



LEGAL SERVICES
BOARD

Empowering consumers

Draft statement of policy

September 2021



Draft statement of policy – empowering consumers

Issued under section 49 of the Legal Services Act 2007

[Date of publication]

Purpose of this document

1. This statement of policy is issued under section 49(2) of the Legal Services Act 2007 (Act) and in preparing it the Legal Services Board (LSB) has had regard to the principle that its principal role is the oversight of approved regulators.¹
2. The purpose of this statement of policy is to set expectations of the approved regulators and the regulatory bodies to whom some have delegated their regulatory functions (regulators) in the interests of the public and consumers. These are expressed as general expectations, principles and specific expectations and will apply as the regulators use regulatory arrangements and other appropriate activities to pursue them.
3. In exercising or deciding whether to exercise any of its functions, the LSB must have regard to any relevant statement of policy published under section 49 of the Act. This statement of policy on empowering consumers is likely to be most applicable to:
 - a. The maintenance and development of standards in relation to the regulation by regulators of persons authorised by them to carry on reserved legal activities and the education and training of persons so authorised, under section 4 of the Act;
 - b. The approval of changes to a regulator's regulatory arrangements in accordance with section 20 and Part 3 of Schedule 4 to the Act; and
 - c. Enforcement functions under sections 31 to 45 and 76 of the Act.
4. The LSB will also have regard to regulators' compliance with this statement of policy in discharging its other oversight functions, including in its assessment of regulators under the regulatory performance assessment framework.
5. In discharging its functions, the LSB must, so far as is reasonably practicable, act in a way which is compatible with the regulatory objectives and which it considers most appropriate for meeting those objectives. This statement of policy is relevant to all the regulatory objectives, and in particular the following:
 - a. Improving access to justice;
 - b. Protecting and promoting the interests of consumers;
 - c. Promoting competition in the provision of legal services;
 - d. Encouraging an independent, strong, diverse and effective legal profession; and

¹ Section 49(3) of the Act.

- e. Increasing public understanding of the citizen's legal rights and duties.
- 6. In developing this statement of policy, the LSB has had regard to the Better Regulation Principles under which regulatory activities should be transparent, accountable, proportionate, consistent, and targeted only at cases in which action is needed.
- 7. This statement of policy takes into account the LSB's requirements for regulators' regulatory arrangements relating to complaints procedures for authorised persons, specified under section 112 of the Act.²
- 8. The provisions of the Act, and any rules made under those provisions, will prevail over this statement of policy.
- 9. We may review this statement of policy and issue a revised version if our policy changes.

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https://legalservicesboard.org.uk/what_we_do/regulation/pdf/2016/201607_Version_2_Requirements_Guidance.pdf. This includes the accompanying guidance issued under section 162 relating to those requirements.

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10. The LSB will have regard to the general expectations, principles and specific expectations set out below in discharging its functions set out in paragraphs 3 and 4.

General expectations

11. The LSB expects regulators to:

- a. Pursue the following outcomes:
 - i. Consumers have the knowledge and capability to recognise when their problem is a legal issue and know how to get legal assistance where necessary.
 - ii. Consumers have the knowledge and capability to engage effectively with the legal services market.
 - iii. When choosing a legal services provider, consumers can access useful information about a provider's services, price, quality, regulatory status and access to resolution of complaints that enables them to make an informed choice as to the provider most suited to meet their needs.
- b. Ensure compliance by those they regulate with the regulatory arrangements they put in place to pursue these outcomes, including through effective measures to address non-compliance;
- c. Have appropriate mechanisms in place to evaluate and report on the effectiveness of the steps they have taken in pursuit of these outcomes and make changes where these have not been met; and
- d. Have regard to the Competition and Markets Authority (CMA)'s 2016 legal services market study and 2020 review as to the effective functioning of the legal services market and promotion of competition in the interests of consumers.

Principles

12. In implementing this statement of policy, the LSB will have regard to the following principles:

- a. The CMA found that competition is not working well in the legal services sector for individual consumers and small businesses. As such, regulators should pursue the outcomes with particular attention to individual consumers and small businesses.
- b. Regulators regulate different professions within the legal services sector, and, as a consequence, may adopt different approaches to meeting the general expectations and so pursuing the outcomes.

- c. In considering whether specific approaches are required for providers in different practice areas within their regulated communities, regulators should consider:
 - i. the needs of consumers, including those of consumers in vulnerable circumstances (for example where consumers are digitally excluded and do not have access to information online); and
 - ii. the types of provider and services offered (for example some services are more “commoditised”, such as conveyancing and wills and probate, whereas in more bespoke areas, such as legal aid work, it may be more difficult to compare providers).
- d. Collaboration between regulators is encouraged where this may lead to more effective and proportionate activities (for example where there may be overlapping consumer needs, where practice areas are covered by more than one regulator, or where economies of scale are sought, particularly on testing solutions).

Specific expectations

13. In implementing this statement of policy, the LSB has specific expectations of the regulators:

Public legal education

- 14. Regulators are expected to put in place an effective programme of activity to support the regulatory objective of increasing public understanding of the citizen’s legal rights and duties. This should be with a particular focus on public legal education that supports people to understand where they have a legal problem and how to access the professional help they need to resolve it.
- 15. Regulators are expected to make meaningful contributions to cross-sector initiatives, such as Legal Choices, that are subject to appropriate mechanisms to ensure they are effective. Regulators should be able to demonstrate suitable investment, reach and impact of such initiatives following evaluation.

Information about price

- 16. Regulators are expected to take steps to ensure that their regulatory arrangements and other appropriate activities result in the provision of useful information that best enables effective consumer choice about the cost, or potential cost, of the services offered by providers.
- 17. In assessing whether price information is useful and best enables effective consumer choice, regulators are expected to consider such factors as:
 - a. The pricing/charging model;
 - b. Hourly fees (where charged) by grade of staff;

- c. Indicative fixed fees, factors that may affect these and the circumstances where additional fees may be charged (where offered);
- d. Typical ranges of costs for different stages of cases (where appropriate);
- e. The scale of likely disbursements (e.g. searches, court fees); and
- f. Other key factors that determine price (including disbursements).

Information about quality

18. Regulators are expected to take steps to ensure that their regulatory arrangements and other appropriate activities result in the provision of useful information that best enables effective consumer choice on the quality of legal services providers to consumers, including:

- a. Providers' disciplinary and enforcement records, including any sanctions; and
- b. Published decisions made by the Legal Ombudsman on complaints about providers.

19. In considering what further information about quality is useful, the LSB expects regulators to have regard to:

- a. Information about:
 - i. The quality of legal work done;
 - ii. The quality of customer service; and
 - iii. Outcomes of work done.
- b. The following types of information, as appropriate for the particular market:
 - i. Quantitative data on a provider's performance (for example complaints data, success rates, error rates); and
 - ii. Customer feedback, ratings and reviews, in particular those that comment on the aspects of quality set out in paragraph 19a.

Information about service, redress and regulation

20. Regulators are expected to take steps to ensure that their regulatory arrangements and other appropriate activities result in the provision of useful information that best enables effective consumer choice, including:

- a. Contact information;
- b. A description of the services that the provider offers, including areas of practice;
- c. The mix of staff that deliver the services;
- d. Key (and discrete) stages of services;
- e. Indicative timescales of completing services and factors affecting these;
- f. The provider's regulatory status, registration details;

- g. The provider's complaints process and access to the Legal Ombudsman; and
- h. Details of the provider's Professional Indemnity Insurance cover.

How information is made available to consumers

21. Where information set out at paragraphs 16 to 20 is made available, this should relate to regulated entities and/or regulated individuals as appropriate.
22. Regulators are expected to take steps to ensure that their requirements and activities result in the provision of information by providers that is:
- a. Clear and prominent;
 - b. Comprehensible, including through the provision of appropriate contextual information;
 - c. Accurate and up-to-date; and
 - d. Easy to compare to information made available by other providers.
23. Regulators are expected to take steps to ensure that the following information about the providers they regulate is available in at least one single location online. This may include the regulator's own register of regulated providers³:
- a. Contact information;
 - b. A description of the services that the provider offers, including areas of practice;
 - c. The provider's regulatory status and registration details;
 - d. Details of the provider's Professional Indemnity Insurance cover;
 - e. Providers' disciplinary and enforcement records, including any sanctions; and
 - f. Published decisions made by the Legal Ombudsman on complaints about providers.
24. The LSB expects that fulfilment of the above requirements will support the development of tools that help consumers to engage effectively in the market, such as digital comparison tools, review websites and any joint register of providers. Regulators are expected to consider undertaking the following activities to further facilitate the use of such tools:
- a. Ensuring consumers are made aware of such tools;
 - b. Embedding trust among consumers and providers in such tools; and
 - c. Making relevant information freely available to third parties on an open data basis.⁴

³ Subject to relevant legislation on regulators' registers of authorised persons, and any alterations to regulatory arrangements that may be needed.

⁴ Subject to relevant legislation on regulators' registers of authorised persons, the Privacy Act 2018 and UK General Data Protection Regulation.