

CMA Review of Legal Services Market call for inputs

Overview and credentials

This response is supplied by Pitsford Consulting Ltd, a niche data-driven consultancy specialising in the residential conveyancing market. The owner and director, [REDACTED] has worked within law firms and the senior management of legal technology businesses for over 25 years (a more detailed profile is at Appendix A). This submission limits itself to the residential property market.

Pitsford Consulting Ltd developed and has live a data-driven tool designed to deliver against the Price & Service Transparency regulations (called Conveyancing Analytics). The tool has been developed in conjunction with Trustpilot (whose Reviews it incorporates) and in consultation with the Council of Licensed Conveyancers and the CMA ([REDACTED]). It has also had a positive reception from the LSB and the Legal services Consumer Panel.

The tool has two components:

1) a law firm profile that includes an estimate generator, Trustpilot reviews and HMLR performance metrics. A live client site for SureMove Property Lawyers can be found here:

<https://www.findaconveyancer.co.uk/Conveyancer/profile?firmid=CA1005139>

2) a Digital Comparison Tool (DCT) that offers a whole of market comparison of the rich data held in the profile pages. The site is live but not actively promoted here:

<https://demo.findaconveyancer.co.uk/>

In both cases, adoption has proved problematic – echoing some of the more general concerns around adoption of meaningful price and service transparency across the industry.

Law Firm survey

We also conducted a desk-based survey of 1,000 conveyancing firms in February 2020 to investigate the breadth of responses to the requirements focussing on price transparency and client reviews. The results are included at Appendix B but in summary:

- 75% of firms surveyed do not supply a personalised fee estimate.
 - CLC regulated firms performed appreciably better than SRA regulated firms.
- 73% of firms surveyed do not supply independently curated client reviews.

Summary

We don't believe that the Price & Service Transparency regulations have materially improved the quality of the insight afforded to prospective law firm conveyancing clients.

Legal Service Providers (LSPs) have generally treated the requirements as a compliance issue and have either ignored the requirements or reacted by supplying the bare minimum.

There has been no appreciable move away from the DCT model that favours small panels of firms selected principally for their tolerance of significant referral fees levied by the DCT.

To correct this position, the regulator community should:

- 1) take a more proactive role in both specifying, and crucially, making available, quality indicator data.
- 2) use the Legal Choices website as a vehicle to promote a comprehensive, whole of market DCT that does not charge referral fees.

In both instances we would offer our Conveyancing Analytics solution as an example of what it is currently possible to deliver for consumers.

CFI specific questions

Q1. What challenges have legal service providers faced in complying with transparency measures, and how could these be addressed?

Challenge 1 – No ownership of the requirement. In the main, LSPs do not accept the premise that clients are poorly served. Consequently, conforming with the regulations has been a grudging exercise in least effort compliance. Our survey of 1,000 LSPs in February 2020 showed that 27% of firms offered no price guidance and 73% offered no client reviews.

Challenge 2 – Equivocal support for the measures from the SRA has reinforced and encouraged LSPs' own hesitancy.

Solution – This perception amongst LSPs is not going to change. Regulators are either going to have to raise the bar in terms of what minimum compliance looks like and/or more usefully, provide practical help to reduce the burden on LSPs and make engagement with them a commercial benefit.

Challenge 3 – for those LSPs minded to engage, there is a dearth of external comparable performance metrics to use and a substantial cost to generating internal performance metrics – which themselves are not defined on an industry wide basis.

Challenge 4 – validation of any internal performance metrics. In addition to the cost of generating internal performance metrics, LSPs will be sceptical that competitors are fairly reporting metrics that are self-generated and unverified.

Challenge 5 – many performance metrics will be heavily influenced by external factors (case durations, abortive rates etc) over which LSPs have little or no control. Any reliance on them may drive unwelcome operational outcomes for LSPs (eg first tier complaints data).

Challenge 6 –Operational metrics that are deemed insightful (eg HMLR requisitions), are unintelligible to clients. They lack an ability to understand what is being measured and what the measurement shows.

Solution – Regulators should plot ‘baby steps’. They should agree a limited set of performance metrics that: a) are objective, b) exclude case / client vagaries the LSP can’t control, c) can be supplied as an external feed and d) can be presented in a simple, easily understood framework such as simple star ratings.

Challenge 7 – Options for presenting price information are too wide. In our survey, only 29% of firms offered a tailored fee estimate. 44% offered indicative examples or tables of fees and 27% ignored the requirement completely.

Solution – Regulators should be more prescriptive around the need for a tailored estimate with key guidance on components of that estimate and a requirement that visitors are not required to supply contact details (a major deterrent to shopping around).

Q2. Are consumers engaging with the new transparency measures including the availability of price information, eg by accessing the pricing information on the provider websites and/or using this information in their interactions with providers? Does this differ between different areas of law?

There is evidence amongst our client base that consumers are using price calculators for residential conveyancing which is obviously helpful but our survey suggests only 29% of firms are offering this capability.

Q3. How effective have transparency measures been in driving competition? Does this differ across areas of law?

Our impression in residential conveyancing is that at best, there has only been a marginal impact on competition that can be attributed to the transparency measures.

Q4. To what extent has the Legal Choices website helped consumers to navigate the legal services sector? To what extent has improved content been actively promoted by regulators, consumer/industry bodies and service providers?

We would defer to the operational metrics no doubt available from Legal Choices as to its impact. The site has though considerable latent potential that we would urge should be developed. It is the potential bridge between the traditional model of Regulator activity and a braver, new world in which Regulators offered a proactive, enabling 'nudge' to its regulated community that led adoption of innovation that once established with a critical mass, presented a win-win for both LSPs and their prospective clients.

Q5. To what extent are quality indicators needed to drive consumer engagement and competition? Which further indicators are needed and what are the barriers to these indicators being developed?

We have touched on this central issue above. Quality indicators are vital. Firstly, to LSPs who rightly ask to be judged on criteria other than just price and secondly for consumers who are ignorant of the services they are buying.

1. Client reviews as quality indicators

The experience of former clients is fundamentally important. Prospective customers are empowered by seeing how those who have gone before them have enjoyed the experience. There can be no more powerful insight than to see how tens or even hundreds of former clients have fared.

The best form of client review is supplied by an external review platform because that gives the reviews a legitimacy that in-house quotations selected by firms themselves as marketing collateral lack.

The very best of these external reviews are supplied as an open platform (like Trustpilot) rather than a closed platform. This means that clients can leave a review without needing to be invited to do so by the LSP. The latter model leaves a firm open to the suggestion that they might use their discretion in issuing invitations to leave a review.

2. Other quality indicators

If the consumer experience is largely covered by client reviews, then operational efficiency and the fit with a potential consumer's requirements also need indicators that help inform a purchasing decision. To be meaningful, any such indicators need to be:

- i) clear to lay consumers
- ii) fair to LSPs

Indicators that are both include:

- **An annual total and spatial plot of an LSP's residential property transactions**
Consumers can a) judge if the volume of cases a firm completes matches their requirements (niche specialist, general practitioner, high volume operator etc) and b) see if a firm has experience local to their proposed transaction.
- **The mix of leasehold and freehold cases**
Consumers can look for a leasehold specialist.
- **An objective star rating of operational performance**
Using the time taken after completion to submit the registration documents to HMLR offers a relatively crude measure, but one that is objective and quantifiable across the industry. It is a measure that is already tracked by one of the UK's largest lenders and the Society of Licensed Conveyancers.
Crucially, the inputs that generate such a star rating can be refined by Regulators and the representative bodies of LSPs. A weighted basket of objective performance statistics supported by the Regulators would give authority and credence to such a star rating.

To drive adoption the industry needs a lead from Regulators and / or Representative Bodies. If such indicators were designed, endorsed and supplied by this community then the issue of adoption would be transformed.

Q6. To what extent are DCTs currently operating in the legal services market? What are the main barriers to greater use of DCTs in legal services and how can they be overcome?

The number of established DCTs is static and while there have been some new entrants, these appear to be struggling to develop any real traction. Our guesstimate is that something like 5% - 10% of all residential conveyancing is routed through DCTs.

The principal barrier is the existing commercial model. The DCT invests in outreach marketing in order to harvest new residential conveyancing instructions and then charges a referral fee to the recipient LSP on their panel. Acquiring new business is expensive and volumes are relatively low. This in turn means the necessary referral fee is for many LSPs, prohibitively high (and not in the consumer's interest). This means many LSPs shun the model (and those that don't, often have an operational model that is thin on customer care).

We don't believe that the existing DCT model is capable of significant growth. It is limited by the commercial return it can generate and the absence of a compelling consumer proposition.

In order to drive up genuine comparison by conveyancing consumers the model needs to change.

To drive up its appeal to consumers a DCT should offer them a whole of market comparison tool with rich quality data. To drive up its appeal to LSPs, a DCT should abandon the referral fee and instead charge a nominal annual membership fee – possibly linked to the volume of transactions undertaken.

The one feature drives the other. If a DCT is whole of market not only is it trusted more, but commercially, nominal membership fees from 4,500+ LSPs create a viable commercial model. This then creates a virtuous circle – genuine comparison, rich price and quality data and crucially, supportive LSPs.

The outstanding issue remains driving traffic to such a platform and this is where the representative community can take a lead using Legal Choices as the perfect platform to promulgate such a DCT service. It would need pump priming, but could be syndicated free of charge across consumer media and other property industry stakeholders to create a largely self-sustaining and authoritative DCT.

Q7. What impact have ABSs and lawtech24 had on driving innovation in the legal services sector? Are there any barriers deterring further innovation?

In residential conveyancing there is a growing consolidation as organisations like the Simplify Group and the Metamorph Group expand, acquiring often substantial conveyancing businesses. We expect that this will feed through into better use of technology across these growing groups of LSPs.

Suppliers to the industry are innovating strongly – improved case management, new and better online due diligence searches, online ID validation, secure funds transfer etc.

In most other respects however, innovation is hampered by the existing conveyancing processes. The work of the Home Buying & Selling Group is focussed on procedural rather than technical innovation around earlier up-front information in a transaction, leasehold reform and conditional contracts.

Q8. Are there other developments which have had or will have a significant impact on competition in the sector?

None that feel material.

Q9. Are further measures needed to drive consumer engagement and competition in legal services in addition to the areas we have identified above?

No

Q10. Are there any issues specific to the provision of legal services for small businesses that should be considered in order to improve competition for such customers?

N/A

Appendix A

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Relevant articles

TM Group Blog September 2019

Delivering a better consumer experience when choosing a conveyancer

You can lead the proverbial horse to water – but how on earth do you make it drink?

Especially when the legal profession just isn't thirsty for improvements to the consumer experience. Implementing the MHCLG's and the CMA's plans for more transparent pricing, performance data, standard metrics, kite marks and quality standards hasn't in my view, gone well.

The evidence to date is that mandation on price transparency has encouraged either bare minimum compliance (with little improvement of the consumer experience) or given the lack of effective enforcement, in many cases no action whatsoever.

Efforts to introduce new comparable metrics haven't yet broken through to the market (including my own) so there aren't any new operational standards to act as a benchmark for consumers and at the same time kite marks and quality standards haven't shed their historical baggage.

So, where is the catalyst that's going to kick start meaningful change in an industry whose nature and composition makes it such a difficult ship to turn?

I think the answer is twofold. Data and consumers.


I say twofold – in fact both themes are closely interrelated. Data around conveyancing performance has always been at best sparse and at worst non-existent. Similarly, consumers have always been relatively powerless as they are largely ignorant of the conveyancing process and infrequent users of it.

In this becalmed market for innovation, the bombshell that has landed is the new world of client reviews – and this is where I think change will be driven. Companies like Trustpilot are now using data to give an aggregated voice to consumers that has never been heard before and which is proving immensely powerful in all walks of life including legal services.

In fact, the conveyancing market could have been designed specifically to maximise the impact of client reviews. Conveyancing is an intangible service that is poorly understood, infrequently used and opaque at the point of engagement. Set against that, 92% of consumers read reviews and 90% trust a site more with Trustpilot reviews. The company has 55 million reviews and adds 1 million every month. This is the new force that conveyancers will not be able resist as consumers share their experiences of conveyancing.

Without doubt, client reviews will be the catalyst for real change and innovation in how conveyancers encourage consumers to choose them. There is more that could, should and will follow from this, but because Trustpilot unlocks the power of consumers, it has the unique ability to make conveyancers thirsty.

Who holds the real levers of change?

 Pitsford Consulting Limited

Sure, we're evolving – everyone and everything evolves, doesn't it? Sometimes the pace is slow other times it feels faster. In a Darwinian sense, there are winners and losers at each turn as we respond to changes in our environment, but who holds the real levers of change in the property market?

Generally, we all have a sense that the pace of change is on a strong upward curve. We can point to examples where generic technological advances have improved processes, where communication has been made easier and faster, where new data has improved understanding but can we really say (for better or worse) that the industry has broken free of the structural shackles that have shaped it over the last 50 years?

I think the emergence of Rightmove and the portal industry is the one genuine example of how the industry has been transformed in my working life. In all other respects, I see improvements to processes that are still shaped and constrained by fundamental structural barriers.

The chronology of a transaction is unchanged (except for the honourable exception of the insertion of the new portal community). The legal framework is unchanged. We still have chains. We still have caveat emptor. A purchase remains the single biggest financial transaction in most people's lives. Members of the public remain blissfully ignorant of the process.

There are now estimated to be 7,000 PropTech businesses in the UK, all driven to make their mark but just what prospect is there that they can deliver more than improvements in process efficiencies? How can they consider making an emphatic break?

My contention is that without the explicit support of the industry power brokers – by whom I mean the lending and estate agent community, (remembering Rightmove was launched by the 4 largest estate agency groups) – then the only other driver of real structural change is government legislation, which of course as evidenced by the Home Information Pack, is not without its weaknesses.

In the face of an otherwise highly fragmented industry, these bodies effectively control the market. Crudely, lenders hold the risk reins, estate agents hold the customer reins and government holds the regulatory framework reins. Together they are formidable. They dictate and direct in equal measure their terms for facilitating transactions and all other parties acquiesce.

So, it follows that in order to deliver a step change in process rather than simple process improvement, PropTech businesses need the support of one or more of these parties. What will drive this support?

Well, a threat to their hegemony will strike the strongest chord for lenders and agents so businesses that have such an offer might expect to be quickly absorbed – but perhaps not then developed. Competitive advantage will always drive interest, but the key challenge then is to offer this, whilst dovetailing with complex market structures and existing weak tech without cannibalising existing investments.

Established PropTech businesses (like, it must be said, LexisNexis) who have themselves grown and assumed a critical mass of clients, should be a magnet for smaller start-ups with innovative ideas but little market foothold. These businesses are themselves important parts of the overall process and have an innate understanding of the drivers of lenders and estate agents and are hungry for innovation. PropTech

firms that recognise this dynamic and can answer the challenge to present innovation to the advantage of established players will be well set for success.

It might also be the third controlling party that firms should look to. Government lacks the commercial vested interest (with the important exceptions of tax revenues and shocks to employment) and ostensibly is a champion of the consumer and fair markets. To me, this feels the more interesting route for innovation. The work of HM Land Registry and Ordnance Survey with Geovation, coupled with the Department for Communities and Local Government (DCLG) and their interest in reservation agreements together with the Competition and Markets Authority's (CMA) interest in transparency – all add up to a critical mass that shows more promise of delivering impactful change. The challenge this then creates is, to firstly, understand deeply the potential impact of reform (no small task); and secondly, convince an industry once bitten by HIPs to take another chance.

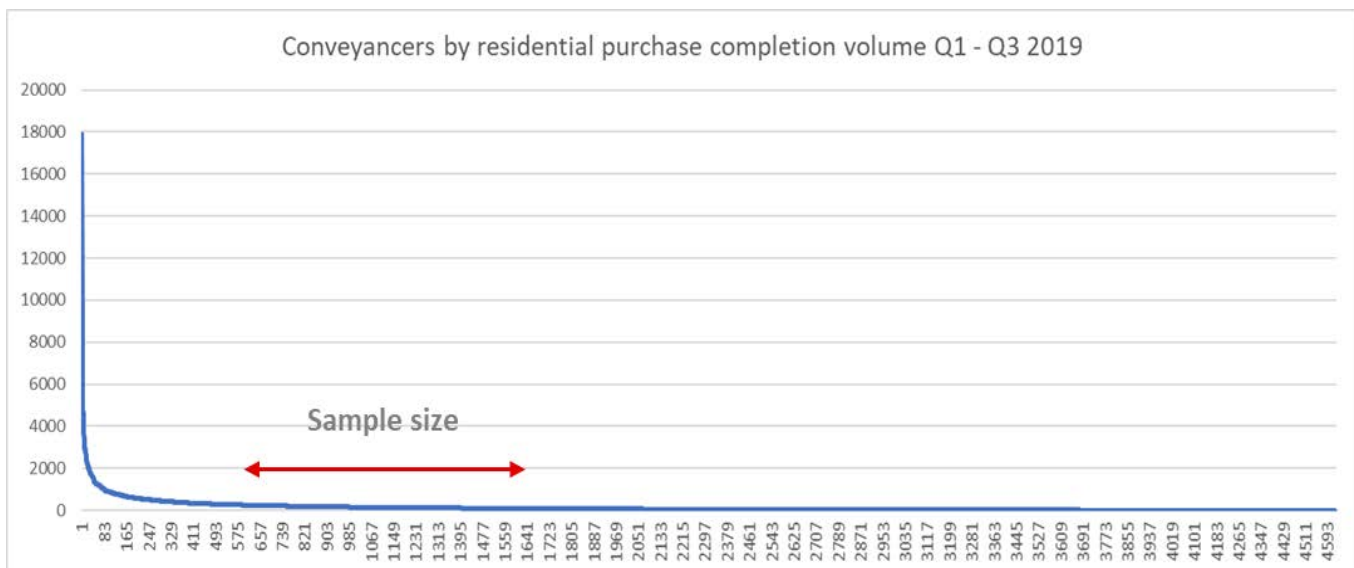
Darwinian theory (sort of) explains how we've ended up with a Gordian Knot of an industry – the solution to which feels as elusive as ever.

Appendix B - Price & service transparency review

In February 2020 Pitsford Consulting reviewed the websites of 1,000 conveyancing firms in England & Wales.

Firm selection was based around the average number of residential purchase completions by all firms (136 cases) between 1 January 2019 and 30th September 2019. The survey looked at the 500 firms above this figure and the 500 firms below it. The range of residential completions by individual firms stretched from 244 cases down to 79 cases in the period.

These 1,000 firms represent a snapshot of the 'engine room' of the profession. The largest firm was ranked 610th and the smallest 1,610th. Together, these firms bought 142,406 residential properties in the period, representing 22.5% of all purchases. This therefore excludes the high volume 'factory' conveyancers at the one end and the 1,153 firms at the other end who each completed less than 10 residential purchases in the 9 months.



The Review

Each firm's website was interrogated to establish:

- 1) how the firm has dealt with the requirements to provide pricing information for residential conveyancing.
- 2) whether the firm publishes client reviews on their website.

In terms of pricing information, firms were categorised as either:

- Providing a quote personalised to a visitor’s particular circumstances without requiring the visitor to supply any contact details.
- Providing a quote personalised to a visitor’s particular circumstances in return for the visitor supplying contact details.
- Inviting visitors to submit their details in order to subsequently receive a communication with a personalised quote.
- Providing indicative fee scales and disbursement schedules.
- Failing to offer any guidance on the cost of their conveyancing services.

In terms of client reviews, firms were categorised as either:

- Using recognised third-party review sites (principally Trustpilot, Feefo, Review Solicitors or Google / Facebook / Yell).
- Using their own testimonials.
- Not publishing any client reviews.

Findings

1. Fees

Almost a quarter (24.1%) of firms in the sample offer prospective clients the opportunity to calculate a conveyancing fee. The balance of just over three quarters, (75.9%) do not.

Just over another quarter (26.6%) offer prospective clients no guidance at all on likely costs.

The 44.1% that offer indicative fee guidance cannot be said to be maximising the value to prospective clients. Details are typically squirrelled away in impenetrable tables reached by innocuous hyperlinks often placed away from residential conveyancing tabs.

The dislocation between compliance and client value is sharply apparent. 68.2% of the sample can be judged to be compliant with the Transparency regulations, but only 6.3% of firms are delivering a quote without requiring prospective clients to register with them.

2019 cases	quote without capture	quote with capture	quote request	indicative fee guidance	no guidance
142406	63	178	52	441	266
22.5%	6.3%	17.8%	5.2%	44.1%	26.6%

2. Client reviews

There is little or no evidence of objective, third party reviews making inroads with this segment. Almost three quarters of the sample (73.3%) gave no client reviews at all on their sites.

The 22.3% who did include client reviews they had collected themselves, typically included only a handful of quotes, always anonymous and always glowing.

Reviews by their nature are subjective, but the curation of these reviews by firms is obviously part of a marketing presentation, not an attempt to give an honest insight.

Only 4.4% of our sample can be said to be presenting an independent view of their service levels.

2019 cases	Trustpilot	Feefo	Google / Yell / Facebook	Review Solicitors	Own testimonials	No reviews
142,406	15	2	11	16	223	733
22.5%	1.5%	0.2%	1.1%	1.6%	22.3%	73.3%

3. Regulator comparison

Regulator	quote without capture	quote with capture	quote request	indicative fee guidance	no guidance
CLC	20	16	3	13	10
	32%	26%	5%	21%	16%
SRA	43	162	49	428	256
	5%	17%	5%	46%	27%

Regulator	Trustpilot	Feefo	Google / Yell / Facebook	Review Solicitors	Own testimonials	No reviews
CLC	3	0	1	1	11	46
	8%				18%	74%
SRA	12	1	10	15	213	687
	4%				23%	73%