

To:	Board	
Date of Meeting:	30 November 2010	Item: Paper (10) 82

Title:	Consumer perspectives on quality in legal services – advice from Legal Services Consumer Panel	
Workstream(s):	Workstream 2F: Developing a Workforce for a Changing Market	
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Status:	Protect	

Summary:
This paper updates the Board about the advice received from the Legal Services Consumer Panel (‘the Panel’) about consumer perceptions of quality, and invites discussion about the implications for LSB’s future work programme and Business Plan 2011/12.

Risks and mitigations	
Financial:	None.
FoIA:	None.
Legal:	None.
Reputational:	We will need to respond publicly to the recommendations and demonstrate that we are responding to the issues identified – this can be done via a published response and in the Business Plan 2011/12.
Resource:	Resource currently considered sufficient.

Consultation	Yes	No	Who / why?
Board Members:		✓	Update only.
Consumer Panel:		✓	Paper based entirely on the Panel’s published advice.
Others:	N/A.		

Recommendation(s):
The Board is invited: (1) to note the Panel’s advice and recommendations; and (2) to discuss the implications for LSB’s future work programme and Business Plan 2011/12.

LEGAL SERVICES BOARD

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Consumer perspectives on quality in legal services – advice from Legal Services Consumer Panel

Background

1. In July 2010, we requested advice from the Panel about consumer perspectives on quality in the provision of legal services, to inform our work on the future development of quality assurance mechanisms and their relationship to regulation (**Annex A**). This was included in the Business Plan 2010/11 to inform the development of our policy on quality assurance mechanisms beyond the initial focus on Quality Assurance for Advocates (**QAA**). One of the key objectives was to understand whether consumers use the range of assurance measures and titles already provided by different arms of the sector, and whether they judged quality in other ways.
2. The Panel commissioned original consumer research from Vanilla Research (**Annex B**), which found that :
 - consumers assume all lawyers are technically competent and subject to more regulatory controls than they actually are
 - quality considerations do not strongly influence consumers' choice of lawyer
 - consumers do not use or want quality marks in legal services.
3. The Panel's advice to the Board, based on the consumer research and additional analysis, is attached (**Annex C**).

Summary of recommendations

4. The Panel identified two key challenges for policy makers arising from their research:
 - Finding new ways to engage consumers so that they take a more active role in demanding appropriate quality standards and are aware of the possible risks
 - Employing regulation to ensure legal advisors are properly trained to deliver competent advice.
5. The Panel set out an "Agenda for quality" consisting of five areas for action:
 - Transparency to enable informed choice
 - Credible quality assurance mechanisms
 - A simpler regulatory landscape, including the potential for a single regulatory badge

- Ensuring ongoing competence – including strengthening Continuing Professional Development (**CPD**) mechanisms
 - Meaningful specialisation – including minimum requirements as a condition of practice where necessary.
6. The Panel also put forward six specific recommendations:
1. The quality of legal advice needs to be better understood and actively monitored. This should involve academic research and build on existing good practice techniques such as file review and peer review.
 2. Approved Regulators (**AR**) should harness consumer power to exert reputational pressure on lawyers to maintain quality standards. They should publish, in an accessible form, appropriate information about the quality of legal advice.
 3. Quality schemes must be robust and deliver what they promise. LSB should ask the Panel to identify the characteristics of robust quality schemes and measure existing schemes against these criteria.
 4. Consumers need to be able to distinguish between regulated and unregulated lawyers. LSB should examine how best to achieve this as part of its work on reserved legal activities, including the feasibility of a single regulatory badge.
 5. CPD requirements need strengthening – LSB should review these arrangements across the sector as soon as possible.
 6. LSB should lead a debate about more far reaching ways of ensuring competence across the sector, including licensing by activity and periodic re-accreditation. This should take lessons from other sectors that have faced similar issues.

Taking forward the recommendations

7. The recommendations go to the heart of the debate about the role of education and training as a regulatory tool for ensuring a competent workforce equipped to serve consumers. This includes:
 - the issue of whether ARs should take a more proactive approach to ensuring legal professionals are competent post-initial qualification (for example, through wider use of mandatory accreditation, enhanced CPD or revalidation, which the Panel supports)
 - what the regulatory requirements should be on entities in relation to training and accreditation for the whole workforce, including ‘paralegals’.
8. It follows that many of the issues raised can be addressed through the education and training review that is planned by ARs. (A full update on progress with the review will be presented to the Board on 27 January.)
9. However, there are some issues that may need to be addressed separately – for example, assessment of existing quality marks and policy development about their future role; and achieving transparency for consumers.

10. The Panel has offered to carry out further work assessing the effectiveness of existing quality marks, which would be a helpful next step.

Media coverage/stakeholder reactions

11. The publication of the advice was covered in the trade press – including in the Law Society Gazette, Solicitors Journal and on legal blogs.

12. We are not aware of any reaction from ARs or representative bodies. We propose that the Chief Executive writes to ARs requesting their reactions to the report and their proposals for addressing the recommendations.

Next steps

13. The Board is invited to discuss the implications of the advice for LSB's future work programme, which will be set out in the Business Plan 2011/12. On the basis of the Board's view and further consideration internally, the Executive will prepare a response to the advice to be published in the New Year.

17.11.10