



The Law Society risk and compliance speech, 25 March 2022

Chris Nichols, Director, Policy and Regulation at the Legal Services Board

This conference also feels timely given world events. There is currently a big spotlight on the rule of law, both domestically and internationally. And this is the backdrop to what I will be talking about today.

We are incredibly lucky in England and Wales to have a strong and independent legal profession. A profession which plays a crucial role in upholding the rule of law and protecting our democracy and our democratic values.

But, as those in this room will know only too well, we cannot take this for granted. There are risks and threats all around. From rare but damaging stories of law firms' facilitating money laundering, to concern about the role of lawyers in some high profile miscarriages of justice.

You are all at the frontline of responding to and mitigating these risks. To ensuring that the public can continue to have confidence in a strong, independent legal profession. And helping to ensure that the rule of law in England and Wales is strengthened and not diminished.

[Pause]

It looks like a busy agenda today with a chance to discuss a wide range of risk and compliance issues.

For my part, I will focus on two themes, which I think connect the specific issues that will be discussed through the day.

First, I will talk about the importance of developing and cultivating a sense of **professionalism** across the legal profession.

I will then have a brief look at what lies ahead in regulatory terms and talk about **embracing change** – and looking for opportunities to do things differently and to do things better.

But before I get carried away, I will briefly take a step back and properly introduce myself and the Legal Services Board.

So who am I and why am I here?

I am Chris Nichols, and I am Director of Policy and Regulation at the Legal Services Board, or LSB.

I am hoping that many of you will be aware of the LSB and what we do.

In short, the LSB is the oversight regulator for legal services – so we regulate the SRA, BSB and seven other frontline regulators of legal services.

We set standards of regulation and hold the regulators to account for their performance. We also have to approve any changes to their rules and regulations.

Professionalism

So, the first theme I want to discuss is “professionalism”.

Because this is a concept that will apply across all of the more specific issues that will be talked about through this conference.

What do I mean by professionalism? Well, as a society, we provide our legal profession with a status and a range of exclusive rights to perform certain economic activities. And in return, we place a great deal of **trust and responsibility** in them.

As individuals and businesses, we trust them to handle our most sensitive legal problems. And as the public, we rely on them to uphold the rule of law, which underpins everything that we do and the way that we live our lives.

And there are many examples of lawyers demonstrably earning that trust every day.

[Pause]

Recently, there has been a strong focus on education and training standards, as the SRA has brought in its new SQE framework.

And education and training is clearly an important part of people's **induction** into the responsibility, and *the privilege*, of joining the legal profession.

But this induction process is not where it ends. This should be the start of a career of life-long learning. Of *ongoing* self-reflection and *ongoing* improvement. We need lawyers who are ready to exercise their own professional judgements, and to take pride in doing so, as they face the challenges and opportunities that will come their way.

Because understanding and complying with regulatory requirements, and applying professional ethics in everyday work - these aren't things that can be simply outsourced to risk and compliance teams. These are **core** qualities of professionals in which the public can rightly place its trust.

And so these are qualities that we need to cultivate, reinforce and role model.

Regulation certainly has a part to play in this. And this year the LSB will be leading some work to identify what role regulation has in supporting the Rule of Law.

But it seems to me that it's actually those in this room who can really make a difference here. In helping to instil and reinforce in your firms the importance of

professionalism; of ongoing learning and development; and the responsibility that every legal professional has to demonstrate that the public's trust is well placed.

[Pause]

I'm going to ask you to hold that thought, because cultivating a strong sense of professionalism is also relevant to the second theme I am now going to talk about...

Embracing change

Which is embracing change and looking for opportunities to do things differently - and to do things better.

As I said at the start, we are incredibly lucky in England & Wales. We have an independent and strong legal profession, upholding the rule of law to the benefit of all.

But at the same time, it remains the case that too few people, and too few businesses are accessing the legal help that they need.

- We know from our research that every year, 3.6 million people in England and Wales experience a legal problem, and don't get help to resolve it.

- We also know that **only a quarter** of small businesses get professional help to deal with a legal issue, and that **around half** try to handle legal issues alone, or take no action at all.

This is why we have developed a strategy, based around a mission to “reshape legal services to better meet the needs of society”.

The strategy identifies nine challenges that will help to make legal services work better for the public.

It is a strategy for the whole sector, not just the LSB. Because we will be most successful in meeting these challenges if we approach them in collaboration, as a sector.

And the biggest rewards - to society but also to the sector - will come if we are open to the need for improvement. If we do not fear change because it comes with risk. But instead seek out and embrace opportunities to do things differently, and to do things better.

- 1) Let’s look at this in the context of quality indicators.

As you will probably know, the SRA has recently run a pilot on quality indicators and there’s a workshop on this later today.

For our part, the LSB will soon be publishing our own expectations for regulators, setting out what information providers should make available to empower more consumers to engage with legal services.

Now making more information available to consumers is the right thing to do. Ultimately, it should make it easier for more people to get the help they need.

But it must also make good business sense. Because, as I have said, there are currently a lot of small businesses, and a lot of people, who have a legal need but are not getting help to address it. So looking for new ways to build trust and tap into this big market of unmet legal need, must surely make good business sense.

And its those who embrace this opportunity, rather than seeing it as a compliance headache, that will surely be best placed to reap the rewards. [I gather that Tracy at the SRA has some interesting findings, on this very theme, that she will be talking about in the quality indicators workshop later.]

- 2) Another area of recent debate has been around **ongoing competence**. As many of you will hopefully know, the LSB is currently leading work in this area, to ensure that regulators' approaches to ongoing competence are fit for purpose. Our policy is still in development so the detail is not yet finalised. But it is safe to say that there will be a greater regulatory focus on this in years to come.

And I know from speaking at other events that this is a cause for concern for some lawyers and firms.

But I think the spotlight on ongoing competence presents real opportunities - for those willing to embrace them.

Going back to my previous points on professionalism, it is surely in every firm's interests to foster a culture of self-reflection, ongoing improvement and professionalism. With lawyers who are aware of the vital role that they play in society, hungry to learn, reflect and improve, and to demonstrate why society's trust is well placed.

So I don't think firms should be focussing on ongoing competence because there will be a greater regulatory focus on this. I think they should be doing it because it is in their own interests to. Because it will help them to be the best that they can be. And I'm sure that for many of you, this is already what you are doing.

Conclusion

Anyway, I will end back to where I started. We are very lucky in England and Wales to have an independent and strong legal profession, which helps to uphold the rule of law to the benefit of all.

We must do everything we can to protect this. But this doesn't mean seeing all change as a risk or threat. There is significant scope to make legal services work better - to help more people, and more small businesses, get access to the help they need.

If we, as a sector, can

- foster a strong sense of professionalism;
- if we can embrace change;
- if we can look for and seize opportunities to improve,

then we will be making our profession

- even stronger;
- even more resilient;
- and even better placed to safeguard the rule of law in years to come.