

Meeting: Legal Services Board

Date: 8 June 2021

Item: Paper (21) 30

Title: Approach to data – technology and innovation project

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Status: Official

Purpose of the paper

1. This paper outlines our proposed approach in supporting more, and better quality, open data in the legal services sector. We propose to focus our activities on where we can have the most direct impact. This includes making better use of our own data, exploring the opportunities and challenges regulatory bodies face in making data more openly available, and considering how we can use our regulatory levers to effect change.

Recommendation

2. The Board is invited to:
 - **Discuss** our proposed approach to open data (paragraphs 7 to 9)
 - **Agree** on the next steps for the project (paragraph 10).

Background

3. We began our technology and innovation project in 2019, with our initial focus on building an evidence base to understand the range of issues relevant to regulating the use of technology in legal services. We distilled the key lessons from this first phase, and our priorities for 2021-24, in our report ‘Striking the balance: How legal services regulation can foster responsible technological innovation’ (published April 2021).
4. One priority for our technology and innovation work in 2021-24 is enabling the availability of more, and better, open data across the legal sector. Data has become an important asset for economies and for societies, with estimates that the size of the UK data economy has increased from €43.8 billion in 2013 to €89.7 billion in 2020. Data is also an important public policy priority, with the

government laying out how the value of data will be unlocked to drive growth in the National Data Strategy.

5. Data is essential to technological innovation. Innovators rely on good quality, accessible data to identify how technological solutions can overcome sector-wide challenges. It also helps legal professionals improve their services and allows policy makers to evaluate whether policy interventions are working as intended, and if further interventions are needed.
6. Data is also important for regulators, who rely on it to develop risk-based approaches. For example, regulators rely on good quality data to understand how the market is operating, and whether regulatory interventions are needed. More widely, data allows regulators to quantify whether, and how, the regulatory objectives are being met. In this way, we see good quality data as essential component of effective regulation, and an enabler to fostering responsible technological innovation that widens access to legal services.

Our Role in an Open Data Ecosystem

7. The breadth, and depth, of the challenge to enabling an open data ecosystem in the legal sector is vast and relies on multiple actors playing their part. Our proposed approach is to focus our activities on where we can have a direct influence, namely:
 - How we, as oversight regulator, can lead by example in making more data openly available, as we have done with our survey data. In a practical sense, this will involve mapping our own data assets so that we can identify opportunities to create new data assets and make them openly available
 - How legal services regulators can, and should, use data. In the short-term, this will involve us setting-up a series of workshops with regulators and other stakeholders to understand how they use data, and to identify the opportunities, and challenges, in regulators making more data openly available. We will also explore whether, and how, data trusts can support the stewarding of open data by regulators through dedicated research. For example, a single digital register is a data asset that does not yet exist within the sector, and one that legal regulators could work together to create. This could benefit both innovators and consumers, but there are a series of policy questions around a single digital register that need to be resolved (see Digital Registers paper).
8. More broadly, we will continue to promote the benefits of an open data ecosystem. This includes building relationships across the wider justice system and contributing to public debate and discussions, where relevant. For example, there are several initiatives already underway that can help to increase the availability, and quality, of data in the legal sector, such as the recently announced partnership project between the National Archives and MoJ to

explore the creation of a single repository of court judgments, and the establishment of the HMCTS Data Access Panel to enable academics to access HMCTS data for research purposes.

9. The scale of the challenge to create an open-by-default data ecosystem cannot be overcome through collaboration and joint working alone. Subject to Board approval, we will explore how we can, and should, use our regulatory levers to support the creation of an open-by-default data ecosystem, such as by setting clear expectations of how regulatory bodies should use data and what data should be openly available.

Next steps

10. Subject to Board approval, our immediate next steps will be to map the LSB's data assets so that we can identify whether, and how, we can make better use of them, and with a view to updating Board later in the year.

Annexes

Annex A – Data scope

Risks and mitigations	
Financial:	N/A
Legal:	N/A
Comms and engagement:	This paper lays out how we, as oversight regulator, can contribute to an open data ecosystem in the legal sector. Joint working and collaboration will be an important part of creating that ecosystem.
Equality and diversity:	Our work on equality and diversity includes ensuring that regulators focus on interventions that improve diversity, with evaluation essential part of that. Policy work relating to data can help generate a better, and consistent understanding, of equality and diversity across the sector.
Resource:	Our work on data is factored into resourcing for the technology and innovation project.

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
None		