

LEGAL SERVICES BOARD ANNUAL REPORT SUMMARY 2020/21



LEGAL SERVICES
BOARD

Introduction from the Chair

The year 2020/21 was a year like no other. The unprecedented Covid-19 pandemic has taken a terrible toll on society and significantly impacted the people and small businesses who need legal services and the legal profession itself.

At the start of the crisis, we committed to doing all we could to support regulators and ensure that they could make any changes needed to support their regulated communities. I am grateful for the early effort made by colleagues at the LSB following the first lockdown to maintain effective regulation while playing our part to support the sector. Colleagues remained flexible during this challenging time, and the investment we made in IT in 2019/20 meant we could move to homeworking smoothly and without any significant detriment to our work.

The pandemic has increased legal need in several areas and reinforced the importance of ensuring legal services are accessible to everyone. During the year, we embarked on an extensive stakeholder engagement programme to understand the challenges facing the market. Although the pandemic prevented us from meeting people face-to-face, I am pleased that we could engage virtually with such a wide range of stakeholders.

This resulted in an in-depth review of the legal services sector following ten years of independent regulation. Our State of Legal Services 2020 report found that despite the last decade's achievements, the basic legal needs of many citizens are not being met.

Too many people do not know their legal rights and responsibilities when faced with a legal problem and do not know where to turn for support and advice. It remains challenging for people to find the legal services they need and compare the price and quality of service.

In response, we developed a strategy for the sector that makes it clear that to address these issues, regulatory bodies must put the interests of the public and consumers at the heart of everything they do. I hope that the consumer-focused strategy will unite everyone across the sector around the ambition to reshape legal services to better meet society's needs.

Our business plan for 2021/22 outlines the areas where the LSB and robust independent regulation can significantly impact on tackling the challenges we have identified. But we cannot achieve our ambitions alone, and I feel enormously encouraged by the commitment to collaboration that we have received.

We will seize this moment to drive forward a strategy that promotes the public interest, supports competition and growth, and encourages diversity and inclusion.

In terms of diversity, research shows that the profession is not representative at all levels of the society it serves and that not all citizens have the same access to legal services. We want to dismantle barriers to a diverse and inclusive profession so that the sector better reflects the society it serves. We plan to use our regulatory oversight role to increase transparency, set expectations, and drive improvements, but everyone across the sector has a role to play.

Technology has played a vital role in enabling the legal sector to respond to the Covid-19 pandemic and encouraged providers to offer services in new ways. We want to build on this and support the profession to harness the full potential of technology that increases access to justice and benefits consumers.

Working with the Ministry of Justice, we will continue monitoring the Office for Legal Complaints (OLC), as is our statutory duty. The OLC is the board of the Legal Ombudsman, the free service that investigates complaints about lawyers in England and Wales. The way the sector handles complaints has a profound effect on consumer confidence, and it is vital that when things go wrong, we put them right and learn from mistakes. The role of the Legal Ombudsman is critical, and we remain committed to getting it in the right long-term shape to discharge its statutory responsibilities to the highest possible standards of quality and timeliness.

We are continuing to encourage the regulators to increase the transparency of their decision-making processes. At the LSB, we have continued to publish the papers and agendas for our Board ahead of meetings. Following each meeting, we publish a decision document setting out key decisions made in the meeting, and I also write a blog that covers the key matters discussed at the meeting. We publish the minutes of the meeting as soon as they are formally agreed.

The Board and I also plan to hold more meetings around England and Wales and meet with the vast range of people who have a pivotal role in delivering the consumer-focused strategy and improving outcomes for people who need legal services.

A handwritten signature in black ink that reads 'Helen Phillips'.

Dr Helen Phillips
Chair



"We will seize this moment to drive forward a strategy that promotes the public interest, supports competition and growth, and encourages diversity and inclusion."



Introduction

This is a summary of our Annual Report and Accounts for 2020/21.

Our Annual Report for 2020/21 describes the work we completed and our impact in delivering the third and final year of our 2018-21 Strategic Plan. It also covers the work undertaken to produce a new strategy for the legal services sector.

You can find the full report on our website

On 1 April 2020, we provided oversight for:



10 approved regulators, who regulated **178,639 persons**, authorised to undertake reserved legal activities.

That is **1.9% more** than 1 April 2019.



Our response to the Covid-19 pandemic

Towards the end of 2019/20, we started managing the risk of detriment to the regulatory objectives and consumers caused by the impact of Covid-19.

We published our 2020/21 business plan with plans remaining flexible and initiated a Covid-19 project to understand its impact on the sector and contribute to its recovery.

Some of the activities we undertook to mitigate the risk:

- ✓ issued an exemption direction to enable regulators to make temporary alterations to regulatory arrangements in response to Covid-19
- ✓ published and regularly updated an interactive data hub with evidence on the impact of Covid-19 on the sector
- ✓ active management of the regulatory bodies, including setting out our expectation for practising fee applications in light of Covid-19
- ✓ published the State of the Legal Services 2020 report and our strategy for the sector, which accounted for the impact of Covid-19

Overview of our objectives, workstreams and behaviours in 2020/21

Strategic objectives 2018-21



Strategic objective 1: Promoting the public interest through ensuring independent, effective and proportionate regulation

Strategic objective 2: Making it easier for all consumers to access the services they need and get redress

Strategic objective 3: Increasing innovation, growth and the diversity of services and providers

Workstreams



- ✓ Ongoing Competence
- ✓ Internal Governance Rules

- ✓ Public legal education
- ✓ Enforcement
- ✓ Consumer engagement
- ✓ Legal needs surveys

- ✓ Technology
- ✓ Diversity
- ✓ Prices research
- ✓ EU exit

Developing a new strategy for the sector

Discharging our statutory functions



Regulatory objectives



Behaviours



Strategic objective 1: Promoting the public interest through ensuring independent, effective and proportionate regulation

In 2020/21, we carried out the following work to help promote the public interest.



Ongoing competence

We continued our work to review how legal regulators ensure that the legal professionals they regulate remain competent throughout their careers.

We completed a call for evidence on ongoing competence approaches in the legal services and other sectors, which included 50 targeted stakeholder meetings and 31 formal submissions, in addition to datasets and research shared with us or sourced through LSB desk research. We published a summary of the evidence in February 2021 and set out our plans for further work in this area, including our intention to develop high-level expectations for regulators in late 2021/22. We also commissioned research examining international approaches to ongoing competence.

We plan to engage with regulators and stakeholders as we develop policy proposals in 2021/22.



Internal Governance Rules review outcomes

In 2019/20, we published our revised Internal Governance Rules (IGR) with a 12 month transition period, ending on 23 July 2020.

We considered and approved nine applications for changes to regulatory arrangements and three prior written approvals for non-compliance with the IGR were granted. By the deadline, all approved regulators and regulatory bodies provided certificates of assurance that they complied with the IGR or had approval for non-compliance. We introduced a new outcome under the Well-led standard of the regulatory performance framework to monitor regulatory independence.

This supports the statutory obligation to ensure that regulation is, and is seen to be, independent.

Strategic objective 2:

Making it easier for all consumers to access the services they need and get redress

In 2020/21, we were engaged in the following work to make it easier for all consumers to access the services they need and get redress.



Public legal education

In February 2021, we published a literature review on evaluation of public legal education (PLE) initiatives. During the year we worked with a wide variety of stakeholders and actively participated in the Solicitor General's PLE committee's work on realising its seven goals for PLE. We took account of insights about the consumer experience from our PLE workstream in the scoping of our forthcoming statutory policy statement on consumer engagement.



Consumer engagement

We undertook work to drive further progress by the regulatory bodies to improve consumer engagement with the market, given that too many consumers still do not have the tools to engage effectively and make informed choices.

In February 2021, we published a discussion paper on quality indicators in the legal services market and published new research on the challenges people face when comparing and choosing legal services providers. We also contributed to the Competition and Market Authority's (CMA) progress review of its 2016 market study. We accepted in principle the CMA's new recommendations to lead and coordinate activity by the regulatory bodies to improve consumer engagement.



Future approaches to enforcement

We requested information from all regulatory bodies about the arrangements they have in place to assure the quality of disciplinary decision-making procedures, for example, the systems and processes they have adopted or plan to adopt. We analysed responses from regulatory bodies received in September 2020 to develop our expectations for internal quality assurance under the regulatory performance assessment framework. Plans to develop an LSB review process for the enforcement standard have been moved to 2021/22 while we complete this phase of the work.



Legal needs surveys

We commissioned an expert review of the Small Business Legal Needs Survey ahead of a planned new wave of research in 2021/22. We published the revised survey, which includes new measures of small business legal capability and unmet legal need, plus additional questions on the use of lawtech, and on the impacts of EU withdrawal.



Covid-19

We also carried out further analysis of the 2020 Individual Legal Needs Survey dataset with the aim of developing a segmentation model.

This is the process of dividing people into groups based on common characteristics. In our case, the characteristics relate to demographics, legal issues experienced and legal capability. The purpose is to identify specific groups of people by their legal capability to inform policy development. In particular, we will be able to better understand those groups of consumers who struggle when in need of legal services, and those who know how to navigate the sector.

The State of Legal Services 2020 report also included fresh analysis of this dataset, including in relation to the protected characteristics of respondents.



Strategic objective 3:

Increasing innovation, growth and the diversity of services and providers

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In 2020/21, we were engaged in the following work to increase innovation, growth and diversity.



Regulatory approaches to technology

The technology and innovation project began in 2019, with the first phase of work focused on establishing an evidence base to help regulatory bodies develop their approaches to regulating the use of technology in legal services.

To date, we have published a series of articles, papers and podcasts from a range of experts to help build this evidence base. In April 2021, we published a paper summarising what we had learnt from the first phase of work on technology and innovation and identifying our priority areas of focus for the future. In December 2020, we began work to support the Lawtech Sandbox Pilot by participating in the Regulatory Response Unit and providing ad-hoc support to participants where requested. We also launched a joint research project with Tech Nation to better understand how SMEs address their legal needs and access legal advice and support, and how legal technology can better support SMEs.

In 2021/22, our technology and innovation work will continue, including research with the Public Panel on attitudes to technological innovation and exploring how open and accessible data can be embedded across the sector.



Diversity

We worked with a wide variety of stakeholders and actively participated in the Judicial Diversity Forum on increasing diversity and inclusion in the legal profession. Over the year, we published two reports which contributed to understanding the diversity of the legal profession in England and Wales: an update on the progress regulatory bodies had made in encouraging a more diverse legal profession; and our State of the Legal Services 2020 report which provided insight into the advances in diversity in the past 10 years. We also commissioned a literature review on the evaluation and impact of regulatory initiatives.



Prices research

In 2019/20 we carried out the third wave of the Prices of Individual Legal Services Survey, in partnership with the CMA, to measure the effects of price transparency requirements and if prices vary across different types of provider.

We collected 1,500 sets of prices, via a telephone and online survey, split across standardised scenarios in conveyancing, divorce, and wills, trusts and probate. A report, annex, and supporting online dashboard were published in September 2020. The findings showed increased price transparency since the last wave but also that a wide dispersion of prices remained.

This has informed the CMA's review of progress in increasing competition in the legal services market (published December 2020) and subsequent recommendations. The research also informed our State of Legal Services 2020 report and the development of our new strategy for the sector.



Responding to the regulatory consequences of EU exit

In the lead up to the end of the transition period, we continued to monitor EU Exit developments and participate in roundtable meetings with the MoJ and legal services regulators aimed at ensuring the necessary steps were taken.

All regulatory bodies needing to make EU Exit related changes to their regulatory arrangements and those wishing to make use of our 'no deal' Exemption Direction notified us. We confirmed five notifications in total under this exemption in 2020/21 (eight in 2019/20).

Since the end of the transition period, we have been involved in discussions with the MoJ and the Department for Business, Energy and Industrial Strategy on proposals around future approaches to mutual recognition of professional qualification.



Discharging our statutory functions

In 2020/21, we were engaged in the following work to discharge our statutory functions.



Regulatory performance

Our regulatory performance framework assesses the performance of regulatory bodies against a common set of standards and outcomes to ensure that consumers can rely on regulators to provide good quality regulation.

We published our latest comprehensive full-year review of the regulatory bodies' performance in December 2020. This latest review included our first assessment of performance against a new outcome, WL7 (assessing regulatory independence), which we introduced in July 2020. Unlike the other outcomes, WL7 covers both regulatory bodies and approved regulators. All regulatory bodies and approved regulators met our expectations with regard to WL7. Overall, in 2020 we have seen an improvement in some regulatory bodies' performance.

However, this has not been reflected across all the regulatory standards and all regulatory bodies. While regulatory bodies are generally performing well against the authorisation, supervision and enforcement standards, there is a lower level of achievement in meeting the standard required for outcomes under the regulatory approach and well-led standards. In our last annual performance assessment we noted particular concern with the Bar Standards Board (BSB) and Faculty Office (FO) on their performance in meeting the well-led standard and as a result we launched detailed reviews (see Well-led reviews below) into their practices and procedures.



Well-led reviews

We commenced reviews of the BSB and FO under the Well-led standard of the regulatory performance framework. The separate reviews, both announced in March 2020, formally commenced in September 2020 and was published in Spring 2021.

The purpose of the reviews was to gain assurance that the BSB and FO meet our expectations of a well-led regulator, which has: decision-making processes that are effective and informed by appropriate evidence; take account of the likely impact of the decisions on the regulatory objectives and in particular the public interest (including the interests of consumers); and have regard to the Better Regulation Principles to be transparent, accountable, proportionate, consistent and targeted.



Review of Practising Certificate Fee including non-regulatory permitted purposes

The Practising Certificate Fee (PCF) review has enabled us to examine our current approach to the PCF approval process and amend the existing rules and guidance to reflect how our overall approach to regulation has evolved (for example, we introduced our regulatory performance framework in 2018 and new Internal Governance Rules in 2019).

We consulted on the draft rules and guidance in July 2020 following extensive engagement with approved regulators and regulatory bodies. We published our decision document, new rules and guidance in January 2021.

The new rules and guidance seek the following outcomes:

- To increase transparency around approved regulators' and regulatory bodies' programmes of activity and how these will be funded, allowing those that pay the practising fee to drive accountability for its expenditure.
- To support more meaningful discussion and debate across the sector on the purpose, benefits, costs and value of regulation, which ought to result in improved standards.
- To allow regulatory bodies to demonstrate that they have sufficient funds and financial resilience to regulate and operate efficiently and cost effectively.
- Supporting the LSB's wider oversight responsibilities, including greater integration of the process into the LSB's wider performance assessment framework.



Review of process for alterations to regulatory arrangements

The review of our process for alterations to regulatory arrangements has enabled us to examine our current approach which has not been substantively reviewed since 2010. Our objective for the review is to ensure that the whole process is demonstrably focused on assessing the impact of changes on the regulatory objectives.

In 2020/21, we reviewed decisions taken in recent years and the key issues that had arisen in the process. We also engaged directly with each of the regulatory bodies as well as interested approved regulators and the Legal Services Consumer Panel. The engagement undertaken helped inform a consultation on revisions to the applicable rules and guidance which we issued in Spring 2021.



Developing a strategy for the legal services sector

In 2020/21, the final year of our 2018-21 strategy, we developed a new strategy for the sector.

We undertook a programme of stakeholder engagement to gather a wide range of views on the key challenges and opportunities facing the sector. This included:



- ✓ bilateral meetings with **70 organisations**
- ✓ **4 evidence sessions** to hear perspectives from grassroots organisations and national consumer organisations, and experts on technology and diversity and inclusion
- ✓ a summit style event with more than **40 sector leaders**
- ✓ **a consultation webinar and a roundtable.**

In November 2020, we published our State of Legal Services 2020 report, which provided an in-depth review of the legal services sector following ten years of independent regulation.

In March 2021, we published a strategy for the sector that seeks to reshape legal services to better meet society's needs.



It included a **10-year** strategic direction (2021-31) and initial priorities for the first **3 years (2021-24).**



The strategy is underpinned by **3 strategic themes** and **9 challenges** for the sector to address collectively.

Our research activities

In 2020-21, we invested **£168k in research.**

This was £96k more than in 2019/20 when we spent £72k.

This was vital to increasing our understanding of the challenges facing the legal services market. Our research informs our decision making and we publish it on our website for others to draw on too.

Our Public Panel

- Working closely with the Legal Services Consumer Panel (LSCP), in 2020/21 we established a 'Public Panel - a market research tool focused on legal services. It is recruited from a larger market research panel of over 300,000 people, and consists of adult members of the public based in England and Wales who share their views, on detailed topics, with us and the LSCP directly.
- We made this resource available to the regulators to help them ensure the public interest is firmly at the heart of their decision-making.
- During 2020/21, we heard from members of the public through the Public Panel.

Research we published in 2020/21

- **Covid-19 impact dashboard** – tracking the impact on demand for legal services across different legal issues as well as the health of the legal services market in England and Wales
- **Quality indicators** – research with the public panel showing the challenges people face when comparing and choosing legal services providers
- **Strategy development** – research with the public panel to identify their strategic priorities for legal services and how they would prioritise LSB's resources
- **Prices research** – research showing the significant regional variation in the price of legal advice across England and Wales for what are fundamentally the same services
- **Public Legal Education literature review** – an evaluation into the effectiveness of public legal education (PLE) initiatives.



Value for money

We continually strive to deliver value for money as an organisation.

In 2020/21 we developed several new initiatives. We started using LEAN methodology to assess activities across the LSB against the National Audit Office's three criteria for assessing value for money (economy, efficiency, effectiveness). This has resulted in efficiencies in management accounts, pay cost analysis, in-house legal training and software licensing. We have also refined our approach to resource planning by increasing the transparency on resource deployments throughout the business year and making it a focus of our Programme Board.



Our budget

We are publicly funded although our costs are recovered from a statutory levy on the approved regulators, who in turn derive their funding from fees paid by the legal profession.

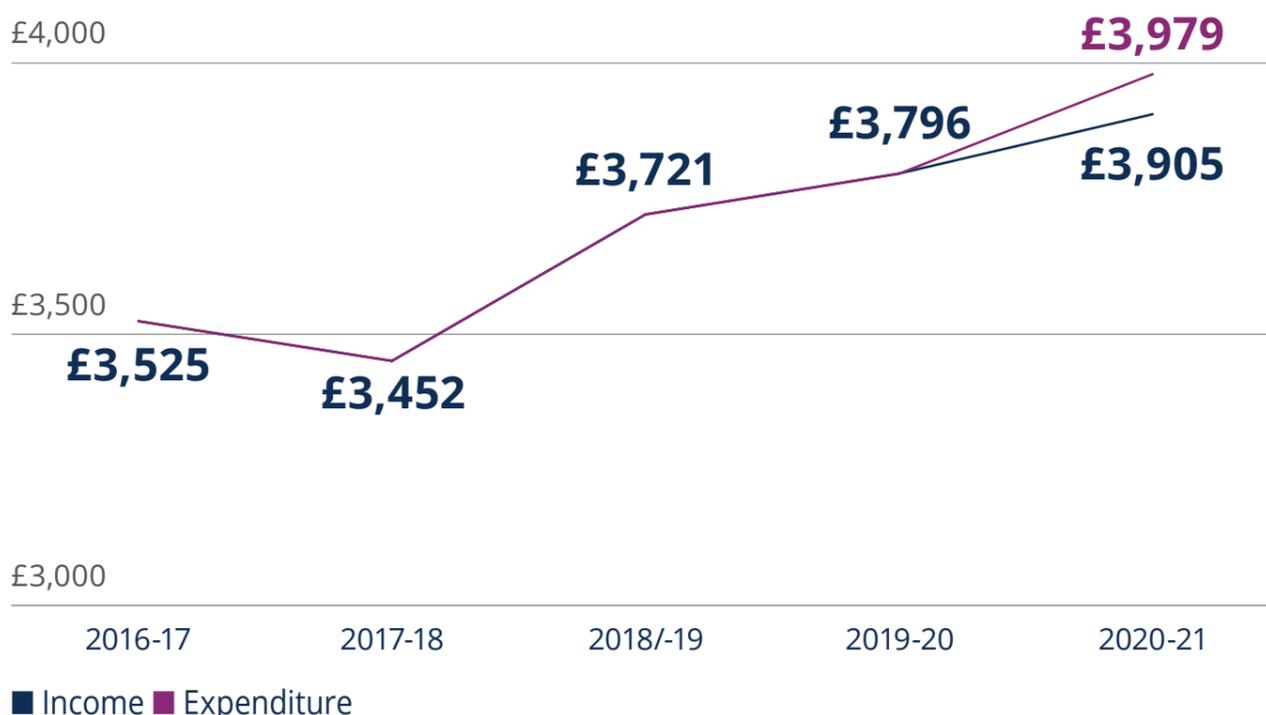
For 2020/21, LSB received levy income from approved regulators totalling **£3.920m**. This was 5.1% more than for 2019/20.

This table shows the amounts contributed by each of the approved regulators from the 2020-21 levy:

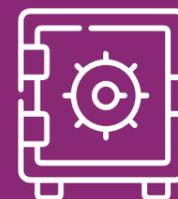
Approved Regulator	Fee (£)
The Law Society	3,251,645
General Council of the Bar	366,603
Chartered Institute of Legal Executives	157,288
Chartered Institute of Patent Attorneys	49,324
Council for Licensed Conveyancers	30,627
Chartered Institute of Trademark Attorneys	18,832
Faculty Office	16,776
Costs Lawyer Standards Board	15,280
Institute of Chartered Accountants in England and Wales	10,968
Association of Chartered Certified Accountants	3,000

If averaged out across all those authorised to undertake reserved legal activities, our levy would be **£21.95**. An increase of 3.2% compared to 2019/20.

This graph shows our total income and expenditure over the last five years.



The difference between income and expenditure for 2020-21 was £74k as a result of a HMRC provision created for historic PAYE liabilities.



Reserves

As at year end 31 March 2021 our reserves were £6,293k.

This was £74k lower than 31 March 2020, as a result of the HMRC provision being funded by reserves rather than by levy income.



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