

2020-21 Business Plan

Legal Services Board

February 2020

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Introduction

1. The [Solicitors Regulation Authority \(SRA\)](#) is the regulator of solicitors and law firms in England and Wales. We work to protect members of the public and support the rule of law and the administration of justice. We do this by overseeing all education and training requirements necessary to practise as a solicitor, licensing individuals and firms to practise, setting the standards of the profession and regulating and enforcing compliance against these standards. We are the largest regulator of legal services in England and Wales, covering around 80 percent of the regulated market. We oversee some 199,500 solicitors and more than 10,300 law firms.
2. We welcome the opportunity to respond to your consultation on the LSB's draft Business Plan 2020/21.

Summary

3. We broadly agree with your analysis of changes in the operating environment over the last year, including the market context, political developments and broader regulatory and market developments. These are very much in line with those that informed our own current Business Plan (2019-20)¹ and fed into the horizon scanning that helped shape our draft Corporate Strategy (2020-23)².
4. We see clarity about the roles the regulators, the Legal Services Board and the professional bodies play as key to making a difference for the public and the profession. As we all develop and look to the future, the increasing focus on the significant and shared challenges facing the legal services sector presents both an opportunity and a risk.
5. There is a real opportunity to share plans and collaborate where appropriate, adding value together and increasing impact. But we also need to avoid duplication of effort or a lack of co-ordination, which risks dissipating resources and creating confusion for the public, interest groups and the profession. We recognise this in itself involves both commitment and resources from all involved.
6. On some specific areas of work for 2020-21:
 - We share the commitment to ensuring ongoing professional competence and will be responding in detail to your call for evidence³ (released 21 January 2020) on this topic.
 - We note your plans for ongoing work on your Practising Certificate Fee approval process and will provide any relevant information about regulatory costs.
 - On the potential for changes to the current approach to enforcement oversight under the regulatory performance framework, we will be pleased to work with you to find the best approach going forward.
7. We think it is worth observing that as regulators, professional bodies and the LSB mature, look further out into the future and are increasingly focused on the significant challenges facing the legal services sector, there is both an opportunity and a risk caused by the fact that we will rightly be focussing on the same issues. The risk is that we do not appear to be co-ordinated and could duplicate effort, the opportunity is that by sharing plans and collaborating where appropriate, we should be able to add more value together. A key will be to very clearly communicate with each other about the roles we all play and the way we propose to fulfil them. This in itself will require some resourcing.

¹ <https://www.sra.org.uk/sra/strategy-2017-2020/business-plan/sra-work-programme-2019-20/>

² <https://www.sra.org.uk/sra/consultations/consultation-listing/corporate-strategy-2020-2023/>

³ <https://www.legalservicesboard.org.uk/news/ongoing-competence-call-for-evidence>

Our response: consultation questions

Q1 – Have we identified the most relevant developments in our external operating environment?

8. Yes, we broadly agree with your analysis of the current market trends and drivers for change that will influence the sector, which are in line with the horizon scanning that informed our own draft corporate strategy priorities for 2020-23.
9. We recognise that the external environment is one of uncertainty and change for society and the economy. This means regulators need to be flexible and able to adapt their approach quickly. We are therefore looking to work more closely with other organisations, including yourselves, on horizon scanning and we can best work together to address issues in a way that benefits the public.
10. We welcome the recognition that there is significant regulatory change already in train, not least our application later this year for the next phase of our proposals for significant reform of pre-qualification education for solicitors – the Solicitors Qualifying Exam.
11. We also note the ongoing competence consultation. It is important in our view that any proposals for assessing continuing competence are based on evidence, including a review of models from relevant comparator markets and sectors, and are proportionate and targeted.
12. We established our Statement of Solicitor Competence in 2014, after extensive consultation, and have taken a risk- based approach to continuing competence. We have also removed the outdated one size fits all hours-based approach to CPD. We will provide you with more details of our work on this area in our response to your current call for evidence (published on 21 January)³.
13. As you rightly identify, we will also be making applications related to assuring advocacy standards (on which we are currently analysing responses to our consultation from late 2019⁴) and reforming our compensation fund, the latter on which we have recently launched a consultation⁵ (which runs until 21 April 2020).

Q2 – What do you see as the key priorities/issues to be addressed by legal services regulation?

14. As we have set out in our own draft Corporate Strategy for 2020-23², at a time of uncertainty people need to be able to place their trust in the rule of law and the administration of justice. High professional standards for entry to the profession and throughout practice are fundamental to that trust and must remain a priority. Trust in regulation is also key, so regulators should set high standards for their own work and customer service, as well as working to the better regulation principles.

⁴ <https://www.sra.org.uk/sra/consultations/consultation-listing/advocacy/?s=c>

⁵ <https://www.sra.org.uk/sra/consultations/consultation-listing/comp-fund-reform-2020/?s=o>

15. Consumer access to high quality, affordable legal services continues to be a key priority for legal services regulation. Our own regulatory reform programme is designed to liberalise the market and help people to access the services they need.
16. We also believe that supporting the development and adoption of technology and other innovation is a key priority area because of its potential to contribute to access to justice. In light of its increasing importance we have proposed this as one of our three objectives for 2020-23.
17. We have previously welcomed the LSB's policy objective to be at the forefront of enhancing public legal education (PLE). Just in time PLE that helps people to identify a legal need and find the right legal service as and when required is also a key area for us and we have a strong track record of producing consumer resources, for example our leaflet for young people in the court system.
18. As you aware, we are committed to the current and future development and funding of the joint regulator Legal Choices website, which we run on behalf of the joint regulators. We believe that Legal Choices can play a bigger role in supporting people who may need legal help and see it as a key component in legal sector PLE. We look forward to discussing what more we can do in collaboration to support and encourage this development.
19. Diversity in the profession is an important component in access to justice, as well as contributing towards successful businesses and helping to drive trust and confidence in the legal system. Promoting diversity must therefore be a priority area for the sector and legal services regulation. We have mainstreamed equality, diversity and inclusion (EDI) throughout our work and think this is the right approach, rather than treating it as a separate workstream. We reiterate our call for EDI to be assessed through your performance framework, because of its importance across all areas of regulators' work.
20. Finally, as we have said in our answer to question 1, in this fast-changing environment, anticipating and responding in a timely way to changes is important. We also recognise that many public policy issues require cross sector work to address and welcome opportunities to work with others to make any changes needed.

Q3 – What are your views on our current approach to market intelligence, and evidence more widely, and how would you like us to develop this function going forward?

21. We believe that the current approach using market intelligence to ensure a robust evidence base to inform your work, including primary and commissioned external research, has been the right one. We support an approach that also looks at emerging areas such as the future role of technology.
22. We welcome the opportunity to input into your review of market intelligence and support the idea of a standing panel of members of the public. As part of this, the LSB may find it helpful to discuss the role that our own Virtual Reference Groups have played over recent years in helping support our own policy development.

Q4 – What are your views on our plans to move away from a strategy for the LSB towards a strategy for legal services and their regulation, highlighting gaps and opportunities across the market?

23. We believe that taking a strategic view is important for all parts of the legal sector.

24. There are a number of areas in which a broader strategy could be beneficial, as questions raised within the recent UCL/Mayson review identified. It would also be helpful to respond to issues which are not already covered within the existing framework of the Legal Services Act 2007 - for example, debate over how the current unregulated sector might be better covered.

25. We also think it is important that broader strategic thinking recognises the scale difference across the regulators and of course each regulator's own strategic direction. We have just consulted on our own Corporate Strategy for 2020 -2023, so our own priorities for the next three years are clear.

Q5 – Do you have any comments on our proposed business plan and work for 2020/21? Are there any workstreams that you disagree with? Is there any work that you think we should pursue that is not currently included?

26. On the potential for changes to the current approach to enforcement oversight, we want to work with you to find the best approach. Extensive file reviews are highly resource intensive for all the organisations involved and we would welcome a targeted and proportionate approach that reflects existing quality assurance and indeed our new enforcement strategy.

Q7 – Please identify any elements of our business plan that you think present an opportunity for more detailed dialogue and/or joint working between your organisation and the LSB.

27. We welcome the opportunity to work together with you and other regulators to bring improvements in the legal market. The five-year policy objectives remain areas where we think collaboration would be particularly helpful.

28. We also look forward to working together on assessing compliance as we work within the framework of the new IGRs, in line with the shared commitment to ensuring operationally independent regulation. Work on making sure regulators have greater accountability and transparency in their work is another key area for future dialogue and working, along with ongoing competence.

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