

# Looking to the future: better information, more choice

## Initial Impact Assessment

---

September 2017

## Contents

Introduction .....	3
The problems our proposals are designed to address.....	5
Overview of impacts.....	8
Improved confidence in legal service market as greater transparency over price and services reduces perception that services are opaque and unaffordable .....	9
Reduction of price discrimination by charging different prices for same service .....	9
Reduction of potential for fraud.....	10
Contextual data on the solicitor's profession .....	15
Proposal 1: Introduce requirements for firms to publish information on price and description of services in certain types of matters .....	17
Proposal 2: Introduce requirements on firms to advertise their regulatory status and protections via use of a SRA logo; to publicise complaints procedures, including access to LeO and the fact that they hold Professional Indemnity Insurance (PII) that meets our minimum terms and conditions (MTC).....	28
Proposal 3: Publish on our website a new digital register containing key information about firms and individuals we regulate .....	33
Proposal 4: Publish complaints data and areas of practice of SRA regulated firms separately from the register in order to make it available to re-publishers, such as online comparison websites as well as consumers directly .....	38
Proposal 5: The information on client protections which will have to be provided to clients by solicitors in non-Legal Services Act regulated firms .....	45
Regulatory fee impact .....	46
Next Steps .....	47

## Initial regulatory impact assessment

### Introduction

1. Our Looking to the future<sup>1</sup> position paper set out the background to our new vision for how we regulate. We are taking steps to achieve this vision through an ongoing programme of regulatory reform. We have already made several key decisions including freeing up solicitors to provide some legal services outside of regulated firms. We also presented our new Principles, Codes of Conduct and Accounts Rules. We are also consulting on phase two of our Looking to the future programme which sets out, and seeks views on, the key policy proposals emerging from phase two of our Handbook review.
2. With more choice in the market, it follows that our regulatory data collection and provision can help the public access accurate, reliable and comparable information about firms and solicitors while they are deciding where to buy legal services.
3. In our consultation, Looking to the future: better information, more choice, we outline five proposals to make information more accessible to consumers of legal services. We believe our proposals will equip more people with the information they need to engage effectively in the legal services market. Increased transparency has benefits for consumers such as increased knowledge, increased competition and innovation, higher quality services and a potential reduction in costs. There are advantages for legal services providers too; consumers armed with information are more likely to shop around and this offers growth opportunities for firms if they can access latent demand for legal services<sup>2</sup>.
4. We recognise people have different degrees of legal capability and knowledge. Frequent purchasers will be able to take advantage of the benefits of our proposals relatively quickly by accessing information online.
5. However, some consumers will simply not access increased information, for example, the most vulnerable. These people are more likely to benefit in the longer term as a greater number of consumers begin comparing providers. This is likely to lead to increased competition and innovation.

---

<sup>1</sup> <http://www.sra.org.uk/sra/policy/future/position-paper.page#>

<sup>2</sup> The Legal Services Board describes latent demand as those that act in response to problems, but handle alone or who try and fail to get legal advice.  
<https://research.legalservicesboard.org.uk/analysis/demand/individual-consumer-needs/#Potential-latent-demand>

6. Increasing the availability of information on its own does not solve the problems that most vulnerable consumers face accessing legal services. Legal services for these individuals are most likely delivered through solicitors in unregulated business (such as charities and retail services), as well as more pro bono and special bodies. Our view is that we must use our regulation to encourage suppliers of legal services to innovate. Our reforms to enable solicitors to practise in unregulated businesses, together with our transparency proposals form a coherent package that will increase opportunities for the least empowered consumers to better access legal services.
7. The detail of each proposal is explained in our consultation document. Our proposals are to:
  - introduce requirements for firms to publish information on price and description of services in certain types of legal matters
  - introduce requirements on firms to advertise their regulatory status and protections via use of an SRA logo; to publicise complaints procedures, including access to the Legal Ombudsman (LeO) and the fact that they hold Professional Indemnity Insurance (PII) that meets our minimum terms and conditions (MTC)
  - publish on our website a new digital register containing key information about firms and individuals we regulate
  - publish separately from this register, firm data on complaints and the areas of practice. This will make it available to re-publishers such as online comparison websites as well as consumers directly
  - require solicitors in non-Legal Services Act (LSA) regulated firms to inform clients of protections that apply.
8. We believe our proposals will assist consumers in purchasing services in the legal services market by:
  - enabling them to confirm their choice of SRA regulated firm. Individuals can access our register to carry out basic checks, for example, to find out whether we have taken any regulatory decision against the firm or individual they are considering
  - enabling re-publishers who help consumers to choose a firm. They can extract data from our register, and elsewhere on our website, to add to other information they think consumers would find useful in choosing a solicitor. Some of this will come from firms' websites due to our new data transparency requirements set out in our consultation document
  - enabling solicitors and firms to use our register to confirm other firms, as can other third parties such as banks and insurance companies.

9. We have set out in this initial impact assessment the problems that our proposals are designed to address. We have considered the impact of our proposals on a range of stakeholders, including those protected by the Equality Act 2010. We set out potential benefits and where we have identified potential risks, we have set out how we will manage these. The consultation paper and our impact assessment should be read in conjunction. The consultation paper includes analysis of impact against the Better Regulation principles and our Regulatory Objectives.
10. The bullet points below provide a summary of our findings from our initial impact assessment:
  - some individual and small business consumers are more likely to buy legal services when there is greater transparency. This has positive benefits for both consumers and providers of legal services
  - our proposals are most likely to assist middle income consumers because high net worth individuals are better positioned to make informed purchasing decisions. The most vulnerable consumers are less likely to benefit directly as they are unlikely to have the capacity to engage with more information and ways to choose a legal services provider
  - however, vulnerable consumers may benefit from increased choice or innovation driven by other consumers in market but this depends on how the market responds. Our Looking to the future proposals are designed to support innovation
  - the majority Black, Asian and Minority Ethnic (BAME) and smaller firms are unlikely to be disproportionately affected by our price proposals. We will provide support to small firms to help them implement our proposals
  - we do not think that BAME and smaller firms will be disproportionately impacted by the publication of complaints and enforcement data
  - if consumers turn out not to value transparency, then our proposals are a small cost burden to some firms.

### **The problems our proposals are designed to address**

11. In this section, we outline the difficulties that consumers face when accessing legal services. Table 1 provides an overview of these challenges and how our proposals will help address them.

**Table 1 - Issues our proposals will address**

<b>Area</b>	<b>Problem</b>	<b>How our proposal addresses these problems</b>
<b>Choice</b>	Consumers feel that there is limited choice of legal services Consumers do not shop around for legal services to achieve best value	Consumers have more information about providers that empowers them to choose a service that meets their legal need or are more active in shopping around
<b>Price transparency</b>	Consumers do not access legal services because of perceived cost or actual cost  Consumers cannot compare price of legal service providers	There will be greater price transparency in the legal services market. Consumers are clearer before engagement on cost of transactions and can compare prices between providers
<b>Legal knowledge and capability</b>	Consumers generally lack understanding of legal services and what is required to make informed purchasing decisions, for example, quality.  Consumers lack confidence and awareness of raising a complaint  Lack of information and knowledge between regulated and unregulated providers. Consumers are not fully aware of protections that apply when purchasing legal services	Consumers feel empowered to purchase legal services.  When addressing service dissatisfaction, consumers are clearer on the complaints process and empowered to complain  Consumers will be provided with clear information on the protections that apply when purchasing legal services

12. Consumers' approach to the purchase of legal services is characterised by information asymmetry: low knowledge, low awareness of the market and a lack of confidence in purchasing legal services<sup>3</sup>. Consumers are often unable to judge quality before (or sometimes after) they choose to buy a legal service<sup>4</sup>. This asymmetry between provider and consumer creates barriers to effective consumer participation in the legal services market and raises consumer protection issues. The Competition and Markets Authority (CMA) states in their final report that a lack of information is contributing to consumers not seeking legal advice<sup>5</sup>. Information asymmetry also reduces competition and innovation – both detrimental to consumers and the effective operation of the market.

<sup>3</sup> Research on Consumers' Attitudes towards the Purchase of Legal Services, GfK NOP Social Research, pg 9

<sup>4</sup> Legal Services Market Study, Interim Report, CMA, 8 July 2016

<sup>5</sup> Legal Services Market Study, Interim Report, CMA, 8 July 2016

13. There is no single barrier to accessing legal services. Barriers for individuals and small businesses are often wide ranging, complex and combined. However, a lack of transparency in the legal services market is a significant barrier. Many people and businesses do not get the legal help they need because of this a lack of information.
14. Research has shown that only a third of people with a legal problem seek advice, with only around one in ten seeking advice from a solicitor. In addition, consumers do not shop around for legal services; the overall proportion of consumers who shop around for legal services remains small at 27 percent<sup>6</sup>. Our own research suggests that only 1 percent of people currently use comparison websites to find legal services, compared to 49 percent who do so when buying car insurance<sup>7</sup>.
15. A lack of price transparency is evident when it comes to the cost or perceived cost of legal services. 63 percent of people do not believe that professional legal advice is affordable for ordinary people<sup>8</sup> 83 percent of small businesses also see legal services as unaffordable, with over half of those that have a problem trying to resolve it on their own. When small businesses need legal advice, they are more likely to go to accountants than lawyers<sup>9</sup>.
16. Research conducted by the Legal Services Board (LSB) found that only 17 percent of legal services providers publish their prices online. This lack of transparency weakens competition between providers and means that some consumers do not obtain legal advice when they would benefit from it<sup>10</sup>.
17. Some consumers also face limited choice when choosing legal services providers. The Legal Service Consumer Panel (LSCP) Tracker Insight report 2016 suggests that by 20 percent of those surveyed felt that they did not have much of a choice and 8 percent no choice at all when deciding on a legal services provider. Family recommendations stand out as the main factor in choosing a provider.

---

<sup>6</sup>[http://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/How\\_consumers\\_are\\_choosing\\_Final\\_2017.pdf](http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/How_consumers_are_choosing_Final_2017.pdf)

<sup>7</sup> <http://www.sra.org.uk/risk/outlook/priority-risks/lack-access.page>

<sup>8</sup> Legal Services 2015, YouGov, 2015

<sup>9</sup> Legal Services 2015, YouGov, 2015

<sup>10</sup> <https://assets.publishing.service.gov.uk/media/5887374d40f0b6593700001a/legal-services-market-study-final-report.pdf>

18. There is currently a lack of consumer knowledge about raising complaints to legal service providers. This includes whether there are any costs associated with making a complaint, as well as the impact on their existing legal case. Research carried out by LeO demonstrates this. A sample of 3,680 complaints they received last year found that just one in five of those affected recalled hearing about a complaints scheme from their legal firm.<sup>11</sup> The lack of visibility about the complaint process is a barrier for consumers and can dissuade them from initiating a complaint.<sup>12</sup>
19. Research by LeO<sup>13</sup> and the LSB<sup>14</sup> suggests that consumers are unaware of the regulatory protections that are in place across legal service providers. The Law Society also suggests that the public is not aware of who is and who is not regulated or of the levels of protection afforded to them<sup>15</sup>. Our research into this area has highlighted that whilst protection is not actively considered, basic consumer protection appears to be assumed at some level.<sup>16</sup>

### Overview of impacts

20. In this section, we outline our initial assessment of the impacts we have identified. Table 2 below provides an overview of the key issues.

---

<sup>11</sup> <http://www.telegraph.co.uk/money/consumer-affairs/unhappy-with-your-solicitor-this-is-how-to-complain/>

<sup>12</sup> [https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer/publications/Understanding\\_consumer\\_experiences\\_of\\_complaint\\_handling\\_DJS\\_report\\_final\\_June2016\(2\)\\_1\).pdf](https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer/publications/Understanding_consumer_experiences_of_complaint_handling_DJS_report_final_June2016(2)_1).pdf) June 2016

<sup>13</sup> Mapping potential consumer confusion in a changing legal market, University of Leicester for The Legal Ombudsman (2011)

<sup>14</sup> Consumer Valuation of Regulation - Report of quantitative findings, Legal Services Board (2013)

<sup>15</sup> Law Society response to the Competition and Markets Authority invitation to comment on the notice on the market study into the supply of legal services in England and Wales: Theories of Harm 22 February 2016, pg 7

<sup>16</sup> Research on Consumers' Attitudes towards the Purchase of Legal Services, GFK, 2010



**Table 2 Overview of impacts**

<b>Proposal</b>	<b>Market</b>	<b>Solicitors and firms</b>	<b>Consumers</b>
<p><b>Introduce requirements for SRA regulated firms to publish information on price and description of services in certain types of practice area</b></p>	<p>Improved confidence in legal service market as greater transparency over price and services reduces perception that services are opaque and unaffordable</p> <p>Reduction of price discrimination by charging different prices for same service</p> <p>Possible market shrinkage as firms who cannot compete on price leave market</p> <p>Possibility of price collusion</p>	<p>Phased approach to introduction reduces burden on firms</p> <p>Opportunities for increased clients as consumers more aware of price and take advantages of shopping around</p> <p>Likelihood of reduced complaints to LeO because of cost clarity</p> <p>Opportunities to compete on quality of service rather than just on price</p> <p>Legal issues that affect some of the most vulnerable consumers are not included in proposed initial price list</p> <p>Possible impact on smaller firms of requirement to publish price, i.e. changes to website or where IT is outsourced</p> <p>Some firms may feel pressure to reduce price in a way that is not sustainable</p>	<p>Consumers will have access to more price information before they formally engage with a solicitor to help with their purchasing decision</p> <p>More consumers are willing and able to address their needs because they have access to price information</p> <p>Price transparency offers a degree of cost certainty for consumers</p> <p>Lack of consistency over price publication may make it difficult for consumers to compare</p>
<p><b>Introduce requirements on SRA regulated firms to advertise regulatory status and protections via</b></p>	<p>Improved confidence in legal service market as greater transparency over complaints and</p>	<p>There is unlikely to be a significant burden on firms to display a digital badge</p>	<p>Consumers are more informed about protections when choosing a legal services provider</p>

<p><b>a SRA logo; to publicise complaints procedures, and the fact that they hold Professional Indemnity Insurance (PII) that conforms to the minimum terms and conditions (MTC).</b></p>	<p>perception that complaints will be handled</p> <p>Reduction of potential for fraud</p>	<p>Firms can promote that services and consumers have regulated protections as opposed to non-regulated provider</p> <p>A digital kitemark scheme can prevent the risk of potential online impersonation</p> <p>Good complaints handling could increase operating profits by between 2 percent to 3 percent</p> <p>Concerns that publication of complaints processes can create negative perception of service quality</p> <p>May increase number of unjustified complaints for firms and increased workload</p>	<p>Improved consumer confidence when purchasing legal services</p> <p>A digital kite mark means that consumers can be confident that the firm they are considering has been authorised by us. This is likely to benefit BAME users in particular</p> <p>Consumers have clear and accessible information on how to make a complaint</p> <p>Consumers feel more empowered to make complaint where there is service dissatisfaction</p> <p>Consumers may not understand what the kite mark or protections stands for</p>
<p><b>Implement a digital register of SRA regulated firms and individuals including basic regulatory and enforcement data</b></p>	<p>Existing Digital Comparison Tools (DCTs) will have a richer picture of information to help consumers' choice More DCTs may enter the market</p> <p>Greater consumer engagement and confidence will create competitive pressure within the legal services market</p> <p>Increased role of DCTs can help stimulate competition</p>	<p>Market growth opportunities for providers of legal services as consumers use data to shop around or access legal services</p> <p>Positive quality signals potential opportunities for new clients</p> <p>Some firms without a significant brand or market presence may be able to compete on quality with more established firms</p>	<p>Enable consumers to access data that will inform and can validate their choice</p> <p>Consumers will shop around, compare and validate their purchasing decision</p> <p>More competition and more responsive services for consumers and greater innovation</p> <p>Consumers may find data intimidating or confusing accentuating</p>

	<p>between providers that can stimulate new, smaller entrants to the market</p> <p>Greater number of regulated firms over which to spread the cost of regulation</p> <p>Transparent data can lead to improvements in service delivery</p> <p>Possible market shrinkage as some firms cannot absorb impact of consumers purchasing elsewhere</p>	<p>No additional burden on individual firms or solicitors to provide this information</p> <p>Increased competition for services within market. Not all firms will respond positively</p>	<p>information asymmetry</p> <p>Some consumers may not access our register or DCT and not realise advantages</p> <p>DCTs do not access data and consumers cannot take advantage of benefits</p>
<p><b>Publish complaints data and areas of practice of SRA regulated firms separately from the register in order to make it available to re-publishers, such as online comparison websites as well as consumers directly</b></p>	<p>Confidence in legal market increases through release of complaints data</p> <p>Possible market shrinkage as firms with poor complaints records leave market</p>	<p>No additional burden as information already provided through practising certificate renewals</p> <p>An opportunity for firms to promote quality of service</p> <p>Potential for some firms to improve service delivery</p> <p>A reputation for good quality enables lawyers to attract clients</p> <p>Negative quality perception of regulated firms providing legal services opposed to unregulated providers where complaint data is not available</p>	<p>Greater consumer understanding of quality signal when purchasing and validating legal services. This reduces information asymmetry,</p> <p>Consumers benefit from improved service</p> <p>Without context data will increase consumer confusion</p> <p>Consumers may not access data if it is separate from our main register</p> <p>Data presented may not be accurate picture as firms under report complaints</p>
<p><b>Require solicitors in non-Legal</b></p>			<p>Consumers are clear on the differences in</p>

<p><b>Services Act (LSA) regulated firms to provide information on client protections to clients</b></p>			<p>protections between regulated and unregulated providers</p> <p>Consumers purchasing legal services from unregulated providers do not access information in a way that enables them to compare providers before purchase</p>
--	--	--	--

21. We recognise that there are risks with our proposals and we have identified the steps we can take to prevent these from happening. Table 3 summarises our thinking.

**Table 3 Risks and mitigating measures**

<b>Proposal</b>	<b>Risk</b>	<b>Mitigation</b>
<p><b>Introduce requirements for SRA regulated firms to publish information on price and description of services in certain types of practice area</b></p> <p><b>Implement a digital register of SRA regulated firms and individuals including basic regulatory and enforcement data</b></p>	<p>Lack of consistency over price publication may make it difficult for consumers to compare</p>	<p>We will provide price templates to help achieve consistency</p> <p>DCTs will use data. This will help consumers access price in a simple way</p>
	<p>May discourage some consumers from accessing certain type of legal services, for example, fixed fees may be preferable to hourly rates</p>	<p>Price transparency is a barrier to accessing legal services. More transparency means that more consumers are likely to address legal needs rather than not access services</p>
	<p>Legal issues that some vulnerable consumers face are not included in proposed price list or access price information to help them choose</p>	<p>Our price publication areas cover some of key legal issues that consumers face. Our view is that some of the most vulnerable consumers seeking immigration or housing advice will not pay for these services. Our wider reforms to enable solicitors to provide legal services in non-LSA regulated bodies will help address this</p>
	<p>Possible impact on smaller firms of requirement to</p>	<p>We will provide templates to help firms publish prices</p>

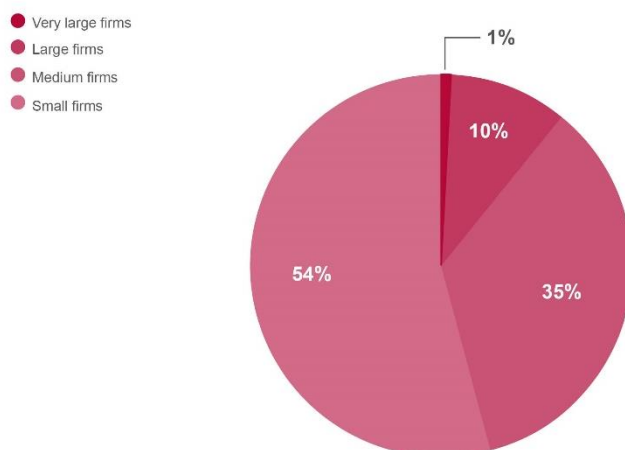
	publish price, ie changes to website	
	Some firms may feel pressure to reduce price in an unsustainable way	Our requirement is for firms to publish price only where they can be reasonably known. Price is not the only factor that consumers take into consideration when purchasing legal services. We will proceed incrementally with our approach to understand market changes
	Possible market shrinkage as firms leave market who cannot compete on price	Price transparency offers market growth opportunities for firms as a consumer barrier to accessing legal services is removed
	Possibility of price collusion	Any collusion is likely to be illegal. Current number of providers makes collusion unlikely. Firms can seek advice on competition law
<b>Introduce requirements on SRA regulated firms to advertise regulatory status and protections via a SRA logo; to publicise complaints procedures, and the fact that they hold Professional Indemnity Insurance (PII) that conforms to the minimum terms and conditions (MTC)</b>	Consumers may not understand what the kite mark or protections stand for	We will ensure that protections are clearly explained and the purpose of the kite mark to consumers. We will work with consumer bodies to raise awareness
	Concerns that publication of complaints processes can create negative perception of service quality	We will undertake further work to explore this issue, but we have no current evidence to suggest that is likely
<b>Implement a digital register of SRA regulated firms and individuals including basic regulatory and enforcement data</b>	Consumers may find data intimidating or confusing accentuating information asymmetry	We will present information in an accessible way. We will focus on presenting key information for consumers.
	Some consumers, particularly most excluded may not access our register or DCT and not realise advantages	We will work with consumer bodies and Legal Choices to raise awareness of register  Our wider reforms to enable solicitors to provide legal services in non-LSA bodies will benefit consumers of legal services

	DCTs do not access data and consumers cannot take advantage of benefits	We will work with DCTs to consider how we can ensure easy access to our data
	Increased competition for services within market. Not all firms will respond positively	Our proposals will empower consumers to compare providers. This presents growth opportunities for firms to access latent demand
	Possible market shrinkage as some firms cannot absorb impact of consumers purchasing elsewhere	Our proposals will empower consumers to compare providers. This presents growth opportunities for firms to access latent demand
<b>Publish complaints data and areas of practice of SRA regulated firms separately from the register in order to make it available to re-publishers, such as online comparison websites as well as consumers directly</b>	Negative quality perception of regulated firms providing legal services opposed to non-regulated providers where complaint data is not available	The reputation of solicitors the high standards and quality that comes with regulation is attractive for consumers. Consumers will find that they have better information on regulated firms which will increase their confidence in those firms We will contextualise data to minimise any burden
	Reduced number of clients for some firms with high level of complaints that do not represent their position fairly	We will publish previous 3 years' complaints data. This will enable firms to demonstrate that they have made improvements in service delivery
	Possible market shrinkage as firms with poor complaints records leave market	As above
<b>Require solicitors in non-LSA regulated firms to provide information on client protections to clients</b>	Consumers purchasing legal services from unregulated providers do not access information in a way that enables them to compare providers before purchase	We will require solicitors working in non-regulated providers to explain to consumers which regulatory protections apply.  Non-LSA providers may need to respond with greater transparency to compete.

## Contextual data on the solicitor's profession

22. The following paragraphs provide information on the solicitor's profession. It has helped us consider the impact on protected characteristic groups and wider impacts with our proposals. Our early analysis has identified that for some groups there may not be any impact.
23. In terms of ethnicity, BAME individuals make up 18 percent of all lawyers, which is higher than the census data for economically active people (13 percent). Asian people are more highly represented among all lawyers (12 percent compared to 7 percent) and Black people are underrepresented (2 percent compared to 3 percent).<sup>17</sup> A significant number of BAME solicitors work in sole practitioner or small/high street firms.
24. The breakdown of other staff working in law firms is more closely aligned to the wider population, with 14 percent BAME overall (of which 8 percent are Asian and 3 percent Black).<sup>18</sup>
25. Differences become apparent when we look at the breakdown of partners in firms by size. The larger firms (50 plus partners) have the lowest proportion of BAME partners, Asian partners make up just 4 percent compared with 16 percent in the smaller firms (2 to 5 partners).<sup>19</sup>
26. The graph below outlines how the firms we regulate are categorised by size. This is important when considering the impact of our proposals. We regulate 10,102 firms. We have defined 'Very Large' firms as the top 100 firms within the market by turnover. 'Large' firms account for the next 900 by turnover. 'Small' firms were those that generated less than £400,000 turnover and had 4 or fewer partners. 'Medium' firms are those firms remaining in-between Small and Large. We consider the potential impacts on all firms by size in this impact assessment.

**Graph 1 Firms we regulate by size**



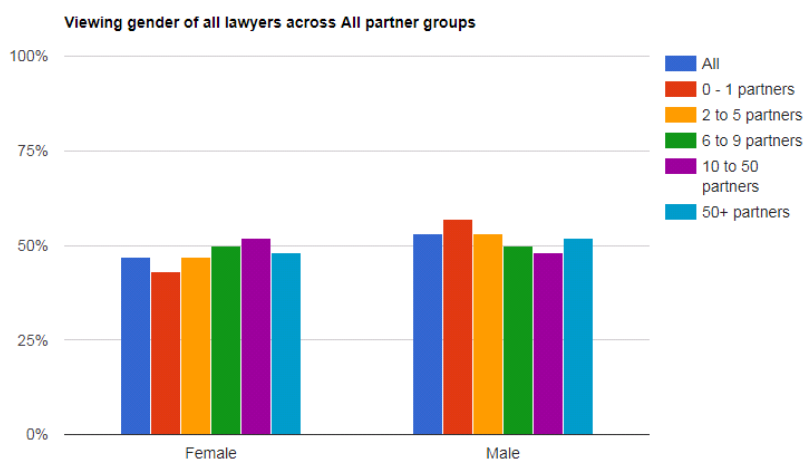
<sup>17</sup> <http://www.sra.org.uk/solicitors/diversity-toolkit/diverse-law-firms.page>

<sup>18</sup> <http://www.sra.org.uk/solicitors/diversity-toolkit/diverse-law-firms.page>

<sup>19</sup> <http://www.sra.org.uk/solicitors/diversity-toolkit/diverse-law-firms.page>

27. Women make up 47 percent of all lawyers in law firms, the same as the latest census data for economically active people. For the other staff working in law firms, women are in the majority at 76 percent.<sup>20</sup> However, they are more likely to work in lower paid areas of work, such as family and immigration law and are less likely to work in corporate law.<sup>21</sup> Graph 2 below <sup>22</sup> highlights that women are equally represented across all firm sizes (when based on partner number analysis). We consider potential impacts on gender as part of this impact assessment.

## Graph 2 Gender of all lawyers across partner groups



28. Disabled people are underrepresented in law firms compared to the wider population. Only 3 percent of all lawyers and 4 percent of other staff have a disability. Government Labour Force Survey Analysis shows that 10 percent of working age adults in employment are disabled. We do not consider at this stage that there is an impact on this protected characteristic group.
29. In terms of age, most all lawyers are between 25 and 34 (32 percent) - partners tend to be over 45 and solicitors/other lawyers under this age.<sup>23</sup> This reflects the average career pattern of solicitors and when they might expect to become partners in a firm. We explore the potential impacts of age of our proposals in this impact assessment.
30. Across all firms, 97 percent of all lawyers and other staff are heterosexual and although census figures suggest 1.5 percent of the general population is lesbian, gay or bisexual (LGB), Stonewall estimates this figure is more likely to be 5-7 percent.<sup>24</sup>

<sup>20</sup> <http://www.sra.org.uk/solicitors/diversity-toolkit/diverse-law-firms.page>

<sup>21</sup> SRA Risk Outlook 2017/18, <http://www.sra.org.uk/risk/outlook/risk-outlook-2017-2018.page>

<sup>22</sup> <https://www.sra.org.uk/solicitors/diversity-toolkit/law-firm-diversity-tool.page>

<sup>23</sup> <http://www.sra.org.uk/solicitors/diversity-toolkit/diverse-law-firms.page>

<sup>24</sup> <http://www.sra.org.uk/solicitors/diversity-toolkit/diverse-law-firms.page>



31. There is little difference overall, between the LGB population for solicitors and other lawyers and for partners. There were small differences by firm size, with slightly more gay men in larger firms compared to smaller ones. We do not consider at this stage that there is an impact on this protected characteristic group.
32. The following sections now explore in more detail the impacts we have identified and mitigations against each of our proposals.

### **Proposal 1: Introduce requirements for firms to publish information on price and description of services in certain types of matters**

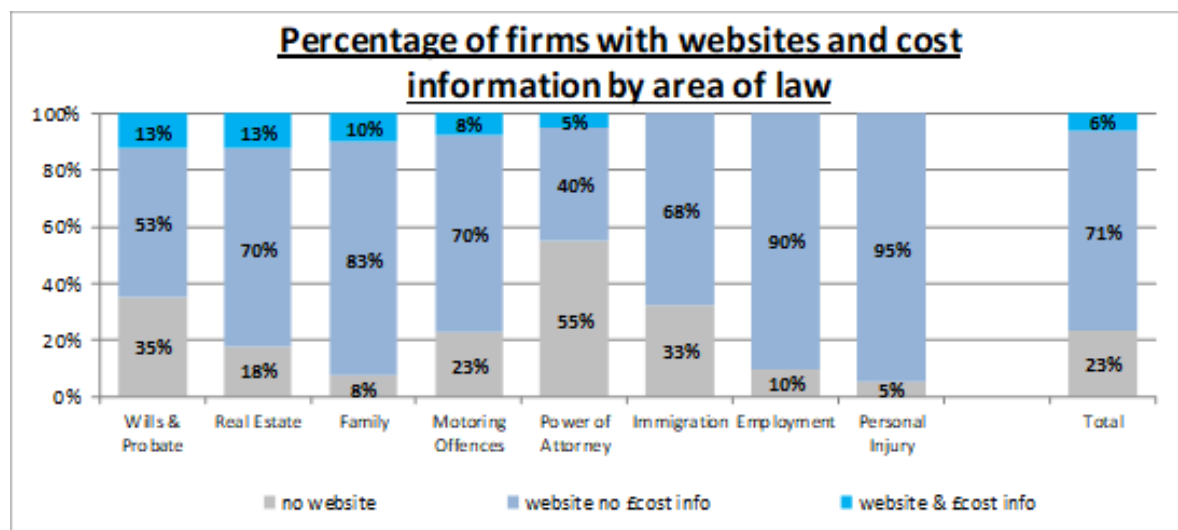
#### **Increased price transparency for consumers**

33. We believe there is a clear case for us to look at how our regulation can improve price transparency. We have outlined research findings by the CMA, LSB and LSCP that demonstrates that a lack of price transparency does not help the legal services market work effectively, for example, a lack of competition. This prevents consumers from fully participating in the legal services market by making informed purchasing decisions.
34. Assuming services would be too expensive is the most common reason for not using solicitors, especially for complex and multiple legal issues.<sup>25</sup> We have a regulatory objective to improve access to justice and promote and protect the interests of consumers. Our proposals are designed to provide information that is currently lacking for some consumers. As we have explained, the most excluded people will benefit from increased access to legal services through our wider reforms to enable solicitors to provide services through organisation we do not regulate, for example, a charity.
35. We carried out a web sweep of firms to help us validate this assumption. We looked for price information in the practice areas identified in the graph below. Samples of 40 firms were selected, making sure that each group of samples was representative of the total proportion of very large, large, medium and small sized firms in each area of law.
36. The results are summarised in Graph 3 below and highlight the challenges consumers face when trying to find price information. It demonstrates that most firms sampled, apart from power of attorney, have a website. Only a small percentage of firms sampled providing services in wills and probate, real estate (residential conveyancing), family, motoring offences and power of attorney provided price information on their websites. No price information was found on the websites of those firms sampled providing immigration, employment and personal injury services.

---

<sup>25</sup> RESEARCH SUMMARY, INDIVIDUAL CONSUMER LEGAL NEEDS, Legal Services Board, May 2016

**Graph 3**  
**Percentage of firms with websites and cost information by area of law**



37. A key benefit of our proposals is that consumers will have better access to price information before they formally engage with a solicitor. Greater transparency reduces price discrimination where different prices are charged to different consumers. Secondly, a better understanding of costs can help consumers to take positive action at an early stage and prevent the cost of their legal issue escalating.
38. It is argued that price transparency offers a degree of cost certainty for consumers. The Law Society in their response to the CMA report suggested that “costs are important both in terms of the absolute amount but also as the ability to be certain about likely costs. Consumers therefore show a strong and increasing preference for fixed fee and no-win-no-fee arrangements.”<sup>26</sup> Finally, increased price transparency has the potential to benefit consumers by lowering search costs and search time, for example, by using a comparison website.
39. A potential disadvantage of price transparency is the increased risk of conscious parallelism between providers of legal services. Whilst the legal services market has a wide range of providers, in some parts of the market there is a concentrated supply of providers, for example, specialised or niche areas.
40. There is potential for price discrimination between providers in these areas without any formal agreement. This can cause consumer harm. We do not consider this a serious risk. Our proposed price areas are focussed on those legal services where there are many providers. The probability of conscious parallelism is therefore limited. The CMA also reached this conclusion in their report.

<sup>26</sup> Law Society response to the Competition and Markets Authority invitation to comment on the notice on the market study into the supply of legal services in England and Wales: Theories of Harm 22 February 2016, pg 7

41. Increased price transparency could also encourage tacit or outright collusion by making it easier for co-operating firms to set prices for certain types of legal services. This is likely to be illegal. We do not consider this a serious risk for this reason and because of the large number of suppliers in areas we are proposing for price transparency.
42. Our proposals are designed to give flexibility to firms on how they publish price information. We appreciate that this may create challenges for consumers in comparing prices between providers. We will take steps to reduce this risk. We will provide templates for firms to use to publish price. This will help achieve consistency. Digital Comparison Tools (DCT) are also likely to use this information and so consumers can compare price through this mechanism.
43. We recognise that many firms outsource the maintenance of their website to third party providers. For firms that do not currently advertise price, this may mean changes are required and that may result in additional administrative costs. Through our ongoing engagement work, we will explore the impact of our price and wider transparency proposals on those firms that outsource IT.

#### **Areas of practice for price transparency**

44. We propose to select number of service areas in which firms will be required to publish price information. The potential areas from which we will choose are listed below and are consistent with those explored by the CMA.

**Table 4 Proposed price categories:**

<b>For consumers</b>	<b>For small businesses</b>
<ul style="list-style-type: none"> <li>• Residential conveyancing (limited to sale, purchase and remortgage)</li> <li>• Family – undefended divorce and financial disputes arising out of divorce</li> <li>• Drafting of a will</li> <li>• Probate/Estate administration</li> <li>• Drafting a lasting Power of Attorney</li> <li>• Motoring offences</li> <li>• Employment tribunal</li> <li>• Personal injury claimant</li> </ul>	<ul style="list-style-type: none"> <li>• Employment tribunal</li> <li>• Debt recovery</li> <li>• Licensing applications in relation to business premises</li> </ul>

Our view is that focussing initially on these areas of law is the most appropriate starting point for requiring price transparency because:

- these are common areas where individual and small business consumers require legal help and are likely to compare prices
- price information is established in some of these areas but there is not universal price transparency. We believe our proposals will encourage acceleration of existing market solutions

- some services in these areas are relatively commoditised. This will make it easier to provide price estimates.

45. In addition, the areas we are proposing cover 25 percent of the market turnover of activity of all the firms we regulate. This data is based on our information provided through our annual renewal exercise from the last 12 months. It does not include new entrant data.

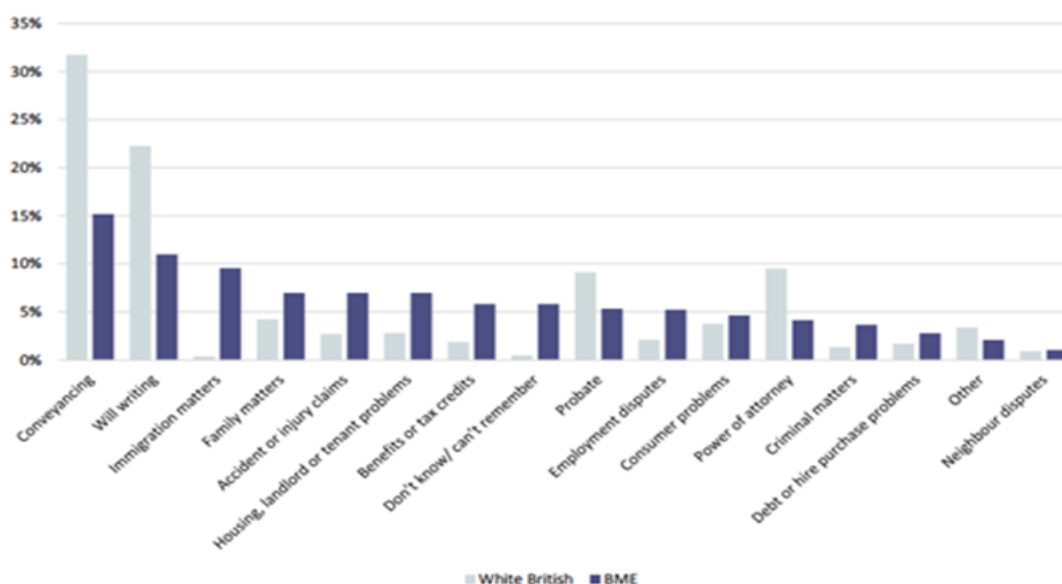
**Table 5 Market share by field of law**

	Market turnover	Percentage
<b>Arbitration Dispute Resolution</b>	£604,332,756.78	2.54%
<b>Bankruptcy Insolvency</b>	£0.00	0.00%
<b>Children</b>	£307,879,530.73	1.30%
<b>Commercial Corporate Listed Companies</b>	£3,331,549,229.44	14.02%
<b>Commercial Corporate Non-Listed Companies</b>	£3,060,567,647.35	12.88%
<b>Consumer</b>	£57,090,459.25	0.24%
<b>Criminal</b>	£711,631,582.39	2.99%
<b>Discrimination Civil Liberties Human Rights</b>	£21,553,613.68	0.09%
<b>Employment</b>	£899,830,587.95	3.79%
<b>Family Matrimonial</b>	£727,275,060.42	3.06%
<b>Financial Advice Regulated FSA</b>	£0.00	0.00%
<b>Financial Advice Regulated SRA</b>	£487,172,435.44	2.05%
<b>Immigration</b>	£265,939,590.10	1.12%
<b>Intellectual Property</b>	£321,804,811.00	1.35%
<b>Landlord Tenant</b>	£894,482,096.24	3.76%
<b>Litigation Other</b>	£3,517,026,396.78	14.80%
<b>Mental Health</b>	£40,409,383.98	0.17%
<b>Non-Litigation Other</b>	£790,611,962.28	3.33%
<b>Personal Injury</b>	£2,166,471,404.03	9.12%
<b>Planning</b>	£132,015,736.39	0.56%
<b>Probate Estate Administration</b>	£630,931,228.64	2.65%
<b>Property Commercial</b>	£1,906,510,685.03	8.02%
<b>Property Residential</b>	£1,610,353,169.98	6.78%
<b>Social Welfare</b>	£17,328,803.04	0.07%
<b>Wills Trusts Tax Planning</b>	£691,145,134.30	2.91%
<b>Total</b>	£23,765,964,019.23	97.59%

46. In adopting this approach, we believe we have considered the legal needs of BAME users and those with other protected characteristics. Our approach is supported by analysing the types of legal problem faced by BAME and White British users<sup>27</sup>. Our proposed list covers most key legal needs of both groups.

<sup>27</sup> Tracker Survey 2016 Briefing note: experiences of Black and Minority Ethnic groups in legal services, Legal Services Consumer Panel 2016

## Graph 4 Consumers legal needs



47. Graph 4 highlights that there are certain areas of law that are relevant to BAME users which we have not included on our proposed list of price areas. We also are aware that for the most vulnerable consumers, our proposed areas are unlikely to be relevant to them. Our view is that these consumers are less likely to pay for legal advice and will seek legal aid funding where available or advice from a range of not for profit providers, for example the Citizens Advice. Our wider reforms to enable solicitors to provide legal services in non-LSA regulated bodies will also encourage innovation and supply in the provision of these services.

48. We welcome views on our proposals and will continue to work with stakeholders, particularly those that represent BAME users, to develop our thinking.

49. We recognise that some consumers may not be able to access online price information. This may be due to limited vision or a lack of internet access. For these consumers, they will still be able to contact a firm as they do now. For some people with mobility issues, the availability of price information offers benefits in terms of accessing cost information without physically visiting a firm.

### Impacts for firms

50. We believe our proposals offer growth opportunities to firms. Increased price transparency will encourage consumers currently dissuaded from purchasing legal services because of a lack of cost information to consider doing so.

51. Consumers, armed with price information are more likely to shop around for services. There is research to suggest that by revealing costs, typically tightly guarded secrets, providers can potentially improve both brand attraction and sales.<sup>28</sup> Embracing transparency offers solicitors and firms an opportunity to

<sup>28</sup> <http://hbswk.hbs.edu/item/lifting-the-veil-the-benefits-of-cost-transparency>

thrive in a more competitive market where new entrants are already adopting transparent practises.

52. We also recognise that our requirement for price publication is likely to impact on firms irrespective of their size practising in the areas of law we select. We have considered what these impacts might be. Our engagement activity and analysis has highlighted potential disbenefits disadvantages of our proposals. These include:

- increased administrative burden to calculate and publish price estimates
- pressure to reduce prices (perhaps detrimentally to business and increase financial risk) to appear and remain competitive
- risk of inaccurate information because to effectively act in the consumer’s best interests, fees require discussion and agreement with consumers that are based on work, affordability and an individual’s risk appetite.

53. Responses to our discussion paper were particularly concerned that our price transparency proposals could have a greater impact on small and BAME firms. To explore this, we have carried out analysis to understand whether our price publication proposal could disproportionately impact certain types of firms. We do not have separate data for all the potential service areas (power of attorney, debt collection for businesses and road traffic offences are not separate categories of work in our system) so we will need to consider what additional information we can obtain before any final assessment is carried out.

54. BAME firms represent 12 percent of all firms we regulate. For the purposes of this impact assessment, we define a BAME firm as those firms with a majority of BAME lawyers.

55. Table 6 shows that except for family, personal injury and crime, majority BAME firms are less likely to carry out work in the proposed categories for price publication on which we have data than majority white firms. Our analysis indicates the there is a high concentration of BAME firms in family, personal injury and crime.

**Table 6 BAME majority firms and price publication (1)**

<b>Practice Area</b>	<b>BAME firm</b>
Employment	Less likely
Family / matrimonial	More likely
Wills, Trust and tax planning	Less likely
Property/ residential	Less likely
Probate / estate administration	Less likely

Personal Injury	More likely
Criminal	More likely

56. We then looked at whether those BAME majority firms carry out work in the categories were more likely to have a substantial percentage of their turnover at least (25 percent) in the price category concerned compared to white majority firms. Table 7 shows that BAME firms are less likely than other firms to carry out at least 25 percent of their work in all the categories except for personal injury, crime and family, where there is no statistical difference.

**Table 7 BAME majority firms and price publication (2)**

<b>25 percent of practice area</b>	<b>BAME firm</b>
Employment	Less likely
Family / matrimonial	No difference
Wills, Trust and tax planning	Less likely
Property/ residential	Less likely
Probate / estate administration	Less likely
Personal injury	More likely
Criminal	More likely

57. Based on the information we have obtained so far, we do not consider that BAME firms will be disproportionately impacted by our proposals. We will take this information and stakeholder feedback into account when making our final decision on areas of price.

58. We have also looked at the same data headings in relation to small firms. Table 8 shows that small firms are less likely than other firms to carry out work in the categories concerned.

**Table 8 Small firms and price publication (1)**

59. However, table 9 shows that if they do carry out work in the areas concerned, small firms are more likely than other firms to have at least 25 percent of their turnover in four of the categories but not in residential conveyancing, personal injury or criminal.

<b>Practice area</b>	<b>Small firm</b>
Employment	Less likely
Family / matrimonial	Less likely
Wills, Trust and tax planning	Less likely
Property/ residential	Less likely
Probate / estate administration	Less likely
Personal Injury	Less likely
Criminal	Less likely

**Table 9 Small firms and price publication (2)**

<b>25 percent of practice area</b>	<b>Small firm</b>
Employment	More likely
Family / matrimonial	More likely
Wills, Trust and tax planning	More likely
Property/ residential	Less likely
Probate / estate administration	More likely
Personal Injury	Less likely
Criminal	No significant difference

60. Overall, we do not consider that the above data should stop us proceeding with our proposals. We believe there are benefits for firms.



61. We believe our proposals offer market growth opportunities to firms. Increased price transparency will encourage consumers that are not currently purchasing legal services based on a lack of cost information to consider doing so.
62. Some consumers, armed with price and quality information, are more likely to shop around for services. Research suggests that by revealing costs, typically tightly guarded secrets, marketers can potentially improve both brand attraction and sales.<sup>29</sup>
63. In terms of negative impacts, some firms may feel pressure to reduce prices (perhaps unsustainably and increase financial risk) to appear and remain competitive against market competitors.
64. There is also a risk that some firms may not accurately quote for work. The fact that a firm specialises in the area concerned (as small firms may be more likely to do in some areas in accordance with the above analysis) should in fact enable that firm to provide more accurate price information. However, to effectively act in the consumers' best interests, fees may sometimes require discussion and agreement with consumers that are based on work, affordability and an individual's risk appetite.
65. We will address these risks by providing tailored support packages to help small firms. For small firms with limited website support, our proposals may present additional bureaucracy. We will develop price templates that firms can populate to help reduce the time and resources required to implement our proposals.
66. Our proposals do not force firms to name a price for services or move to fixed fees. Our proposed requirement is to state the price where it is reasonably known. We are clear in our consultation that our proposals are flexible and not designed to restrict firms on how they calculate price, the pricing model they adopt, or what price they charge.
67. It is important to note that price is not the only factor consumers consider when purchasing legal services. The cost of service is the second most important factor to consumers when searching for a solicitor (after reputation).<sup>30</sup> Data from the last 12 months shows that most clients avoid the cheapest solicitors when buying or selling their home; this is evident in the 86 percent of home movers who said they 'did not choose the cheapest conveyancer.'<sup>31</sup>
68. We do not think that price publication will overall have a negative effect on those that do it as it might if we implemented inflexibly. We will adopt a cautious approach to the implementation. We propose to begin requiring firms to mandate price in a small number of areas. If we proceed, we think that there is a good case for one of the first areas to be residential conveyancing. Price publication is already quite common for conveyancing work, although far from universal. Many

---

<sup>29</sup> <http://hbswk.hbs.edu/item/lifting-the-veil-the-benefits-of-cost-transparency>

<sup>30</sup> [Briefing note: how consumers choose legal services](#), Tracker Survey 2015, Legal Services Consumer Panel, 2015

<sup>31</sup> Home Moving Trends Report 2016, TM Group

firms offer fixed fees,<sup>32</sup> and set these out on their websites in a table. It is not uncommon for firms to use an online quote generator, which asks questions to determine the price of service.

69. Starting off with a small number of areas for price publication allows us to address any issues or concerns firms face and refine our requirements to ensure that they meet the needs of consumers, whilst being straightforward for firms to comply with.
70. A key focus of our impact assessment moving forward will be to monitor whether our proposals are driving an adverse change in pricing, supply and consumer purchasing behaviour as consumers are only prepared to pay lower prices.
71. In terms of the administrative costs of implementation of price transparency proposals, the fact that a firm carries out 25 percent or more of its work in providing a particular service does not in itself increase those costs – since firms will be required to publish the same data on their website in any event. We recognise that our price proposals could impact on those firms that provide more than one legal service in the areas we are proposing, for example, a firm may be required to publish price across four or five different areas.
72. We have explored, at a high level, this impact. The table below provides an overview of our analysis. Based on the data we hold, it shows that 1345 firms we regulate provide all legal services in the areas we are proposing for price transparency. In terms of ethnicity, white firms rather than BAME firms are likely to be impacted.

**Table 10 Analysis by ethnicity**

Majority Ethnicity	Count	Percentage	Population	Population percentage
White	1102	81.9%	6806	67.4%
BME	74	5.5%	1702	16.8%
No Majority	98	7.3%	910	9.0%
Unknown	71	5.3%	684	6.8%
<b>Total</b>	<b>1345</b>	<b>100.0%</b>	<b>10102</b>	100.0%

73. In terms of comparison by size, the table below demonstrates that a significantly higher percentage of medium and large firms who provide services in all areas will be impacted.

<sup>32</sup> OMB Research (2016), [Prices of Individual Consumer Legal Services: Research Report](#), commissioned by the LSB, p10

**Table 11 Analysis by firm size**

Size of firms	Count	Percentage	Population	Population percentage
Small	311	23.2%	4910	54.1%
Medium	683	50.9%	3163	34.9%
Large	333	24.8%	900	9.9%
Very large	15	1.1%	100	1.1%
<b>Total</b>	<b>1342</b>	<b>100.0%</b>	<b>9073</b>	<b>100.0%</b>

74. We will carry out this exercise again when considering which of the areas proposed we will require firms to publish.
75. We have considered the impact of price publication on gender. We have not identified any significant issues with our proposals to publish price. Female solicitors are more likely to be equally represented across all firm sizes.
76. Our analysis has identified that within the solicitors' profession there is an over representation of older solicitors who are sole practitioners. 37 percent of sole practitioners (partners in 0-1 partner firms) are 55 or over compared to 17 percent of partners in the largest firms (50 plus partners)<sup>33</sup>. We do not consider this should prevent us from consulting on our proposals. To reduce this risk, we have said that we will tailor our price publication support to focus on smaller firms. This will include information specifically for sole practitioners.

### **Reductions in complaints to LeO**

77. Over a quarter of complaints escalated to LeO involve cost issues.<sup>34</sup> There are potential benefits for firms that provide greater clarity over likely costs prior to engagement. This may help manage consumer expectations and reduce the potential of complaints escalating to LeO. This is evident in the residential conveyancing market where price transparency is more developed. The table below highlights that there are significantly fewer complaints about cost information or excessive costs compared to other complaint categories and other areas of law.

<sup>33</sup> <http://www.sra.org.uk/solicitors/diversity-toolkit/diverse-law-firms.page>

<sup>34</sup> [http://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/OpenDAtainLegalServicesFinal.pdf](http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/OpenDAtainLegalServicesFinal.pdf), pg 3

**Table 12 LeO complaint types in residential conveyancing, 2011-16**

Complaint type	Residential Conveyancing		Other areas of law
	No.	Percent	Percent
Failure to advise *	2350	27.8%	23.8%
Failure to follow instructions *	1756	20.7%	23.3%
Delay *	939	11.1%	14.0%
Failure to keep informed *	770	9.1%	12.6%
Failure to progress *	709	8.4%	12.8%
Failure to reply	661	7.8%	8.0%
Costs information deficient *	532	6.3%	13.1%
Costs Excessive *	471	5.6%	13.8%
Other *	299	3.5%	4.4%
Failure to investigate complaint internally	256	3.0%	3.2%
Potential misconduct *	239	2.8%	4.1%
Failure to release files or papers *	193	2.3%	4.3%
Failure to keep papers safe *	165	1.9%	2.4%
Data protection / breach of confidentiality *	70	0.8%	1.1%
Failure to comply with agreed remedy	43	0.5%	0.4%
* percentages are significantly different at 95% confidence interval			

**Proposal 2: Introduce requirements on firms to advertise their regulatory status and protections via use of a SRA logo; to publicise complaints procedures, including access to LeO and the fact that they hold Professional Indemnity Insurance (PII) that meets our minimum terms and conditions (MTC)**

**A digital badge can improve consumer understanding of regulatory protections**

78. We think it is important that consumers are made aware at an earlier stage of the protections and remedies are available to them from a SRA regulated firm. This

will help consumers make an informed purchasing decision between a SRA regulated firms and other types of provider.

79. This low level of knowledge about regulatory protections does not appear to deter consumers from purchasing legal services. It does demonstrate, however, that consumers are not fully informed when making choices about the type of provider that meets their need and that there are different entry routes into the market with varying degrees of quality control.<sup>35</sup>
80. We have identified a risk with our Looking to the future changes to increase consumer choice by allowing solicitors to work in non-LSA regulated entities. Without increasing awareness of protections available, increased choice could increase consumer confusion. Being clear on those protections available with regulated providers in our register, will increase consumer understanding of the type of protections available to them.
81. Our proposals require firms to use a digital badge (and publish in alternative formats if a firm does not have a website) to denote that the firm is regulated by us. In addition, firms will be required to display that they hold PII that complies with the MTCs (including the amount of the minimum level of cover), the contact details of the insurer and the territorial coverage of the insurance. We also propose firms publicise the fact that consumers may be eligible to submit a claim to the Compensation Fund, and to promote visibility of the compensation fund by using a Compensation Fund logo.
82. This will make it easier for consumers to identify between a regulated provider and one that isn't. As a result, information on those protections that apply to them will be clearer and more accessible.
83. Recognition of quality marks continues to be lower among BAME groups, with 62 percent noting their awareness of quality marks, compared to 72 percent of those from White British background. This figure drops further with Pakistani consumers (47 percent) and Black African consumers (50 percent).<sup>36</sup> We recognise the risk that some consumers will not understand the purpose of the badge. As part of the development of our proposals, we will work with BAME representative and wider consumer groups to consider how we can increase awareness of our proposed digital badge.
84. We recognise that some consumers, for example, those with limited vision or no access to the internet, find it be difficult to access a digital badge or register We will work with firms and any potential developer to consider how best we can address this issue. As a safety net however, the public will still be able to contact us by other means to ask whether a firm is regulated by us or not.

---

<sup>35</sup>Competition and Market Authority Final Report December 2016

<sup>36</sup> Legal Services Consumer Panel, Tracker Service 2017, Briefing note: how consumers are choosing legal services

## **Improved purchasing confidence for consumers**

85. Bogus law firms and firm identify theft poses a risk to consumers of legal services and to firms. Some bogus firms directly target people under the guise of being a genuine law firm or solicitor. Others target genuine law firms with a view to deceiving them into sending money or information.
86. They are an increasing threat: reports to us about bogus law firms have doubled since 2012 to more than 700 per year. Almost half of all reports involve criminals copying the identity of an existing law firm. The remainder usually involve bulk emails from individuals claiming to be solicitors.<sup>37</sup>
87. Our proposed digital badge for use on firms' websites will confirm that they are regulated by the SRA. Consumers will be able to access the register from the digital badge and obtain assurances that the firm is genuine.

## **Development of a digital badge – implications for firms**

88. There are also positive impacts for firms of this proposal. A digital badge is a signal to consumers that a firm is regulated by us. Making this information available publicly and in a way that is easily recognisable is likely to provide an advantage to SRA regulated firms by providing assurances to clients that they can offer protections if things were to go wrong, that other providers cannot. The digital badge can be used by a firm as a marketing tool to promote quality of service. Quality or perception of quality is a key factor in how consumers choose providers.
89. Some firms have expressed concerns to us that the requirement to display a digital badge on their website could increase their administrative burden. In developing our proposals, we have explored how such a scheme could work. We have spoken to the Council of Licensed Conveyancers (CLC) and the organisation that delivers the scheme on their behalf. Any potential issues with over representation of older solicitors as sole practitioners will be addressed through our support package.
90. Our early analysis is that there will not be a disproportionate or significant burden on firms of any size to display a digital badge. If implemented, there will be little requirement for firms to do anything other use a small amount of code which we provide to upload the initial logo. Any further work and changes to the logo, including linking to the register, will be managed by us.
91. Information security breaches can harm clients' interests, result in financial loss and cause reputational damage. Cyber security is an increasingly widespread issue. Law firms are targeted because many hold large amounts of information and client money.
92. There is potential for a digital badge scheme to restrict unauthorised usage of a firm's website. This approach can prevent the risk of potential impersonation

---

<sup>37</sup> <https://www.sra.org.uk/risk/outlook/priority-risks/information-security.page>

online through cloned or copied firm websites and will stop fraudsters setting up fake firms that claim to be regulated by us.

93. Having professional indemnity insurance is a practising requirement on all regulated firms. Insurance provides vital protection for clients should unexpected events cause them financial loss. We have not identified any significant negative impacts of our proposals to require firms to advertise that they have PII.
94. We recognise that an increase in consumer understanding is required to help them understand the advantages that these protections provide. We will consider how our register can help explain what these protections mean for consumers. We will also work with stakeholders and using the Legal Choices website to explore how we can increase recognition.
95. We do not consider that our digital badge proposal will have significantly detrimental impact on any other protected characteristics groups within firms.

### **Publication of complaints processes – benefits for consumers**

96. We have a regulatory obligation to increase public understanding of citizens' legal rights and a duty to protect consumers. We believe our proposals for firms to publish complaints processes will support all users of legal services. It will provide clear and accessible information that will increase consumer confidence when considering whether to raise a service complaint.
97. Our proposal for clearer information on complaints processes is likely to benefit BAME consumers. Research suggests that they are less satisfied with both the service they receive and the outcome of their matter than White British users<sup>38</sup> BAME individuals also exhibit different characteristics to white counterparts when it comes to complaining about the legal service that they have received.
98. Research by the LSCP acknowledges that BAME users are likely to be “silent sufferers” and less likely to make a complaint to their service provider: 40 percent did not do anything about it, compared to 31 percent of White British users.<sup>39</sup> While 68 percent of White British users identified the law firm itself as the first place to raise their concerns, only 41 percent of BAME users did so.<sup>40</sup>
99. We have not identified any other significant impacts for protected characteristic groups of our proposals to publish complaints processes. If individuals are not able to access this information on line, the firm has an obligation under our existing Code of Conduct to make sure that if clients are not happy with the service they have received, they know how to make a complaint and that all

---

<sup>38</sup>Tracker Survey 2016, Briefing note: experiences of Black and Minority Ethnic groups in legal services, Legal Services Consumer Panel, November 2016

<sup>39</sup> Tracker Survey 2016, Briefing note: experiences of Black and Minority Ethnic groups in legal services, Legal Services Consumer Panel, November 2016

<sup>40</sup> Tracker Survey 2016, Briefing note: experiences of Black and Minority Ethnic groups in legal services, Legal Services Consumer Panel, November 2016

complaints are dealt with promptly and fairly. Information may therefore be available in other formats.

### **Publication of complaints information- benefits for firms**

100. Complaint information provided by firms can often be complicated and difficult to understand. Many firms do not outline complaints processes, or information will be difficult to understand. This can disadvantage consumers when seeking to redress service dissatisfaction.
101. A lack of understanding about procedures and information on any action taken as a result, can reinforce the impression that nothing will happen when a complaint is made.<sup>41</sup> This contributes to confidence in complaining about lawyers (43 percent) being lower than confidence complaining about supermarkets (67 percent), banks (52 percent) and mobile phone companies (47 percent)<sup>42</sup>. Our proposals will benefit consumers by making complaint information clear and accessible so they can more easily pursue a complaint if they choose to.
102. Firms are currently required under our Code of Conduct to have complaints procedures in place and to provide clients with information on how to complain, and this requirement is retained in our proposed new Codes. However, the information requirement only applies to engaged clients and not to those who may be comparing a range of legal services providers when considering purchasing legal services.
103. We do know however that some firms already go beyond our current requirement and provide clear and accessible information about how to complain on their website. We do not see our proposals as increasing burden on firms.
104. We also recognise that including information about complaints procedures can create negative reactions and make some consumers feel not confident and expect problems with legal service providers.<sup>43</sup> However, we think this risk is outweighed by consumer benefit and potential benefits to firms themselves.
105. A clear and effective complaint handling process can be good for business and maintaining a firm's reputation. For individual law firms and other providers of legal advice, good complaints handling could increase operating profits by between 2 percent to 3 percent<sup>44</sup>. A robust approach to complaints handling

---

<sup>41</sup> Understanding Consumer Experiences of Complaint Handling June 2016, Research Report prepared for Citizens Advice, DJS Research

<sup>42</sup> [http://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/Howconsumersareusing.pdf](http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/Howconsumersareusing.pdf), pg 8

<sup>43</sup> Research into Client Care Letters, QUALITATIVE RESEARCH REPORT Prepared for: Bar Standards Board, CILEx Regulation Limited, Costs Lawyer Standards Board, Council for Licensed Conveyancers, Institute of Chartered Accountants in England and Wales, Intellectual Property Regulation Board, Legal Services Consumer Panel, Master of the Faculties and Solicitors Regulation Authority, Prepared by: Optimisa Research, October 2016

<sup>44</sup> <http://www.legalombudsman.org.uk/downloads/documents/research/Business-Case-Complaints-Handling-Summary-Report-20-11-13.pdf>



can help reinforce a firm's internal culture and increase staff retention rates (and therefore reducing costs).<sup>45</sup>

106. We do not wish to increase burden on firms to meet our requirements. To help all firms, we will develop resources, for example, best practice templates, to help firms promote their complaints processes.
107. We recognise that clear and accessible complaints processes may increase the volume of complaints made to firms. However, this must be considered against benefits to consumers and indeed with benefits to firms themselves where complaints are justified and lead to improvements. Our further work to support our thinking in this area will help us understand this issue in more detail.

### **Proposal 3: Publish on our website a new digital register containing key information about firms and individuals we regulate**

108. We have been clear that the objective of our proposals is to empower consumers to access legal services. We have identified the challenges that consumers face in participating in the legal services market, for example, a lack of information or poor price transparency.
109. Our register will enable consumers to access data that will inform and validate their choice. In this context, our register assumes characteristics of a DCT.<sup>46</sup> There is currently limited development of these in the legal services market.<sup>47</sup> Added to which, consumer engagement with DCTs in the legal service market is also limited.
110. DCTs can play a role in an effective market – they help consumers, often disengaged, by reducing cost and time in searching for providers, bringing information in one place and enabling quick and easy comparison of providers. However in the legal service market, they face barriers in providing comprehensive information to consumers because of the lack of access to basic data<sup>48</sup>. As a result, this prevents some consumers from accessing the wider legal services market and finding the right provider to meet their legal need.
111. Our proposals will support the role that existing DCTs play in helping consumers of legal services. Increased availability of data can be accessed by DCTs to provide a richer picture of providers of legal services. There is also the potential that more will enter the market because of our proposals. These scenarios can help consumers engage in the decision making and purchasing of legal services, for example, helping identify providers at their price point or

---

<sup>45</sup> <http://www.legalombudsman.org.uk/downloads/documents/research/Business-Case-Complaints-Handling-Summary-Report-20-11-13.pdf>

<sup>46</sup> The CMA's working definition of a DCT is: web-based, app-based or other digital intermediary services used by consumers to compare and/or switch between a range of products or services from a range of businesses. They may allow consumers to compare price, product characteristics or various measures of quality. DCTs typically do not enter into the primary contract with consumers

<sup>47</sup> [http://www.legalservicesconsumerpanel.org.uk/publications/consultation\\_responses/documents/20170428\\_LSCP\\_Consultation\\_Response\\_To\\_CMA\\_On\\_DCTs.pdf](http://www.legalservicesconsumerpanel.org.uk/publications/consultation_responses/documents/20170428_LSCP_Consultation_Response_To_CMA_On_DCTs.pdf)

<sup>48</sup> Digital comparison tools market study, Summary of the update paper, 28 March 2017, pg 3

services that closely meet their needs. The availability of increased information may be beneficial for those consumers that have limited mobility as it enables them to access data that may have only been obtained by visiting a solicitor in person.

112. Research shows that the volume and density of information matters for consumers.<sup>49</sup> People with learning difficulties can struggle to understand the language and approach used by legal professionals, which can increase their vulnerability throughout the legal services process.
113. For consumers and DCTs to fully benefit from our register, we recognise the need for us to present data in a clear and accessible way. For consumers, we will ensure that data categories within the register are explained clearly and avoid where possible, regulatory terminology. Where we need to, we will provide a consumer-friendly explanation. We will also explore how we can present data in our register so the most important information for consumers is found first and other, perhaps less important, details are available if a consumer wishes to access them.
114. We will also explore how we can support DCTs by providing information that enables them to access and use our data efficiently and effectively, for example, using an Application Programming Interface.
115. We recognise that some consumers and those with protected characteristics seeking legal services will not be able to use our register or a DCT. We recognise consumers possess differing degrees of legal capability, for example, consumers in higher social grades are also more likely to use legal services by email or over the internet (ABC11, 32 percent) compared to those from lower social grades (C2DE, 12 percent), and those of BAME background (32 percent) compared to White British (25 percent)<sup>50</sup>.
116. Vulnerable consumers<sup>51</sup> and individuals within certain age groups (nearly half the UK's 7.1 million adults that do not use the internet are aged 75 and over) are unlikely to access our data. Consumers from certain social backgrounds are more likely to lack basic digital skills to enable them to take full advantage of the opportunities DCTs provide, for example, only 73 percent of social grade C2DE have the basic digital skills to solve a problem with a device/digital service using online help compared to 93 percent of ABC1.<sup>52</sup>

---

<sup>49</sup>

[http://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/20170322\\_Information\\_Remedies.pdf](http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/20170322_Information_Remedies.pdf)

<sup>50</sup> <https://research.legalservicesboard.org.uk/analysis/demand/individual-consumer-needs/#Potential-latent-demand>

<sup>51</sup> [https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer\\_percent20publications/FutureofDigitalComparisonTools\\_percent20\(1\).pdf](https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer_percent20publications/FutureofDigitalComparisonTools_percent20(1).pdf)

<sup>52</sup> Lloyds Bank Consumer Digital Index 2017, Benchmarking the digital and financial capability of consumers in the UK, 2017

117. We have considered the risks associated with these groups not accessing our register. We will take steps to work with bodies that represent these consumer groups to raise awareness of our register. Our view is that the most excluded consumers are unlikely to use a DCT when accessing legal services. Our wider reforms to enable solicitors to provide legal services in non-LSA bodies will benefit these consumers of legal services.
118. The increased transparency of data will empower consumers to shop around, compare and validate their purchasing decision rather than rely on just recommendations or previous use of a provider. We envisage that this can lead to supply benefits for consumers.
119. Greater consumer engagement and confidence will create competitive pressure within the legal services market. Not all firms will react positively. Competitive pressures are likely to drive lower prices, more responsive services for consumers and greater innovation. Similarly, the CMA in their final report suggests that the increased role of DCTs can help stimulate competition between providers.<sup>53</sup>

### **Introduction of a register - impact on firms**

120. The publication of our register offers positive market benefits to firms. Increased information means that some consumers are more likely to shop around for legal services to meet their needs rather than doing nothing or relying on previous suppliers or recommendations. This offers market growth opportunities for providers of legal services to meet this latent demand for legal services.
121. Publication of quality data signals, for example, complaints and enforcement data, are considered by some consumers as a signal of quality when choosing a provider. This offers firms with positive quality signals potential opportunities for new clients. Some firms without a significant brand or market presence may be able to compete on quality with more established firms. Examples of smaller suppliers using DCTs to establish a brand and grow have been common in the broadband, energy and insurance markets.<sup>54</sup> New regulated entrants to the market could help reduce the cost of regulation by spreading current costs across a wider supplier base.
122. Quality data can help providers drive performance improvements which can lead to services that are better aligned to the needs of consumers. It can also lead to the identification of efficiencies.<sup>55</sup> The availability of transparent performance data has contributed to significant service improvements in other markets, most notably the health care sector.

---

<sup>53</sup> CMA report, pg 79

<sup>54</sup> Digital comparison tools market study, Summary of the update paper, 28 March 2017, pg 3

<sup>55</sup> Transparency – the most powerful driver of health care improvement? Health International, 2011

123. We have considered whether our proposals could lead to some firms leaving the legal services market because of more consumers shopping around. For some firms who rely on repeat or recommendations, our proposals may mean that consumers may purchase legal services from alternative providers. We do not consider this a significant risk. Our proposals will enable consumers to reach a broader range of consumers than at present, for example, individuals who are dissuaded from purchasing legal services through a lack of information. This offers market growth opportunities for firms. In addition, transparency over service provision allows firms to be more competitive in how they attract clients. We will continue to explore this risk as we develop our proposals.

### **Development and population of the digital register**

124. We already publish much of the information we propose to include in the register. However, it is currently published in a way that is not friendly for consumers, for example, similar information is published in different places on our website. We will repackage existing information in a way that is easy for consumers to access. At this stage, we have not identified any additional burden on firms to develop our register.

125. Our proposed register will provide information about our entire regulated community. The register will be divided into two sections – SRA regulated firms and individuals. The proposed data categories for each register are outlined in the consultation document and draft regulations.

126. We have a statutory obligation to publish much of this information, for example; the name of everyone on the roll of solicitors and everyone who has a practising certificate (PC). At this stage, we have not identified any significant negative impacts on individual solicitors or firms of publishing basic information. We generate this information through our authorisation admission and annual practising certificate renewal and so there will be no additional requirement or burden on individuals or firms to provide information.

127. We also propose to include and publish in the individual register details of enforcement action. We have a statutory responsibility to publish much of this information and do so already through our Solicitor Check tool. We propose to collate existing enforcement information and disciplinary decisions into our register so that is available in one place. Given that we generate this information, there will not be any additional burden on individual firms or solicitors to provide this information.

128. We have not identified any negative impacts of our proposals to publish a register containing those individuals that have been struck off. This information is already publicly available and our proposals will bring this information into one accessible location.

## **Equality and diversity impacts of publishing enforcement data**

129. The publication of enforcement action data against individuals or firms is an important signal of quality for consumers. We propose to publish this information as part of our register.
130. Previous research has highlighted that there is evidence of disproportionality at several stages in the regulatory process. This includes the number of complaints brought against regulatory outcomes for BAME practitioners, as well as in the sanctions that were imposed upon them both by the SRA and by the Solicitors Disciplinary Tribunal<sup>56</sup>
131. Some stakeholders have suggested that the publication of enforcement data may accentuate this situation by presenting an unfavourable picture of BAME firms. We recognise these concerns. However, we do not consider this a significant risk. Our proposal is to publish existing enforcement data does not involve the publication of any new or additional enforcement information that is not already available to consumers, albeit in a variety of locations.
132. Several respondents to our discussion paper pointed out that these firms and solicitors often serve vulnerable clients and they could be at a disadvantage if enforcement information for BAME solicitors and firms was omitted from our digital register. We agree with these comments; the objective of the register is to help inform and validate consumer choice of provider.
133. At this stage, we have not identified any negative gender impacts of our proposal to introduce a register or publish enforcement data.

## **Accessibility of register for some consumers**

134. We recognise that some consumers of legal services may not be able to access an online register to validate their choice, for example, those that have a visual impairment or no online access.
135. We currently take queries from members of the public asking whether an individual or firm is regulated by us. We will continue to offer this facility. In developing our register, we will also consider accessibility best practice in publishing data on line, for example, Web Content Accessibility Guidelines.

## **Impact on how we regulate**

136. The publication of our data is a regulatory tool and can be used to drive increased compliance. If firms who circumvent the rules knew that information about their activities would be published, and used by consumers and their intermediaries to shun rule breakers, or favour compliant firms, this could have a positive influence on firms' behaviour, and incentivise them to improve.<sup>57</sup>

---

<sup>56</sup> <http://www.sra.org.uk/sra/news/press/comparative-case-review-published.page>

<sup>57</sup> <http://www.legalservicesconsumerpanel.org.uk/ourwork/Comparison%20websites/Open%20Data%20in%20Legal%20Services%20Final%20Feb.pdf>

**Proposal 4: Publish complaints data and areas of practice of SRA regulated firms separately from the register in order to make it available to re-publishers, such as online comparison websites as well as consumers directly**

**Increased information on quality for consumers**

137. Consumers are by in large infrequent purchasers of legal services. Quality and perception of quality plays an important role in choosing and making a purchasing decision
138. As an infrequent limited purchaser, it can be difficult for people to access, assess and understand quality within the legal services market<sup>58</sup> Research carried out by the Ministry of Justice highlighted that over 80 percent of people agreed with the statement “most people wouldn’t know how to tell a good provider of legal services from a bad one”<sup>59</sup>
139. Complaints data can act as a quality signal. We think there are benefits for consumers if they or DCTs use our complaints data to make informed purchasing decisions by prompting them to ask basic questions about service delivery. Our research highlights that 61 percent of consumers surveyed (total 794) would find the publication of complaint data helpful to compare service standards between firms. For this reason, we also consider the publication of areas of practice important for consumers.
140. Responses to our discussion paper suggested that without appropriate context, complaints data could create confusion. Our objective is to make sure that complaint data we provide is meaningful for consumers and data re publishers. We recognise this risk and have proposed options on how we could provide context, namely; publishing complaints per number of transactions and/or by category of law given that certain areas of law are likely to encounter more complaints.
141. We are seeking views on how many years of complaints data to include. We believe this is necessary so that consumers can compare data over a period. Data will be published annually, and our thinking is to build up the data, such that from the fourth year of implementation the last three years of complaints data will be publicly available for each firm.
142. Concerns have been raised that there is a potential access to justice problems if we publish this data. It is argued that firms will be reluctant to practise in areas of law, such as crime and mental health, which through their emotional and contentious nature, attract, higher numbers of complaints. We do not consider this a significant risk. We recognise the need for us to publish complaints data in a way that enables consumers to compare information with the need to ensure that data is presented with appropriate context. We would welcome comments on the best way to present context.

---

<sup>58</sup>[http://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/ConsumerPanel\\_QualityinLegalServicesReport\\_Final.pdf](http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/ConsumerPanel_QualityinLegalServicesReport_Final.pdf) 2010

<sup>59</sup> Ministry of Justice, Baseline survey to assess the impact of legal services reform, March 2010

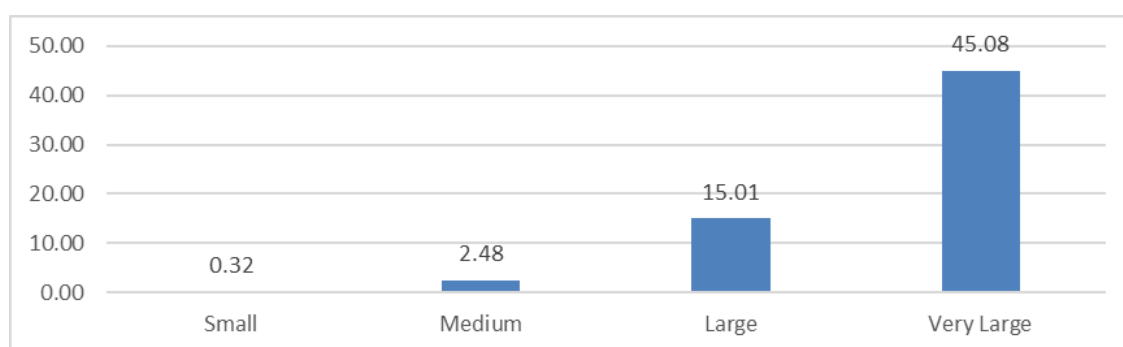
## Accessing complaints data

143. We propose to publish complaint outside of our register. We currently collect first tier complaints data on an annual basis as part of the practising certificate renewal. We do not wish to increase the burden on those that we regulate by collecting complaints data more regularly. On this basis, it is inevitable that data we present will be historical and placing it on the register may provide an emphasis that may not be appropriate. We are proposing this information is best presented separately in a format that can easily be used by third parties such as comparison websites.
144. Consumers may not access data if it is separate from our main register. We will provide appropriate links from the main register to a separate spreadsheet and present information as accessibly as possible. We will work with data re-publishers to encourage them to use data.

## Impact on firms

145. We recognise concerns from individual and firms we regulate that the publication of complaints data may reduce the number of potential clients for some firms. Empowered consumers with greater knowledge of quality may choose to purchase their services from providers with lower number of complaints. Our proposals to contextualise data will help people interpret data.
146. We also propose to publish complaints data over a longer period than just the previous 12 months. From the fourth year of implementation, the last three years of complaints data will be publicly available for each firm. This offers an opportunity for firms who have taken steps to address service issues to be presented positively.
147. We have carried out analysis to explore which size of firm could be impacted by our complaints proposal. The graph below highlights that large and very large firms are more likely to receive complaints than medium or small size firms. We do not consider this a significant risk. Larger firms are more likely to carry out a greater volume of work than smaller firms and so are likely to generate more complaints.

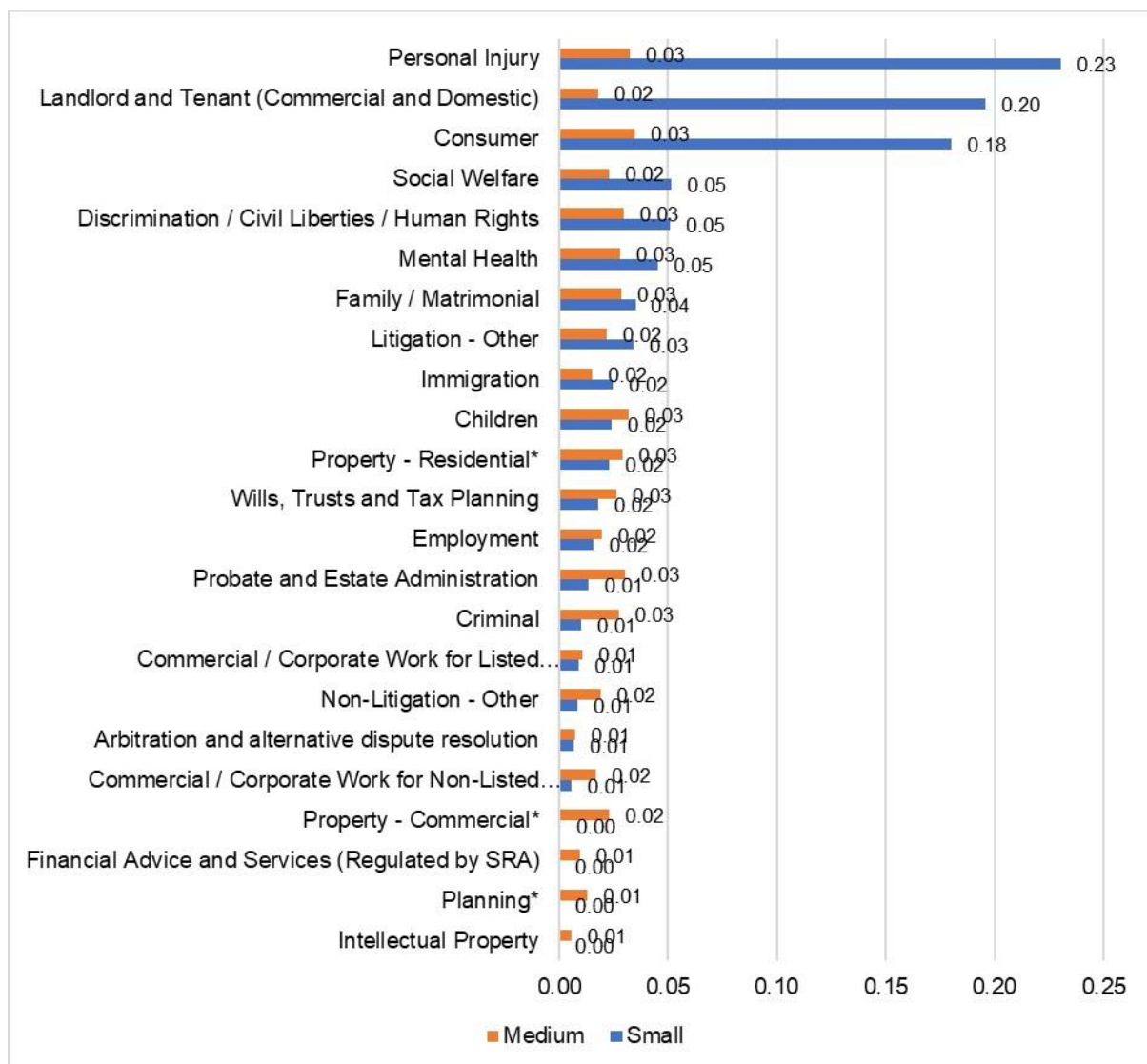
**Graph 5 Average number of complaints received by firm size**



148. We have carried out more detailed analysis to explore potential impact when comparing firm size and by area of law.

149. We have looked at the average proportion of complaints by turnover received for small and medium firms, by area of law specialism. Our analysis in the graph below, demonstrates that there are no areas of law whereby a statistically significantly higher average proportion of complaints are received by small firms in comparison to Medium firms.

**Graph 6**  
**Average proportion of complaints by turnover received for small and medium firms, by area of law specialism**



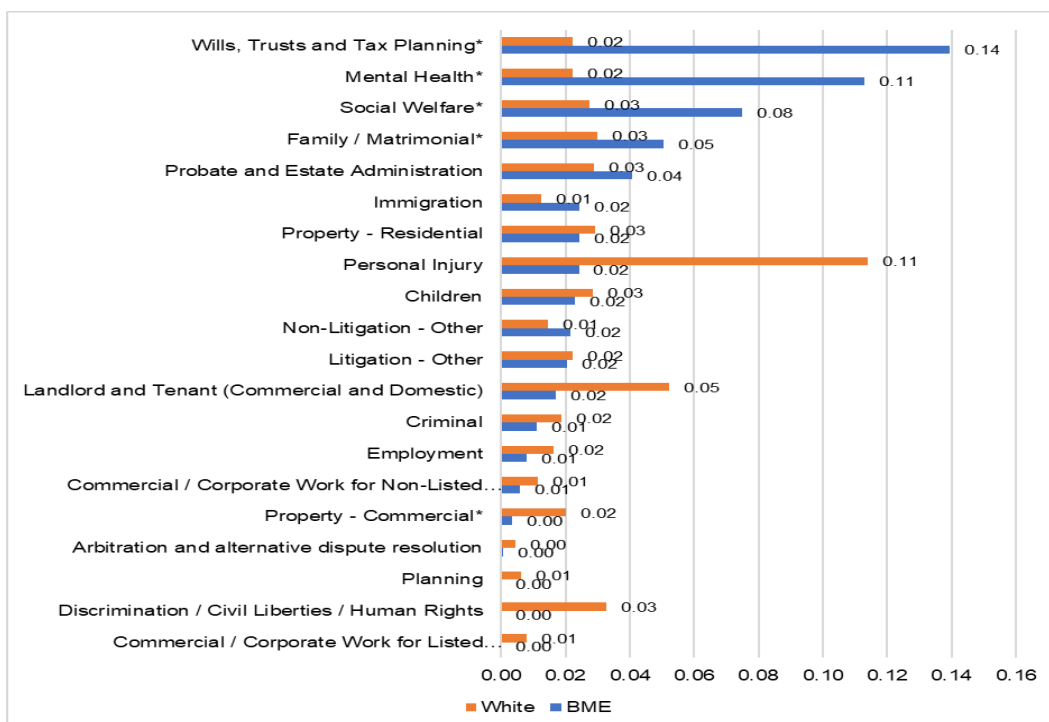
150. We have also examined the relationship between small firms and large firms. We have then looked at the average proportion of complaints (complaints divided by annual turnover) received between small and large firms, by area of law specialism. Our analysis shows that there exists a statistically significantly higher average proportion of complaints received by small firms in comparison



to medium firms in the Immigration area of law. We do not consider this a risk as it is likely that a larger proportion of smaller firms provide immigration services.

151. Similarly, we have explored the relationship between small firms and very large firms. Our analysis indicates that there are there exists a statistically significantly higher average proportion of complaints received by small firms in comparison to medium firms in the immigration, litigation, family and employment areas of law. Again, we do not consider this a risk as it is likely that there will be a greater concentration of smaller firms providing these services.
152. However, this analysis does suggest that we will need to consider how we present complaint information relating to these areas of law. We will work with firms to explore how we develop our proposals so that they do not unintentionally impact smaller firms.
153. Respondents to our discussion paper were concerned that our proposals to require firms to publish complaints data could disproportionately impact on small and BAME firms. We have carried out high level analysis to explore the impact on these firms of our proposals to publish first-tier complaints data.
154. We have carried out high level analysis to help us explore the impact of our proposals to publish first tier complaint data. The graph below provides an overview.

**Graph 7**  
**Average proportion of complaints by turnover received for BAME and White firms, by area of law specialism**

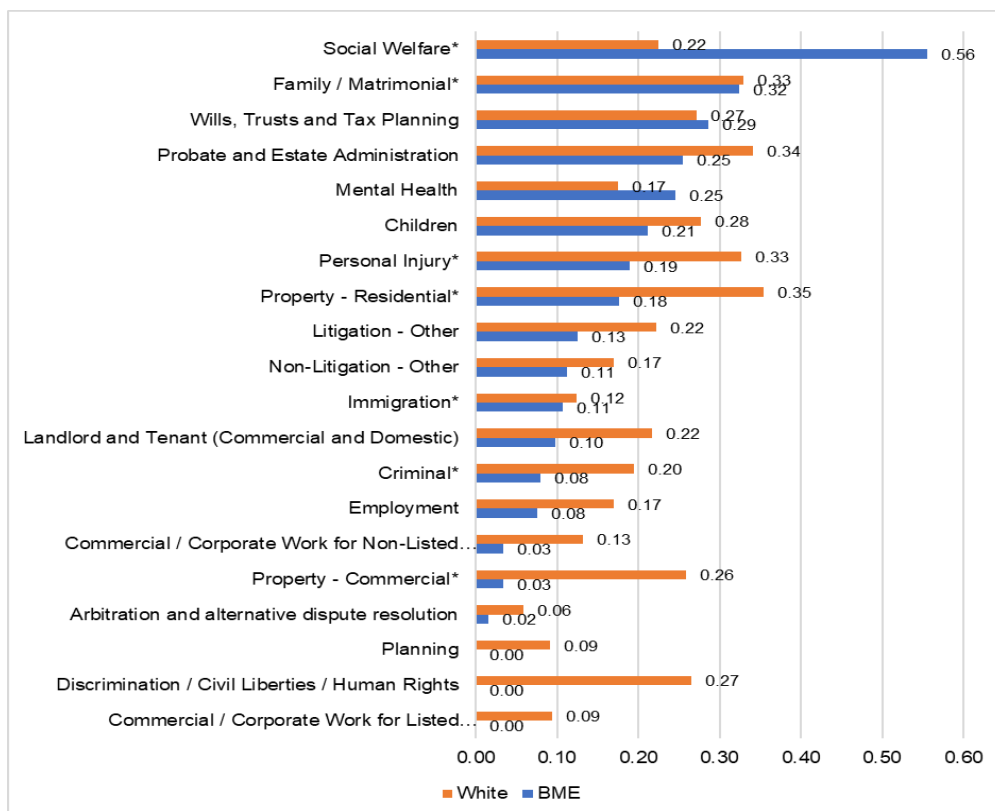


155. Graph 7 displays the average proportion of complaints (complaints divided by annual turnover) received between BAME and white firms, by area of law specialism (firms which generate greater than or equal to 50 percent of their overall turnover in area of law or generate more than £200,000 in area of law). From this, we can see that BAME firms which are specialised in either wills, mental health, social welfare or family, receive on average, a higher proportion of complaints. Furthermore, for these areas of law, the difference in the average proportion of complaints between BAME and white firms is statistically significant.

156. We have said that providing context for complaints data is important. We will consider how we can provide further information to contextualise either wills, mental health, social welfare or family legal services so that all firm, not just BAME, are not unintentionally impacted by our proposal.

### Graph 8

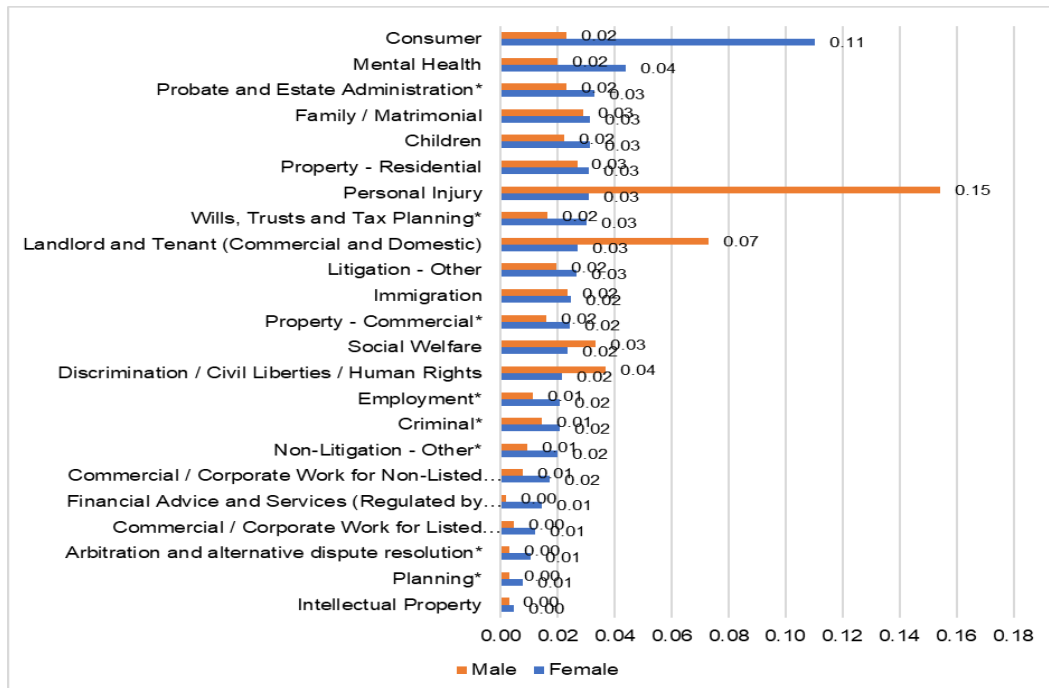
**Average proportion of complaints by fee earners received for BAME and white firms, by area of law specialism**



157. The graph above displays the average proportion of complaints (complaints divided by number of fee earners) received between BAME and white firms, by area of law specialism. From this we can see that BAME firms which are specialised in social welfare receive on average, a higher proportion of complaints. Furthermore, for this area of law, the difference in the average proportion of complaints between BAME and white firms is statistically

significant. We do not consider this a significant risk; our analysis shows that a higher than average number of BAME firms work in these areas and this explains why these areas receives more complaints.

**Graph 9**  
**Average proportion of complaints by turnover received for female and male firms, by area of law specialism**



158. The graph above displays the average proportion of complaints (complaints divided by annual turnover) received between male and female majority firms, by specialism. From this we find that the areas of law whereby a higher average proportion of complaints are received by female firms are probate, wills, commercial conveyancing, employment, criminal, non-litigation, arbitration or planning. Furthermore, for these areas of law, the difference in the average proportion of complaints between male and female firms is statistically significant. We will work with stakeholders to explore how we can contextualise this data.
159. We have explored whether we should require firms to publish complaints data on their websites. We do not consider this an attractive option; any requirement will place an unnecessary burden on firms and mean that consumers cannot access data in one place. Most respondents to our discussion paper took the same view. We have concluded that we are best placed to publish the data. From a consumer perspective, it was felt that they may be disadvantaged in making a purchasing decision if information was not contained in one place and was not presented without appropriate context or consistency.
160. Responses to our discussion paper also raised concerns that complaints data publication could create a negative perception of a firm's service quality. This issue is addressed by our proposal to publish data over a three-year period.

This enables firms to focus on their quality and highlight improvements to service delivery that have been made.

161. At this stage, we do not consider that these results should prevent us consulting on our proposals. We are seeking views in the consultation document on context that we can provide to reduce the negative quality perception of firms practising in potentially high complaint or emotive areas. We will work with firms in the areas we have identified further explore how we can address this issue.
162. We consider the publication of complaints data important to as a quality signal for consumers to help them make informed purchasing decisions. We have signalled our intention to address concerns by ensuring that complaints data is appropriately contextualised for example, total number of transactions a firm has undertaken in the year and/or publishing by category of law given that certain practice areas are likely to raise more complaints than others. We will continue to work with small firms and other stakeholders to explore the impact of our proposals and identify further measures that we can take to reduce any impacts. We will also undertake further detailed analysis of complaints data to identify whether there are other unintended consequences of our proposals.
163. We appreciate that firms will be concerned that the publication of complaints data may drive perverse consumer behaviour. Some consumers (possibly serial or vexatious) may increase the number of complaints to negatively affect firm's complaints figures. We do not consider this a serious risk. Serial complaints are a small minority of overall complainants. In our consultation, we explore the option of issuing guidance on dealing with this situation, for example, only requiring reporting of one complaint per client for per case. Our complaints research will help us further explore how firms deal with serial complainants. It is worth noting that the CMA is considering providing firms with greater protections from deliberately adverse on line reviews.
164. We have not identified any significant impacts at this stage on protected characteristic groups (other than sex) of our proposals to publish complaints data. We will continue to work with stakeholders to explore this issue.
165. No negative impacts have been identified at this stage of our proposal to publish areas of practice. There will be no additional administrative responsibility on firms as this information is already provided through practising certificate renewals.

### **Marketing of quality and services**

166. Publication of complaints data seen as an opportunity for firms to promote quality of service. As part of our policy development, we asked 539 firms for their views on the possibility of publishing complaints data. Over a third felt that the data could be used to demonstrate that they deliver a good standard of service. Reputation persists as a key factor for consumers when choosing a legal service provider.

167. There is also a market benefit for firms; developing a reputation for good quality enables lawyers to attract clients despite charging higher prices than rivals with lower prices but poorer quality service. Publication of areas of practice presents a marketing opportunity for firms to promote their services to a wider market particularly if information is used by data republishes.
168. We have considered whether our proposals to publish complaints data will create a more favourable perception of quality for non-regulated providers (who are not required to provide complaints data). We are seeking to make our proposals proportionate to minimise any burden, for example, providing appropriate context to complaints data.
169. We do not consider this a serious risk. We believe that consumers will value and use the information generated through our proposals to make purchasing decisions. It follows that publishing the information will be a competitive advantage for SRA regulated firms as well as a way of distinguishing those firms from others. The reputation of solicitors the high standards and quality that comes with regulation is attractive for consumers.
170. As the use of comparison websites increases, it is likely that non-LSA regulated firms will have to improve and extend the information they provide to consumers if they wish to remain competitive.

### **Improvements in service delivery**

171. Publishing complaints data may unlock potential for some firms to improve service delivery. Complaints data analysis and publication are used in other sectors to improve performance, for example, health and social care sector. 20 percent of firms that responded to a survey we ran on said that the provision of complaint data information would enable them to compare their performance with other firms.

### **Risk of complaints data gaming**

172. Concerns were raised in discussion paper responses that firms could under report complaints to positively present data. Firms we regulate have an obligation to provide accurate information to us and our proposed requirements for firms to publish details of that system on their websites and other material will counteract this. We also propose to link our complaints data to LeO's website. This will help consumers to cross reference data if required.

### **Proposal 5: The information on client protections which will have to be provided to clients by solicitors in non-Legal Services Act regulated firms**

173. One of the key changes of our Looking to the future reform programme is the removal of the restrictions on solicitors providing non-reserved legal services to the public outside of SRA regulated firms. This will provide consumers with increased choice, enabling them to more easily access qualified, regulated solicitors at a cost they can afford. These solicitors will be regulated as individuals and must comply with our Code of Conduct for individuals.

174. Clients of these solicitors will not be entitled to all the protections that solicitors working in regulated firms can offer for example there will be no mandatory insurance requirement. We outline that it is difficult for us to prescribe requirements on organisations that we do not regulate. [In our Looking to the future final phase one impact assessment](#), we outlined in detail the consumer protections that apply to consumer purchasing these services.
175. We recognise that solicitors in non-regulated entities will need to provide information in a different way. Our Code obligations will make sure that a solicitor we regulate working in a non-regulated organisation will provide details on:
- explaining which activities will be carried out by them, as an authorised person
  - explaining which services provided by them, their business or employer, and any separate business are regulated by an approved regulator; and
  - ensuring that they do not represent any business or employer which is not authorised by the SRA, including any separate business, as being regulated by us.
176. In addition, solicitors in non-LSA regulated firms will also be subject to Standards 8.2 and 8.3 in the new Code to inform clients about the rights to complain both internally and to LeO.
177. We have not imposed a requirement on solicitors working in non-LSA regulated entities to personally have PII in place, since this will be a matter under the control of the firm. However, as part of the information to be given to clients to meet standard 8.11 in the new Code of Conduct for solicitors, RELs and RFLs we propose that clients of solicitors in non-LSA regulated firm must be informed that those solicitors are not subject to the requirements for mandatory PII which would apply in an SRA regulated firm. This requirement will incentivise the non-LSA regulated firm to explain their actual insurance position to clients.
178. For some consumers, this may mean that they will not access protection information in advance of considering a provider, for example, when searching for several provider's. We do not consider that this seriously disadvantages consumers nor does not place an impractical obligation on firms.
179. As part of developing our proposals, we will consider how we can use legal choices to increase consumer understanding of the distinction between regulated and non-regulated providers and the protections that apply. We will also explore best practice used by solicitors in firm that we do not regulate on how they meet these obligations.

### **Regulatory fee impact**

180. We do not envisage at this stage that there will be a significant impact on turnover or PC fees.

181. Whilst we have not explored full costing at this stage, our early analysis suggests that implementation of a digital badge scheme is unlikely to result in significant annual costs for individual firms. We recognise that not all firms we regulate have a website and these benefits will not be relevant for them. Our proposals still will require them to provide a logo to consumers on written materials so they will still advertise their regulated status.

### **Next Steps**

182. We will continue to work with stakeholders to explore the issues we have identified during the consultation period as well as analysing the responses to this consultation. We will produce a final impact assessment to support our policy response.