LEGAL SERVICES BOARD

Meeting: Legal Services Board

Date: 30 April 2024[1]

Item: Paper (24) 21

Title: Consumer Empowerment – Update and next steps

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Status: Official

Purpose of the paper

1. This paper presents:

   a) an update on regulators' progress towards meeting the expectations of the LSB's statement of policy on empowering consumers[1];

   b) the steps the LSB will take to obtain assurance that regulators have met the statement's expectations by the end of September 2024; and

   c) a description of potential steps the LSB could take if regulators have not met the statement's expectations by the agreed deadline.

Recommendation

2. The Board is invited to **discuss**, **note progress,** and **agree next steps**.

Background

3. On 11 April 2022 we published a statement of policy on empowering consumers, which sets out both general expectations, principles, and specific expectations for the regulators.

4. The statement is intended to 'empower' people who need legal services and improve their experience of the legal services market by ensuring they have sufficient information about:

   - legal providers' price, quality, and service, and
   - regulatory protections and means of redress

   to enable them to shop around and make the right choices for them about the legal services they need.

5. In our view, if consumers are enabled to make better choices, then more people should be able to access legal services that are better suited to their needs and

[1] LSB statement of policy on empowering consumers (legalservicesboard.org.uk)

[1] Circulated 23 April 2024

provide better value for money. If consumers are aware of regulatory protections and means of redress; then they should be more confident about using legal services.

6. If consumers are exercising informed choices, then legal services providers should be more incentivized to innovate and design their offers to meet their consumers' needs, so both consumers and the legal services market as a whole should benefit.

7. We decided to pursue these objectives through a statement of policy as we considered it to be the best way to secure better outcomes for consumers while allowing regulators flexibility in pursuing them. We considered that giving regulators this flexibility was necessary to allow them to implement changes appropriate to their size and scale and to enable them to account for market developments such as the use of digital comparison tools and review websites.

8. The statement of policy was informed by our work on quality indicators, including our discussion paper on how to improve transparency of quality in the legal services market[2], and research with the public panel[3]. The statement of policy also took account of the CMA's recommendations in its 2020 review[4] of the progress made in improving competition and transparency in the legal services sector since its 2016 market study.

9. Since the publication of this statement of policy we have:

   a) asked regulators to provide a gap analysis of current arrangements against the expectations in the statement of policy in the summer of 2022;

   b) sought assurance from regulators about their progress towards implementing the expectations of the statement of policy as part of our 2023 regulatory performance assessment;

   c) obtained confirmation from regulators through the Market Transparency Co-ordination and Oversight Group (MTCOG) [5] that they expect to meet the statement of policy's expectations by the end of September 2024.

10. We have undertaken the following other activities to support and complement the implementation of the statement of policy's aims:

   a) We have been working to implement the CMA's recommendation in its 2020 review that there should be a **single digital register** of all regulated entities and professionals in the legal sector. Such a register would make it easier for consumers to access regulatory information, and as noted by the CMA in its 2016 report[6], it would also provide a single source of

[2] http://legalservicesboard.org.uk/wp-content/uploads/2021/02/Quality-Indicators-Discussion-Paper.pdf
[3] http://legalservicesboard.org.uk/lsb-public-panel-quality-indictors-research-report-accessible
[4] https://www.gov.uk/cma-cases/review-of-the-legal-services-market-study-in-england-and-wales
[5] https://legalservicesboard.org.uk/our-work/ongoing-work/consumer-empowerment/mtcog

[6] Legal services market study: Final report (publishing.service.gov.uk)

information for intermediaries, such as comparison websites, which would help encourage competition in legal services.

To provide a single digital register we have been working in cooperation with the Legal Services Consumer Panel (LSCP) and the regulators to develop a 'Regulatory Information Service' (RIS).

Following an options assessment which PA Consulting conducted for us in March 2023, we wrote to regulators in August 2023 about the next steps for this work. Since then, the Legal Choices Governance Board (LCGB) has committed to identifying the design and implementation process for a RIS via Legal Choices[7] which will have the functionality of a single digital register for all regulated legal professionals which will improve consumers' access to regulatory information.

b) We also established the **MTCOG** to coordinate activity by the regulators, facilitate collaboration and monitor and assess progress on empowering consumers and improving transparency. Currently, its main workstreams are the development of the RIS and of a cross-sector public legal education (PLE) strategy. MTOCG is attended by the regulatory bodies, the LSCP and is chaired by the LSB.

c) The LSB is due to re-run our **Prices Research**[8], which looks at price levels and spreads for common legal services such as conveyancing, divorce, and probate. The report also looks at price transparency and prices and quality indicators. The last report was published in September 2020. We are currently considering the best methodology and approach and will issue an invitation to tender in the Summer. We expect to publish our research report in Spring 2025.

Update on regulators' progress

11. As part of our 2023 regulatory performance assessment, we asked regulators to provide an update on their progress on meeting the expectations in the statement of policy. In our January 2024 regulatory performance assessment report[9], we set out our findings that while all regulators have made some progress towards meeting the expectations, they all still had varying amounts of work to do to fully take account of the statement of policy, meet its expectations and demonstrate how their initiatives do so. In particular, the BSB, CRL and FO need to do more on transparency, while the SRA, CRL and CLC need to make clear how they plan to implement the findings of the joint Quality Indicators pilot. All regulators also need to show how their work will benefit consumers and how

[7] Legal Choices is a website run by the regulatory bodies which provides information for the public about how they can access legal help for issues they may have. It also provides general information about the different types of lawyers, the services they offer, their regulation and how to complain about them.

[8] https://legalservicesboard.org.uk/prices2020

[9] https://legalservicesboard.org.uk/wp-content/uploads/2024/02/LSB-regulatory-performance-assessment-report-Feb-2024.pdf

they will evaluate its impact. Further information about regulators' progress is presented in the Annex to this paper.

12. In December 2023, the LCGB confirmed that regulators are working to progress a RIS solution via the development of the existing Legal Choices website. The project subsequently began its 'discovery phase' which will identify the design and implementation process for the RIS. A further update is expected in Spring 2024, which we will follow up on.

13. MTCOG last met in July 2023. At that meeting, regulators confirmed that they expected to meet the expectations in the empowering consumers statement of policy by September 2024 (allowing in some cases for evaluation work planned beyond 2024). We have convened MTCOG meetings when there have been substantive matters to discuss, such as the Quality Indicators pilot, PLE and vulnerable consumers. We will convene a further meeting by summer 2024 at the latest to review regulators' progress on PLE, the RIS and meeting the expectations of the statement of policy.

14. Overall, while regulators have made some positive progress in empowering consumers to engage with the legal services market more effectively via price and service information, the pace of progress on quality indicators has been slow. The LSCP wrote to the Competition and Markets Authority (CMA) in January 2024 expressing concern about having sufficient quality indicators by September 2024.

15. We share the LSCP's concerns about the pace of progress. We believe the best way to make progress is to hold the regulators to account on their compliance with the expectations in our statement of policy, which includes those on quality indicators. We informed the CMA in February 2024 about our ongoing work in assessing the regulators' progress in meeting the statement of policy's expectations. We will continue to engage with the CMA as we progress our work in this area.

Next steps

16. We intend to step up seeking assurance from regulators as to their implementation of the statement of policy. Where regulators have not taken sufficient action to implement the policy's expectations we may go on to assess whether enforcement action is appropriate in accordance with the LSB's statement of policy for enforcement[10].

17. We will request the regulators to set out what steps they have taken to meet the statement of policy's expectations by 30 September 2024. We will write to the regulators shortly explaining what information and level of assurance we will be looking for. We will make clear to the regulators that depending on the assurance we receive; we may wish to conduct thematic or targeted reviews and/or undertake enforcement action. Our next steps are set out below:

[10]https://legalservicesboard.org.uk/what_we_do/regulation/pdf/New%20folder%20(3)/FINAL_Statement_of_Policy_for_Enforcement_v3.pdf

- **May 2024:** We will write to the regulators confirming that we expect all of them to provide sufficient assurance that they are implementing, as relevant to each of them, the statement of policy's expectations and set out what we may do if they cannot provide us with sufficient assurance.

- **June to August 2024:** Relationship managers will engage with regulators about their progress. The regulators' progress will also be discussed at an MTCOG meeting in July. That meeting will also cover progress on the RIS and PLE workstreams. A further MTCOG meeting will take place in October 2024.

- **September 2024:** We will formally request the regulators to provide us with assurance about how they are implementing the statement of policy's expectations.

- **October-November 2024:** We will review regulators' responses to requests for assurance about how they are implementing the expectations of our statement of policy and consider further action in relation to any regulator who has not provided sufficient assurance.

Risks and mitigations	
Financial:	N/A
Legal:	We are working with the legal team on risks and mitigations.
Communications and engagement:	We are continuing to engage with stakeholders about the various aspects of this work, including through relationship management and the MTCOG
Equality and diversity:	The empowering consumers statement of policy refers to the Regulatory Objectives of improving access to justice and encouraging an independent, strong, diverse, and effective legal profession.
Resource:	Sufficient resources will be provided to support any additional regulatory activities which may be required to ensure regulators' compliance with the statement of policy
Environmental:	N/A

Freedom of Information Act 2000 (FoI)		
Para ref	**FoI exemption and summary**	**Expires**
N/a	N/a	N/a

Annex – Further information on regulators' progress in complying with the statement of policy on Empowering Consumers.

BSB	The BSB's gap analysis against the policy in July 2022 identified actions which we understand are in track. We would like clarity on the status of proposals arising from the gap analysis, such as planned research with third sector bodies, how the BSB's work in this area will help consumers and be evaluated, and when the BSB anticipates it will meet the policy's specific expectations.
CLC	The CLC has developed its own rules and guidance to make available information on price and services offered, as well as putting regulatory and complaints information in a prominent place on CLC regulated practices' websites. Compliance is monitored regularly, including through the complaints process. We would like to see CLC use intelligence from its State of Probate survey to ensure provision of probate information that enables effective consumer choice, as well as take forward the actions agreed in the Quality Indicators pilot. The CLC has prioritised significant improvements to the home buying and selling process to deliver greater consumer benefit than incremental changes to consumer information about providers.
CRL	CRL has committed to meeting the expectations in the policy by September 2024. It has completed a gap analysis and has upcoming work in this area - it is planning to review its transparency arrangements, accounting for the findings of the quality indicators pilot it launched with the SRA and CLC. Ove the next year CRL is undertaking work to update its register to ensure it meets expectations of the policy. We would welcome further assurance on how CRL's work will benefit consumers, moving beyond outputs to outcomes.
FO	The FO has committed to meeting the expectations in the policy by September 2024. We note there are areas for the FO to continue to progress in ensuring it meets the policy's expectations including: ▪ Utilise any findings from the planned review of its transparency arrangements, with that review to incorporate the findings from its recent desk-based review of notarial websites. ▪ Exploring how more useful information can be made available to consumers. The FO has begun work to identify an appropriate platform for customer feedback, ratings, and reviews. We expect it to engage with other legal regulators on this work, particularly given the recent SRA, CLC and CRL pilot on quality indicators.
ICAEW	The ICAEW has committed that all papers to its Board regarding new initiatives would set out the impact on consumer empowerment. We expect the ICAEW to: ▪ ensure all new initiatives that it launches affecting legal services will take into account the principles of the policy in their design and evaluation. ▪ consider updating its consumer engagement strategy from 2016 to reflect the policy.
IPReg	IPReg has provided evidence of progress in meeting the policy, including new transparency arrangements and work to produce

	consumer-facing information, including a transparency leaflet. We would be keen to hear more about how IPReg will address quality indicators.
SRA	The SRA has committed to fully implementing the expectations of the policy by September 2024 and has provided us with information about how it may deepen and widen its current transparency and consumer information requirements. We will seek more clarity from the SRA about how it will pursue its consumer empowerment activities and collaborate with other regulators (MTCOG) to meet the September deadline for implementing the policy's expectations.