

# Business Plan 2019/20

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## Consultation response document

April 2019

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## Acronyms used

BACFI – Bar Association for Commerce, Finance and Industry

BSB – Bar Standards Board

CILEx – Chartered Institute of Legal Executives

CIPA – Chartered Institute of Patent Attorneys

CLC – Council for Licensed Conveyancers

CMA – Competition and Markets Authority

FATF – Financial Action Task Force

ICAEW – Institute of Chartered Accountants in England and Wales

IGR – Internal Governance Rules

LASPO – Legal Aid Sentencing and Punishment of Offenders Act

LSB – Legal Services Board

LSCP – Legal Services Consumer Panel

NDA – Non Disclosure Agreements

OPBAS – Office for Professional Body Anti-Money Laundering Supervision

PLE – Public Legal Education

SQE – Solicitors Qualifying Examination

SRA – Solicitors Regulation Authority

## Introduction

1. On 5 December 2018, we published a consultation on our draft Business Plan for 2019/20. A press release accompanied the publication and the documents were sent by email to regulators and representative bodies, consumer and citizen groups, professional groups, other regulators, the judiciary and a variety of other interested parties. The consultation closed on 27 February 2019.
2. We held a workshop with stakeholders during the consultation period. Similar themes emerged in the consultation responses and during the workshop. As well as taking into account written responses (see below), we have included in our consideration the views of those who attended our workshop but did not submit a written response. We are grateful for the contributions received.
3. This paper summarises key points from the responses received to the consultation, the LSB's consideration of those points and the material changes made to the Business Plan since consultation.

## The responses

4. We asked for comments on all aspects of our draft business plan and we received 17 responses to our consultation. The overall tenor of responses was supportive of the outcomes the LSB is looking to deliver for consumers, the public and the profession. There was a good degree of support for almost all aspects of the work proposed in the Business Plan.
5. All of the respondents provided views on the three five-year policy objectives and on a number of projects in the draft business plan.
6. Where respondents consented to their responses being made public, these have been published on our website alongside this consultation response document. Annex A lists the consultation respondents and the organisations represented at the workshop.
7. We are grateful to each organisation that took time to consider our proposals and to respond or to attend our workshop. All of the points made have been considered carefully and taken into account as we have finalised our Business Plan. Our finalised Business Plan for 2019/20 document is now available on our website.
8. In considering the responses, we have taken into account that the number we received is relatively small and that they are primarily from bodies who either have a role in representing the profession or who are subject to the LSB's oversight. Contributions from outside this group were limited.

## Summary of key changes made

9. The responses we received to our consultation, alongside our own internal analysis have informed the development our final Business Plan. The significant changes are:

- We have added a new project to take forward the findings from our end-to-end review of the enforcement processes of the Solicitors Regulation Authority (SRA) and Bar Standards Board (BSB) that we published in March 2019
- We have added an activity schedule to the business plan giving an indication of timings for key milestones, which we will update on our website quarterly, in particular as milestones are planned in for the new areas of work we will be commencing this year.

## The LSB's external operating environment

### (Question 1)

#### General comments

10. Most respondents agreed with the market trends or drivers for change identified in the draft Business Plan. Some respondents identified additional possible trends or drivers. The Bar Council mentioned the LSB's proposed reforms to the Internal Governance Rules (IGRs) as a development that would have implications for regulators. Cardiff and District Law Society suggested that we make reference to apprenticeships. CILEx and LawWorks both mentioned the outcome of the post-implementation review into part one of the Legal Aid Sentencing and Punishment of Offenders Act (LASPO). CILEx also highlighted proposals to reform the small claims limit, particularly in personal injury, and issues concerning legal expenses insurance. CILEx Regulation highlighted how online services are contributing to the demise of high street retailers. CIPA suggested that the impact of the UK leaving the European Union should have more prominence in our Business Plan. LawWorks identified how the labour market is changing due to regulatory reforms and the impact of technology.
11. The Legal Ombudsman noted the increased appetite within the accountancy field to provide legal services. Nottingham Law School said that developments in the education and higher education sector were relevant to our proposed work on public legal education (PLE) and the careers and diversity of lawyers. Rliance asked about the status of proposals for reform of the Legal Services Act. The SRA suggested that we also consider the potential impact of the Financial Action Task Force (FATF) recent assessment of the UK's actions on tackling money laundering and terrorist finance and the role of the Office for Professional Body Anti-Money Laundering Supervision (OPBAS). The SRA also pointed to changes resulting from the Solicitors Disciplinary Tribunal's consultation on changes to its rules, including the potential for consistency on the standard of proof used across the sector.
12. The Law Society argued that the number and sheer variety of developments, including regulatory reforms, suggested the need for LSB to exert a stabilising influence.
13. The Legal Services Consumer Panel (LSCP) felt we had placed undue emphasis on the positive element of its tracker survey findings that consumer satisfaction is at its highest ever level when other findings from its research showed the market is still not responding to consumers' needs. It also suggested that we draw on insight from advisory groups and charities which provides intelligence on legal services issues.

## Response

14. We are grateful for the additional suggestions of market trends and drivers for change and these will inform the delivery of our Business Plan. These include developments which occurred after our consultation was published, including the FATF assessment and the findings of the LASPO post-implementation review. We will continue to engage with OPBAS and look forward to contributing to the government's new legal support strategy.
15. In response to the Law Society's point, we consider that regulatory reforms that reduce the burden of regulation and offer more flexibility will help solicitors and firms adapt to the various external drivers and trends that we and the respondents to our consultation have identified. As explained in the LSB's consultation on its three year strategy and 2018/19 business plan<sup>1</sup>, we consider that acting as an agent for change is a key part of our role. Our role as oversight regulator means that we are uniquely well-placed to promote the regulatory objectives through sharing our experience and evidence of how things could change for the better.
16. In relation to the LSCP's submission, in our business plan consultation and other work, we to have endeavoured to provide a balanced account of the sector's strengths and where more work needs to be done. We use data from a wide range of sources as evidence to underpin our work, including from the advice sector.

## The LSB's proposed five-year policy objectives

### (Question 2)

#### General comments

17. Overall there was wide support for the proposed five-year policy objectives, both in responses to our consultation document and at our consultation event. Some respondents sought clarity on how the objectives related to our statutory regulatory objectives and strategic objectives, and called for more on detail on work streams and timing. The Junior Lawyers Division of the Law Society suggested that we consider aligning the timescale for our strategic and policy objectives.

## Response

18. We are grateful for the support for our proposed five-year policy objectives and how we intend to approach them. We have deliberately chosen ambitious objectives that can only be achieved over a longer period than our usual three-year strategic planning cycle. The policy objectives will serve as important markers of success in the delivery of our strategic objectives. We think it is likely that these will remain live issues over the next strategic period, however we will review these issues when we develop the 2021-23 strategy.

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[https://www.legalservicesboard.org.uk/what\\_we\\_do/consultations/open/pdf/2017/Strategy\\_and\\_business\\_plan\\_consultation\\_paper.pdf](https://www.legalservicesboard.org.uk/what_we_do/consultations/open/pdf/2017/Strategy_and_business_plan_consultation_paper.pdf)

19. In response to concerns that we are prioritising some regulatory objectives over others, the Legal Services Act explicitly does not place the objectives in a hierarchy. The LSB is required by section 3 of the Legal Services Act to act, so far as reasonably practicable, in a way which is compatible with (all) the regulatory objectives and which the Board considers most appropriate for meeting those objectives. However, the purpose of business planning is to seek to maximise the effectiveness of an organisation by prioritising resources among the many different areas on which an organisation could focus, taking into account the internal and external environment. We will continue to meet our statutory obligations in relation to the regulatory objectives and, following consultation, we are confident that our chosen areas of work are consistent with those obligations and the need to use our resources effectively.
20. Some respondents used the consultation as an opportunity to raise points they already made elsewhere on specific issues, such as the IGRs, changes to the SRA Handbook and the Solicitors Qualifying Examination (SQE). Where these issues relate to rule change applications these issues have been dealt with in the relevant decision notices. Our response following our recent consultation on revised IGR and guidance will be published in due course.
21. The final business plan includes initial thinking on timings for all of our projects where available and we will update the latest position on our website quarterly, including as project plans for the initial work on the five year objectives are developed.

## **Policy objective 1: The regulators have appropriate frameworks for continuing assurance of professional competence throughout the careers of the people they regulate**

### **General comments**

22. There were mixed views on this theme. The Law Society said it would welcome a thematic review and the LSCP saw it as being at the heart of effective regulation. However, the Bar Council considered no additional assurance mechanisms were needed for barristers at this time and ICAEW said it was unclear on what basis the LSB had set this as a priority. CILEx said the consultation had not sufficiently justified the work and urged that proposals be incorporated within existing mechanisms in order not to create additional compliance streams for providers. LawWorks highlighted the important role that pro bono can play in the development of practical legal skills, and its value throughout the career pathways of professionals. Nottingham Law School suggested that the issue should be revisited by beginning with data collected for the Legal Education and Training Review.
23. There was limited input on whether the LSB should have a role in addressing concerns about non-disclosure agreements (NDAs). Cardiff and District Law Society advised caution before intervening, but the SRA noted that doing work on this issue would make a positive contribution to equalities issues. The Law Society raised sexual harassment and abuse more widely and suggested the LSB should encourage frontline regulators to direct their attention to this important matter, raising specific areas where it felt that plans needed to be developed and implemented.

## Response

24. We continue to believe that it is necessary and timely for us to look at the issue of ongoing competence from first principles as this objective is a critical ingredient of consumer protection and underpins the administration of justice. Concerns were raised about the absence of evidence of harm to justify the work. As we noted in our consultation document, it is difficult for consumers to assess the technical quality of the legal advice they received. A key part of our initial work in this area will therefore be to explore what evidence is available on problems relating to ongoing competence to help us prioritise our further work. We have not yet reached any conclusions on whether further intervention is necessary.
25. As set out in the consultation response document, we share public concern about NDAs and their impact on trust in the profession. We will continue to closely monitor developments, which include government proposals announced in March 2019 to tighten the rules around NDAs and confidentiality clauses, and the Women and Equalities Committee's inquiry on NDAs in discrimination cases. We will also continue to engage with the frontline regulators through our regulatory performance framework in relation to their response to these issues. Concern about NDAs is one of a number of topics that illuminate wider issues of trust, professional ethics and diversity in the legal services sector (and in other sectors). We will explore concern about NDAs as part of our workstreams on ongoing competence, enforcement and diversity.

## Policy objective 2: The LSB is perceived as being at the forefront of enhancing public legal education

### General comments

26. There was wide support for this objective, but a common theme was that a lot of organisations already work in this area and so the LSB must first understand the landscape and assess gaps before deciding where to focus its resources. A number of respondents pointed to the Solicitor General's PLE Committee and suggested that the vision launched by this group in October 2018 could provide a framework for our work. CILEx noted that PLE initiatives often rely on pro bono efforts by lawyers and that outcomes should avoid placing additional burdens on them. CIPA pointed out that small businesses could also benefit from similar activities. The Law Society suggested that we focus on the most vulnerable in society and contribute to making the case for strengthening and retaining legal aid. The SRA was interested in the role that behavioural insights can play in helping people to find the help they need.
27. The LSCP felt that we should focus on market transparency rather than subsume this within a wider PLE strand. CILEx Regulation also underlined the importance of consumers' ability to access quality legal services, including increasing understanding about the different levels of consumer protection available between regulated and unregulated providers. By contrast, LawWorks pointed to a perception that the related regulatory objective had not been sufficiently prioritised in the past and that LSB had narrowly focused on market information to consumers until now. LawWorks also felt that a proactive lead by the LSB could potentially challenge a narrative where people asserting their rights in the law is seen negatively as a 'compensation culture'.



28. ICAEW highlighted the apparent contradiction between our planned focus on this issue now and comments we have made previously<sup>2</sup> about limitations on the LSB's ability to make a practical difference given the scope of our statutory powers. It also suggested that the objective should be expanded to ensure that LSB is at the forefront of professional legal education in addition to PLE. It also called on us to take a bigger, more proactive role to counteract the growth of 'advice deserts'. The Legal Ombudsman wanted to see a more overt reference to consumer redress in this work.
29. Cardiff and District Law Society highlighted concerns about the standard of the Legal Choices website run by the regulators.

## **Response**

30. We welcome the support for this work. As we highlighted in the consultation document, we recognise that a wide range of organisations are active in this area. We have met the Solicitor General and his team to understand how we can best contribute to this agenda and we have now joined his PLE Committee. We will engage further with others before finalising our plans. We agree that the PLE Committee's vision statement published in October 2018 provides a useful framework. The first principle relates to the evidence base. We have included questions in our current legal needs survey that will provide some insight on existing levels of legal capability and we will ensure that the survey findings relating to PLE are highlighted and shared.
31. We will maintain our focus on measures by the regulators to improve transparency for consumers. Since the regulators have only recently introduced new requirements or guidance on transparency the next step is to let the changes bed in and then evaluate their impact. In our assessment of the regulators' progress in this area published in September 2018, we identified quality metrics as an area where further work was needed and we look forward to making progress with the regulators and the LSCP.
32. In response to ICAEW, we continue to note the factors that frame the LSB's work on PLE, as set out in our regulatory objectives document. Others may be better placed to undertake large scale work on PLE directly, for example by developing and delivering educational materials. However, given our regulatory objective to increase public understanding of citizens' legal rights and duties and the unique position we occupy as oversight regulator, we are confident that we can make a meaningful contribution, for example through our research, mobilising regulatory effort and by working with partners. We disagree that we should expand the objective to include professional legal education. The two areas are distinct and combining them would dilute our focus on PLE. Some regulators are making major changes to their legal education regulatory arrangements, which we consider through our rule change approval processes.
33. In relation to consumer redress, we welcome recent work by the Legal Ombudsman in this area. In addition, the measures put in place by the regulators in response to the CMA market study are designed to improve signposting to redress, so our work with the regulators on transparency will also support better awareness of the availability of redress. We also await the Consumer White Paper expected later this year.

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<sup>2</sup> [https://www.legalservicesboard.org.uk/about\\_us/Regulatory\\_Objectives.pdf](https://www.legalservicesboard.org.uk/about_us/Regulatory_Objectives.pdf)

## **Policy objective 3: Access to legal services is increased through the promotion of responsible technological innovation that carries public trust**

### **General comments**

34. There was wide support for this policy objective. Respondents welcomed the research that we published in November and welcomed the focus on the ethical implications of developments in technology. CILEx Regulation highlighted the risk of a lack of regulatory oversight of legal technology delivered by unregulated providers. It also acknowledged the need for regulators to develop their knowledge and skills and asked whether a coordinated approach would help. LawWorks and Nottingham Law School highlighted issues relating to digital exclusion, stressing that technology was not a silver bullet that could fully alleviate access to justice problems. More broadly, some respondents cautioned us that our work on technology (and PLE) should not be allowed to be used to justify reductions in legal aid.
35. Cardiff and District Law Society expressed interest in regulatory sandboxes and stressed the importance of raising awareness about their existence and the benefits of using them. The Law Society stressed the need for transparency and maintaining level playing fields, while suggesting that waivers that might allow innovative ideas to be tested but that also put consumer protections at risk should be treated with extreme caution.

### **Response**

36. We welcome the wide support for this policy objective including our planned focus on the ethical dimensions of developments in technology. We will take account of issues relating to digital exclusion as we undertake this work. We agree that, while some unmet demand for legal services may be able to be addressed through PLE and technology developments, there will remain some consumers who will require financial support to access the legal services they need.

## **The LSB's proposed Business Plan and work for 2019/20**

### **(Question 3)**

## **Proposed projects under Strategic Objective 1 (promoting the public interest through ensuring independent, effective and proportionate regulation)**

### **Regulatory performance**

37. The Law Society requested that we increase the frequency, scope and capacity of our assessments as part of our regulatory performance role. A call for regulators to make greater use of research in the development and evaluation of policy decisions was a unifying thread running throughout its response.

## **Response**

38. In our consultation response on our three year strategy and business plan we committed to review the need for impact assessments during the term of the strategy. We plan to carry out a wholesale review of the materials and processes we have for statutory decisions at the next practical opportunity. We intend to begin this review in the 2019/20 business plan year, to include specific consideration of our expectations regarding evidence and assessment of impact.

## **Internal Governance Rules review outcomes**

39. Some respondents made comments on the IGR review which were also raised in their responses to our consultation on this issue.

## **Response**

40. We will respond to comments in the consultation response document on this issue.

## **Review of Practising Certificate Fee approval process, including targeted review of non-regulatory permitted purposes**

41. There were no objections to the proposed review. The Law Society said it was in favour of a fair and reasonable review of the PCF approval process and the targeted review of non-regulatory permitted purposes, especially if it can provide clarity on how various activities ought to be categorised. The Bar Council emphasised the importance of non-regulatory permitted purposes funding to the delivery of activities in the public interest, such as law reform. CILEx said it would welcome discussion about how change can be achieved in a manageable and practical way that accommodates the different arrangements among the regulators. CIPA suggested that we examine the timetable used by the regulatory body for consulting with the regulated community and urged us to ensure our review is joined up with the new IGRs so approved regulators are not inhibited in their ability to seek to influence regulatory bodies' plans.

## **Response**

42. We are grateful for the support for this work. We have already made progress on our initial internal review of our PCF application process and introduced a new proforma for PCF applications. We plan to begin the targeted review of non-regulatory permitted purposes in the second half of the business plan year. This timing should help to balance the demands on key resources within approved regulators and regulatory bodies that are already deployed on our IGR review. In undertaking this work, we will take into account that the public interest can be enhanced by the professional bodies' activities around law reform, human rights and the other non-regulatory permitted purposes.

## **Proposed projects under Strategic Objective 2 (making it easier for all consumers to access the services they need and get redress)**

### **Increasing consumer transparency**

43. The Bar Council was not convinced that a single digital register was necessary. The Law Society asked that in the longer term we consider conducting or coordinating research across the sector to assess the impact of reforms following the Competition and Markets Authority (CMA) legal services market study in 2016. The Legal Ombudsman said it was interested to see the outcome of voluntary approaches to consumer transparency rules, and would be happy to work with us on ensuring that the consumer experience is consistent across the professions. The LSCP would have liked a focused project on transparency, especially around quality indicators.

### **Response**

44. In our assessment of the regulators' progress in implementing the CMA market study recommendations, we identified quality indicators as an area where further work was collectively needed. We were grateful to the LSCP for organising a stakeholder workshop last year on this topic and welcome its plans for a follow up event. The Remedies Programme Implementation Group has started to consider possible coordinated research on the impact of the changes. We are actively tracking a series of indicators, which we will report on in the market evaluation (see paragraph 49). We will also consider updating our research on the prices of common legal services.

### **Individual legal needs survey**

45. There was wide support for this work. CIPA asked us to broaden the scope of the research to look at the needs of micro and small businesses.

### **Response**

46. We carry out a separate periodic survey on micro and small businesses, which is published on our website.<sup>3</sup>

## **Proposed projects under Strategic Objective 3 (increasing innovation, growth and the diversity of services and providers)**

### **Responding to the regulatory consequences of EU exit**

47. CIPA felt that the work required to ensure a smooth EU exit for the legal sector should feature more prominently in the business plan and noted different consequences for each of the regulated professions. CILEx said that LSB would have an important role to play in maintaining a level playing field as the rules around access to various markets change over time. It asked for the LSB's support to ensure that Chartered Legal Executives are properly recognised as lawyers alongside solicitors and barristers in future trade agreements. The Law Society stressed that the risks and

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<sup>3</sup> <https://research.legalservicesboard.org.uk/news/latest-research-18/>

uncertainties caused by Brexit should be managed before a far-reaching review of regulation is implemented. It argued that a positive international perception of the England and Wales legal framework is a factor in the attractiveness of the jurisdiction as a place to do business. Further, it called on regulators to be prepared to support mutual recognition of qualifications in order to keep overseas markets open to English and Welsh firms.

## **Response**

48. At the time of writing, negotiations relating to EU exit are ongoing. We will devote the resource necessary to ensuring that we play our part in facilitating as smooth a transition as possible, in particular through our role to approve changes to regulatory arrangements that result from EU exit. We welcome the findings of United Nations task force which praised the Legal Services Act as "an inspirational model" due to its flexibility to accommodate a variety of business models.<sup>4</sup> This underlines that a fit-for-purpose regulatory framework, which allows new ways of working and reductions in unnecessary regulatory burdens, is an important part of maintaining the international standing and competitiveness of the legal sector; this will be an ongoing focus through our outreach and other work.

## **Market evaluation report**

49. The Law Society noted the quality of datasets provided by regulators that LSB relies on for our market evaluation report is variable and urged us to give greater thought to the steps we could take to standardise at least core datasets across the professions.

## **Response**

50. We have already requested datasets from the regulators, which we will analyse for our market evaluation report. While these datasets may not be fully consistent or comprehensive across the regulators, they are an important and useful source of information alongside all the other data and analysis that we will look at as part of our market evaluation. We will review the utility of these datasets from the regulators at the conclusion of the current market evaluation, bearing in mind the need to be proportionate in our requests to the regulators for more or different data in future.

## **Statutory duties**

51. There were no comments on this work stream.

## **Response**

52. N/A.

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<sup>4</sup> <https://www.justice.sdg16.plus/>

## Ideas for further work

53. Cardiff and District Law Society requested a stronger focus on how consumers and solicitors will be protected before the SRA Handbook reforms come into effect.
54. CILEx called on the LSB and Financial Conduct Authority to work jointly on maintaining fair competition in the legal expenses insurance market. It also highlighted regulatory issues identified by the Civil Justice Council in its 2017 report on this issue. CILEx also hoped we would engage on reforms to the small claims limit and make representations to HM Treasury on legal aid during its departmental spending review.
55. The Junior Law Division of the Law Society said it would welcome a work stream which considers the role of regulators in protecting members of the profession – particularly at the junior end – who are working in hostile environments or who blow the whistle, in light of recent high-profile cases where these issues were prominent. Further, it would welcome a proactive monitoring of regulators’ work on diversity.
56. LawWorks said it would like to see greater attention given to regulatory issues which can affect pro bono work, including the engagement of in-house lawyers. It felt that sometimes regulatory compliance can have a chilling effect in respect of lawyers getting involved in new pro bono initiatives, although it welcomed a recent position statement by the SRA on volunteering. More broadly, it suggested that policy uncertainties remain in respect of ‘special bodies’ and called on us to keep on top of the issues and challenges facing this sector and respond proactively.
57. The Law Society raised concerns about evidence and accountability in regulatory reform in the context of our role to consider rule change applications. It also called on us to follow up on commitments made by frontline regulators in their applications to carry out evaluations of the effects of rule changes. Further, the Law Society urged us to use our oversight powers to encourage frontline regulators to direct their attention to issues relating to harassment in the workplace and made specific suggestions (see also paragraph 25).

## Response

58. Details of how consumers and the profession will be protected as the SRA Handbook reforms come into effect are set out in the relevant SRA application and LSB decision.<sup>5</sup> When we approved the SRA’s application we obtained assurances about its plans to evaluate the economic, and equality, diversity and inclusion impacts, of the changes.
59. We note the potential for legal expenses insurance to help address unmet legal need, alongside other ‘pay in advance’ arrangements such as subscription services. However, we are not convinced this should be a priority for us at present given the likely higher impact we can make through our other proposed work. We do not have any evidence to contribute to the debate on reform of the small claims limit, which is a matter for government to decide.

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<sup>5</sup> [https://www.legalservicesboard.org.uk/what\\_we\\_do/regulation/applications.htm#2018](https://www.legalservicesboard.org.uk/what_we_do/regulation/applications.htm#2018)

60. We are grateful to LawWorks for bringing regulatory issues relating to pro bono work to our attention. The LSB supports pro bono work and will engage with them and other stakeholders on these issues where it can assist.
61. We already follow up on commitments made by the frontline regulators to evaluate the effects of rule changes, and will continue to do so.
62. In relation to the matters raised by the Junior Lawyers Division, we are currently considering a rule change application by the SRA which aims to provide clarity on reporting of serious breaches of regulatory arrangements, and ensure those intending to or making such reports are not subject to detrimental treatment. We will also consider this in our enforcement work stream (see paragraph 64). More widely, please see paragraph 25 on NDAs and paragraphs 68 to 73 on equalities issues.
63. In relation to the Law Society's concerns about the evidence base for regulatory reforms, please see paragraph 38 on our planned review of our statutory processes.

### **New project - enforcement**

64. During 2018/19 we completed an end to end review on the enforcement processes of the BSB and SRA. We published the report on this process in March 2019.<sup>6</sup> In the published report, we highlighted three strategic priorities for us on our oversight of regulators' enforcement work for the coming years: timeliness of enforcement processes; effective and consistent use of interim sanctions; and assurance of the quality of enforcement decisions by regulatory bodies. We also said we would engage with regulatory bodies outside of the legal sector, for example the medical and financial services sector, to identify any developments in regulatory enforcement that we can learn from and where appropriate adopt. We plan to progress this as a package of work during 2019/20.

## **Opportunities for joint working with the LSB**

### **(Question 4)**

#### **General comments**

65. Many respondents made generalised comments welcoming collaboration. CILEx offered the services of its virtual Specialist Reference Groups (SRGs) of members.
66. Cardiff and District Law Society suggested that we seek to educate the profession on our role to approve rule change applications through joint working with local law societies. CILEx Regulation identified four specific areas: technology, unregulated providers, unmet legal need and regulatory performance. ICAEW offered to share insights on Brexit preparations acquired in relation to other professional services. LawWorks highlighted opportunities for participation in events and the facilitation of engagement with the pro bono sectors. The Law Society identified five specific areas: the PCF review, legal needs survey, EU exit, market evaluation exercise and ongoing

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<sup>6</sup> [https://www.legalservicesboard.org.uk/Projects/pdf/2019/Enforcement\\_report\\_Final.pdf](https://www.legalservicesboard.org.uk/Projects/pdf/2019/Enforcement_report_Final.pdf)

competence. The Legal Ombudsman indicated it would like to explore contributing to our work on raising standards of service delivery in the sector. Nottingham Law School said it would be happy to work with us on ongoing competence and PLE. Riliance said it was able to offer insights from working at the coalface, for example in relation to market transparency, competency, anti-money laundering and regulation. The SRA particularly looked forward to working together to implement the revised IGRs.

## **Response**

67. We are committed to working openly and collaboratively on our policy development and research activity. We are grateful for specific expressions of interest and offers of support, which we will follow up directly with the organisations concerned.

## **Potential equality issues arising from the proposed Business Plan (Question 5)**

### **General comments**

68. Cardiff and District Law Society emphasised the importance of regulators having regard for the divergence of the law applicable to Wales and legal requirements relating to the Welsh language, including in relation to the SQE. ICAEW felt it was not clear from the business plan how our proposed initiatives affect different types of providers, particularly relating to proportionality. LawWorks wanted to see a more detailed discussion on wider aspects of the equality agenda, such as social mobility and barriers to minority groups, the findings of the Lammy Review into criminal justice, gender equality and issues of health and wellbeing in the workplace. The Law Society highlighted the impact of frequent or substantial regulatory changes on small firms (which could therefore have a disproportionate impact on BAME practitioners) and made some detailed observations about the SRA's SQE proposals. The Legal Ombudsman highlighted equality dimensions of our policy objectives on technology (see paragraphs 34 to 36) and PLE (see paragraphs 26 to 33). Riliance also focused on technology, highlighting implications for vulnerable consumers and small firms.
69. The SRA highlighted a series of components of our business plan where it felt equalities issues were relevant. These included our regulatory performance framework, additional costs on registrants arising from OPBAS, ongoing competence, NDAs and the five-year policy objectives on PLE and technology. The SRA highlighted the potential positive equalities impacts in some of these areas.
70. CIPA was disappointed that the business plan was silent on our role in supporting approved regulators to address issues relating to equality, diversity and inclusion, and that it did not address our own approach to these issues as an employer.

## **Response**

71. We are grateful for comments and suggestions in this area, which we will factor into our work. In January 2019, we published a summary report on the regulators' progress against the four diversity outcomes introduced by the LSB in February 2017. The report sets out our expectations for each of the regulators in 2019 and we will continue



to monitor developments. As a demonstration of our own commitment to encouraging a diverse workforce in the sector, the report also includes a self-assessment of the LSB against these outcomes.

72. The LSB attaches great importance to understanding the distinctive needs of consumers, citizens and the profession in Wales and aims to engage in ways that take these needs into account. Recently we provided written and oral evidence to the Commission on Justice in Wales and held a board meeting and stakeholder event in Cardiff. We meet our obligations under the Welsh Language Act 1993, including by producing an annual report on our action plan under this scheme.
73. The arrangements for the SQE are a matter for the SRA, but we will assess their proposals through our statutory decision-making processes.

## **Annex A - Consultation respondents and workshop attendees**

### **Organisations represented at the Strategy and Business Plan consultation workshop**

Bar Council

Bar Standards Board

Chartered Institute of Legal Executives

CILEx Regulation

Law for Life

Legal Ombudsman

Legal Services Consumer Panel

Ministry of Justice

Riliance

Society of Will Writers

Solicitors Disciplinary Tribunal

Solicitors Regulation Authority

The Law Society

### **Consultation respondents**

Bar Association for Commerce, Finance and Industry

Bar Council

Cardiff and District Law Society

Chartered Institute of Patent Attorneys

Chartered Institute of Legal Executives

CILEx Regulation

Council for Licensed Conveyancers

Institute of Chartered Accountants in England and Wales

Junior Lawyers Division of the Law Society

Law Society

LawWorks

Legal Ombudsman

Legal Services Consumer Panel

Nottingham Law School

Riliance

Solicitors Regulation Authority

One member of the public