

To:	Legal Services Board	
Date of Meeting:	26 May 2016	Item: Paper (16) 33

Title:	Evaluation: Changes in the legal services market 2006/07 - 2014/15- Final report
Workstream(s):	Performance, evaluation, and oversight (See LSB Business Plan 2015/16)
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Status:	Official

Summary:

This paper presents an overview of the findings of the LSBs 2015/16 market evaluation exercise, seeks the Board's comments on the summary report, and provides notification of our intentions to publish the associated reports in July.

The key points in this paper are:

- This is a major triennial exercise which uses a wide range of 'best available' evidence to understand whether the regulatory objectives are being met better now than they were since the LSB's baseline study in 2012.
- A short narrative document has been developed to accompany the main report, highlighting key findings relating to competition, access and quality.
 - Competition – positive developments but improved outcomes for consumers are emerging slowly
 - Access to legal services – same proportion of people taking action, but more consumers handling their matter alone rather than seeking advice
 - Quality of legal services – improvements in most areas
- What this means for us:
 - We consider that the LSB's strategic objectives remain well-aligned with the areas we have identified for improvement in the market.
 - We consider that the pace of progress needs to increase – the CMA market study presents a significant milestone here, while our findings strengthen the case for legislative reform to complete the liberalisation of the market.

Recommendation(s):

The Board is invited to:

(1) Note and discuss and the three key messages arising from the market evaluation exercise;

(2) Review and comment on the summary report.

In line with the Schedule of Delegations, and pending discussion of this paper, the Chief Executive will approve for publication the final versions of summary report, the final report and the final report annexes.

Risks and mitigations

Financial: **Low.** No significant financial risks are identified.

Legal: **Low.** Legal advice was sought on the draft market evaluation report and we have followed this advice in redrafting.

Reputational: **High.** The outputs from this project will generate interest and potentially strong views from representative bodies, regulators, academics, the CMA, and MoJ. They may challenge our interpretation of the evidence.
It was with this in mind that we drew upon a wide range of evidence and undertook 'consultation' activity with a wide group of stakeholders before presenting final outputs to the Board. A communications plan and press lines will be prepared to accompany publication of the report.

Resource: **Low.** No significant resource risks are identified.

Consultation	Yes	No	Who / why?
Board Members:	X		Terry Babbs as the Board member of the Research Strategy Group. The Board were also provided with a presentation on the exercise including some early findings in January 2016.
Consumer Panel:	X		Michelle Goddard as the LSCP member of the Research Strategy Group.
Others:			The Research Strategy Group were consulted on approaches to analysis in October 2015 and in February 2016, and a draft report was shared with all members for comment in March 2016. Approved regulators who are not members of the Research Strategy Group were also asked to fact check relevant sections of the draft report between March and April 2016.

Freedom of Information Act 2000 (Fol)

Para ref	Fol exemption and summary	Expires
Annex A and B	s.22 (future publication)	N/A

LEGAL SERVICES BOARD

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Market Evaluation: Changes in the legal services market 2006/07 - 2014/15 - Final report

The Board is invited to:

- (1) Note and discuss the three key messages arising from the market evaluation exercise;
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Background

1. There is a long standing commitment to periodically evaluate the delivery of the market outcomes associated with the Legal Services Act (LSA) 2007 using a framework agreed by the Board¹, which was reiterated in the 2015/16 business plan as part of the *Performance, evaluation, and oversight* work stream. This is market facing and as such looks at the legal services market as opposed to providing an assessment of LSB activity.
2. The output of this activity is an assessment of how the legal services market has changed since 2007. This assessment draws on a very wide range of evidence sources and updates the baseline we published in 2012.²
3. The market evaluation provides a thorough, assessment of changes in market outcomes to date and a review of existing research and evidence on which to develop future policy. This can be used to both identify areas of limited progress and prioritise future approaches to evidence gathering.
4. To deliver this assessment there were four main elements to the project:
 - (i) **In house literature review** of 96 research reports published between 2012 and 2016 (i.e. since the baseline study) by the approved regulators,

¹ First set out in 2011, Evaluation framework,

http://www.legalservicesboard.org.uk/news_publications/publications/pdf/evaluation_framework_april_2011.pdf

² See Market impacts of the Legal Services Act – 2012 Final Baseline Report, LSB, 2012,

<https://research.legalservicesboard.org.uk/wp-content/media/Impacts-of-the-LSA-2012-Final-baseline-report.pdf>

representative bodies, government and academia, as well as a review of the LSBs research findings over the past four years.

- (ii) **Commissioning of independent external research** on the legal needs of individuals and small businesses, innovation, prices, public access barristers, and an economic opinion on the impacts of rule changes, to close known gaps in knowledge;
 - (iii) **In house collation and analysis** of a wide set of government statistics, survey datasets, and regulatory data to allow for analysis of changes over time;
 - (iv) **Assessment** of what available evidence shows, and identification of proxy indicators of change where necessary, and gaps in collective knowledge;
 - (v) **Discussions of findings to add context** with the LSBs senior leadership team, research colleagues at the approved regulators, and the LSBs Research Strategy Group.
5. This activity was undertaken using the LSB's Evaluation Framework, which was approved by the Board in 2011, and the market segmentation³ framework to look at changes in market outcomes. It provides an assessment based on the best available evidence recognising resource constraints and our desire to minimise the burden of information collection on the regulated community.

Findings

6. The market evaluation considers change in relation to 13 different outcomes and is inevitably a detailed document. An overview of the key findings across all the outcomes has been provided for the Board in **Annex A**.
7. To help communicate our key messages in an accessible way, a short summary report has been produced focusing on competition, access and quality – three areas we believe to have the greatest relevance for consumers – see **Annex B**. A copy of the draft full report is available on request.
8. Overall we are able to point to positive developments since 2007. Perhaps just as importantly, predictions made by sceptics of market liberalisation ten years ago in relation to quality standards and ethics have not materialised. Even so, outcomes for consumers are only improving slowly and we consider that the sector needs a kick-start to properly address unmet legal need and unlock growth. The CMA market study and legislative reform could well provide the impetus that we seek.

³ <https://research.legalservicesboard.org.uk/news/market-segmentation/>

9. Briefly, findings are as follows:

- a. **Competition – positive developments but improved outcomes for consumers are emerging slowly:** the sector has grown and new business models have established a significant foothold. Changes to regulatory arrangements have been procompetitive. Levels of innovation are unchanged, although the data suggests that ABS are more innovative. Consumer empowerment remains weak, not helped by limited price transparency, little advertising and an absence of comparison websites. Prices appear to have risen over time, but a positive trend is the rise in fixed fee deals which offer consumers greater certainty on price.
- b. **Access to legal services – same proportion of people taking action, but more consumers handling their matter alone rather than seeking advice:** better technology and legal aid reform have driven the ‘handling alone’ trend. People tend to do this because they believe the matter is relatively straightforward, but a perception that lawyers are high cost is a barrier for some. SMEs still do not view lawyers as cost-effective.
- c. **Quality of legal services – improvement in most areas:** levels of satisfaction with service have remained above 2009 levels. While first-tier complaints to SRA regulated entities have increased, a smaller proportion of these complaints are escalated to the Legal Ombudsman. This trend is driven by new business models with better complaint resolution ratios. Misconduct cases appear to be falling over time, although their seriousness appears to be increasing. The international standing of UK law has been maintained and net exports of legal services have continued to grow.

What this means for us

10. In relation to implications of our findings for our future work, we consider that the LSB’s strategic objectives remain well-aligned with the areas that we have identified for improvement in the market. We also think that further legislative reform is necessary to complete the liberalisation of the legal services market. This will build on the reforms introduced in the LSA and other legislation to maximise the opportunity to unlock growth and address unmet need for legal services.

Next steps

11. The Research team will now complete the annexes to the full report, and finalise summary materials. The reports are scheduled for publication in late June/early July, because of purdah related to the EU referendum. However this is in advance of publication by the CMA of its interim findings (due 12th July).

12. The current draft of the document has been shared confidentially with the CMA, with suitable caveats about changes we may make, to help inform their ongoing thinking. It was necessary to share our emerging findings at this stage in light of their statutory timetable, as part of which they plan to publish an interim report on their market study in July.
13. A communications plan and press lines will be developed to accompany publication of the summary and full report. Clearly, communicating the quite nuanced messages from this wealth of evidence will need to be done carefully, and this will involve publication in a variety of formats and targeting different messages at different groups.
14. Further, given the wealth of material, we are considering publishing the report in an interactive format on the LSBs research web pages⁴ – updating the market analysis that was published in 2012 in support of the LSBs baseline market evaluation publications. There will also be a presentation to LSB colleagues on key findings to help develop their understanding of the legal services market, and inform project development.
15. After publication the project would close upon completion of an in house lessons learned exercise. This would encompass an initial review of the Evaluation Framework, and recommendations addressing the identified gaps in knowledge, and improving the evidence base published by the frontline regulators. This would provide a platform for any future market evaluation and improving the sector's own understanding of market outcomes.

26.05.16

⁴ See <https://research.legalservicesboard.org.uk/analysis/>