

SRA Consultation Response
LSB draft strategy for legal services and draft
LSB business plan 2021-22
(05 February 2021)

LSB draft strategy for legal services and draft LSB business plan 2021-22: Response of the Solicitors Regulation Authority (SRA)

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% of the regulated market. We oversee some 206,000 solicitors and more than 10,000 law firms (correct as of [January 2021](#)).

2. We welcome the opportunity to respond to this consultation on the Legal Services Board (LSB)'s broad and consumer-focused strategy for the sector and business plan. We also commend the LSB on its pro-active engagement approach, we were pleased to have the opportunity to discuss directly with the LSB and other stakeholders at virtual consultation events, and at our Board, before preparing this response. We set out our views to your specific questions below.

Summary

3. There is a good deal of alignment with the objectives of our [Corporate Strategy 2020–23](#). We would welcome the opportunity to work closely with the LSB and other stakeholders to make sure that our work is complementary and avoids duplication, delivering maximum benefits in a coordinated and value-added way at this challenging time, both for the wider economy and the legal services sector.

4. In our view, it would be also helpful to draw the distinction between this type of alignment across a range of pieces of work, as we would all expect to see given the shared regulatory framework within which we work, and more proactive collaboration on a smaller number of projects. We look forward to discussing the areas where we might most usefully achieve more by working together.

5. As part of that consideration, we recognise that collaboration can take different forms from, for example, information sharing through to co-creation and partnership working, to programme leadership, informed by input from others. Our experience with delivering [Legal Choices](#) reminds us that the model agreed for any one project must be appropriate, recognising the risks to the objectives and timely delivery that can arise from partnership across organisations with differing levels of resources, capacity and capability.

6. Areas of our work programme that have the potential for collaborative working include:

- a. Supporting the development and adoption of innovation and technology.
 - b. Improving diversity, inclusion and fair outcomes.
 - c. Improving the quality and accessibility of consumer information to help them engage with legal services and choose the right option for their needs.
 - d. Research and market intelligence - for example, customer segmentation and market developments post EU exit.
7. Overall, proactive intelligence-gathering and close working will be particularly important in the context of understanding and responding to market changes, such as the impacts of leaving the EU, the challenging economic climate and Covid-19 impacts.
8. We agree with the LSB's emphasis on well-evidenced and data-based policy. We have a full programme of horizon-scanning and research work including: research to evaluate the impact that our recent transparency reforms have had on the market, wider-ranging research into the adoption of legal technology, pilot project to test how consumers can better compare the quality of legal services providers, as well as new, independent research to look at equality and diversity issues in attainment and disciplinary processes. We take a collaborative approach to this work. We will publish and share findings widely in relation to all research we commission.
9. In the current economic and social climate, the LSB will clearly have to prioritise and evaluate projects carefully. This should include an assessment of the balance between cost, including opportunity costs in relation to other priorities, and specific benefits to the regulatory objectives. It will be important to be precise about what the LSB considers the front-line regulators are able and should be accountable for delivering and what is part of a wider public policy discussion. This will be crucial to help the SRA make its own difficult prioritisation decisions at a time where we are all focused on where we can make a real difference against the backdrop of the as yet not understood longer term implications of the Covid-19 pandemic and the UK exit from the EU.

Response to consultation questions

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

10. We agree that the LSB's three strategic themes of fairer outcomes, stronger services and better services provide a helpful framework for your more detailed challenges.

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

11. The nine challenges the LSB have identified for the sector are ambitious and consumer focused. Many align well with our own Corporate Strategy objectives and work programme. We set out further detail in our answer to question 3 below.

12. Our three Strategic Objectives are:

- Objective one – We will set and maintain high professional standards for solicitors and law firms as the public would expect and ensure we provide an equally high level of operational service.
- Objective two – We will actively support the adoption of legal technology and other innovation that helps to meet the needs of the public, business community, regulated entities and the economy.
- Objective three – We will continually build our understanding of emerging opportunities and challenges for the legal sector and our role in effectively regulating it.

13. As noted in our summary paragraphs, we think it is important that the LSB takes an evidence-based approach to identifying priorities and accountabilities.

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

14. Overall, the LSB’s proposed strategic objectives align well with the objectives of our Corporate Strategy 2020-23. We also welcome your conclusions that our reform programme over recent years has had a positive impact on the sector and legal services.

15. Promoting access to justice is woven throughout all our strategic objectives and our recent reform programme. This is relevant to your challenge of lowering unmet legal need across large parts of society.

16. Our new [Standards and Regulations](#) provide more choice for how and where consumers can access the services of a solicitor. Our monitoring work indicates that these opportunities are beginning to be taken and that there has been no noticeable consumer detriment. The new flexibility in our less prescriptive rules have also worked to allow providers to adapt to changing consumer and business needs resulting from Covid-19. We are now starting our formal one-year direction of travel evaluation exercise. This will provide useful information about changing consumer and provider behaviour since the introduction of our Standards and Regulations in November 2019, segmented by different consumer and provider groups.

17. We note your goal of empowering consumers to obtain high quality and affordable legal services. We continue to prioritise our work to improve the information that consumers have to find and choose the right legal services provider for them. In implementing mandatory requirements for firms to publish price and service information, we were ambitious and will continue to drive change across several areas that are important for both individuals and small business providers. Our recent [independent evaluation report](#) shows that this has resulted in some benefits for consumers as well as where further may be needed. We are pleased that the Competitions and Market Authority (CMA) drew on this evidence in its 2020 [progress report](#).

18. As you know, we are now leading work in collaboration with other legal regulators to pilot improved information, including quality indicators, across two areas of law: employment and conveyancing. The first area is one which is potentially contentious in nature, may be a distress purchase, where there are changing needs and potential access issues for vulnerable consumers. The latter is more administrative in nature, more easily commoditised and does not offer the same access issues. This may provide insights to inform your simple legal products work.

19. We are also committed to looking at our potential role in improving public legal education. This will build on the success that the regulators have had in developing and gaining traction with the Legal Choices website, with a focus on information for individuals and small businesses at the time that they need it. One of the Legal Choices products addresses the need for people to be able to easily access information about regulated entities and professionals across the sector and, taken with our learning from developing the [Solicitors Register](#) in 2019, means that we have some useful insight and evidence that would help to inform the LSB's thinking on a single professional register.

20. We are aligned on the need for a strong focus on supporting the responsible use of innovation and technology, particularly that which is beneficial to consumers and the wider sector. We have partnered with Oxford University on new research looking at the adoption of legal technology across different consumer and provider segments. We also consider it important to build understanding of the potential risks in technological developments. This includes the impact that increasing reliance may have on those in digital poverty. The Oxford research will include looking specifically at its potential impact on an area of potential unmet need. We also note the LSB commitment to articulating good practice principles for regulatory sandboxes and would be happy to share our experience with our SRA innovation space and our work with Technation.

21. Our first Corporate Strategy objective includes work to implement the [Solicitors Qualifying Examination](#) (SQE). One of the LSB's proposed challenges under its second theme - 'stronger confidence', is to ensure high quality and ethical services are available for consumers, and that work continues to assess competency requirements for legal professionals. The introduction of SQE will deliver transparent and consistent qualification standards for all new entrants for the profession, while providing flexibility for aspiring solicitors in their journey to that point. We are also reviewing our on-going competence requirements.

22. Improving diversity is a key strand of the LSB's 'fairer outcomes' strand. We have a strong and on-going commitment to improving equality and diversity and delivering fair outcomes. Key priorities for us this year include undertaking our biennial firm diversity data collection and improving our data collection through [mySRA](#). Further work this year includes new research to look at equality and diversity issues in attainment and disciplinary processes. Furthermore, standardised data from the SQE could help the sector better understand diversity issues and inform potential solutions. This data could also help both employers and aspiring solicitors make choices.

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

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?

23. Please see our response to Q1 about the need take an evidence-based approach to identifying and segmenting the specific problems, potential solutions and who is best placed to deliver them. It will be important to be precise about what the LSB considers the front-line regulators are able and should be accountable for delivering and what is part of a wider public policy discussion. This is especially so given the LSB's proposal to adjust the regulatory performance framework: "aligning this to the strategic challenges facing the sector".

24. We also think it is important to segment the consumer and provider base and be clear about different priorities, expectations, responsibilities and success criteria for each

within your strategy and broader challenges within it. For example, each will be different when thinking about better outcomes for informed individuals and businesses as compared to socially and economically excluded citizens and those in vulnerable circumstances. Segmentation will be central to our research and evaluation programme.

25. We note the LSB's challenges to ensure high quality legal services and close gaps in consumer protection. We welcome your commitment to ground any proposals in evidence. It will be important to precisely identify the problem that needs addressing and the potential impacts of proposed solutions. There is a question around balancing any ambitions to create higher standards and levels of consumer protection and incentivising new service providers and more affordable legal services. The SRA's focus has been on requiring appropriate minimum standards that ensure competence with good information for consumers about the choices that they have.

26. The LSB proposes some new areas of focus for 2020-21 that do not feature in any regulator's plans currently and we are keen to better understand your expectations and intended pace of change. For example, your proposals to scope out 'basic legal products' for the market and to expand the consumer use of legal expense insurance are significant projects. We would welcome the opportunity to explore what these work programmes may mean for the front-line regulators, your thinking on timing and the level of resources that may be needed.

27. We support your proposal to review and improve your process around changes to regulatory arrangements and consider that there is potential to reduce bureaucracy and cost, for example by focusing on checking that we have followed proper process. We think that this approach is fitting for a well-established regulator committed to delivering better regulation and which has met all the LSB performance outcomes. We look forward to your forthcoming consultation.

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

28. We share the LSB's commitments to monitor, evaluate and build our understanding of emerging themes and trends in the sector, in order to then identify suitable regulatory responses, through our third strategic objective. One notable example is responding to the impacts of Covid-19 and monitoring the ways that the pandemic is changing consumer behaviour and the conditions for technology and innovation to gain real traction in our sector. We identify this as a priority in both our corporate strategy and our current business plan, a position that the LSB shares in its draft strategy and business plan. We would be happy to engage further on this work.

29. We note the LSB's ongoing commitment to the transparency agenda, following the recommendations of the recent CMA progress report and including around quality indicators. We are taking a collaborative, cross-regulator approach to the pilots that we are running in this area. This is in addition to the discussions that we are having with other relevant actors including consumer groups, professional bodies, digital review and comparison sites and government agencies. We are pleased that we have been able to share ideas, information and contacts with the LSB in relation to this work.

30. We welcome the LSB's proposals to expand its research and market intelligence function to support a data driven approach to policy development. We too are committed to using research and information to be intelligence-led in developing our approaches towards the sector, and towards improving the accessibility of legal services. We look

forward to working together to properly identify and analyse problems and opportunities and share data, making sure that our work is complementary and adds real value.

31. This year we are undertaking engagement work with different and diverse segments of the consumer community and the providers of legal services as part of our reform programme evaluation work. This could helpfully inform the LSB's proposed work around better understanding of the unregulated sector, the needs of small businesses as well as consumer behaviour more generally.

32. We support the LSB's continued commitment to diversity and inclusion. This area offers real opportunities to collaborate, for example as we improve and share our own diversity data collection, how we evaluate our interventions, undertake equality impact assessments and understand the experience of people with particular protected characteristics in the sector, including our work this year on maternity and paternity provision.

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

33. Decisions on prioritising significant, resource intensive and complex work programmes of this nature are in our view, a matter for the LSB.

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

34. Please see our views above about our research and market intelligence work and the benefits of joining up to maximise benefit and avoid duplication. We welcome the LSB's proposal for further research into small business legal needs, which is a key market segment and likely to be even more important as the longer-term impacts of the pandemic on the economy are better understood.

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

35. In a difficult economic climate, it will be important to demonstrate efficiencies and good husbandry of the professions' resources. The LSB may find it helpful to have a breakdown of the levy that will be spent on each programme activity, providing transparency for the public and the regulated community. We would also encourage the LSB to publish a breakdown of its assessment of any downstream costs for front-line regulators.

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?

36. The LSB has rightly threaded equality issues throughout its planning. As part of the need to collaborate to add value, we are happy to share information that supports understanding of equality issues in relation to particular workstreams. For example, it will be particularly important to ensure that consumer digital exclusion is carefully considered as part of the thinking on innovation and technology and we can share our own work this area. In a similar vein, the equality impacts in relation to continuing competence arrangements will need careful exploration.