



***Competition and transparency in
the legal services sector***

October 2022

The Association of Consumer Support
Organisations (ACSO)

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Foreword

Consumer choice is one of the main drivers of quality improvement in any service sector. Ensuring that the competition underpinning this is fair requires a strong degree of transparency, so people know exactly what to expect and where to turn if they feel they have been misled.

The challenge for the legal services sector is that its products are generally a distress purchase, often made at a time of vulnerability for the buyer. This can inhibit usual consumer behaviours and so puts a particular onus on providers to demonstrate their professionalism and on the regulators to help ensure services are up to scratch.



Looking to the experience of other sectors can be helpful but not always instructive. Any proposals for greater use of digital comparison tools – the types of price aggregators which have been used to great effect to drive down prices for savvy consumers of motor and home insurance, amongst other products – need to recognise the different nature of legal services products and the difficulty (certain areas such as conveyancing being excepted) in standardising prices when every individual case is likely to be different.

Equally, online reviews can be a very useful source of information but there is a danger of manipulation. The most informative reviews – those from previous clients who were neither delighted nor dismayed by the service they received – are perhaps in the shortest supply.

This is a conundrum which needs to be tackled if the level of unmet legal need is to be brought down and if our sector is to be sustainable and continue thriving in the increasingly challenging macroeconomic climate which we now find ourselves in.

ACSO has taken this opportunity to set out some recommendations for our members and others to consider as well as a proposed pledge for them when communicating with consumers. After all, our members are there to serve consumers in the civil justice system.

We are very grateful to those ACSO members and others who agreed to be interviewed as part of the research for this report, which as well as their views brings together much of the existing thinking and policy in this most important of areas.

Finally, particular thanks go to Alex Diaz, who authored this report during his time with ACSO as a secondee from our member firm Lyons Davidson. We are grateful to him, to Lyons Davidson and to all our members for their ongoing support.

We look forward to hearing your views.

- **Matthew Maxwell Scott, Executive Director, ACSO**

Executive Summary

Recent years have seen increasing competition and transparency within legal services. This has been fuelled in large part by the Competition and Markets Authority (CMA) review of the sector in 2016, and its subsequent reassessment in 2020, which found consumers generally lack the experience and information they need to engage confidently with legal services providers.

The challenge in the legal services sector is that its products are generally a distress purchase, and therefore often made at a time of vulnerability for the buyer. This can inhibit usual consumer behaviours, putting a particular onus on providers to demonstrate their professionalism and on regulators to help ensure services are competently provided.

This ACSO report on the issue of transparency provides a better understanding of the development of measures to increase transparency, as well as their effectiveness. These include the regulatory framework, online reviews, comparison websites, quality accreditations and public legal education.

It is imperative that lawyers understand the vulnerabilities consumers face when they need and use legal services. By engaging with consumers constructively, vulnerability can be reduced and legal access increased. The fact that consumers are becoming more confident in comparing legal services is a welcome trend; however, it is still the case that only a minority do so.

The importance of transparency

Those who agreed to be part of the research were generally positive about transparency measures. Most respondents believed that the CMA reports and some of the regulators' transparency guidelines for solicitors are a step in the right direction, but that there is more to do to increase transparency and more data required to see the actual consumer benefit that transparency rules have had. Meanwhile there was some pessimism when it came to the transparency landscape of legal services.

The role of online reviews in increasing transparency

There were positive views towards online reviews as a basis of improving transparency and a general acceptance that it is essential for legal services providers to engage with as many review sites as possible. Consumers need to be equipped with the knowledge of how to select a legal services provider and so it seems appropriate for online reviews to be a sharp instrument in the consumer toolbox. However, there were many concerns around relying on solicitor reviews as a measure of increasing transparency. Some of the negative associations with reviews revolved around the way they are generated and the sometimes undue, adverse impact they had on legal services providers.

The role of digital comparison tools in increasing transparency

Those who agreed to be part of the research had generally positive attitudes to DCTs. However, one issue with DCTs as a means of increasing transparency are the obstacles associated with making data more accessible to the comparison websites in the first place. Another issue when it came to DCTs was that the data that was available was sometimes used incorrectly.

A transparency quality mark?

It appears that there is a patchwork of quality schemes that are not necessarily helping consumers choose legal services providers or indeed give quality assurance in the first place. It remains to be seen whether the solution is a complete overhaul to create a universally-recognised accreditation scheme or whether other indicators, such as reviews sites, alongside the use of existing quality marks, are better placed to help consumers.

There was, however, no real appetite for a transparency accreditation mark. The general view was that the public do not know or care about accreditations, and there were also concerns around how some accreditations manage their research (arguing that the way they make awards is itself not transparent and the conclusions formed can be confusing).

Public legal education (PLE)

Research suggests that there is a power imbalance between lawyers and their clients and so increasing the education consumers receive will help restore the balance. Some contributors voiced positive opinions about PLE. A centralised education hub was seen as a good idea, at least in theory. But consumers do not appear to be really looking for it and there is not enough signposting for it. On the other hand, there was also the view that while consumers should certainly know their rights and how to complain if they are not represented properly, educating consumers is overestimated and information remedies do not solve all problems.

Challenges and ideas

Those who agreed to be part of the research argued that legal services providers need to be more open with consumers, have more consumer-focused practices, use data to make pricing more transparent and engage with technology to help inform consumer choices. However, there was also the view that the correct balance has already been struck, and that any further regulations will be passed on to consumers as added costs.

Acknowledgments

While much of this report collates existing research, ACSO has also asked some of its members and other stakeholders for their views on attempts so far to enhance transparency in the legal sector and how further improvements can be made. There was no unanimity of view amongst those interviewed, but a number of issues were raised and suggestions were offered.

Special thanks go to the following contributors for agreeing to be interviewed for the purposes of this report and who shared their personal views (which are not necessarily those of their organisations):

Contributor	Role	Organisation
Tom Jones	Head of Policy and Public Affairs	Thompsons Solicitors
Anthony Belcher	Director	Society of Will Writers
Jonathan White	Legal and Compliance Director	National Accident Helpline
Michael Hanny	CEO	Review Solicitors
Kieran Magee	Managing Partner	TRUE Solicitors
Aisling O'Connell	Regulatory Policy Manager	Legal Services Board
Robin Geddes	Regulatory Policy Manager	Legal Services Board
Andrew Welch	Managing Partner	Stevensons Solicitors
Sarah Gilbert	Policy Officer	Legal Ombudsman Service
Holly Richardson	External Relations Officer	Legal Ombudsman Service
Jason Chapman	Ombudsman	Legal Ombudsman Service
Sian Lewis	Research and Policy Manager	Legal Ombudsman Service
Karen Beale	Managing Director	Financial and Legal
James Maxey	Managing Partner	Express Solicitors
Andy Kay	Director of Operations	First4Lawyers
Lola Bello	Manager	Legal Services Consumer Panel
Heidi Evelyn	Head of Policy Development and Research	Legal Services Consumer Panel

We hope this report will be of lasting value to the legal sector and those who depend on its services, helping different stakeholders representing law firms, insurers, consumer groups, regulators and others understand each other's views as to how the sector is becoming more transparent and how it needs to develop further.

Introduction

Recent years have seen a focus on increasing competition and transparency within legal services. This has been fuelled in large part by the Competition and Markets Authority (CMA) review of the sector in 2016, and its subsequent reassessment of 2020, which found consumers generally lack the experience and information they need to engage confidently with legal services providers.^{1,2}

Meanwhile the Solicitors Regulation Authority (SRA) and Legal Services Board (LSB) are reviewing how best to encourage customer reviews and digital comparison tools (DCTs) within the sector.^{3,4} Despite the potential in such indicators, it can be argued that they do not always confirm that a legal service provider is of a high quality. Rather, they can confirm that a provider understands how to manage its reputation.

Other measures aim to provide consumers with access to better information on the price, service standards and quality of legal services, thereby allowing them to make properly informed choices. This includes the SRA's Transparency Rules as well as the Financial Conduct Authority's (FCA) general insurance value measures reporting.^{5,6}

The fragmented nature of the sector means it is often difficult to reach a consensus on how best to improve transparency and therefore increase competition. Moreover, there is a risk that attempts to do so will lead to information overload for consumers considering a service they are purchasing or already receiving.

The Association of Consumer Support Organisations (ACSO) established its competition and transparency workstream to deliver a progressive approach to increasing both within the legal services sector. Activities have included:

- Roundtables organised with various leading stakeholders have discussed the best means of improving competition and transparency, including sessions with the CMA to input into its 2020 review;
- Through its Legal Expenses Insurance (LEI) Group, ACSO is engaging with the FCA to improve its approach to LEI value measures and with Defaqto to ensure its star ratings process better reflects the quality of motor and home LEI; and
- ACSO has submitted responses to various consultations and calls for evidence on the topic of transparency, a list of which is provided in the recommended reading.

Furthermore, ACSO has drafted a communication pledge for legal services providers to help ensure they communicate effectively with consumers, in particular on costs. Indeed, the most common causes of complaints about legal service providers include the price of a service and a failure to keep the consumer informed throughout the process.⁷ These two causes are often interlinked as, for example, consumers may not be informed about the increase in the cost of a service that has arisen owing to case complexity.

¹ Competition and Markets Authority (CMA), [Legal Services Market Study: Final report](#), 15 December 2016.

² CMA, [Review of the legal services market study in England and Wales: An assessment of the implementation and impact of the CMA's market study recommendations](#), 17 December 2020.

³ Legal Services Board, [Quality indicators discussion paper: response document](#), July 2021.

⁴ Solicitors Regulation Authority (SRA), [Quality indicators – join our pilot](#), 14 January 2021.

⁵ SRA, [SRA Transparency Rules](#), 30 May 2018.

⁶ Financial Conduct Authority (FCA), [General insurance value measures](#), 10 November 2021.

⁷ The Law Society, [Sources of Complaints](#), 03 January 2020.

ACSO communication pledge for legal service providers

- When consumers enquire as to the price of a legal product or service, they should be clearly informed that the estimate may increase if any additional work is needed.
- Legal service providers must communicate regularly with consumers, informing them of the progress of the service.
- If the cost of the service will increase beyond the original price estimate, the legal service provider must clearly state why this is the case and present a breakdown of costs.
- Legal service providers must consider the consumer's preferred method of communication, such as email, telephony, video or text.
- When a consumer has a query and/or requests information from their legal service provider, the correspondence should be acknowledged immediately and endeavours must be made to answer the question and/ or provide the requested information as soon as possible.

The importance of transparency

In its 2016 report, the CMA argued that consumers need legal services providers to be transparent about the price, service and quality of what they are offering so they will know it represents the best value for money in addressing their legal needs. It concluded that there is a lack of information available to consumers when they engage with the sector.

Some of the points the CMA outlined included:

- Consumer difficulty in assessing information actually provided by legal services firms;
- The bespoke nature of many legal services making the presentation of accurate price information very difficult;
- Direct limits on transparency being associated with advertising bans for legal services;
- How price and quality can be compared to show value for money;
- How to assess quality of service against quality of advice – the former was easier for consumers to judge;
- Intermediaries such as trade unions and insurance companies are likely to have a far better gauge of price, service and quality;
- The relative transparency for less complex matters, such as wills and conveyancing, was not replicated in other areas of law.⁸

The CMA warned that the legal services sector had a long-term issue with low levels of price transparency. It accepted that given the number of pricing/charging models used in delivering different types of legal services, a prescriptive ‘one-size-fits-all’ approach would not work in every instance and was neither realistic nor desirable.

However, it argued that the pricing models used by firms need to be clearly communicated to consumers. There was a tendency towards fixed fees being the most useful way of achieving this, where possible. Otherwise, scenario-based pricing would offer some level of certainty. Information on timescales, staff qualifications, quality marks and reviews would also assist with assessing services. The use of ‘calculators’ represented a promising approach for certain types of legal services, particularly for commoditised services with a finite number of pricing variables.⁹

In its 2020 reassessment, the CMA noted a mixed picture with some evidence of an increase in consumers accessing price and quality information, alongside continued difficulties associated with finding such information. It warned that price and service transparency is important, but must sit alongside quality of advice. It was disappointed that there had been limited progress on the development of information on the quality of legal services provision. It attributed this to a combination of factors, such as poor compliance with regulation, limited regulatory enforcement and negative consumer experience.¹⁰

In response to the CMA, the Legal Services Board (LSB) expects regulators to pursue, enforce and evaluate if, when choosing a legal services provider, consumers can access, as a minimum, useful information about a provider’s services, price, quality, regulatory status and access to resolution of complaints that enables them to make an informed choice as to the provider most suited to meet their needs.¹¹ The LSB has

⁸ Competition and Markets Authority (CMA), [Legal Services Market Study: Final report](#), 15 December 2016

⁹ CMA, [Review of the legal services market study in England and Wales: An assessment of the implementation and impact of the CMA’s market study recommendations](#), 17 December 2020, pp 229-243

¹⁰ CMA, [Review of the legal services market study in England and Wales: An assessment of the implementation and impact of the CMA’s market study recommendations](#), 17 December 2020, pp 42-43, 46-47, 68-67

¹¹ LSB, [Statement of policy on empowering consumers](#), 11 April

suggested that a single online register of regulated legal services providers that includes cost information, specialisms and services offered by firms, success rates, customer ratings and reviews, complaints information, overall star rating, size of the firm, date established, its location and its accreditations would help customers when choosing legal services providers.¹²

Our contributors on transparency

We asked our interviewees their thoughts on transparency in the legal services sector. They were generally positive:

- Transparency encourages competition and fosters a climate of openness from the outset;
- It helps consumers engage effectively in the legal market, improving consumer choice and strengthening faith in the legal sector;
- Transparency on price can inform people with no idea how much legal services cost and thus provide relief to those who believe legal services are prohibitively expensive;
- Price transparency can work well in certain sectors where prices are less volatile, such as conveyancing and wills;
- People should now be able to compare and know what to expect from an online search – although others argue that price transparency works better after the client has spent a small amount of time discussing their legal needs first;
- The legal sector should endeavour to catch up with other industries, such as insurance, where pricing is more prominent;
- Transparency should help reduce complaints and increase customer satisfaction; and
- “It just isn’t that hard to publish a price list on your website.”

However, there were concerns about transparency as well:

- Price does not necessarily reflect service levels or the quality of legal work produced. Encouraging people to decide on price can lead them to forget these and other factors;
- While clients generally understand service-level indicators such as speed of communication and customer care skills, that does not necessarily mean that the service was of good quality; for example, that the settlement reached was the right one or that the legal advice was correct;
- Information has to be contextualised. The way data are handled or formatted can skew results; for example, a range of estimated prices versus hourly rates or average settlement amounts or average deduction fees are likely to mislead customers;
- Transparency attempts can lead to customer information overload. Most consumers just want to know what the lawyer’s deduction is, what the risk is to their own money and how long the case will take. Often, consumers are not necessarily interested in hourly rates or the estimates but just want to know that they won’t be spending their own money if they lose their case;
- SRA rules on price transparency are so broad that prices can be buried in websites or so wide-ranging so as to be meaningless and unhelpful to consumers, as well as making it impossible for software developers to use them to create better algorithms that could help consumers;
- While price transparency can be useful for retail clients on a business-to-business level, there are commercial sensitivities associated with it; and
- Price transparency could increase marketing costs to providers, which are passed on to consumers. Another downside feared is a race to the bottom in pricing that simply erodes service and quality.

¹² LSB, [Quality indicators in legal services](#), January 2021

Most respondents believed that the CMA reports and some of the regulators' transparency guidelines for solicitors are a positive step, but that there is more to do to increase transparency and more data required to see the actual impact that transparency rules have had, for example:

- The majority of consumers do not understand legal services, and so the sector will struggle to be transparent. Many people never have to make a claim under their legal expense insurance policies, if they have any;
- Before-the-event insurance is something that people are likely to be aware of although they will recognise it as 'Motor or Home Legal Cover' without necessarily knowing what it is or exactly what it can offer;
- After-the-event insurance is something most people have never heard of;
- People do recognise the concept of 'no win, no fee' but are unlikely to understand it fully;
- Most people don't know the difference between claims management companies and traditional law firms;
- In the personal injury sector, the role of third parties such as medical-legal reporting agencies or barristers would be misunderstood by the average layperson;
- Aside from probate, divorce and conveyancing, most people do not recognise specific areas of the law, legal problems and how, if and when they relate to their own lives; and
- Some consumers are intimidated by and/or do not trust solicitors and therefore fear having to deal with them.

In respect of the changes to the transparency rules, there was the view that increases to transparency were often a 'box-ticking' exercise that had more to do with complying with regulators than offering information that was required and understood by consumers:

- The high level of detail contained in engagement letters and client care packs – whose purpose was to increase to transparency– is often very long and overlooked by clients; and
- Pricing information should be in an easier to understand format.

On the other end of the spectrum was the view that there was no particular problem with transparency and that the level of regulation was 'just right', because:

- It is hard to price legal services and normally impossible to provide fixed quotes;
- Lawyers provide good value, transparent, affordable, innovative products, with the 'no win, no fee' regime an example; and
- There was frustration that lawyers are accused of not being sufficiently transparent when they are in fact aware of the market benefits of transparency and already do what can reasonably be expected of them.

Transparency regulations

In 2016, the CMA recommended a regulatory baseline for standards in transparency that included minimum levels of price, service, redress and regulatory status across legal services provided to consumers and SMEs. It recommended that regulators introduce changes to promote transparency, research how to ensure that customers are able to engage with transparency information and review the extent to which legal services providers adhere to CMA recommendations. There were concerns that self-regulatory and membership bodies had varying membership requirements, were comprised of both authorised and unauthorised members and had varying ability to monitor and enforce members' disclosures.¹³

In 2020, the CMA noted that improvements in transparency only came into effect from late 2018 onwards, which is when new rules began to be implemented by the regulatory bodies. Based on the evidence available in 2020, there was a limited impact on the intensity of competition between providers and on sector outcomes. Levels of full compliance with the rules and guidance by legal services providers was assessed as fairly low. The CMA continued to argue for a mandatory requirement for minimum levels of price, service, redress and regulatory status transparency. It recommended regulators take action to improve the provision of information on quality of legal services providers to consumers by designing and implementing consumer research to test, identify, design and implement effective quality indicators; and to conduct further work to determine how best to improve consumer engagement with customer reviews.¹⁴

Regulators of legal services providers responded to the CMA's calls with examples of progress made to date including:

- SRA Transparency Rules mean that solicitors must display prices and service information if they work in certain areas, such as residential conveyancing, uncontested probate and debt recovery up to £100,000. The SRA also has rules about the way that price information is presented and what service information is published on firms' website as well as upon request. The SRA monitors compliance with its transparency rules by conducting random web sweeps of firm websites – the last being conducted in 2019.^{15,16} The SRA provides guidance to the firms it regulates on improving price and service transparency. This includes mandatory requirements as well as best-practice tips on publishing price and service information;¹⁷
- The Bar Standards Board (BSB) mandates some rules on price, service and redress transparency, although there are additional transparency rules to Public Access services, such as Employment Tribunal cases and financial disputes arising out of divorce, which provide more indicative price information.^{18,19} The BSB publishes Code Guidance to assist barristers in

¹³ Competition and Markets Authority (CMA), [Legal Services Market Study: Final report](#), 15 December 2016, pp 73, 227-8, 277-282

¹⁴ CMA, [Review of the legal services market study in England and Wales: An assessment of the implementation and impact of the CMA's market study recommendations](#), 17 December 2020, pp 63-64, 67, 77

¹⁵ SRA, [Price Transparency](#), November 2018

¹⁶ SRA, [Transparency Rules](#), 30 May 2018

¹⁷ SRA, [Transparency in price and service guidance](#), 3 August 2021

¹⁸ BSB, [Transparency Rules](#), 9 March 2022

¹⁹ BSB [Price Transparency Policy Statement](#) July 2019

complying with the transparency rules in the BSB Handbook that includes additional best practice on transparency and checklists to help with compliance;²⁰

- Chartered Institute of Legal Executives (CILEX) has rules on price and service transparency which apply to regulated firms providing legal services in conveyancing, probate and immigration.^{21,22} CILEX has suggested how firms can provide such information through its transparency guidance and checklist;^{23,24}
- The Council for Licensed Conveyancers (CLC) has specific requirements for what should be included in an estimate of costs.²⁵ The CLC provides members with costs-estimate template and suggests service information such as timescales to benefit consumers;²⁶
- The Costs Lawyer Standards Board has produced guidance for members related to price transparency as presented through websites and promotional material;²⁷ and
- Intellectual Property Regulation Board (IPReg) has released guidance including a description of service and price, fixed pricing or the basis of charges, scenario-based pricing, the role of VAT and likely disbursements.²⁸

However, as not all legal services providers are regulated as the Legal Services Act 2007, which permitted unauthorised firms to carry out unreserved legal activities, it is not immediately clear how stricter regulatory behaviour would necessarily affect this area of the market. Moreover, much of the regulator activity is concentrated on guidance notes, rather than compulsory regimes. While there are tighter regulations on transparency, the areas of law covered are limited. Another market study of legal services may be required to assess the full impact of the changes made from 2018 to date.

²⁰ BSB [Transparency Rules](#), 21 July 2022 |

²¹ CILEX Regulation [Price and service transparency](#)

²² CILEX Regulation, [Transparency Rules](#), 24 January 2022

²³ CILEX Regulation, [Transparency Guidance](#), 24 January 2022

²⁴ CILEX Regulation, [Transparency Rules checklist](#), 24 January 2022

²⁵ CLC, [Estimates and Terms of Engagement Code](#)

²⁶ CLC, [Informed Choice](#)

²⁷ CLSB, [Guidance Note: Price transparency \(through websites and promotional material\)](#), 21 April 2021 | 6

²⁸ IPReg, [Improving information for Consumers and Small Businesses](#), May 2019

Our contributors on regulation

Some of ACSO's interviewees pointed out that the balance has already been struck in terms of regulation:

- Law firms do not object transparency per se as “sunlight is a good bleach to anything bad”;
- Attempts at increasing clarity and communication between firms and clients is likely to lead to more positive client experiences and future work;
- Ultimately, clients pay for everything law firms do. If red tape increases, then it is clients who pay the extra, not the business. Increasing regulation any further may simply drive up prices;
- Alternatively, overregulation in terms of price leads to price wars and races to the bottom in quality that is only going to hurt consumers in the end; and
- The future of regulation is a focus on client reviews and there is not much more firms can do.

Criticisms of the status quo were also pointed out, however:

- The larger regulators have been monitoring the transparency of legal services providers. The SRA was mentioned as one of the better regulators and there was a view that the smaller regulators have not been sufficiently committed to this role;
- However, even the SRA rules on transparency are so vague and wide that prices can be buried in websites and range so widely so as to be meaningless for consumers. In any event, just publishing pricing is not that useful without context;
- It is concerning that it took the CMA coming into the market to tell regulators that there was not adequate transparency for consumers before necessary changes were made;
- Transparency has been pushed where it is easy to introduce it, such as conveyancing, but there is less willpower in other areas of law; and
- The bare minimum has been done. While you can compare transparency in financial services and telecommunications, for example, the legal services sector is lagging dangerously behind.

The consumer experience of transparency

It is imperative that lawyers understand the vulnerabilities consumers can face when they need and use legal services. By engaging with consumers constructively, any such vulnerability can be reduced and legal access increased.

Research in 2022 by the Legal Services Consumer Panel (LSCP) into how consumers are using legal services revealed insights into how transparent legal services:

- 43 per cent of consumers are shopping around for legal services (compared to 30 per cent in 2021);²⁹
- The price of the service was the main thing people compared when shopping around (mentioned by 52 per cent of consumers). Reputation and the location of the office was mentioned by more than one in three consumers. Specialism and quality marks were important for around one in four. Online service, speed of delivery and access to an ombudsman in case of dissatisfaction concerned around one in five consumers;³⁰
- Comparing data between 2017 and 2022, while most consumers discover the cost of legal services through a discussion with the provider (54 per cent), this figure is declining. Meanwhile, prices advertised on provider websites and in advertisements have increased (15 per cent and 9 per cent in 2022, respectively; at least doubling since 2021);³¹
- 79 per cent of consumers report finding it easy to understand the cost of their legal services – the figure is higher for more straightforward legal services (89 per cent in 2022).³²
- 75 per cent of consumers find it easy to make price comparisons across legal services providers (up from 58 per cent in 2018).³³ However, it is not clear how these consumers are making such comparisons as only 5 per cent of consumers in 2022 found prices on a comparison website;³⁴
- 63 per cent of those shopping around report to seeing CMA 2016-recommended information displayed on legal services websites, such as descriptions of the staff who deliver services, a timeline showing the key stages of the work to be completed with indicative timelines and any factors that might impact these.³⁵ It is presumed that there are no data on this subject for those who did not shop around; and
- 70 per cent of consumers believe the overall service and advice they received from their legal service provider was good value for money, up slightly from 65 per cent in 2021.³⁶

The LSB has researched the vulnerabilities consumers face when they need and use legal services and highlighted the way lawyer engagement with consumers can increase or reduce vulnerability. The LSB recommended clients know what to expect in terms of the legal professional's role, processes and costs and clarity about costs, pricing plans and charges throughout the process. The research shows

²⁹ LSCP, [Tracker Survey 2022](#), July 2019, p 9

³⁰ *Ibid.* p 11

³¹ *Ibid.*, pp16-17

³² *Ibid.* p 17

³³ *Ibid.* p 17

³⁴ *Ibid.*, pp16

³⁵ *Ibid.* p 18

³⁶ *Ibid.* p 14

how vulnerability and lack of transparency can lead to people dropping out of the legal services market and representing themselves.³⁷

The fact that consumers are becoming more confident in comparing legal services is a welcome trend; however, it is still the case that only a minority do so. It is natural that consumers would want to achieve the best price – especially in the current economic climate. However, it is critical that consumers get value for money as well.

While it is positive that the majority of consumers believe the overall service and advice they received from their legal service provider was good value for money, it is not clear how they could know this. Reputation and specialism did rank in the top-four factors consumers are most likely to consider, but it is important that these factors include expertise and quality of legal advice. Having a good reputation requires unpicking as this could range from delivering good outcomes to brand awareness. Similarly, a law firm can list a particular area of law as a specialism without necessarily having the right expertise.

Six years after the CMA 2016 recommendations on what information legal services providers should display, it is regrettable that nearly 40 per cent of those shopping around do not report seeing this information displayed on legal services websites.

³⁷ LSB, [Vulnerability in legal services](#), March 2022, pp 12-47

The role of online reviews in increasing transparency

Online reviews and responses to them are extremely influential when people choose services and products, including legal services.³⁸

Law firms have expressed frustration with fake or misinformed online reviews as they can be difficult to take down. In the case of *Summerfield Browne Ltd v Waymouth*, a disgruntled client wrote a negative comment on Trustpilot about his solicitors, who responded by suing him for defamation and were subsequently awarded damages of £25,000 while Trustpilot was ordered to take down the review.³⁹ There are mechanisms for certain review sites such as this to contact authors to prove they are genuine clients. Other platforms, such as ESTAS, are invite-only reducing the risk of fake reviews. Some law firms have suggested increasing measures that govern reviews including creating their own review platforms.⁴⁰

Any attempt to harm the independence of reviews is concerning as it can undermine the ability of consumers to learn from each other's experiences. Whether this is to be seen in the light of restricting genuine consumer opinion or as a legitimate upholding of the laws on defamation, it is clear that not all legal services providers have adopted client reviews with equal gusto.

In 2016 the CMA argued in favour of promoting the use of independent feedback platforms to help consumers understand the quality of service offered by competing providers and suggested that regulators should provide guidance to providers on how they should engage with public reviews. Consumers told the CMA that reviews would be useful when choosing a legal services provider. The CMA accepted that there were some barriers to using reviews in the legal services market, such as: reviews being affected by an excessive emphasis on outcomes; the potential for manipulation by law firms; the prevention of law firms engaging with reviews due to client confidentiality; and the inability of reviewers to assess the quality of advice. However, the CMA noted that these hurdles could be overcome by firms receiving reviews at different stages of their cases; review sites growing in sophistication and thus being able to detect fake reviews; legal services providers acknowledging comments publicly without going into private details; and customers being able to assess some aspects of service quality, if not always the quality of advice. Overall, the CMA was frustrated that legal services providers had been slow to develop client feedback mechanism – especially compared to other sectors, such as the use of reviews on the NHS Choices website in relation to GP practices.⁴¹

In 2020 the CMA said that regulators need to take further action to increase consumer engagement with customer reviews. This could include: tailoring the content of reviews to make them a more meaningful assessment of a legal services provider; to consider independent third-party review platform systems and processes to ensure reviews are accurate; and to consider where reviews are best presented (i.e. whether on providers' websites or third-party review websites).⁴²

³⁸ Law Society: Amanda Croxon, [Can you afford to ignore online reviews?](#) 3 August 2021

³⁶ *Summerfield Browne Limited v Philip James Waymouth* [2021] EWHV 85 (QB); Law Gazette: John Hyde, [Disgruntled client ordered to pay £25,000 damages for libellous review](#), 19 January 2021

³⁷ Today's Conveyancer, [Are "fake reviews" a cause for concern in the legal sector?](#), 19 July 2021 /

⁴⁰ Competition and Markets Authority (CMA), [Legal Services Market Study: Final report](#), 15 December 2016, pp 15, 68, 69, 242, 243

⁴¹ CMA, [Review of the legal services market study in England and Wales: An assessment of the implementation and impact of the CMA's market study recommendations](#), 17 December 2020, pp 84,87-88

There is a commercial impetus for law firms engaging constructively with online views. The SRA has revealed⁴³ that:

- 40 per cent of legal consumers would consider posting a review on comparison website;
- 53 per cent expect businesses to respond their online reviews within 7 days;
- 80 per cent believe businesses that respond to reviews care more about them; and
- 45 per cent are more likely to visit businesses that respond to reviews.

There are certain challenges facing law firms when it comes to responding to reviews. The general duty of confidentiality restricts the extent of the response. Moreover, solicitors are expected to behave in a way that upholds public trust and confidence in the profession and must not abuse their position by taking unfair advantage of clients, so it can be difficult for lawyers to ask clients to take down negative reviews. However, none of this precludes solicitors from responding to all reviews professionally, courteously and constructively.⁴⁴

It would be wrong for legal services providers to circumvent the unassailable online trend of customer reviews. Consumers need to be equipped with the knowledge of how to select a legal services provider and so online reviews seem appropriate.

Our contributors on reviews

There was positive sentiment towards online reviews as a basis of improving transparency and a general acceptance that it is essential to engage with as many review sites as possible:

- Reviews are written for all manner of non-legal products purchased by the public and so law firms should expect to be reviewed whether they like it or not. Disgruntled customers tend to write negative reviews on their own volition, so it makes sense for law firms to encourage happy clients to provide reviews too;
- Reviews are also a valuable source of information for consumers – possibly even replacing word-of-mouth recommendations;
- Comparatively few reviews are fake and customers need to know what to expect from legal services providers. If customers turn to online searches for everything else, it is natural that they would use the internet to find out about other people’s experiences of law firms;
- There were also benefits outlined for firms themselves as reviews can help departments maximise client service and recognise changing client expectations;
- Positive reviews can provide brand recognition;
- One law firm opined that it is possible to engage with the negative reviews and that client confidentiality doesn’t necessarily prevent them from public responses. Law firms can provide short-form responses and then contact client separately to take the matter offline. Alternatively, the law firms can ask clients for permission to waive confidentiality; and
- There has been a shift in thinking away from price and service transparency metric to using reviews as the main solution to improving transparency in legal services.

⁴³ SRA, [Engaging with online reviews](#), 11 February 2021

⁴⁴ SRA, [Engaging with online reviews](#), 11 February 2021; SRA, [Guidance: Confidentiality of client information](#), 30 June 2022

However, there were concerns around relying on solicitor reviews as a measure of increasing transparency. Some negative associations with reviews concerned the way they are generated:

- Client feedback survey completion rates are low as clients tend to want to move on with their lives after settling. It is therefore difficult to see the usefulness of reviews if so many people do not even write them;
- Some of the most helpful reviews are the middling ones rather than the very positive and very negative reviews. Arguably, firms can learn the most from the middling reviews – and yet these clients are the ones least likely to write reviews in the first place;
- As legal services are often distress purchases, the client is likely to have a negative view from the outset, such that some clients will never be happy. For example, divorce is never going to be a very happy experience for most;
- Consumers are more likely to write reviews based on service and outcome – because this is something they are more likely to understand – rather than necessarily quality of advice, legal knowledge or ability; thereby suggesting that the reviews they write may be of limited assistance to other consumers; and
- While reviews offer a good guide, consumers don't necessarily make their decision based on them, which could arguably undermine their value.

Other issues revolved around the impact on firms themselves:

- One bad review can potentially mean a couple of bad months in business;
- Strident complainers can give a skewed impression of services, even if they are in a tiny minority;
- Unhappy customers are most likely to engage with review writing, which only furthers the incentive for law firms to encourage the most satisfied customers to write positive reviews, which itself is a manipulation of the system;
- The amount of time law firms spend engaging with reviews drains money away from actually providing legal services;
- Review sites should be regulated more and reviews verified to weed out vexatious complaints;
- Anonymous comments are unfair on law firms;
- Sometimes comments do not match the scores (for example, awarding 4 out of 5 stars for “excellent” service, with no indication as to why the firm was not awarded 5 stars); and
- The difficulty law firms have when engaging with negative reviews on forums as open as the internet without undermining client confidentiality and data protection laws. While it is possible to provide general comments, or invite customers to contact the law firm for redress, most solicitors agreed that their hands were to some extent tied in this respect.

The role of digital comparison tools (DCTs) in increasing transparency

The CMA defines DCTs as ‘digital intermediary services used by consumers to compare and potentially to switch or purchase products or services from a range of businesses’. DCTs aim to help consumers by bringing together a number of products or services, such as flights, utilities and insurance, and offer ways to help consumers choose between and/or purchase products, and sometimes even change providers. DCTs save consumers time and effort as they simplify the ‘shopping around’ process. Moreover, DCTs make suppliers compete harder to provide lower prices and better choices.⁴⁵

Since the CMA’s 2020 review, there is evidence of the legal services market increasingly engaging with DCTs:

- Trustpilot reports a 25 per cent increase in legal firms claiming their profiles on the platform. Review Solicitors has seen a 350 per cent increase in take up for its paid-for service and a 180 per cent increase in the take up for its free service;⁴⁶
- The LSB in principle favours a voluntary accreditation scheme for DCTs and believes that regulators need to increase the provision and quality of core regulatory information, and make it available on an open data basis and in a standardised format suitable for DCTs;⁴⁷
- The SRA has developed a voluntary code of conduct for digital comparison tools operating in the legal services market designed to ensure that, for example, such websites are independent, accessible, accurate, fair, and transparent on quality and price;⁴⁸ and
- The LSCP sees a place for DCTs as long as they fulfil certain criteria, such as being accessible, impartial and accurate.⁴⁹

In 2016 the CMA warned that the increasing use of DCTs by consumers in other sectors, such as energy and financial services, was not matched by the legal services sector. While there had been greater uptake in conveyancing, the majority of other DCTs covering legal services were simply directories or referral websites. The reasons for this low interest included: the one-off nature of most transactions; the presence of offline intermediaries, such as estate agents; the inaccuracy of customer reviews; the complexity of legal services pricing; the low technological sophistication of some legal services provider websites; the unwillingness of law firms to be transparent on pricing; and the lack of information on pricing from regulators.⁵⁰

In 2020 the CMA noted little improvement as DCTs had not made sufficient use of the price and service information made available following the implementation of the transparency rules. More needed to be done for legal services providers to standardise their information on price and service and to improve the quality of information available on their websites; but the CMA said that it should already be possible for greater inroads to have been made in the more commoditised areas of law.⁵¹

⁴⁴ CMA, [Digital comparison tools market study: final report](#), 26 September 2017, p 6

⁴⁶ Regulation Matters, [Firms are keen to join the customer review pilot](#), 6 July 2021

⁴⁷ Legal Futures, [LSB eyes accreditation scheme for comparison websites](#), 7 June 2021

⁴⁸ SRA, [Voluntary code of conduct for digital comparison tools operating in the legal services market](#), 11 February 2021

⁴⁹ LSCP, [Good practice standards for Digital Comparison Tools](#)

⁴⁹ Competition and Markets Authority (CMA), [Legal Services Market Study: Final report](#), 15 December 2016, pp 77-79

⁵⁰ CMA, [Review of the legal services market study in England and Wales: An assessment of the implementation and impact of the CMA’s market study recommendations](#), 17 December 2020, pp 52-55

However, there are no large-scale DCTs operating within the legal services market, which reflects the perceived commercial unattractiveness of them. DCTs face issues particular to the legal services market:

- Legal products are not bought frequently and are less of a price-driven purchase than, for example, insurance products;
- There is also an age divide as legal services are more likely to be purchased by people of above average age, who are less likely than younger consumers to use the Internet to make price comparisons in the first place, although this gap is closing;⁵²
- The creation of a single digital register of regulated providers could encourage the growth of DCTs in the legal services sector through the greater provision of data. However, better aggregate data is required if meaningful comparison of legal products is to take place. Data need to be clear, accessible and contextualised. The source of data which could be used will include: complaints; consumer feedback; accreditations; and success rate. However, it must be stressed that such information must be contextualised or other information will be hollow;⁵³
- While approximately one in two individual and SME consumers are aware of legal services price comparison sites and/or consumer reviews and ratings, only around one in four actually use them. These figures are rising year on year, but the combination of potential users of DCTs taking a cautious approach to them and legal services providers having many reservations, it appears that either DCTs are not living up to their potential or there is a limit to how useful they are to consumers;⁵⁴
- Some of the relevant information already in the public domain is not regularly viewed by consumers. This includes the SRA website, which provides data such as authorisation status and disciplinary decisions, and legal directories, such as Legal 500 and Chambers, which provide detailed profiles and rankings about law firms and lawyers;^{55,56}
- Regulatory requirements subject the ability of law firms to engage with comparison websites to certain considerations. For example, any DCT that provides potential client details to firms who then proceed to contact the potential client and offer their services in exchange for a fee sent by the law firm to the website is likely to be regarded as a referral by the SRA and therefore be in breach of the rules. In contrast, a website that provides a search tool in order to contact the firm themselves or a website that sends potential clients without first giving the firm the client contact details is likely not to fall foul of the rules;⁵⁷
- Under paragraphs 8.8 and 8.9 of the SRA Code of Conduct for Solicitors, registered European lawyers (REs) and registered foreign lawyers (RFLs), any publicity on comparison websites must be accurate and not misleading, and any communication had with the potential clients via comparison websites must not be unsolicited;⁵⁸ and
- The Law Society has warned that DCTs can disadvantage sole practices and small firms. This is because the commercial conditions imposed by comparison tools are more likely to be bearable by larger firms that can therefore end up monopolising the sites and shut smaller firms out of the market. This risks increasing prices and decreasing choice, which, in turn, could reduce access to justice. Moreover, as there is a disproportionate number of black and minority ethnic solicitors who work as sole practitioners or in small firms – often serving challenging communities in areas of deprivation – DCTs may further impact diversity in access to legal services.⁵⁹

⁵² LSCP, [Tracker Survey](#), August 2020, p 4

⁵³ ACSO, [Legal Services Board \(LSB\) 'Quality indicators paper response'](#), 22 July 2021

⁵⁴ SRA, [Transparency Rules: Year One Evaluation](#), October 2020, p 73

⁵⁵ SRA, [Customer reviews](#), 5 July 2021

⁵⁶ SRA, [Solicitors Register](#)

⁵⁷ [Sections 56 and 60 of the Legal Aid, Sentencing and Punishment of Offenders Act 2021 \(LASPO\)](#)

⁵⁸ SRA, [Engaging with comparison websites](#), February 2021

⁵⁹ Law gazette: Paul Rogerson, [Comparison sites could 'shut out' small firms and BMA solicitors – Law Society](#), 28 March 2022

Our contributors on digital comparison tools (DCTs)

There were positive attitudes to DCTs:

- Feedback from some consumers was that they wish that they had used DCTs when previously instructing solicitors;
- DCTs may arguably work better when it comes to the types of legal products that can often be supplied at a fixed cost, such as conveyancing;
- If a law firm does not engage with DCTs, consumers may distrust them; and
- The shift towards consumers searching online reviews prior to instruction seems to highlight that there is a growing appetite for DCTs.

However, one issue with DCTs as a means of increasing transparency are the obstacles associated with making data more accessible to the comparison websites in the first place:

- Client confidentiality and commercial sensibilities can make it difficult to share data; and
- Many consumers rely on their legal expenses insurance or trade union membership, which usually push consumers to their preferred panel of law firms, thus undermining the need for DCTs in the first place.

Another issue when it came to DCTs was the metrics used by these websites in the first place:

- How a certain organisation ranks particular factors for a legal product could be subject to debate. While DCTs are convenient and easy in sectors such as insurance, legal services are more complicated. A variety of factors needs to be considered, such as training, accreditation, client feedback, service, quality and price;
- Legal services for consumers are singular, one-off purchases. One concern with DCTs is that a lot of the information that they would use to rank firms would be based on impersonal algorithms or merely skimming websites. But there would need to be greater research into what the law firms offer to understand and appreciate the value they are providing. It is not certain whether any comparison sites are getting this right; and
- It appears that the DCTs currently on the market rely very heavily on reviews alone by customers who are overwhelmingly facing their conclusions on service-level factors and perceived outcomes, rather than more complicated data sets.

A transparency quality mark?

In 2016 the CMA pointed out that accreditation schemes or quality marks have been developed by providers as a way of demonstrating that legal services providers have attained specific quality standards or have specialist expertise. While such schemes were seen to promote high standards in the provision of legal services and help clients identify legal competency, the CMA also accepted that such schemes were not always familiar to consumers and could run the risk of confusing them and/or provide unwarranted assurance. While the CMA did not make a specific recommendation to introduce a transparency mark, as it believed the priority of the regulatory community should be introducing mandatory enhanced minimum standards, it did consider that a transparency mark could be used as a flexible way of promoting enhanced standards of transparency across the legal profession.⁶⁰

In 2020 the CMA noted very little development in terms of providing consumers with additional objective indicators of quality and that the majority of consumers were not considering quality marks when choosing legal services providers. It suggested that regulators explore the feasibility of developing a transparency mark as a way of helping to ensure that the standard of information disclosures made by providers is high and conforms to best practice.⁶¹

The LSB has suggested creating a sector-wide quality indicator framework with three criteria:

- technical quality;
- customer service; and
- outcomes.⁶²

In partnership with the Council for Licensed Conveyancers and CILEx Regulation, the SRA launched a quality indicators pilot scheme involving law firms and comparison websites to increase the amount of publicly-available information on the quality of legal services. The aim of this work is to:

- Increase the amount of comparable information available to consumers to help them when they are choosing a legal services provider;
- Increase the number of legal services firms that engage with comparison websites;
- Increase the number of consumers using online information to shop around when purchasing legal services; and
- Increase the number of consumers using and leaving online reviews about legal services.⁶³

However, the Law Society has noted that there is already a range of quality marks in the legal sector that exist for consumers, which should be enhanced before considering new measures, including:

- qualification as a solicitor with built-in ethical conduct;
- quality assurance standards set by the SRA and the Legal Aid Agency; and
- Law Society accreditations.⁶⁴

⁵⁹ Competition and Markets Authority (CMA), [Legal Services Market Study: Final report](#), 15 December 2016, pp 70-71, 244-246

⁶⁰ CMA, [Review of the legal services market study in England and Wales: An assessment of the implementation and impact of the CMA's market study recommendations](#), 17 December 2020, pp 50-52, 72

⁶² LSB, [Quality indicators in the legal services market: discussion paper](#), 23 February 2021, p 11 1

⁶³ SRA, [Quality indicators invitation](#), 21 January 2021

⁶⁴ Law Society, [LSB discussion paper on quality indicators – Law Society response](#), 22 April 2021

It therefore appears there is a patchwork of quality schemes that are not necessarily helping consumers choose legal services providers or indeed provide quality assurance in the first place. It remains to be seen whether the solution is a complete overhaul to create a universally-recognised accreditation scheme or whether other indicators, such as reviews sites, alongside the use of existing quality marks, are better placed to help consumers.

Our contributors on an accreditation and quality mark

There was no real appetite for a transparency accreditation mark. However, accreditations were seen as a good thing:

- As a quick-to-understand metric, they are useful in theory. They are most helpful if achieving an award involves a process that the member has had to go through in order to achieve it;
- Occasionally, consumers ask if a particular firm is a member of the organisation, which suggests some value to them;
- They were seen as more useful for commercial clients who are more likely to seek them out; and
- There were firm benefits as a good measure of internal compliance.

However, the general view was that the public do not know or care about accreditations, and there were also concerns around how some accreditations manage their research (arguing that the way they make awards is itself not transparent and the conclusions formed could be confusing).

Public Legal Education (PLE)

The Law Society defines ‘public legal education’ as “Helping the public to understand legal issues. It is not legal advice. It’s about developing knowledge and skills, not answering specific legal problems”.

PLE helps the public to:

- Know what their legal rights are;
- Know how the legal system works;
- Identify when they have a legal need;
- Know how to deal with legal issues and how to access legal support; and
- Value the rule of law.

PLE may also attract a diversity of talent as it increases understanding of the profession among a wider pool of people. PLE can stimulate demand for legal services in the first place.⁶⁵

The LSB believes that PLE can support the regulatory objectives of helping consumers engage actively with information on price, service, and quality.⁶⁶ The LSB’s 2022 ‘Statement of policy on empowering consumers’ states that regulators are expected to focus on PLE and that regulators are expected to make meaningful contributions to cross-sector initiatives, such as Legal Choices, which is an independent, factual information online resource about legal issues and legal advisers.^{67 68} It is an independent, Legal Choices is run by the SRA on behalf of CILEx Regulation, the Council for Licensed Conveyancers, the Intellectual Property Regulation Board, the Institute of Chartered Accountants in England and Wales, the Faculty Office and the Costs Lawyer Standards Board.⁶⁹

In 2016, the CMA recommended that the Legal Choices website was a key component of PLE but needed to be reviewed and developed. The CMA was disappointed by how little awareness there was among consumers of the Legal Choices website and argued that the platform was in need of an overhaul in order to make it more accessible, comprehensive and customer-friendly. This included tailoring information better to consumer needs as well as more active promotion by regulators and legal services providers of the website in the first place, given the limited virtual footfall it received.⁷⁰

In 2020, the CMA continued to argue that Legal Choices was an important part of PLE that has made a positive contribution to date, but was still concerned about the lack of independence, funding arrangements and the withdrawal of BSB funding for the website. Further, the CMA argued that a single digital register which combines data from regulators (such as first-tier complaints and representative body membership information) and data from third parties (such as customer reviews and ratings) into either a single combined database or a unified method of accessing the data was beneficial as it would:

⁶⁵ Law Society, [Public legal education](#), 7 July 2021 n

⁶⁶ <https://legalservicesboard.org.uk/wp-content/uploads/2021/10/05.-Paper-21-50-Single-Digital-Register.pdf>

⁶⁷ Legal Choices, [Homepage](#), < accessed 19 August 2022

⁶⁸ LSB, [Statement of policy on empowering consumers](#), 11 April 2022

⁶⁹ Legal Choices, [Legal Choices 2020-2023 development strategy](#), March 2022 , p 10

⁷⁰ Competition and Markets Authority (CMA), [Legal Services Market Study: Final report](#), 15 December 2016, pp 251-259, 260, 262-263

- reduce the cost to intermediaries and firms of collecting and providing information that is already captured by regulators; and
- provide meaningful information to aid the growth and development of DCTs.

The CMA considered that the Legal Choices website could include tools that include price and quality information, so that it can evolve into a single digital register.⁷¹

Since the CMA's 2020 review, the Legal Choices 2020–2023 development strategy has analysed reach and impact of the website. The 2020-2021 overview revealed that targeted adverts were seen 200 million times and people watched videos 1 million times. The Legal Choices website was visited 1 million times: 100,00 views came from search engines – double the amount of 2 years' earlier. The use of an online dictionary explained legal terms in clear English, developed in partnership with the Plain English Campaign; for example, using phrases, such as 'how to deal with eviction' and 'help me to trust my lawyer'.⁷²

This is good news for consumers as it indicates that CMA's recommendations for improving PLE through Legal Choices is being taken seriously. However, at the time of writing, the Legal Choices YouTube account had just 75 subscribers and the majority of videos had been viewed fewer than 100 times (although three videos on discrimination at work had five- or six-digit viewing figures). Around 5,000 people followed its Facebook page and it had fewer than 1,500 followers on Twitter. These are not the kind of figures one would expect of a national, cross-sector initiative providing independent and factual information and about legal issues and legal advisors.⁷³ It appears that far more needs to be done to help Legal Choices – and other sources of PLE – to achieve their potential.

⁷⁰ CMA, [Review of the legal services market study in England and Wales: An assessment of the implementation and impact of the CMA's market study recommendations](#), 17 December 2020, pp 82-83, 91-92

⁷² LSB, [Single digital register](#), 26 October 2021

⁷³ [Legal Choices Facebook Page](#); [Legal Choices Twitter Handle](#); [Legal Choices YouTube Channel](#)

Our contributors on PLE

Some contributors voiced positive opinions about PLE. A centralised education hub was seen as a good idea, at least in theory. Research suggests that there is a power imbalance between lawyers and their clients and so increasing the education consumers receive will help restore the balance:

- Legal Choices was seen as potentially valuable if more people fed into it. An open and fair platform for various bodies to contribute to, and consumer knowledge of its existence, would be welcome;
- Legal Choices was criticised for not being user-friendly or intuitive and for not investing enough to get to the top of search results;
- The legal services sector should have an education hub, such as that offered by the NHS website;
- Legal services are normally a distress purchase but consumers should be comfortable when making it. There have been some changes to increasing education around personal finance and it could be useful to expand that to include identifying when you have a legal need and how to choose a solicitor; and
- Another view was that the current shift towards review sites was itself a useful form of educating the public.

There was also the view that while consumers should certainly know their rights and how to complain if they are not represented properly, educating consumers is overestimated and information remedies do not solve all problems:

- Most consumers find legal education too complicated and just want to buy a legal product that they can be assured work well, and know that they are protected. Focusing too much on legal education passes the buck onto consumers rather than solving the problems of lack of transparency in the legal services sector. Expecting the average consumer to understand the complicated legal landscape is unfair;
- Legal education should be about knowing your rights and when to identify that you have a problem that will be best served by going to a lawyer. This is more important than regulators interfering with how much lawyers should be charging and teaching consumers about how the law operates;
- It is not immediately clear what PLE could do that is not already being done by, for example, review sites, Citizens Advice, GOV.uk and information contained in most large law firms' websites;
- The focus should be less about consumer education, and more about the regulators listening to what consumers want to know. It is a matter of regulator education;
- There is already a lot of information on the Internet about legal services. You can't force people to read it and it is up to individuals to educate themselves;
- Most consumers are adults of sound mind, they should be able to make their own decisions; and
- The only real education hub is Google. Spending too much time trying to invest in a specific consumer legal education hub could be a waste of time. Ultimately, consumer education into legal services is going to be linked to search engine optimisation and pay per click, rather than any attempt by regulators to improve consumer education.

Challenges and ideas

Many of the challenges to increasing transparency outlined by firms have been alluded to already in this report, such as:

- Price transparency leads to a race to the bottom in terms of quality if firms undercut each other;
- Transparent pricing needs to be contextualised along with service and quality – price transparency alone does not help clients that much;
- Client reviews can be costly for firms to engage with and tend to focus on service levels rather than quality of service;
- The current rules around displaying prices is so generic as to be meaningless; and
- Some of the meaningful data required, such as regulatory data, legal expertise and customer experience are not, or cannot, be forcefully acquired and shared.

Our contributors offered a range of ideas for how to improve transparency in the legal services sector:

- The culture of the legal sector needs to change. Lawyers have always won business without transparency. Tradition leads to lack of innovation. Law firms should see themselves as serving the public and the profession needs to have a greater sense of duty to consumers. By doing this, customers will see lawyers are more approachable and will be less intimidated by them. This could also solve the situation whereby people only realise they have a legal need when it is too late. Customers should be at the heart of the lawyers' business model;
- Cost lawyers are in a perfect position to estimate the likely costs of legal services. They can provide the data required to improve price transparency. These data should then be publicised;
- More fixed pricing for legal products that are simpler and easier to understand is required;
- The focus should be on asking consumers what they need and desire rather than expecting regulators to step in and solve the problems for them. Many law firms are merely reacting to what the regulators want them to do because they have to do it. Consumer focus groups might be a more productive use of time, but this is expensive;
- Letters of engagement could mention that other firms may be cheaper – this is something that insurance companies have to do;
- Increased awareness of legal expenses insurance and/or legal cover under trade union membership could improve customers' access to justice;
- Trade organisations need to do more actively to encourage and educate members and consumers about legal products, pricing, expertise and service levels; and
- Greater modernisation in the legal sector; such as more engagement with online reviews, greater use of social media by law firms and the introduction of televised court rooms.

Overall, therefore, the view was that legal services providers need to be clearer to consumers, have more consumer-focused practices, use data to make pricing more transparent and engage with technology to help inform consumer choices.

However, there was also the view that the balance has already been struck. Any further regulations will be passed on as added costs, which would not be in their long-term interest of consumers.

Recommendations

In light of the findings outlined in this report, ACSO has developed a list of recommendations for the legal services sector. An adoption of these will help to ensure there is a properly functioning, competitive and sustainable justice system for consumers.

- 1** Shift the focus away from price transparency and towards transparency of quality. Law firms – including non-lawyer legal providers – need to work harder to make information on quality better available so that consumers can make informed choices and comparison websites can develop more accurate algorithms that can compare the quality of the legal services providers. A single online register – as envisaged by the LSB – may well assist. However, it would work better if it included the unregulated sector.
- 2** Widen the scope of regulators’ transparency guidance so that it includes more areas of law. Much of this ‘guidance’ should be made into ‘specific requirements’.
- 3** Introduce better quality and service indicators. There need to be stronger regulations mandating that legal service providers publish a description of services provided on their websites, such as which staff will deliver services and what their reputation, expertise and experience are. There ought to be timelines showing the key stages of the work to be completed with indicative timescales and any factors that might impact these. This should sit alongside pricing information, such as price lists and scenarios.
- 4** Legal services providers should engage with online reviews. Regulators should review how law firms can respond to reviews constructively. This will ensure that existing clients are listened to and potential new customers have the information they require provided in a manner that is professional and does not undermine client confidentiality.
- 5** Encourage regulators to set rules and procedures that clarify how and what data can be shared to develop DCT technology without undermining client confidentiality. Better aggregate data are required if meaningful comparison of legal products is to take place. While DCTs are not being widely used at present, they could help consumers to save time and effort searching for legal providers and increase competition between law firms to provide lower prices and better choices to consumers.
- 6** While a transparency mark could benefit consumers, it would have to be widely-recognised and easily differentiated from other accreditations that already exist in the legal services market.
- 7** Legal services providers must provide clear, consumer-friendly guidance that helps consumers make informed decisions when engaging with them. While PLE may offer some benefits to consumers, consumer knowledge is unlikely to be resolved meaningfully through PLE alone as the scale and complexity of knowledge required is too high and most people’s contact with legal services is rare, sporadic or non-existent.

Conclusion

For many people, hiring a lawyer is a distress purchase that they have never made before, would ideally avoid in the present and hope to not have to repeat in the future. Consequently, consumers generally lack the experience that they need to engage confidently with legal services providers.

It is of critical importance that consumers have before them all the information on price, service and quality that they require in order to make informed decisions about which legal services providers to use. However, this information must be provided openly by legal services providers in a manner that can be found and understood by consumers. It is important that this information is provided in the round because on its own it does not serve consumers well. For example, price transparency as an end in and of itself can lead to inaccurate forecasts of the cost of bespoke services and/or price wars that drive down quality. Equally, a focus on service levels does not necessarily indicate good advice.

The CMA market studies have had a clear impact on the regulatory landscape. However, it appears that there is too much reliance on guidance rather than mandatory requirements and that the scope of the transparency rules should be applied to cover more areas of law – especially more complicated areas. There should also be regard for ensuring that regulatory burdens do not just become justifications for increased prices to consumers. It is encouraging that consumers are increasingly shopping around for legal services; however, it is critical that consumers get value for money. Law firms should also consider how they communicate their charges and services to vulnerable consumers.

Despite the challenges facing law firms represented by the boom in online reviews, it is obvious that reviews are going to form a significant part of the customer journey when it comes to deciding on which legal services providers to hire. It is also clear that reviews are an important aspect for consumers to judge service, if not necessarily price and quality. Associated with reviews is the role that DCTs are playing in the legal services market. While there does need to be further development in this area in terms of the development of algorithms and data available, the fact that there is work being done among regulators to develop code of conducts and accreditation schemes – albeit voluntary ones – is a step in the right direction towards ensuring that the information consumers have is transparent.

And while progress towards voluntary quality marks and the DCTs is promising, there does not appear to be a significant drive towards a transparency quality mark which can be universally acknowledged but which importantly does not confuse consumers even more.

A cross-sector database of standardised regulatory information, which can be accessed and used for a range of public-facing purposes, would support the regulatory objectives of helping consumers engage actively with information on price, service and quality.

A significant way to help consumers is to help them understand that they have a legal issue and how to deal with it. However, an intense focus on PLE can end up confusing consumers further and the way that PLE is currently managed leaves a lot to be desired.

Overall, there does need to be a step change in how legal services operates to ensure that the consumer is always at their heart.

It is unsurprising that there has not been unanimity of views amongst those we interviewed for this report. However, we hope that it has been a useful sounding board so that different stakeholders can understand the different challenges presented to them. We welcome further engagement on this most vital of topics.

Further information

If you require further information, please contact:

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