

# Draft

# Business Plan 2020/21

---

A consultation on our proposed business plan for  
2020/21

This consultation will close on 14 February 2020

**This consultation paper will be of interest to, among others:**

Approved regulators

Providers of legal services

Legal representative bodies

Legal advisory organisations

Other third sector organisations

NDPBs

Consumer groups

Law schools/universities

Legal academics

Members of the legal profession

Accountancy bodies

Potential new entrants to the ABS market

Think tanks

Government departments

## Contents

Foreword by the Chair.....	4
Background.....	5
Draft business plan 2020/21.....	9
Partnership working .....	19
Equality Act Assessment.....	20
Next steps.....	20
Questions.....	20
How to respond.....	21

## Foreword by the Chair



2020-21 will mark the final year of our current three-year corporate strategy. During the year ahead we will embark on an ambitious plan to engage and consult widely to develop a new strategy for legal services regulation.

There will also be some changes in the way we approach our work. In particular, we wish to make more of our sector leadership and convening role by making a step-change in our communications and engagement. This will involve being much more open about what we think the issues are in legal services regulation, exposing gaps and weaknesses, and doing so much earlier in the policy-making process. We know that effective engagement can be a crucial tool in developing effective policy. We will be creating opportunities to engage more extensively and with a wider range of stakeholders across England and Wales as well as internationally. By curating conversations about legal services regulation in the public interest, and working in partnership with others, we can better mobilise effort and drive change in the sector.

Closely linked to this, a culture of greater openness and transparency will be central to how we work. This includes our approach to board meetings where we are exploring ways of increasing public engagement and bringing our discussions to a wider audience. As we demand more of the regulators in this respect, so we will continue to demand more of ourselves and lead by example.

We will also be expecting further improvement from the organisations we oversee. The regulatory bodies have transformed themselves in the last ten years since we assumed our oversight responsibilities. Amongst other things, their regulatory performance has improved significantly and they are also all now using the civil standard of proof in disciplinary proceedings. However, it remains the case that regulation is not working as well for consumers and the public more widely as it could and should – for example in relation to information on price and quality and in fulfilling unmet legal need. We will set out our expectations of the regulators more plainly in those areas that could really make a difference for people. As part of this work we are also exploring means of ensuring that enforcement and disciplinary action is being carried out fairly, competently, transparently and demonstrably in the public interest.

Similarly, the Legal Ombudsman has faced some difficult challenges recently and the priority now is for it to get into the right long-term shape to deliver a high quality and cost-effective service for its customers and where it maximises the potential to extract and disseminate intelligence and learning to the professions with a view to raising standards and preventing disputes.

In 2020-21 we will push forward on the five-year policy objectives that we set ourselves last year – on public legal education, ongoing competence and technology. Our efforts so far have laid solid groundwork which will help us tackle these big policy issues in the next twelve months and beyond. This early work has identified the issues we should be focusing on and next we will be gathering evidence and developing proposals.

Finally, we expect our statutory decision-making work will continue to grow in volume and complexity as regulators drive through the changes they need to make regulation more effective and to cope with the changing environment. And the next business plan year is likely to see a major application from the Solicitors Regulation Authority for the next phase of its proposals for significant reform of pre-qualification education for solicitors. As well as the significance of this issue in its own right, it is a signal that the time has come to start to focus on education and training across legal services more widely.

I look forward to hearing your views on our plans.

**Dr Helen Phillips, Chair**

## Background

1. The Legal Services Board (LSB) is the independent body responsible for overseeing the regulation of lawyers in England and Wales. We are independent of both government and the profession. We are funded by the legal profession. We hold to account the nine regulators for the different branches of the legal profession and the Office for Legal Complaints.
2. Our draft business plan for 2020/21, setting out our proposed priorities for the upcoming financial year, is annexed to this consultation paper.

### Strategic context for 2020/21

3. Our 2018-21 strategy, which we finalised in early 2018 following public consultation, includes the following strategic objectives:
  - (i) Promoting the public interest through ensuring independent, effective and proportionate regulation
  - (ii) Making it easier for all consumers to access the services they need and get redress
  - (iii) Increasing innovation, growth and the diversity of services and providers.
4. In preparing our Business Plan for 2020/21, we have considered whether any changes were needed to these three objectives in light of developments in our operating environment over the last year. We considered:
  - **the market context**, including
    - Continued steady growth in the sector, although mainly at the corporate end of the market with consolidation at the consumer end
    - An ongoing trend of the traditional partnership model being challenged by a range of different business structures including ABS, the accountancy giants, LawTech start-ups and others
    - Continuing changes to the financing of law firms, including a bigger role for third party litigation funding, public listings and private equity
    - The Legal Services Consumer Panel's (LSCP's) tracker survey shows high levels of service satisfaction have been maintained but the market is still failing to support good consumer engagement
  - **political developments**, including
    - Ongoing negotiations over the UK's exit from the European Union; the deadline for reaching a deal is currently 31 January 2020
    - The Ministry of Justice has published a legal support strategy following its post-implementation review of the LASPO reforms in a challenging climate of legal aid cuts, closure of advice centres and social welfare law firms, and a rise in litigants in person

- A widespread sense of criminal justice being in a ‘state of crisis’ due to factors including poor performance in the system, falling spend on criminal legal aid, industrial action by advocates, court closures and miscarriages of justice due to failures in disclosure of evidence.
  - A strong government push behind LawTech in the context of the Fourth Industrial Revolution white paper and the role of legal services in underpinning the economy and as a key export market. However, while LawTech is widely used in the corporate sphere, its adoption at the consumer end of the market remains quite limited
  - The Commission on Justice in Wales has recommended devolution of justice policy and funding to Wales, but that regulation of legal services should continue on an England and Wales basis as now.
  - **broader regulatory and market developments**, including
    - New requirements for solicitors, licensed conveyancers and legal executives to publish price and other information are bedding down with a mixed early picture on levels of compliance by solicitors
    - The year marked the 100<sup>th</sup> anniversary of women in law, but also exposed ongoing gender inequalities. Surveys revealed worrying levels of bullying and sexual harassment causing concern about the future attractiveness of law as a career. There has been ongoing controversy on non-disclosure agreements
    - Professor Stephen Mayson has published an interim report proposing an alternative regulatory framework for England and Wales. Increasingly, other jurisdictions, including in some parts of the United States, are emulating aspects of our legislative model. There may also be legislative reform in Scotland
    - There are ongoing programmes of significant regulatory reforms by the legal services regulators. Some key rule change decisions since April 2019 include the SDT changing to the civil standard of proof, new market transparency requirements for barristers and notaries, and revised enforcement processes for barristers
    - The Legal Ombudsman is now delivering against its KPIs at the investigation stage, but it is still taking too long for complaints to be assessed and reach investigators. A roadmap is being produced setting out a path to a sustained level of acceptable performance.
5. All these developments indicate that the LSB’s current strategic objectives continue to be relevant and important. Therefore, we propose to leave our strategic objectives unchanged and pursue the final year of the current strategy.

## **Development of 2021-24 strategy for legal services & regulation**

6. Starting now, we will be working collaboratively to develop a three-year strategy for legal services regulation for the period 2021-24. We plan a programme of extensive stakeholder engagement to inform the strategy, which we hope will define an agenda for legal services and its regulation as well as set out a clear strategy for the LSB's work. This will include a kick-off stakeholder event in spring 2020 and then a further event in summer 2020 to test our emerging ideas, ahead of consulting formally on a draft strategy and business plan in autumn 2020. As part of this programme of activity, we expect to place much greater emphasis on evidence-based decision making and intelligent reporting of progress towards regulatory goals, starting with a 'state of the nation' assessment of what has been achieved in the ten years of regulation under the current Act, and where there is still work to do. Informed by stakeholder input and other quantitative and qualitative evidence, we will use this report to frame our conversations about our strategy with stakeholders and shape an agenda for change.

## **Market intelligence**

7. The LSB continues to seek to be an evidence-based regulator. We will use market intelligence to ensure that we have a robust evidence base to inform our work and to support our role as an agent for change. We will continue to commission external research as a key component of our market intelligence. However, our own primary research continues to be just one of many sources of evidence and market information that we will rely upon. Our website contains an online resource of official statistics and other data on the legal services market which we hope will prove a valuable resource for the media and our stakeholders.
8. This year we will review our approach to market intelligence alongside the development of our new three-year corporate strategy. One option we will explore is to develop a standing panel of members of the public that we can listen to and draw on across a range of questions as part of our policy development processes. Subject to the feasibility being established, external regulatory bodies and our consumer panel could access the panel to assist their own policy development in a cost-effective way.

**Q1 – Have we identified the most relevant developments in our external operating environment?**

**Q2 – What do you see as the key priorities/issues to be addressed by legal services regulation?**

**Q3 – What are your views on our current approach to market intelligence, and evidence more widely, and how would you like us to develop this function going forward?**



**Q4 – What are your views on our plans to move away from a strategy for the LSB towards a strategy for legal services and their regulation, highlighting gaps and opportunities across the market?**

**Draft business plan 2020/21**

9. At Annex A we have included a draft Business Plan for 2020/21 which describes the work we intend to complete in the final year of our current three-year strategy.

**Discharging our statutory functions**

10. Carrying out our statutory functions will continue to represent the core of our work. The sector leadership activities we have described in previous sections feed directly into this work. Below we note key anticipated activities in each of these areas and highlight where we are reviewing our current approach, which includes improving our own transparency.
11. The LSB's ability to be an effective regulator that commands public confidence relies on sound internal governance, legal advice and financial management. Above all else, it depends on developing our people and protecting their welfare. Specific functions such as servicing our board and its sub-committees, managing enquiries from the public and ensuring reliable IT systems, are rarely visible to our stakeholders, but of course account for a proportion of our expenditure.
12. In addition to the areas of work listed below, we perform a series of other routine statutory functions, including:
- Approving the Solicitor Disciplinary Tribunal's annual budget and approving changes to its scheme rules
  - Appointing the Chair and members of the Legal Services Consumer Panel, endorsing the Panel's annual work programme and hosting the Panel's Secretariat
  - Appointing the Chair and members of the Office for Legal Complaints, endorsing its annual budget and approving its performance targets
  - Producing an annual report and accounts for the LSB, which is laid before Parliament each summer

*Review of rule change approval process*

13. The past year has seen a significant and sustained increase in both the volume and complexity of rule change applications as regulators continue to modernise their frameworks. During 2020-21 we expect to see this trend continue and anticipate considering a significant number of individual applications for changes to regulatory arrangements. This is likely to include the following:
- a further application from the SRA in relation to its proposed Solicitors Qualifying Examination (SQE)

- applications from the SRA related to assuring advocacy standards and reforming its compensation fund
- applications from each of the approved regulators to bring them into compliance with the LSB's new Internal Governance Rules (IGR)

14. Fulfilling a commitment we made when agreeing our current three-year strategy, we will undertake a wholesale review of the materials and processes we use for statutory decisions, including our Rules for applications to alter regulatory arrangements. This includes specific consideration of our expectations regarding evidence and assessment of impact. We recently wrote to regulators to set out a concern about the poor quality of some rule change applications over the last twelve months. We have received applications which are incomplete, lacking in supporting evidence and rationale or have not highlighted all the changes requested clearly. Our review will therefore include consideration of formal mechanisms to achieve greater consistency in the quality of the applications we consider. We will seek to engage with stakeholders at an early stage and will consult on any proposed changes to our current rules and guidance.

#### *Regulatory performance*

15. In December 2017 we published our revised regulatory performance framework. This introduced a more risk-based, proportionate and targeted approach, encompassing a programme of ongoing monitoring and allowing us to have an improved real-time understanding of the regulators' performance. In January 2019 we published a transitional assessment of each regulatory body against the new performance standards. The report included action plans for each regulatory body for any outcomes which had not yet been met. A progress review on the regulators' implementation of these action plans was published in August 2019. At the time of writing we are in the process of updating our assessments.

16. During 2020-21 we will continue to monitor the regulators' performance against the new framework, specifically following up on their progress to meet their action plans. This activity will sit alongside our new relationship management approach and scrutiny of performance management datasets to support the operation of the new framework. As detailed elsewhere in this document, we will also use the framework to monitor compliance with the revised IGRs, progress towards the diversity outcomes we have set out, and progress on increasing market transparency for consumers.

17. Our specific actions in this business planning period will be to:

- a) Be clear on our expectation that regulatory bodies will demonstrate a commitment to ongoing reflection, evaluation and improvement in performance year-on-year. This will be the basis for our future performance assessments.
- b) Undertake one or two risk-based performance reviews of specific regulatory bodies to provide us with a higher level of assurance.
- c) Carry out a thematic review of our Well-led standard and specifically focussed on:

- i. Overall public transparency and accountability
- ii. Visibility of how the Board is holding the Executive to account.

### *Oversight of the Office for Legal Complaints*

18. We hold the Office for Legal Complaints (OLC) to account to make sure that the Legal Ombudsman is delivered at an appropriate cost. This includes carrying out some ongoing statutory functions, such as making appointments to the OLC and approving the organisation's annual budget.
19. Customers of the Legal Ombudsman have experienced delays, especially at the stage of its process when it is determined whether a case should be investigated. Following the completion of a modernisation programme, we are pleased to note that the organisation has recently been meeting most of its key performance indicators at the case investigation stage and reduced the volume of complaints in its pre-assessment pool. We are currently working in partnership with the OLC and Ministry of Justice to develop a roadmap describing the future course to a 'green' state. The priority now is to finalise the roadmap and monitor progress against delivery. We will also focus on ensuring that the Legal Ombudsman maximises its role to extract and disseminate intelligence and learning to the professions with a view to raising standards and preventing disputes.

### *Review of Practising Certificate Fee (PCF) approval process, including targeted review of non-regulatory permitted purposes*

20. We will complete work on an in-depth review of our approach, rules and guidance on the PCF approval process started in 2018/19, including a focus on non-regulatory permitted purposes. To date we have carried out an internal review of our processes and produced a pro forma which all approved regulators now use to submit their PCF applications. This has improved the transparency and quality of information in applications that we receive, which will help to inform our review.
21. The LSB considers that regulators must have access to the right level of resource, deployed efficiently and effectively, to deliver benefits in the public interest. The level of PCF has a direct impact on the costs of regulation borne by the practitioner and ultimately the consumer. If the cost of regulation is too high, it can limit new entry or innovation. Equally, this must be balanced against the risks of under-regulation. Balancing risk effectively is important given the large unmet demand for legal services from both business and individual consumers. Therefore, the LSB must be assured that approved regulators have struck the appropriate balance between adequately determining their regulatory resource requirements against the impact of the level of PCF on its regulated community.
22. One of the key areas of focus for the review will be the types of non-regulatory and regulatory activities which regulators consider fall within permitted purposes, and how they allocate PCF funds to these activities. Section 51 of the Act sets out that the approved regulator may only apply amounts raised by the PCF for one or more of the permitted purposes listed in section 51(4). Where the

approved regulator has both regulatory and representative functions, some of these activities may be carried out by the regulatory body to which the approved regulator has delegated its regulatory functions ('regulatory permitted purposes') and some of these activities may remain with the approved regulator ('non-regulatory permitted purposes'). The review will ensure that we have more clarity on the activities which approved regulators categorise as permitted purposes, so that we can consider whether they are appropriate.

23. This work has important linkages to regulatory performance as it will set out our expectations that regulators make evidence based decisions to allocate PCF funds to address regulatory outcomes, address areas of risk and consumers' needs while ensuring it maintains the standards of the profession and protecting the public interest.
24. We will be engaging and collaborating with stakeholders in the coming months on our emerging thinking, both through bilateral meetings and in stakeholder workshops and will ensure the development of our policy and key milestones are transparent. Our activity in 2020-21 will include consultation on revised rules, guidance and related material.

#### **The five-year policy objectives**

25. A key feature of last year's Business Plan was the introduction of five-year policy objectives for the LSB in the areas of ongoing competence, public legal education and technology. These are ambitious, longer-term policy goals. While they are closely aligned to the existing strategic objectives, we will also carry them forward into our next strategic planning period.
26. So far during 2019-20 we have laid the groundwork for pursuing these objectives and we are pleased with the level of stakeholder interest they have attracted. Specific proposals for packages of work in 2020-21 for each of the five-year policy objectives is included below in boxes under each strategic objective.

## **Strategic Objective 1: Promoting the public interest through ensuring independent, effective and proportionate regulation**

### ***Five-year policy objective: The regulators have appropriate frameworks for continuing assurance of professional competence throughout the careers of the people they regulate***

This project goes to the heart of the LSB vision of legal services that everyone can access and trust. Consumers should be able to trust that practitioners have the necessary skills and knowledge to provide good quality legal services and that they are kept up to date and relevant over time.

Recent reforms to education and training have largely focused on assuring day one competence, but regulators should also ensure that practitioners remain competent throughout their careers. While consumers can usually observe 'service quality' (eg promptness, courtesy, administrative efficiency), often they are not able to assess the technical quality of work. This means they rely on there being checks in place to provide quality assurance.

Unlike other professional services environments, eg healthcare and teaching there is no regular, formal assessment of legal practitioners during their careers beyond requirements for continuing professional development. The time is right for us to consider whether this status quo is sustainable, if it is effective in protecting consumers' and the public interest, and what strengths and weaknesses it has compared with other potential approaches.

We have begun this work by considering what information we hold at the LSB, any evidence from regulatory bodies and approved regulators, as well as evidence from other sectors where ongoing competence assurance practices have already been adopted and learnings from legal academia. We will shortly be launching a call for evidence so that we can understand current approaches to assuring competence and gain clarity on whether there are any gaps in the system or areas of concern that need to be addressed.

Depending on the outcome of the call for evidence, during 2020-21 we expect to identify and consult on any potential policy options. We will also consider carrying out primary research to help fill gaps in the evidence base. Approaches we are considering include qualitative research to understand public attitudes and expectations, structured interviews with experts and thematic reviews to look at particular issues in more detail.

### ***Other work packages under this strategic objective***

#### ***Implementing the revised Internal Governance Rules***

27. Our Internal Governance Rules (IGR) set out what we expect of the approved regulators in relation to the separation of their regulatory and representative

functions. Following an extensive consultation process, we introduced revised IGR and statutory Guidance that came into effect on 24 July 2019. This date marked the beginning of a 12 month transition period for approved regulators and regulatory bodies to come into compliance with the revised IGR. During this period, the approved regulators and regulatory bodies must make an assessment of their existing procedures and practices relating to the IGR and, where necessary, they must make changes to ensure full compliance. If it is anticipated that compliance is not feasible within this 12 month period, the approved regulator or regulatory body must obtain the prior written approval of the LSB.

28. During 2020-21 the LSB will support approved regulators and regulatory bodies during the transition period, which ends on 23 July 2020. This process requires each approved regulator and regulatory body to submit a separate certificate of compliance covering the specific regulatory functions and rules which apply to it. Our main focus in 2020-21 will be to review these certificates, consider any applications for non-compliance and consider any applications for changes to regulatory arrangements made under Part 3 of Schedule 4 to the Act that may be necessary in light of the new IGR.
29. Following the transition period, compliance with the IGR will be monitored through our regulatory performance framework. We are preparing to consult in February/March 2020 on how this element of work will be put into operation.

#### *Contingency planning for regulator exit*

30. It is some time since the LSB reviewed its approach and planning documentation relating to a regulator exiting the market. This might happen for a number of reasons including de-designation following persistent inability to meet regulatory performance standards resulting in enforcement action, financial failure or malfeasance. An approved regulator might also make an active decision to exit the market. In all these scenarios the LSB has an important responsibility to ensure continuity of regulation so that legal professionals can continue to practise and consumers are properly protected.
31. From an initial review we believe there is scope to update and improve our current plans. Specifically, we want to ensure that our planning covers all possible scenarios for regulator exit given the developments in the sector since the plans were first drafted. Therefore, during 2020-21 we will review our current policy and update it as appropriate.

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

### ***Five-year policy objective: The LSB is perceived as being at the forefront of enhancing public legal education***

The LSB has a regulatory objective in section 1 of the Act of 'increasing public understanding of the citizen's legal rights and duties'. Knowledge about the legal system and legal rights and responsibilities makes members of the public more able to participate as active citizens in society and to recognise the fundamental value of the rule of law.

We want to see higher levels of legal capability in the whole population, and particularly in vulnerable groups disproportionately represented in the legal system. More individuals and small businesses should be able to recognise when their problem is a legal one and know how to get help – and this should ultimately lead to less 'unintentional' unmet legal need.

We know that there are a range of organisations active in promoting PLE, and we have been engaging with a number of them during the first year of our work on our PLE policy objective. We have joined the Solicitor General's Committee on PLE and we have built relationships with other members of that Committee. We have been using our research capability to improve the evidence base including by making questions about the extent of PLE a significant component of our individual legal needs survey.

Our focus in 2020-21 will be on:

- improving the evidence base in relation to PLE by building our understanding what the regulators are doing and by commissioning a literature review of existing PLE research with a particular focus on how impact is assessed.
- making better use of our convening power, including collaborating with other organisations with an interest in PLE to achieve a common view on what needs to be done to improve PLE and working alongside the Solicitor General's Committee
- determining whether the LSB's regulatory levers need to be used to ensure the regulatory bodies actively promote PLE in carrying out their functions. For example, there are opportunities for the regulatory bodies to embed PLE in their work when they publish their registers of providers, when they handle complaints about providers and when they place regulatory obligations on providers to give information to consumers on price, quality and how to complain
- consulting publicly on the use of any of our formal regulatory levers, so that we can share the evidence base underpinning our action and seek views and suggestions from stakeholders about how best to address the issues identified

## ***Other work packages under this strategic objective***

### *Future approaches to enforcement*

32. In March 2019 we published a review of the enforcement processes of the BSB and SRA and highlighted our future strategic priorities for enforcement oversight. This included seeking greater transparency of regulators' performance information; ensuring effective and consistent use of interim sanctions; and gaining assurance of the quality of enforcement decisions made by regulators.
33. We have since begun to explore the desirability and feasibility of making changes to our current approach to enforcement oversight under the regulatory performance framework by considering whether there are approaches used in other sectors or jurisdictions that we can learn from and adapt for the legal services sector. For example, the Professional Standards Authority for Health and Social Care assesses the quality of regulators' enforcement work by carrying out file reviews on a sample of cases so it can better understand how a regulator is managing its fitness to practise decision making processes.
34. During this exploratory phase, we will be guided by the Board before deciding on the next steps for this project. It may lead to further work including engaging with stakeholders on potential changes to our current approach.

### *Legal needs surveys of small businesses and individuals*

35. In October 2019, in partnership with the Law Society, we published the findings of a survey of individual consumers to understand how they respond to legal issues. With a sample in excess of 28,000 respondents, this is an incredibly rich resource that we will continue to exploit to reveal fresh insights and inform our work. During 2020/21 we will publish briefings on different aspects of the findings, for example by looking in detail at specific demographic groups and areas of law. Using our in-house statistical expertise, we will develop a segmentation model which will identify clusters of respondents with similar attitudes and behaviours. This should help policymakers and others to better target interventions, such as public legal education, in ways that will maximise the benefits to these groups.
36. During 2020-21 we plan preparatory work with a view to commissioning the fourth wave of our research on the legal needs of small businesses in 2021-22. Small businesses are the lifeblood of the economy representing 52% of turnover and 60% of employment, so it is important to understand their experiences of legal issues. This survey has broader value for stakeholders, for example, the World Bank has drawn on our model to carry out similar studies in other jurisdictions and the Financial Conduct Authority used the previous wave to change rules enabling 210,000 more small businesses to complain to the Financial Ombudsman Service. Therefore, we will review the existing approach to ensure future surveys deliver maximum impact and look for possible research partners.



### **Strategic Objective 3: Increasing innovation, growth and the diversity of services and providers**

***Five-year policy objective: Access to legal services is increased through the promotion of responsible technological innovation that carries public trust***

We have already made progress against this policy objective. Our work started with research on LawTech adoption, published in November 2018. During the course of 2019 we published a series of papers and podcasts by independent experts on the regulatory implications of developments in technology. We will be publishing further papers in the coming months, including a collection of short papers offering different perspectives on LawTech regulation. This phase of our work will culminate in an event and a report distilling the learning and identifying some core principles for regulatory bodies to draw on as they develop their respective approaches to technology regulation.

Building on the above, our next phase of work will focus on the regulatory bodies' own development of technology regulation and how the LSB can further support them and monitor their progress in these efforts. In developing their respective approaches to technology regulation, we would expect the regulatory bodies to consider whether their existing rules and regulations are sufficient or whether they need to make changes to them. We will explore ways to support regulatory bodies to further develop their technology regulation capabilities. One option we are considering is to set up an expert reference group for the regulators to use collectively to consider and determine approaches to technology challenges. We will also conduct further analysis of our legal needs research and explore options to carry out qualitative research on the ethical dimensions of these issues.

We are interested to hear views on new possible directions for our work on technology. Examples might be how regulators can use technology to assist with their work, and evaluating ways of improving access to data, such as data trusts.

In addition to this policy initiative, we will continue work started in 2019/20 to promote wider use of regulatory sandboxes or similar initiatives designed to facilitate innovation. The SRA has already developed successful approaches in this area so our initial focus has been on what smaller regulators can achieve. We will shortly start this work by mapping approaches currently used by the regulators. Depending on the outcome of this mapping exercise, we will identify where we might need to carry out further work in 2020-21.

#### ***Other work packages under this strategic objective***

##### *Responding to the regulatory consequences of EU exit*

37. At the time of writing the deadline for reaching a deal on the UK's exit from the European Union has been extended to 31 January 2020.

38. We will continue to seek assurance that regulators have adequate plans for managing the impact in their areas of responsibility, that we maintain effective

communication with the Ministry of Justice and the regulators and that we play our part in the process of adapting regulatory arrangements in light of the final agreements that are made as the UK leaves the European Union.

#### *Engaging with the CMA review of progress on its legal services market study*

39. When the CMA published the final report of its 2016 market study it signalled that it was likely to conduct a review of progress after three years. We understand the CMA plans to undertake this review during 2020 and we will provide insights from our evidence and perspective as oversight regulator. This will build on our work to assess action plans produced by the regulators to improve transparency, monitor the progress they are making against these plans, consider proposed changes to their regulatory arrangements and take action to close information gaps.
40. An area where regulatory bodies have made less progress is on providing consumers with indicators of the quality of legal services – this embraces both technical aspects of work and customer service. The Legal Services Consumer Panel recently published a helpful paper on the topic and hosted a roundtable. Following this we will convene a meeting of regulatory bodies to explore a range of possible options and this may lead to further work in 2020-21.
41. We are also keen to ensure the long-term sustainability of the Legal Choices website and that it builds successfully on its initial three-year development plan.
42. We will continue to engage with the regulators, including through our participation in the cross-regulator group working on these issues - the Remedies Programme Implementation Group. We see work to improve transparency for consumers as one of the key underpinnings of the wider work we will be undertaking on public legal education.

#### *Prices research*

43. In November 2019 we commissioned the third wave of our research on the prices of common legal services purchased by individuals. This is being carried out in partnership with the CMA and Ministry of Justice. The first wave of the research was a key piece of evidence highlighting poor price transparency in the market. This new study will track changes in prices quoted by providers, price dispersion and approaches to transparency following implementation of the CMA remedies. As such, it will provide important evidence ahead of the CMA's progress review.
44. The fieldwork is due to be completed before the end of the financial year. Therefore, our work in 2020/21 will be limited to analysis and report writing.

#### **Our costs**

45. The LSB's budget reflects the resources it needs to meet its policy and strategic objectives. We have developed projections for each programme of work to ensure ongoing and planned activity is effectively resourced. Since the LSB's

inception we have consistently reduced our costs in each year of operation. This position has been under close review and, at the beginning of the 2018/19 financial year, we reached the minimum level of resourcing which we believed was necessary for the successful delivery of our work.

46. By the end of 2019/20 we will have completed a major IT transformation programme and moved offices. These initiatives will result in either short term or longer term savings, as will efficiencies identified in other parts of the organisation, but there are other drivers which will increase our costs, including inflationary pressure on both pay and non-pay costs. We also plan additional resource for work on statutory decisions, which has seen a sustained increase in demand and complexity as regulators continue to modernise their regulatory approaches. Further, we wish to conduct more research, improve business management and invest in our communications functions in order to meet our ambition to play a stronger sector leadership role.
47. We are therefore proposing a modest budget increase of 3.3% from £3,798k to £3,923k. This is in line with guidance from the Ministry of Justice relating to the one-year Spending Review rollover for 2020/21.

**Q5 – Do you have any comments on our proposed business plan and work for 2020/21? Are there any workstreams that you disagree with? Is there any work that you think we should pursue that is not currently included?**

**Q6 – Do you have any comments on our proposed budget for 2020/21?**

## **Partnership working**

48. In order to achieve our vision, we recognise the importance of effective partnership working with other players in the sector. This is particularly important in relation to our work as an agent for change, where working with others will help us to communicate evidence and key messages and stimulate change.
49. We hope that stakeholders will support us in delivering this business plan, building on the existing strengths of the sector and helping to make the market work better for consumers and the wider public. Through this consultation process, we invite stakeholders to identify elements of our business plan on which they see scope for further more detailed dialogue and/or collaboration with us. We particularly seek opportunities for joint funding of market intelligence work both with regulators and/or other organisations.

**Q7 – Please identify any elements of our business plan that you think present an opportunity for more detailed dialogue and/or joint working between your organisation and the LSB.**

## Equality Act Assessment

50. The LSB has given due consideration to its obligations under the Equality Act 2010<sup>1</sup>. Some of the policy activities proposed in this consultation (for example, our proposed work on ongoing competence, public legal education and the regulatory implications of technology) may have an impact on individuals with protected characteristics to varying degrees and we will consider those impacts in line with our Public Sector Equality Duty as we go through the process of carrying out those activities. Equally, we will consider those impacts when carrying out our statutory decisions work, which includes applications for changes to regulatory arrangements, and approval of the PCF and budgets of the OLC and SDT.
51. We would welcome any comments respondents may have on any equality issues they believe arise as a result of our proposed business plan.

**Q8: Please provide comments regarding equality issues which, in your view/experience, may arise from our proposed business plan for 2020/21.**

## Next steps

52. This consultation closes on 14 February 2020. During the consultation, we will host a stakeholder engagement session to provide an opportunity for stakeholders to discuss our draft business plan and ask any further questions.
53. Once the consultation has closed, we will consider all feedback received and make any resulting amendments to our business plan. We will publish our response to the consultation, alongside our final business plan, by the end of March 2020.

## Questions

**Q1 – Have we identified the most relevant developments in our external operating environment?**

**Q2 – What do you see as the key priorities/issues to be addressed by legal services regulation?**

**Q3 – What are your views on our current approach to market intelligence and how would you like us to develop this function going forward?**

---

<sup>1</sup> [Public Sector Equality Duty](#): public authorities have to consider all individuals when carrying out their day-to-day work – in shaping policy, in delivering services and in relation to their own employees. It also requires that public authorities have due regard to the need to: eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities. The LSB is a public authority listed in [Schedule 19](#) of the Equality Act 2010.

**Q4 – What are your views on our plans to move away from a strategy for the LSB towards a strategy for legal services and their regulation, highlighting gaps and opportunities across the market?**

**Q5 – Do you have any comments on our proposed business plan and work for 2020/21? Are there any workstreams that you disagree with? Is there any work that you think we should pursue that is not currently included?**

**Q6 – Do you have any comments on our proposed budget for 2020/21?**

**Q7 – Please identify any elements of our business plan that you think present an opportunity for more detailed dialogue and/or joint working between your organisation and the LSB.**

**Q8 – Please provide comments regarding equality issues which, in your view/experience, may arise from our proposed business plan for 2020/21.**

## **How to respond**

54. We welcome views and comments on all aspects for our draft Business Plan by 6pm on **14 February 2020**.

55. We would prefer to receive responses electronically (in MS Word format), but hard copy responses by post are also welcome.

56. Responses should be sent to:

**Email:** [consultations@legalservicesboard.org.uk](mailto:consultations@legalservicesboard.org.uk)

**Post:**

Ramandeep Bhatti  
Legal Services Board  
3<sup>rd</sup> floor, The Rookery  
2 Dyott Street  
London WC1A 1DE

57. We intend to publish all responses to this consultation on our website unless a respondent explicitly requests that a specific part of the response, or its entirety, should be kept confidential. We will record the identity of the respondent and the fact that they have submitted a confidential response in our summary of responses.

58. If you want to discuss any aspect of this consultation, or need advice on how to respond, please contact the LSB by telephone (020 7271 0050) or by one of the methods described above.

## **Complaints**

59. Complaints or queries about the LSB's consultation process should be directed to Jenny Prior, the Consultation Co-ordinator, at the following address:

Jenny Prior  
Legal Services Board  
3<sup>rd</sup> floor, The Rookery  
2 Dyott Street  
London WC1A 1DE

Or by e-mail to: [consultations@legalservicesboard.org.uk](mailto:consultations@legalservicesboard.org.uk)