LEGAL SERVICES BOARD

Meeting: Legal Services Board

Date: 22 March 2022

Item: Paper (22) 14

Title: Consumer Empowerment – Statement of Policy

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Status: Official

Purpose of the paper

1. This paper presents a final statement of policy on empowering consumers and a consultation response document and seeks approval for issue of the statement and for publication of the statement and response.

Recommendation(s)

2. The Board is invited to **approve** the final statement of policy and consultation response document for issue and publication and **delegate** to CE approval of final minor changes prior to publication.

Background

3. In April 2020, the Board agreed that, under Section 49 of the Legal Services Act, to issue a statement of policy to set expectations of the regulators relating to ensuring better information for consumers and improved engagement with the legal services market. It was proposed that this would cover transparency of information about price, quality, regulation and redress, as well as wider public legal education initiatives.

4. In March 2021, the Board agreed in principle to the CMA's recommendations from its 2020 review of its 2016 market study, namely that the LSB would coordinate, monitor and lead work by the regulators on issues of market transparency and empowering consumers. The Board reaffirmed its intention to prepare a statement of policy, reinforced by forging consensus with stakeholders, as a tool to put into effect various of the recommendations.

5. In July 2021, the Board approved a draft statement of policy to be shared with the regulators, and then issued for consultation. We ran a consultation from September to December 2021.

6. Our work contributes to the promotion of the regulatory objectives, in particular:

    - Protecting and promoting the public interest;
    - Improving access to justice;

- Protecting and promoting the interests of consumers;
- Promoting competition in the provision of legal services;
- Encouraging and independent, strong, diverse and effective legal profession; and
- Increasing public understanding of the citizen's legal rights and duties.

Statement of policy post-consultation

7. We received 21 responses to our consultation. We received responses from the regulatory bodies, approved regulators, consumer groups, representative bodies, and digital comparison tools. During the consultation we engaged with other stakeholders, including public bodies to develop ideas raised in our quality indicators discussion paper.

8. There was general support for the general expectations, principles and overall intention of the draft statement of policy. We received more detailed comments on the specific expectations set out in the draft statement. In light of the responses, we have made changes to the statement in the following substantive areas:

   a) We have removed expectations around ensuring provision of specified information about **Professional Indemnity Insurance (PII) cover**. PII is an area of live policy development and we plan to return to the matter in due course; and
   b) In line with a suggestion from the Legal Services Consumer Panel (LSCP), we have added a principle that **regulators are encouraged to test proposed transparency measures with consumers**, to ensure solutions are best suited to the needs of consumers.

9. We have made further drafting changes to the statement based on feedback from stakeholders, including to clarify and simplify the language of the statement.

10. In the consultation response document (Annex B), we set out our analysis of the submissions to the consultation, and our conclusions, including why we have made changes to the statement.

11. Prior to the Board meeting, we will discuss our revised statement with the CMA.

Implementation

12. We consider that our statement of policy will provide an effective, proportionate and targeted regulatory tool to drive progress by the regulatory bodies on issues relating to empowering consumers and improving their engagement with the legal services market.

13. The statement of policy is a document that the LSB must have regard to in exercising its functions, whether considering applications to approve changes to regulatory arrangements, conducting regulatory performance assessments, or considering any enforcement action. Therefore, in practice regulators will need to take steps to meet the expectations in the statement, so that we can be satisfied they are doing so when we undertake our functions. For example, regulators

might review the scope of their existing mandatory arrangements or determine what quality indicators would be suitable in their regulated area.

14. Upon publication, the statement will take immediate effect by placing the LSB's expectations within its policy framework. We expect that progress will be an iterative process, as regulators identify appropriate solutions through policy development and research, striving for continuous improvement.

15. The statement does though, in some cases, formalise recommendations made by the CMA several years ago in its 2016 review. Therefore, we expect to see a sense of pace and urgency in the regulators' activities following publication of the statement.

16. The LSB-chaired Market Transparency Co-ordination and Oversight Group (MTCOG) has now met four times, and we are pleased with the constructive discussions emerging from the group. Ongoing work that is relevant to the group includes:

    a) Several regulators are running a joint pilot scheme around quality indicators and DCTs, with an evaluation anticipated in the coming months;
    b) The BSB is leading collaborative discussions on PLE; and
    c) The LSB is leading a working group to scope a centralised database of regulatory information, following the CMA's recommendation to develop a 'single digital register'.

17. We will monitor the market using a set of high-level metrics against which we will evaluate progress against the strategy for the sector. Such metrics include levels of legal confidence, ease of shopping around and price dispersion.

18. Through MTCOG and the LSB's relationship management process, we will have a strong model of oversight of the regulators' progress and activity in the market.

Next steps

19. Subject to Board's approval, we will issue and publish the statement of policy and consultation response document in April.

20. The MTCOG will next meet in May, where discussion will include contextualisation and evaluation.

Risks and mitigations	
Financial:	N/A
Legal:	We are proposing new a statutory statement of policy. This carries with it an inherent risk of legal challenge if implemented. We have engaged with the legal team in preparing the statement.
Communications and engagement:	We will continue to engage with stakeholders across the sector following publication of the statement, including through the MTCOG.

Equality and diversity:	We have set out a new equality impact assessment in Annex B relating to both consumers and providers. The draft statement of policy refers to the LSB's objective of improving access to justice and encouraging an independent, strong, diverse and effective legal profession.
Resource:	N/A

Annexes

Annex A – Statement of policy on empowering consumers
Annex B – Statement of policy on empowering consumers: consultation response document

Freedom of Information Act 2000 (FoI)		
Para ref	**FoI exemption and summary**	**Expires**
Annexes A, B	S22 – future publication	N/A