



## **Response to LSS consultation on price transparency**

**9 August 2018**

We welcome the opportunity to comment on this consultation.

As a starting point, we would like to say that we very much welcome the positive engagement between the Law Society of Scotland and the Panel in relation to our work on Consumer Principles to date. We were pleased to see that the price transparency consultation referenced our *Consumer Principles* guide which sets out our position on price transparency.

We have provided answers only to those questions which we felt were most relevant to our role, remit and expertise.

### **Do you agree or disagree with the principles of price transparency?**

We strongly agree with the principle of price transparency and see this as a very positive move in terms of consumer rights. Access to the right information is a core element of the internationally recognised consumer principles. We believe that it is important that Scotland is not left behind England and Wales (where firms will soon be required to publish information on price within certain areas of law) in terms of price transparency.

### **Do you agree or disagree with the CMA's view that failing to provide transparency on price is detrimental to the consumer?**

We agree. As a Panel, we have identified a range of consumer issues caused by a lack of price transparency. Some consumers, for example, decide not to access legal services at all (despite having a need for this) due to concerns about affordability. Other consumers may – in the absence of clear information – choose a service or a provider that doesn't suit their needs. Lack of transparency on price also means that it is more difficult for consumers to query bills – creating a power imbalance where the consumer is at a disadvantage.

### **What other benefits or opportunities may arise for firms by publishing price transparency information on their website?**

We believe that publishing information on price may lead to benefits for firms as well as consumers. The Solicitors Regulation Authority has found that – in England and Wales - the majority of the public

and small businesses do not use a regulated lawyer when they have a legal need. The CMA's review of the legal sector - published last year – found that poor information on prices and services was a problem.

It's our belief that some consumers – in the absence of information about costs – will decide to go without legal services rather than risk not being able to afford the cost. Clarity on cost may, therefore, lead to greater consumer confidence about accessing a regulated legal services provider.

An additional benefit, potentially, is that greater clarity on cost will lead to fewer queries about charging and contested bills, thereby improving trust and working relationship between service providers and consumers.

### **What other challenges may arise for firms by publishing price transparency information on their website?**

Firms – smaller firms particularly – may struggle to deal with and implement price transparency requirements. We believe that it is important that support is provided to help them meet the new requirements. The LSS could, for example, support the sector by creating templates or providing training.

### **What would be the most appropriate way to introduce a requirement to publish price information?**

While transparency on price is a good starting point, our concern would be that - if firms are required to provide only a basic level of information on cost such as an hourly rate - this will not be enough to give consumers a real understanding of what services they will – or should expect to – receive for their money. If the consumer is not clear on this, comparison between firms is very difficult.

For that reason, we believe that requiring firms to provide information that consumers can relate to is key to ensuring that this is a meaningful exercise. We feel that there needs to be some guidance in terms of the type of information to be published, for example;

- Rate or fee;
- Description of services - what that includes and doesn't include;
- information on who will be doing the work and what their qualifications are.

This type of information will help consumers to identify practitioners both appropriate for their needs and who will provide a service within their price range.

The consultation does provide a range of pricing models which could be used independently or collectively in pricing work, so long as the basis of charge, limitations and variables were clearly explained.

Certain models - such as the set-fee - will lend themselves more easily toward 'routine' and non-contentious issues but any additional charges or potential for variation from the set-fee should be highlighted to consumers in advance.

Certainty for consumers is the key – minimising unpleasant surprises and making consumers aware that charges could increase in certain circumstances.

Contextual information will also be important - for example helping clients or potential clients to understand that there are certain things – for example going to court - that can result in spiralling costs. We believe that scenario-based costings could be very useful for consumers by helping them to get a sense for what they could end up paying in a range of different scenarios.

**What would be the most appropriate way to monitor that firms are complying with any requirement to publish price information?**

In terms of enforcement, we would like to see price transparency regulations enforced proactively (e.g. via audits) as opposed to addressing this only if other issues come to light.