

LSB assessment of market transparency action plan

Master of the Faculties

Date action plan was published: 29 June 2017

The action plan is published [here](#).

LSB assessment: SUFFICIENT.

1. The Master of the Faculties' operating context is a key factor in our assessment. The Master regulates 775 individual notaries, most of whom are dually qualified and also work in entities regulated by other frontline regulators. The action plan notes that notarial activities are almost exclusively legal services which are provided to consumers who are engaged in transactions in jurisdictions outside of England and Wales. By contrast the CMA's recommendations were focused primarily on the domestic retail market. Therefore, we are satisfied that it is appropriate for the Master of the Faculties to take more limited action compared to some of the other legal services regulators.
2. In this context, it is encouraging that the Master of the Faculties intends to continue to engage with the work to improve transparency. In particular, we welcome the commitment to ongoing collaboration with the other regulators on joint initiatives, such as the development of Legal Choices and exploring the feasibility of creating a single digital register.
3. We highlight the following issues in relation to the action plan:
 - We encourage the Master of the Faculties to seek to understand current charging structures and existing levels of price transparency among notaries. The web sweeps carried out by some other regulators show how this can be achieved at little financial cost. Such a step would help the Master of the Faculties to decide whether any regulatory measures are necessary and if so where these are best targeted.

- We appreciate that the cover paper to the action plan makes the distinction between transparency pre-engagement and on engagement, but we consider that the action plan itself is less clear. We understand that the current practice rules 8 and 18 (referring to complaints and fees) relate to transparency on engagement, rather than before. As such these rules are not designed to help consumers shop around prior to engaging a notary. We would ask the Master of the Faculties to consider further how information can be made available to consumers proportionately prior to the engagement phase.
- We have clarified with the Master of the Faculties that he plans to amend both his Notaries Practice Rules 2014 (as amended) (which is compulsory for notaries to observe) and his code of practice (which is guidance as to best practice, which notaries are required to have regard to).
- Our suggested template asked regulators to provide information against a number of areas. The action plan does not include consumer testing of transparency measures. We recognise this is challenging for a small regulator. However, we encourage the Master of the Faculties to work with other regulators if possible or as a minimum seek to learn lessons from research carried out by others. As we set out in our document explaining how we will assess action plans, if this is not contemplated, we would ask the Master of the Faculties to give reasons why action is not planned and explain the governance process used to reach this decision.
- We encourage the Master of the Faculties to consider the LSCP principles on the design of information remedies in relation to his transparency proposals. These principles highlight areas to be aware of when developing information remedies which are helpful to consumers.
- We are pleased that the Master of the Faculties plans to encourage notaries and their clients to take part in feedback platforms, but the action plan does not make clear how this will be achieved. We would ask for more information on this in future documents.
- The action plan does not provide information on whether there is any plan to review information published about complaints and disciplinary matters. In particular, the Master of the Faculties should consider whether to publish first-tier complaints data. As set out above, if this is not contemplated, we would ask the Master of the Faculties to give reasons why action is not planned and explain the governance process used to reach this decision

- We query whether it might be feasible for feedback platforms to access the same real time feed that the E-Justice portal receives. If not, it would be helpful if the underlying information that is currently made available to feedback platforms could be updated more frequently than once a year.
- The action plan does not propose review dates against any of the key milestones so we will need to agree these with the Master of the Faculties.