

# **LawNet Limited's response to LSB Consultation on proposed strategy for the sector and its proposed business plan for 2021-22**

## **Introduction**

LawNet is a member-owned network of 69 solicitors firms in the UK and Ireland, of which 64 are domiciled in England & Wales, and regulated by the SRA. Established in 1989, LawNet supports its members in a variety of ways summarised on the attached 'Benefits of Membership' infographic at **Appendix One**. The company is limited by guarantee, and therefore has no shareholders and no profit motive. Member firms join in order to be able to achieve more collectively than they could individually.

Membership is by invitation, and the characteristics we look for in member firms include turnover usually between £2m-£25m, sound finances, good PII claims records and a progressive mindset. The reputation of the group is taken seriously and highly valued.

Our membership is spread across England & Wales, though the geographic distribution is influenced by the characteristics described above. Even so, LawNet is a good proxy for the views of medium-to-large SME firms, with more than £350m of turnover and over 2,000 lawyers in the network.

On joining LawNet, firms must: -

- **Achieve our mandatory ISO9001 Quality Standard**, within two years, and maintain it thereafter.
- **Commit to our Excellence Mark** requirements, involving a package of tools to measure the customer journey, including mystery shopping and online client satisfaction surveys. Over the past 8 years, LawNet firms have undertaken around 6,000 client experience audits (using techniques similar to mystery shopping) and received over 80,000 post-matter client satisfaction surveys. LawNet firms have been active in using the learning arising from these initiatives to take steps to improve customer service in their firms, and it has been pleasing to see scores from mystery shopping and satisfaction surveys improving over that period and exceeding those seen outside of our network.

LawNet's CEO attended the 'State of Legal Services' webinar on 14 January and was encouraged by an apparent willingness on the part of senior LSB personnel to engage with the profession, who were themselves sparsely represented in the discussions during that webinar. This response is informed by conversations and other interactions between and with LawNet members.

## **Q1 – Do you have any comments on the three strategic themes that we have identified?**

The starting point, that legal services should meet society's needs, is uncontroversial and desirable. The three strategic themes you have selected are each reasonable themes for an oversight regulator to be seeking – though we are sceptical regarding the ability of regulators to secure outcomes that would be reliant upon political will / government policy.

## **Q2 – Do you have any comments on the nine challenges that we have identified for the sector?**

Some of these are beyond the ability of regulators to deliver solutions to as they are political. Others need market interventions and time.

## **Q3 – How can you/ your organisation contribute to overcoming the sector-wide challenges we have identified?**

Our network is a proxy for the views, ideas and behaviours of SME-sized law firms operating in towns and cities throughout England & Wales. Our community shares ideas and best practice, and demonstrates socially beneficial behaviours in several of the areas that you have identified as challenges, particularly: -

- Assisting disadvantaged people through community activities including the provision of free legal advice.
- Adopting policies to address diversity and inclusion in their firms.
- Committing to externally assessed Quality processes to reduce errors and manage risk.
- Providing high levels of consumer protection with a bespoke PII policy covering risks beyond the scope of the SRA's MTCs, and requiring a minimum £10m PII cover.
- Testing and improving the client experience.
- Engaging with review sites to provide potential clients with relevant service quality indicators.
- Using technology effectively to improve accessibility and speed up communications with clients.

Our network provides a community of firms who are attuned to many of the challenges you identify, and we are happy to offer feedback and input to your work in these areas.

## **Q4– Do you have any comments on the suggested areas of priority for the sector 2021-24?**

### Challenge 1 – Lowering unmet need prevalent across society

- 1. Reduce financial barriers to access** – this is a matter of government policy and political will. We would like to see the LSB lobbying for restoration of Legal Aid provision and appropriate budget and tat to do so would be consistent with Regulatory Objectives (RO1, RO3 & RO4) of the Legal Services Act 2007.
- 2. Reduce non-financial barriers to access** – we agree there is a need for public education in this area; this should begin at school.
- 3. Develop a legal support strategy for small businesses** – we are not convinced; the overwhelming majority of solicitors firms are also small businesses; indeed, many can be classified as micro-businesses. It is not uncommon for lawyers to charge a lower hourly rate (or equivalent fixed fee) than many tradespeople with lower overheads and consumer protections in place. The education issue described above relating to individuals applies equally here and anecdotally these factors come into play in the thinking of some small business owners:
  - a. difficulty seeing the value of something that is intangible (such as legal advice not to do something).
  - b. failure to connect the cost with the value of the outcome.

- c. unrealistic expectation of what should be done for free (would they, in their business?)

#### Challenge 2 – Achieving fairer outcomes for people experiencing greater disadvantage

People in this category are disadvantaged in every aspect of their lives, and it is incumbent on a civilised society to provide help. This is the job of Legal Aid, which must be restored and properly funded. While our members do and will continue to participate in the provision of free advice where they are able to in their local markets, it is not appropriate for society to abrogate its responsibilities to SME law firms.

#### Challenge 3 – Dismantling barriers to a diverse and inclusive profession at all levels

Lawyers operate within our society, they are of our society and the challenge you describe is a societal one, requiring action on a far bigger and wider scale. This is a political issue, rooted in social mobility, support for people to maintain careers after becoming parents, and attitudes arising from education. Our member firms are addressing these issues in their own firms and in their own ways, but it is simply not possible for an oversight regulator in the legal sector to effect the kind of society-wide change necessary. That change is likely to come only when we have layers of national, regional local government and administration that are themselves diverse and inclusive.

#### Challenge 4 – Ensuring high quality legal services and strong professional ethics

This section seems to focus mainly on your future interactions with front-line regulators and we have little to add, except to comment that our members made the switch from an hours-based CPD approach to the SRA's Statement of Competence as required and have embraced this approach. Our ISO9001 Quality Standard brings external assessment to bear in this regard and our own Learning Programme for members – example at Appendix Two – addresses ongoing learning in technical legal subject areas as well as in topics such as technology, HR, business development & marketing, finance, risk management & compliance and customer service.

Your consultation does not highlight any reasons for concern in relation to strong professional ethics. We have no such concerns, so wonder why it is mentioned as a challenge.

#### Challenge 5 – Closing gaps in consumer protection

Unregulated providers can be (but are by no means always) less expensive precisely because they do not share the burdens of regulation. We believe that solicitors should do more to increase public understanding of the valuable protections available to clients, and that this is something the SRA and the Law Society should co-operate on. It is not helpful that the public knows little of the SRA, or what its function is. It is unfortunate that the SRA has in recent years sought to reduce the protections available and we are pleased that the LSB resisted those proposals.

We have reservations about allowing customers of non-regulated providers to have access to LeO. At the very least those providers would have to contribute appropriate funding. The existing capacity issues plus the need for primary legislation both present significant barriers. Our members would be

wary of any development in this area which might give the (misleading) impression of equivalence in redress and protection between regulated and non-regulated provision.

We agreed with the LSB's recommendation to the Lord Chancellor some years ago that Will Writing should be added. We were disappointed that your proposal was not accepted but believe that the list of reserved activities should be revisited. The growth in contested wills and incidence of PII claims in this area for solicitors suggests it is an area where consumers are at risk and that it would be in the public interest for this activity to come under the protections afforded by reserved status and PII redress.

#### Challenge 6 – Reforming the justice system and redrawing the regulatory landscape

As you suggest in your consultation document, this is an area where political will and legislation will determine the direction of travel. We repeat our view that the LSB has a duty under the ROs contained in the Legal Services Act 2007 to pursue a restoration of scope and budget to Legal Aid.

#### Challenge 7 – Empowering consumers to obtain high quality and affordable services

LawNet believes that private individuals and SMEs seek value, and that value arises from the combination of price and quality.

DCTs based on price comparison have failed because buying decisions are more nuanced than that and because they depend for their success on firms paying for leads (as opposed to business undertaken and billed).

We believe that DCTs based on service standards and client outcomes are more likely to be consulted by individual and SMEs who are comfortable with a 'TripAdvisor' type approach. The pandemic has seen an uplift in digital enquiries and as digital natives replace previous generations in society and in workplaces, comparison sites based on client experience are, we believe, likely to be used more.

For credibility DCTs should list all regulated providers. LawNet members engage with [www.reviewsolicitors.co.uk](http://www.reviewsolicitors.co.uk) because it lists all firms regulated by the SRA using a direct feed from that regulator.

LawNet's views and approach in this area can be found in [our response to the CMA's Call for Inputs in October 2020](#).

We were concerned to read the suggestion in your consultation document regarding "geography (becoming)...less of a factor influencing choice of provider." Those with experience of PII claims would be aware that fraud, errors and the likelihood of claims rises notably where legal services are delivered at a distance. The landmark *Dreamvar v Mishcon de Reya* case was a spectacular and high-profile example of this. Evidence from our members is clear that clients want to use local providers for a variety of reasons.

We are sceptical regarding the notion of 'simple legal products' and it seems to us that this is a matter of communication on the part of service providers and the need for public education referred to above (Challenge 1).

### Challenge 8 – Fostering innovation that designs services around consumer needs

Law firms must innovate in a competitive marketplace and services must surely be designed around consumer needs; this is true in any service industry. The LSB's primary role here must be to protect clients against innovations that could be to their detriment.

### Challenge 9 – Supporting responsible use of technology that commands public trust

We believe that legal services providers who use the data available to them in their business will be better placed to understand, engage effectively with, and meet the needs of their clients.

Data is hugely valuable, but the management and usage of it presents challenges and risks. In the wrong hands it can be used against the public interest. This is an area surely best left to the ICO.

The possibilities for deployment of AI in an 'advice' sector, are much-hyped; time will tell.

### **Q5 – Do you agree with our proposal to pursue these workstreams? Is there anything missing that you think we should focus on in 2021-22?**

Our comments above address this question.

### **Q6 – Do you see any areas of joint working between the LSB and you/ your organisation?**

We would be interested in working with you if you wish to engage with the part of the legal services market that we represent. Our members are committed to securing good outcomes for clients in what they believe to be a competitive market, and to open up their processes and their clients' experiences to external scrutiny.

Our members are a community – one that is interested in sharing ideas and best practice. We have found the membership to be receptive in the past to answering surveys for front-line regulators and others to help inform their decision-making.

The head office team at LawNet would be happy to engage with the LSB if you wish to know more about: -

- our Quality Standard and our Excellence Mark programme
- our members' experience of the Covid-19 pandemic

We would like to know more about your approach and methodology in respect of researching the legal services needs of small businesses.

### **Q7 – Do you agree with our proposals that we should not undertake a statutory review of reserved legal activities in 2021-22?**

No – see response to Q4 (Challenge 5).

**Q8 – Do you have any comments on our proposed market intelligence work? Is there anything missing that you think we should focus on?**

Research into the legal services needs of small business needs to focus on: -

- unearthing preconceptions about the cost of legal services
- checking for understanding how the actual cost of legal services compares to the consequences of inaction or the wrong actions.
- establishing whether small business owners can understand how the costs of legal services compare to their own prices and margins.

**Q9 – Do you have any comments on our proposed budget for 2021/22?**

None.

**Q10 – Do you have any comments regarding equality issues which, in your view/experience, may arise from our proposed business plan for 2021/22? Are there any wider equality issues and interventions that you want to make us aware of?**

No.

**Chris Marston | CEO, LawNet |**

05 February 2021

- Appendix One - Benefits of Membership
- Appendix Two - Learning Programme Spring / Summer 2021
- Appendix Three- White Paper 'Lessons for Law Firms: The Client experience' 2015
- Appendix Four - White Paper 'Targeting Exceptional Experiences' 2019