

BAR STANDARDS BOARD

REGULATING BARRISTERS

June 2017

CMA Legal Services Market Study: BSB response

Introduction

1. The CMA undertook a market study into legal services in 2016. Its final report was published on 15 December. Its recommendations fall broadly into four categories: delivering a step change in standards of transparency, promotion of the use of independent feedback platforms, making data more accessible and making better information available to assist consumers. The CMA has asked each legal regulator to introduce changes to its regulatory arrangements but with a degree of consistency across the sector, and recommended that the regulators form an implementation group. This document is intended to satisfy the first recommendation, which was to have published an action plan detailing the BSB's response to the CMA report by **30 June 2017**. That action plan is attached at **Annex A**.

Approach

2. The focus of our work to date has been on the transparency recommendations. We are progressing work in all areas and working closely with other regulators, but initial work has focused on improving our understanding of how the market works in this regard, particularly in terms of price transparency.
3. In its report, the CMA recommends the following minimum disclosure requirements before providers are instructed:

Minimum disclosure requirements		
<i>Price</i>	<i>Service</i>	<i>Redress</i>
<ul style="list-style-type: none"> • Pricing and charging model (e.g. fixed fee, hourly rates, capped charges, conditional fee agreement/damages-based agreement) • Hourly fees (where charged) by grade of staff • (Where offered) indicative fixed fees 	<ul style="list-style-type: none"> • A description of the services that the legal services provider provides • Mix of staff that deliver the service • Key (and discrete) stages of services • Indicative timescales of completing services and factors 	<ul style="list-style-type: none"> • Regulatory status, registration details • Complaints process and access to the Legal Ombudsman • Level of professional indemnity insurance cover

<p>and factors that may affect these and the circumstances where additional fees may be charged</p> <ul style="list-style-type: none"> • Typical range of costs for different stages of cases (where appropriate) • Scale of likely disbursements (e.g. searches, court fees) • Key factors that determine price (including disbursements) 	<p>affecting these</p>	
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Table 7.1, Legal Services Market Study, CMA (2016)

4. To better understand the current position, we undertook desk research examining the information which chambers provide on their websites regarding fees. We looked at 368 chambers in total, 329 of which had websites. The research classified these into four categories:
 - chambers which provide numerical data regarding their fees/prices (20/329, 6%);
 - chambers which provide detailed guidance about how fees are typically calculated, but do not provide any numerical data on fees/prices (26/329, 8%);
 - chambers which provide simple or basic reference to fees, with no numerical data or detailed guidance about how fees are typically calculated (36/329, 11%); and
 - chambers which made no reference whatsoever to their fees and no guidance to this effect (247/329, 75%).

5. While the research should be considered a snapshot, the findings strongly suggest that the majority of chambers do not provide information on their websites regarding fees. Introducing a requirement to disclose fees and charges is, therefore, likely to represent a significant culture shift for the profession.

6. This research also suggests that price transparency is most common in the areas of public access and family law. Chambers which either provide numerical data regarding their fees/prices, or detailed guidance about how fees are calculated, are more likely to specialise in public access and/or family law. In fact, in these

areas, we found some innovative business practices, such as a “chatbot” which, among other things, can quote fees.¹

7. We plan to build on this initial research with a fuller programme of research and stakeholder engagement. This will include consultation and engagement with both the profession and consumers. A draft research specification is attached at **Annex B** on which we welcome comments. The outcomes of this work will inform a policy consultation that we plan to launch in the Autumn. This research will also inform a number of pilots that we hope to run alongside the consultation.

The BSB’s Action Plan

8. The BSB’s proposed action plan in response to the CMA report is attached at **Annex A**. The plan outlines the actions the BSB will take in response to the CMA’s recommendations.

Scope of the action plan

9. The CMA believes that improvements in transparency will have greatest impact where they are required of providers that are engaged directly by consumers or small businesses in a client capacity². As a result, it has prioritised public access barristers as having the greatest potential impact on transparency rather than the referral Bar. This is because the main focus is on difficulties that consumers and small businesses face in “shopping around”, such as lack of information about price, difficulty in judging quality etc. The CMA did not make specific recommendations in relation to barristers doing referral work. It does, however, note that the solicitor’s role as an intermediary may be strengthened if there are general improvements in the level of transparency in the sector. The BSB has therefore taken the view that we should not necessarily confine ourselves to looking only at public access work in this review and the action plan reflects this.

Delivering a step change in standards of transparency

10. The Action Plan sets out, at a high level, our programme of research and engagement and highlights the pilots that we plan to run in the Autumn. As the initial research suggests that price transparency is more common in the areas of public access and family law, this is where we plan to pilot new price disclosure requirements. The impact of the requirements can then be evaluated before they are extended to other areas.
11. There may be scope to undertake some of this research and consumer testing jointly with other regulators, and we will explore this.
12. The Action Plan commits us to a timetable for introducing new transparency requirements. The key milestones are: publication of a policy consultation by the end of September 2017; publication of a rule change consultation from March

¹ <http://www.billybot.co.uk/>

² CMA report, para 7.231

2018; a rule change application to the LSB between June and September 2018; with new disclosure rules coming into force by the end of 2018.

Promotion of the use of independent feedback platforms

13. The Action Plan commits us to conducting research and publishing guidance on engaging with client feedback – online and offline. This will build on research undertaken by the BSB in 2015/16.
14. The BSB's report on High Impact Supervision Returns (October 2015) stated "*of particular note was the fact that few chambers actively seek feedback from lay clients and a number felt that it would not be possible or appropriate to do so. Rule C121 of the BSB Handbook requires barristers with less than three years' standing to seek appropriate feedback from their public access clients on the service provided, but few chambers referred to this in their return*". The report described how some chambers seek feedback from lay clients, and that it would be beneficial to encourage more chambers to seek feedback. This led, as the CMA notes in its review of the legal services sector, to a project intended to improve the way in which barristers and chambers gather feedback, and how they make use of that to improve services to clients. Guidance on how to gather and make use of feedback (with illustrative examples) was drafted; however, it was not intended to be aimed just at Public Access barristers who are of less than three years' standing, but at all barristers regardless of their experience. This was because evidence from supervisory activity indicated that there is benefit for all barristers in seeking feedback from clients. We will pick up this work as part of our CMA Action Plan, although this will need to go wider and examine online reviews and feedback platforms.

Making data more accessible

15. The CMA made recommendations that regulators should facilitate the use of regulatory data by third party intermediaries and as the basis for digital comparison tools.
16. As a minimum, the CMA would wish to see the following data made available:
 - Basic contact details of authorised entities including both trading and legal names.
 - Areas of law in which entities provide services.
 - Regulatory/membership status.
 - Level of PII cover held and PII claims*.
 - Service/conduct complaints including first tier complaints*.
 - Individuals employed in providing legal advice and for those individuals:
 - The status of their practising certificate.
 - Relevant disciplinary actions including restrictions on practising.
17. The BSB already has an on line register directly available to the public, and available for third parties to exploit, via a routinely published CSV file, which includes all the above save for those areas marked with an asterisk (we anticipate that data on areas of law practised by individual barristers will become available to

the BSB from 2018 and we will consider the role this information might play in promoting transparency, subject of course to prevailing data protection law.)

18. The BSB will agree a common set of data collection standards with the other regulators, which could enable further sharing and eventual merging if that became feasible at a later point. We have indicated a readiness to share our current practice, including the data dictionary for our new database which rolls out later this year. We will continue to make our regulatory data accessible (consistent of course with data protection general law.)

Making better information available to assist consumers

19. The BSB remains committed to Legal Choices and the need for all the regulators who operate in the legal sector to commit extra resources to its development in order to optimise its chances of success. With the other regulators, we will review the content and marketing of Legal Choices. In doing so, we will, amongst other things, consider the CMA's detailed recommendations about content development and digital marketing and in particular the CMA's recommendation that we should explore the "scope for engaging with consumer groups in developing content and engaging with vulnerable consumers and those without internet access".

Annexes

Annex A – Action plan

Annex B – Draft research plan

**Bar Standards Board
June 2017**

Annex A

CMA Legal Services Market Study: BSB action plan

LSB high-level outcome	Current and planned actions by the frontline regulator	Timings for each action with key milestones	Review date
<p>Action to deliver a step change in standards of transparency to help consumers (i) to understand the price and service they will receive, what redress is available and the regulatory status of their provider and (ii) to compare providers</p>	<p>Description of current and planned actions, including scope of action (i.e. types of provider/consumer/services affected)</p> <ul style="list-style-type: none"> • Our initial work will focus on ensuring we understand how the market is currently operating, what levels of good practice are already in place and what consumers of barristers' services may expect / aspire to see. This work will also draw on the BSB's existing evidence base in this area; for example, the BSB's Risk Outlook identified that there is a lack of information to help consumers choose an appropriate lawyer, with little to help them distinguish between lawyers on quality, value and affordability. • The BSB has undertaken initial desk research on the information provided on chambers' websites regarding their fees. We will investigate further the different charging models and fee arrangements being used in the market and gather more information about common fee disputes. • We are also already responding to some of the findings of the CMA review in current work on public access barristers. This includes: <ul style="list-style-type: none"> (i) reviewing our public access guidance for barristers, clerks and lay clients in light of the evidence which has emerged from the CMA's report, and testing this with consumers; (ii) exploring whether to make the provision of the guidance to lay clients mandatory, to improve transparency and ensure that all clients have the same level of basic understanding about public access; (iii) consulting on a new requirement for barristers to disclose the level of PII cover to public access clients; and (iv) reviewing our model client care letters in light of the CMA findings, and testing these with consumers. 	<p>Policy consultation approved by Board and issued end of September 2017</p> <p>Rule changes consultation from March 2018</p> <p>Rule changes submitted to the LSB June – September 2018</p> <p>New rules to come into force from</p>	

LSB high-level outcome	Current and planned actions by the frontline regulator	Timings for each action with key milestones	Review date
	<p>Further work will include:</p> <ul style="list-style-type: none"> • Stakeholder engagement with clerks, practice managers, consumer groups, individuals, SMEs and the profession. • Additionally, after deciding on the precise area where it will provide most value, we will commission research and consumer testing in the area of transparency. Where feasible, we will seek to collaborate with the other legal regulators. • We will pilot new transparency requirements in the areas of public access and family law as these are consistent with other strategic initiatives. In parallel, we will issue a policy consultation. Our initial desk research suggests that price transparency is most common in the areas of public access and family law. The piloting will test different combinations of the disclosure requirements listed in the CMA's report (such as price, service, redress, regulatory status) to see which are most effective at improving consumer understanding. The policy consultation will cover similar issues. Lessons learned from the piloting – for example, the extent to which it helped consumers, and delivered a step change in standards of transparency – and the consultation will be taken into account when considering whether and how to apply the requirements to other areas. • This will all help to inform new rules which we intend to have in place no later than December 2018 (with supporting guidance). Barristers will be expected to comply with the new requirements by providing the necessary information on their website or, if they do not have a website, providing the necessary information to consumers on request. A communications strategy will be developed to support compliance with the new requirements. • The BSB's supervision and enforcement strategies will also be reviewed to ensure compliance with the new transparency requirements. Only self-employed barristers and employed barristers in BSB regulated entities will be required to comply with the new requirements. Barristers employed in entities regulated by other approved regulators will be required to comply with the requirements of the relevant regulator. 	December 2018	

LSB high-level outcome	Current and planned actions by the frontline regulator	Timings for each action with key milestones	Review date
	<ul style="list-style-type: none"> • As stated in the Legal Services Consumer Panel's recent report on information remedies in legal services, there is a need for improved consumer research, testing, and evaluation of such remedies. Our proposals for piloting/consultation will draw on the lessons for legal regulators and criteria for success identified in the LSCP report. We will also use these to inform our evaluation of the effectiveness of the new transparency requirements from December 2020 (two years after they come into force). • Quality Signals – We will be considering the role of the BSB as a regulator particularly with regards to quality or transparency marks, and assess the proportionality and necessity for action in this area. • We aim to explore with the representative body for barristers their role in relation to supporting the Bar to implement the recommendations of the CMA report. • The regulatory role of the BSB in relation to quality signals will be reviewed from September 2019. With new transparency requirements coming into force from December 2018, this review will also be informed by early evidence on the effectiveness of those requirements. 	September 2017	<p>From December 2020</p> <p>From September 2019</p>
Promotion of the use of	Description of current and planned actions, including scope of action (i.e. types of provider/consumer/services affected)		

LSB high-level outcome	Current and planned actions by the frontline regulator	Timings for each action with key milestones	Review date
independent feedback platforms to help consumers to understand the quality of service offered by competing providers	<ul style="list-style-type: none"> We intend to develop and publish guidance for providers on engaging with indirect feedback (such as online reviews) and also direct feedback from clients. To support this we will conduct research to establish a baseline of the engagement of practitioners with online reviews, and ensure our work is aligned with other regulators. 	March 2018	From March 2020
Facilitation of the development of a dynamic intermediary market through making data more accessible to comparison tools and other intermediaries	<p>Description of current and planned actions, including scope of action (i.e. types of provider/consumer/services affected)</p> <ul style="list-style-type: none"> We will continue to make available in CSV form data from our registers and will consider including an enhanced dataset once planned changes to the register are effected from late 2017 / early 2018 (which could include, for example, practice area information). We will collaborate with other regulators in agreeing common data standards for regulatory data, and should a common register be agreed we will contribute to that work. We have agreed to provide our data dictionary / structure to other front line regulators in confidence to facilitate new developments where others' plans are less developed than our own. 	<p>May 2018</p> <p>From 2017 onwards</p> <p>On request – available now</p>	
Making better information available to assist consumers when they are identifying their legal needs and the types of legal services	<p>Description of current and planned actions, including scope of action (i.e. types of provider/consumer/services affected)</p> <ul style="list-style-type: none"> The BSB has engaged with and part funded the creation and development of Legal Choices since the site was established in 2014. We are currently working with the other regulators to review its content and marketing. Legal Choices is actively promoted by the regulators but our research suggests that it is not as well known or used by consumer bodies as we would like. All 	To be completed prior to planned redevelopment	2020

LSB high-level outcome	Current and planned actions by the frontline regulator	Timings for each action with key milestones	Review date
<p>providers (both regulated and unregulated) who can help them.</p>	<p>regulators are currently reviewing whether they could strengthen the promotion of the website both through their own websites, where we have already made our own link more prominent, and in partnership with consumer bodies.</p> <ul style="list-style-type: none"> • Since publication of the CMA report recommending the development of Legal Choices considerable work has been taken forward to plan the website's development and we will continue to take an active role in that discussion. <p>The BSB remains committed to Legal Choices and the need for all the regulators who operate in the legal sector to commit extra resources to its development in order to optimise its chances of success.</p> <p>We will take a full part in the review and development of the content and marketing of Legal Choices. In doing so, we will, amongst other things, consider the CMA's detailed recommendations about content development and digital marketing and in particular the CMA's recommendation that we should explore the "scope for engaging with consumer groups in developing content and engaging with vulnerable consumers and those without internet access".</p> <p>As recommended by the CMA we will "actively consult the Legal Ombudsman, the Legal Services Consumer Panel, the Legal Services Board, relevant consumer and small business groups such as Which?, Citizens Advice, and the Federation of Small Businesses, ICAEW and self-regulatory bodies on content and focus".</p> <p>We will also pursue the CMA's recommendation to "engage with government including the MoJ, BEIS and the Government Digital Service to improve signposting to Legal Choices and consistency of content between Legal Choices and GOV.UK. The BSB has agreed to take the lead on behalf of the legal regulators in liaising with relevant Government departments on GOV.UK</p>	<p>of Legal Choices</p> <p>New governance and accountability mechanisms to be agreed by September 2017</p> <p>September</p>	

LSB high-level outcome	Current and planned actions by the frontline regulator	Timings for each action with key milestones	Review date
	<p>content. We have undertaken an audit of GOV.UK to identify opportunities for it to link to Legal Choices. By September 2017 we will have sought agreement from Government to introduce these links.</p> <p>We are working with the other regulators to develop a three year plan for the site. Our aims are:</p> <ul style="list-style-type: none"> ○ To increase the scope and quality of its content ○ To increase consumer awareness of the site ○ To work with consumer groups to produce consumer journeys and content that will help the public and small businesses find the legal services they need. <ul style="list-style-type: none"> ● In order to ensure consumers have real choice, we have agreed to consider how best to provide clear information about including what protections are in place and what the limitations to service are. We believe this will help consumers engage with the market and our joint aim is to reach 2-3 million users. We will also run campaigns to target high-risk and vulnerable consumers, supported by appropriate content. We will work with the relevant bodies in Scotland and Northern Ireland to make sure that consumers across the UK are well served. ● In summary, our key objectives are to: <ul style="list-style-type: none"> ➤ increase consumer engagement in the legal market ➤ support other consumer empowerment measures like price transparency and complaints data ➤ increase the involvement of consumer bodies in the development of the site's content and marketing 	2017	

LSB high-level outcome	Current and planned actions by the frontline regulator	Timings for each action with key milestones	Review date
	<ul style="list-style-type: none"> ➤ have 2-3 million users over three years ➤ use appropriate metrics and indicators to evaluate how visitors engage ➤ trial, test, refine methodology for driving traffic ➤ research use and impact as we go <ul style="list-style-type: none"> • The CMA have challenged us to make Legal Choices play “a major role in empowering legal services consumers”. We are conscious of the fact that reaching consumers on a large scale requires careful planning, along with a substantial commitment of energy, time, resource and budget. <p>We continue to engage with key stakeholders and plan to expand our existing editorial board. We will also establish an advisory panel of consumer representatives with specialist expertise to provide a sounding board for the development of the website and its content</p>	<p>We anticipate establishing an advisory group of consumer representatives by September 2017</p>	

Annex B

BSB Research Specification: Transparency of price and service information for legal services

Research Team, June 2017

BACKGROUND

Context

1. In 2016, the Competition and Markets Authority (CMA)³ published findings from a market study into legal services which explored how well they were working for individual consumers and small businesses. The study found that a lack of transparency was hindering both competition and consumer engagement.
2. The CMA recommended that the frontline regulators address the issue by taking action to deliver a step change in standards of transparency to help consumers (i) to understand the price and service they will receive, what redress is available and the regulatory status of their provider and (ii) to compare providers. The CMA recommended that regulators should revise their regulatory requirements to set a new minimum standard for disclosures on price (see Annex A) and the service provided and develop and disseminate best practice guidance. Importantly, this should include a requirement for providers to publish relevant information about the prices consumers are likely to pay for legal services.
3. The Legal Services Board (LSB⁴), in its response to the CMA, highlighted that increasing transparency would promote regulatory objectives by:
 - **Improving access to justice** – a lack of transparency means some consumers either do not obtain legal services which they would benefit from, pay too much for the services they do get, or seek to resolve the issue themselves which may not be the best option
 - **Increasing competition in the provision of services in the legal sector** – greater transparency about price, service and quality, should create stronger incentives for legal services providers to compete on offering value for money and to innovate
 - **Promoting and protecting the interests of consumers** – greater transparency should help consumers to make more informed choices in the market and avoid unnecessary disputes with providers
 - **Increasing public understanding of citizens' legal rights and duties** – increased engagement should make it easier for people to identify when legal services could help them to tackle the issues they face.
4. The BSB has commissioned its in-house research team to deliver new evidence to inform a wider response to the CMA recommendations. This specification sets out the aim and scope of that research.

Existing evidence base relating to the need for price transparency

³ CMA (2016), [Legal services market study: Final report](#)

⁴ LSB (2017), [Increasing market transparency: how LSB will implement the recommendation directed to it in the Competition and Market Authority's market study](#)

5. Consumers need price transparency for three key reasons. First, it empowers their decision making process which, in turn, drives competition. Second, it can help to reduce unwarranted or unknown price variation. Third, it can help to contain the cost of legal services.
6. The Legal Services Consumer Panel (LSCP) annual tracker survey⁵ consistently shows that price comes second, behind reputation, as a key influencer in choosing legal services. Knowing the cost of a service before contracting for it offers certainty, encourages shopping around, and helps consumers to plan.
7. The annual tracker survey shows that an increasing number of consumers are self-funding (66%) and taking up fixed fee arrangements where available. It also highlights a dip in the reliance on legal aid and a decline in free services. At a time when an increasing number of consumers are self-funding there is a stronger argument for empowering them with as much information as possible about the cost of legal services. At present, only consumers offered services at a fixed fee rate can be confident in the final cost.
8. But there is a perception that legal services are expensive⁶. This perception acts as a barrier to accessing justice. Findings from a survey commissioned by the CMA⁷ showed that 45 per cent of consumers had no idea what cost would be involved in their legal work before they made direct contact with a legal services provider. Where consumers did have an idea of cost (53%) prior to contacting the provider, they were more likely to say they knew *roughly* what the cost would be (28%) than that they knew *exactly* what the cost would be (24%).
9. The same survey found that in order to receive cost information from a legal service provider, 41% per cent of those who said that they were provided with cost information (66% of all consumers) had needed to share information on just the legal matter itself with the provider. However, 25% said they had made a detailed disclosure of background and other relevant information in order to get price information⁸.
10. Dissatisfaction with cost is a significant feature in the Legal Ombudsman's complaints data. Between 1 June 2014 and 31 January 2015, 26 per cent of 4,307 cases involved perceived lack of transparency; these included instances where cost information was deficient, or where the cost information included 'excessive costs'.
11. Despite these important motives for price information and transparency, there is limited published material about how regulated providers cost their services, and less still about what legal services are likely to cost a consumer outside of a fixed fee arrangement. The LSCP describe an imbalance of risk tilted towards the consumer; who may start off with an estimate that has no bearing on the final cost paid.
12. The LSB analysed charging methods and the cost consumers pay for services as part of a broader analysis of the supply of legal services. The work drew on published sources of information and over 20 individual data sets⁹. The research found no published information on prices and little data on cost in general. Most of the available information was on hourly rates. However, hourly rate is insufficient for determining the

⁵ LSCP, [Tracker Survey 2016: How consumers use legal services.](#)

⁶ Pleasence, P and Balmer, N.J (2014) [How People Resolve 'Legal' Problems](#), LSB.

⁷ IFF Research (2016), [Market study into the supply of legal services in England and Wales](#) – consumer findings, commissioned by the CMA, p.29

⁸ IFF Research (2016), p. 31

⁹ LSB (2011) [RIR Map of Legal Services-Supply October](#)

cost of legal services because it does not take into account the additional cost of disbursements nor does it provide consumers or their representatives with information on the likely final cost. In addition, consumers generally have no way of judging how long a case might take.

13. A BSB survey of barristers regarding the legal services they provide¹⁰ found 48% reporting that they included fee structure information in their marketing material. The same survey found barristers suggesting that it may not always be straightforward to calculate fixed fees accurately, with the main risk being the undervaluing of the work. This chimes with the findings of the CMA report, where objections from legal services providers were that the complex and bespoke nature of the services they offered made it difficult to present information on price and service in a way that consumers could assess.
14. A web-sweep of a sample of chambers websites¹¹ found that only 6 per cent published price information in some detail, with a further 8 per cent publishing detailed information about how fees were calculated (without information on the actual prices).
15. The BSB now requires a more detailed understanding of the current situation and the actions that might be taken to improve the quality, utility and prominence of disclosures on providers' websites in relation to price and service. This will inform decisions about changes to regulatory arrangements to introduce minimum disclosures in relation to price, supported by guidance on implementation.

Aims and scope of this research

16. The research will aim to gain insight into price transparency and will seek to:
 - a) Improve understanding of current fee arrangements and charging models in chambers and BSB regulated entities, including alternative business structures (ABS);
 - b) Establish what good practice is already in place;
 - c) Identify any barriers that barristers, chambers and BSB regulated entities may encounter related to price transparency, including what the regulator might do to overcome them;
 - d) Establish what the regulated profession, consumer groups and individuals consider to be priorities with price transparency (e.g. the balance between flexibility for providers and consistency for consumers); and
 - e) Consider how barristers, chambers and BSB regulated entities could increase price transparency in ways that consumers would find useful.
17. In addressing these aims, the research findings will inform wider consideration of how the BSB could mitigate any risks posed by unintended consequences and a consideration of whether there should be any additional disclosure requirements.
18. The focus of this research is on price transparency. Other aspects of transparency highlighted by the CMA report are out of scope but may be addressed by future, separate research projects.

METHOD

¹⁰ Bar Standards Board (2017), [Provision of legal services by barristers](#)

¹¹ Internal web-sweep conducted by BSB in March 2017

Proposed methodology

The proposed research design is qualitative and the research aims will be explored through a combination of consultation and semi-structured telephone interviews. The various elements of the research include:

1. **Consultation with professional bodies representing managers and administrators within chambers, entities and alternative business structures (ABS)**
 - 1.1 Information gathered from this first stage of the research will serve to provide a general overview of the perceived issues in this area; improve our understanding of current fee arrangements and charging models and inform the subsequent stage(s) of the research as well as the design of research tools and interview topic guides.
 - 1.2 This stage of the research is likely to include the Legal Practice Management Association (LPMA), the Institute of Barristers' Clerks (IBC) the Family Law Bar Association and the Public Access Bar Association, who will be informally consulted by email or telephone.
2. **Interviews with representatives from a sample of chambers and BSB regulated entities**
 - 2.1 The second stage of the research will involve primary data collection from a sample of chambers and BSB regulated entities selected to provide a mixture of a) those who currently publicise pricing information on their websites and b) those who publicise some guidance on pricing and c) those who don't. This distinction was established following a BSB web-sweep¹² of chambers, entities and ABS websites and has enabled the creation of a sample frame.¹³
 - 2.2 Within the target sample, there is a focus on direct access chambers and chambers that specialise in family law. This is because any revised regulatory arrangements are likely to be trialled within certain types of providers. Furthermore, the CMA¹⁴ reported that improvements in transparency were felt likely to have greatest impact when they were required of providers that are engaged directly by consumers (or small businesses) in a client capacity. For example, in the case of barristers, increased public transparency will be most relevant and beneficial to customers engaging a barrister through the public access scheme rather than issuing instructions via a solicitor.
 - 2.3 The research is expected to involve semi-structured interviews with clerks, practice managers, or other employees responsible for decisions related to pricing. The preliminary stage of this study - consultation with professional bodies - will help to further refine this list and identify the most appropriate research participants. Interviews will explore the issues set out in research aims a) to e) and are likely to draw on elements of the CMA minimum disclosure model on price and service.
 - 2.4 Primary data gathered from the first two stages of the research will address the key research aims and be complemented by data from the BSB web-sweep on price transparency; and any accessible, relevant data or information collated by the BSB Supervision department and the Bar Council Remuneration Team. Information pertaining to fee disputes or complaints will also be sought in order to provide insight

¹² Internal BSB research conducted in April 2017.

¹³ The proposed sample frame is not detailed in this specification to preserve the anonymity of potential research participants.

¹⁴ CMA (2016), paragraph 7.231, p. 281:

into the nature of recent complaints in this area and their relationship with price transparency. These data may be accessible via the Legal Ombudsman.

- 2.5 These two elements of the research will be drawn together to form conclusions and to identify practical recommendations as to how to encourage and support cost transparency by chambers and to inform further trialling of measures (pilots). The evidence will also support later planning around the assessment of any medium to longer-term changes in the market resulting from regulatory intervention by the BSB to increase market transparency.
3. **Consultation with consumer representative organisations and charities**
 - 3.1 Information gathered from this stage of the research would serve to explore the general perceived issues in this area as well as the priorities for price transparency and ways in which it might be increased (research aims d) and e)) from the perspective of organisations which represent consumers. It will inform the subsequent phase of data collection directly from consumers, as well as the design of research tools.
 - 3.2 This stage of the research is likely to include one or more of the Legal Services Consumer Panel; CAFcASS; Personal Support Unit; Resolution (Family Law); Legal Action Group; Citizens Advice; The Free Representation Unit; Bar Pro Bono Unit; Family Justice Council; Law Centres Network; Advice UK and Law for Life, who will be informally consulted by email, telephone or on a group basis. This list is not exhaustive and the most appropriate consultation method will be confirmed once this stage of the research is agreed.
4. **Survey of legal services consumers**
 - 4.1 This stage of the research would involve primary data collection through a survey of consumers of legal services¹⁵ to explore the general perceived issues in this area, the priorities for price transparency and ways in which transparency might be increased (research aims d and e).
 - 4.2 This aspect of the research would require external expertise in order to access an appropriate sample. A consumer panel solution, such as the one provided by [Made in Surveys](#), would support participation of the target sample. The BSB Research Team is currently working with this panel (via the intermediary of the research company IRN) as part of its Family Law consumer research, where the survey achieved 1,200 responses from consumers involved in a family law legal matter. Details of indicative costs are set out under 'resources'.
 - 4.3 Detailed survey questions would be agreed at the design stage but the survey questions might explore expectations; access to information; information provision and making comparisons. This relates to Stage 2 of the consumer journey ('choosing') in the BSB Risk Outlook¹⁶: selecting a provider to assist and engaging that provider.
 - 4.4 The sample could narrow its focus to consumers involved in a family law matter (aligned with the research with the profession) or, more broadly, consumers of legal consumers in England and Wales. This aspect to be confirmed.
 - 4.5 These two elements of the research will be combined with the findings from research with the profession and drawn together to form conclusions and to identify practical recommendations as to how to encourage and support cost transparency by chambers and to inform further trialling of measures (pilots). The evidence will also support later

¹⁵ SME consumers are out of scope for this study (and will be addressed by separate research in the BSB 2017-18 programme

¹⁶ [Risk Outlook](#), BSB (2016)

planning around the assessment of any medium to longer-term changes in the market resulting from regulatory intervention by the BSB to increase market transparency.

5. **Research Materials**

- 5.1 Invitations to participate in the research, interview topic guides and other research materials will be designed by BSB Research Team and will be informed by the research aims, existing research evidence and the initial consultation stage(s) of the research.

6. **Research Ethics**

- 6.1 The research will be guided by the [Social Research Association \(SRA\) ethical guidelines](#) and the [2016 ESRC Framework for Research Ethics](#). There will be particular considerations to take into account if the consumer phases of the research are agreed.
- 6.2 The report of the research findings will be anonymised so that no individual participant or chambers is identified or identifiable. This may encourage participants to respond more freely as their confidentiality is assured and is of particular importance in small samples.

7. **Equality and Diversity**

- 7.1 The design, undertaking and reporting of the research will seek to minimise any adverse effects and promote positive impacts with regard to equality and diversity. An Equalities Impact Assessment (EIA) is being prepared to assess the potential impacts of the design, procurement, conduct and reporting stages of this research.

DISSEMINATION AND IMPACT

8. **Deliverables**

- Interim progress report for internal purposes, summarising early findings while research is in progress.
- Final draft report containing analysis of the main findings, conclusions with recommendations, incorporating findings from all stages of the research and all data analyses, intended for external publication.

9. **Benefits of the research**

- 9.1 The research will inform the wider BSB response to the CMA report, which is a commitment set out in the 2017-18 BSB Business Plan. The findings are intended to add to the evidence base, to inform wider debate and future policy and regulatory decisions in this area, in particular, the priority risk of 'Improving how those the BSB regulates meet consumer needs'¹⁷.
- 9.2 The research will support delivery of the 'outcomes-focused regulation' regulatory standard (LSB) by collecting high quality, up-to-date and reliable evidence on what legal services consumers need.

¹⁷ BSB Risk Outlook

PROJECT AND RESOURCE PLAN

Week Beginning	June				July					August				September				▲ Key milestones
	5	12	19	26	3	10	17	24	31	7	14	21	28	4	11	18	25	
METHODOLOGY																		
Finalise research specification																		
Submit Action Plan document for approval to the Board with research specification in Annexe				▲														
Kick off meeting with internal stakeholders																		
EIA submission																		
FIRST STAGE: CONSULTATION WITH REPRESENTATIVE BODIES																		
Invite participants																		
Secure involvement of potential participants																		
Conduct consultation								▲										
SECOND STAGE: INTERVIEWS WITH CHAMBERS' AND ENTITIES' REPRESENTATIVES																		
Design interviews																		
Schedule interviews with listed participants																		
Conduct interviews																		
Collate and analyse findings																	▲	
THIRD STAGE: CONSULTATION WITH CONSUMER ORGANISATIONS																		
Invite participants																		
Secure involvement of potential participants																		
Conduct consultation																	▲	
FINAL STAGE: CONSUMER SURVEY																		
Identify and engage with consumer panel providers for Final Stage research																		
Contracting with panel																		
Design interviews																		
Conduct interviews through panel																		
Collate and analyse findings																	▲	
REPORT WRITING																		
Literature review																		
Report drafting																		
Interim report delivered to the Board																	▲	

10. Resource plan and project costs

- 10.1 The research will require the following resources to manage and quality assure the work: 1 x Project Manager responsible for day-to-day oversight and delivery of the research, 1 x Project Support to assist with project delivery and 0.33 x Project Assurance. Costs for BSB personnel will be met from internal budgets. Time has been allocated for research to support a response to the CMA Market Report within the 2017-18 research programme.
- 10.2 For the first stage of research with the profession, research materials will be designed and primary data collection and data analysis undertaken by the in-house team.
- 10.3 It is anticipated that a consumer survey would cost in the region of £500-£1,000 for access to a panel of 1,000-1,500 respondents. The BSB Research Team is currently working with a panel as part of its Family Law consumer research (via the intermediary of the research company IRN), and so data collection could potentially be completed within a 3-4 week period, subject to appropriate procurement processes. These expectations will have to be confirmed shortly with the selected provider. Any externally commissioned element would be met from the existing research budget for 2017-18.

11. Project Governance

- 11.1 The BSB Research Team will deliver the research and convene a project working group to support and provide oversight of the work, chaired by the Research Team Project Lead and comprising representatives from the Policy, Equality and Access to Justice Teams within the Strategy and Policy Department, and from the Communications and Supervision departments.