LEGAL SERVICES BOARD

**Meeting:** Legal Services Board

**Date:** 26 October 2021

**Item:** Paper (21) 50

**Title:** "Single Digital Register"

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**Status:** Official

## Purpose of the paper

1. The paper provides an update on the work to develop proposals for a "single digital register" of authorised persons, and the next steps for this work.

## Recommendation

2. The Board is invited to:

   - **Note and discuss** the progress made, as outlined in paragraphs 6 to 10.
   - **Discuss and agree** next steps, as outlined in paragraph 12.

## Background

3. The Competition and Market Authority's (CMA) 2020 review of progress since its 2016 market study made several recommendations on transparency, including developing initiatives to help consumers engage actively with information on price, service, and quality. In the 2020 report, the CMA noted that there is still no single source of information on regulated entities and professionals in the legal sector and recommended the development of a "single digital register" led by LSB.

4. In March 2021, the Board discussed the CMA's recommendations and identified the need to scope out what a "single digital register" would involve, and the level of resource required. In June 2021, the Board had a further discussion about the three separate, but linked, proposals relating to digital registers of legal professionals and businesses. The Board agreed the following in relation to each proposal:

- **A single digital register of authorised persons** – the Board agreed that the initial focus should be on identifying policy options and assessing feasibility and cost;
- **A mandatory register of unregulated businesses** – the Board agreed that we should continue to engage with Ministry of Justice officials as they develop their thinking, but there is no action for the Board unless and until the Department makes proposals.
- **The LSB's statutory powers to establish voluntary arrangements** – the Board agreed with the position that we have no plans to make any such arrangements at present, and that we will explore this through the scope of regulation project.

5. This paper focuses solely on the progress towards a "single digital register" of authorised persons.

## Progress since June 2021

6. We believe that establishing a centralised, cross-sector database of standardised regulatory information, which can be accessed and used for a range of public-facing purposes would support the regulatory objectives. Specifically, it offers an effective means of providing the wider market, and consumers, with objective, and accessible, regulatory information. It can also help to ensure that regulatory information is of good quality, up-to-date, and standardised (as much as possible). Such a model would also support interoperability between systems, such as DCTs being able to use the regulatory information contained within it to develop their own tools.

7. Such a database can serve a range of purposes: it can be directly accessible to consumers who are looking for regulatory information, and accessible to third parties who can use the regulatory information to develop their own consumer-facing products. For this reason, we are suggesting moving away from the term "single digital register", which in our experience can conjure a narrower interpretation of its operation and potential uses than is intended.

8. As reflected in the draft statement of policy on empowering consumers[1], we believe that a such regulatory database should focus on collating factual, objective regulatory information in one place, and should initially exclude subjective information, such as customer feedback and reviews. There are however some mixed views on the utility and benefit of such a database, and possible alternatives that could go some way to increasing the availability, and quality, of core regulatory information.[2]

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[1] LSB, 'Empowering consumers: draft statement of policy' (September 2021) <https://legalservicesboard.org.uk/wp-content/uploads/2021/09/Empowering-consumers-draft-statement-of-policy.pdf>

[2] Respondents to our Discussion Paper on Quality Indicators, for example, noted that a single digital register would be a useful tool for DCTs and review websites, while some cautioned against the extensive investment and resources that would be needed to make a register effective. LSB, 'Quality indicators discussion paper' (February 2021) < https://legalservicesboard.org.uk/wp-content/uploads/2021/02/Quality-Indicators-

9. At the most recent meeting of the Market Transparency Co-ordination and Oversight Group (MTCOG)[3], chaired by the LSB and attended by the regulatory bodies, and the Legal Services Consumers Panel, we proposed two next steps to MTCOG members, which were supported:

    - Establishing a Task and Finish Group to focus on the scope, design and implementation of a potential database. This Group will include a subset of MTCOG members, including LSB, and will report back to MTCOG.
    - Scoping and commissioning a proof-of-concept study, including a cost-benefit analysis, an exploration of the information that would be useful to consumers, and the practical considerations and resource requirements for implementation. The Task and Finish Group would help form the scope of any such study.

10. The general view is that working in a focused and timely way on the scope and design of a centralised database of regulatory information is important, and that the time is ripe for work to begin on this. It will be particularly important for the proof-of-concept study, and the Task and Finish Group, to identify the costs, benefits, and alternative mechanisms to delivering the same, or similar, benefits. Fundamentally, any proposed model will need to be clear on its purposes, the intended benefits, and designed in a way that ensures it is relevant now and in the future.

## Conclusion and next steps

11. Developing the scope, design and implementation of a centralised database of regulatory information requires detailed consideration of a series of challenges, such as:

    - **Defining the scope of core regulatory information** - We are currently consulting on a 'Empowering consumers: draft statement of policy' which sets out our proposals on the information that we believe consumers should have access to. We see a centralised regulatory database as one way of providing some of that information. At MTCOG, regulators noted that it will be important to identify what regulatory information is capable of being made available in the short term (i.e. information that is already collected and available in a suitable format), and information that may be available in the medium to longer-term (i.e. information that is not currently collected, or that is not accessible in a suitable format). We will define the potential scope through the Task and Finish Group and proof-of-concept study.
    - **Technical requirements** – We believe that any regulatory database should be open and accessible, but we need to understand the technical, and legal requirements to achieving this, such as the

Discussion-Paper.pdf > LSB 'Quality Indicators discussion paper: response document' (July 2021) <https://legalservicesboard.org.uk/wp-content/uploads/2021/07/QI-discussion-paper-response-document.pdf>

[3] The purpose of this Group is to monitor and oversee progress by the regulatory bodies on the issues identified by the CMA's 2020 report.

underpinning data architecture, data standards and GDPR considerations. We can learn from other sectors that have implemented similar solutions, such as health, and regulators will be well-placed to contribute their own expertise and experiences through the Task and Finish Group. The proof-of-concept study will be important in identifying the necessary technical requirements.

- **Cost-benefit analysis** - While we support the development of a centralised database of regulatory information, we accept that there may be alternatives that deliver similar benefits more cost-effectively. We need a cost-benefit analysis that quantifies, as much as possible, the benefits, the associated costs, and possible alternatives that could deliver the same, or similar benefits.

12. Our immediate focus will be on convening the Task and Finish Group, with a view to updating MTCOG at its meeting in December 2021. We will also begin to scope out the requirements for a proof-of-concept study and potential costs for such a study. Our initial view is that this study should include a detailed consideration of the technical and practical requirements for a centralised database of regulatory information, a cost-benefit analysis, and an identification of alternative mechanisms for delivering the same, or similar, benefits. We will ensure that regulators input into the scope of this study.

13. We will update Board on the progress on this work, including the outcomes of the scoping work with the Task and Finish Group, in early 2022.

| **Risks and mitigations** | |
|---|---|
| **Financial:** | There will be a cost associated with the proof-of-concept study, as this will involve commissioning an external expert/ experts to carry out this work. |
| **Legal:** | We will continue to engage support from the legal team as the project develops and address issues as appropriate. |
| **Comms and engagement:** | Engagement with the regulatory bodies will primarily be through the Task and Finish Group, and MTCOG. We will also engage with other stakeholders, such as innovators and consumer organisations, as the scope, design and potential implementation of a centralised database of regulatory information evolves. |
| **Equality and diversity:** | N/A |
| **Resource:** | FTE resource is accounted for in the technology and innovation project, with some support from the consumer empowerment project. |

| **Freedom of Information Act 2000 (FoI)** | | |
|---|---|---|
| **Para ref** | **FoI exemption and summary** | **Expires** |
| None | N/A | N/A |