

## MORRISH SOLICITORS LLP

### RESPONSE TO CMA MARKET STUDY INTO LEGAL SERVICES

This is a response on behalf of Morrish Solicitors LLP.

Morrish Solicitors LLP is a solicitor firm based in Leeds, with offices in Bradford, Pudsey and Yeadon. We offer a wide range of legal services to individuals, trade unions and SMEs, including personal injury, litigation, employment law, conveyancing and property services, wills and probate.

This is a response to the CMA's market study into legal services in England and Wales to see if they are working well for consumers and small businesses.

Issues:

- Whether customers can drive effective competition by making informed purchasing decisions
- Whether customers are adequately protected from potential harm or can obtain satisfactory redress if legal services go wrong
- How regulation and the regulatory framework impact on competition for the supply of legal services

#### Response Theme 1:

What information do consumers use to judge the quality of legal services and/or legal services providers? What price information is made available to consumers? Do consumers find it easy or difficult to compare the quality and prices of legal services?

- To judge the quality of legal services consumers use and have access to:
  - The firm's own website
  - Legal 500 and Chambers and Partners
  - Word of mouth
  - Previous experience
  - Solicitors' professional standards e.g. Lexcel, Investors in People, SRA/Law Society accreditations and APIL accreditation. These schemes promote high standards and prove competency. We hold Lexcel, IIP, Law Society accreditations in personal injury, clinical negligence and conveyancing and APIL accreditation. However, we do have concerns about whether these are understood by consumers or whether consumers are even aware that these 'kite marks' exist.
- Price information available:
  - Initial telephone/email contact with the client
  - In terms of business and client care information sent to the client in every case
  - There are a wide range of funding options available to consumers for legal services, depending on the nature of the service required.
    - Firms can offer fixed fees for initial advice, which provide the consumer with good value for money, transparency and no hidden costs.
    - Firms can offer 'unbundled' fixed fee services, for example, assistance drafting a grievance or pleadings in a case, without the consumer having to pay for continuing representation at hourly rates.

- Firms can offer ‘No Win, No Fee’ agreements where the consumer pays nothing unless their case is successful. If successful, in Employment Tribunal claims for example, the firm may recover up to 35% of the value of damages. Although the precise cost of the legal service is unknown at the outset as it relates to damages recovered, the percentage is agreed with the consumer in advance. This is a cost-effective and ‘risk free’ funding arrangement for the consumer.
  - Firms can offer legal advice for an hourly rate. However, there is a professional obligation to provide an estimate of fees and expenses, so consumers should have at least a rough idea of legal costs.
  - Firms are also under a professional obligation before entering into some of the above funding arrangements to inform consumers of other means of funding legal services e.g. pro bono, trade union or legal expenses insurance funding. Consumers are therefore made fully aware of their options.
- To compare the quality and price of legal services:
  - Law firms tend not to publish price lists on their websites, unless the work can be dealt with on a fixed fee basis. However, in our experience, consumers are making initial telephone/email enquiries with solicitors regarding costs and shopping around for the best deal.
  - For example, in Employment Law, our firm regularly has to compete with other firms in respect of the percentage value of the ‘No Win No Fee’ agreement in protective award cases involving multiple Claimants. Firms offer anywhere between 10% and 25% plus VAT. Consumers are clearly comparing price.
  - In other types of work, e.g. conveyancing, it is easy to compare price. Most firms will offer fixed fees for such work and utilise an automated quote system. However, we would query whether those consumers who are paying a lower price are receiving high quality of service. It is rare in any service industry that consumers can have price, quality and service – but two of those three may be achievable.
  - From our own client surveys over a 12 month period, from 176 responses received, 140 clients were satisfied or very satisfied with the cost of the service (or it was not applicable because it came at no cost) (80%) and 121 were satisfied or very satisfied with the quality of service (69%). 162 of those who responded stated that they would recommend our services to others (92%).

We note that a concern highlighted by the CMA in paragraph 2.12 in the Statement of Scope is the affordability of legal services, commenting that a major reason for the increase in people representing themselves in court proceedings involving family law matters has been identified as the inability to afford a lawyer. This is not as the result of increased legal fees, but is as a result of the increased court fees to commence family proceedings and the removal of access to legal aid in family matters, making representation unaffordable for the average consumer. The knock on result from this is that there are less solicitors and firms now offering family law advice, meaning competition and choice has been reduced. This means those firms that do continue to offer this service can charge whatever fee they deem appropriate, meaning access to justice only becomes available for the rich. Competition will not be increased unless there is a demand for services. Demand will only increase if there is a legal system which promotes access to justice. This will not be achieved with the current regime of increasing Court fees, removing legal aid and introducing the recoverability of fixed costs in most types of litigation. We note that the number of law firms in the UK has been reducing in the last few years, which will impact on competition.

How do providers of legal services compete with each other in seeking to win new business? Do they face any difficulties in winning new business?

- We believe that winning new business comes from having a first rate reputation. Our services concentrate on quality – not a factory style “stack em high, sell em cheap” philosophy. The very first contact with the client is the most important.
- We also believe that consumers are increasingly looking for true ‘specialists’ in their fields.

Do intermediaries (such as estate agents, insurers and accountants) play a role in helping consumers to choose legal services providers?

- Yes. Intermediaries can give an independent endorsement of the service provider.

## **Response Theme 2:**

Are current regulations effective in protecting consumers’ interests?

- Yes. The protection for consumers using solicitors is second to none. For example, minimum levels of indemnity cover are required, in negligence and dishonesty cases consumers have access to a compensation fund paid for by the profession.
- Note the Legal Ombudsman’s reduction in spending by a further £500,000 in the next financial year as the number of complaints continues to fall in all areas of legal activity.
- Training requirements imposed to maintain high levels of expertise.
- De-regulation will lead to misbehaviour, for example, PPI mis-selling in the banking/finance industry.

Regulation is crucial to the provision of legal services. If the industry is not regulated, there will be less protection for consumers and there will be greater scope for criminal organisations taking advantage. Regulation ensures that:

- Practitioners are ‘experts’ in their field, having to have met stringent admission requirements and ongoing personal development objectives, meaning consumers can be assured they are receiving a quality service.
- We have to be of a certain character and act in the best interests of our clients otherwise we risk being struck off, even for incidents outside of the workplace, which should encourage trust in the profession.
- We have to have indemnity insurance in place in the event that something goes wrong, so clients will not lose out – we can be sued for negligence and potentially struck off if we do not act in our client’s best interests.
- Clients’ money is subject to strict control.

Are consumers aware of the existing redress mechanisms? Are they being pointed to redress mechanisms by providers when appropriate?

- The SRA rules dictate that redress mechanisms be pointed out to consumers in terms of business e.g. complaints officer, Legal Ombudsman, professional indemnity insurance details.

Are redress mechanisms effective in addressing consumers’ complaints?

- Yes. We again refer to the reduction in complaints being made to the Legal Ombudsman.

### **Response Theme 3:**

Do the current regulations create disproportionate barriers to entry and expansion into the legal services sector? What difficulties have new entrants faced?

- Not in our view. Cutting costs of regulation will reduce consumer protection.
- For example, a reduction in the level of professional indemnity insurance cover is bad for consumers and there is no evidence that any cost savings would be passed on to consumers. If minimum insurance levels are to be cut, every legal service provider should be required to advertise and supply information about the cover in place.
- There is no evidence generally that regulatory savings drive down consumer costs.
- Solicitors are professionally prevented from cold-calling consumers. This should continue in the interests of protecting the public from rogue providers and inexperienced/unqualified claims management companies.

Does the current regulatory framework impose disproportionate costs on legal services providers?

- Yes, but the question has to be asked whether it would be in consumers' best interests to create a level playing field by deregulating?
- Consideration should also be given to the Government's changes to the recoverability of costs in certain cases (such as fixed costs in litigation) which is having a damaging impact on profit and results in regulatory costs becoming unaffordable. This in turn has led to firms either closing or merging, reducing the number of firms and accordingly competition/choice for the consumer.

The questions in relation to ABSs are probably best answered by those in ABS structures. However, we do note that the major ABS brand names have either suffered heavy losses (such as the Co-op with Parabis entering into administration in November 2015) or they have ceased offering legal services (such as SAGA and the AA).