Meeting: Legal Services Board

Date: 21 March 2023

Item: Paper (23) 15

Title: Fourth research data digest

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Status: Official

Purpose of the paper

1. This is the fourth data digest that we committed to provide the Board with twice a year as part of work on curating the strategy. This is one of the ways that we monitor progress against the challenges set out in the sector-wide Reshaping Legal Services strategy and is a useful source of evidence for the LSB and other stakeholders. The data digest will be published on the Reshaping Legal Services microsite with the previous editions and our interactive data dashboards.

2. This fourth edition of the digest sets out proposed key indicators for each of the nine challenges, as requested by the Board when discussing the third data digest at the September 2022 Board session. This is intended to provide a snapshot of the extent to which the dial is shifting to deliver fairer outcomes, stronger confidence and better services for consumers.

3. We also list other highlights from this edition, including new data, followed by more detailed reporting of progress against the nine challenges. Many of the new data are from the 2022 use of innovation and technology survey, which we presented to Board at its January 2023 meeting.

Recommendation(s)

4. The Board is invited to discuss:

   a) potential key indicators for each of the nine challenges and their usefulness;
   b) any observations about the data more broadly that the Board finds notable, surprising, or concerning;
   c) any recommendations on where we should focus our efforts regarding certain challenges;
   d) any additional data that would be useful to the Board, where available.

5. The Board is also invited to note our proposals in the 2023/24 LSB Business Plan, elsewhere on the agenda, to develop a market surveillance approach. The data we gather regularly for this digest will contribute to that work if it is approved by the Board.

How to interpret the tables

6. The third column in each table provides the most recent statistic. This is coloured blue where there is new data since the last data digest report. New data are not available for all indicators, and for some indicators the most recent data released might be dated (e.g., 2020 for some ONS indicators). The commentary in each section focuses primarily on what has changed since the last data digest, so in some sections there is less commentary than others.

7. Change is typically reported as a percentage change (i.e., a reduction from 40% to 30% would be a 25% change), with percentage point change (%p) mentioned where appropriate in prose (i.e., a 10% drop from 40 to 30%). Where change is marked as ‘=’, there is no change observed. Source acronyms are explained at the end of this paper.

8. Where the source is ‘see separate file’, there is too much data to fit in the cell. More detail is available in an excel file or our online dashboards (including for diversity and inclusion), which we provide links to.

Potential key indicators

9. For each of the nine challenges, we have selected a single statistic that we judge best reflects that challenge and indicates progress as part of the sector-wide strategy as a potential key indicator.

10. There is inevitably a degree of subjective judgement and an exercise in finding the best fit rather than the perfect fit for each challenge, noting limitations in data available. For example, for Challenge 1 we have selected levels of unmet legal needs for individuals and for small businesses. Other options could be to use numbers of not-for-profit legal aid organisations, legal help new matter starts or percentages of litigants in person. We could also consider combining indicators to create a composite indicator for each challenge. We note that composite indicators can convey more information in a simple to understand number, but are less transparent in their construction than single indicators.

11. On reflection, while a shorter number of summary indicators is easier to consider, each is very different and they do not naturally fit together into a simple narrative, which brings into question the usefulness of reporting in this way. There is also a risk that they direct attention to certain areas and away from others, for example, onto the gender pay gap at the cost of inclusion and progress of those with disabilities or health conditions. Then, depending on the regulatory emphasis we place on these indicators, we risk inducing

Goodhart's law[1], whereby these selected indicators are gamed and they cease to become useful reflections of the outcomes we are seeking.

[1] 'Any observed statistical regularity will tend to collapse once pressure is placed upon it for control purposes'. Charles Goodhart. 1975. See https://en.wikipedia.org/wiki/Goodhart%27s_law.

Overall economic health of the sector	
Employment in the sector	**369,200**
Employment levels provides a broad indication of the health of the sector.	
Challenge 1: Lowering unmet need across large parts of society	
Levels of unmet legal need	**31% Individuals 12% SMEs**
The percentage of individuals and SMEs directly reporting that their legal need is unmet provides a direct indicator for this challenge.	
Challenge 2: Achieving fairer outcomes for people experiencing greater disadvantage	
Perceived accessibility and affordability of the civil justice system	**0.51**
This global ranking (as a proportion) provides an indication of consumers' perception of the justice system and its fairness. Regional average is 0.66.	
Challenge 3: Dismantling barriers to a fair and inclusive profession at all levels	
Median gender pay gap in legal services	**30%**
While there are many possible indicators for this challenge, we felt the pay gap encapsulates a simple top-line statistic for comparison across sectors. National average is 15%.	
Challenge 4: Ensuring high quality legal services and strong professional ethics	
Trust in the legal profession	**69%**
Levels of consumer trust provide a strong indication of quality and ethics in the profession.	
Challenge 5: Closing gaps in consumer protection	
Legal enquiries taken to CAB	**13,048**
Legal enquiries to CAB imply existing gaps in consumer protection.	
Challenge 6: Reforming the justice system and redrawing the regulatory landscape	
Rule of Law Index	**0.79**
This global ranking (as a proportion) provides a composite measure of adherence to the rule of law, fundamental rights, regulatory enforcement, and civil justice. The regional average is 0.74.	
Challenge 7: Empowering consumers to obtain high quality and affordable services	
Ease of shopping around	**75%**
The percentage of consumers finding shopping around easy and accessible gives a broad indication of their ability to obtain high quality and affordable services.	
Challenge 8: Fostering innovation that designs services around consumer needs	
Service introduction by firms resulting in greater responsiveness to clients' needs	**91%**
Service innovation built around clients' needs provides a clear indicator against this challenge.	
Challenge 9: Supporting responsible use of technology that commands public trust	
Percentage of firms introducing at least one 'technology for access' in the past three years	**58%**
Firms introducing technology directly aimed at improving consumer accessibility provides a strong measure of technology commanding trust.	

Highlights since the third edition

12. For the convenience of the Board, we present a short initial summary of new data that you may find particularly striking, before delving deeper into each of the nine specific challenges:

    a) Annual turnover in legal services has increased 6% since 2021, though after inflation there has been a small real-terms fall (-2.6%).

    b) While perceived accessibility and affordability of the civil justice system has remained constant, the UK’s global ranking has declined on the perception that civil justice is free of discrimination.

    c) The number of not-for-profit legal aid organisations continues to fall, most recently by 8% since the time of the last digest (September 2022).

    d) Challenges in representation in the legal profession on the basis of ethnicity is highlighted by disparity in the BSB’s data on barrister pupillage applications and offers made (e.g., 11% of Black applicants receiving 3% of offers compared to 53% of White applicants receiving 72% of offers).

    e) Enquiries taken to Citizens Advice Bureau about legal issues remain steady; a common theme relates to issues ‘accessing solicitors/barristers’ (other themes include court proceeding and debt assessment issues).

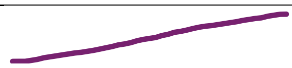
    f) Our recent Technology and Innovation survey highlighted that the Covid-19 pandemic has driven increased trust among firms in the use of technology and reduced perceived constraints and barriers to developing services and using technology.

Overall economic health of the sector

13. Annual turnover in 2022 (based on calendar year) for the legal services sector in England and Wales has increased by 6% compared to 2021. When adjusting 2021 figures for current inflation, however, turnover has decreased in real terms by 2.6%. Growth in turnover however, is not equal. As much as 80% of turnover is represented by corporate legal services activity.

14. The number of authorised ABS licenses issued since their introduction stands at 1,861, of which 1,531 are currently active today (a marginal drop from 1,545 in the previous quarter).

15. Employment in the legal sector rose in 2021 by 3%, similar to growth in 2020 (4.2%) and 2019 (3.6%).

Measure	Source	Latest figure	Most recent trend	Long term trend		
Annual turnover	ONS	£43.9bn	↑ (+6.3%)	'09		'22
Monthly turnover	ONS	£4.0bn	↑ (+6.2%)	12/'21		12/'22
Net exports	ONS	£5.4bn	↑ (+2.7%)	'09		'21
Exports as a proportion of all services	ONS	10%	↑ (+1.0%)	'09		'21
Employment in sector	ONS	369,200	↑ (+3.0%)	'09		'21
Registrations – individuals	Regulators	185,483[2]	↑ (+0.5%)	'10		'22
Registrations – entities	Regulators	10,818[3]	↓ (-1.9%)	'11		'21
Number of ABS	Regulators	1,861	↑ (+0.4%)	Q4 '11		Q4 '22
Insolvencies (Legal activities)	Insolvency Service	6	↓ (-25.0%)	12/'21		12/'22
Performance of listed companies	LSE AIM	273.71[4]	↑ (+11.9%)		https://legalservicesboard.org.uk/legal-share-prices	
Percentage of international cases in UK commercial court	Judiciary of England and Wales	74%	=	'18		'21
Cost of regulation – PCF fees/registrants	LSB levy process	£141,086,370[5]	↑ (+10.4%)	'19		'22
Business confidence about the future	LexisNexis	91%	↓ (-2.0%)	'18		'22

[2] See the Excel accompanying document for registrations by AR's
[3] Estimated
[4] Legal share prices – pence on closing
[5] Total 2022 PCF estimates

Fairer outcomes

Challenge 1 – Lowering unmet need across large parts of society

Challenge 2 – Achieving fairer outcomes for people experiencing greater disadvantage

16. Perceived accessibility and affordability of the civil justice system has remained constant at 0.51, versus a global average of 0.56 and a regional average of 0.66. The view that civil justice is free of discrimination has also declined by two points to 0.57 compared to 0.59 in 2021.

17. The number of not-for-profit providers of legal aid has decreased (reducing from 437 to 401) since last reported.

18. There has been a small but steady rise in the proportion of unrepresented parties or litigants in person, in Family courts, over the past few quarters (currently 57% in Q3 2022). In 2020, about 50% of litigants were unrepresented, whereas the average across 2022 was about 55% (57% in Q3).

Measure	**Source**	**Latest figure**	**Most recent trend**	**Long term trend**
Level of unmet legal need – individuals	ILNS	31%	N/A	
Level of unmet legal need – SMEs	SBLNS	12%		
Legal capability – individuals	ILNS	See separate file		
Legal capability – SMEs	SBLNS	See separate file		
Civil legal aid spending	LAA	£809.6m [6]	↑ (+11.6%)	‘14  ‘22
Criminal legal aid spending	LAA	£838.5m [7]	↑ (+30.7%)	‘12  ‘22
Numbers of NfP legal aid organisations	LAA	401	↓ (-8.2%)	‘21  ‘23
Legal help new matter starts	LAA	127,674	↑ (+8.9%)	‘12  ‘22
Unrepresented parties/ Litigants in person	Court statistics quarterly	57% (All areas, see separate file)	↑ (+2%p)	Q1 ‘20  Q3 ‘22
Perceived accessibility and affordability of	World Justice Project	0.51	=	‘15  ‘22

[6] Provisional figure from LAA.
[7] Provisional figure from LAA.

the civil justice system				
Proportion of fixed fees	LSCP Tracker	55%	↑ (+5.8%)	‘12  ‘22
Level of unbundling	LSCP Tracker	18%	↑ (+12.5%)	‘14  ‘22
Adults owning legal expenses insurance	FCA	29%	↑ (+12%p)	‘17  ‘20
Total net claims paid on Legal Expenses Insurance	Bank of England	£320.8m	↑ (+62.9%)	‘11  ‘21

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

19. The median gender pay gap figure was reported in the previous digest at 34% within legal services. ONS revised this down to 31% for 2021 and, in 2022, the current figure is 30%. This now conveys a downward trend in pay disparity over time, though it is worth noting that the median gender pay gap within accounting activities is 17% as of 2022 and the national average is 15%.

20. The BSB published its latest diversity monitoring survey for 2022. This showed modest progress in a number of areas. The overall percentage of women at the Bar increased by 0.4% in the last year, with women comprising about 40% of the Bar. Since 2015, the number of women at the Bar has increased by over 1,000 (compared to about 50 men over the same period). In addition, the percentage of barristers from minority ethnic backgrounds increased by 0.5% in the last year, now making up 15.2%.

21. The BSB also published its ‘Race at the Bar’ 2022 progress report. This highlighted a large majority of chambers following recommendations made in the BSB’s previous report, particularly a focus for action on widening access. However, data on pupillage applications shows that applicants of ‘White’ ethnicity are still disproportionately likely to receive an offer in 2022 (i.e., 53% of applicants, receiving 72% of offers). The opposite pattern is evident for applicants of an ‘Asian or Asian British’ ethnic background (21% of applicants, receiving 11% of offers) and applicants of a ‘Black/African/Caribbean/Black – African’ ethnic background (11% of applicants, receiving 3% of offers).

22. Enquiries to the LawCare charity remain relatively stable month-on-month. A peak in enquiries was seen in Oct/Nov 2022, with the most common issues raised related to career concerns and stress.

Measure	Source	Latest figure	Most recent trend	Long term trend
Overall composition of profession	Regulators	https://legalservicesboard.org.uk/research/diversity-dashboard-0[8]	N/A	
Composition of profession by seniority	Regulators	As above		
Socio-economic factors	Regulators	As above		
Gender pay gap in legal services	ONS	30%	↓ (-3.2%)	'19  '22
Calls to LawCare	LawCare[9]	57	↓ (-40.6%)	12/'21  12/'22

Stronger confidence

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

23. The number of complaints accepted by the LeO rose in 2021/22 compared to the previous year, though is in line with historical annual figures. The backlog of pre-assessment cases, which rose due to the Covid-19 pandemic and peaked at over 6,000, has begun to fall and is forecast to be reduced to around 2,000 by March 2024.

Measure	Source	Latest figure	Most recent trend	Long term trend
Trust in legal profession	LSCP Tracker	69%	↑ (+5%p)	'16  '22
Overall consumer satisfaction – individuals	LSCP Tracker	85%	↑ (+2.4%p)	'12 '22
Overall consumer satisfaction – SMEs	SBLNS	71%	↓ (-14.5%)	'17  '21
% of silent sufferers - individuals	LSCP Tracker	24%	↓ (-33.3%)	'12  '22
% of silent sufferers - SMEs	SBLNS	68%		

[8] See https://legalservicesboard.org.uk/research/diversity-dashboard-0
[9] Data are provided monthly via email.

First-tier complaints	Regulators	See separate file	N/A	
Enforcement action	Regulators	See separate file		
Second-tier complaints accepted	LeO	5,862	↑ (+28.2%)	‘12  ‘22
Professional negligence claims	Chancery Courts	57	↓ (-6.6%)	‘10  ‘21
Disciplinary cases heard	SDT	114	↓ (-11.6%)	‘18  ‘21
Compensation Fund claims	SRA	£26.9m	↑ (+158.7%)	‘14  ‘21

Challenge 5 – Closing gaps in consumer protection

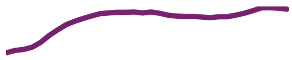
24. The number of enquiries taken to Citizens Advice Bureau about legal issues has remained consistent month-on-month (note the most recent trend below stems from an unusual low number of enquiries in the previous month; see long-term trend figure). The most common enquiries relate to debt, county and high court proceedings (particularly regarding small claims processes) and, most notably, solicitors/barristers (particularly regarding ‘access to barrister or solicitor’).

Measure	Source	Latest figure	Most recent trend	Long term trend
Awareness provider is regulated – individuals	ILNS	65%	N/A	
Size of unregulated market – individuals	ILNS	1%		
Size of unregulated market – SMEs	SBLNS	3%	↓ (-0.6%p)	N/A
Awareness provider is regulated – SMEs	SBLNS	52%	↓ (-8.8%)	‘17  ‘21
Legal enquiries taken to CAB	CAB	13,048	↑ (+63.0%)	01/’22  01/’23

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

25. The number of outstanding criminal Crown Court cases began to slowly decline around the time of the last data digest, but has started to rise over the last six months (see long-term trend figure below). In fact, the current caseload is slightly higher than the peak of just over 60,000 cases seen during summer 2021 (which was attributed to the impact of the pandemic).

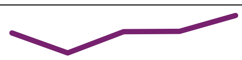
26. The UK's ranking on the Rule of Law Index has remained the same at 0.79 for the third year in a row. The UK ranks 15th out of 140 countries.

Measure	Source	Latest figure	Most recent trend	Long term trend
Rule of Law Index	World Justice Project	0.79	=	'14  '22
Judicial independence	World Economic Forum	See separate file	N/A	
Judicial perceptions	Judicial Attitudes Survey	See separate file		
Size of court backlogs - Outstanding cases in Crown courts	HMCTS	61,737	↓ (-0.9%)	03/'20  12/'22

Better services

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

27. The 2022 wave of the LSB's Technology and Innovation survey (presented to the January 2023 Board session) suggests that the intensity of competition has become a less significant factor in driving new service development among firms. This may in part, however, be due to the Covid-19 pandemic having been perceived as the most significant driver within the sector. In addition, changing or increasing demand for new services was another factor highlighted by firms as being a more significant influence.

Measure	Source	Latest figure	Most recent trend	Long term trend
Shopping around	LSCP Tracker	43%	↑ (+43.3%)	'12 '22
Ease of shopping around	LSCP Tracker	75%	↑ (+27.1%)	'18  '22

Use of Digital Comparison Tools	LSCP Tracker	3.3%	↑ (+0.9%p)	‘16  ‘22
Price of basket of legal services	LSB Prices Survey	£980	↑ (+11.5%)	N/A
Price dispersion (spread of prices)	LSB Prices Survey	£587.8	↓ (-1.7%)	
Innovation – intensity of competition	LSB Innovation Survey	13%	↓ (10%p)	’15 ‘22

Challenge 8 – Fostering innovation that designs services around consumer needs

28. The 2022 wave of the Technology and Innovation survey shows that levels of service innovation and radical innovation have decreased slightly since the last survey wave in 2018. However, technology use has increased, particularly for firms already with some technologies in place (i.e., a firm with technologies on average has ~10% more in 2022 than they did in 2018).

29. The likelihood of specific constraints to developing services or using technologies has fallen, for every single constraint, since the last survey wave. This is likely attributable to the effects of the Covid-19 pandemic, which prompted firms to introduce new technologies (e.g. around 80% of firms in England and Wales now have video conferencing technology in place). The majority of firms surveyed also report that the pandemic has increased both their use of technology and their sense of trust in technology. This strongly suggests that the pandemic has been catalyst for positive change in service development and use of technology.

Measure	**Source**	**Latest figure**	**Most recent trend**	**Long term trend**
Levels of service innovation	LSB Innovation Survey	21%	↓ (-6%p)	‘15  ‘22
Levels of radical service innovation	LSB Innovation Survey	3%	↓ (-4%p)	‘15  ‘22
Innovation increasing responsiveness to client needs	LSB Innovation Survey	91%	↑ (+2%p)	N/A
Regulation as constraint on innovation (service development)	LSB Innovation Survey	34%	↓ (-9%p)	‘18  ‘22

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

30. The 2022 wave of the Technology and Innovation survey shows that firms in 2022 on average use more technologies than in 2018. Across the different technologies surveyed appears to be a trend towards ‘technologies for access’, such as electronic signatures and websites with interactive features’, that facilitate consumer access to legal services. 58% of firms introduced at least one ‘technology for access’ in the past three years, compared to 50% reporting introducing at least one over three years ago. Other technologies, such as technology assisted review and blockchain, show similar levels of adoption to that of 2018, though there is some indication of more firms planning to implement these technologies in future.

<table>
<tr><th>Measure</th><th>Source</th><th>Latest figure</th><th>Most recent trend</th><th>Long term trend</th></tr>
<tr><td>Adoption of different technologies</td><td>LSB Innovation Survey</td><td>See separate file</td><td colspan="2" rowspan="2">N/A</td></tr>
<tr><td>Firms introducing at least one ‘technology for access’ in last 3 years</td><td>LSB Innovation Survey</td><td>58%</td></tr>
<tr><td>Firms agreeing regulation prevents the uptake of technology</td><td>LSB Innovation Survey</td><td>17%</td><td>↓ (-10%p)</td><td>N/A</td></tr>
<tr><td>Lack of trust in AI when using legal services</td><td>LSCP Tracker</td><td>38%</td><td>↓ (-7.3%)</td><td>’19  ‘22</td></tr>
</table>

Risks and mitigations	
Financial:	N/A
Legal:	N/A
Communications and engagement:	N/A
Equality and diversity:	N/A
Resource:	Could lose data sources if organisations providing them choose to make changes. Mitigated by range of indicators used reducing reliance on any one indicator.
Environmental:	N/A

Freedom of Information Act 2000 (FoI)		
Para ref	**FoI exemption and summary**	**Expires**
No redactions		

Annex A - Source Acronyms

FCA – Financial Conduct Authority
HMCTS – HM Courts and Tribunals Service
ILNS – LSB Individual Legal Needs Survey
LAA – Legal Aid Agency
LeO – Legal Ombudsman
LSCP Tracker – Legal Services Consumer Panel annual tracker survey
LSE AIM – London Stock Exchange Alternative Investment Market
ONS – Office for National Statistics
SBLNS – LSB Small Business Legal Needs Survey
SDT – Solicitors Disciplinary Tribunal
SRA – Solicitors Regulation Authority