



**Legal Services Board:
Developing measures of consumer outcomes for
legal services**

A report of research carried out by
Opinion Leader

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The content of the report remains the responsibility of the authors.

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1. Introduction to the report by the LSB

We have been aware since the formation of the LSB in 2009 of the challenges we face in overseeing the regulation of a market with a complex interaction of reserved titles, activities and Approved Regulators. We are committed to ensure that the consumer voice is not lost alongside the powerful and established voice of the profession. As Professor Stephen Mayson has shown in his report on the historical development of the reserved activities¹, consumers have never before been at the centre of consideration over the need for regulation of legal services.

We believe that this report is an extremely valuable contribution to our work, helping us understand what consumers want protected when they seek legal advice. This exploration of consumer views sits as part of our wider programme of work, alongside economic and policy analysis, seeking to help us understand how we should respond to strategic challenges posed by the historical regulatory model. Alongside this, technological change, heightened consumer expectations and new models for delivering services each bring new risks and opportunities. Regulation is already changing in response to these challenges – for example the Solicitors Regulation Authority is moving to an outcomes rather than rules based model of regulation – this research helps give us a new vehicle against which we might assess the impact of these changes as we and others respond to the challenges we face.

The seven outcomes developed cover: transparency, initial communication, ongoing communication, professionalism and integrity, timeliness, alignment with consumers' best interests and complaints. They highlight broad principles with brief explanations to illustrate the types of flexible approaches available to those complying with the principles. It is certainly reassuring that the research finds that consumers value highly many of the traditional strengths of the profession such as professional integrity. They were less concerned about some of the detail of regulation, simply wanting good customer services and clear communication, fitting with the general move to focusing regulation on outcomes rather than detailed rules. Plain English and an honest up-front discussion of expectations were as important to consumers as the common features of professionalism.

For many regulators and lawyers the outcomes developed may appear common sense, or indeed standard practice in a client focused legal practice. Where this work differed from previous work is that it sought the views from consumers directly to understand what they wanted from their interactions with legal services. The outcomes produced show subtleties and particular emphasis on issues that demonstrate the benefit of taking a consumer-led approach to this work.

Testing the outcomes produced in discussion with representative groups, regulators and consumers demonstrated much by way of agreement. The objectives were seen by participants in the research process as a fair representation of consumers' interests. Some participants would have preferred more detail, others less. Some may place greater emphasis on one particular outcome. But overall all participants agreed that the outcomes covered the important consumer objectives.

¹ "The regulation of legal services: reserved legal activities – history and rationale", Legal Services Institute, September 2010

This report provides a valuable insight into consumers perceptions of what they believe the legal profession should deliver. For approved regulators the outcomes provide a useful tool to support the development of their regulations. For us, the challenge is to hold these consumer outcomes up as equal in importance alongside the broader public and professional interests, to ensure that we promote proportionate and effective regulation.

2. The outcomes – final iteration

Transparency

- **Consumers can make comparisons and informed choices between providers based on clear, useful information about the services provided and their costs**
- **What it means:** providers give clear, accurate and jargon-free information that allows consumers to compare providers and make informed choices without the need to discuss their case in detail.
- **What it does not mean:** will not define how or the exact range of information that should be delivered unless necessary in specific circumstances to protect consumers.

Initial communication

- **Consumers receive appropriate information and advice which enables them to make an informed decision about whether and how to use a legal service**
- **What it means:** at the outset the provider gives potential consumers appropriate information and advice which allows them to make a decision about the appropriate action given their circumstances.
- **What it does not mean:** will not define what information or advice should be provided, or in what format, unless necessary in specific circumstances to protect consumers.

Ongoing communication

- **Consumers are consulted on key decisions in a timely way and actively kept informed of progress**
- **What it means:** providers proactively communicate with clients to manage expectations and highlight any significant changes to projected costs, timelines, strategy and likelihood of success.
- **What it does not mean:** does not specify how, what or the frequency with which a provider should communicate with a consumer.

Professionalism and integrity

- **Consumers receive independent, good quality advice**
- **What it means:** providers act with independence and integrity, maintain client confidentiality and have the appropriate resources, skills and diligence

Timeliness

- **Services are delivered to agreed timelines with no unnecessary delay**
- **What it means:** the provider sets out and agrees with the consumer the projected timeline for the key actions in the case and delivers against them unless changes are agreed in light of changing circumstances or external factors force delay.
- **What it does not mean:** will not provide a matrix of acceptable or normal timelines for different types of cases or prescribe the points at which the provider should communicate with the consumer.

Alignment with consumers' best interests

- **Consumers receive the best possible advice, which takes account of their individual circumstances**
- **What it means:** at each key decision-making point in the case the consumer is consulted and provided clear and useful advice which allows them to decide the course of action most likely to deliver their preferred outcome given the circumstances.
- **What it does not mean:** will not provide a matrix of the best possible advice in different circumstances or when and how the consumer should be consulted.

Complaints

- **Consumers are aware of the opportunity to complain, and their complaint is treated seriously and handled fairly and efficiently**
- **What it means:** providers make clear to consumers that they have a right to complain and the process involved including the opportunity to complain to the Legal Ombudsman. Providers have an effective internal procedure for resolving complaints in the first instance and cooperate with complaints considered by the Legal Ombudsman and regulators. Providers learn from complaints that they have received to improve practices.
- **What it does not mean:** does not prescribe what an effective internal complaints system must look like other than in relation to certain requirements for signposting to the ombudsmen.

3. Background and objectives

3.1. Background

The Legal Services Act (2007) (The Act) sets out the framework for reform to legal services in England and Wales. Its ambition is to put consumers first in the way in which legal services are regulated and delivered. Part of this reform was to establish the Legal Services Board (LSB), which is responsible for overseeing the regulation of lawyers in England and Wales, with a view to modernising the legal services market in the interests of consumers.

The Act outlines eight regulatory objectives² with the needs of consumers placed at their heart. Given the shift to a more outcome-focused approach to regulation, the LSB wished to develop a clearer idea of the types of outcomes that consumers desired. This would help to promote regulation that is both fair and proportionate and focused on the most important aspects of service delivery, minimising any unnecessary regulatory burden.

In order that the regulatory reform truly meets its aims it is important that the outcomes it seeks to promote are developed with a firm grounding in consumer insight. There have been a number of studies talking to consumers of legal services about their experiences of using legal services (e.g. Ministry of Justice, LSB and Legal Services Research Centre). These have generally focused on consumers' perceptions of the challenges finding legal services and the service they receive. Studies have not attempted to take a holistic look at the experience of legal services from a consumer perspective and the types of outcomes that consumers would like to see at each stage.

² Protecting and promoting the public interest; Supporting the constitutional principles of the rule of law; Improving access to justice; Protecting and promoting the interest of consumers; Promoting competition in the provision of services; Encouraging an independent, strong, diverse and effective legal profession; Increasing public understanding of the citizen's legal rights and duties; Promoting and maintaining adherence (by authorised persons) to the professional principles

3.2. Objectives

The purpose of the research was to develop a robust set of statements that reflect desirable outcomes for consumers when dealing with legal services. These consumer outcomes should be a written expression of the types of behaviour expected from legal services providers, based on the feedback from consumers. They should also be robust and stand-up to stakeholder scrutiny.

The study comprised three stages of research designed to identify, test and prioritise the consumer outcomes and ensure they were:

- Inclusive of the views and needs of a wide range of consumers and potential consumers including individuals and businesses and reflected the diversity of the general public
- Meaningful across the sector and applicable for each subsector of the market
- Robust and stand up to stakeholder scrutiny

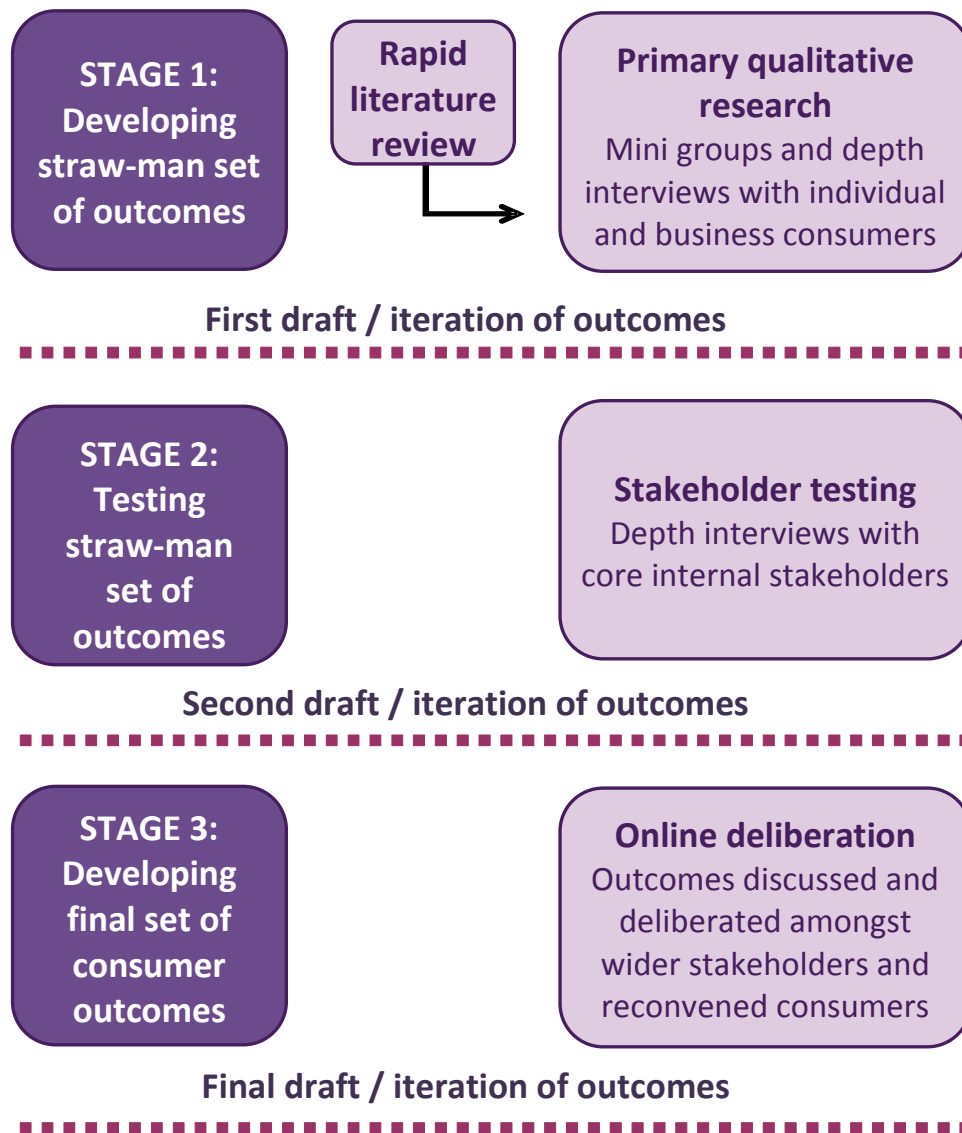
Alongside this project the LSB also commissioned economic research designed to consider the economic justification of regulatory intervention in the legal services market. Together these projects will help the LSB develop a framework for considering the need for and boundaries of regulatory intervention and the consumer outcomes that regulation should seek to protect.

4. Methodology in brief

4.1. Project chronology in three stages

The study followed an iterative approach and Figure 4.1. illustrates the different research stages involved (see Section 8. Annex – Methodology in detail for further information on the research methodology).

Figure 4.1. The three stages of research



4.2. Note on reading the report

The report follows the iterative nature of the research in developing and refining the final set of outcomes, which are recorded in Section 2. The outcomes – final iteration. As described earlier, there were three stages of research.

- Stage 1 comprised mini-discussion groups with individual and business consumers of legal services and informed the drafting of the first iteration of outcomes
- Stage 2 comprised one-to-one, in-depth interviews with internal stakeholders from the Legal Services Board and the Legal Services Consumer Panel. The internal stakeholders reviewed the first iteration of outcomes and their feedback led to a revised draft or second iteration of the outcomes
- Stage 3 comprised online discussion groups with wider group of senior stakeholders with knowledge of the legal services industry and a selection of individual and business consumers reconvened from Stage 1. The senior stakeholders and reconvened consumers reviewed the second iterations of outcomes and their feedback led to a third iteration of outcomes that underwent a final review by the senior stakeholders through an online forum

How these stages, respondent types and iterations are described in the report is set out below:

- The stages of the research are referred to as “Stage 1”, “Stage 2” and “Stage 3” or the “first stage”, “second stage” and “third stage”
- Respondents are referred to as:
 - Respondents participating in Stage 1 – “participants;” where appropriate, the participants are differentiated into “individual consumers”, “business consumers” (includes both SME and large businesses), “SME business consumers” and “large business consumers”
 - Respondents participating in Stage 2 – “internal stakeholders;” where appropriate, the internal stakeholders are differentiated into “member of the Board” and “member of the Consumer Panel”
 - Respondents participating in Stage 3 – “senior stakeholders” and “reconvened consumers” or “consumers;” where appropriate, the reconvened consumers are differentiated into “individual consumers” and, “business consumers”
- The iterations of the outcomes are referred to as:
 - Outcomes developed through Stage 1 and reviewed in Stage 2 – “first iteration”
 - Outcomes revised based on feedback in Stage 2 and reviewed in the online discussion groups of Stage 3 – “second iteration”
 - Outcomes revised based on feedback in the online discussion groups of Stage 3 and reviewed in the final online forum of Stage 3 – “third iteration”
 - Outcomes revised based on feedback in the online forum of Stage 3 – “final iteration”

An example of the format that the iterations followed is shown in Figure 4.1 below, using the outcome devoted to Transparency.

Figure 4.1. Example flow of iterations using the outcome Transparency

Consultation with consumers in Stage 1 → first iteration

Transparency: consumers should have a clear understanding about the services, specialisms and pricing before they engage a legal service provider

- *Plain English communication*
- *Comparable information to allow consumers to compare providers of legal services e.g. accessible information on website about areas of specialism, experience of certain case types (number of cases handled), seniority of practitioners, costs*
- *Clear charging structures and itemisation of charges*
- *Clear and accessible information on legal experience*
- *Clear, demonstrable and identifiable legal specialism(s)*

Review by the internal stakeholders in Stage 2 → second iteration

Transparency

- ***Potential clients can make comparisons and informed choices between providers based on clear, useful information about the services provided and their costs***
- ***What it means:*** *providers give clear, accurate and jargon-free information that allows potential clients to compare providers and make informed choices without the need to discuss their case in detail.*
- ***What it does not mean:*** *will not define how or the exact range of information that should be delivered unless necessary in specific circumstances to protect potential clients.*
- ***Example compliant behaviour 1:*** *a provider's website or printed materials includes information about the people employed, their experience, specialisms, success rates, charging structures and typical costs.*
- ***Example compliant behaviour 2:*** *the provider gives a potential client thinking about using a service for the first time an easily understandable leaflet outlining the services they offer, their charging structures, and details of the team that they employ – their skills, qualifications and experience.*

Review by the senior stakeholders and reconvened consumers in Stage 3 online discussion groups → third iteration

Transparency

- ***Clients can make comparisons and informed choices between providers based on clear, useful information about the services provided and their costs***
- ***What it means:*** providers give clear, accurate and jargon-free information that allows consumers to compare providers and make informed choices without the need to discuss their case in detail.
- ***What it does not mean:*** will not define how or the exact range of information that should be delivered unless necessary in specific circumstances to protect consumers.
- ***Example compliant behaviour 1:*** a provider's website or printed materials includes information about the people employed, their experience, specialisms, success rates, charging structures and typical costs.
- ***Example compliant behaviour 2:*** the provider gives a consumer thinking about using a service for the first time an easily understandable leaflet outlining the services they offer, their charging structures, and details of the team that they employ – their skills, qualifications and experience.

Review by the senior stakeholders in Stage 3 online forum → final iteration

Transparency

- ***Consumers can make comparisons and informed choices between providers based on clear, useful information about the services provided and their costs***
- ***What it means:*** providers give clear, accurate and jargon-free information that allows consumers to compare providers and make informed choices without the need to discuss their case in detail.
- ***What it does not mean:*** will not define how or the exact range of information that should be delivered unless necessary in specific circumstances to protect consumers.

5. Evidence-based outcomes

The outcomes were developed directly through consultation with consumers of legal services. The first iteration of outcomes was based on an interpretation of the findings from the first stage of research rather than perceived consumer interests or a regulatory assessment by the Legal Services Board. The LSB remained open-minded and non-prescriptive throughout each stage of research.

As described in the methodology section, the first stage of research comprised focus groups with individual, SME business and large business consumers with recent experiences of using a legal service across a range of legal issues. Although these participants, particularly the individual consumers, tended to use legal services infrequently and had relatively little knowledge or understanding of the legal services market (see Section 6.1. How legal services differ from other professional services), they were able to engage in discussions of legal service provision with clarity and enthusiasm. Through understanding their expectations, their experiences and how they would like their interactions with legal services to be improved, seven draft outcomes were developed. These seven outcomes described the key principles that came out of the discussion groups and included a series of behaviours that underscored each principle.

Through feedback from internal stakeholders, senior stakeholders and reconvened consumers in the second and third stages of the research, the format, content and phrasing of the outcomes were refined where necessary. (See the example of Transparency and how it changed from iteration to iteration in Section 4.2 Note on reading the report). The seven core principles, however, were retained throughout the iterations. The rationale for reformatting the outcomes from the first iteration to the second is explained in Section 6.2.2. Balance between generality and specificity.

6. Overarching issues in evolution of outcomes

This chapter summarises issues that arose during several stages of the research and affected how outcomes were framed and re-framed in the iterative process of obtaining inputs from consumers and stakeholders. Discussing how these issues were understood and how they affected the final outcomes will, we hope, provide reassurance about the soundness of the outcomes and the care taken to ensure that they are evidence-based, pragmatic and helpful to consumers and providers of legal services alike.

6.1. How legal services differ from other professional services

When discussing the needs and expectations of consumers of legal services and the development of outcomes for their interactions, it is useful to understand how legal services were perceived to differ from other professional services.

A central and underlying factor that was thought to distinguish legal services from other professional services was the frequency at which they are accessed. The need for legal advice tended to be irregular and infrequent. Individual, and to a degree, SME business participants, reported only rare or occasional purchasing of legal services. This was understood to have a number of knock-on effects:

- Consumer knowledge and understanding of the legal services market is low. Participants had a limited pool of experience through which to gain familiarity with and insight into an already mystifying profession. There was therefore, an asymmetry of information and internal stakeholders commented that it was difficult for consumers to know what good practice is and how to demand it. For example, when discussing complaints procedures, some participants contrasted their interactions with a law firm to those with a retail shop where they felt they knew their rights as a consumer, what to expect from the process of purchasing a product or service and what to do if their expectations were not met (see Section 7.6 Complaints for further discussion).
- Consumers have difficulties in developing a rapport or a relationship with a legal service provider. Participants considered having a rapport or relationship to be important in fostering a feeling of trust in their provider. Large business participants who tended to access providers on a more frequent basis valued the relationships they established and, aside from trust, described other advantages from which individual and SME business participants were less able to benefit. These included providers having more in-depth knowledge of their business and business needs, providers giving a more flexible service e.g. 'off the clock' advice, providers requiring less input into the process by the consumer and the consumer having greater control over the process and the confidence to 'push back' on certain aspects e.g. fee negotiation.

"Yes, we know our rights as customer of buying a T-shirt or buying trainers and all that but what are our rights with a solicitor?"

Individual consumer, Police and Crime, Oldham

"First of all we didn't know where to go...because we'd not really had to deal with legal people at all."

SME business consumer, Employment Law, Bridgend

"With an accountant you build a relationship and I think it would be great if there was a need for me to see a solicitor more, then you would want to be friendly."

SME business consumer, Corporate and Company Law, Birmingham

"We agree that it'll be a fixed fee... we'll also not pay sometimes until we've got the result, have a negotiation that way, so it's more of an incentive for them to do something about it."

Large business consumer, Employment Law

When they did need to access legal services, many participants said there had been an absence of choice in legal provider or a dearth of information to support the decision-making process. Due to limited financial resources, time pressures and a desire to remain local, individual and SME business participants felt their choices were restricted. As a consequence, there was a high incidence of participants relying on recommendations from friends, family or business contacts (see Section 7.1 Transparency for further discussion).

"It's so vast...you're not really going to start researching the market are you, how do you know what you're even looking for."

Individual consumer, Claims, Oldham

In addition, legal services were commonly accessed at times of stress or trouble. This was considered by internal stakeholders to impede the process of assimilating information and making decisions.

"You are talking about trying to understand an area that most people have very limited knowledge and understanding of, you're talking about an area that people use in many incidences very infrequently in their lives so you don't get that kind of learned sense of knowledge that goes with it and you're talking about people in vulnerable situations."

Internal stakeholder

These characteristics of consumer interactions with legal services - infrequent access, limited knowledge and understanding of the profession, limited opportunity to build relationships, limited choice of providers and limited information on which to base an informed choice - were thought by the internal stakeholders to contribute to a marketplace in which

competition was restricted and the incentives for providers to adopt best practices, particularly regarding customer services, were minimal. The internal stakeholders also described a culturally and institutionally distinct profession where providers assumed a level of superiority over the consumer and were reluctant to recognise needs for further professional development. Other issues were identified as following from this, e.g. an absence of training and engagement in improving communications with consumers, and lack of attention to issues of diversity and vulnerable consumers.

They believe there is a different kind of relationship which I am sure is founded in the belief that they have a superiority over the customer because they understand the law and therefore they're doing you a favour working for you...I think there's inertia for a kick-off, I think there's lack of knowledge...and I think it's not a marketplace."

Internal stakeholder

"When people are naturally subservient they feel the information gap, the style of behaviour (of legal service providers) veers between pompous to the point of patronizing..."

Internal stakeholder

These perceived differences between legal services and other professional services are reflected in the types of behaviours participants desired from their interactions with providers of legal services and the outcomes that were developed through the research.

6.2. A meaningful, comprehensive set of outcomes

The Legal Services Board's aim was to develop a set of outcomes that adhered to principle-based regulation akin to the Financial Services Authority's principles for Treating Customers Fairly. It was, therefore, important that the outcomes were clear and meaningful without being overly-prescriptive, regulatory in nature and stifling to competition. The set of outcomes also needed to be comprehensive and applicable across the legal services market and users of legal services.

6.2.1. Applicability across the legal services market

During the first stage of research, feedback was gathered from a range of participants: individual consumers of various ages and socio-economic groups, SME business consumers and large business consumers from various sectors. These participants had accessed legal services for a range of issues; from family or housing issues to employment, finance or criminal matters. The experiences described by this heterogeneous group of participants were broadly similar in terms of the factors that drove satisfaction and dissatisfaction and the core areas identified for improvement. Where differences were apparent among types of participants or legal issues, these were predominantly in the prioritisation of needs rather than distinctly different needs. In this way, the outcomes were developed to serve as a minimum standard for all consumers of legal services, irrespective of the legal issues for which they require legal counsel.

In reviewing the outcomes, the internal stakeholders judged them to be broadly applicable across the market and types of consumers. While it was acknowledged that priorities may vary, especially between large business consumers and other types of consumers, and that law firms of different sizes and specialisms may find some of the behaviours more difficult to exhibit, it was agreed that the set of seven outcomes should be adhered to by all providers of legal services as a minimum standard.

"I think they're a set of minimum standards aren't they and a set of minimum statements that everybody should really adhere to."

Internal stakeholder

Senior stakeholders and reconvened consumers participating in Stage 3 of the research similarly viewed the set of outcomes as comprehensive. Consideration of the outcomes focused on the existing principles (see Section 7. Outcomes in detail) rather than calls for additional ones to be included. There were a few comments, however, suggesting greater emphasis on diversity issues and vulnerable consumers. These led to a follow-up question in the online forum as to whether a specific outcome for vulnerable consumers was needed.

Feedback from senior stakeholders overwhelmingly argued against including a separate outcome for vulnerable consumers. They thought that each outcome must protect all consumers, including the vulnerable, and that the set of outcomes sufficiently addressed individual needs whether the individual was vulnerable or not. It was also noted that all consumers are vulnerable in different contexts and that vulnerability was not a static state. Therefore, trying to define who was and was not vulnerable in the context of choosing and using legal services may not be possible or helpful.

"I don't like the idea of a separate outcome for "vulnerable people". People are vulnerable in different contexts - all of us can be vulnerable sometimes."

Senior stakeholder, Interest group

Although the set of seven outcomes were deemed inclusive of all consumers and the whole of the legal services market, there was a clear demand throughout the research for educating consumers in the use of legal services. This was understood to fall outside the remit of this research and the outcomes it was aiming to identify, but the topic is discussed a little further in Section 6.6 Requirement for education of consumers.

6.2.2. Balance between generality and specificity

In terms of having a clear and meaningful set of outcomes that avoid being overly-prescriptive or regulatory in nature, the balance between generality and specificity was considered broadly appropriate.

The first iteration of outcomes reviewed in Stage 2 included a set of related behaviours for each outcome. These helped the internal stakeholders understand what the outcomes might mean in practice and facilitated discussion. While useful, however, they were also the main cause of debate, and most of the issues raised referred to the specific behaviours rather than the principle of an outcome. A good example of this, within the outcome devoted to Transparency, was disclosure of success rates to support consumers in comparing providers and choosing one. (See box below).

Disclosure of success rates

There was debate amongst internal stakeholders as to the utility and meaning of success rates to consumers and whether they would be able to interpret this information appropriately. Some internal stakeholders also thought that having to display success rates might disadvantage those who took on more difficult cases and adversely affect the types of cases that providers would be willing to take on e.g. only those that were 'winnable'. These concerns were echoed by senior stakeholders reviewing the examples of compliant behaviour in the second iteration of outcomes.

“Very good people do very difficult cases and have low success rates.”

Internal stakeholder

“(It) isn't a massively accessible market for a consumer to understand...it's the number of people you've kind of had through your door...but does that really give you meaningful information as a consumer, the fact that somebody's seen 20 of these cases per year, you know, but actually those cases might have been really badly carried out.”

Internal stakeholder

Internal stakeholders also raised some regulatory challenges with trying to monitor and enforce these related behaviours and spoke rather of a voluntary code or core set of principles for providers to follow in order to better suit the needs of consumers. In addition, the LSB was concerned about producing an overly-prescriptive set of criteria to which providers must adhere. Therefore, the second iteration of outcomes focused on a definition of each outcome, what this meant and did not mean and then included a couple *examples* of compliant behaviour to show stakeholders and consumers how each outcome *might* be implemented.

“Regulation can reinforce it, what it can't do is codify because then you only do what's in the code rather than what's right. But it can push in the right direction.”

Internal stakeholder

“This is what people expect, this is a minimum that we think and if you don't voluntarily take this code, then consumers will, over time, they'll go somewhere else and I think it resonates very well.”

Internal stakeholder

Overall, there was little critical feedback on the specificity vs. generality of the outcomes from senior stakeholders and reconvened consumers who reviewed the second and third iterations. The reconvened consumers were inclined to prefer stricter guidelines than the senior stakeholders and sometimes viewed statements of ‘what it does not mean’ as either too vague or too specific in a way that could undermine the strength of the outcome.

The balance of specificity was rarely disputed by senior stakeholders in relation to the underlying principle or description of an outcome. Moreover, one senior stakeholder thought an important ‘acid test’ was whether the outcomes could be broadly applied to other professional service providers and this stakeholder believed they could. There were, however, some concerns regarding the examples of compliant behaviour. As intended, the examples were deemed constructive in showing how an outcome might be implemented, yet a few were considered too prescriptive, most notably one pertaining to frequency of

communication in the outcome devoted to Ongoing communication (see Section 7.3 Ongoing communication).

“The acid test of these outcomes is whether they can be applied to other professional providers and it seems to me that they are.”

Senior stakeholder, Interest group

“I think you need at least one more example in each case. With just two they tend to be at extreme ends of the scale.”

Senior stakeholder, Interest group

Given that the examples of compliant behaviour were *examples* not intended as comprehensive or definitive guidance for implementing an outcome, these concerns were not directly applicable to the outcomes themselves. The purpose of the examples was to facilitate discussion of the outcomes and, given the confusion that arose in interpreting them, they are not included in the final set of outcomes shown in Section 2. The outcomes – final iteration. (See Appendix 1 Examples of compliant behaviour for the full list of example behaviours that were included in the second and third iterations).

6.3. Plain English

A common thread that ran through the Stage 1 discussion groups was the desire for clear and easy to understand communication. Participants frequently commented on the use of jargon and technical language by lawyers, who were considered to be poor communicators. Many recalled feeling that their provider had not talked 'on my level' and that written and verbal communications were unnecessarily technical and archaic. Plain English communication was a clear priority for improving participants' interactions with legal service providers.

"They always seem very complex with the answers they give you and you have to like say 'What do you mean?' They use terminology that you don't use day-to-day."

SME business consumer, Banking and Finance, London

"...again, it's more about jargon, (how they) talk. I didn't understand most of it, and sometimes if I don't understand, I kind of shut off."

Individual consumer, Police and Crime, London

Plain English communication was initially written into the first iteration of the outcomes devoted to Transparency, Initial communication and Ongoing communication. In considering these outcomes, however, several internal stakeholders said that including it in some outcomes but not in others could undermine its importance in all interactions with legal service providers. Plain English communication in these three outcomes was subsequently removed in favour of referring to the provision of clear, useful and appropriate information all the way through the second iteration of outcomes.

"No, I think it's (Plain English communication) something that needs to be stated in every area. It appears in I think the first three slide doesn't it and not in the remaining ones but professionalism and integrity you could argue that you can't communicate any of that if it's not in plain English. I don't think it's any less required in the previous three than in the following four."

Internal stakeholder

6.4. Customer care and service vs. quality of advice

It was noted by the internal stakeholders that participants were predominantly process orientated in discussing interactions with providers of legal services and sources of satisfaction and dissatisfaction mostly related to customer care and service factors rather than the quality of advice and final resolution. It was hypothesised that results-oriented factors were implicit to consumers' expectations of providers, and therefore, rarely commented upon (see Section 7. 4. Professionalism and integrity for further discussion).

"The key bit of that was the outcomes side of things and for me quite a sizable percentage of this report is about the consumer experience as distinct to what I would see as the outcomes... there is a difference between a good quality consumer customer experience and a good quality outcome, they're two distinct elements."

Internal stakeholder

Thus, the first iteration of outcomes tested in the second stage of research focused more on the process of using a legal service than the quality of advice or the end resolution. While this was deemed appropriate in light of the research findings, inclusion of good quality advice and delivering the best possible result for the consumer were considered important by the internal stakeholders.

Subsequently, quality of advice and delivering consumers' preferred outcome were referenced in the second iteration of outcomes that were devoted to Professionalism and integrity and Alignment with consumers' best interests, respectively. These revisions were vindicated in the third stage of research, with recognition among senior stakeholders and reconvened consumers as to their importance.

"The priority is that the client takes the decision that is right for their circumstances. It might not be a "good outcome" but it is giving them the best possible advice in their circumstances."

Senior stakeholder, Practitioner

"You should be given an informed but realistic outcome and be able if you so wish to, decide on the outcome."

Reconvened business consumer

6.5. Consideration of flow or hierarchy among outcomes

While the outcomes were derived through consultation with consumers of legal services (Section 5. Evidence-based outcomes) and considered meaningful and comprehensive (Section 6.2 A meaningful, comprehensive set of outcomes), there was a degree of prioritisation and hierarchy within the set of seven. The relative importance of the outcomes was explicitly explored in the online discussion groups in Stage 3 of the research.

The prevailing view, particularly among the senior stakeholders, was that Professionalism and integrity and Alignment with consumers' best interests were of fundamental importance to the legal services profession. These two principles were commonly regarded as underpinning the other outcomes. It was thought that if either of these two could not be guaranteed, then the rest of the outcomes would be rendered meaningless.

"Outcomes 4 & 6 are the critical ones...there is no point being transparent or regular in communication if you are saying the wrong thing or are conflicted."

Senior stakeholder, Practitioner

"If someone is fast, yet with no integrity or professionalism, would you still use them? I wouldn't."

Reconvened business consumer

"If a provider is acting professionally and in the clients' best interests they will deliver the other outcomes."

Senior stakeholder, Regulator / Trade association

For some reconvened consumers, the importance of Professionalism and integrity and Alignment with consumers' best interests was uncertain because implicit expectations regarding them were already in place, as essential conditions or requirements for provision of legal services. Therefore, the reconvened consumers who viewed these outcomes as a minimum standard or expectation of legal services often prioritised other outcomes. Transparency, Initial communication and Ongoing communication were commonly the most highly valued outcomes among reconvened consumers. Transparency was highly valued because it was designed to enable consumers to make an informed choice of provider based on clear information. Communication was highly valued because it was expected to enable consumers to understand the costs, timescales and prospects of their case before deciding to purchase a legal service, to operate on the basis of realistic expectations throughout the legal process and to encourage a feeling of trust in their provider. The senior stakeholders also highlighted the importance of consumers being able to choose the provider that was right for them and to engage with service providers on the basis of realistic expectations.

"You know where you stand with costs the chances of winning or losing the case, it encourages a trust relationship between client and legal team."

Reconvened individual consumer

"You need to know you can afford the service before you commit."

Reconvened business consumer

"For the consumer, I am sure it's all about costs and the fear of the unknown".

Senior stakeholder, Journalist

"I suspect this has to do with expectations management - you need to get off on the right foot."

Senior stakeholder, Academic

At the other end of the spectrum, the outcome devoted to Complaints was almost universally considered to have the lowest priority among the set of seven. This did not, however, detract from its reported relevance or the importance of its inclusion. The consensus was that consumers do not engage the services of a provider expecting to make a complaint, and, if all the other outcomes were delivered, there should be no need to complain. Only if other outcomes were not delivered to a satisfactory standard would the outcome devoted to Complaints become relevant, and in such circumstances, it would have considerable importance.

"It naturally comes after all the others - if we don't achieve these standards we better have a good complaints system."

Senior stakeholder, Practitioner

"It should be included just in case anything goes wrong."

Reconvened business consumer

6.6. Requirement for education of consumers

At every stage of the research, a need was identified for broader education of consumers to increase awareness and understanding of the legal services profession and how to access and use legal services effectively.

As discussed in Section 6.1. How legal services differ from other professional services, participants' knowledge of legal services was low. It became evident that there was an initial stage, prior to identifying suitable providers of legal services and selecting one, in which consumers needed support to determine whether they required a legal service and, if so, what kind. Participants talked about a resource or information service that might answer the following types of questions: is my issue a legal one, does it require legal advice, what type of legal service do I need, and are there other ways of resolving the issue e.g. ADR or small claims court?

"But it's just those quick things that sometimes you just need someone to say 'Yes that's okay' or 'Hang on a minute, we need to check into that', that if you haven't got an established relationship with a solicitor then that (information service or resource) would be really useful to particularly a start-up company."

SME business consumer, Company and Corporate Law, Birmingham

Once consumers knew they required a legal service, a need was identified to support them in finding, comparing and choosing a provider. On reviewing the outcome devoted to Transparency, internal and senior stakeholders commented that consumers often did not know what type of information to look for, what to expect from providers or ask them about, and how to interpret or use such information to make informed choices. In order to benefit fully from greater transparency, it was thought that consumers would need to be educated on what information they required, its meaning and how to use it well. A reconvened consumer took this a stage further, expressing a more fundamental need to understand the basic structure of legal cases in order to interact with and use legal services effectively.

"Businesses don't know where to go (for legal advice), so they could improve the legal service of the country by giving businesses information for free, which numbers to ring."

SME business consumer, Real Estate, Bridgend

"The solicitor might be throwing you red herrings you know. Do you really need this (service)? I don't know, you might not need it all it's just, 'Oh we do this for everybody' and the solicitor gets an extra fifty quid in."

SME business consumer, Company and Corporate Law, Birmingham

“You know you're in a bad situation, you're in a scary situation but would you not be better knowing exactly your rights before you get in that situation and knowing what they (providers) can do for you or can't do for you?”

Individual consumer, Police and Crime, Oldham

“A set of criteria about what to expect from a competent lawyer and questions to ask would be helpful.”

Senior stakeholder, Practitioner

The responsibility for broader education of consumers was considered to lie with regulators of legal services and other independent professional bodies. Such education would act to support the usefulness of the outcomes to consumers rather than replace the need for them.

7. Outcomes in detail

This section describes how each outcome was drafted through consultation with the individual consumers and business consumers of legal services who participated in Stage 1 of the research. It outlines the key considerations and challenges raised in the second and third stages of the research and highlights issues or concerns that informed refinements made during the iterative process that produced the final set of outcomes.

Each sub-section is devoted to one of the seven outcomes. The sub-sections present the final iteration of an outcome followed by the relevant findings from Stages 1, 2 and 3.

7.1. Transparency

Transparency

- **Consumers can make comparisons and informed choices between providers based on clear, useful information about the services provided and their costs**
- **What it means:** providers give clear, accurate and jargon-free information that allows consumers to compare providers and make informed choices without the need to discuss their case in detail.
- **What it does not mean:** will not define how or the exact range of information that should be delivered unless necessary in specific circumstances to protect consumers.

7.1.1. Stage 1 findings

The requirement for transparency was evident throughout the consumer discussion groups and permeated all aspects of participants' desired interactions with legal service providers. Participants identified a clear need for increased provision and accessibility of information to facilitate the process of finding, comparing and choosing a legal service provider.

Participants, particularly individual consumers and SME business consumers, reported a paucity of readily accessible information to enable them to make informed decisions about legal service providers. The legal profession was seen as 'unknown territory', not being 'upfront' on aspects of its services and processes, most notably costs. Additionally, legal services tended to be purchased infrequently and often at times of stress (See Section 6.1. How legal services differ from other professional services). Participants therefore had limited experience of accessing legal services and making decisions about providers and, when they did, were often in a more vulnerable state than when they purchased other professional services.

"I think you only use them a very few times, well I have personally anyway, and like you say; when you're start-up you might need it because you've sold a business or somebody looking for a trademark, it's only now and again."

SME business consumers, Corporate and Company Law, Birmingham

"They must have a going rate, why is it a secret to the rest of us?"

SME business consumer, Employment Law, Bridgend

"I don't know where to look ... I wouldn't know".

Individual consumer, Claims, Oldham

The predominant way in which participants chose a legal service provider was through a recommendation, commonly from friends, family, business contacts or general 'word of mouth'. Participants from large businesses, who had accessed legal services more frequently, depended on established relationships with a set of preferred providers, with preferment usually related to specialisation and trust.

Recommendations or having prior experience of a provider were highly valued by participants, as they instilled a level of trust and provided reassurance about the service they would receive. There was, however, felt to be a need for greater availability of information that could be used for comparing and choosing a provider. Without a recommendation or prior experience, many participants in the focus groups said that choosing a provider would seem to be a 'stab in the dark'.

Yes (I had a good experience) because it (provider) was recommended, so I didn't just pick them out of a phone book."

Individual consumer, Claims, Cardiff

"Someone you can trust so preferably someone who's been recommended by word of mouth."

Individual consumer, Employment, Education, Training & Money, Leeds

"I think it's quite a daunting experience actually because you're kind of like going in with your eyes closed so to speak, so it's a quite a tricky one to answer if you've not really been through that experience before."

Individual consumer, Police and Crime, London

Participants' uncertainty in making decisions in the current legal services arena was also evident in discussions of the merits of alternative business structures (ABS). While there

were mixed reactions to the concept of ABS, the anticipated benefits, particularly of supermarkets as providers of legal services, included the availability of known, trusted and accessible providers within the legal market. Participants referred to supermarkets' established reputations, brand values and familiarity, which led participants to feel that they 'would know what they were getting' from a supermarket that provided legal services, in contrast to many of their recent experiences of legal firms.

"Being in local places like that they (a supermarket legal service) would be more friendly, or they would seem more friendly. Perhaps yes. Have like pop in centres."

Individual consumer, Housing and Consumer Services, London

"You think, 'oh Tesco's, I trust them'."

SME business consumer, Real Estate, Bridgend

To improve their interaction with legal services, participants wanted clear and accessible information that would enable them to make independent and informed decisions on which legal service provider to use. The information that participants thought should be made available by providers included costs, specialisms, customer experiences, success rates and evidence of prior experience e.g. case studies. A list of previous clients and time since establishment as a legal service provider were also deemed to be useful by business consumers and would help to build confidence and trust.

"It's how much you're going to spend, it comes down to that, you've got to decide what you think it's going to be worth."

SME business consumer, Banking and Finance, Birmingham

"I think that you should, the person dealing with your particular problem should be qualified or experienced in that area not generalists."

SME business consumer, Company and Corporate Law, Birmingham

"If they've got high profile clients it's indicative that they're pretty good. Their success rate, a measure of their achievement, how long they've been practicing, transparency in the way of costs..."

Large business consumer, Retail, London

In addition to enabling informed decisions regarding an individual provider, greater transparency would also enable comparisons across providers to discover the range of available services and the scale of their costs. For example, participants frequently mentioned wanting a resource such as a comparison website through which they could compare different providers. Many used and valued such tools for other services e.g.

comparing insurance companies and would welcome greater comparability in the legal services sector.

“A clearly defined expectation of what you can expect for your money, rather than you could pay the same money for twice as much work – lawyer A for the same money would do twice as much as lawyer B.”

Individual consumer, Housing and Consumer Services, London

“Yeah it would be nice on the internet if you could go in and say 'Right I've got this problem, which solicitors have done that work?' and they were on it, great, but you don't know whether your solicitor's ever dealt with a contract problem or a copyright problem.”

SME business consumer, Banking and Finance, Birmingham

7.1.2. Stage 2 review

The outcome devoted to Transparency resonated with the internal stakeholders who acknowledged that readily accessible information regarding services and costs was currently lacking. There was, however, some debate as to the degree of influence the information detailed in the outcome would have during the decision-making process.

There was some uncertainty surrounding the ability of consumers to interpret and use the various types of information specified, particularly success rates (as discussed in Section 6.2.2. Balance between generality and specificity). The risk of information overload was also considered. Whether an independent quality mark would be more helpful or appropriate to facilitate consumers' decision-making was raised in conjunction with these concerns.

“My own view is that most consumers do not want so much information that they're swamped by it.”

Internal stakeholder

Despite being unclear to the internal stakeholders the extent to which consumers would be able to interpret or use certain types of information when choosing a provider, this did not, in the eyes of the internal stakeholders, detract from the need to have transparency of services, specialism and pricing in the public domain. And, it was thought that the value of transparency and the provision of this type of information would increase in the future, especially with the advent of ABS. The internal stakeholders described how consumers could become more accustomed to accessing and interpreting information, and competition, fostered by ABS, would dictate what consumers wanted to be made transparent in order to make informed legal service choices.

“(It’s an) ethical question of irrespective of whether consumers use this information in their decision making processes and arguably certainly if you look at the current evidence arguably they don’t and they won’t.”

Internal stakeholder

“Whether some of these things are more about providing information, encouraging education, training, just trying to foster competition and people going by best practice, it’s not actually clear yet.”

Internal stakeholder

In considering Transparency, an internal stakeholder identified the need for standardisation of information and materials, for comparability. While this was not deemed to be straightforward to achieve, regulators such as the SRA, or an independent specialist akin to Dr Foster within the NHS were mentioned as having a potential role. Regulators, for example, might specify how to present information or an independent specialist might provide a comparison service that distilled relevant information into a standard format for consumers.

“There’s an organisation called Dr Foster that’s been working with the National Health Service that tries to do that in terms of comparing and contrasting outcomes in medicine.”

Internal stakeholder

7.1.3. Stage 3 review

The senior stakeholders and reconvened consumers evaluating the second iteration of Transparency were in agreement with the internal stakeholders regarding its relevance. The consumers, in particular, viewed the outcome as an appropriate and positive step towards simplifying and demystifying legal services, with ‘jargon-free information’ being a central concern.

“I think that transparency is key when it comes to legal matters whether it is cost or the terminology used for the layman.”

Reconvened individual consumer

The execution the outcome was clear and the over-arching principle non-contentious. The senior stakeholders did have some concerns, not too dissimilar to those of the internal stakeholders, which focused on the challenges of implementing the outcome; achieving effective transparency and enabling consumers to utilise the information provided.

“I hope that all clients would benefit from a clear upfront explanation of all that is involved. Whether it will allow them to compare and make choices is debatable.”

Senior stakeholder, Practitioner

Firstly, certain types of information detailed in the outcome were considered potentially problematic for legal services to provide prior to engaging with a consumer. This was thought to be particularly true for more complex cases, which are less standardised, and for providing accurate estimates of costs, which could vary significantly as cases developed even if they concerned broadly similar legal issues.

"I can understand why clients would want to know this and from their perspective it's entirely reasonable. I'm not sure how easy it will be in practice for lawyers to do it in all cases. Some cases lend themselves to an easy quote, others have so many variables."

Senior stakeholder, Regulator / Trade association

"The variety of costs is so large that it would be impossible to give a meaningful schedule on a website. More knowledge of the client's needs is required."

Senior stakeholder, Practitioner

Secondly, as in Stage 2, it was argued that many consumers had a limited understanding of legal services and were not sure what information to look for or how to judge it. As described in Section 6.6. Requirement for education of consumers, the need for greater consumer understanding prompted a call for a centralised and independent source of information and education to help consumers understand how to interpret information provided and raise awareness of what consumers should expect from legal services, including information.

"For a lot of cases it is not possible for the client to judge whether or not the provider delivered what they should expect."

Senior stakeholder, Interest group

Regardless of the inherent challenges, however, the outcome was meaningful to both senior stakeholders and reconvened consumers, and many of the stakeholders appreciated that the specific information that should be made transparent would be defined through competition.

7.2. Initial communication

Initial communication

- **Consumers receive appropriate information and advice which enables them to make an informed decision about whether and how to use a legal service**
- **What it means:** at the outset the provider gives potential consumers appropriate information and advice which allows them to make a decision about the appropriate action given their circumstances.
- **What it does not mean:** will not define what information or advice should be provided, or in what format, unless necessary in specific circumstances to protect consumers.

7.2.1. Stage 1 findings

Another strong theme that emerged from the discussion groups was the importance of communication. In discussing past experiences of using legal services and how these could be improved, it was apparent that good communication was integral to the whole consumer journey and was related to Transparency.

Poor communication with legal service providers had adversely affected participants' ability to engage with and comprehend the legal processes they had undertaken and inhibited development of rapport and a positive relationship with their lawyer. Insufficient or inappropriate communication characterised many participants' unsatisfactory legal service experiences and influenced the words commonly associated with lawyers, such as "jargon", "impersonal", "cold", "aloof" and "intimidating".

Because the consumer journey divided into two stages, deciding to seek legal services and choosing a provider followed by engaging and using a legal service, the principle of communication was separated into two outcomes: Initial communication and Ongoing communication. In this section, the focus is on desired behaviours surrounding the outcome devoted to Initial communication.

Many participants recounted experiences in which they were dissatisfied with the lack of predictability in their interactions with legal service providers. One of the underlying causes of this was insufficient explanation of the legal process, including expected and timelines at the time of engagement. There were instances where participants were half-way through a case before it became apparent that the chance of achieving their desired resolution was very much lower than they had anticipated. Given the time and costs involved in using legal services, there was much indignation as to why their chance of success had not been clearly outlined before they decided to pursue a legal solution.

Some participants also reported being unprepared or even alarmed and distressed at the fees they incurred or the time it took to progress or resolve their legal issue. Many had not

been informed at the initial consultation with their provider of the likely cost of their case or how long it might take. A few participants did acknowledge that they had not asked for cost or time quotes, but they also admitted to not feeling comfortable or confident about making such enquiries. Sometimes, where an explanation had been given, it was communicated unclearly and participants had been unable to cut through the legal jargon or complexity of the issue.

“He was asking him from the start how much is this going to be and he didn't tell him. It's my son's own fault right because he just went along with him. At the end of it he hit him with a bill for £9,000 when he was thinking it was going to something like maybe £4,000 or £5,000.”

Individual consumer, Claims, Leeds

“But I think we're quite scared of the solicitors because we kind of think they're up there with the law so we tend not to tell them what we want and what we want to pay.”

SME business consumer, Banking and Finance, Leeds

“I think more information is always better than less in general...you don't want to be overwhelmed... it's got to be explained in a sense where you understand it.”

Individual consumer, Police and Crime, London

Those with more positive legal service experiences recalled instances where clear, plain English explanations were given regarding what would happen and what to expect. Often these were delivered at initial consultations with a firm and were free of charge. This helped make the process more predictable, provided reassurance and fostered a feeling of trust in their provider.

“They told me the pros and the cons what could happen to your business in all eventualities if something failed etc. I had really good advice on that and they did break it down after I kind of pushed them to talk to me in English.”

SME business consumer, Banking and Finance, Birmingham

“What I like about my solicitor is the way that he breaks down the difficult things without making you feel like an idiot.”

Large business consumer, Retail, London

In terms of improving their interactions with legal services in relation to deciding whether to pursue a legal route, what to expect and the predictability of the process, participants wanted clear and honest communication from the pre-engagement stage onward on a number of parameters: costs, timescale, chances of success, range of possible outcomes – including worst and best-case scenarios – an explanation of the project plan and who would be dealing with their case. It was anticipated that consumers would weigh up this

information and make an informed decision about whether to purchase the legal service. If the service was purchased, the consumer would have a good understanding of the process that they would be undertaking.

“Clarity on your case as soon as you explain everything to them they can let you know whether you’ve got a good case or not.”

Individual consumer, Housing and Consumer Services, London

“You would like them to give you the potential odds or the outcome so that you can make a judgement on whether or not the spend is worth it.”

Large business consumer, Retail, London

7.2.2. Stage 2 review

Providing initial communication to enable consumers to decide if and how to proceed with a legal service and what to expect was considered a helpful outcome by the internal stakeholders. One stakeholder commented that such initial communication would transform the average high street law firm.

“It doesn't mean everything has got to be simplistic but I think the clarity in which people put forward proposals, advice. For most people when they're seeing a lawyer at a time in their lives that almost certainly involves stress of one kind or another.”

Internal stakeholder

Only a few issues were raised and these pertained to the behaviours detailed within the draft outcome. One issue related to the potential difficulty of, and possible resistance of providers to, accurately estimating costs, timings and chances of success at an initial consultation. The overriding opinion, however, was that, while estimations may need to be revised as cases develop, they could and should be made to the best of a provider’s ability.

For consumers, two concerns arose: information over-load and risk literacy. It was thought that care would be needed to ensure consumers were not over-burdened with information and that providers might need training on best practice in communication. In terms of risk literacy, consumers’ ability to interpret likelihood of success estimates was felt to be variable; providers would need to ensure information was understood and not simply imparted.

“Communication can’t just be that tick box whereby if I said I gave them this information I’m, you know, and that’s what the exchange can often be about isn’t it, that, well, you know, we gave them that information, we said that.”

Internal stakeholder

7.2.3. Stage 3 review

The outcome was considered important and relevant by the senior stakeholders and reconvened consumers. There was a perception amongst the senior stakeholders that this outcome was in line with existing obligations and should be standard practice. It was agreed that providing information on costs, timelines and chances of success was entirely appropriate behaviour. A positive consequence of doing so, some said, would be to manage consumer expectations from the outset. While explicit reference to consumer expectations was omitted from the revised wording of the outcome tested at this stage, it was apparent that this benefit remained implicit.

“The behaviours are appropriate, giving realistic expectations of cost, timescale and chances of success are important.”

Senior stakeholder, Practitioner

The reconvened consumers were similarly favourable towards the outcome, notably appreciating that it would enable them to understand whether they had a strong case and what the costs of pursuing it might be.

“I would be at ease with the provider if you could tell me I had a valid case or not.”

Reconvened individual consumer

“You need to know you can afford the service before you commit.”

Reconvened business consumer

One of the main challenges identified by the senior stakeholders was one raised by the internal stakeholders: the difficulty in providing accurate information at an initial meeting or consultation. To give a reliable estimate of the chances of success, for example, some senior stakeholders believed it might be necessary to understand more about the details of the case than would be possible during a first meeting. A few stakeholders who were legal practitioners also wondered why a provider would give this level of information prior to their services being purchased.

Indeed, questions were raised by some senior stakeholders and reconvened consumers as to whether there would be a charge for such substantive initial communication. There was a general feeling that it should be free of charge and form part of the service, but if there were associated costs, then these should be made transparent.

“Who decides where to draw the line on providing information and advice before a client is committed to purchasing and paying for a legal service?”

Senior stakeholder, Regulator / Trade association

“I think the outcome also needs to indicate the cost implications of that initial communication.”

Senior stakeholder, Regulator / Trade association

In terms of clarity of the outcome, there were a couple of comments in response to the second iteration. For some, the outcome conflated the process of choosing a legal service provider and of choosing the best course of legal action. Each choice would be relevant to the outcome and the wording was amended to make the outcome applicable to both of them.

“Not sure if it means client should be able to make informed decision about engaging that particular lawyer or informed decision about initial communication (and advice) given?”

Senior stakeholder, Interest group

7.3. Ongoing communication

Ongoing communication

- **Consumers are consulted on key decisions in a timely way and actively kept informed of progress**
- **What it means:** providers proactively communicate with clients to manage expectations and highlight any significant changes to projected costs, timelines, strategy and likelihood of success.
- **What it does not mean:** does not specify how, what or the frequency with which a provider should communicate with a consumer.

7.3.1. Stage 1 findings

Section 7.2 Initial communication describes the role of communication in finding and choosing a legal service and its evolution into an outcome. The focus of this section is ongoing communication during the process of engaging and using a legal service.

Ongoing communication refers to the interaction between a provider and consumer once the provider's services have been engaged. A significant proportion of participants' discussions of their unsatisfactory experiences of legal services related to this type of communication.

The most common grievance was the absence of communication. In many instances, participants reported feeling uninformed about their case and that the onus was with them to continually chase their lawyer for progress updates. Updates were important to most participants because they wanted to know how their case was progressing, including what stage they were in the legal process, what to expect and any changes to costs or timescales. The absence of regular, proactive communication was often felt more keenly by the stressful nature of some cases, for example, participants who had been accused of a crime were more likely to feel anxious; not knowing what was happening and how their case was progressing when the outcome could have a significant impact on their life was very worrying.

"It is just the chasing factor. Nothing happens for a week or two and you give them a call 'Oh yes, yes, we're in the process of doing that' – in the process of sending my expensive letter!"

Individual consumer, Employment, Leeds

"My concern is as well with all of that, you feel ill all the time, until you've got it sorted out, until you've got that letter."

Individual consumer, Police and Crime, Oldham

The requirement to chase for information was reportedly more problematic for those consumers who were intimidated by the legal process or their provider and were, therefore, reluctant to make contact and request an update on progress. SME business consumers were also disadvantaged because they lacked bespoke members of staff to handle legal affairs and following up with their provider incurred time costs for their businesses.

“Because if you're an individual you're doing the business, you're running the business, you are the business, and the last thing you want is to be taken away from that to try and deal with a minor problem.”

SME business consumer, Commercial Law, Swansea

Further to the absence of proactive communication, many participants also experienced difficulty initiating contact with their provider. Various issues were raised that related to not being able to speak to the person handling, or at least someone knowledgeable about, their case. Indeed, a common phrase for describing lawyers was ‘difficult to contact’. Often participants were told their lawyer was out of the office or busy, and some voiced the opinion that the caseload lawyers took on was too great for enough attention to be devoted to individual cases. Where questions or requests for information were made, providers’ response times were also perceived to take too long and / or vary unpredictably.

“They never seem to turn work away, they've always, it doesn't matter how many jobs they've got, whether they've got time to do it or not, they'll accept it and you're always the next job. 'Oh I was just about to phone you'.”

SME business consumer, Banking and Finance, Birmingham

“You ring them up and they say ‘Oh no we haven't heard, we'll get on to it’ and then a fortnight later it's ‘Oh no, we haven't had a reply’.”

Individual consumer, Housing and Consumer Services, London

Those participants with more positive experiences of using legal services described the following characteristics of ongoing communication; proactive and responsive to questions, personable and easy to talk to, jargon-free and often face to face. To improve their interactions with legal services, participants wanted proactive and regular updates that signposted and explained stages in the process and detailed any changes to costs or timelines. There were differing opinions as to the format in which these updates should be provided, but having an online tracking service was a common suggestion that ran throughout the discussion groups. The benefits of such a service were telling in terms of the current failings of legal services; it was considered more cost effective and could be accessed as and when at a consumer’s convenience. Participants also wanted a single point of contact, or at least to be able to speak to someone familiar with their case, who was approachable, contactable and responsive to questions or information requests.

“They were in touch with me all the time, I didn't have to keep ringing them, I've got to honest, they were very good at sending letters to me.”

Individual consumer, Claims, Leeds

“Well to get updated on the progress of the action, that would be the most important thing for me, because I wasn't always ...”

Individual consumer, Housing and Consumer Services, London

“Being upfront and honest really, that's the main thing, telling you at every step of the way how much it's going to cost, not just hitting you with a bill.”

Individual consumer, Claims, Leeds

“With my flat purchase you could go online to see at what stage through – it was clearly bulleted at what stage they were at and it was very transparent, so you knew that you were at a certain point and you could phone up and challenge on that point.”

Large business consumer, Retail, London

7.3.2. Stage 2 review

As for Initial communication, the internal stakeholders considered the outcome devoted to Ongoing communication to describe good practice and there was very little within the outcome that was found contentious. It was thought to be in the interests of every good business to demonstrate Ongoing communication but legal providers, where market forces may be less dominant (see Section 6.1. How legal services differ from other professional services), were currently perceived to be lacking in this area of customer service.

‘Proactive’ was considered an important term in the outcome as it was hoped it would inspire consumer confidence in being kept well informed about their case. Further to establishing realistic expectations through Initial communication, it was agreed that updates on progress would help manage consumers’ expectations throughout the whole legal process, particularly for slipping timelines and possible delays.

“We want it to be you know that the consumer doesn't need to feel that they have to phone or contact them, that they always feel confident that they are informed and things are progressing, but all too often it is the other way round. Lawyers like many are too reactive and not proactive in their behaviours and that's not good.”

Internal stakeholder

7.3.3. Stage 3 review

Senior stakeholders were aligned with the internal stakeholders, strongly agreeing that the outcome was an important part of customer service and reflected how all successful businesses should behave. Both the senior stakeholders and reconvened consumers recognised the need for updates after Initial communication because cases were liable to change throughout and consumers needed to be informed of progress, including costs and timings.

“This is really important to build and maintain trust. Our research shows that people expect ongoing communication and value being kept up to date etc.”

Senior stakeholder, Interest group

“Yes - absolutely providers should proactively communicate if costs are going up, deadlines slipping.”

Senior stakeholder, Media

Again pro-activity was considered central to the outcome; with the responsibility resting on the provider to initiate communication with the consumer. This was reflected in the reactions to one of the examples of compliant behaviour in which the consumer was given a telephone number to call the provider with any questions: while good practice, it was not seen to go far enough in fulfilling the requirements of Ongoing communication because the onus of making contact was seen to be placed on the consumer.

It was understood that the appropriate or desired frequency and method of communication would vary between consumers and legal issues and should, therefore, be agreed between the provider and consumer at the outset rather than be prescribed by external regulation or a standardised business model.

“It could be possible for the solicitor to discuss with the client how much they want to be kept in touch.”

Senior stakeholder, Regulator / Trade association

A potential unintended consequence of the outcome was considered by a few senior stakeholders; whether providing the level of service described would increase the costs of legal provision. It was questioned whether providers would charge for this – consumers thought that ongoing communication should naturally form part of the service offered and therefore not be charged.

“There shouldn't be a charge if it's just an update.”

Reconvened individual consumer

7.4. Professionalism and integrity

Professionalism and integrity

- **Consumers receive independent, good quality advice**
- **What it means:** providers act with independence and integrity, maintain client confidentiality and have the appropriate resources, skills and diligence

7.4.1. Stage 1 findings

Behaviours relating to professionalism and integrity did not generate as much discussion amongst participants as those relating to outcomes of customer service such as communication. It became apparent, however, that participants had a preconceived assumption of professionalism and integrity from the legal profession. Indeed, on balance the majority of favourable terms associated with lawyers were related to this outcome; 'professional', 'confidential', 'expert' and 'qualified'.

While explicit consideration of behaviours underpinning professionalism and integrity was limited, there was evidence to suggest that it was an important outcome for consumers. Participants who had had positive experiences of using legal services often used the term 'professional' to characterise their provider; this encapsulated qualities such as knowledgeable, organised and experienced.

Some participants described experiences in which they felt that a provider or potential provider did or would not exhibit professional behaviour. In a few instances participants did not feel confident that their local firm would maintain confidentiality and therefore sought the advice of an alternative provider. A few other participants complained that the advice they received was either impractical or vague.

"We went outside the area...we were not convinced that our business would have been kept private because they knew each other in terms of local solicitors."

SME business consumer, Employment Law, Bridgend

The importance of professionalism and integrity could also be inferred from participants' reactions to the concept of ABS. One of the perceived drawbacks of an alternative legal service provider such as a supermarket or bank was an assumption that the provider would be less proficient and the advice offered would be of lower quality.

"But it's just the professionalism which you would expect might be lacking slightly in there."

Individual consumer, Housing and Consumer Services, London

"I guess my first initial reaction would be that it must be some tin pot kind of service that they're offering."

SME business consumer, Debt and Disputes, London

7.4.2. Stage 2 review

Reviewing the findings from Stage 1, some of the internal stakeholders considered whether professionalism and integrity was simply expected by consumers and therefore not top of mind when participants discussed their interactions with legal service providers or whether the outcome was fundamentally less important than those more closely related to customer service.

On balance, the internal stakeholders thought the research showed a degree of supposition by participants regarding this outcome. Irrespective of whether this was true, the stakeholders thought the outcome deserved merit, commenting on the synergy with the Solicitors' Code of Conduct and principles of the legal profession.

"I think it gives a sort of implicit trust around knowledge, but not necessarily the access and the service they get around communication and the superiorities it says here, the sort of aloofness, but they do think they're qualified and professional."

Internal stakeholder

There were a couple of details within the outcome, however, that were challenged or queried by the internal stakeholders. One was the reference to 'consumers' best interests'; it was thought that this was hard to define and potentially misleading, given that a consumer's wishes and their best interests are not necessarily one and the same. Another was the absence of explicit reference to a technical quality of advice. These two comments were addressed in the second iteration of the outcome.

"It might be in your best interests to settle early because even though you might not get quite as much out of it as you could potentially get, you could also lose it all. Because these things are often not black and white and there are trade offs through processes."

Internal stakeholder

7.4.3. Stage 3 review

The senior stakeholders and reconvened consumers confirmed the value of including an outcome pertaining to Professionalism and integrity. The senior stakeholders, in particular, noted that although the principle described was 'a given' or accepted as true for a regulated profession, it was fundamental and important to state. All the other outcomes were perceived to be predicated on this one outcome (See Section 6.5 Consideration of flow or hierarchy among outcomes). Although mostly in agreement, there were a few reconvened consumers who thought that the outcome actually undermined the legal profession; its inclusion could suggest that it wasn't being practiced as a matter of course.

“This is a prerequisite for a regulated profession.”

Senior stakeholder, Practitioner

“I would have thought this was an unwritten rule anyway.”

Reconvened individual consumer

“It almost undermines the industry and makes you feel suspicious because this is what you would expect.”

Reconvened business consumer

A few reconvened consumers noted the absence of confidentiality in the outcome, an area which had been discussed by some in Stage 1 of the research when describing their concerns for choosing a legal service provider. Confidentiality was evidently a key aspect for senior stakeholders as well who suggested its inclusion as an example of compliant behaviour. On the basis of this feedback, confidentiality was added into the description of what the outcome means.

7.5. Timeliness

Timeliness

- **Services are delivered to agreed timelines with no unnecessary delay**
- **What it means:** the provider sets out and agrees with the consumer the projected timeline for the key actions in the case and delivers against them unless changes are agreed in light of changing circumstances or external factors force delay.
- **What it does not mean:** will not provide a matrix of acceptable or normal timelines for different types of cases or prescribe the points at which the provider should communicate with the consumer.

7.5.1. Stage 1 findings

Alongside costs, timeliness was a critical factor affecting participants' satisfaction in their interactions with legal services. Timeliness was also considered important for earning and building trust in legal service providers. In discussing the issue of trust, participants considered such factors as progression of their case and delivering on promises in a timely way.

As discussed in Section 7.2 Initial communication, having an indication of timelines was considered an important part of the decision-making process for choosing a legal provider or deciding to pursue legal action. It was also thought to be important for setting expectations of timings from the beginning of the legal process. Many of the participants' experiences of using legal services suggested that their expectations were not being met nor managed throughout the process; participants talked about the length of time to achieve their resolution as feeling unnecessarily drawn out and outside their control. Often, they could not understand how the stages in the process could take as long as they did. The experiences of participants were borne out in some of the words they associated with lawyers; 'slow' and 'prolonged'.

"It drags on because obviously they speak to the other insurance people if it's a claim and I don't know sometimes whether they work hand-in-glove with each other, I don't know."

Individual consumer, Claims, Cardiff

"A better timeframe, so this could take six months rather than thinking it's going to be three weeks."

SME business consumer, Banking and Finance, Birmingham

The importance of timeliness appeared to be especially pressing for SME business consumers; cash flow and lack of bespoke staff to deal with legal affairs meant that participants appreciated the value of an expedient, and more cost effective, resolution. The type of case also impacted the pertinence of timeliness; those which involved other parties were recognised to afford even less control over timings with greater risk of delays. In such

situations, participants thought the focus for providers should be towards achieving a rapid resolution rather than escalating the issue.

Expediency of process was a frequent factor raised by participants when discussing what could have improved their interactions with legal services. Their legal issue should be resolved as quickly as possible without being unnecessarily prolonged. Further to this, relevant information after engaging a provider included an outline of the case plan, including an estimated duration of the case and individual stages and notification of any changes to the timescale and reasons for the changes.

7.5.2. Stage 2 review

The internal stakeholders thought the outcome devoted to Timeliness should be central to any efficient service provider but recognised that there were failings within the legal services sector. Indeed, one member of the Consumer Panel assumed that a high proportion of complaints were probably related to timeliness. It was generally acknowledged that incentives for legal service providers to manage timelines effectively were probably weaker than in other sectors. That is to say, there is little to no repeat business and the charging structure is by the hour rather than by task.

“I imagine a lot of complaints are around the length of time something took to deal with, you know people not getting back to me and it’s just such easy stuff to do and the more efficient you are, the easier it is to handle lots of cases.”

Internal stakeholder

Despite the diminished incentives for timeliness, it was still regarded as an important outcome and one which could be affected by circumstances outside an individual provider’s control. Given this, there was a suggestion to include within the outcome reference to making clear to consumers the factors that could affect timelines.

“It seems to me where you’re dealing with the courts then you may not know what the timeline is. So being clear about the factors that affect a timeline.”

Internal stakeholder

7.5.3. Stage 3 review

The senior stakeholders appreciated that consumers would want timeliness but they also perceived it as potentially the most difficult outcome to action. They built on the point made by internal stakeholders that estimating timelines was not always realistic or possible because timings were often outside the control of both the consumer and provider. It was therefore suggested that the priority in the outcome was managing expectations and educating consumers as to what might cause delays.

“This is very welcome in managing expectations but very difficult as in much litigation you are dependent on the other side (The CPS never respond in London) or on third parties whose timescale cannot be controlled.”

Senior stakeholder, Practitioner

The reconvened consumers, however, did demonstrate an understanding that timelines could be affected by circumstances outside the control of their provider. As laid out in the outcome, they still thought that an estimation of timings, based on the prior experience and knowledge of a provider, would be useful. Then, if timings did change the consumer should be updated as to how and for what reason.

“I think that regular updates (are important), I know that one law firm isn’t going to just be dealing with you, it’s going to be dealing with quite a few cases and that is probably why there’s a bit of a delay.”

Reconvened individual consumer

Overall the outcome was clearly expressed, although a few senior stakeholders queried the use of the term ‘agreed’. In these instances, ‘agreed’ was interpreted as meaning negotiated rather than consented and, therefore, was thought to overstate the influence that a consumer may have over the timings of their legal case.

A final consideration was put forward through reading the examples of compliant behaviour; it should be up to the consumer and provider to agree the frequency and format of the progress updates.

“Monthly (example of compliant behaviour) is far too prescriptive. All critical events should be reported on an agreed timescale.”

Senior stakeholder, Practitioner

7.6. Alignment with consumers' best interests

Alignment with consumers' best interests

- **Consumers receive the best possible advice, which takes account of their individual circumstances**
- **What it means:** at each key decision-making point in the case the consumer is consulted and provided clear and useful advice which allows them to decide the course of action most likely to deliver their preferred outcome given the circumstances.
- **What it does not mean:** will not provide a matrix of the best possible advice in different circumstances or when and how the consumer should be consulted.

7.6.1. Stage 1 findings

The outcome devoted to Alignment with consumers' best interests was borne out of participants' wishes to be treated as an 'individual' rather than a 'file'. This principle spans the process of purchasing and using a legal service and is relevant to the all the outcomes.

When recalling past experiences, some participants described their interactions with legal service providers as impersonal and felt there was a lack of empathy shown for their situation. 'Aloof', 'cold' and 'out of touch' were common terms associated with lawyers and there were instances where participants felt that their provider lacked interest in their case or were 'not on their side'.

"You kind of find they do seem to think they're in a different planet to yourself."

SME business consumer, Banking and Finance, Birmingham

"It's all about customer service - you want to feel like you are their number one customer no matter what it's about and no matter how trivial or how cheap your bill is going to be at the end of the day."

Individual consumer, Police and Crime, Oldham

As discussed in Section 6.2.2, Balance between generality and specificity, the outcomes are broadly applicable across different types of consumers and types of legal issues. Understanding, however, why participants thought priorities might vary by consumer and legal issue provided an indication as to the importance of Alignment with consumers' best interests. It was important to participants that lawyers empathised with and understood the individual consumer. For example, age might affect the way in which a consumer wanted to be communicated with, gender or ethnicity might affect who a consumer wanted their case to be handled by or income level or willingness to pay might affect the course of action a consumer wanted to pursue. An SME business consumer with cash flow considerations and time costs in dealing with a provider might require frequent cost and timescale updates and prioritise a speedy resolution. A more complex or emotive legal case, e.g. intellectual property or crime, might require more time to be spent on communications about the

substance and progress of the case and explanation of legal processes. A legal case involving other parties, e.g. divorce, might benefit from a lawyer working in the interest of all parties, pursuing a fast resolution rather than escalating the situation. Consumers involved in disputes where alternatives to legal action could be more appropriate, e.g. custody or employment issues, might want a legal provider to advise on the alternative solutions available to them.

“But if you're a Somali from down in the docks in Cardiff you might want to actually say 'I don't want a white middle class solicitor representing me I want a black solicitor.’”

Individual consumer, Claims, Cardiff

“I think the smaller businesses need as much help as possible, maybe grants and things like that to go towards solicitors' fees and things like that, especially for trade-marking.”

SME business consumer, Company and Corporate Law, Birmingham

Appreciating that these differences existed and that participants' wanted their individual circumstances to be taken into account by their legal service provider led to the development of the outcome devoted to Alignment with consumers' best interests.

7.6.2. Stage 2 review

Two key benefits were identified from this outcome by the internal stakeholders. First, demonstrating the behaviours described would help to inspire a consumer's trust and confidence in a provider. Second, consultation at key decision-making points would encourage engagement with consumers and drive aspects of the other outcomes.

There were issues with the articulation of this outcome that needed to be addressed in the second iteration. Some thought there might be a risk that the outcome was perceived as paternalistic, with providers making decisions based on their assessment of consumers and their individual situation. Therefore, it should be made clear that the consumer ultimately makes the decision on which course of action to pursue. In addition, the initial wording of “suitable” advice was deemed too weak, and it was suggested that ‘best possible advice’ should be used instead because it was more aspirational and more obviously related to the quality of the advice.

“What they're saying is that when you make a recommendation you should explain how you've related it back...I think the motivation we have is right, there's just a chance that you get into a slightly patronising paternalistic model.”

Internal stakeholder

“Is it the best possible advice, you know, is it something again that goes slightly more to the heart of that quality issue.”

Internal stakeholder

7.6.3. Stage 3 review

Both the senior stakeholders and reconvened consumers agreed that the legal profession should be providing a consumer-focused service with individuals being treated as such. Generally, the outcome was non-contentious and there were few quibbles with the way in which it was expressed.

“Nothing to add on this one. Seems precisely what a client would expect.”

Senior stakeholder, Practitioner

“Looks consistent with good practice and duties to me.”

Senior stakeholder, Regulator / Trade association

A few stakeholders did query the use of the term ‘best possible’ in relation to advice – which was implemented after review with the internal stakeholders – wondering whether ‘best’ was too difficult to measure and that ‘competent’ might be more appropriate to the goals of the legal profession. The conflict between consumers’ best interests and their preferred outcome also re-emerged, with one not considered by all stakeholders to necessarily be synonymous to the other. The reconvened consumers, however, did not perceive such a tension and it could be argued that a consumer’s ‘preferred outcome given the circumstances’ should be interpreted as aligned with their best interests.

“We cannot ensure “excellence” - we can ensure competence.”

Senior stakeholder, Practitioner

“The advice may be that the preferred outcome is not possible.”

Senior stakeholder, Practitioner

For a few reconvened consumers, the only area of wariness was reference to the consumer deciding the course of action. Some thought that as consumers relied on the expertise of a lawyer and therefore employed lawyers to decide on the best course of action for them. Most, however, believed that the ultimate decision should rest with the consumer, based on the advice given in their best interests.

7.7. Complaints

Complaints

- **Consumers are aware of the opportunity to complain, and their complaint is treated seriously and handled fairly and efficiently**
- **What it means:** providers make clear to consumers that they have a right to complain and the process involved including the opportunity to complain to the Legal Ombudsman. Providers have an effective internal procedure for resolving complaints in the first instance and cooperate with complaints considered by the Legal Ombudsman and regulators. Providers learn from complaints that they have received to improve practices.
- **What it does not mean:** does not prescribe what an effective internal complaints system must look like other than in relation to certain requirements for signposting to the ombudsmen.

7.7.1. Stage 1 findings

On balance, most of the experiences that participants recalled were at least partly unsatisfactory, particularly regarding customer service. Despite this, very few had made a complaint against their legal service provider. In following the discussions of complaints, it became clear that many and various barriers existed that prevented or discouraged participants from complaining and that an outcome specific to complaining would be useful.

In the first instance, there was a lack of knowledge of the complaints procedure; how to complain, who to complain to, what would be involved and whether there would be associated costs. At a very fundamental level, a few participants (individual consumers) were actually unaware that they could even make a complaint to their legal service provider. In some discussions, participants contrasted the legal service sector with that of the retail sector where, if they were dissatisfied with a product or service, they felt that they knew their rights and would be able to make a complaint and know what to expect from doing so.

“Who I can complain to? I'm sure it's probably even a member of the organisation but I don't know who they are accountable to. Do you phone the police and tell them that your solicitor's ripped you off?”

SME business consumer, Company and Corporate Law, Birmingham

Other participants stated that they would not have had the confidence to make a complaint against their lawyer and there was a perceived asymmetry of power. Many felt ‘intimidated’, ‘daunted’, or ‘inferior’ to their provider and would not feel comfortable seeking redress for dissatisfactory service. There was a feeling that because the service was a legal one then a consumer would not have grounds for complaining.

There were a number of assumptions made about the process that caused participants to feel that complaining would not be worth their while. These included lawyers evading the issue with technical jargon or simply 'closing shop' and not responding to a complaint or that the process itself would be too time consuming and bureaucratic.

In order to make the complaints process more accessible to consumers, participants thought the first step should be to increase awareness of consumers' rights so they would feel confident in whether they had grounds to make a complaint. Then the consumer would need to feel comfortable to make their complaint and reassured that it would be taken seriously and that there was a proper procedure in place to handle it. The ideal complaints procedure would begin with consumers being given upfront information from their provider about the existence of the process and what it entailed. If the consumer then needed to make a complaint at any point, this should be acknowledged and proactively handled by the provider with a dedicated contact. The procedure should be transparent at all times, it should be straightforward and timely and there should be satisfactory explanation of the final resolution.

"I would like them to take the details and give me a clear time frame, a rough time frame on when the resolution will be made because it could be a week, it could be six weeks, but I would like them to say "Look, because of these circumstances you will know no later than X"

Large business consumer, Retail, London

7.7.2. Stage 2 review

The internal stakeholders agreed that an outcome devoted to Complaints was relevant and a cultural shift within the legal profession was needed in which critical feedback was welcomed as a way to improve upon services.

"It is the learning; it's the complaints as being part of the ongoing quality assurance process rather than just a vehicle for consumer expression if you like."

Internal stakeholder

It was thought that having a process in place to handle complaints and its disclosure, as described in the outcome, did not go far enough. The stakeholders described that consumers needed to know that the process existed and it was the providers' responsibility to ensure awareness and understanding. This included alerting consumers to the legal ombudsman and giving guidance on how to access and use this service if required.

"It's there and lawyers ought to know it's there and they ought to be very clear in the guidance they give to their clients/consumers on how to use it."

Internal stakeholder

7.7.3. Stage 3 review

The senior stakeholders and reconvened consumers appreciated the need for legal service providers to have a complaints procedure in place and make consumers aware of how to access and use it. A few senior stakeholders pointed out that this was already part of the existing code of conduct.

“This is very important, especially given that I understood from your research that people are unsure how/whether they can complain about how their legal issues were dealt with.”

Senior stakeholder, Regulator / Trade association

“This is a requirement of the code of practice.”

Senior stakeholder, Practitioner

The main challenge identified was when and how providers should give information about their complaints procedure. Giving it at the outset was generally recognised as most appropriate, but both the senior stakeholders and reconvened consumers thought that care would be needed to avoid overloading consumers with information and a reminder of the procedure would be required when relevant, i.e. if a consumer wished to or was thought to have grounds to make a complaint.

“The practicalities of this need some thought. Having to hand a person a sheet about their ability to make a complaint when you're advising at the police station may not be the most practical option for instance. “

Senior stakeholder, Regulator / Trade association

“Current position is that clients are bombarded with information on day 1. I doubt many of them read it. Critical point about info to clients is that they get it when they need it.”

Senior stakeholder, Practitioner

Whilst the outcome devoted to Complaints resonated well and was clearly set out, two considerations were raised about it. First, as discussed by the internal stakeholders, providers should be expected to learn from complaints and feedback received from consumers to improve their practice. This requirement was subsequently added to the third iteration of the outcome. Second, some felt that providers should try to streamline their procedures including the timescale for handling complaints. This is reflected in the outcome, which refers to effective internal procedures and efficient handling of complaints.

“The real problem for our clients is that the procedures are so challenging in terms of time and bureaucracy that they don't have a meaningful ability to complain.”

Senior stakeholder, Interest

8. Annex – Methodology in detail

8.1. Stage 1: Developing a straw-man set of outcomes

8.1.2. Rapid literature review

The rapid literature review (see Appendix 2) aimed to explore existing research published in England and Wales since 2000. A structured ‘gap analysis’ approach was used in order to develop a clear picture of what is already known and where there is a lack of data in relation to the study objectives. The findings were used to inform the sample structure and develop the content and types of issues to explore with consumers in the first stage of qualitative research.

8.2.2. Primary qualitative research

As described above, the rapid literature review helped inform the design of the main component of the first stage of research the aim of which was to develop a straw-man set of outcomes.

In order to identify outcomes that were desired and meaningful to a wide range of consumers of legal services, it was necessary to conduct in-depth qualitative research with various types of consumers. The research included:

- 10 mini-groups with six to eight individual consumers per group
- 6 mini-groups with six to eight SME business consumers per group
- 6 in-depth, face to face interviews with large business consumers

A mini-focus group approach was employed because the group environment enables participants to bounce ideas off each other and develop their own thinking by hearing from others. In addition, any feelings of low confidence and low knowledge were managed by taking time at the start of the discussion to set the scene and promote an environment in which participants felt comfortable speaking about the subject. Participants were invited to participate using door-to-door and central location purposive recruitment. Financial incentives of £45, £65 and £80 were offered for the participation of individual consumers, SME business consumers and large business consumers respectively. The interviews and mini-groups took place between 25th August and 9th September 2010 in London, Swansea, Bridgend, Cardiff, Birmingham, Leeds and Oldham.

Individual consumer sample

Individual consumers were primarily segmented according to the type of issue for which they had recently³ sought legal advice. It was important to include a wide range of legal

³ Defined as within the last three years and extended to within the last five years for highly personal and / or low frequency issues

issues in order to be confident that the resulting outcomes reflected the breadth of individual consumers' engagement with the sector. Five main legal areas were identified for segmenting the individual consumer sample (see Table 7.1.).

Age and socio-economic group (SEG) were also considered important factors for segmentation as it was likely that participants' experiences would vary depending on their background and resources. Other criteria that were taken into consideration in the sample composition included achieving:

- A mix of gender within each group
- A mix of Black and Minority Ethnic (BME) backgrounds within each group. This was weighted according to the local population i.e. in London half of the group were from a BME background. In the other locations it was ensured there was at least one representative from a BME background
- A mix of location size i.e. smaller towns and cities to ensure inclusion of areas in which choice of service provider may be more limited
- Participants who were the 'decision maker' (either solely or jointly) in their household for accessing legal services
- A spread of customers from a range of legal services providers
- At least half of the participants with additional experience of using a legal service for conveyancing and / or will writing
- Exclusion of those who work in the legal services industry or had attended a focus group in the past 6 months

The broad composition of the individual consumer groups is shown in Table 8.1.

Table 8.1. Individual consumer group sample composition

Group	Location	Segment*	Age	SEG**
1	Leeds	Employment, Education, Training and Money	18 – 44	ABC1
2	Leeds	Family and Personal Issues	45 – 80	ABC1
3	Oldham	Police and Crime	45 – 80	ABC1
4	Oldham	Claims	18 – 44	C2DE
5	London	Housing and Consumer Services	45 – 80	C2DE
6	London	Police and Crime	18 – 44	C2DE
7	Swansea	Housing and Consumer Services	18 – 44	ABC1
8	Swansea	Employment, Education, Training and Money	45 – 80	C2DE
9	Cardiff	Family and Personal Issues	18 – 44	C2DE
10	Cardiff	Claims	45 – 80	ABC1

*See Appendix 3 for examples of the types of legal issue that comprised each segment

**Socio-economic group (SEG)

Business consumer sample

The needs and experiences of businesses were expected to differ from those of individuals, and business consumers were, therefore, treated as a separate sample. The sample was split according to business size and segmented by the type of legal issue for which a company had recently⁴ sought legal advice. Six main legal areas were identified for segmenting the business consumer sample (see Table 8.2.).

Usage and experience of legal services across the business community is likely to be heavily influenced by the size and resources of the company itself. Therefore, small and medium sized companies⁵ were invited to participate in mini-groups and large companies⁶ were invited to participate in depth interviews due to the relative numbers of such companies. Large companies were more likely to have had a recent experience of more than one type of legal issue and were recruited to ensure all six main legal areas were represented.

⁴ Defined as within the last three years and extended to within the last five years for low frequency issues

⁵ Small-sized companies were defined as having less than 50 employees and medium-sized companies were defined as having less than 250 employees

⁶ Large companies were defined as having 250 or more employees

Other criteria that were taken into consideration in the sample composition included achieving:

- A mix of businesses by industry
- A mix of locations for the SME business mini-groups i.e. smaller towns and cities to ensure inclusion of areas in which choice of service provider may be more limited
- Inclusion of nine business start-ups⁷ across the sample; often legal advice is required in great depth at the start of a business
- Participants who were the ‘decision makers’ in their companies (either solely or jointly) for accessing legal services
- Exclusion of businesses as large and professionally managed as FTSE 500 and AIM companies and others with full time, dedicated legal council or equivalent on staff

The broad composition of the SME business groups and large business interviews are shown in Tables 8.2. and 8.3., respectively.

Table 8.2. SME business group sample composition

Group	Location	Segment*
1	Bridgend	Real Estate
2	Bridgend	Employment Law
3	Bridgend	Commercial Law
4	Birmingham	Corporate and Company Law
5	Birmingham	Banking and Finance
6	London	Dispute Resolution / Litigation

*See Appendix 4 for examples of the types of legal issue that comprised each segment

Table 8.3. Large business sample composition

Interview	Location	Segment*
1	London	Employment Law Dispute Resolution / Litigation
2	London	Corporate and Company Law Real Estate Dispute Resolution / Litigation
3	London	Commercial Law
4	London	Employment Law Dispute Resolution / Litigation
5	London	Employment Law
6	London	Banking and Finance

*See Appendix 4 for examples of the types of legal issue that comprised each segment

⁷ A business start-up was defines as having started up within the past five years

Agenda of issues covered

The individual and business consumer mini-groups and interviews were designed to understand participants' experiences of using legal services and identify what they considered would be desirable outcomes in their interactions with legal services. In particular, the focus of the discussions was on:

- Perceptions of legal services and 'lawyers'
- Expectations of a recent experience with legal services
- Good and bad aspects of a recent experience and how things could be improved
- Information needs when finding, choosing and using legal services
- Key features of the 'consumer journey' of finding, using and evaluating legal services
- How needs might differ for different types of consumer and legal issues

See Appendix 5 and 6 for the full discussion guides.

8.2. Stage 2: Testing of straw man consumer outcomes

A set of seven consumer outcomes was developed as a direct result of the feedback from consumers in the first stage of research. The outcomes were drafted in collaboration with the LSB and were an interpretation of what consumers said, not a development based on perceived consumer interests or a regulatory assessment.

This first iteration of seven consumer outcomes was then tested in a second stage of research through in-depth, one-to-one interviews with six internal stakeholders: three members of the Legal Services Board and three members of the Consumer Panel.

The main objective was to ensure the outcomes were meaningful, relevant and comprehensive before entering the third stage of research, in which the second and third iterations of outcomes were refined through consultation with senior stakeholders and consumers via online discussions groups and an online forum.

Agenda of issues covered

Prior to attending their interview, the internal stakeholders were sent a summary of the research findings from Stage 1. The interviews began with a brief discussion of the summary of findings. Then they focused on the set of outcomes that had been drafted as a result of the consumer research. Internal stakeholders were asked to consider the outcomes in the context of the full range of legal services and the different types of consumers involved. Each outcome was discussed in turn, focusing on the following issues:

- Relevance
- Clarity of expression and meaning
- Proportionality to the perceived problem
- Unintended consequences and anticipated problems
- Suggested changes, additions or edits

The outcomes were then appraised as a set to see if they were comprehensive and applicable across the legal market.

Internal stakeholders' views were also explored regarding what they thought differentiated the legal services profession from other professions, and the relative merits of provision of information and self-regulation compared to incentive-based structures.

See Appendix 7 for the full discussion guide.

8.3. Stage 3: Development of a final set of consumer outcomes

8.3.1. Online discussion groups

Feedback from internal stakeholders in Stage 2 was discussed with the LSB and the outcomes were revised where necessary to produce a second iteration.

The second iteration of outcomes was then reviewed in the third stage of research with senior stakeholders and consumers via online discussion groups. The main objective of these online groups was to check whether the outcomes were considered meaningful, relevant and comprehensive by a wider set of senior stakeholders and a selection of reconvened consumers from the first stage of research. The groups took place between 23rd November and 2nd December 2010.

Senior stakeholder sample

Senior stakeholders from a range of organisations that would have a stake in the implementation of the outcomes and what they would mean for the legal profession or its consumers were invited to participate. This was intended to ensure that the outcomes were robust enough to stand up to scrutiny by those having knowledge of the legal services industry. Table 8.4. below shows the breakdown of the type of organisations from which participating stakeholders came.

Eight stakeholders were invited to participate in each of four online discussion groups. The groups were mixed in terms of the types of stakeholders participating to encourage discussion from a range of different viewpoints and interests. Given the level of stakeholder invited within each organisation, a degree of flexibility had to be afforded in terms of the relative proportions of different stakeholder types and drop-out rate per group. The online approach allowed geographically disparate senior stakeholders to take part in the research from their homes or offices. A total of 21 stakeholders participated in the online discussion groups.

Table 8.4. Senior stakeholder group sample composition

Group	Type of organisation	Number of stakeholders
1	Regulator / Trade association*	2
	Practitioner	1
2	Regulator / Trade association	3
	Interest**	3
3	Regulator / Trade association	1
	Practitioner	3
	Interest	2
	Media	1
4	Practitioner	1
	Interest	4

*Regulator / Trade association included the following: The Bar Council; The Bar Standards Board; Council for Licensed Conveyancers; Institute of Professional Willwriters; Law Society; Notary Services

**Interest groups included the following: Age UK; Advice Services Alliance; Financial Services Consumer Panel; Legal Services Research Centre; Prisoners' Advice Service; The Refugee Council; Sense; Which?

Reconvened consumer groups

In addition to stakeholders, the second iteration of outcomes was also reviewed by a selection of consumers who had participated in the first stage of research. This provided a sense-check for outcomes developed as a result of the initial consultation with consumers. Reconvening consumers also enabled the discussions to focus on the outcomes without a lot of scene-setting and warming-up of the participants as would have been required for a new set of participants.

Two online discussion groups were conducted with up to ten consumers each, one comprised of individual consumers and one comprised of business consumers (SMEs and large businesses). The groups were recruited to ensure that a range of legal issues were represented for which the consumers had sought recent legal advice. The individual consumer group included a good mix of participants by age and socio-economic status. Executives from a range of business sectors were included in the business consumer group. The groups took place on the 30th November 2010. Table 8.5. shows the sample composition of the reconvened consumer groups.

Table 8.5. Reconvened consumer group sample composition

Group	Legal areas	Business sectors represented	Total participants
Individual	Police and crime Employment Housing Family and personal	NA	10
Business	Commercial law Corporate law Banking and finance Dispute resolution	Photography Retail Agriculture Wholesale Professional services Sports Recruitment Credit control	9

Agenda of issues covered

The online groups were conducted using Opinion Leader’s in-house platform that allows participants to take part in the discussion via their home or work computer. The reconvened individual and business consumer discussion groups lasted for one and a half hours and the senior stakeholder groups lasted for one hour and fifteen minutes. Participants were able to see and hear a live video feed of the moderator, view stimulus materials on their screen and contribute to the discussion by typing their responses.

Prior to the groups, the stakeholders were sent a summary of findings from the first stage of the research. The groups began with an explanation of what the outcomes were and how they had been derived. Each outcome was introduced and discussed in terms of an on-screen slide explaining what the outcome meant and showing two examples of compliant behaviour. The discussions focused on similar issues to those covered with the internal stakeholders in Stage 2:

- Relevance
- Clarity of expression and meaning
- Anticipated effectiveness for improving consumer and provider interactions
- Unintended consequences and anticipated problems
- Balance between generality and specificity
- Applicability across the range of legal services and types of consumer
- Suggested changes, additions or edits

The outcomes were then appraised again as a set to see if they were comprehensive and applicable across the legal market. Finally, participants ranked the outcomes in order of importance to get a sense of prioritisation.

8.3.2. Final stakeholder feedback

On the basis of the feedback provided through the online discussion groups, the outcomes were further refined in collaboration with the LSB to produce a final set of outcomes that underwent a concluding review by the senior stakeholders.

The third iteration of outcomes was subjected to senior stakeholder feedback via an online forum in which stakeholders could view the outcomes on screen and leave comments in their own time. This concluding stage of the study provided a final opportunity for the outcomes to be scrutinised by those with knowledge of the legal services industry.

Stakeholder sample

All the senior stakeholders who had expressed an interest in the online discussion groups were invited to give their feedback, including those who had taken part in the groups as well as those who had not been able to participate.

In total, 33 stakeholders were invited to give their feedback. Of these, 30 logged onto the forum at least once and 12 who logged on left feedback on at least one outcome. Table 8.6 shows the sample composition of the stakeholders who logged on to the forum and left feedback.

Table 8.6. Senior stakeholder sample composition

Forum activity	Type of organisation	Number of stakeholders
Logged onto the forum	Regulator / Trade association	12
	Practitioner	7
	Interest	10
	Media	1
Logged onto the forum and left feedback on at least one outcome	Regulator / Trade association	3
	Practitioner	3
	Interest	6

Agenda of issues covered

The online forum took place on Opinion Leader's in-house platform that allowed the researchers to create a bespoke web page on which the third iteration of the seven outcomes was posted. Stakeholders could log onto the forum at their convenience over a period of a week, using an individual username and password that was sent to them via email.

The forum had an introductory page outlining the objectives of this final stage of the research. Stakeholders were able to view each outcome, answer one or two questions and leave their comments on each of the seven. They could see the answers and comments that had been posted by other stakeholders, allowing them to react to other points of view.

One question was asked consistently for each outcome: if you challenge this outcome, what would a viable alternative or acceptable outcome be? Other questions related only to specific outcomes e.g. for Timeliness: what behaviours could be expected from providers to control variables in timelines or manage expectations around change?

Stakeholders were also asked whether there was a need for a separate outcome dealing with vulnerable consumers.