

To:	Board
Date of Meeting:	28 March 2011
Item:	Paper (11) 22

Title:	LSB Evaluation Framework
Introduced by:	Crispin Passmore, Strategy Director crispin.passmore@legalservicesboard.org.uk / 020 7271 0086
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Status:	Unclassified

Summary:
<p>Following the November Board discussion and consultation, we have revised the evaluation framework. The attached paper summarises our progress. The full evaluation strategy is attached (Annex B). Our plan is to publish the evaluation framework alongside the Business Plan in early April.</p>

Risks and mitigations	
Financial:	N/A
FoIA:	Annex A and B – ss22 and 36(2)
Legal:	N/A
Reputational:	N/A
Resource:	Evaluation is likely to require significant research resource. This has been incorporated into our research plans.

Consultation	Yes	No	Who / why?
Board Members:		✓	
Consumer Panel:		✓	
Others:	N/A		

Recommendation(s):
<p>The Board is invited:</p> <ul style="list-style-type: none"> (1) to comment on the outcomes chosen and additional indicators (2) to agree the publication of the evaluation framework, subject to final comments.

LEGAL SERVICES BOARD

To:	Board		
Date of Meeting:	28.03.11	Item:	Paper (11) 22

LSB Evaluation Framework

Executive Summary

Recommendation(s)

The Board is invited:

- (1) to comment on the outcomes chosen and additional indicators
- (2) to agree the publication of the evaluation framework, subject to final comments.

Background

1. The Board agreed a vision for 2013 in the Business Plan 2009/10 for measuring the success of the LSB in delivering the Regulatory Objectives set out in the Legal Services Act 2007. The evaluation framework seeks to update this vision and provide benchmark indicators for achieving the vision.
2. Crispin Passmore (Strategy Director) and Alex Roy (Research Manager) presented the Board with a first draft evaluation framework in November 2010. The Board asked for it to be published separated from the Business Plan and for the LSB to consult with external stakeholders. In particular, the Board was keen for the framework to be simplified and further thought to be given to the data that would be used by the LSB to measure success.

Work since Board discussion

3. The LSB consulted on the evaluation framework with stakeholders (including academics, professional bodies and Approved Regulators) in three sessions held in January 2011. The sessions demonstrated that the evaluation framework was broadly aligned with expectations of external stakeholders and that there was support for a flexible approach with the evaluation taking account of a variety of indicators.
4. The Board and stakeholders were clear that the LSB should carry out further research to detail the indicators that would be used in any evaluation work. Given this, we have brought forward planned research segmenting the market and identifying the indicators in each segment, commissioning OXERA for the project. This project will draw on the survey of available data, carried out as part of the LSB's Regulatory Information Review. We expect to publish the final OXERA report setting out our proposed approach to market segmentation in early June 2011. Inevitably, this project will lead to a further refining of the indicators that we will plan to use in the evaluation framework.
5. Given the need to develop the evaluation framework we have also accelerated our plans for collecting data to fill data gaps identified by OXERA and the Regulatory Information Review. Initial projects identified from our work so far will focus on collecting evidence to support evaluation of the impact of regulatory

changes on large corporate and high-street firms (CRA) and special bodies (Frontier). We expect research reports detailing findings to be published in summer 2011. Inevitably it will take some years before we will have filled the data gaps necessary for a full evaluation in all of the areas identified in the framework.

Changes to evaluation framework

6. We have made a number of changes to the evaluation framework itself:
 - a. The framework has been simplified to highlight measurable outcomes based on our vision for the market
 - b. We have added further detail on the areas where we expect the market segmentation research to provide evidence for the evaluation
 - c. We are proposing a triennial consumer survey to coincide with the triennial government review of the LSB to track consumer indicators.
7. Analysing our vision, we have identified 17 outcomes which we believe will form the centre of our evaluation (**Annex A**). Further details on the sources of data and indicators likely to be used are included within the evaluation framework. We propose to produce a triennial report benchmarking changes in the outcomes and analysing the extent to which changes can be linked directly to actions by the LSB.
8. The evaluation concentrates on the changes that have occurred to the legal market and the impact that can be attributed to the LSB. To achieve this we propose first evaluating the market change, then analysing this change to distinguish the impact of the LSB from other market factors.
9. When our current research with OXERA and the Regulatory Information Review is completed we will review the indicators available and our plans to gather further data, in particular a triennial survey of consumers. We are also hoping others will be able to use indicators from other sources that are currently unavailable e.g. Legal Services Consumer Panel consumer research.
10. It is important to note that the evaluation will need careful management to ensure that indicators are not presented as targets. Any single indicator on its own is likely to be, to a degree, meaningless without context and other supporting evidence.

Next Steps

11. Over the next quarter, we will complete the OXERA research and finalise our research plans to populate the data required for the evaluation. We aim to return to the Board in November 2011 with a detailed project plan for the evaluation. An initial draft of the evaluation will be brought to the Board in May 2011.

11.03.11

Table A: Outcomes for the LSB evaluation

Category	Outcome
The profession	Diversity of the legal profession shows greater similarity to the client population than in 2009
	Quality of legal service is improved overall compared to 2009
	The profession, judiciary and public maintain confidence in the independence and reputation of the legal sector
	Education and training of the legal workforce supports the delivery of high quality legal services
The consumer	A higher proportion of consumers are able to access justice than in 2009
	Consumers have confidence in the regulation of legal services
	Consumers have confidence in the legal profession
	Consumers are confident and empowered in their dealings with legal services
The public	Wide confidence in the work of lawyers, barristers and other advisers on legal matters.
	An efficient legal system delivering quality legal services at a reasonable cost
	Wide confidence in the standards and ethics of the legal profession
The market	The market for legal services is more competitive than in 2009
	More consumers are able to get legal services at an affordable cost
	There is a greater plurality of, and innovation in legal services offered than in 2009
Investors	A legal market which is attractive to all sources of finance including external investors
	Proportionate regulation allowing an in-flow of capital
	Risk based supervision of legal practitioners

LSB Evaluation Framework

The goal of the Legal Services Board is simple and clear – to reform and modernise the legal services market place in the interests of consumers, enhancing quality, ensuring value for money and improving access to justice across England and Wales. In achieving these goals we have a largely facilitative role rather than directly regulating the suppliers of legal services.

When we look at the overall performance of the LSB we will be analysing ourselves across three sets of metrics:

- Organisational efficiency – are we cost effective at carrying out our role as an oversight regulator?
- Functional performance – do we achieve the targets we have agreed in carrying out our regulatory functions?
- Delivery of market reforms – have we delivered the market reforms envisaged by the regulatory objectives in the Legal Services Act 2007?

This evaluation paper is concerned with the evaluation of the ‘delivery of market reforms’ rather than ‘organisational efficiency’ or ‘functional performance’. The Ministry of Justice will evaluate organisational efficiency in 2012 as part of their triennial review. Functional performance will be evaluated separately using a series of performance targets outlined in earlier LSB publications – these are set out in [Section 4 of LSB’s Draft Business Plan 2011/12].

The Legal Services Act 2007 (“the Act”) sets out the eight Regulatory Objectives shared by the LSB and the frontline regulators. While the Regulatory Objectives set out the framework for regulation, our vision for the market that we set out below articulates how these objectives translate into a market that would demonstrate success for the LSB. Our Business Plan sets out our day to day work approach to meeting the objectives.

Our approach

We are committing to carrying out a triennial evaluation of the delivery of the market reforms set out in the vision in the form of a report on the legal market. We will collect the data to inform this report from a number of different sources both LSB and external. Then in analysing the data, we will use statistical techniques to try to distinguish the LSB’s role in delivering the changes seen in the market. Inevitably, this analysis will be challenging and conclusions that might be drawn may conflict both between sources and between segments of the wider market. We propose to use a descriptive analysis to draw together the data, provide conclusions where possible and highlight areas of concern.

The market we are evaluating and the reforms we are introducing are complex and our evaluation plan will necessarily involve a number of simplifying assumptions and a range of evidence. We are not proposing to set out specific targets, but instead we have highlighted 17 outcomes from our vision that we will evidence with a series of indicators to explore whether the outcomes have been met. Individual indicators will not provide conclusive evidence of the success (or not) of meeting objectives.

Nevertheless, a number of indicators together can provide robust evidence of success or failure. Evaluation will need to distinguish between actions by the LSB and their impact both in the short and long run. Evaluation should measure both the achievement of the outcome itself, and determine the role of the LSB in achieving the outcome, though in practice such distinctions will often be difficult, if not impossible, to make.

Our evaluation is underpinned by evidence, both addressing what we should measure and how it can practically be measured given the need to minimise regulatory burdens on the profession. Research by the Regulatory Policy Institute provides an economic framework for understanding where regulation may be required and particular areas of importance for evaluation e.g. quality of legal services provided. We will also incorporate outcomes research by Opinion Leader, which has developed a clearer framework for assessing consumer needs. But, more important has been the need to understand the available data and how we can segment the market in order to evaluate the impact of regulatory change.

Following initial discussions about our evaluation strategy we have advanced our research plans to carry out this segmentation research and improve our evidence base. Most importantly, we have commissioned OXERA to develop a market segmentation model that will allow us to both collect data and analyse the impact of reforms to regulation (see **Appendix A**).

Inevitably when the initial segmentation research is completed we will be able to form a clearer view of the sources of evidence available for our evaluation. A wider programme of reviews of the existing data held by approved regulators and academic reports has also been completed which will ensure that we limit the burdens on the profession by drawing on available evidence first, whatever the source. Going forward the evaluation outlined below envisages further research to develop the required indicators, not least a triennial consumer survey to track key consumer indicators and how they change as the reforms are introduced.

Our vision

In short, our vision is based on our belief that a competitive legal services market, plus appropriate regulation, is most likely to deliver the regulatory objectives. Our efforts as oversight regulator will therefore focus on ensuring that regulation is proportionate - reduced where possible to remove unnecessary barriers to regulatory objectives and imposed where necessary to support consumer or public interest outcomes. Oversight regulation will seek to encourage competition while ensuring that regulation reacts and develops to protect against emerging risks.

Below we set out how key participants should experience the legal services market of the future, the main indicators for our evaluation and how we will evidence these.

The profession

The legal services profession will be clear and confident about its professional ethics and how they apply to the legal services market. They will be able to offer to meet consumer need as they see fit, with regulation restricting them only where it can be justified based upon clear evidence and transparent process.

The profession will be as diverse as the society or market it serves. It will be open to anyone with the talent and drive to succeed, with standards that are admired both by consumers, the public, the whole of the legal system and internationally. The UK's overall competitiveness and its legal sector's competitiveness will be enhanced by the open and transparent commitment to quality, access and value.

This commitment will be particularly visible through more diverse and innovative routes to initial and vocational qualification, more partnerships between educators and providers and more focused and enforced requirements for ongoing development, including formal reaccreditation where consumer needs justify this. The profession and its regulators will have a priority focus on ensuring the appropriate quality of legal services.

The profession will be a confident and articulate voice in debates around access to justice, the rule of law and the administration of justice. This will be visible through strong professional bodies that are confident in their representative role. Public confidence in the profession will not be impaired by undue representational influence on regulation.

Our analysis and consultation has led us to conclude that the key outcomes for the profession will be around: diversity; quality of service; independence of the profession; and maintaining professional standards.

Fig.1 Diversity

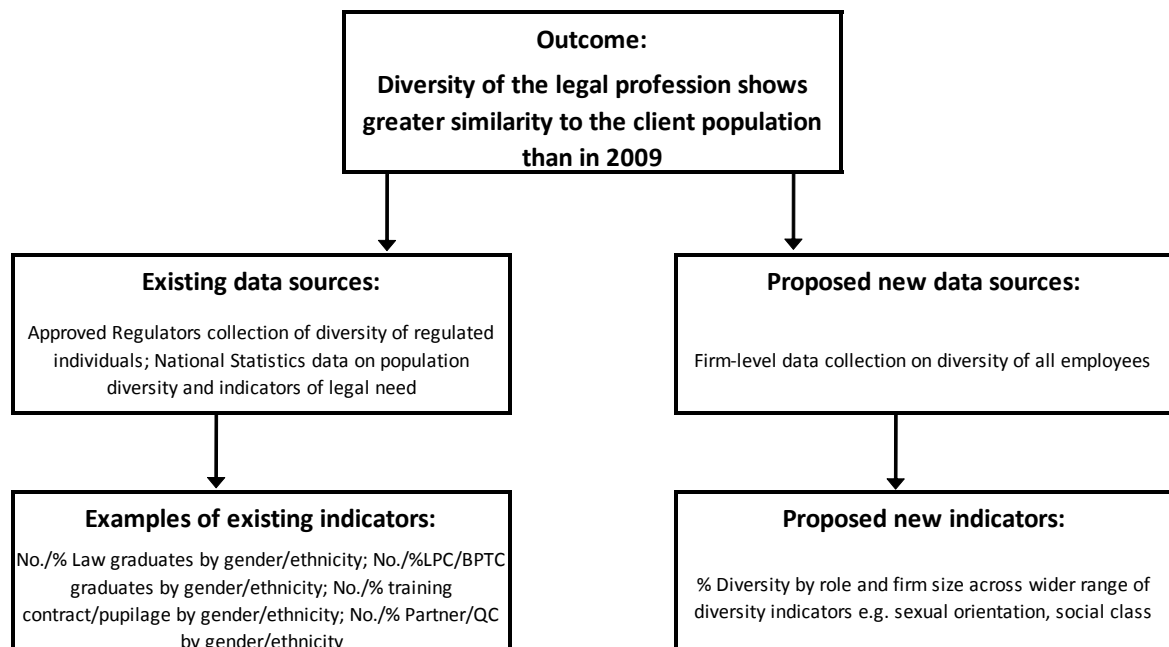


Fig. 2 Quality of service

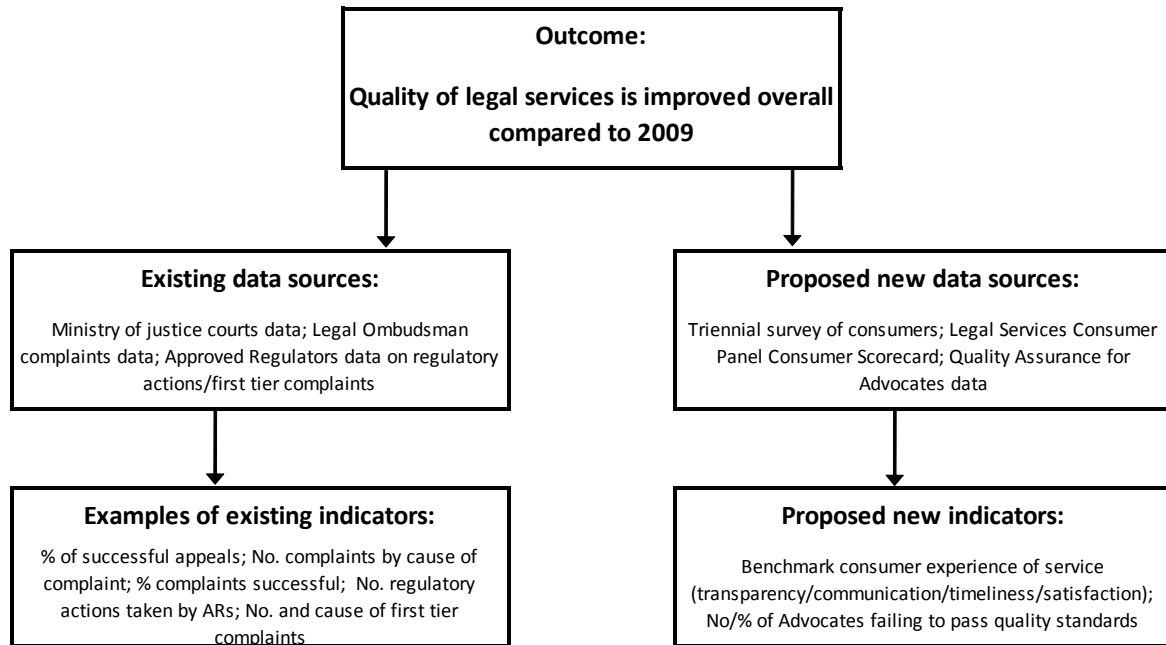


Fig 3 Independence of the profession

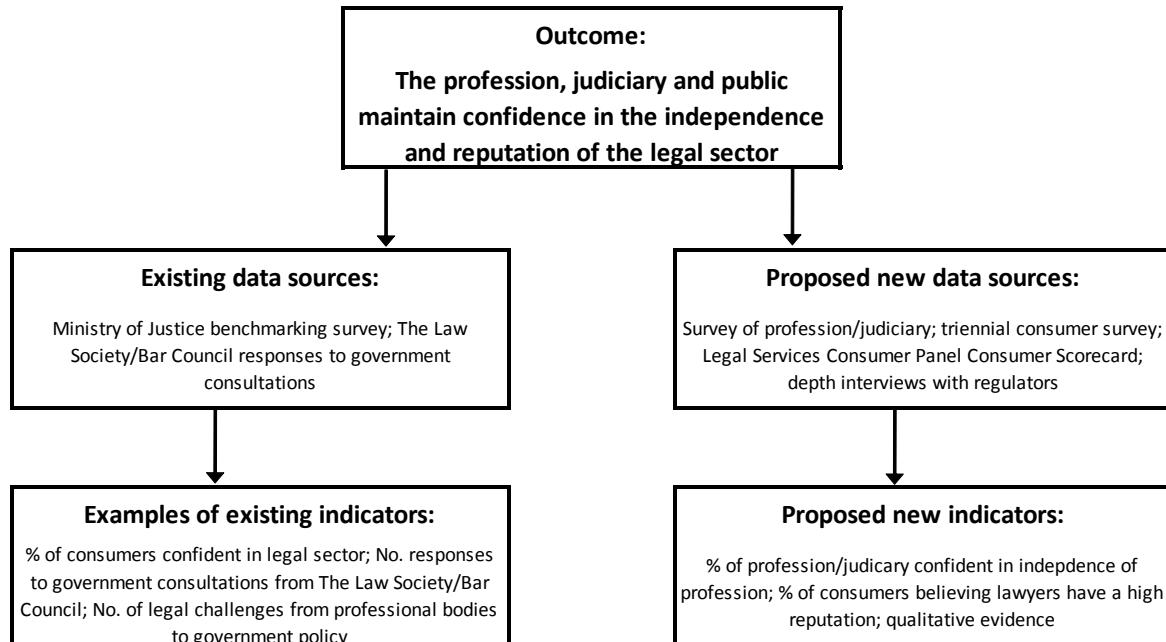
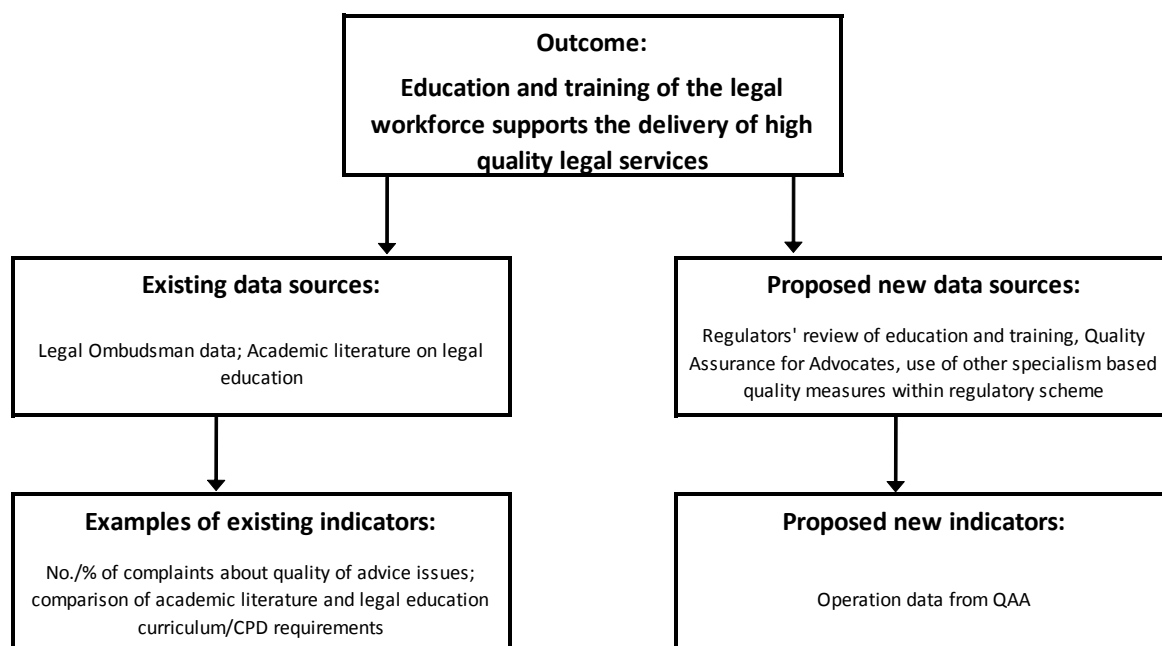


Fig. 4 Maintaining professional standards



The consumer

Consumers will feel that their needs are understood by the legal services market and that there is a range of options to help them. Where possible, consumers will be confident and able to exercise choice – choice over how they access services, types of service and how they are packaged and bundled; choice between pricing and quality alternatives. Where that is not possible, consumers must be confident that regulation protects them. So consumers will know when their money is protected and that their legal adviser is competent. And consumers should be confident that their complaints are listened and responded to quickly and fairly by the firm or individual providing the service, with a fair, rapid and independent Ombudsman scheme providing transparent fairness and redress where this fails. For the market to work effectively consumers will have to be empowered and confident when they employ legal advice.

Our analysis and consultations have led us to conclude that for consumers the key outcomes that a successful market should deliver should be: improved access to justice; confidence in regulation and the profession and consumers who are confident and empowered in the dealings with legal services.

Fig. 5 Improved access to justice

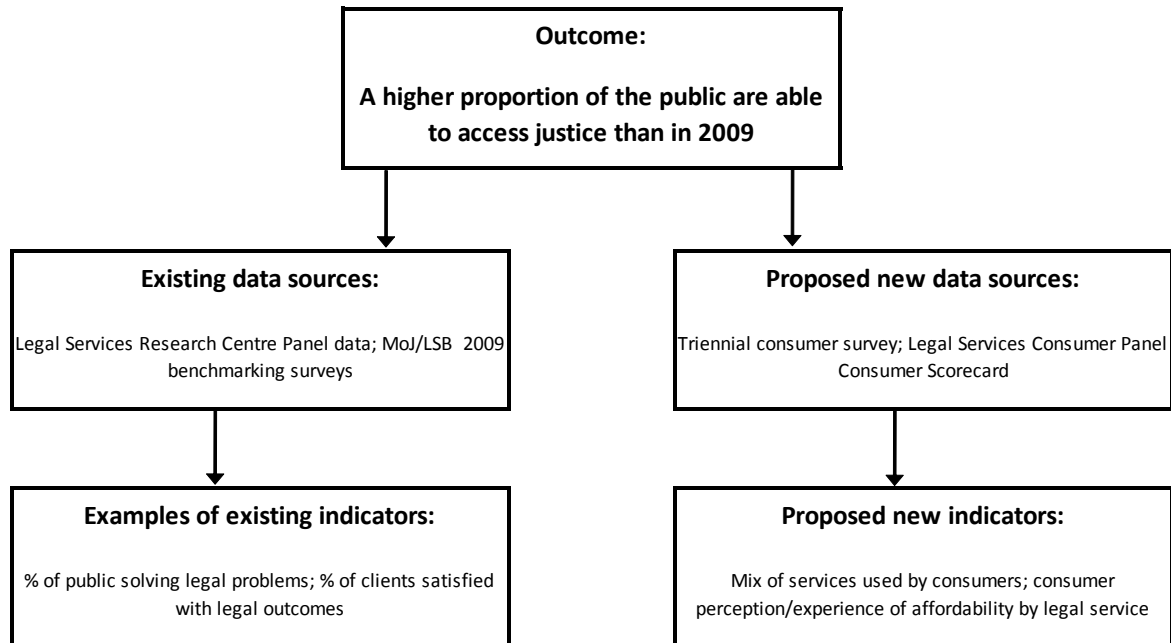


Fig. 6 Confidence in regulation

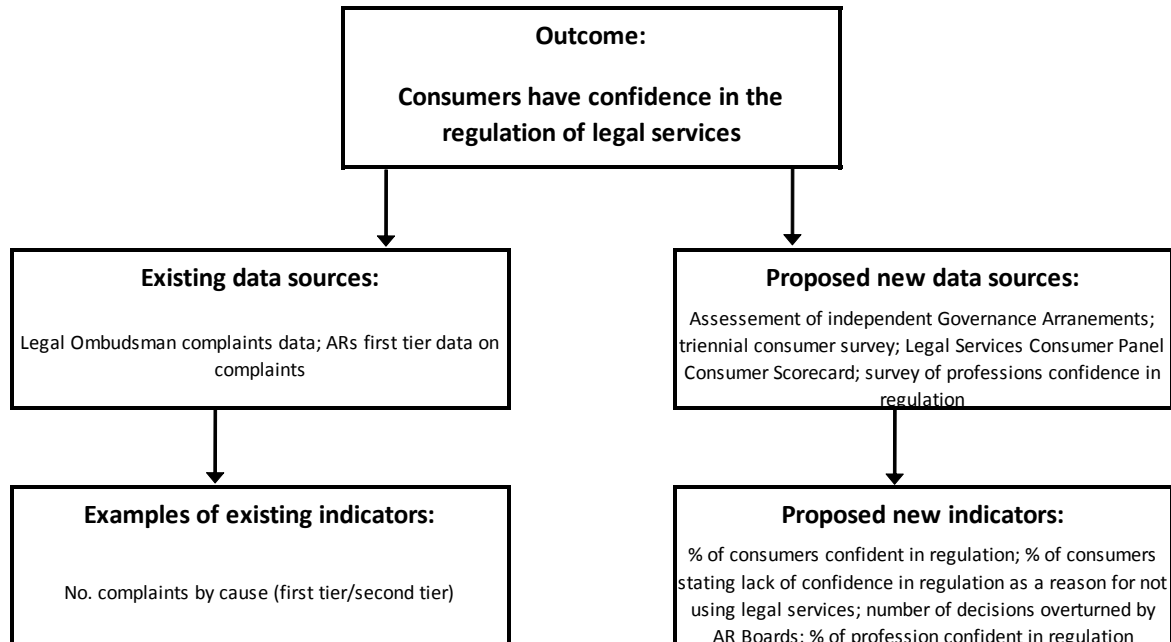


Fig. 7 Confidence in the profession

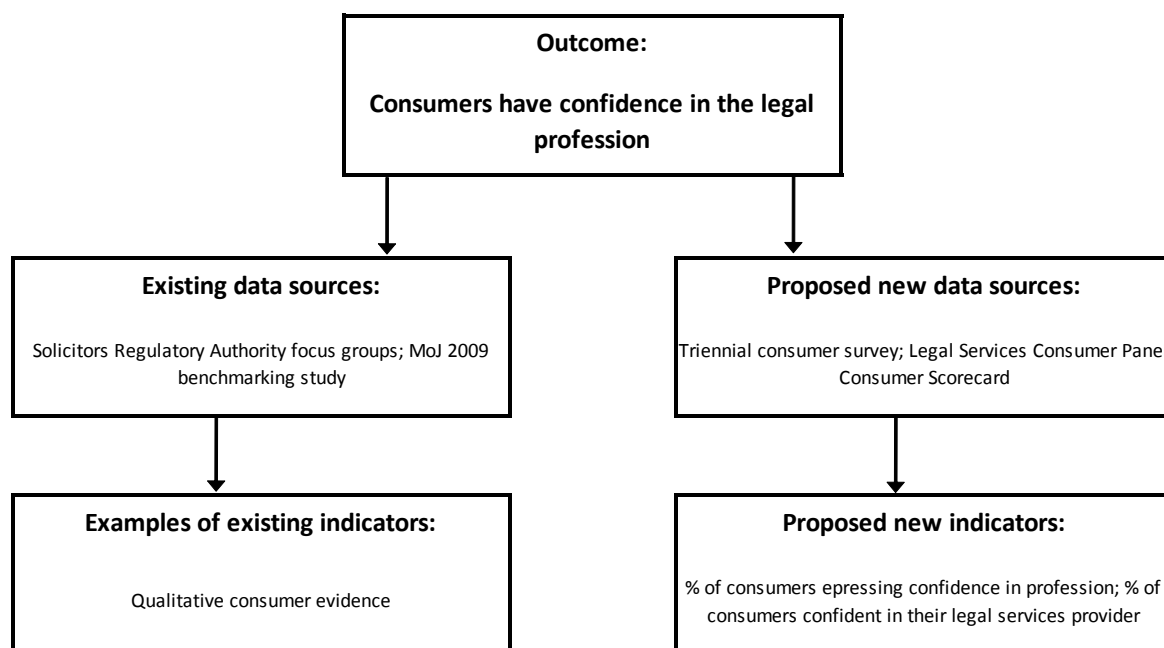
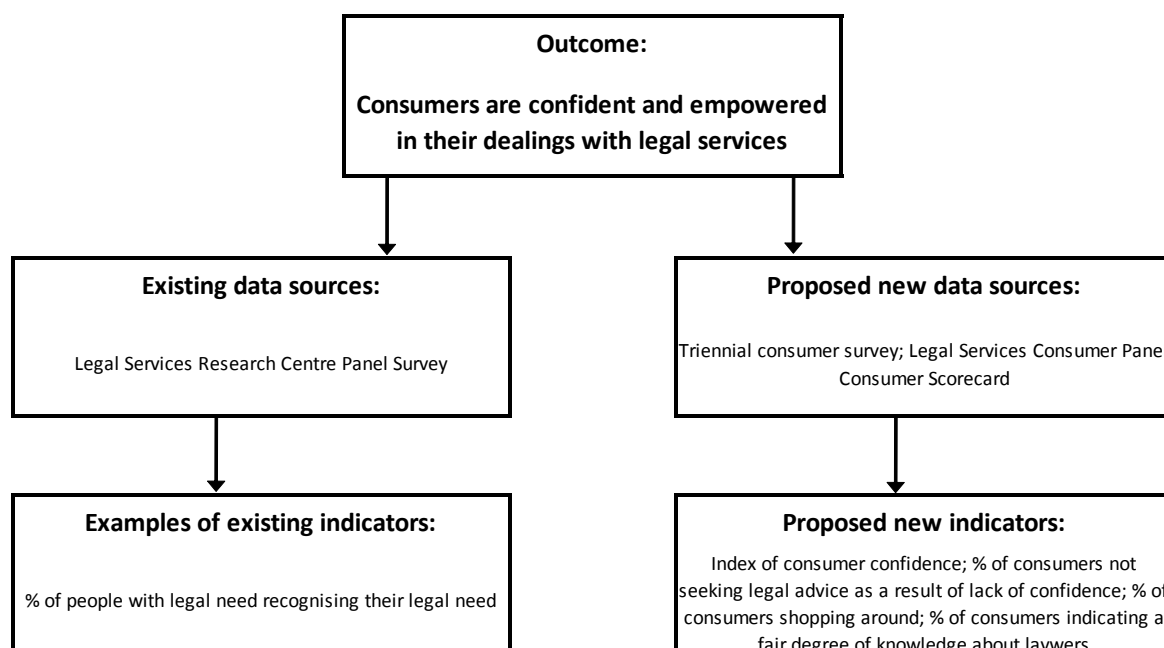


Fig. 8 Consumers who are confident and empowered



The public

The public will be confident that the legal services market and its professional actors support and uphold the rule of law. They will feel that recourse to the law is affordable, practically accessible and comprehensible and thus they can go about private or commercial relationships confident that any disagreement or dispute can be resolved within a fair and reliable legal system. At its pinnacle, the public should have the utmost confidence in the justice system and the legal services and lawyers that contribute to and are a part of it.

Our analysis and consultation has suggested the following key outcomes for a successful development of the legal services market from a public perspective will be: public confidence in the law; efficient legal system; confidence in the standards and ethics of the profession.

Fig. 9 Public confidence in the law

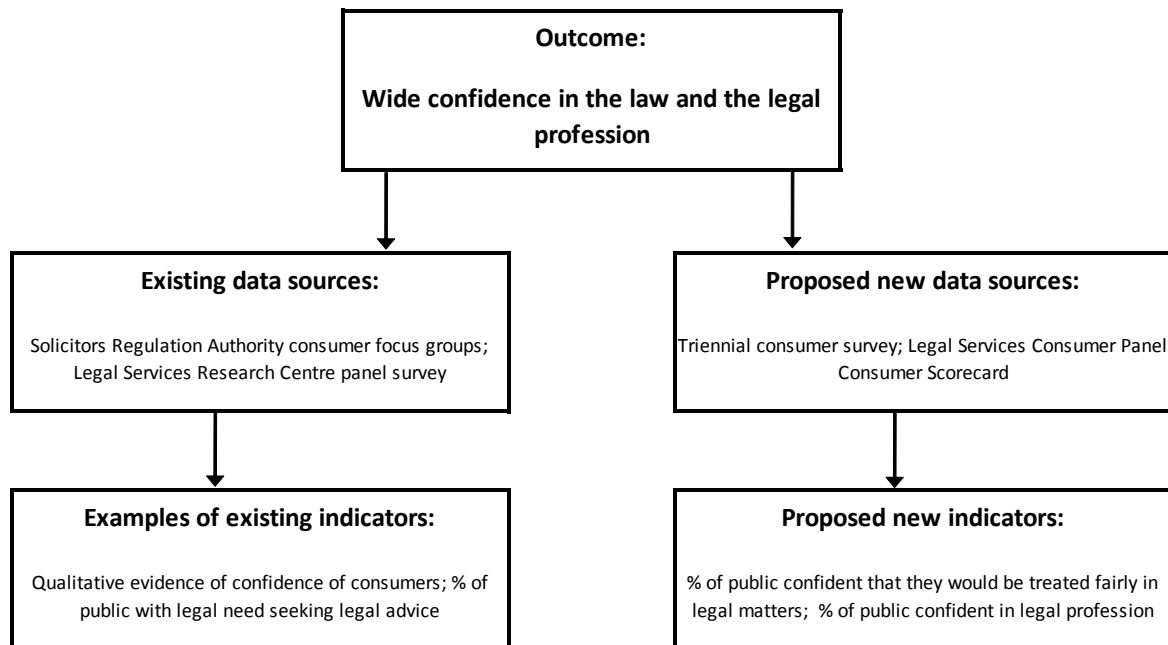


Fig. 10 Efficient legal system

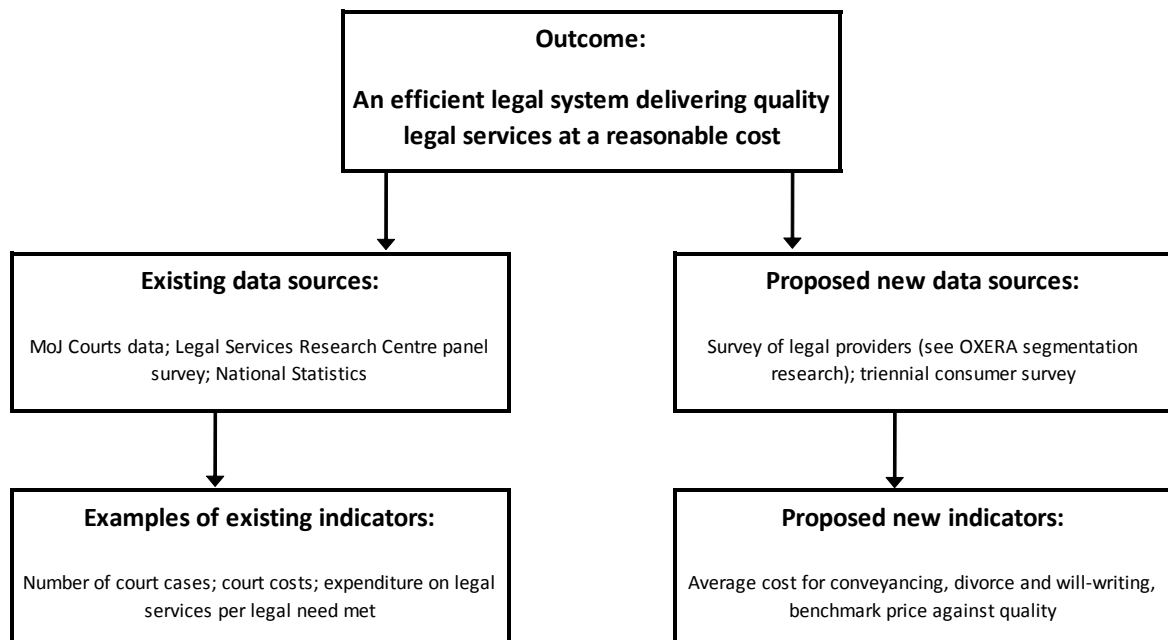


Fig. 11 Confidence in the standards and ethics of the profession



The market

The legal services market will be efficient and equitable. Neither supply side nor demand side will hold an upper hand and no provider will be able to abuse a dominant position within its market. The market will be competitive on access, price and quality – offering consumers real choices and offering providers opportunities to innovate. Those looking at the market in future will see a plurality of service and business offerings with city firms, high-street firms, internet firms, niche firms, branded business etc. all competing to help consumers with their legal problems.

The market of the future should reflect the key outcomes of: greater competition; affordable services; plurality of service.

Fig. 12 Greater competition

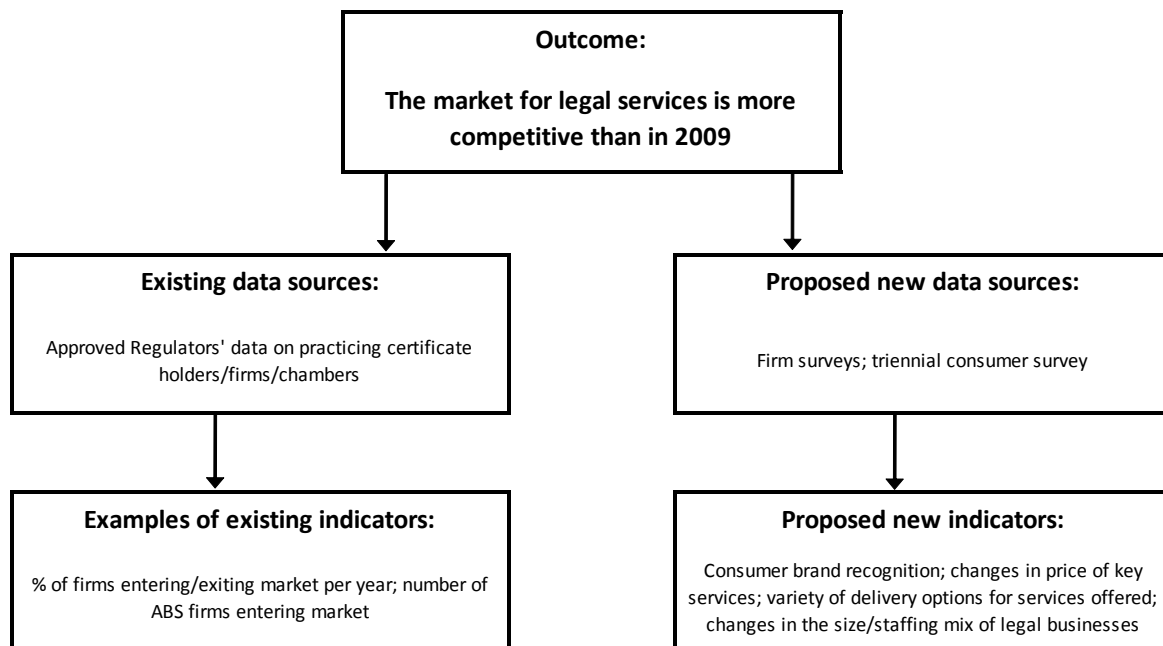


Fig. 13 Affordable services

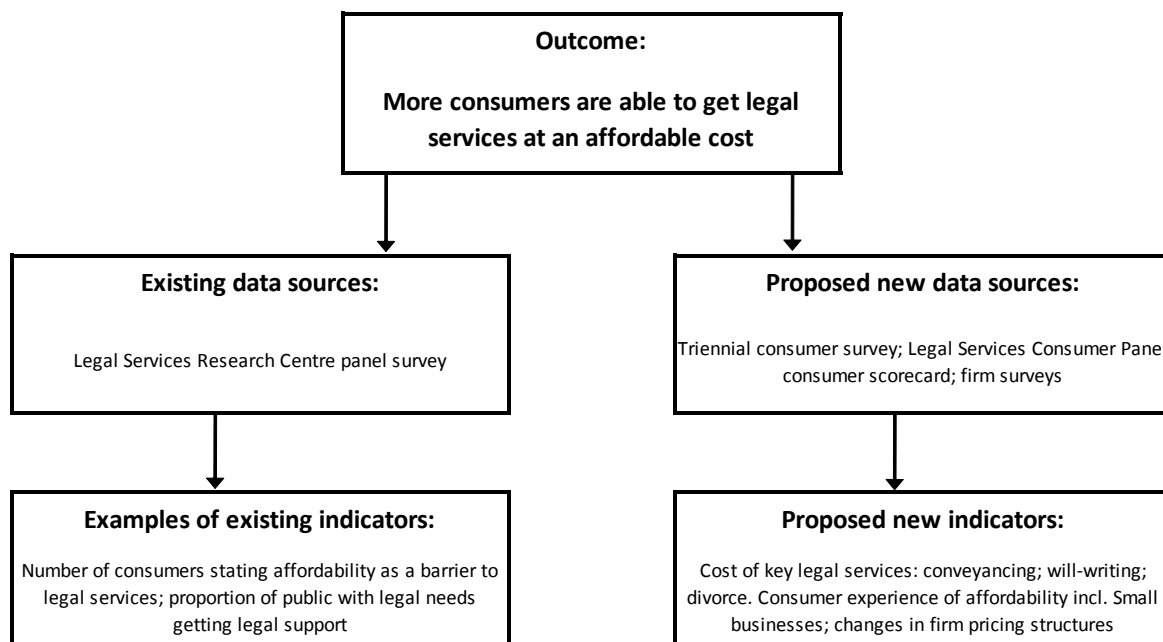
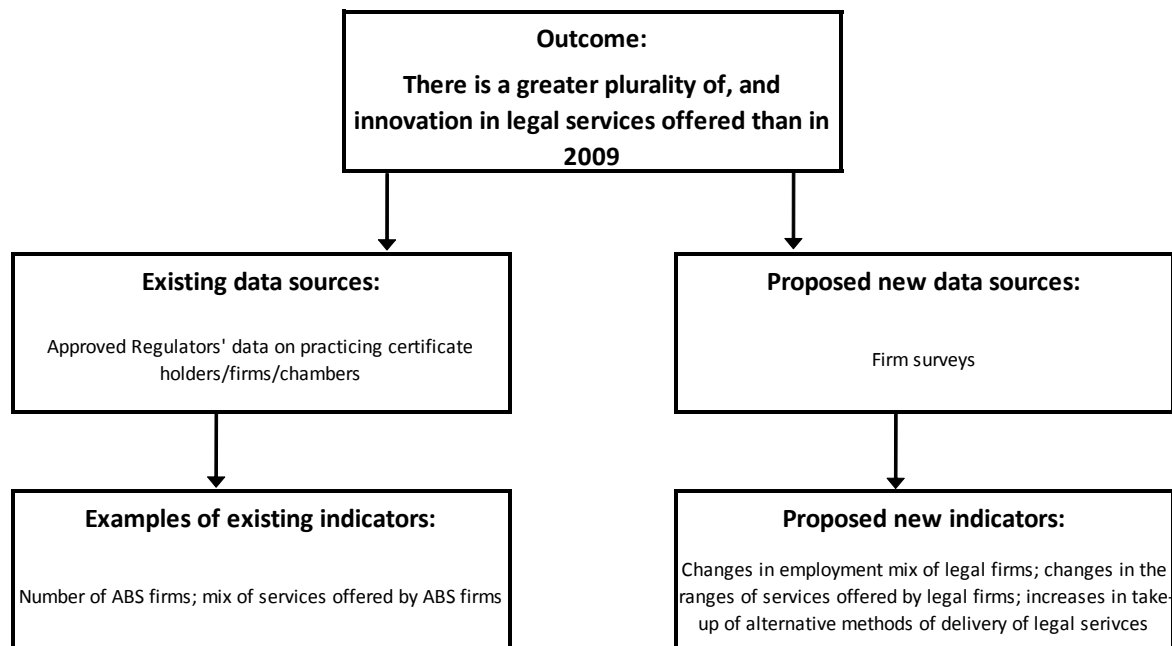


Fig. 14 Plurality of service



Investors

Investors should be able to enter the legal services market, with restrictions in place only where they can be justified based on transparent consumer protection criteria. Investors should be free to develop services how they see fit, with the market acting as the arbiter of consumer acceptance.

Legal regulation will focus on risk-based supervision of firms and individuals, without compromising legitimate controls on quality at the point of entry or firm disciplinary intervention when needed. There will be active collaboration with regulators across the sector, demonstrable learning from other sectors and other jurisdictions and constant engagement with the profession, the sector, consumer bodies and academia to ensure soundly based practice.

Market reforms will only be successful if investors see: an attractive market for investment; proportionate regulation; and risk based supervision.

Fig. 15 An attractive market for investment

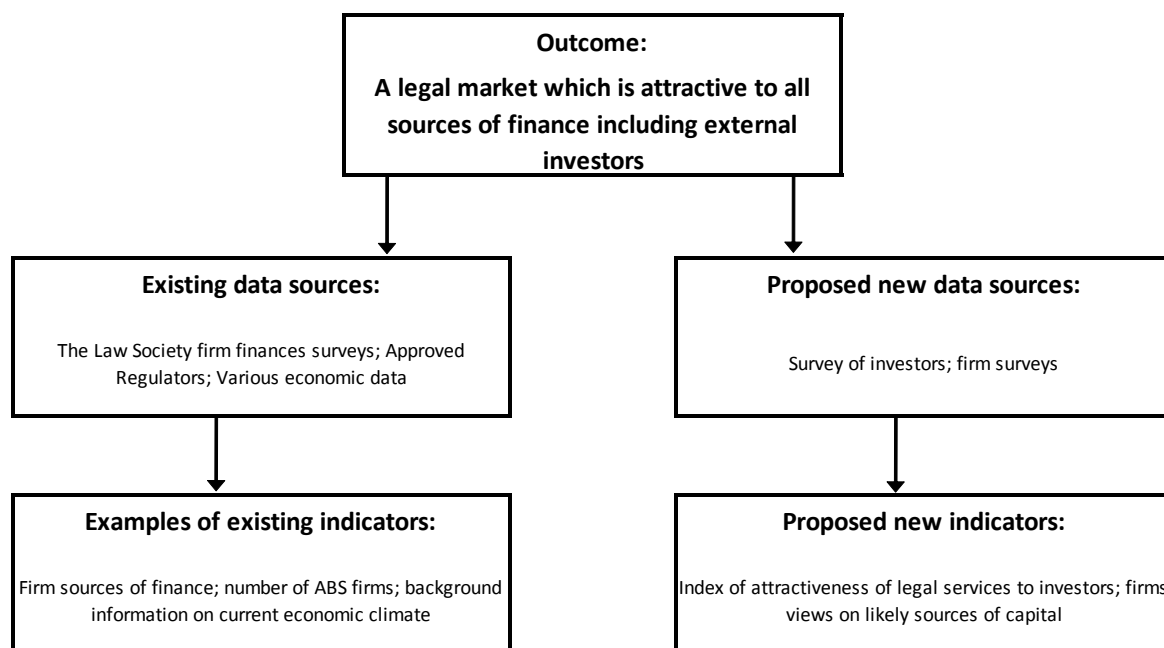


Fig. 16 Proportionate regulation

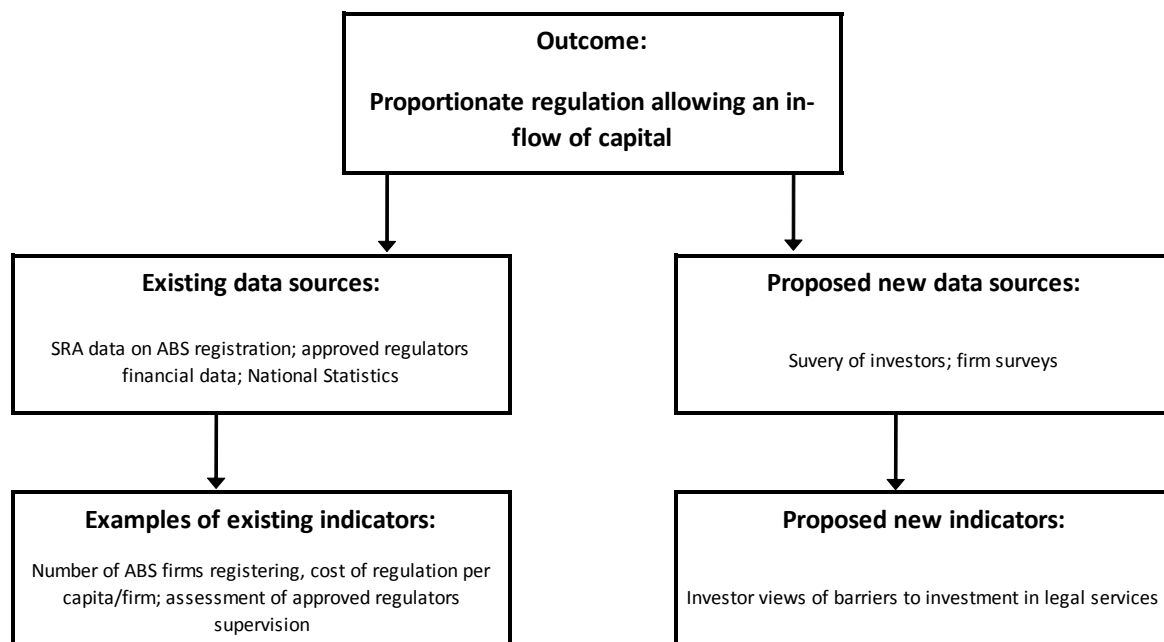
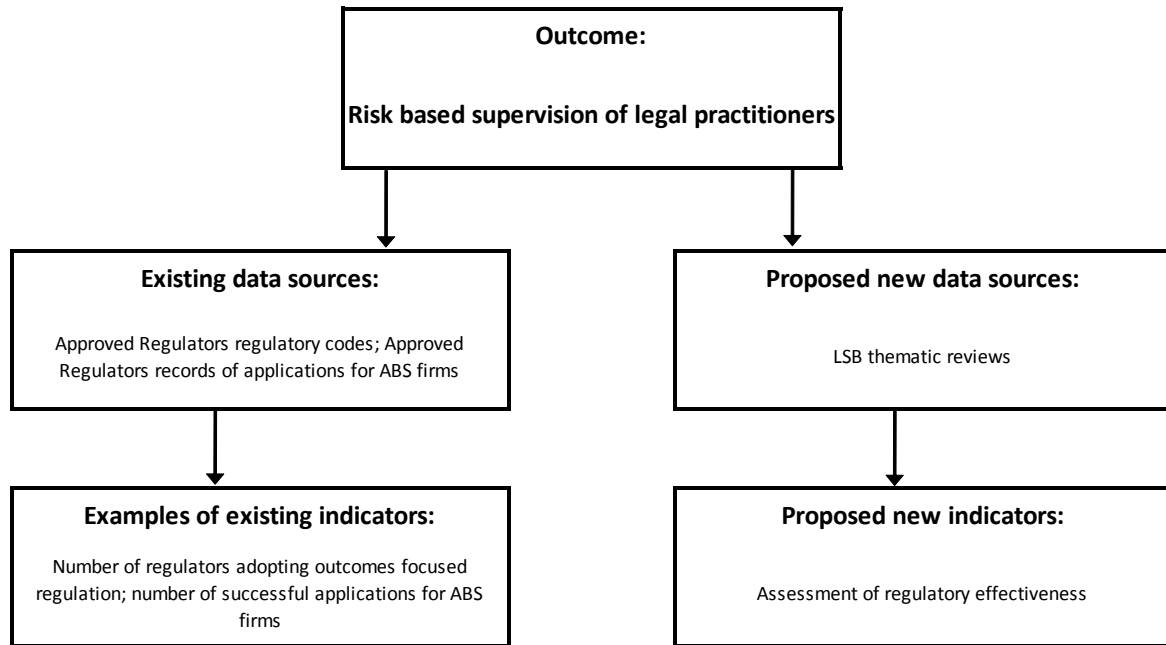


Fig. 17 Risk based supervision



Next steps

We plan to publish our first evaluation paper alongside the 2012 Business Plan. Following this, we plan to carry out triennial evaluations that we will be publish alongside our Business Plans.

Research to support evaluation

The LSB alongside its survey of research evidence available has already commissioned a number of projects designed to support the LSB's evaluation. Following initial feedback from the LSB Board plans to carry out segmentation research were brought forward with a report by OXERA expected to be ready for publication in June. Other research by Opinion Leader looking at the outcomes that consumers would like to see from legal services will be ready for publication in March. Further detail about these two projects is detailed below.

OXERA Market Segmentation Research

OXERA were commissioned at the end of December 2010 to develop an appropriate segmentation model for evaluating the impact of the Legal Services Act 2007, given the likely availability of data and other evidence. The draft proposals being developed by OXERA conclude that segmentation should be carried out by legal area and customer type. However, the model itself should be flexible enough that particular analysis can be carried out by service type and/or provider type. The segmentation was developed by considering both individual markets and the availability of data both from existing sources and from firms should primary data collection be needed.

The segmentation model will outline in each area the type of data required for the LSB's evaluation and the existing or possible sources to fill the data gaps. By highlighting those areas where data already exists for our evaluation the OXERA report will be able to set out the research strategies required to fill the gaps where data is currently not available. Initial piloting of the framework will seek to improve our understanding of large corporate law firms, high-street law firms and special bodies providing reserved legal services.

Opinion Leader consumer outcomes research

To understand whether the LSB delivers on its objectives we believe that is essential to know whether the changes introduced deliver the types of outcomes that consumers actually want. Opinion Leader were asked to carry out research to explore what consumers really want when they engage with legal services. This research has produced a series of 'consumer outcomes' that help us understand the types of behaviours that we would expect to see if the market was competitive and focused on delivering excellent service for consumers.

The research explored the views of consumers with recent experience of civil and criminal legal services, as well as small and large business clients of legal services. Once developed from these consumer discussions the outcomes were tested with the Board members from the LSB and the Legal Services Consumer Panel, before being testing with groups of stakeholders. The final outcomes cover: transparency; initial communication; ongoing communication; professionalism and integrity; timeliness; alignment with consumers best interests; and complaints. The evaluation will seek to draw evidence in each of these areas.