view, has to be wrong. Either we are solicitors and are subject to professional rules, regulations and have the appropriate professional indemnity insurance or we are not.

I note that you are consulting PII providers in the Spring. I would suspect that your proposals will have an adverse effect on insurance provision and premiums. I know that currently, some insurance providers do

not wish to provide insurance to high risk firms (ie. firms with over 25% of their gross fee income from property transactions) and personal injury (with claims management groups and referral fees) is a high risk area and increasingly so, family. I believe from talking with Cox Mahon that the provision to of PII to solicitors is not an attractive market with it's claims history and I believe that claims can only increase if some solicitors provide non-reserved legal work as the public will not perceive the difference and claim.

The SRA principles are to protect and safeguard the wider public interest (such as the rule of law and public confidence in a trustworthy solicitors' professional and a safe and effective market for the regulated legal services) so anything which dilutes those principles or the public's perception of the integrity of our professional body cannot be adhering to those principles. As my pensioner mother says, "Your profession is not as upright as it used to be".

Given my experience in client care, risk review and insurance knowledge (through the renewal process), I am against your proposals and would be happy to be involved in any consultative process.

The seminar was headed, "Great expectations or much ado?", given the changes to the profession and the diminution in standards, I was left thinking it was more "love's labours lost". Expressing my views may be a complete waste of time but it is better than doing nothing, which I have done previously!

Yours sincerely



Jan Boulter
On behalf of Pickering & Butters LLP

Dear Sirs,

Re: Transparency of Fees

I don't suppose you have got the slightest interest in having my views on this subject given that at 74 years of age and 51 years of qualification you will consider me a relic standing in the way of progress.

I also tend to keep out of regulatory matters or my views on it, as I am well aware that these often differ from other members of the profession, probably to do with my historic background. I left school before I was 16, having had a highly physically abusive childhood with a complete pillock as my mother's second husband who only believed in violence and as a result being on my own at 17, living in a flat where the rent was equal to the wage that I got from the Solicitors I was articled to and I was able to feed and clothe myself by working in a pub for three shillings, (15p) an hour.

This combined with a slightly strange personal life has given me a different slant on life than many Solicitors from protected and normal backgrounds have.

There are two aspects though, which I must comment on.

The first was your suggestion a year or so ago that Solicitors should not be allowed to have intimate sexual relations with their clients. Now given that on 16 October I will have been with my present, (third) wife for 25 years and that I worship her beyond anything on this earth and hope that I have made her at least somewhere near as happy as she has made me, I have to say that had your rule been in place 25 years ago I would have been risking my occupation. She had been a client 6 months before we went out on a personal date, but your rule was not going to discriminate on that. I am pleased that you decided to drop that and of course the thought never crossed my mind for a single second that you might have had a lot of objections from a lot of Solicitors who perhaps felt that might put them in a difficult situation!!

I am a firm subscriber to the view, which I did pass on to the President of the Law Society when he wrote a year or so ago congratulating me on 50 years qualification, that when I first joined the Law virtually the only real offence was, "*Conduct Unbecoming.*" Now the fact of the matter is that in those days even a slight outsider like myself with a different background from other people, was able to grasp what "*conduct unbecoming*" was, as opposed to "*proper conduct.*" You didn't need to be a genius.

I will also confess that on the issue of having intimate sexual relations with clients, were one to do that with a client who was going through a divorce and you were handling that divorce it would be inappropriate. It wouldn't necessarily be because you were taking advantage of a client. It would be because transparently the impression could be given to the outside world that the client was vulnerable and therefore in a similar situation to the one which the President of France, Mr Macron, must have found himself when his teacher, (now his wife) who was 25 years older got together with him when he was in his teens. It just looks bad.

This then brings us on to the transparency of fees. You will, I know, totally ignore my views, but I wish to record them anyway. When I came into the Law clients did know what their fees were going to be in advance because there were scale fees. Property transactions all had a fee scale set by the Law Society and that is what we charged.

It was a great relief to me in or about 1970 when these were abolished, as my speciality is commercial property and as the scale fees applied across the board to residential and commercial and as commercial always has been more difficult and time consuming, I was able to increase my fees when the scale fees were abolished as opposed to most Solicitors who reduced them.

There will inevitably be a rush to quote the lowest fees as that is human nature. We have been there over the years locally with many firms who have done this. Not only did they reduce the fees, but also many of them indulged in what I call "*all singing, all dancing, all entertaining, womanising, drug taking, drinking etc*" habits. Most of those have gone bust because whilst attracting the business what they found was they had spent so much time entertaining that they never got round to doing the work on the jobs they bought in.

My own practice is built on an entirely different foundation. I don't drink, I don't smoke, I am totally faithful to my wife, I don't play golf, I don't have any hobbies and all I do is work. This enables my several very wealthy clients to indulge in some of these vices whilst knowing that I am there in my little back room plodding away looking after their affairs.

In order to provide a comprehensive service, however, we do have a reasonable number of other Solicitors and support staff and what you are saying is that their fee structure should be published.

I know you mean well and I am delighted that you are thinking of reducing the size of some of the literature you produce. I am not anticipating that as a result of this communication you will say the only offence is "*conduct unbecoming*" and accept that it may have to be spelt out and no doubt you will!

However, I do believe that you are misguided on the "*transparency of fees.*"

My residential and commercial Solicitor colleagues all have to advise in advance and in writing what their fees are going to be. There is a certain skill to this.

Whilst many residential transactions are similar, they are not necessarily identical. For example, because Brighton & Hove has boundaries, namely the South Downs to the North and the sea to the South, the opportunity for new build is limited and when it does happen it is often a block of flats to maximise the potential of the site. Also, the large period properties which are magnificent buildings, of which there are many, are as a rule converted sooner or later into flats. The potential liability so far as service charge is concerned for clients varies wildly between whether it is a new build or a period property. The standard of management varies between self-managing blocks, those managed by reputable agents and a few rogue agents, whom one should not get anywhere near with a barge pole. Many Leases are fine, but some are in immediate need of extension and also in many cases Deeds of Variation where the Leases were granted a long time ago. It is almost impossible to quote for that sort of transaction, hence the need for experienced property executives being able to discuss the matter in advance and assess the transaction.

Commercial property transactions are even more problematic. Within the last week I have had, amongst other matters, two new clients, both of whom are first time buyers of small retail businesses. I have had to explain to them my fee quote is probably two or two and a half times higher than it would have been if they had been buying a residential property. I will have to steer them carefully through the transaction, including somehow trying to help them convince the Landlord that the Landlord can allow the transfer of a Lease from a Tenant who has been there for years paying rent regularly to someone who hasn't got a clue what they are taking on. However, all people who are in the retail trade have to start somewhere and I know in advance that I am going to be spending an hour or two hours nursing my first time buyer through to enable them to get their foot on the ladder of self-employed business people. If you combine this with the fact that several of them do not have English as their first language the fee structures need to be carefully considered job by job.

The above are my personal thoughts and also reflect on the type of business, (Commercial Property) that I undertake and which lead me to the conclusion that nice as it sounds to be able to say what costs are on a firm website, in reality you are making life more complicated than it need be, even though you have the best of motives.

I anticipate that this communication will probably not be a majority view, but at least it gets it off my chest as I think most of my fellow Solicitors moan and groan, but don't put these things on paper.

Yours faithfully



DAVID ENGLEHART
ENGLEHARTS

Looking to the future: better information, more choice

Response ID:89 Data

2. About you

1.

First name(s)

Stephen

2.

Last name

Forster

6.

I am responding..

in a personal capacity

7.

In what personal capacity?

Solicitor

8.

Please enter the name of your firm/employer

n/a

9.

Please specify if you are

10.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

None

12.

2) Do you agree with our proposed principles of price transparency?

No

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

Make the requirement optional if you have to but better still drop this aspect of your consultation

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and

timescales in any legal services where we decide to require price publication?

No

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

No - waste of resources

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

No

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

No view

18.

8) Do you agree with our proposals on the publication of PII details?

No view

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

Yes

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

No view

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

No view

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

No view

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

No view

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

No view

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

No view

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

No view

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

No view

29.

19) Do you have any further information to inform our final impact assessment?

Publishing cost information carries the real risk of reducing legal services in the minds of the public to the sort of thing available through EBay or Amazon. In other words in the eyes of many quality will be equated with lower costs.

Looking to the future: better information, more choice

Response ID:78 Data

2. About you

1.

First name(s)

Teresa

2.

Last name

Gee (nee Shepperson)

6.

I am responding..

in a personal capacity

7.

In what personal capacity?

Other

8.

Please specify

Former solicitor

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

No response

11.

2) Do you agree with our proposed principles of price transparency?

No response

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

No response

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

No response

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Yes. I asked for this years ago and was told that it was not possible as it could potentially make the Law Society / SRA liable if the solicitor committed any offence.

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Make sure everyone uses it.

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

No response

17.

8) Do you agree with our proposals on the publication of PII details?

No response

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

No response

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

No response

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

No response

6. Consultation questions: Publishing areas of practice and complaints data

21.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

No response

22.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

No response

23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

No response

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

24.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform

clients of the absence of the requirement to hold compulsory PII?

Yes. Please also see my response to question 19.

25.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes. Please also see my response to question 19

8. Consultation questions: The draft rules and enforcement

26.

17) Do you have any comments on the drafting of our rules?

No response

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

No response

28.

19) Do you have any further information to inform our final impact assessment?

This answer is in respect of the proposal to allow solicitors to provide services to the public via unregulated firms - which directly affects my situation.

I qualified as a solicitor in June 1990, worked for four years as an assistant solicitor and then between 1994 and 2013 practised as a sole practitioner.

I had also set up an online information service at www.landlordlaw.co.uk in my chosen specialist subject, Landlord & Tenant law, in 2001.

The point of the Landlord Law online service is that it is a 'one to many' service where people who might not want the expense and bother of instructing traditional solicitors can obtain legal guidance and documentation at modest cost. Which is surely a Good Thing.

Landlord Law was successful and in 2012 I also set up a small training business called Easy Law Training.

By 2013 the only 'reserved activity' work I was doing was eviction proceedings and I was anxious to give this up. I therefore decided to close my law firm TJ Shepperson but carry on with Landlord Law as an unregulated advice service. As part of this I continue to provide a modest telephone advice service.

I set up an arrangement with a London Legal 500 firm that they would take all reserved activity referrals and TJ Shepperson was duly closed down in September 2013 (and the run off cover paid).

I had planned on continuing as a non practising solicitor but was advised that if I did any legal advice or other legal work outside of a regulated firm while still any sort of solicitor (even though the work was not reserved activity work), I would be liable to prosecution for breach of the solicitors practising rules. I cannot at this stage recall the exact regulations concerned but no doubt you are aware of them.

This seemed extraordinary to me but I saw that there was no alternative but to come off the roll completely to remove the risk of prosecution, which is what I did.

I have to say that I am extremely unhappy that after being in the profession for 24 years I am now no longer entitled to call myself a solicitor and there are even suggestions that I should not be able to describe myself

as a lawyer!

I would mention that I have voluntarily upheld the spirit of the solicitors ethics, my business carries professional indemnity insurance and I have joined the Property Redress Scheme so any disgruntled customers (not that there are any) have somewhere to complain.

I attended the Legal Futures conference recently which had a presentation by an SRA Official and a member of the Law Society where the SRA Official explained that they were considering changing the rules to allow solicitors to work in unregulated firms so long as clients are advised of the differences regarding insurance and the compensation fund.

I very much support this proposal. As the SRA Officer pointed out, it is madness that it is legal for anyone *except* solicitors to work for unregulated firms providing legal services.

Things are changing and the traditional methods of delivery of legal services are now not the only solutions. Firms such as mine can offer valuable services without the need for reserved activity work.

If you read 'The Future of the Professions' by Richard Susskind and Daniel Susskind you will see that it is highly likely that in the future, legal services will be provided by all sorts of organisations many of which will come from outside the profession. It is madness to have a rule which actually forbids solicitors from working for such firms. These are the very firms where solicitors should work!

If this outdated and antiquated rule is not revoked, this will only have the effect of making the profession irrelevant.

For example, why should a young person go through all the time consuming business and expense of qualifying as a solicitor - only to be told, if they decide to work for an innovative company such as mine, that they will have to come off the roll or risk prosecution?

Indeed the prospects for young people are greatly reduced I understand in traditional practices. A large part of the future of legal services will be outside traditional firms. If the profession of solicitor is to survive it is essential that solicitors are able to work in these organisations and retain their professional title and status.

I hope that the rule is in due course revoked after which I may decide to go back on the roll again and apply for a practising certificate. Although I may be tempted not to incur this expense as I have actually got on very well without one.

Which is something which should worry the SRA.

Looking to the future: better information, more choice

Response ID:67 Data

2. About you

1.

First name(s)

Melinda

2.

Last name

Giles

6.

I am responding..

in a personal capacity

7.

In what personal capacity?

Solicitor

8.

Please enter the name of your firm/employer

GILES WILSON LLP

9.

Please specify if you are

10.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

I think that to publish fixed costs for some services and not others will be misleading to clients, and yet it is not possible to publish fixed costs for all services; it is like asking a builder to provide a fixed cost for every type of building job he could do. We are all aware that we can approach a builder for an estimate for a new bathroom, he will then quote for that bathroom based on some choices we will make, and he is obliged to stick to that estimate unless unexpected issues, such as a damaged soil pipe occur when he will then pause and re-quote. Only an unscrupulous builder would publish that he will fit a bathroom at a fixed price that will not vary. To stick to the price would lead to the unforeseen problems not being fixed.

12.

2) Do you agree with our proposed principles of price transparency?

I do not agree with your proposals in their current form.

I agree that some members of the public, and small business may have a perception that to engage a solicitor will be too costly, but I believe that this can be addressed by our rules being changed to provide

that a costs estimate be provided on ENQUIRY rather than on engagement. This is considered good practice by most firms.

I understand the purpose of this is to open up the market so that law firms are more accessible and do not have a captured market based so heavily upon recommendation, but this can be achieved by the other suggestions within the report, such as publishing upheld complaints against the firm, as well as the accreditations, and quality marks.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

If this process proceeds (and I have made it clear that I do not think it should and that it will be unworkable), then in my view it has to be for all firms of solicitors.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

I think that this is also unworkable, and I cannot think of another industry or profession where this occurs. It is perfectly possible to publish the description of staff on a website, including details of their experience, qualification etc, and then to offer on enquiry a different grade of cost on that basis, and it is also possible at that stage to put a timescale in writing for each particular case.

In some cases, such as writing a Power of Attorney, that time scale is dependent upon the OPG, but in addition it may be dependent upon a doctor or other medical professional being a certificate provider, and their ability to complete the work, as well as an attorney's availability to sign the document.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

I think this is a good idea.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

I think that to present the logo with a positive message about solicitors would help everyone including the SRA; similar to the ABTA for travel. So that it becomes a standard that is respected as both supportive and regulative -

By engaging solicitors with the process we would also work with the SRA to increase consumer awareness in the same way as any reputable travel agent does.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

Yes

18.

8) Do you agree with our proposals on the publication of PII details?

I agree that the existence of the PII should be published, but not that the contact details should be disclosed. This could lead to direct contact with the PII insurers which would be inappropriate and time-consuming for the insurance company. Clients have the right to follow a complaints procedure, and to contact the SRA who themselves would know when a report to the PII is appropriate.

We are all obliged to insure our cars, but not to make our insurance details available publicly to anyone; only to provide them to someone who we have an accident with.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

Yes.

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

I think that the current system of looking for a regulated provider of legal services is confusing for the public, and agree that it should be a digital system.

I would prefer to see the Law Society and the SRA work together on a database that joins up, in a way that is clear to the public, and hopefully less expensive to implement for each of those bodies, thereby saving money that has to be found primarily by solicitors.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

As my previous answer, I think that in principle it is a good idea to publish information about areas of work but too many different locations for information will be confusing for the consumer. Whereas your report does say that it will be in one place, I find the report, and these questions slightly contradictory.

I agree in principle.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

I think that to state such information is available would be preferable.

Data must always be read in context, and to publish it out of context, may not be helpful particularly as it will be difficult to ensure that the consumer reading that information understands the implications fully. Rather like publicising that someone has been arrested, but not following through as to whether they were charged, and with what, and what was taken into account in sentencing.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

I do not agree that first-tier complaints data should be provided.

I say this from the position of a firm with a very good complaints record so it is not a question of protecting myself, it is as above.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes. I think that this is an immensely important issue and that this must be published (not just informed) if we are to publish that we do hold compulsory PII.

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes. I think that this must be published, and not just informed to clients.

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

I accept that there may be many members of the public, including those who run small businesses who have not approached a solicitor because they are fearful of charges, and that this perception needs changing. I do not have experience of clients complaining about charges because we do not incur a client in a charge without putting an estimate in writing; this will sometimes mean inviting a client to a fixed fee initial consultation and thereafter providing a costs estimate on the scope of the work.

I do not understand why price is such a feature in this consultation; this implies that various prices are available for exactly the same product and that simply is not so. A Will can vary from a simple one to a complex one, and the advice relating to a will can be very good (such as identifying potential dependency issues, that the ownership of the property is not correct, to IHT advice), to very poor (such as not advising on any of those points, or even noticing that the advice is relevant). Paying for a Will to be drafted cannot be compared to buying a new car where the make and model is specified and a price comparison website is appropriate and the only difference that a consumer will choose is whether they are prepared to travel further to that showroom, and whether they like the luxurious show room or not. At the end of the day, they will get the same car. I have looked at websites for other professional services such as accountants, architects, marketing consultants, builders, travel agents, etc. They publish their quality standards but not their prices because it is not possible to do so with any dependability. This is our position.

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

I would like to see the SRA work closely with The Law Society and other solicitors groups to understand the nature of the issues that arise for clients. Legal services on the High street are important to consumers and these proposals threaten the viability of quality firms which will do a dis-service to the public. If we over emphasise to consumers that price is the over-riding factor this will become the driver (and the myth that solicitors are too expensive will be seen as a thing) as consumers are naturally attracted to a less expensive option and unless there is at least an equal emphasis on the protection and quality (such as Lexcel, and Accreditations etc), and service the public will suffer. There is already a significant problem of financial abuse through wills and powers of attorney; to remove the quality of advice in these areas is risky. The fact that most consumers use a solicitor on recommendation speaks for itself and whereas is a concern for the CMA, has to be seen as an indicator that clients seek reliability and want someone they can trust. Whereas this needs looking at, it is not something that we should be seeking to prevent.

29.

19) Do you have any further information to inform our final impact assessment?

No

2. About you

1.

First name(s)

elizabeth

2.

Last name

hodder

6.

I am responding..

in a personal capacity

7.

In what personal capacity?

Solicitor

8.

Please enter the name of your firm/employer

Gross & Co

9.

Please specify if you are

10.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

None. I think your proposals are utter tosh. I think most of what you are doing at the moment is change for teh sake of change, and to keep someone (or many someones) in jobs, constantly inventing new ideas to 'improve' a system which frankly is not broken and doesn't need fixing.

12.

2) Do you agree with our proposed principles of price transparency?

NO

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

I don't agree with any of your proposals.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

NO

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

No - more money to pay to someone. Stop fiddling with niceties, and deal with the realities of the problems you yourselves have created, and are still making worse.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

For God's sake. Such nonsense.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

No - more tosh.

18.

8) Do you agree with our proposals on the publication of PII details?

No.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

No - for heaven's sake. We are a nation of complainers. Everyone learns how to complain when they learn to crawl.

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

No.

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

Unpublishable.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

no

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

No. Why can't you just leave the system as it is?

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

N/a

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

They're impenetrable and vague.

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

Start by listening to Solicitors who are working in the coal-face. That would be novel for you.

29.

19) Do you have any further information to inform our final impact assessment?

No

2. About you

1.

First name(s)

Neil

2.

Last name

Howlett

6.

I am responding..

in a personal capacity

7.

In what personal capacity?

Solicitor

8.

Please enter the name of your firm/employer

9.

Please specify if you are

10.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

None because the SRA does not have the competence to produce or manage such a process (Principle A).

The SRA has not produced any evidence of any such system operating effectively anywhere in the world.

The SRA has failed to recognise that 'bait pricing' (para 52) is the basis of 'competitive' pricing for will writing; i.e., many unregulated and some regulated providers do this work at a loss to acquire the customer marketing base and probate work as a profit centre. This is clearly demonstrated by the figures in figs 5.2.6 and 5.2.7 of the LSB Research Paper 'Prices of Individual Consumer Legal Services'; consumers are being ripped off by (mainly) unregulated suppliers. The SRA could do something about this, but this is not it. Neither the LSB nor the SRA appear to understand this. Until the SRA understand this any figures mandated for Will Writing will be positively misleading and result in losses to consumers.

There is already a developing market for some services (notably not ones selected by the SRA) for advertised "fixed fees". Those are available to those who want them. There is no evidence that making

them mandatory will increase consumer choice or reduce prices. Where I've looked at these they are often above the prices I would usually charge and if more widely advertised I would increase my prices accordingly.

The effect (aim) of this proposal will be to make price front and central to decision making by consumers. Once price is the determinative factor standards will fall to meet lower prices.

See also below.

12.

2) Do you agree with our proposed principles of price transparency?

In my experience most firms provide the information suggested on a case by case basis, directly (i.e., not online via their websites). The evidence is that the market is working.

The SRA could help consumer by enforcing that on those who do not but cannot as that would be contrary to the Code of Practice. These proposals are in direct conflict with the SRA's general policy of 'light touch' regulation – as such they need very strong justification both in principle and evidence base (Principle B)

The SRA does have sufficient understanding of the legal processes to mandate the factors which should be included.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

Large, and some small, commercial clients are sophisticated consumers who do not need help from the SRA. Also many will have their own packages for legal costs which may conflict with pricing per case.

Of more importance would be excluding smaller (or new) firms who do not have sufficient caseload to produce statistically reliable figures to set fixed advertised prices. As they cannot they are likely simply to take/undercut advertised figures from competitors, which may be (a) unrealistically low causing instability or (b) super-profits not in the interests of consumers.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

Is the SRA going to write these? If not is it going to monitor and regulate them? If not how will the SRA know they are accurate or valuable?

If this information is valuable and reliable why should it be limited to service for which prices publication is mandated? Surely it should be provide across all services?

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

A logo valuable where they designate a brand which has a recognised identity and is valued. The SRA doesn't have either. It is putting the cart before the horse.

As the SRA is proposing to regulate or semi-regulate a wide range of providers this is likely to lead to confusion not protections for consumers.

Before investing in a "digital badge" scheme the SRA should monitor whether it cost effective (see also Q11 & 18).

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

You don't need to increase custom awareness of a logo you need to increase customer awareness of the SRA (see Q11 & 18).

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

It would be better to have two logos than one but the problems identified by the SRA illustrate the problems with either (see Qs 5 & 6).

18.

8) Do you agree with our proposals on the publication of PII details?

Yes. My firm already does this, as do many firms.

However, it is important that firms are allowed to do this is done in a way that is positive. The recent research on Terms of Business indicated the negative effect of the requirements to tell consumer at the outset about their right to complain.

This should be combined with positive publicity from the SRA, which might also help consumer awareness of the SRA and what it does.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

Yes, my firm already does.

However, I would oppose the SRA mandating the text of this, which conflicts with Principles A and B, and also limits the ability of firms to provide such information in a way which tailored to their client base.

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes, for the same reason and with the same reservations as on Q9.

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

This is only valuable if the SRA will accept full legal responsibility for it (cf The Law Society of England & Wales v Schubert Murphy) both to firms and to consumers. Will use of this be sufficient compliance for any liability arising from fraud? If not what does it offer?

The information which it is proposed to publish does not meet the supposed deficiency identified in par 105. It is, at best, a distant surrogate for "quality" and will be historic. It will have to be accompanied by the disclaimer than past (bad) performance does not necessarily indicate future bad performance (cf. the FCA). Do you have any evidence that (the SRA is so ineffective that) solicitors against complaints are upheld are statistically more likely to have similar complaints upheld again?

What is the cost benefit analysis (of duplication? See Q12)

It will lack context. Consumers are not likely to understand it, even in context.

Firms and informed consumer who are interested can already easily search for and access such information – do they? If not why not?

If given undue prominence it may make individual solicitors subject to such publication unemployable or at a disadvantage in the labour market.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

If it is valuable why should it be separate?

What is the cost benefit analysis of duplicating the Law Society 'Find a Solicitor' online service? How will it be better or more valuable?

How will it be valuable? It will not indicate specialisms, the volume of work, the experience of the people doing it, panel or QM membership, outcomes, or "quality".

It may encourage firms to list everything they might do – even if someone of it work they don't actually do, or do infrequently.

Such information is already available on firm's websites. Is any consumer who uses the SRA list not also going to check the firm's website? They can already do that via Google or 'Find a Solicitor'?

This may stifle innovation – it may make it more difficult to change or expand their range of services. How will adapt to lateral departmental hires, or expansion?

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

No, see above.

The basis for this is that it "has the potential to inform consumer choice by indicating quality of service" and "could drive improvements in service delivery. There is no evidence it would do either. These are distant surrogates for "quality".

The SRA could make known to consumer where such material is available, or mandate that (contrary to Principle B)

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

You should not because, as the consultation demonstrates, the SRA is far from understanding how "context" can be provided?

What if the firm disagrees with the SRA or LeO about the context, or the original client disagrees?

In particular the data provides no reliable information on the quality of the complaints handling process and consumer satisfaction with that. It discourages engagement; e.g., as Complaints Partner I positively encourage complaints as a source of internal information about the performance of departments and people, and prioritise responses on the basis that acknowledging and responding to a complaint, however minor, is good for client relationships. That will produce higher figures than if our approach to use

strategies to discourage complaints or respond negatively to dissuade the consumer from entering that system.

Alternatively it would be easy to game the system by having an internal procedure which prevented consumer getting as far as the "complaints handling procedure". The SRA does not have the capacity or capability to police this.

Trustpilot and similar schemes are not measures of quality – they are measures of efforts to get clients with positive views to use Trustpilot.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

This proposal undermines the "solicitor" brand which the Crispin Passmore stated was the basis of consumer choice.

However, if there are to second tier solicitors consumers should be informed of that.

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

See 15

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

See principles A and B above

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

The SRA needs to demonstrate an ability to understand and engage with the profession and consumers before it acts on these "choice", "quality" and "transparency" proposals.

29.

19) Do you have any further information to inform our final impact assessment?

Legal Choices

Legal Choices was put forward as a method of doing this. If the SRA can make a success of this that would be a basis for some of these proposals. No statistics are published. I have asked before for data on the success of Legal Choices. Judged on the simple measures of an active successful website it is failing. I looked (only) at:-

(a) 'What's New' – it had nothing between 24th July ("Pets and the law") and 30th November, with a vague post on Brexit. Before that the only month with anything between July 2017 and November 2016 was March. If Legal Choices is effective this is a huge missed opportunity – there is post about scams on dating sites but nothing about any of the SRA's priorities in proceeding consumers from e.g., bank email fraud, bogus firms.

This shows the site to be inactive, and that the SRA cannot integrate it with its own strategic aims.

(b) I have looked at all the What's New posts back to January 2016. Only two have comments – one is unanswered and the answer to the other is not accurate (and fails to correct a damaging negative perception of solicitors; i.e., that they cream off 10% of all money going to charities in legacies, 14 March 2016).

This shows a lack of engagement with consumers, and a failure of quality control/training.

(c) The Small Business page hasn't been updated for more than two years

This shows the site to be inactive, and that the SRA cannot integrate it with its own strategic aims.

What KPI's exist for Legal Choice? Are these met? Are they published? How much does Legal Choices cost?

Choice in the Legal Services Market

There is no recognised measure of quality in legal services. There have been many efforts, by the Legal Aid Board, LSC etc., none of which have produced worthwhile results, or information comprehensible to consumers.

There is a complex functioning market in which some consumers are more informed than others.

Sophisticated consumers do not need help from the SRA and will ignore to. Most consumers have a mix of parameters, including price, service, style, communication, confidence and location. The recent Law Society research suggests most consumers think the market works. For such a complex parameters past experience or the experience of friends or other personal contacts is still by a very long way the best way for them assess whether any provider meets their personal mix of requirements. For most of these the proposals by the SRA will add little or nothing, including mandated price comparison on websites.

There are consumers poorly served by the legal services market, but most of those are poorly served because of the withdrawal of legal aid for services that cannot be provided on a commercial basis (because the consumer cannot afford to pay).

"Game changing" entities who "push the boundaries in delivering advice in other ways for people who would rather access legal services in different ways" (Coop Legal Services) in a very similar way to that which the SRA now suggests consumers require/desire have failed in the market – does that suggest that consumers don't require or desire them.

Online resources have been put forward as the solution, but have not yet worked (e.g., the Dutch Rechtwijzer). (See Technology and access to justice: the end of the beginning? Roger Smith (INL Nov/Dec 2017). There is some prospect that for some of the "process based" issues apps will meet market demand (e.g., parking tickets). That is good, but unregulated.

Quality Marks

In the 30+ years I have been in practice the greatest impact on the quality of services has been quality marks and panels, promoted by the Law Society, LSB/LSC and CML. No mention is made of those. They are probably the best surrogate for "quality".

Price Comparison Websites

Although the CMA generally approved DCT's this was subject to important qualifications. These sites mainly operate in simple markets.

An analogy

The legal services market is not simple. The SRA seem to regard legal services as a "good" like a car. They are not, they are a service, like a journey from A to B, although at the outset B may not be identified or there may also be C & D. The consumer may choose to walk (e.g., be a LiP). They may choose to take public transport (where it still exists). They may choose to go by car; if they do some will want a Hyundai or Dacia, some may want a BMW and some a Rolls Royce; they may want to drive themselves, hitch hike or have a limo. They will all have different driving styles; e.g., sporting, comfort or economy. They may choose to buy their car outright (new or old), lease it, or hire it, The SRA proposals would address that market by requiring publication of a price for a journey from A to B

2. About you

1.

First name(s)

Zeeshan

2.

Last name

Mian

6.

I am responding..

in a personal capacity

7.

In what personal capacity?

Other legal professional

8.

Please specify

barrister

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

Immigration Law (vulnerable group)

Wills & Probate

Commercial Lease

small claims

11.

2) Do you agree with our proposed principles of price transparency?

partially

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

Yes

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and

timescales in any legal services where we decide to require price publication?

No. it would mean considering horses and donkeys in same category

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

No.

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

by not publishing misleading advertisement on social media whereby it is usually conveyed that SRA is saviour of the members of public from solicitors.

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

depends.

17.

8) Do you agree with our proposals on the publication of PII details?

yes.

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

yes mandatorily.

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

yes mandatorily.

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

if you are proposing to include regulatory findings then you should also add the views and position put forward by a relevant solicitor. It would also be a good idea if you could give access to solicitors to this register to provide regular updates of the positive customers' feedback.

6. Consultation questions: Publishing areas of practice and complaints data

21.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

yes

22.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

i have mentioned above. you need to publish two sides of story.

23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

as above

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

24.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

must.

25.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

must

8. Consultation questions: The draft rules and enforcement

26.

17) Do you have any comments on the drafting of our rules?

my personal views: SRA should not have authority to draft its own rules; its authority should be limited to enforce the rules drafted for it.

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

28.

19) Do you have any further information to inform our final impact assessment?

2. About you

1.

First name(s)

Richard

2.

Last name

Moorhead

6.

I am responding..

in a personal capacity

7.

In what personal capacity?

Academic

8.

Please enter the name of your institution

UCL Faculty of Laws, Centre for Ethics and Law

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

11.

2) Do you agree with our proposed principles of price transparency?

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

17.

8) Do you agree with our proposals on the publication of PII details?

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

6. Consultation questions: Publishing areas of practice and complaints data

21.

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23.

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26.

17) Do you have any comments on the drafting of our rules?

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

28.

19) Do you have any further information to inform our final impact assessment?

I agree that consumers do not receive enough information available on price, quality and service to help those who need legal support choose and I agree that this may inhibit access to justice: where consumers assume that legal service costs are too high when there are, in fact, affordable services; where competition

might reduce costs sufficiently for those at the margin; or where the apparent unpredictability of costs puts potential clients off (where in fact such costs could be predicted or fixed).

I also think this risk can be overstated: access to justice problems might more often be linked to solutions actually not being affordable (however transparently they are priced) or client's not perceiving that there are useful solutions to legal problems. As Kritzer notes, access to lawyers is not predominantly influenced by cost barriers but the nature of the client's problem. I am aware too of some legal service providers who have noticed a price sensitivity around fixed fees (where reducing their fee marginally below a natural threshold increases customer volumes). A sensible starting point for thinking about the impact of competition on access to justice is that it would likely have a modest impact on the numbers of people helped— unless such competition led to a radically different, and cheaper, model of service.

For now, such radically different models have not really reached proof of concept stage. Nor, if one is to be realistic, is the creation of more radically cheaper models inhibited by the absence of price competition in the regulated sector of the legal services market. This is for two reasons: one is that such models are quite likely to arise in the unregulated market and the second is that if – as I believe to be the case – clients want transparent prices, these new providers will offer them forcefully and first. It will be a marketing advantage they use in their favour for as long as the legal profession lags behind on this issue.

I note too some modest signs that the market may be correcting itself. There is an increase in consumers shopping around from 19 to 27 percent reported in your study over a seven year period, it is a modest increase from a low base. The competitiveness of the market is growing, albeit slowly. On quality and choice, research on consumers generally suggests they assume a fairly uniform level of basic competence amongst qualified practitioners, but also take some account of specialisation. I know from my own informal research I have done with students, that specialisation is attributed haphazardly on the basis of a wide range of not always reliable information (website testimonials; size of firm; self-proclamation by practitioners). I do not see these proposals improving on that significantly. I understand the importance, and limitation, of personal referral as a basis of consumer choice and the desirability of more active choice.

I also understand the argument that, "clear information on regulatory protections should encourage small businesses and other consumers to approach the firms that are regulated legal services providers to resolve legal problems." Given that consumers often assume that unregulated providers have such protections there is a theoretical case that advertising protections in the regulated sector may bolster their businesses because consumers become aware of the need for the legal equivalent of ATOL protection. I have seen no empirical evidence to support that theoretical view in legal services: that is evidence that such marketing works. Although Claims Management Companies use the fact of their regulation as a marketing tactic, I do not know if it actually helps them garner business.

I note that your plans for mitigating the challenges of your proposals do not include any in-depth assessment of whether they have an impact on consumer behaviour, beyond the suggestion you will 'gauge the impact'. I would be expecting a robust plan to examine behavioural change and whether that change is negative. The FCA did a large amount of work on information based remedies in advice work and found, if memory serves, weak or non-existent behavioural change. There is a substantial risk of regulating here to no purpose. What is the evidence that digital badges, for example, will have any effect? Similarly, your assessment of the impact of price transparency rules is whether firms adopt them, not how it impacts on consumer behaviour. The latter is more important than the former (although both are important). It would also be important to monitor impacts on price: there is the possibility that in moving towards fixed prices market prices increase – either because firms price in a margin for risks on the swings and roundabouts of fixed fees or because consumers opt for higher prices as a signal, spurious or otherwise, of quality. The latter seems to me to be a substantial possibility as there is an absence of good information on quality of providers and consumers will naturally see something of a quality signal in price.

Price transparency is laudable in principle but difficult in practice. I am not convinced you can successfully regulate for it. I think you should experiment but with caution. The information in Annex 2 varies considerably from case type to case type. Where you are confident of specifying it seems reasonably clear the market is already responding (albeit not as transparently as one would hope). Intervention here may speed things along: towards conveyancers having a standard online quote tool perhaps, where they have the website capability. This may favour larger, potentially more expensive providers – another reason why it is important to monitor price movements during and beyond the implementation of any reform. There are

some other problems with price transparency:

- I wonder if the accuracy of the price information be checked? What level of exceptions to the rule will be permitted?
- The complexity of information that might be recorded (such as varied pricing models, and exceptions to fixed fees) may encourage the kind of information overload and unhelpful drafting which was associated with Client Care letters when they were first introduced by the Law Society.
- Research on CFAs dating back to their introduction (Yarrow and Abrams) serves as a reminder that information can be as confusing as it is helpful. The SRA needs to tread very gently in requiring overly complex information – and should lead work, with consumer groups and others, on how best to explain standard features of – for example, CFAs and/or evaluating existing toolkits. Again the questions you should be asking are user-focused – do they inform? Do they change behaviour?

The proposal to provide indicative timelines on services is interesting. This is something which one suspects will confuse rather than aid clients; is not something which research suggests, as far as I am aware, generally informs their purchasing decisions. Indicative timelines are likely to be highly hedged by exceptions. I struggle to see the case for regulating to require them. It seems disproportionate and unlikely to achieve valuable gains for the consumer. It is the kind of micro-regulation which the SRA has sought to distance itself from too.

I am broadly supportive of the introduction of required and digital logos. The impact of the compensation fund logo on consumer understanding and behaviour might benefit from evaluation if it imposes significant costs on firms or the SRA itself.

I support the requirements to publish information on how to make first tier and LeO complaints. This is important information for consumers and the website is the obvious place to require it.

It would be interesting to explore the impact of publishing sanction information against individual lawyers in more depth than this paper does. How does it impact consumer behaviour? How does it impact career trajectories? Is there any research on this? It may also impact on the way SRA investigations are dealt with (are allegations fought harder, and/or does the 'shaming' element of publication impact on solicitor behaviour). Serious sanctions short of suspension or striking off may be increasingly likely to blight careers the more visible this information is; even though the regulator (or SDT) decision with regard to that case may not have that intention at all. Equally, it is hard to resist the idea that there is a public interest in being transparent about these issues and a three year sunset provision on entries short of strike-off or indefinite suspension provides some protection against this. A more proportionate approach might be to require firm level data be published (weighted in some way against size of firm) but individual data be more limited. In relation to complaints data, it would be interesting to see evidence on how firms report complaints vs expressions of dissatisfaction. Evidence on learning organisations suggests those that more assiduously collect information on service failures (which might include complaints) are more likely to improve. Through publishing data on complaints there is a risk the SRA will stifle this kind of reporting (where it happens) and encourage firms to manage cases as expressions of dissatisfaction rather than complaints. I would expect significant gaming of the complaints/dissatisfaction boundary by some firms. I do not see in the proposals a serious attempt to grapple with this problem or evaluate the size of it (although you do acknowledge it). Good firms that play by the rules, take complaint seriously, and so on will be penalised by information publicised by the SRA. Without a stronger case that complaints levels, as mandatorily reported, link to service quality I think I would be cautious here.

The proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII or the absence of Compensation Fund Protection seems to me unlikely to have much impact on consumers or their behaviour. Such disclaimers are likely to be given in ways which are not taken in by clients if they are understood at all. I do not see significant harm here though in requiring such solicitors to do this and it may be that consumers become sufficiently aware of the benefits of PII and Compensation Fund protection through the logo schemes and consumer sites.

This latter point is an interesting indication of some of the broader problems with these proposals. In seeking to make the market for regulated legal services more competitive, it may increase the costs of regulation. The regulatory case for doing so is only made out if behaviour will change. Some experimentation in the area is worthwhile but I think the SRA should be prepared assess carefully the impact of its experiments and be prepared to track-back if they are not shown to impact significantly on

| behaviour of suppliers and users of legal services.

2. About you

1.

First name(s)

Helen

2.

Last name

Newson

6.

I am responding..

in a personal capacity

7.

In what personal capacity?

Solicitor

8.

Please enter the name of your firm/employer

Andrew & Co LLP

9.

Please specify if you are

10.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

None. I do not agree with publishing prices as it gives the misleading impression to the public that all legal work is neatly packaged and it will make our job in scoping realistic costs estimates even more difficult

12.

2) Do you agree with our proposed principles of price transparency?

See above. We have to be clear on pricing when a client comes to us and we know what it is we are being asked to provide a price for.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

I cannot see how this would be useful for private clients let alone large commercial ones

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

No, this should be provided as it is now, once a solicitor is retained

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Don't we have one already?

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

No

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

Don't create more logos than they are worth as they become meaningless

18.

8) Do you agree with our proposals on the publication of PII details?

No

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

If this is simply a link to a complaints procedure I don't see the harm in this

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes in particular if it is stressed that clients who are unhappy with unregulated firms cannot so complain

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

Seems routine

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

Provided this is simply a note of areas of work covered I see no issue with that

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

This should not be published as it is too open to misinterpretation

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

None

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes - allowing solicitors to work in unregulated firms is a bad idea so the public needs to know this

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

ditto

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

No

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

Stress the lack of protection for those asking unregulated firms to carry out their legal work

29.

19) Do you have any further information to inform our final impact assessment?

Solicitors have to be on their mettle when providing costs estimates, timescales, having a decent complaints procedure etc. Publishing price data will only serve to reinforce the perception that legal work comes in nice neat little packages for which only one price will be charged thus making it even more difficult for us to explain when those estimates are increased as the work we are asked to do is not as straightforward. Any firm seeking to provide legal services should be subject to the same regulation and the LSO should take complaints from dissatisfied "customers" of unregulated outfits. Attempting to increase regulation by publishing data etc does not protect the public, as at the same time other more important areas of regulation are being diluted. This will only serve to confuse the issue yet more and reduce the protections currently available.

Dear Aseia

Thank you for your email.

I have read the consultation and my key concern is how the SRA is going to balance the interests of consumers to obtain transparent information with protecting the diversity of the legal services market.

Essentially, if prices of certain products were released, high street firms which provide the the same services as large law firms will not be able to compete on pricing. This will result in a decline of high street law firms. Access to justice issues may arise particularly wirh the BME community as they will see fewer law firms on the streets which could assist with any language difficulties. In addition, many if these high street law firms are owned by BME lawyers which again will impact on the diversity of the profession.

I trust that these comments will be placed to the board for further consideration.

Kind regards,

Angeli Vadera

Looking to the future: better information, more choice

Response ID:17 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

Start with wills as that is probably the most straight forward. The less the better and see how it goes. Just about none of the categories proposed affect me although I have always published my hourly rate since 1994 on my website.

12.

2) Do you agree with our proposed principles of price transparency?

I think it will make customers buy on the basis of cheapest price which is extremely dangerous for most of them so will lead them down a very difficult path (with the compensation fund having to bail them out -i.e. I and others)

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

Yes. I do commercial work. How on earth can anyone say what a competition damages claim will cost? I can give a cost for the first draft of one letter. I can give a rough idea for various stages but to apply these new rules to general commercial work just will not work.

Also if you exempt a "firm" that is a very blunt instrument. If I advise big companies but today for example just advised a one man company on a confidentiality agreement - would my firm be caught because I happen to have some smaller clients? It needs to be the work categories (eg all commercial work, all work for business clients even small businesses) which is exempt. Remember we already have a duty to tell people the likely cost and charging basis anyway. We all have to send client care terms/letters etc etc.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

The less detail people are forced by regulation to give the better as we can leave it to their professional discretion.

I have advised a client - a trade association - in the past on the competition law implications of forcing members to give particular information.

Has the Law Society taken competition law advice on these proposals? It is very very important particularly in the light of the Society losing the conveyancing training case and I think there is another case too regarding competition law and the Law Society that this current proposal is not a third debacle leaving it

with egg on its face. Go to one of the leading competition law practices and get good advice. The competition regulators are all over price comparisons at the moment like a rash.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

I have searched through the full consultation for information on the badge and it does not give us enough information to know./ I would prefer to leave things as they stand as we already use words about regulated by SRA.

If the digital badge is free and we are not charged by website providers to add it to the website or the Law Society pays for it to be added our website and it does not look down market and awful like the current SRA logo then it might be slightly tolerable. I have little faith it will look okay and I bet it costs money for us to implement it.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

If we have to have it then it depends on client base. My clients are all businesses. So advertising it in the Financial Times might be the best starting point.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

No. Whilst I accept it is voluntary for those of us who have never had a complaint of any kind in 20 or 30 years to have to thrust in the face of clients compensation logos just seems like compensation culture gone mad - come on down, invent a claim and the profession will pay out.....

18.

8) Do you agree with our proposals on the publication of PII details?

I am very puzzled by them as they are already the law under the Provision of Services Regulations 2009 as we all know and already obey so adding it to the rules is otiose.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

No.

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

No, other than the existing rule we already follow and as in the Provision of Services Regulations 2009.

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

Dreadful idea. Many complaints are spurious and upheld because of the force of the complainant or because of some minor technical breach which had nothing at all to do with stealing clients' money. The fact people have that hanging over them for life on the internet is totally unfair.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

No

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

No.

I propose we leave things as they are.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

Massive warning at the top that the world is full of moaning minnies with spurious claims who just had a bad night with their spouse last night and want to take it out on a solicitor.... more seriously you need an awful lot of context. I

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes. I was reading a new law firm's website the other day and their terms of engagement do make it clear - they are not a solicitors' firm. they did mention they have PI cover and they explained what the difference between the solicitors' firm and not was in their Q&A. It seemed a sensible way to do it. These people are paying fewer fees and if i did not do litigation which is reserved I would be tempted too. The public are very confused.

Perhaps we need to move back to just solicitors' firms and get rid of these other kinds of entities.

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes.

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

Not really. I like short clear rules, very few of them easily accessible on line by a word search when you are looking up a particular point and ideally in pdf and other formats too to make searching and use easier and perhaps with an annual email to the profession of the whole pdf of the rule book.

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

I do not work for consumers to no comments here.

29.

19) Do you have any further information to inform our final impact assessment?

Looking to the future: better information, more choice

Response ID:17 Data

3. Consultation questions: Asking firms to make more information available to consumers

10.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

11.

2) Do you agree with our proposed principles of price transparency?

12.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

13.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

4. Consultation questions: Regulatory status and protections

14.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

15.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

16.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

17.

8) Do you agree with our proposals on the publication of PII details?

18.

9) Do you agree with the proposal for firms to publish details of how to complain?

19.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

5. Consultation questions: Creating a digital register

20.

11) What are your views on the proposed content for the digital register?

6. Consultation questions: Publishing areas of practice and complaints data

21.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

22.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

23.

14) If we do publish first-tier complaints data what (if any) context should we provide?

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

24.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

25.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

8. Consultation questions: The draft rules and enforcement

26.

17) Do you have any comments on the drafting of our rules?

27.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

28.

19) Do you have any further information to inform our final impact assessment?

2. About you

10.

How should we publish your response?

Please select an option below.

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

An initial rollout in Residential Conveyancing seems to be a good starting point because it is a practice area where pricing can be quite clear cut e.g. it is often based on a % of the sale and/or purchase price. Transparency would be extremely beneficial for most consumers as it's an area of law that most consumers are likely to legal support with in some way. It is also an area of law where price is not the most important concern for consumers; this is important because having firms publish price on their websites should not have too much of an adverse impact on the firm's profitability. As mentioned in the SRA's initial impact assessment, 86% of home movers said that they "did not choose the cheapest conveyancer". Furthermore, a small amount of firms providing residential conveyancing already publish price information and it is a practice area where there are many legal providers and individuals and small businesses are most likely to compare prices. Alternatively, Wills & Probate might be another option as, again price may not be the most important concern for consumers and it is an area of law that will affect most people.

12.

2) Do you agree with our proposed principles of price transparency?

Yes, as mentioned previously in the section entitled "Rationale for Change", the regulatory framework is a better fit for the evolving legal market. Price transparency for consumers is almost paramount in all other industries and markets and it seems to be a natural transition for the legal market. Furthermore, price transparency will empower consumers so that they can make informed decisions, have more choice about who to instruct and potentially lead to an overall reduction in costs by evening out the market. It will also encourage firms to be innovative and compete with quality service delivery and promote access to justice. This will be a significant improvement to the legal market and a necessary one, since it is claimed by the SRA that only a third of people with a legal problem seek advice and "assuming services would be too expensive" is the most common reason for not using solicitors. The only potential downside to price transparency would be that there may be examples of price collusion, however this is likely to be deemed as unlawful and not a significant risk due to the current size of the legal market and the number of competitors.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

Yes, some commercial clients require bespoke work from law firms/legal service providers and it would be impossible to publish prices for them to compare, especially if it constantly evolves. Furthermore, it would be difficult to compare prices for pieces of work the commercial client might not necessarily know that they need specifically before instructing a law firm. It is also important to note that this proposal is in reaction to some issues that are facing consumers when it comes to seeking legal services i.e. lack of awareness,

choice and legal knowledge. These issues are likely to be less prevalent amongst larger commercial/corporate clients as they have the resources, the choice and know-how to assist them in selecting what firm to instruct.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

Yes, having merely the price published on a law firm's website would be insufficient for consumers to be able to make an informed decision when deciding who to instruct. In order to have complete transparency, descriptions of services and likely time frames need to be published. This will encourage competition and innovation within the legal market. Furthermore, since consumers generally lack the legal knowledge and expertise in some of these areas of law, having description, stages and timescales of legal services that a firm provide will address some consumer confusion and address information asymmetry. This will encourage consumer participation. The only potential downside to publishing this information is that law firms will be open to more complaints relating to not meeting timescales or if costs are reassessed. We almost exclusively provide legal services, on long term contracts, to in house lawyers and there is a lot of preliminary discussion with the customer to agree scope before we can price to meet their bespoke requirements. Price publication would have no relevance to our customers because of the nature of the services we provide to sophisticated purchasers.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Yes. It is a great method of increasing consumer awareness of how important it is for a firm to be regulated by the SRA. However, whether a logo will necessarily be an improvement to the currently used phrase "authorised and regulated by the SRA" is not clear. It will certainly be an improvement having a link on all regulated firm websites that instantly verifies their status. This will help address any concerns consumers may have of online impersonation and will potentially prevent the risk of fraud or at least deter it.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Social media and adverts may assist in increasing awareness, as well as a requirement for solicitors to explain what being regulated by the SRA means for each new client. Increased marketing of the logo as a sign of quality service delivery is key, especially since consumers often see quality as a main factor for choosing which firm to instruct.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

Yes, consumers are often unaware of such protections, as such publication is paramount in order to have complete transparency and although this lack of awareness does not appear to deter consumers, it is important for these consumers to be able to make an informed decision. Consumers would be able to decide what firm to instruct, taking into account the fact that they would be entitled to the Compensation Fund if the firm instructed is SRA regulated. Keeping the use of the logo voluntary is also important for law firms that only deal with commercial/corporate clients that would not be interested in/eligible for the Compensation Fund. However it does seem a little contradictory to the concept of transparency if this logo is voluntary and only used by certain firms. Some consumers may still lack the awareness that this fund exists, if the firm they are instructing does not use the logo.

18.

8) Do you agree with our proposals on the publication of PII details?

Yes, publishing PII details increases transparency and gives the consumer more security by requiring firms to disclose the insurer's contact details. By doing this, it will hopefully avoid cases of fraud should any

unexpected event cause the consumer financial loss. There is unlikely to be any negative impacts on the consumer or on an SRA regulated firm by publishing limited PII details. However, it may be of concern for non-SRA regulated firms as they lack the protection and competitive edge that these regulated firms have. Although PII cover is a useful benefit to consumers when instructing a regulated law firm and could give the law firm a competitive edge.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

Yes, in line with the evolving legal market, most other industries are moving in a way that puts all power into the hand of the consumer. With this in mind, this seems like a necessary feature of complete consumer transparency. The consumer needs to know that they have the ability to complain and how to. As a result, it is likely to empower and increase a consumer's confidence when deciding on instructing a firm of solicitors. The only downside to publishing details of how to complain is that firms may receive unwarranted complaints. However, as a result of this, firms are likely to focus more on quality service delivery and this in turn should reduce information asymmetry.

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes, by publishing details of how a consumer can complain to the Legal Ombudsman, a consumer is made aware of potential deadlines for complaining and this helps consumers avoid cases of deliberate malpractice. This also encourages good behaviour in law firms and healthy competition. By firms publishing details of how to complain to the Legal Ombudsman, consumers will have more support and this will increase consumer confidence and reduce their lack of knowledge and lack of awareness. Will information be given on who cannot complain to the Legal Ombudsman for example third parties who are not the recipient of the legal services and large businesses?

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

It makes perfect sense moving all published regulatory data into one place, creating a one stop shop for consumers, potential clients, or prospective employers to evaluate solicitor's and law firm's credibility prior to making contact. Again this transparency, puts control back into the hand of the consumer and discourages malpractice. It increases a consumer's knowledge and allows for them to make an informed decisions on which firm to instruct. However by increasing a consumer's choice there is a slight worry that this may cause confusion, but it seems more detrimental to a consumer, having a lack of choice then having too much choice.

Can clarification be given on how consent is obtained from solicitors to publish their data on a public register and also how those solicitors can opt out of such publication?

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

We believe that the benefit of the digital register is that it is a consolidated space where consumers/clients can obtain the information they need when deciding on what firm to instruct for a piece of legal work. Having two separate spaces for the register and the annual information about areas of work seems a little contradictory. Although we understand that the data on complaints and areas of practice will be historical. However, for the future, it would be a lot more convenient and beneficial for the consumer if both were combined. Although logistically this could only be achieved if the data on complaints and areas of practice was kept up to date constantly.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

Complaints data should be published, as this can sometimes be seen as a true reflection of a law firm's quality of service. In line with consumer transparency, it will assist consumers in making informed decisions about what firms they will instruct and it can only encourage improvements in quality service delivery. Furthermore, only retaining three years of complaints data and only one complaint per client per matter means that the information will remain current and will accurately portray the firm's realistic quality of service. However this is caveated by our wish that complaints should only be published where they have been upheld and are not vexatious, or without merit. Also the firm should be able to respond as to their thoughts on the complaint.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

The context should not be too complex or detailed and should only entail explaining briefly an overview of the related matter and contain both the consumer's complaint and the firm's own reason why the situation occurred and any mitigation. Providing too complex a context for a complaint may be overwhelming for a consumer and may be an increased administrative burden on the firm. Providing no context at all for a complaint, may mean that consumers would be unaware if it is unjustified and this could be detrimental to a firm's reputation. Also, would the name of the complainant be disclosed as consent would need to be given and such information could be misused?

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes, purely on a security level. Consumers need complete transparency at the point of engagement in order to know whether they are entering into a secure transaction. As you mentioned in your initial impact assessment, it will "incentivise the non LSA regulated firms to explain their actual insurance position to clients" and clients will know what protections are afforded to them. It is vitally important that clients are aware that the firm does not have compulsory PII and no access to the SRA Compensation Fund. We suggest that the SRA provide wording on this so that it is clear for the client, as it could be confusing to them.

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes. Clients should be aware of the negatives of using a non LSA regulated firm i.e. no compulsory PII and no compensation fund as these are clear benefits to using a regulated firm.

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

No, the SRA publishing information that is already required by statute but in a more consumer-friendly and clearer manner seems like a logical next step. There are clear issues within the legal market that need resolving or addressing and the drafting of these rules appears to be a sensible way forward.

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

It may be conducive to the SRA's main objectives with these proposals to introduce regulations or guidance for third party intermediaries that intend to set up comparison sites for consumer related law firms. This

would be to make sure that these third party intermediaries do not abuse or portray information about specific law firms in a manner that is beneficial to their business or unlawfully detrimental to the law firms. For example the website "solicitors from hell" which was used purely as a revenue making exercise to demand money to remove defamatory false statements about certain law firms and solicitors. The third party intermediaries must show accurate and reliable information that the SRA want them to publish.

29.

19) Do you have any further information to inform our final impact assessment?

Today's legal market needs are in the majority of cases met by consumers who have the internet to assist them with legal issues; if solicitors are to compete with this they will need to offer more than just legal advice. They will need increased transparency and greater quality service delivery to meet the consumer's needs. Every market seems to be becoming a little more commoditized in line with Uber-ification and the legal market needs to keep up with this. Regulated law firms and solicitors should be given the tools and support needed to compete with non LSA regulated firms and online providers. The benefits of using a solicitor/regulated law firm should be promoted extensively by firms, the Law Society and the SRA so that the public are aware of the additional protection they secure should they instruct a solicitor/regulated law firm.

Looking to the future: better information, more choice

Response ID:17 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

We do not think that you should proceed with price publication in any area.

12.

2) Do you agree with our proposed principles of price transparency?

We agree that our clients should be fully aware of what the charges will be for the work we are instructed upon and we abide by the Code of Conduct in this regard. We do not agree that prices need to be published for general consumption.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

We do not agree that prices should be published and therefore there does not need to be an exception.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

No.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

No problem with this.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

No.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

No.

18.

8) Do you agree with our proposals on the publication of PII details?

Our insurers and brokers discourage us to disclose this information as it invites spurious claims to be made. If this becomes a requirement it will put us in a difficult position with our insurers. Also if a claim is made, it needs to be made to the firm in the first instance and not our PI insurer. So we do not agree with this proposal.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

We do this already in our terms of business. We would not have a problem putting this detail on our website but do not feel it is necessary. So no we do not agree.

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

We do this already in our terms of business. We would not have a problem putting this detail on our website but do not feel it is necessary. So no we do not agree.

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

We support this proposal. It will be helpful to have this data in one place especially when we are vetting solicitors on the other side of a transaction or solicitors who may join the firm.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

Yes agree with publication but it should be published in the same place as the digital register to give the data contained within context and meaning.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

No we do not agree. It would be unfair to publish first tier complaints that are not upheld. We think it is especially unfair for those firms that practice in areas that are emotionally charged such as divorce, residential conveyancing and estate administration to publish complaints. Publishing such data may discourage solicitors from recording complaints which is contrary to the risk approach of learning from mistakes. Complaints that proceed to the Legal Ombudsman are published by them.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

No context is currently required by the reauthorisation/PC renewal process and so this process would need to change. If publication is to occur then full context should be given but we believe to do this would be very time consuming and disproportionate to the aim and could prohibit timely completion of the reauthorisation/PC renewal process.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes.

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes.

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

Less isn't better if the impact is to prejudice the clarity and flexibility. We still refer to the 1999 Code on occasion for guidance because it is still helpful. Incidentally we have been informed by your Ethics Line that they do this too.

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

Unsure.

29.

19) Do you have any further information to inform our final impact assessment?

No.

Looking to the future: better information, more choice

Response ID:17 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

There is a real need to drive clarity in the precise definition of the service lines where price clarity is required. For example within conveyancing this can extend from residential to land and agriculture to commercial property.

12.

2) Do you agree with our proposed principles of price transparency?

Any initiative that allows a greater level of transparency to consumers is inevitably a positive step. However, the legal services market is incredibly fragmented and there are a variety of different types of providers particularly in residential conveyancing, which is an area that is ripe for commoditisation.

If firms regulated by the SRA are compelled to publicise this data, those firms regulated by a different regulator (CLC, CILEx etc) will not necessarily have to follow the same regime and this will create a disparity.

There are a multitude of factors that impact pricing decisions, not least a firms overall strategy and appetite to offer a particular service line and the cost base and operating structures used to deliver the work. The problem we foresee in publicising pricing is that there will be a considerable range of pricing in residential conveyancing and whilst consumers typically perceive all firms to offer the same service, the reality is very different. You do have to question quite how helpful providing such a broad range of fees will in fact be to the consumer.

All firms will price in different way, for example some will offer fixed fee, others hourly rates. Some will have a very low base fee but add in various 'supplements' making the initial cost appear lower but in fact it is hiked up with those additional supplements hidden carefully in the small print. Some firms will price depending upon either tenure or property value and comparing 'apples for apples' will be incredibly difficult. There will also be geographical differences and where pricing will differ in different regions. Firms with different pricing for different offices, e.g. London might find themselves needing to publicise a variety of pricing depending on their geographical operating areas. Pricing may also depend upon demand and so when a firm is low on work or has little capacity, pricing can fluctuate. Some firms may have a tiered approach, offering different levels of service i.e. volume and bespoke.

Would a publicised pricing table factor all of these variations in whilst still slowing a firm enough flexibility to make its own commercial pricing decisions relatively fluidly? Will all of this potentially confuse the

consumer? One answer might be to ensure that there are categories of pricing or tiers and that the supplements are also publicised. The issue of transparency needs to be carefully balanced with a whole host of factors that impact pricing and would need to be truly transparent (and probably really quite complicated) to ensure that some firms were not unduly disadvantaged or that consumers perceive the transparency to be a nonsense as it isn't clear enough.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

No.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Yes.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

No

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

18.

8) Do you agree with our proposals on the publication of PII details?

Yes

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

Yes

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

No comment

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

No comment

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

In principle yes. However we believe that there would need to be a very clear definition of what constitutes a complaint and what is reportable. We can foresee that different firms will take a different approach to complaints and whilst the all complaints are clearly reportable, there are those cases that do not quite escalate to a complaint but where a firm might still treat them as such. Do firms record these or not for the purposes of the publicised results? We would assert that those complaints that reach the Legal Ombudsman are publicised separate to general service complaints.

We would also suggest that complaints are recorded against practice area and that those figures are contextualised by looking at the size of the practice. So for example a firm dealing with a large amount of private client work e.g. residential conveyancing and which has a volume practice will inevitably have a higher level of complaints, which is proportionate to the size of that practice. If complaints are not reported in this way then some firms will be significantly disadvantaged by disclosing these figures where consumers perceive them to be poor firms.

As with pricing, because of the variety of different legal providers who may not be regulated by the SRA, any publication that only impacts law firms who are SRA regulated will create a disparity. If SRA regulated firms find themselves having to disclose complaints but other models, such as ABS or firms regulated by CILEx/CLC do not, consumers will not be able to make an informed choice and it may create negative PR and reputation around those law firms or indeed the SRA as a regulator!

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

We agree that some complaints data should be published. we also agree with the comments at point 128, that data must be contextualised in order to be meaningful, and it must be presented in a way which reflects some parity between the size, practice areas, and client base of firms. Unless there is such parity, we do not agree that such data should be firm collated, first tier data: There will inevitably be some firms who will take steps to distort figures to their own advantage, and this cannot be monitored without any filtering by the SRA. Also firms with practice areas which traditionally attract more complaints and claims (such as high volume residential conveyancing) will be unfairly represented.

An alternative might be to publish the percentage of matters that generated a complaint within a certain period of time to give some context. with the % number of complaints received within that period which have been referred to LeO and which have resulted in a change of outcome, in favour of the consumer. Similar to the data that is currently shown on the Financial Conduct Authority's website. This would then reflect the % of complaints that a firm has failed to deal with reasonably. This is a much fairer measure than simply providing first tier 'number of complaints data' – as it would prevent distortion from unjustified or vexatious complaints and the lack of parity between size/practice area/client base. It should also encourage firms to adopt a reasonable, objective approach to resolving complaints, and may prevent more matters progressing to LeO.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

We believe that this should actually be much broader and that any business supplying legal services should be required to inform of the absence or otherwise of indemnity insurance. That way a level playing field is produced across the market. If the requirements only relate to solicitors then there will inevitably be other regulators in the market which have different requirements for PII. The provision of PII has a direct impact on cost of business, and those that do not have to or can insure at lower levels will have a competitive advantage whilst at the same time appearing much more competitive to the consumer, but

without the consumer understanding the risk that the consumer is taking that there is no PII or reduced cover of PII present. The solution may be to require specific sign off by the consumer where an insurance is not available at or above specific levels set for the whole market, not just by the SRA for solicitors regulated by the SRA.

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes – consumers should be made aware of the risks of instructing a non-regulated service provider.

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

No

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

No comment

29.

19) Do you have any further information to inform our final impact assessment?

No comment

Looking to the future: better information, more choice

Response ID:96 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

None.

The pricing of the provision of professional services should be a carefully considered matter in each case. Regard should be had to the proposed subject matter and to the nature of the proposed client. Other factors such as risk and urgency should then be factored in. It is then for the Solicitor to decide the appropriate price in each case.

It must also be recognised that that in all legal services it is frequently found that more work or different work is required once the matter commences or as it develops. This can be reflected in an engagement letter but not in an online quote except by disclaimers and hedging.

Of course, when asked in the course of a survey the public say that they would like to be able to be able to buy legal services in the same manner as goods on Amazon. That is understandable. But it does not reflect what is being sold in relation to any services let alone legal ones.

In fact the public would not be helped by being persuaded to shop for Solicitors online by reference to price. That would cause price to be the deciding factor for a matter, rather than an important one. Potential clients need to engage with legal practices in order to assess what they need, whether they will receive what they need, whether they can work with what is offered and ultimately the price of the service. That is particularly the case with the most vulnerable such as the elderly or disabled.

Regard must also be had to preserving the confidence of the public. This will not be served by the profession behaving as market traders. No other equivalent profession touts their services online.

12.

2) Do you agree with our proposed principles of price transparency?

As in 1 above

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

No sector of solicitors should be treated differently for the purposes of regulation except where necessary and the very fact that is thought necessary to exclude people from the system shows the fallibility of the system of regulation proposed.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

The very need to ask this question shows the complexity of what is being proposed by the need to specify all these individual issues which will make comparisons invidious and complicated and lead to misunderstandings as to the reasons upon which clients have entered into retainers with solicitors.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Logos are misleading. We recently saw the Law Society before the Advertising Standards Board in connection with CQS and its logo.

The meaning of the word solicitor is well known and the object of the SRA should be to uphold the meaning of "solicitor" and its branding rather than to allow it to be diluted by the provision of other forms of legal services. The SRA's role does not include becoming involved in the provision of "digital badges" which will only be used for marketing purposes particularly where the SRA has already taken steps to allow non-regulated entities to offer reserved services. Surely the key is to ensure only regulated solicitors provide reserved legal services.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

No. I do not think that consumers will benefit from greater awareness of the SRA's logo.

Please consider why the SRA should need to be at the forefront of a client's mind in relation to legal services as against his/her solicitor.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

We do not agree that the SRA has any role in promoting logos or the quality of law firms. The SRA's role should be restricted to the regulation of those firms and the regulation of solicitors offering reserved legal services.

18.

8) Do you agree with our proposals on the publication of PII details?

I agree with The Law Society that any prospective client would expect that a solicitor would be adequately insured and this information can be dealt with within the terms of business. There should be no such publication.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

No. My experience is that clients do not welcome such information at the outset. In their minds it advances the likelihood of things going wrong and of disappointment. It kicks off with a very negative message. Imagine taking delivery of a brand new car and being told what to do if you are not happy with it.

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

As in my reply to 9 above. There is no valid reason to publish details of how to complain before a retainer agreement has been entered into, except to encourage the sort of client who expects to complain normally as a way of reducing the final invoice. It is clearly set out in the retainer letter which goes as far as is necessary for the protection of the client.

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

This greatly exceeds the role and purpose of the SRA. It would be used not by clients but by third parties seeking to use it for commercial purposes.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

I do not agree. This is something solicitors can publish on their own website if they wish. It is also information that is already available on the Law Society's website. There is no need for the SRA to waste funds and resources duplicating this work.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

This responds to 14.

For the reasons set out by The Law Society sole practitioners also strongly disagree with the proposal to publish complaints data and have significant concerns about this proposal. There are numerous reasons why clients make complaints. No doubt many are justified but many are brought in order to reduce costs after the event. The fact that it is proposed that complaints themselves regardless of upheld complaints are intended to be published gives the client an enormous bargaining power to achieve a settlement over an argument over costs before the matter becomes a complaint which has to be centrally publicised on the complaints register. The effect of publication will also be disproportionate to sole practitioners who have fewer resources available to deal with vexatious complainants.

The whole proposal is open to wholesale abuse and the Legal Ombudsman and the SRA have the necessary powers to ensure that any firm whose complaints record should be made available to the wider public in the interests of the public, is brought to the public's attention.

So far as the sole practitioners are concerned their opposition to this proposal is a red line.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

as in 13 above

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

This also responds to 16 below

The public expect solicitors to have PII and it is widely known that there is a compensation fund.

It is not at all widely known that some solicitors do not have this because of changes allowed by regulation.

It is a duty of the SRA to bring this to the public's attention.

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

as in 15 above

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

The rules are unnecessary because there are no circumstances in this response where the SPG or in fact the Law Society agree that regulation is necessary

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

The SRA should use its resources to provide clear and calm information as to what Solicitors do and how it is charged. It should explain to the public why price comparison websites may be misleading and why they may lead to dissatisfaction.

Instead of asking leading question such as whether price transparency is helpful, the SRA should investigate levels of public satisfaction amongst those who have relied upon price comparison websites. It should also be appreciated that those who would wish to undermine the Solicitors profession use such information to their commercial advantage. Whilst that may include regulated parties such as Licensed Conveyancers there are many other unregulated one looking for access to the legal market.

29.

19) Do you have any further information to inform our final impact assessment?

This exercise is unnecessary and with respect, more to do with the role of the SRA itself than that of Solicitors providing services to the public.

Looking to the future: better information, more choice

Response ID:96 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

Along with price publication, we believe you should consider asking firms to publish description of services and indication of quality of services. This may prevent consumers from merely looking to price comparison websites, and instead the information should be presented together in a way which reflects value for money.

12.

2) Do you agree with our proposed principles of price transparency?

Many people are unhappy with the requirement to publish pricing because it may prevent them from winning work. They may be a bit more expensive than their competitor, but provide a better service. Statistics show that consumers generally do not at the moment go for the cheapest conveyancer but this may encourage them to do so. Price transparency is hugely beneficial to consumers though, it is just important to help them understand where the added value lies.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

If the firm has a commercial agreement with a client, this is a private agreement and the price would perhaps be negotiated between them and so should not have to be published. If this is the case, the exemption could be defined by considering any transactions over a certain value where fixed fees are not applied.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

Yes, as previously stated, a consumer needs to be able to understand where the value for money is. If this means for example that they can search online reviews about their conveyancer and make a more informed decision, this would be beneficial in providing more information, for a better choice.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Yes, we think that badges like this in other commercial areas ensure that a consumer can trust the company they are dealing with. The fact that only SRA regulated firms would be able to use this logo would reduce the risk of bogus firms purporting to be legitimate.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Below the logo there could be a statement to say - this logo can only be accessed by SRA regulated firms. Review sites could also assist by providing an explanation of the regulatory bodies, and specifically about the logo, to assist with consumer awareness.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

Yes, if firms are contributing towards the compensation fund, they should be able to choose to use a logo.

18.

8) Do you agree with our proposals on the publication of PII details?

Yes, firms should publish that they have professional indemnity insurance that meets the minimum requirements of their regulator. This will go further in providing consumers with reassurance about the solicitor they are choosing.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

Yes, whilst firms that have done this already have said that it just encouraged more complaints, they found that doing it sooner (before it was made a requirement) allowed them to fix any issues and make their processes better, before it becomes mandatory. It is important that the information for how to complain is accessible to clients but not in a way that makes them feel that they are justified to complain about things that are perhaps unjustified, leading to damage to a firms reputation.

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes, again it is important that consumers know how to complain and who they can complain to. Whilst in other areas where customer service is prominent, finding out how to complain and who to is reasonably accessible, and this should be the same for legal services where clients are spending a lot of money for a professional service.

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

The digital register should contain key details about a firm, and whether there are any notices against a firm.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

Yes, publishing it on the digital register could seriously hinder a firm that has previously received a complaint. This would be unfair if a firm had dealt with the issue and resolved it to an appropriate standard.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

Yes, to give the information to re-publishers/review sites is a good idea, however it is important that the people who are given access to this information are going to present it in a way which is not unfair and

doesn't seriously hinder a firm that has resolved a complaint appropriately.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

Perhaps where the complaint is up to - whether it has been resolved properly and client's satisfaction with the outcome.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes, perhaps in their client care letters if they do not hold PII, they should make this clear so that clients can make an informed decision as to whether they use them.

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes, for the same reasons as above.

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

No, the proposed drafting seems appropriate.

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

The SRA already works with third parties to provide data and should continue to do so for the benefit of consumers.

29.

19) Do you have any further information to inform our final impact assessment?

Looking to the future: better information, more choice

Response ID:96 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

No comments.

12.

2) Do you agree with our proposed principles of price transparency?

No issues to raise. Broadly supportive.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

Yes. We believe an exemption should be applied for firms which deal predominantly with large commercial clients. In our case the only legal services which appear to be relevant, under the SRA's current proposals, are those relating to 'Employment Tribunal' work. To require us to provide price transparency in relation to these services alone, would therefore appear to be somewhat perverse and illogical.

However, we question whether an exemption for firms that deal 'exclusively with large commercial clients' would be workable. Whilst we deal predominantly with large commercial clients and high net worth individuals, there may well be occasions (albeit rare) where we provide Employment Tribunal services to smaller businesses and individuals. Indeed this type of work may become more common as our Legal Services business develops. In view of this we believe that the scope of any exemption should be carefully considered and ultimately carefully defined. A de minimis level could perhaps be more appropriate coupled with replacing the word 'exclusively', with 'predominantly'. We would be happy to provide further views to the SRA in relation to this particular issue.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

No issues to raise. Broadly supportive.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

No issues to raise. Broadly supportive.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

No issues to raise. Broadly supportive.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

No issues to raise. Broadly supportive.

18.

8) Do you agree with our proposals on the publication of PII details?

In principle, we can appreciate the merit of the proposals. However, it is currently unclear to us, how paragraphs 88 and 90 of the Consultation document interact. We agree that information in relation to PII cover is considered sensitive by some firms, where the SRA have granted a waiver of the SRA Indemnity Insurance Rules 2013, 'minimum terms and conditions' (MTCs) on the basis of alternative insurance arrangements already in place. The commercial sensitivity point here relates to the extent of the coverage provided over and above the MTCs. The proposal is currently silent on what firms in this scenario would be required to disclose. We would be happy to provide further views to the SRA in relation to this particular issue.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

We do not see any major issues with this proposal, provided there is clarity as to how this would apply in an MDP. In this regard we would assume the information set out in paragraph 93 of the Consultation document, would only need to appear once in the firm's website, and that it would be limited to the SRA regulated legal services pages of the website?

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

No issues to raise.

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

No issues to raise. Broadly supportive.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

No issues to raise. Broadly supportive.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

We believe the concern raised in paragraph 133 of the Consultation document, whereby any requirement to publish complaints data could encourage some firms to keep matters out of their complaint system, has merit. This could potentially disadvantage compliant firms.

In addition, publication of complaints data could be meaningless and/ or potentially misleading without clear context. By way of example, a large corporate law firm with a very large client base, but with multiple complaints could appear to have a better compliance rating (percentage wise) than a moderately small firm, with fewer clients and fewer complaints, as distinct from an analysis of absolute raw data which might indicate the reverse.

We also believe that the publishing of complaints data without clear context, could provide consumers with a potentially misleading and inaccurate perception of a firm's overall quality of performance. Publishing data in relation complaints received and complaints resolved per se, overlooks the fact that some complaints could be unjustified and/ or vexatious. The safeguards referred to in paragraph 123 of the Consultation document go some way in addressing this, however, we believe that they do not go far enough as currently proposed.

We agree with the proposal that there should be a limit on the number of years of complaints data to be published and we would be happy to provide further views to the SRA in relation to this particular issue.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

Please see reply to Question 13.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

No issues to raise. Broadly supportive

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

No issues to raise. Broadly supportive

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

No issues to raise. Broadly supportive

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

No comments

29.

19) Do you have any further information to inform our final impact assessment?

No comments

Looking to the future: better information, more choice

Response ID:130 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

Non-contentious services lend themselves to accurate and comparable pricing estimation.

Contentious services (including matters which are subject to prescribed fixed fees such as a personal injury claim under the RTA MOJ portal etc.) are affected by external factors such as court availability, the stance adopted by the third party etc. making accurate pricing and completion timescales difficult to predict at the outset of a matter and a claim in particular. If pricing information becomes mandatory for all firms who undertake such work, it could lead to firms providing very vague and generic pricing information and/or firms will have to stipulate a large number of caveats on any pricing quoted either of which may well render the information incomprehensible and incomparable for consumers.

The services which firms could provide accurate and comparable pricing estimation. pricing are:-

Residential conveyancing
Will drafting
Drafting a Lasting Power of Attorney
Probate/Estate administration
Undefended divorce (without financial & children issues)
Business licencing applications.

12.

2) Do you agree with our proposed principles of price transparency?

We agree in principle with your proposal for price transparency, provided it is limited to the above services, the information required is succinct, it can be provided without too much expense (i.e. without the need for firms having to invest in the creation of on-line cost-calculators etc.) and is provided in a comparable and understandable format, which consumers will find useful.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

No, if a firm undertakes a service which the SRA require pricing details to be provided on their website, all firms should have to comply. This will ensure all consumers can make an informed choice of provider and will equate to an "even-playing-field" across the LSA-regulated Profession.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

We agree in principle with your proposal. However timescales provided on a website may ultimately turn out to be inaccurate and this may in turn give rise to the consumer feeling they were ultimately misled. Alternatively, for a firm to issue a list of comprehensive criteria which may adversely affect timescales on their websites may be both necessary and numerous and if the latter, may only serve to confuse rather than assist consumers.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

We agree to this proposal. However, further clarification is needed from the SRA in terms of how the SRA will monitor that only SRA regulated firms are displaying this logo as opposed to other entities that would not be entitled to display it.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

We would suggest a logo is publicised in advance of its introduction:-

1. On the SRA and Law Society websites.
2. In all citizen advice bureaus and law centres.
3. By way of nationwide advertising, drawing consumer's attention to the difference between regulated and non-regulated firms and the consumer protection a regulated firm offers.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

We agree with your proposal provided an additional logo will not serve to confuse consumers.

18.

8) Do you agree with our proposals on the publication of PII details?

We agree with your proposal.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

We agree with your proposal.

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

We agree with your proposal.

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

Your proposal will aid transparency and allow consumers to easily access the information already available, albeit from a number of different websites and organisations.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

We agree with your proposal to publish areas of work and accept any complaint data will be historical. However, we would suggest details of both justified and unjustified complaints is published to give consumers an accurate view of the service a firm has provided over the same period.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

We agree to the publishing of first-tier complaints but this data should be put into context so that the complaints are broken down to indicate the numbers of justified and unjustified complaints.

Complaints which are referred to the Legal Ombudsman are published on their website in any event and we have no objections to the republishing of this data.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

To put complaint data into context the SRA should consider publishing:-

1. The number of complaints made
2. The number of those complaints which were justified
3. The size of the firm, based on firm's turnover
4. The types of work provided by the firm

The introduction of an over-arching and universal grading system i.e. A, B, C or 1, 2, 3 etc., by the SRA taking into account all the criteria (suggested above) would make it easier for consumers to make an informed choice.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

We agree with your proposal but this will have to be regulated and monitored to ensure compliance. Clients must be made aware of the reduced protections in order to make an informed choice.

Failure by a non-LSA regulated firm to draw this clear distinction between them and a regulated firm could place un-regulated firms at a commercial advantage, making them more attractable to consumers yet offering less consumer protection.

Ultimately, the public's confidence in the Profession generally could be eroded, if consumers are not advised of the protection regulated firms offer, compared to a non-regulated firm especially if the work in question falls below the standard required, without any obvious redress available to them.

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

We agree with your proposal in principle. However, we would again make reference to the point raised in our answer to question 15 above and specifically, how this will be monitored to ensure that non-regulated firms are advising consumers accordingly.

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

Will the publication of complaints information actually provide a commercial advantage to non-LSA regulated entities who will not be obliged to publish such data, even in the short-term?

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

29.

19) Do you have any further information to inform our final impact assessment?

No

Looking to the future: better information, more choice

Response ID:133 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

We agree that it would be beneficial to start publishing information on price for will drafting services, lasting power of attorney, motoring offences and probate and estate. This is because it should be relatively simple to fix prices for these particular services as they are less differentiated. Comparison websites for both will drafting and lasting power of attorney also already exist.

We understand the reasons why the SRA have suggested starting with residential conveyancing. We recognise the importance of the SRA working alongside with the CLC regulator.

We recognise that publishing prices for employment tribunal services, personal injury claimant work and family law matters may pose challenges. It is unlikely that firms will be able to publish total costs at the outset. Instead it is likely that firms offering these services publish hourly rates and fixed fees. The SRA should consider whether selecting all these areas is appropriate or to select just one complex area of practice to begin with.

12.

2) Do you agree with our proposed principles of price transparency?

We agree with the proposed principles of price transparency, in particular the alternative principle which allows for other costs to be communicated if total costs cannot be shown. The SRA should however appreciate that some firms will not be able to offer price information for all services without knowing the details of the client's case beforehand. Allowances should be made for this.

We believe that instant calculators should only be used if they uncomplicated and can provide potential consumers with an accurate price. Instant calculators in other industries for example, the banking industry seem to be successful – i.e. mortgage calculators.

It is our view that instant calculators should be embedded on a web page rather than requiring the consumer to download particular software in order for them to make use of it.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

This is outside our scope of expertise so we will not comment on this question.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

Description of relevant services:

This information is generally published on a firm's website already. We therefore agree with this proposal.

Details of staff:

It will be difficult for many medium to large firms to provide information about the staff dealing with their case. This may be due to;

- The fact that staff selected to work on a matter will depend on the complexity of a case. For example if the consumer has a personal injury matter, we would only be to provide advice concerning the type of staff likely to work on their claim, if their claim is worth over £25K and the type of staff likely to work on their claim, if their claim is worth under £25K. Potential consumers will not be in a position to decide for themselves which bracket their claim will fall into. This information is therefore likely to be unhelpful to potential consumers.
- The volume of staff working on the matter and/or because of staff turnover.

Additionally, publishing information concerning staff experience may also raise issues. For example, potential consumers may not want trainee solicitors to work on their file. They may not understand what a trainee solicitor means or their circumstances for example, that their work is fully supervised.

Key stages to the service and timescales:

Key stages to a service and timescales will differ case by case. However extremely brief/high level information could be published and caveated with information confirming that this may differ dependent on the individual's circumstances. With this in mind, we question the value of publishing this information.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

We agree with the SRA's idea of having a regulated logo and a digital badge. The logo will work well to distinguish regulated firms from non-regulated firms. If the digital badge is able to provide information to consumers as to whether the website belongs to a genuine firm, then this will offer great protection for potential consumers, existing clients and firms. Firms should not however be complacent in carry out regular bogus firm checks.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Awareness of the logo could be raised via the SRA and Law Society websites. Information regarding the logo could be published when a 'Find a Solicitor' search is made on the Law Society website.

Local citizen's advice bureaus and free legal advice centres could also offer this information to the public.

If comparison websites are also made available, then information regarding the logo should be highlighted to the public on these websites.

The logo itself, when published on a firm's website could also offer a redirection to the SRA's website which explains what the logo means when clicked on by the user.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

In order to reduce the volume of logos on a firm's web page, it would be beneficial to have both the SRA Regulated and the Compensation Fund badge in one logo. However we appreciate that some firms may

be SRA regulated but may not be able to offer the protection of the Compensation Fund. As the existence of the Compensation Fund is a piece of important information for the potential consumer we agree with the SRA's proposal to require firms to publish a Compensation Fund badge. However information should be made available to the potential consumer about the Compensation Fund, as they are unlikely to know what this is. The SRA could embed this information within the logo, so when it is selected this information is displayed.

The SRA may find that as some firms already publish quite a few logo's and badges (for example badges to advertise awards), the SRA Regulated and Compensation Fund logo lose their prominence on the webpage. A potential consumer may find it difficult to locate this.

If firms are required to publish both a SRA Regulated and Compensation Fund logo, the SRA should consider requiring firms to publish this in a set position on every firm's website. For example, top right hand corner of the webpage and away from any other logos or badges.

18.

8) Do you agree with our proposals on the publication of PII details?

We agree with the SRA's proposal to publish PII details, as this will provide comfort to potential consumers that the firm is insured if anything goes wrong. We also agree that only minimum details should be published such as the insurers contact details and the territorial coverage of the insurance.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

We agree with the SRA's proposal to publish details of how to complain on a firm's website. We recognise the importance of being open and transparent with clients and potential consumers. We believe the SRA's idea of providing templates for firms, offering guidance would also be beneficial as this would allow for consistency between firms.

It is our view that firms should continue to offer this information within their engagement letters in line with O1.10 of the SRA Code of Conduct.

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

We agree that details of how to make a complaint to LeO should also be published in a similar way to complaints and for the same reasons as noted within Q9.

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

It seems that the register will contain information already published by the SRA. We agree that it seems sensible for the SRA to publish this in one place making it more accessible. It will also make it easier for firms to review the information held and published by the SRA about them.

The SRA should consider ways to raise awareness to the public about the digital register. Our suggestions noted in Q6 may be relevant here.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

We understand that the SRA do not want to publish information on areas of practice on the digital register

as it is intended that the digital register will contain live information only. Areas of practice information will only be collected annually and will therefore not be live. We are unsure of the benefit associated with the publication of this information by the SRA as;

- This information is already published by the Law Society when a search is conducted on 'Find a Solicitor'
- If this information is used on price comparison websites, it will become outdated if only renewed annually.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

Whilst we understand the reasons for having a central data-point for complaints, we question how many consumers would actually access data from the SRA website itself, with many consumers potentially unaware of the SRA's role. There is a risk that the publication of complaints data may not achieve the desired result of improving customer choice based on quality of service.

If it is envisaged that most consumers will use comparison websites and these websites would actively use the SRA website to collate data, then this would most likely be a plausible method of data collection.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

The size of firms and number of clients who they have provided legal services to is essential otherwise the data will be difficult to understand and would not allow consumers to make an informed choice.

The number of upheld complaints based on number of clients may also be useful. Using the proposed complaints categories is unlikely to add much value as these are very broad in nature. There is also notable overlap between different categories.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

We agree that non-regulated firms should make clients aware that they do not hold any PII. Non regulated firms should also go one step further and clearly explain to clients what this means for them and the risks if things go wrong. This should be clearly published on the firm's website and within their initial engagement correspondence to the client. We don't believe that non regulated firms should be able to hide this information, for example within their T&Cs or within small print on their website.

A cooling off period should be also be clearly offered to client within the initial letters of engagement allowing clients to change their mind and cancel instructions upon noting a lack of PII should they wish.

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

We agree that non-regulated firms should inform clients of the fact that they would not be able to benefit from Compensation Fund should things go wrong with their case. These firms should also be required to inform client what the Compensation Fund is and the protection it offers.

As per our response to Q15, it is our view that this information should not be hidden within T&Cs or small print on a firm's website, but should be published clearly. Additionally, a cooling off period should be also be clearly offered to client within the initial letters of engagement allowing clients to change their mind and cancel instructions upon noting that they are unable to use the Compensation Fund should things go wrong.

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

No comments to make.

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

The SRA could ensure that all such third party intermediaries are aware of the requirements of the SRA Code in relation to mandatory information which must be provided to consumers by regulated firms.

29.

19) Do you have any further information to inform our final impact assessment?

No – we have set out all relevant information above.

9. More about you

30.

Your age

25-34

31.

Your sex

Female

Please specify

32.

Sexual orientation

Heterosexual/straight

Please specify

33.

Do you consider yourself to have a disability according to the definition in the Equality Act 2010?

The Equality Act defines a disabled person as someone who has a mental or physical impairment that has a substantial and long-term adverse effect on the person's ability to carry out normal day-to-day activities.

If you have a condition which fits the Equality Act definition, please tick 'Yes' even if you are not limited by your condition.

No

34.

Your ethnicity

White

More about your Asian or Asian British ethnic background

Please specify

More about your Black or Black British ethnic background

Please specify

Looking to the future: better information, more choice

Response ID:17 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

I do not think mandatory requirements for price publication should be made a requirement at all due to the variations in the amount of work required related to the particular requirements and circumstances of the potential client. Thus pre-published prices could be highly misleading. This is why there is a present requirement that a written fee estimate is required to be given to all clients before undertaking work confirming a fee estimate and setting out the scope of the retainer and the work this covers. The written individual fee estimate should be much more accurate than pre-published prices that could be misleading and result in disputes with clients regarding fees. Thus any pre-published prices would have to be qualified to such an extent to cover all potential variations to render them almost meaningless. For instance a purchase of one leasehold flat for £200,000 compared to another purchase of a leasehold flat for £200,000 can be a completely different transaction involving different requirements, areas of law and expertise and time spent to deal with the necessary issues. No other regulated profession is required to provide pre-published prices. Consumers or small business can of course request written fee estimates from as many solicitors they wish to compare prices and the services this will cover which will be a far more accurate indication of fees compared to pre-published prices (which may be incompatible with the services they actually require). If a firm wishes to base their business model on high volume low margin profit and pre-published prices (such as some bulk conveyancing firms which employ many non-solicitors to deal with matters which are nominally overseen by a solicitor and in my experience often provide an inferior service) they should be at liberty to do so. However this does not assist a comparison with a firm providing high end conveyancing work dealt with by an experienced solicitor throughout - the comparison between pre-published fees between two such different types of solicitors would actually be misleading.

12.

2) Do you agree with our proposed principles of price transparency?

No as for the reasons given in point one above I do not believe pre-published prices do generate price transparency and in fact could cause consumers/clients to instruct firms purely based on price rather than also considering the service they will receive and what work the pre-published prices will cover and the level/experience of fee earner that will deal with the particular matter. A formal written fee estimate setting out the parameters of the retainer is a much more accurate and quite frankly professional way of dealing with such matters. Furthermore a pre-published price in many instances will actually be misleading due to the differences in work required for each particular matter. It would be much better for the SRA to set out clearer rules on the information provided in initial formal written estimates of fees.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

A large commercial client may instruct a solicitor on a simple straightforward matter or an individual or small business could instruct a solicitor on a highly complex matter. Both matters could for example relate to a building contract, share purchase agreement, employment matter or the purchase of a property/assignment of a lease. Each matter should be considered individually and a suitable and accurate written fee estimate provided for each individual matter. A potential client has the ability to see as many written fee estimates as they wish and they can then consider the estimates on an informed basis rather than considering what may be unsuitable pre-published prices. Pre-published prices could result in a potential client comparing apples and pears

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

Information relating to description, staff, stages and potential timescales should all be included in a formal written estimate of fees that generally can only be ascertained once you have spoken to a client to understand the particular circumstances of a matter, considered the level of fee earner required, and potential difficulties or potential additional work or delays likely. If you have not spoken/corresponded with a client regarding such matters an accurate estimate of fees cannot be provided and even then you may have to qualify the fee estimate given. Therefore pre-published prices could be in particular circumstances highly inaccurate. In essence a pre-published price list may not take these factors into account and be misleading which will then actually bring the profession into disrepute. Do you think a builder can give an accurate pre-published price on building a house without understanding the size, building materials, time scales, ground conditions, architects plans etc etc.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Yes

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Marketing

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

What would be better is a statutory requirement for non -LSA regulated firms/solicitors and non-solicitors providing legal services/advice to have to confirm that they are not insured and don't have access to a Compensation Fund and be required to indicate that regulated firms of solicitors are insured and have access to the Compensation Fund. Furthermore this information should be required to be included in all formal written fee estimates

18.

8) Do you agree with our proposals on the publication of PII details?

Yes

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

Yes

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

I do not agree with providing information about disciplinary findings against former regulated individuals as they may not have breach the rules while working for the firm or may have been summarily dismissed. This needs careful consideration to ensure unfair damage is not done to the reputaion of a firm

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

I do not see the need. Why would this be helpful as so many varaitions could apply year to year - i.e. a new private client or conveyancing department could be set up part way through the year.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

No - complaints received may not necessarily be upheld and complaints resolved may not actually relate to any fault by a solicitor. The publication of complaints received could be used as a means by clients to try and make a bogus complaint to try and reduce fees. On the basis of innocent until proven guilty I believe only upheld complaints should be published.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

YES I would go further and require them to explain that the client may wish to seek services of a firm with PII

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

YES. I would go further and require them to provide details of the Compensation Fund and explain that the client may wish to seek services of a firm with access to the Compensation Fund

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

29.

19) Do you have any further information to inform our final impact assessment?

Looking to the future: better information, more choice

Response ID:17 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

None of them. Clients should be given full information specific to their needs. General information about average cost is meaningless as most clients have little or no understanding whether or not their needs are average

12.

2) Do you agree with our proposed principles of price transparency?

Clients should be given full information specific to their needs agreed in advance on a case by case, bespoke basis.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

No. If the proposal goes ahead the rules should apply universally.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

No. Clients should be given full information specific to their needs agreed in advance on a case by case, bespoke basis.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

No. It is enough that solicitors are regulated, a logo is pointless, and a waste of money.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

No

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

No. Like the fact that solicitors are regulated, this is a commercial advantage to the profession and it should be for members of the profession to decide how and if it is promoted.

18.

8) Do you agree with our proposals on the publication of PII details?

The fact of insurance should be stated but not the specific details, these could change on an annual basis leading to increased costs of updating website etc.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

It should be included in information given to clients, but not provided to the world at large.

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

see 9 above

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

I am broadly in agreement, although I do not believe referrals to the SDT should be included before they are heard and upheld.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

I have no objection, but see little benefit; for example how does knowing the number of residential sales and purchases help a client? 100 transactions at one practice could actually mean their staff are more expert than a practice that handles 1000 if they have more staff, or more junior staff dealing with the transactions.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

Complaints that have not been upheld should not be published. Certain areas of work, such as divorce of civil litigation tend to produce more complaints simply because there is likely to be a winner and a loser who may feel aggrieved. The fact that one firm handles divorce and has more complaints than a similar sized firm that does not does not necessarily mean that it is worse than the other

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes.

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes.

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

I do not believe that the profession as a whole needs to improve the information given, although individual solicitors may need to

29.

19) Do you have any further information to inform our final impact assessment?

For any profession, regulatory changes have costs consequences, so please ensure that proper assessments are carried out before making changes and that there are indeed clear benefits and they outweigh cost implications which ultimately are passed to the clients you, and we, are trying to help.

Looking to the future: better information, more choice

Response ID:17 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

Conveyancing, wills and generally any work usually offered at a fixed cost

12.

2) Do you agree with our proposed principles of price transparency?

Yes

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

No. If the principle is good for one area, it should be good for all areas.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

Yes

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Yes

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Social media, press, Which-type publications etc

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

Yes

18.

8) Do you agree with our proposals on the publication of PII details?

No - providing contact details will cause problems with clients not following correct communication channels.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

Yes

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

No as it could encourage clients to circumvent the firm's own complaints procedure and swamp the LeO with complaints which have not been investigated. It would be within the firm's complaints procedure and on the LeO website for persistent clients.

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

As long as the content of what is included is no different from what is currently available, I support this.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

Yes

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

No. Ultimately the information has to be provided by firms and they will be incentivised to make their figures low. Only information from the Ombudsman should be published on complaints which have been upheld. Information on the total caseload from the PII renewal should be used to provide a consistent percentage figure for this.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

These should not be published

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

No

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver

improvements in the information available to consumers?

Unsure

29.

19) Do you have any further information to inform our final impact assessment?

No

Looking to the future: better information, more choice

Response ID:17 Data

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

None. Legal services are not readily commoditisable. Publishing headline prices would be an entirely fruitless exercise. The cost of the services will vary depending on the facts and complexity of each matter (this is true even for 'basic' services such as wills and probate, conveyancing etc., not to mention more complex matters such as employment and PI claims). Clients need to speak with their solicitor prior to engagement to discuss the facts and determine the complexity of a matter in order to arrive at an agreed rate (i.e., a fixed fee or a floating fee with a cap). If a client doesn't like the fee quote, then he/she can look elsewhere.

Given the potential scope for variances in pricing (See above), a requirement to publish a price list on a website would be hugely misleading and confusing to clients.

12.

2) Do you agree with our proposed principles of price transparency?

Clients need to speak with their solicitor prior to engagement to discuss the facts and determine the complexity of a matter in order to arrive at an agreed rate (i.e., a fixed fee or a floating fee with a cap). It's pointless having a set price list on a website. Once a price is agreed between a solicitor and their client, the price should state whether the fee will attract VAT and whether material disbursements may be incurred.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

As above, no legal service is readily commoditisable. Publishing headline prices would, in all cases, be an entirely fruitless exercise.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

The idea that a fixed timescale can be imposed generally in relation to the provision of legal services shows a critical lack of understanding about how the legal sector operates. The length of time required to deliver a service will vary depending on the facts and complexity of each matter (this is true even for 'basic' services such as wills and probate, conveyancing etc., not to mention more complex matters such as employment and PI claims). Solicitors are under a general duty to keep their client informed about developments - there is no need for further reform in this area.

The make-up of a firm's staff ought to be irrelevant - clients should rely on the fact that a firm is reputable, is regulated by the SRA and has PII.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

The introduction of an "SRA regulated" logo and badge seems like a vanity project. It's unclear what (if any) advantage such items would bring. We should simply retain the requirement for firms to tell people about their regulatory status and to use the phrase "authorised and regulated by the SRA" on letterheads, websites and emails.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

No. See above.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

Presumably anyone who finds themselves in a position where: (i) their money is misappropriated or otherwise lost; and (ii) a claim by such person against their solicitor is not covered by PII, finds out quickly about the Compensation Fund. I'm neutral as to the introduction of a voluntary logo, although, again, this proposal does seem like something of a vanity project.

18.

8) Do you agree with our proposals on the publication of PII details?

Clients are covered by the Compensation Fund. There should be a requirement for firms to confirm that they hold valid PII, but details about the extent of the cover and the contact details of the insurer will be irrelevant to clients.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

Yes, albeit recognising the fact that some complaints will be more complex than others and will therefore take longer to consider and resolve.

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes, but only if applicable.

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

The current system works. The existing registers could perhaps include a link to the other registers, but I see no need for a new (costly) project to create a single register.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

No - this data will be historic. Firms will advertise whether they provide a certain service (and will have to ensure that they are competent to provide such service). Publishing data about services which firms have provided historically will lead to confusion.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

The publication of complaints data would likely lead to a rise in spurious and/or vexatious complaints against firms. At worst, firms may feel obliged to write off fees in order to prevent a 'complaint' from being made (much in the same way the hospitality industry has been impacted negatively by the abuse of sites such as TripAdvisor).

There should be a requirement for firms to publish complaints which have been upheld by the LeO in the last 5 years. However, first tier complaints and complaints which are resolved by the firm with its client should not be published.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

See above - publishing first-tier complaints would likely lead to a rise in spurious and/or vexatious complaints against firms. The information should not be published.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes. The introduction of non-LSA regulated firms will undoubtedly undermine the trust that the public places in the profession. The decision to allow solicitors to provide non-reserved legal services to the public outside of firms regulated by the SRA is a significant threat to the integrity of the profession.

Accordingly, non-LSA regulated firms should inform clients: (i) that they are not regulated by the SRA; (ii) of the absence of the requirement to hold compulsory PII; and (iii) of the absence of the availability of the Compensation Fund. Solicitors working in such non-LSA regulated firms might also be obliged to disclose their relevant experience so that clients can decide whether they should be trusted.

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes. The introduction of non-LSA regulated firms will undoubtedly undermine the trust that the public places in the profession. The decision to allow solicitors to provide non-reserved legal services to the public outside of firms regulated by the SRA is a significant threat to the integrity of the profession.

Accordingly, non-LSA regulated firms should inform clients: (i) that they are not regulated by the SRA; (ii) of the absence of the requirement to hold compulsory PII; and (iii) of the absence of the availability of the Compensation Fund. Solicitors working in such non-LSA regulated firms might also be obliged to disclose their relevant experience so that clients can decide whether they should be trusted.

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

The rules should take account of responses received as part of this consultation.

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

The SRA should focus more on the quality of service provided by the profession, rather than fixating on access to the profession.

29.

19) Do you have any further information to inform our final impact assessment?

Looking to the future: better information, more choice

Response ID:17 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

We do not think that you should proceed with price publication in any area.

12.

2) Do you agree with our proposed principles of price transparency?

We agree that our clients should be fully aware of what the charges will be for the work we are instructed upon and we abide by the Code of Conduct in this regard. We do not agree that prices need to be published for general consumption.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

We do not agree that prices should be published and therefore there does not need to be an exception.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

No.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

No problem with this.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

No.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

No.

18.

8) Do you agree with our proposals on the publication of PII details?

Our insurers and brokers discourage us to disclose this information as it invites spurious claims to be made. If this becomes a requirement it will put us in a difficult position with our insurers. Also if a claim is made, it needs to be made to the firm in the first instance and not our PI insurer. So we do not agree with this proposal.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

We do this already in our terms of business. We would not have a problem putting this detail on our website but do not feel it is necessary. So no we do not agree.

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

We do this already in our terms of business. We would not have a problem putting this detail on our website but do not feel it is necessary. So no we do not agree.

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

We support this proposal. It will be helpful to have this data in one place especially when we are vetting solicitors on the other side of a transaction or solicitors who may join the firm.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

Yes agree with publication but it should be published in the same place as the digital register to give the data contained within context and meaning.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

No we do not agree. It would be unfair to publish first tier complaints that are not upheld. We think it is especially unfair for those firms that practice in areas that are emotionally charged such as divorce, residential conveyancing and estate administration to publish complaints. Publishing such data may discourage solicitors from recording complaints which is contrary to the risk approach of learning from mistakes. Complaints that proceed to the Legal Ombudsman are published by them.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

No context is currently required by the reauthorisation/PC renewal process and so this process would need to change. If publication is to occur then full context should be given but we believe to do this would be very time consuming and disproportionate to the aim and could prohibit timely completion of the reauthorisation/PC renewal process.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes.

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes.

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

Less isn't better if the impact is to prejudice the clarity and flexibility. We still refer to the 1999 Code on occasion for guidance because it is still helpful. Incidentally we have been informed by your Ethics Line that they do this too.

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

Unsure.

29.

19) Do you have any further information to inform our final impact assessment?

No.

Looking to the future: better information, more choice

Response ID:17 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

I don't think you should be forcing the publication of pricing information. The legal profession is not the same as the utilities sector. We are not mere businesses but are individually members of a learned profession. Clients do get transparency on costs and fee estimates etc. Your proposal will further damage the profession by making price paramount.

12.

2) Do you agree with our proposed principles of price transparency?

No

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

There should be no requirement for price publication . It is anathema to any profession because the relationship between lawyer and client is one of utmost good faith not commerciality.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

See previous answer

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

No

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

I don't think your logo is important. Being a member of the legal Profession is the assurance that clients want and need. We had that before the SRA was created. Your logo approach is self- serving not serving the profession.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

No

18.

8) Do you agree with our proposals on the publication of PII details?

No this is already adequately addressed by existing professional Obligations .

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

No

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

No

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

The proposals do not address the real issues that the profession faces . You are behaving like a consumer organisation

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

No what's it for? Have you done a cost :benefit analysis?

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

No. Stop loading the profession with unnecessary bureaucracy

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

Don't

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

No

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

No

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

They are pointless and burdensome and will further undermine the status of the profession.

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

There is plenary of information. Do something to promote the interest of Solicitor's instead. That is part of your statutory function you continue to overlook.

29.

19) Do you have any further information to inform our final impact assessment?

Membership of the profession is what provides clients with the assurance they need. Stop reinventing the wheel.

Looking to the future: better information, more choice

Response ID:17 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

It is my firm view that the provision of legal services is not a one size fits all process like buying a television. The cost of the property (I am a commercial property lawyer), the complexity of the Heads of Terms and the legal structure being set up are all relevant to the consideration of price as is the scoping of the work being carried out. I consider it unnecessary and unwise for solicitors to attempt to publish prices or to be made to do so. We do bespoke individual work with individual thoughtful and constructive input for which a price can be agreed - and usually is - at the outset - with reservations about changes in scope. You cannot commoditise this and, if you do, or attempt to do so, you are really saying that it is simply a process and anyone can learn how to do it - not just a solicitor. All that should be required is for a solicitor to provide an estimated cost at the outset of the matter with regular updates on costs incurred (as we do now).

12.

2) Do you agree with our proposed principles of price transparency?

No - I do not think that all solicitors are the same or that all matters are the same. I think that we can and should add value to our advice by considering the nature of the individual or company who is our client and what their needs and requirements really are. Even in residential conveyancing the type size location and tenure can vary so much making any standard figures unrealistic. In my view the profession has not explained to the public why these issues are so important - but the public now has to be happy now with unqualified staff and paralegals doing the lion's share of residential property transactions in exchange for a fixed fee transaction and this has lowered the value of the profession in the eyes of the public. It is the firm view widely held within the profession that those of us who seek to do the job properly are subsidising the firms who do fixed fee work at low cost. This is not only unfair but it is unsustainable.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

In seeking to make firms publish their costs the SRA is assuming that this is the only criteria by which clients choose their solicitor. This is not true. We do not shop around for a GP - we like to go back to someone we trust who knows us and our health situation. My clients value the long relationship we have and that they can ask me (and my firm) about any legal issue which arises for them and get an answer. Any pricing structure would undermine this precious relationship and the SRA fail to understand this in seeking to force firms to act in an unprofessional way by publishing their price estimates. This action will seriously undermine the way the public view the profession and I am frankly astonished that it is being contemplated.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

We always tell our clients who will deal with their matter and at what level and cost and give an estimate of timescale if required to do so or if this is possible. The SRA should concentrate their efforts in ensuring that all firms do this as standard.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Yes, why not.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

No. Time better spent ensuring that consumers understand why they need to use a solicitor and pay properly for their services.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

No opinion.

18.

8) Do you agree with our proposals on the publication of PII details?

Not really .

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

We do this already in our terms of business letter..

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Ditto as 9 above

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

No specific views.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes of course

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

No

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

I have no views on this

29.

19) Do you have any further information to inform our final impact assessment?

No

9. More about you

30.

Your age

55-64

No

34.

Your ethnicity

Looking to the future: better information, more choice

Response ID:17 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

Requirements for price publication do not work well in my area of work- private client and probate- and will certainly not assist the consumer who may well go for a low- cost but poor- service option.

12.

2) Do you agree with our proposed principles of price transparency?

Broadly , yes

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

not my area

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

not my area

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Not much point if not backed by comprehensive (and expensive) consumer awareness campaign

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Marketing (expensive)

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

See 5 above

18.

8) Do you agree with our proposals on the publication of PII details?

Seems ok

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

Not sure

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Not sure

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

Unsure

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

Yes

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

Not sure what this adds really

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

Basic factual details-

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

Seem ok

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

Thorough consultation with STEP and SFE and act on their thoughts

29.

19) Do you have any further information to inform our final impact assessment?

No

Looking to the future: better information, more choice

Response ID:96 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

I feel that this is very difficult to achieve in my area of law which consists of Wills, Probate, Lasting Powers of Attorney

I feel that the current rules as they are, whereby the costs are stated in the client care letter which has to be agreed by the client before any work is undertaken, is a sufficient safe guard for clients. Clients shop around anyway for quotes in practice.

I feel that it would be very difficult to provide fixed fees for Probate/Estate Administration from a website as each case is so different and a solicitor needs to speak with the client first to determine the likely cost.

12.

2) Do you agree with our proposed principles of price transparency?

I agree with the principle of price transparency, but feel that this proposal is too prescriptive, and feel that we are already governed by the SRA on this.

In my area of Wills, Powers of Attorney and Probate I am already asked to provide quotes before the client proceeds and consumers are increasingly shop around. With regards to probate, the public are increasingly making personal applications for probate themselves and also making Lasting Powers of Attorney themselves. Therefore, these services are already accessible to people with limited means.

I would be worried about undercutting to the extent that the level of service that consumers expect will no longer be commercially viable and will drive consumers to unregulated/untrained and poor quality alternatives. Maybe the introduction of minimum pricing, depending on area, could alleviate this concern. There is a difficulty in providing fixed fees for all areas of the work that I do as there are mental health issues, family disputes etc which crop up after I have taken on the work

Giving fixed fees through a website is not necessarily what the consumer will understand, bearing in mind that every matter and individual are different and so this may be an unfair burden on smaller firms who do not have the marketing expertise to present this well. I feel that fees are already very competitive and that the general public are used to making enquiries before they instruct a solicitor, particularly for Wills and Powers of Attorney.

Putting fixed fees on the website stops the personal interaction with the solicitor, which is an important element of choosing the right person to look after your matter. I feel that consumers will generally just go for the cheapest option, which may not be in their best interests and that service and quality of the work they receive are equally important.

The SRA may end up policing solicitors' websites for non-compliance and that this may take resources

away from more critical functions.

I also feel that the proposals will be of little benefit to older and vulnerable clients who may not have access to a computer or the internet.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

18.

8) Do you agree with our proposals on the publication of PII details?

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

I think this proposal will distort the way firms or individuals generally provide services to their clients. There is a risk with all firms' comparison sites that the true nature of the firm or individual will be misrepresented. Particularly in my area of law where I am dealing with clients who are often in a highly emotional state and may make a first tier complaint and then regret it, but it will still be recorded under your proposals. I think that only the complaints that are upheld by the legal ombudsman be recorded.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

I feel this gives an unfair representation of solicitors and firms without balancing it with good work and positive actions and simply runs alongside price. If price comparison sites use a star rating and only have complaints and prices to refer to, how could this reflect the true nature of the service given

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

The context should make it clear that all solicitors will at some point in their career have complaints made against them for such things as slow service, failure to communicate and costs and that this does not necessarily reflect on the expertise or suitability of the solicitor in question. But I feel that this is an impossible task as customers will just view this negatively. Firms may use this information to control staff and could form grounds for dismissal. It doesn't take into account the workload of an individual solicitor who will generally be working under considerable pressure from both clients and the firm. The number of complaints will differ, depending on the nature of work undertaken and the location of the firm. Complaints need to identify the area of work they relate to, as I undertake private client work where the level of complaints is higher.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

A reduction in the cost & burden of regulation would be very welcome since that has put me off getting my own regulation and so I do work under a fee sharing arrangement. I am not sure though whether the freelancing proposals would help that much since I would still have to go to the market to get insurance & have been attracted by the bar councils mutual fund

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

29.

19) Do you have any further information to inform our final impact assessment?

Looking to the future: better information, more choice

Response ID:96 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

I feel that this is very difficult to achieve my area of practice - Wills, Probate, Lasting Powers of Attorney and Court of Protection work.

I feel that the current rules as they are, whereby the costs are stated in the client care letter which has to be agreed by the client before any work is undertaken, is a sufficient safeguard for clients.

I feel that it would be difficult to provide fixed fees for Probate/Estate Administration from a website as each case is so different and a solicitor needs to speak with the client first to determine the likely cost.

I can see that fixed fees work well in many other areas of law.

12.

2) Do you agree with our proposed principles of price transparency?

I welcome the principle of price transparency, but feel that this proposal is too prescriptive, and I also feel that we are already governed by the SRA on this. We already have to give clients our best estimate of costs for the work up front, before they agree to carry out any work for them.

I am generally asked to provide quotes before engaging with clients and clients are increasingly shopping around. With regards to probate, the public are increasingly making personal applications for probate themselves and also making Lasting Powers of Attorney themselves. Therefore, these services are already accessible to people with limited means.

I have concerns about serial price undercutting to the extent that the level of service that consumers expect will no longer be commercially viable and will drive consumers to unregulated/untrained and poor quality alternatives. Maybe the introduction of minimum pricing, depending on area, could alleviate this concern. There is a difficulty in providing fixed fees for all areas of law that we undertake, we often deal with complex issues such as mental capacity, family disputes, all of which may not always be apparent at the beginning of a matter.

As part of the SRA's communication strategy, we would suggest that you make it clear to consumers that they should obtain several quotes so that they get a good idea of the costs, before they instruct a solicitor. Giving fixed fees through a website is not necessarily what the consumer will understand, bearing in mind that every matter and individual are different and so this may be an unfair burden on smaller firms who do not have the marketing expertise to present this well. We feel that fees are already very competitive and that the general public are used to making enquiries before they instruct a solicitor, particularly for Wills and Powers of Attorney.

Putting fixed fees on the website stops the personal interaction with the solicitor, which is an important element of choosing the right person to look after your matter. We feel that consumers will generally just go for the cheapest option, which may not be in their best interests and that service and quality of the work they receive are equally important.

We are concerned that a large number of solicitors have very dated websites and would incur great costs in updating their websites to meet this requirement. A great concern for us would be that the SRA may end up policing solicitors' websites for non-compliance and that this may take resources away from more critical functions.

We also feel that the proposals will be of little benefit to older and vulnerable clients who may not have access to a computer or the internet.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

I don't know enough to form an opinion.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

I welcome this in an attempt to improve best practice and the highest standards of client care.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

I have no objection to this.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

Some form of marketing initiative.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

Yes.

18.

8) Do you agree with our proposals on the publication of PII details?

Yes.

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

We already do it, no objection.

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

We do this in our retainer letters.

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

I like it.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so

separately from the online digital register?

Only upheld complaint should be disclosed, in my view.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

I think it is too far blunt an instrument. Price comparison next to complaints comparison, it is clear where clients will go.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

As a bare minimum it needs to include the work type as most firms do a mix of works types - some of which are more susceptible to complaints than others.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

Anything to reduce the burden of regulation is welcome, as long as it remains stringent enough to maintain the highest professional standards.

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

Work closely with SFE, STEP and other similar organisations.

29.

19) Do you have any further information to inform our final impact assessment?

No

Looking to the future: better information, more choice

Response ID:96 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

None of them.

12.

2) Do you agree with our proposed principles of price transparency?

No.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

This question pre supposes you are going ahead anyway. No need for exemption because there shouldn't be anything to get exemption FROM (as you should drop this misconceived idea).

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

No.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

No - no law firm client -sorry sorry I mean consumer or is it customer? - could care less who regulates us.

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

No and there isn't any need to - take a leaf out of the book of Naomi Klein viz NO LOGO.

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

No.

18.

8) Do you agree with our proposals on the publication of PII details?

No. Some years ago a client of this firm who was ill issued court proceedings against us in which the

particulars of claim were about 200 pages long. Also sued at the same time by him in the same case were about 10 Area Health Authorities 20 individual consultant doctors lots of other lawyers..... The first Defendant sued was Her Majesty Queen Elizabeth. I notified our PII people so they could defend the case. Why is it so hard to get it over to you people that publishing raw data about PII notifications is useless? It isn't something that is hard to understand is it?

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

No harm putting the details on one's website.

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

No harm putting the details on one's website.

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

No need for such a register.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

No - you shouldn't bother with any of this - it is bootless.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

What point is there in publishing complaints data - waste of time. At the bottom of this is an extract of my complaints report for the Board at the firm where I work. I have handled complaints for 12 years. It is always like this. You the SRA are coming from a place unknown on Planet Earth where complaints are usually justified. No they aren't.

a. It continues to be the case that most of the complaints we get are in one way or another unreasonable and not upheld. I think the two main categories of complainant are (i) people who complain because they are unwell and/or very unreasonable and/or (ii) people who complain because they hope to obtain a financial advantage.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

Context? How on earth could you provide any? Just don't publish them. Waste of time.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

You keep asking these questions which are based on questions you don't ask having been asked! So the pre supposition here is that there are going to be non regulated solicitors. All solicitors should be regulated. And if they are then they will have PII.

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

See above.

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

They are too long.

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

You need to abolish yourselves.

29.

19) Do you have any further information to inform our final impact assessment?

Please abolish yourselves. We are a ridiculously over regulated profession. The SRA; TLS; LeO; FCA; LSB. It is never ending.....

Looking to the future: better information, more choice

Response ID:96 Data

Publish the response anonymously

3. Consultation questions: Asking firms to make more information available to consumers

11.

1) In which of the services suggested do you think we should proceed initially with requirements for price publication and are there any other additional categories that we should consider?

Drafting Lasting Powers of Attorney for consumers. Licensing applications for businesses

12.

2) Do you agree with our proposed principles of price transparency?

No. For example, to display the price of a Will as £x is of little value to a consumer who does not know if their Will is very simple, moderately complicated or extremely complex. Presumably firms will be encouraged to quote for the most basic service, and anyone who wants something more complicated will be misled. Much better for the prospective client to talk through their requirements (in effect to scope their needs) and for the prospective solicitor to quote on the basis of that information. The same goes for, for example, conveyancing. I have recently sold my registered property, but as it happened the survey raised issues which the buyer would not accept until my solicitor had undertaken considerable research into the unregistered title deeds which fortunately my previous old school solicitor had given to me. This involved considerable expertise and time by him for which I was happy to pay, as I understood the situation. It would have been very unfair to hold him to a fixed fee.

13.

3) Is there a need for any specific exemption from the price publication proposals for firms dealing exclusively with large commercial clients? If so how should any exemption be defined and operate?

there is a need for the reasons you give. As your recent research demonstrated, large commercial clients hold the whip hand.

14.

4) Do you agree with our proposals to introduce requirements in relation to description, staff, stages and timescales in any legal services where we decide to require price publication?

No. I think this will be very onerous.

4. Consultation questions: Regulatory status and protections

15.

5) Do you agree with our proposal to introduce an "SRA regulated" logo and digital badge?

Yes

16.

6) Do you have any suggestions as to how we can best increase consumer awareness of the logo?

17.

7) Do you agree with our proposal to introduce a requirement to publicise the existence of the Compensation Fund with a voluntary logo?

Yes. Except that this will be more "small print" which the average client will not read.

18.

8) Do you agree with our proposals on the publication of PII details?

A bit pointless given that this is implicit in the digital logo and badge, but no serious objection

19.

9) Do you agree with the proposal for firms to publish details of how to complain?

Yes

20.

10) Do you agree with our proposal that firms should publish details of how to complain to the Legal Ombudsman?

Yes - as long as it makes clear who can NOT complain to LeO (99% of our client base)

5. Consultation questions: Creating a digital register

21.

11) What are your views on the proposed content for the digital register?

Fine. But it must be accurate, which has not always been the case in the past. And if it is not accurate, then the SRA must be liable to the disadvantaged reader, whether a client or a solicitor, who has relied on the inaccurate information.

6. Consultation questions: Publishing areas of practice and complaints data

22.

12) Do you agree with our proposal to publish annual information about areas of work and to do so separately from the online digital register?

No. We have to "shoehorn" what we do into the rather arbitrary areas of work on the SRA database. This misses out some of the work that we do and places the wrong emphasis on others. I would agree if there were more relevant categories.

23.

13) Do you agree with our proposed approach to publishing complaints data, and if you do not agree, what do you propose?

No, for the reasons you give at paras 126 and 127.

24.

14) If we do publish first-tier complaints data what (if any) context should we provide?

.

7. Consultation questions: Individual solicitors working outside LSA-regulated firms

25.

15) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the requirement to hold compulsory PII?

Yes

26.

16) Do you agree with our proposal to require solicitors working in non-LSA regulated firms to inform clients of the absence of the availability of the Compensation Fund?

Yes

8. Consultation questions: The draft rules and enforcement

27.

17) Do you have any comments on the drafting of our rules?

.

28.

18) What more does the SRA need to do to work with others such as third party intermediaries to deliver improvements in the information available to consumers?

Closer liaison with the Law Society and with the City of London Solicitors. Not every client is a vulnerable consumer.

29.

19) Do you have any further information to inform our final impact assessment?

The provision of legal services is an important export. The SRA must ensure that the steps it proposes to take enhance, rather than undermine, the legal profession's competitiveness in the global legal marketplace. In particular, it is essential to ensure that lawyers who are not SRA regulated, but who are practising in the UK under the terms of their own jurisdiction are not given a competitive advantage because the professional rules under which they practice are less onerous than those for SRA regulated lawyers