

To:	Legal Services Board
Date of meeting:	26 October 2016
Item:	Paper (16) 60

Title:	Update on the accessibility project
Workstream(s):	Follow up on “Supporting increased accessibility of legal services” project from 2015/16 business plan
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Status:	Unclassified

Summary:

In March 2016 the Board considered the final report from the accessibility project (see [here](#)). It was agreed at that meeting that we would follow up with regulators to establish how they have used the report and what relevant work they are currently undertaking in relation to the themes highlighted in it.

This paper outlines our findings from follow up work with the regulators. This follow up identified some feedback for the LSB in terms of how to maximise the impact of our work. It also revealed significant relevant work that the regulators are undertaking to improve accessibility, including work which has resulted directly from the report that we published.

Recommendation:

The Board is invited to:

- Note the update on regulators’ actions in relation to the themes identified through our accessibility report
- Reflect upon the benefits of leadership through good practice projects, such as the LSB accessibility report, as a soft lever of influence over regulators.

Risks and mitigations

Financial: N/A

Legal: N/A

Reputational: N/A

Resource: N/A

Consultation	Yes	No	Who / why?
Board Members:		X	
Consumer Panel:	X		The project team liaised with Consumer Panel colleagues on the links between the LSB accessibility report and the client care letter research that it has commissioned alongside the regulators (see paragraphs 13-15).
Others:	The project involved consultation with the regulators.		

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
Para 20, fourth and fifth sentences	Section 43: information relates to the commercial interests of organisation	

LEGAL SERVICES BOARD

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Update on the accessibility project

Recommendation

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 - Note the update on regulators' actions in relation to the themes identified through our accessibility report
 - Reflect upon the benefits of leadership through good practice projects, such as the LSB accessibility report, as a soft lever of influence over regulators.

Background

2. During 2015/16 our business plan included a project aimed at advancing our knowledge of non-financial barriers to consumers accessing legal services. The intention was to better understand what barriers might be contributing to the high levels of unmet legal need identified through the LSB's legal needs surveys.
3. The first stage of the project was a review of existing research, which resulted in the identification of three barriers that are contributing to unmet legal need:
 - (i) Inaccessible language and communications
 - (ii) Lack of trust
 - (iii) Failure to cater for the needs of vulnerable consumers.¹
4. Having identified these barriers, the next step for the project was to examine how other sectors were approaching them and to share any good practice with the sector through a report.
5. In March 2016 the Board approved the final report from the project.² The report highlighted good practice measures under five key themes:
 - (i) Encouraging or requiring disclosure of key information by providers
 - (ii) Using consumer research to develop guides or toolkits for providers on accessible language and communications

¹ It is important to note that affordability and consumers' lack of information were out of scope of this project and they were the subject of their own projects.

² Lowering barriers to accessing services (March 2016). Available online at http://www.legalservicesboard.org.uk/news_publications/publications/pdf/2016/20160331_Lowering_Barriers_Final_Report.pdf

- (iii) Developing simple, plain English guides explaining regulation to consumers
 - (iv) Developing logos or other visual representations for providers to use to denote regulation
 - (v) Embedding the importance of consumer vulnerability within the regulatory framework.
6. It was agreed, at the March Board meeting, that we would follow up with regulators to establish how they have used the report and what relevant work they are currently undertaking in relation to the themes highlighted in it.
7. The project team has now met with the regulators. This paper outlines lessons from these meetings for the LSB, as well as examples of positive work being undertaken by the regulators to tackle barriers to accessing services.

Competition and Markets Authority Interim Report

8. The Board will be aware of the Competition and Markets Authority's (CMA) interim report into legal services, which is the subject of another paper on the agenda for the October meeting. There is crossover between the recommendations in the CMA's report and the findings of the LSB accessibility report. In particular, the CMA report includes discussion of the following remedies:
- Improving transparency of price and service quality before and after a consumer chooses a provider (including revisions to client care letters). This has crossover with themes (i), (ii) and (iii) from the LSB accessibility report.
 - Improving consumer awareness of factors such as different types of providers, differences between regulated and unregulated. This has overlap with theme (iv) from the LSB accessibility report.

Key lessons

9. The review process has identified a number of lessons for the LSB in terms of the value and impact of "thought leadership" projects such as this (which do not rely on our statutory powers to secure outcomes). These are set out below.
- **The regulators see value in the LSB summarising lessons from other sectors** – overall, regulators were encouraging of the LSB's work in this area and found the report to be useful. Some of the smaller regulators commented that they do not have the resources to devote to reviewing other sectors and that reports such as this one help them to learn from other sectors. Amongst the larger regulators, it was seen as a useful resource against which they were able to benchmark themselves.

- **Follow up on reports increases their impact** – this paper outlines the positive work undertaken by many regulators in relation to accessibility, including examples of work that specifically references our report. Many of the regulators commented that it was the follow up meeting which prompted them to properly consider the report. For example, some regulators provided evidence of having undertaken a benchmarking exercise against the themes identified in the report in preparation for the meeting and others noted actions that were progressed in between the meeting being scheduled and taking place.
- **There is appetite amongst regulators for more proactive engagement from the LSB to help them plan their work** – a number of regulators demonstrated interest in liaising with the LSB, in advance of the publication of reports such as this, so that they are aware of when key reports will be published and can plan to devote the resources required to give them full consideration.

10. Some regulators expressed concern that the follow up implied that the themes identified in the report were actually standards against which they were being assessed against. They stressed that if they are to be assessed against standards it is important that this is made clear up front. The LSB report was clear that this is not the case and it was explained in meetings that we were not undertaking a formal performance assessment of the regulators.

Relevant work being progressed by regulators

11. Our follow up work identified significant work that the regulators are progressing to improve the LSB accessibility of services. This included a number of examples with a clear link from the accessibility report, as well as other work that was being progressed irrespective of the report. Some of the work discussed was internal work but some of the more tangible, public examples of relevant work are included below.

Encouraging or requiring disclosure of key information by providers

12. Earlier this year all of the regulators and Legal Services Consumer Panel jointly commissioned qualitative consumer research into client care letters. The research considers the perceptions amongst users of legal services of client care letters and examines how they could be used to best meet consumer need.

13. Whilst agreement to this work was secured before our report was published, the research specification did reference the accessibility report and the approaches from other sectors that are identified in it.

14. The research should provide a valuable evidence base for the regulators to use when determining how best to approach this issue. We understand that the intention is for the report to be published in November.

Using consumer research to develop guides or toolkits for providers on accessible language and communications

15. This was the only theme where we identified limited relevant work at the regulators. However, we did identify one positive example of work to improve accessible communication. In January the BSB hosted a symposium to work out how it can promote effective cross-cultural communication. The main issues identified were set out in a report and efforts are being made to raise awareness of the findings.³
16. Other regulators noted that they will reconsider the case for producing language guides in the light of the results of the client care letter research.

Developing simple, plain English guides explaining regulation to consumers

17. The SRA's response to the CMA's interim report noted that it is "*considering the best ways to help people understand what they can expect of a solicitor and what protections are in place depending on the provider they choose.*" It went on to say that "*one option we are considering is a leaflet or booklet available on our website and in places like solicitors' offices, Citizens Advice bureaux and libraries, which would be similar in style to the General Dental Council's Smile Guide.*" This is a direct reference to the content of the accessibility report, which noted the Smile leaflet as good practice.
18. In addition, a number of regulators were able to point to work to improve the accessibility of their websites and promote the use of plain English. For example, the BSB has been working with Law for Life on making its website more accessible and reviewing guidance that the BSB produces for lay clients. Similarly CILEx Regulation is internally reviewing the content of its website to remove jargon and improve accessibility.
19. The regulators already run the Legal Choices website between them which includes information on regulation and regulated services. The CMA, in its interim market study, noted that it is considering whether further development of the content and promotion of this website might help to tackle issues concerning lack of consumer information.

Developing logos or other visual representations for providers to use to denote regulation

20. Prior to publication of the report we were only aware of one regulator (CLSB) that was actively promoting use of a logo to denote regulation. In our follow up meetings, four additional regulators noted that they were now more actively pursuing this. For example, the SRA publically committed to this in its response to the CMA's interim report. [REDACTED]

³ Bar Standards Board, *Does cross-cultural communication matter at the Bar?* (January 2016), available online at: https://www.barstandardsboard.org.uk/media/1750588/bsb_ccc_report_april_2016.pdf



Embedding the importance of consumer vulnerability within the regulatory framework

21. Progress on embedding consumer vulnerability has been directly monitored through the regulatory standards framework as it is a component of the Risk Assessment standard. Regulators have made improvements in this regard during the assessment process, as noted in the reports that we published on each regulator's performance in April 2016.

Next steps

22. The accessibility report has helped to inform the project in the 2016/17 business plan on vulnerable consumers. This project will involve commissioning research and this will build upon findings from the accessibility project. It will provide an evidence base upon which future decisions can be taken on whether we should undertake more targeted work in this area.

23. As set out above, there is crossover between the themes identified in the accessibility report and the interim report of the CMA's market study. Our ongoing work in relation to the CMA's study will involve considering how the regulators are responding to the CMA's interim report and its final report (which is due to be published in December). This will provide continuity from the accessibility project.

24. The lessons outlined in this paper on how to maximise the impact of our work will be factored into future project work and business planning.

25. Our follow up work also suggests that LSB leadership and sharing of good practice has value and that it could have a role as a soft lever of influence over the regulators. This should be considered through strategic and business planning.