

<b>To:</b>	Legal Services Board	<b>Agenda Item:</b>	11
<b>Date of Meeting:</b>	28 April 2017	<b>Item:</b>	Paper (17) 28

<b>Title:</b>	<b>Vulnerable consumers research</b>
<b>Workstream(s):</b>	Tackling unmet legal need
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<b>Status:</b>	Unclassified

## Summary:

### Brief summary

This paper explains the results of our 2016/17 business plan commitment to carry out research to understand the experiences of vulnerable consumers. It also provides an update on associated work to maximise the impact of this research.

A [paper](#) in November 2016 explained that our focus has been on individuals (and their carers) with mental health problems and dementia. It was completed as planned and publication of the results is expected in Q1 2017/18,<sup>1</sup> with separate reports (Annexes A and B) and short animations for each group.

The research has used the Legal Services Consumer Panel guide for legal services regulators – *Recognising and responding to consumer vulnerability* to explore issues and needs associated with these two groups. Key findings are:

#### *Mental health*

- this group may not feel comfortable disclosing their problems, but may need time to express themselves, additional communication and reassurance
- service ‘needs’ include feeling listened to and understood, clear information and freedom to ask questions/for clarification, plus continuity of personnel.

#### *Dementia*

- carers are prepared to flag service ‘needs’, but individuals may not
- clear information on legal issues, options, costs and home visits (which are already offered by some providers) are welcomed in advance of a meeting
- there is scope to promote ‘dementia friendly’ services, i.e. compassionate, patient, respectful and ‘jargon-free’, supported by clear reference materials.

Next steps include exploring opportunities to publicise our findings and, at a future date, measure the impact of these steps. Having taken account of the Board’s

<sup>1</sup> Subject to purdah guidance

views in November we have explored existing guidance and publications around vulnerable consumers, across legal services and other regulated sectors. We have also mapped the broad range of stakeholders who can share and learn from this research, prioritising those where we can add maximum impact.

**Recommendation(s):**

The Board is invited to:

- (1) note the research findings and our intention to publish in Q1 2017/18<sup>2</sup>
- (2) note the plans for the associated impact work.

**Risks and mitigations**

**Financial:** N/A

**Legal:** N/A

**Reputational:** As we seek to maximise the impact of our research, we will continue to assess and balance reputational opportunities and risks for us, including in the stakeholders we look to engage with.

**Resource:** The ongoing piece of work to maximise the impact of our research draws on existing resources included within the draft business plan for 2017/18.

Consultation	Yes	No	Who / why?
<b>Board Members:</b>	x		As the nominated Board member, progress on and proposed next steps for this project have been periodically discussed with Michael Smyth.
<b>Consumer Panel:</b>	x		The Panel's Secretariat and members contributed to the development of the research specification. Embargoed copies of the research reports have been shared with the Panel
<b>Others:</b>			We have engaged with charities and academics as well as many of our usual stakeholders. CEO and Chair meetings have highlighted this work to a range of organisations, including the regulators and representative bodies.

**Freedom of Information Act 2000 (Fol)**

Para ref	Fol exemption and summary	Expires
Annex B	Section 22 – the research reports are intended for future publication in Q1 of 2017/18	

<sup>2</sup> Subject to purdah guidance

## LEGAL SERVICES BOARD

<b>To:</b>	Legal Services Board	<b>Agenda Item:</b>	11
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### Vulnerable consumers research

#### Executive Summary

#### Context

1. This paper outlines delivery against a commitment in our business plan for 2016/17; to commission research to evidence the experiences of consumers in a range of vulnerable circumstances with different legal services providers. We wish to understand if the regulators are applying effective measures to protect the interests of these consumers and possible ways that these measures might be improved. Further, we wish to spread good practice among practitioners.
2. A [paper](#) to the Board in November explained the background to this commitment and the scope of our research in focussing on individuals with mental health problems and with dementia. The qualitative research, which was completed at the end of March, set out to answer the following questions:
  - what, if any, features of the legal services market are particularly relevant to these vulnerable circumstances?
  - what circumstances contribute to these individuals being vulnerable when purchasing legal services?
  - do these circumstances result in adverse outcomes when using lawyers, and if so how?
  - to what extent are the legal needs of those who participate in our study being met?
3. As discussed in November, the intention is that the research will facilitate informed discussion with the regulators, practitioners and, potentially, other bodies including the Legal Ombudsman (LeO) and representative bodies. This will, in part, be taken forward as part of an additional piece of work to maximise the value of the research.

#### Research findings

4. 30 people were interviewed for each of the chosen groups, with a mix of individuals and carers (appreciating that they bring a different perspective on choosing and using legal services). These were located across England (and also in Wales for dementia) and had used, or tried but failed to use, legal services in the past 18 months.
5. The research adopted the Legal Services Consumer Panel (the Panel) guide for legal services regulators – *Recognising and responding to consumer vulnerability*.<sup>3</sup> This recognises that consumer vulnerability is a multi-faceted

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<sup>3</sup><http://www.legalservicesconsumerpanel.org.uk/ourwork/vulnerableconsumers/Guide%20to%20consumer%20vulnerability%202014%20final.pdf>

issue and highlights the range of individual risk factors that are associated with personal characteristics and situational factors.

6. Reflecting that we have looked at two distinct individual characteristics with mental health problems and dementia, outputs for this research include separate reports (Annexes A and B) (with associated appendices, containing research methodology and recruitment materials, available on request). Short animations will also bring to life quotes by those interviewed for the research to support the key findings. Additional outputs available to us under the research contract include audience specific summary reports and a presentation. We will take a view on how best to use these as part of our impact work, as discussed below.
7. Key findings are outlined below.

### **Mental health**

8. A range of mental health problems were captured in the sample, with a wide range of sometimes complex legal needs. Individuals, who typically sought advice independent of support, fell into two groups:
  - *low level difficulties* – who were liable to feel overwhelmed and need time to express themselves
  - *significant problems* – who need additional communication and increased reassurance
9. Anxiety about using legal services for this group related to points including total costs likely to be incurred, not being able to understand technical legal language and feeling intimidated by legal professionals and their staff.

#### *Service providers*

10. Access to free initial services, from third sector organisations and regulated providers, is important. Reasons for this included affordability, but also wanting to get initial advice on available options before deciding on next steps and having had poor past experience of legal advisors.

#### *Key findings*

11. Individuals may not disclose their mental health problems and associated service needs to legal services providers, nor were they prompted to do so. This may be due to fear of it leading to adverse consequences. A minority had tried but failed to access legal advice. Reasons included being put off by the initial engagement with a legal services provider (with the issue not pursued subsequently) and being unable to find one prepared to take on the case.

#### *Service recommendations*

12. This group highlighted the importance of:
  - feeling listened to and understood, that they have understood advice and are comfortable to ask questions or to have information repeated
  - adaptation of services to provide support where mental health problems are disclosed
  - continuity of personnel
  - costs transparency and access to free initial advice

## **Dementia**

13. There was a clear cluster of legal needs associated with dementia, i.e. wills, power of attorney and property issues, plus a small number of issues associated with being a carer. Those with dementia fell into two groups:
- *early stage* – able to access services without support, but felt slower and less successful at processing and retaining information
  - *later stage* – accessing services with the support of a carer, with symptoms described as including confusion, memory loss, discomfort in unfamiliar surroundings and difficulty expressing themselves

14. Anxiety about using legal services for this group included the legal situation itself, interacting with the legal profession and overall costs.

### *Service providers*

Local solicitors were used typically, with these chosen on the basis of recommendation or being within easier reach for travel purposes. Some limited use was made of third sector organisations and the online application service (on Gov.uk) for lasting powers of attorney. A small number of people used legal services because they found the power of attorney application process too complicated or lengthy to complete by themselves or with the help of carers.

### *Key findings*

15. The majority of the sample were able to access and most were satisfied with the legal services they receive. This group tend to carry out limited research into their legal issue before approaching a legal services provider and rely on the advice they get. Carers are prepared to flag service needs associated with dementia. However, individuals (e.g. those with early stage dementia) and carers may not flag their own needs.
16. Costs, particularly those for preparing lasting power of attorney, were a concern. Some consumers also remarked that they found the costs of will-writing high and questioned if these were justified.

### *Service recommendations*

17. This group advocated:
- using initial phone contact to discuss service adaptations
  - clear information being available in advance of the meeting on the legal issue (particularity on powers of attorney), options and costs
  - home visits from a person trained and experienced with dementia
  - promotion and delivery of ‘dementia friendly’ services, i.e. plain English and ‘jargon free’, rapport, compassion, patience and respect
  - providing a written record of the meeting for reference and clarification.

## **LSB impact work**

18. As discussed with the Board in November, there is a strong focus in this project on maximising the value of our research. The broad aim of this complementary work is to identify good practice and the ability of the sector to address the additional detriment experienced by vulnerable consumers through regulatory and non-regulatory levers.

19. A key element of our messaging is that small and simple steps by practitioners can make a large difference to vulnerable consumers. There are examples of good practice and also learning points that we will look to discuss with stakeholders in the legal and other sectors. For example, these include scope for practitioners to create safe space for vulnerable individuals and their carers to identify service needs, including through sensitive prompts. A targeted summary for practitioners to accompany the launch of the research will discuss these.
20. We have scoped previous work done in this area by others, including past research and guidance across legal services, other regulated services and the third sector (paper available on request). We will make this search of the existing guidance and notable practice available to stakeholders as a reference document, via the LSB webpages. We will also explore ways in which key stakeholders across legal services might provide links to this resource.
21. We are producing a sheet of practical 'tips' for consumers and their carers to use when in contact with legal services, such as asking for additional time to relate their needs, or holding meetings at home. This is in response to clear research findings from consumers about the adjustments that support their use of legal services. Our search of existing practice shows a gap in such practical advice aimed at consumers. We will explore ways in which stakeholders in the third sector – and potentially in legal services - can disseminate the tip sheets.
22. We have taken into account the Board's suggestions on stakeholders to talk to, for example with a view to embedding our research in their work and identifying possible platforms for its dissemination.
23. We have mapped the broad range of potential stakeholders for this research, identifying those in a position to influence the experience of vulnerable consumers. We are engaging directly with key stakeholders in the legal field and with third sector organisations that are trusted sources of support for people with dementia and their carers and people with mental health problems
24. The revised standards for regulatory performance make specific references to the needs of vulnerable consumers and we will consider the assurance provided by approved regulators on an ongoing basis, as part of the regulatory performance process. This research does not indicate a need for deeper scrutiny by the LSB at this point, for example in the form of a review, but research evidence could provide valuable content for a future review framework.

### **Next steps**

25. Our intention is to launch the research in Q1 2017/18. We are speaking with the Mental Health Foundation (Mental Health Awareness Week) and Alzheimer's Society (Dementia Awareness week) to align with their national awareness events in May and use these as a springboard for launching our research.
26. We will continue to engage with stakeholders in anticipation of the research launch and with a view to maximising its impact.
27. We will also develop measures to assess our impact work.