

ANNEX B: Evaluating the medium-term effectiveness of legal services reforms

Objectives

1. 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.
2. The Board believes that goal will be met if the legal services market of the future delivers the following six outcomes, which have been set out in both of our previous years' Business Plans and against which we will judge our long run success:
 - Greater competition and innovation in service delivery
 - Access to justice for all consumers
 - Empowered consumers, receiving the right quality advice at the right price
 - An improved customer experience with swift and effective redress when things go wrong
 - Constantly improving legal professions, as diverse as the community they serve
 - Clear regulatory structures, which command wide confidence in the public and the market.
3. A legal services market with these characteristics would demonstrate the success of the reform process. It is also a market which implies a regulatory system wholly compatible the eight Regulatory Objectives set out in the Legal Services Act 2007 (**'the Act'**). As our work programme progresses, and in particular as we refresh our strategy for the period 2012-15, this picture of the legal services market of the futures may evolve, but the underlying Regulatory Objectives will remain constant, as will our approach to them.
4. In paragraphs 5-15 we describe in more detail what we expect to see in the legal services market for the future, and go on to explain how we will be starting to evaluate both our own direct impact, and the broader impact of the legal services reform programme in delivering that vision.

The starting point

5. The regulatory objectives provide an excellent basis from which to grow and develop a modernised regulatory system. But to understand how the legal services market can flourish for consumers, the public and the providers alike we need to describe what we expect to see in the future. That vision, that long-term picture of the legal services market, provides the hypotheses against which we can test both the effectiveness of regulation and the success of the reforms.
6. The reforms are not simply about change. The Legal Services Act is not simply a vehicle for redesigning the legal services market. There is much to be admired and much that must be maintained from both the current provision of service and its regulation if the public are to receive the services they deserve and we are to deliver regulation that is

compatible with the regulatory objectives. Yet currently it is hard to set out clearly in an evidence-based manner what exactly the market does well and where it is weakest.

7. We know for example that the vast majority of legal services consumers are content with their provider; we know that there is a general mistrust of self regulation, especially with regard to complaints handling and disciplinary matters; we know that there are major restrictions on ownership and management of legal services; and, we know that our legal system (with all of its constituent parts) is much admired both at home and abroad. However, there is a major lack of data, evidence, analysis and research about the legal services market upon which to base any argument for maintenance of the status quo or change. That means that each restriction has to be carefully considered before being removed - what is its purpose, who does it protect, what are its impacts – and further evidence and research has to be adduced.
8. So in setting out a framework for evaluation of the reforms, the LSB is acutely aware of the need for improved data and evidence collection, analysis and research. Whilst we are not always clear about where we are in terms of the regulatory objectives, we can be clear about where we want to be and what that might look like. But our vision is not a prediction, nor is it intended to be exclusive: we recognise that other players and commentators may produce different visions that are equally valid. In setting out our expectations of the legal services market, we can measure our progress towards that goal. Or where we are confident in what is already in place, ensure that reform does not undermine what we wish to maintain.

Our vision

9. In short, our vision is based on our belief that a competitive legal services market, plus appropriate regulation to correct asymmetries between provider and consumers, is most likely to deliver the regulatory objectives. Below we set out how key participants should experience the legal services market of the future.

The profession

10. 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.
11. 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 UKs overall competitiveness and its legal sector's competitiveness will be enhanced by the open and transparent commitment to quality, access and value.
12. 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 consumer

13. 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.

The public

14. 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.

The market

15. 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.

Investors

16. 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.
17. Legal regulation will be focused 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

Methods and evidence

18. Our evaluation projects will seek to test whether the reforms that we promote as the regulator with responsibility for oversight deliver the outcomes set out in our business plan and explored in the vision set out above. Not only are we interested in whether we achieve these outcomes, but also whether these are achieved in a way that provides effective value for money for the legal sector and consumer alike. That also means ensuring that our internal processes are as efficient and cost effective as possible. We have already started the process of identifying the available evidence in our Regulatory Information Review, which will be used to support our evaluation. This project is due for completion in May 2011 at which point we will be able to supplement the measures set out in our short-term evaluation plan and give greater clarity to how we will answer the questions set out in our long-term evaluation.

Identifying evidence – Regulatory Information Review

A wide range of measures will be needed to assess the LSB's performance against its objectives. As a first step, we have been carrying out a comprehensive review of the evidence and data available on legal services.

We are consulting widely with regulators, professional bodies and academia to explore the availability of relevant data and evidence. We have also completed a literature review of the published evidence. A review of published data held by regulators will allow us to map the provision of regulated legal services by the end of 2010. Further discussions and a survey of regulators and professional bodies are in hand to identify other unpublished or unseen data and reports. Responses to this are also expected by December 2010, with a follow-up survey to collect this data and evidence in Q4 2010/11. In Q1 2011/12, we will publish our first completed assessment of all of the available data.

In many areas, existing evidence or data needed to evaluate our performance will simply not be available. In these cases, the Regulatory Information Review will identify alternative sources of data and/or proxies that might make some immediate contribution and will identify where additional research will be required.

Until the Review is complete, we will necessarily have an imperfect picture of the evidence available. In assessing our performance before this date, we will draw upon existing identified evidence and highlight where gaps in evidence prevent a more detailed evaluation.

19. The objectives we have set ourselves involve structural change that will be realised by gradual change over a number of years. So our approach will rightly develop over time.
20. Although useful in relation to our internal processes, we believe that traditional key performance indicators (**KPI**) alone will only rarely be suitable to measure the complex change we are seeking to achieve. Quantitative KPIs unhelpfully focus on a few key measures, which inevitably become targets to be achieved. Our intention will be to become data rich, but target light.
21. We will develop our evidence base for analysis initially by using existing collected data and published research, together with new research. This will be built up over a number

of years to provide a more rounded overall evaluation of our impact on delivering a market that meets our vision.

22. Our evaluation will analyse our success against delivering our agreed objectives. Our vision, set out above, describes how the market might look if we have succeeded in meeting our objectives. We will develop a comprehensive evidence base across the outcomes to enable us to consider in detail whether we are delivering the changes required to deliver the market we wish to see. A more detailed analysis of the types of evidence we will analyse when evaluating our success is outlined for each of the outcomes in paragraphs 34-61 below explaining our long-run evaluation. In many cases, evidence to support our evaluation is unavailable; these gaps will have to be filled either by the LSB or by using evidence that will need to be collected by approved regulators.

Short-term evaluation - 2009-2012

23. In the 2011/12 planning year we will be focusing on the evaluation of the three priorities we set ourselves when we came into being in 2009. These were to secure:
- Independent regulation
 - New entrants into the market
 - Effective complaints handling.
24. The evaluation will draw together a variety of evidence, backed by data where available, to assess whether our vision is being delivered. We hope to have developed a series of measures to benchmark the market by April 2011. We will then commission research over the course of 2011/12 to support our first evaluation which we will aim to have completed and published by April 2012.
25. Inevitably in the early years we are only likely to detect the first signs of movement towards our vision. So key initial markers are more likely to the successful achievement of the milestones recorded in this plan, the gathering together of data sources and the commissioning of new data collection to allow studies that are more complex in future years.

Independent regulation

Key process milestones in 2011/12:

- Publication of evaluation measures for independence of approved regulators
- Initial assessment of RAG rating for approved regulators

Evidence currently known to be available:

- We expect that all of the evidence we need for this area of the evaluation will be held by approved regulators

26. We expect that effective independent regulation will transform the focus of regulation of legal services. In evaluating we will be looking for evidence that the regulatory framework emerging that holds consumer needs as central to regulatory decisions, seeking only to restrict activities where they are justified on transparent consumer protection criteria. Initially we will be looking to evaluate though looking at the regulatory

decisions and the decision-making processes. Later evaluations will consider the impact of the decisions on the market and on consumer outcomes.

27. By March 2011 we will have developed a series of risk measures for the effective delivery of independent regulation by the approved regulators. These will be combined to produce a single Red/Amber/Green (RAG) rating for each approved regulator. Our overall measure of success will be whether over the year the rating for each approved regulator moves closer towards or to a green RAG rating.
28. In our evaluation we will also consider each of the risk measures, which together form the RAG rating, individually to draw together a more detailed analysis of the causation of changes seen. This will allow us to develop a narrative around our overall performance against our objective.
29. This will enable us to assess progress towards the model of legal regulation described above. But the other work described in Section 2A of the draft Business Plan will need to be completed and integrated with this approach in future years to enable a fully rounded assessment of improvements in regulatory effectiveness.

New entrants into the market

Key milestones in 2011/12:

- First applications for licensing authorities (LAs) received
- First LAs approved
- Designation of appellate body for ABS appeals
- 6 October 2011 licensing of first ABS firms

Evidence currently known to be available:

- Number of LDP firms being licensed and total numbers
- Total numbers of solicitor firms and barristers practices
- Number of firms licensed as ABS

30. In 2011/12 the changes we will introduce will allow over time for a radical reshaping of the legal services marketplace. In the first instance in 2011/12 we will be evaluating our success by considering the evidence for changes in the structure of the market and the consumers' perceptions of the legal market. Early evidence will look to see whether there has been any change in the types of firms offering legal services and/or the services legal providers offer. We will look wider than just ABS firms to consider impacts on the wider supply of legal services. The evaluation will look at the changes in the types of services provided and the drivers for these changes. It may be, however, that intelligence will be relatively sparse in the short-term and this will therefore remain a priority area for evidence gathering in 2012/13 and beyond
31. We will continue to monitor data on the number of Limited Disciplinary Practices (LDPs) being formed and will analyse the new data from LAs on the number of Alternative Business Structures being licensed to operate. Moreover, we will consider the available evidence on the types of services offered by the new business structures, their target market and any evidence of their impact on the overall market for legal services. We will also be commissioning qualitative research to develop a more detailed picture of the supply of legal services to help us develop a more nuanced analysis of the impact of

ABS, on the customers both of those firms who have adopted new structures and of traditional firms and the internal dynamics of the firms themselves.

32. We will be using the following known indicators of business change to support our evaluation:
 - Changes in the number of LDPs (with the proviso that on its own this does not provide any conclusive evidence).
 - Number of ABS firms being licensed
 - Number of non-legal professional firms who become legal service providers
 - Number of private equity deals for law firms/Initial Public Offerings of law firms on the stock market
 - Number of ABS firms previously offering legal services outside of regulation
 - Number of in-house legal teams becoming ABS
33. Understanding the impact of the reforms from the consumer perspective will also be essential. We will evaluate the consumer experience through comparing their experience of legal services before and after the reforms. In particular, we will consider questions such as: whether there has been a change in the quality of the service clients receive? Whether the services offered are better tailored to client needs? Whether it is easier for potential clients to identify a legal service that meets their need?
34. We believe that these activities will help us begin to evaluate progress against the market, consumer and investor aspects of the vision set out above.

Effective complaints handling

Key milestones in 2011/12:

- Publication of agreed Legal Ombudsman evaluation measures
- Publication of LSB benchmarking research report on first tier complaints handling
- Development of a quality measure by the Legal Ombudsman
- Review of first-tier complaints handling regulatory frameworks

Evidence currently known to be available:

- Data from LCS considering timeliness, cost efficiency, quality and satisfaction
- Legal Ombudsman data on customer satisfaction with complaints handling
- LSB research considering first tier complaints handling (planned to be commissioned Q4 2010/11)
- SRA, CLC and BSB data on first tier complaints handling

35. Improved customer experience of complaints handling is central to our vision of more confident consumers interacting with the market. In the short-run better complaints handling will be most clearly seen in information from the Ombudsman, data collected by regulators and direct evidence from the consumers making complaints. Our initial evaluation will focus on these sources to understand whether the evidence supports a conclusion that complaints handling is improving. In the long run we would look for wider

evidence of market confidence and changes in practice by lawyers to put client interests and at the heart of their business models.

36. We will be evaluating our performance in improving complaints handling in the first instance by considering the performance of the Legal Ombudsman against the performance indicators they have set themselves. These performance measures will then be compared against the pre Legal Services Act performance of the Legal Complaints Service and Bar Standards Board. One important test for success will be whether the Legal Ombudsman is cheaper and speedier than previous complaints arrangements. Consumer perceptions of the scheme will also be important.
37. The Legal Ombudsman has already publicly committed to resolving the majority of complaints within three months and will shortly confirm a series of other benchmarks against which it will be evaluated. Our evaluation will compare the Legal Ombudsman with both its own benchmarks and against previous arrangements in the following areas:
 - Timeliness – resolution of the majority of cases within three months has been agreed
 - Cost efficiency – cost per case compared with the Legal Complaints Service
 - Quality – while difficult we hope that a measure can be developed that could be comparable to experience from previous organisations
 - Satisfaction – this will have to be derived from customer satisfaction research
38. We are also working with approved regulators to improve and monitor the first tier complaints handling by legal providers. We will be commissioning research in early 2011 to develop a benchmark for the treatment of complaints in the period running up to the opening of the Legal Ombudsman and the early months after its introduction. This research will develop a series of measures such as: satisfaction with first tier complaints handling, speed of complaints handling, proportion of complaints handled satisfactorily by the legal service provider etc. These measures will then be assessed over time to evaluate the extent to which first tier complaints handling improves over time.
39. This will contribute to measuring progress against the consumer aspect of the vision set out above.

Long-term evaluation

40. Our long-term evaluation will look more closely at the structure of the market, services offered and consumer experience to analyse whether the evidence suggests change consistent with our vision, using a variety of data and evidence sources to produce a descriptive analysis of the changes seen and drivers of these changes. The evaluation will not be a single event, but a set of regular reviews of the evidence and our progress in achieving our vision.
41. Our proposals in this section are therefore necessarily more tentative. We set out ideas of the kinds of metrics we might track and possible priorities for medium-term research. We welcome stakeholder views on these, but we would also welcome views on those aspects of evaluation best performed by the individual approved regulators. We will increasingly be looking both for joint delivery of individual evaluation projects and evidence of a rigorous approach to monitoring impact within individual approved regulators.

Greater competition and innovation in service delivery

42. We believe that consumers rather than lawyers or regulators can best define consumer interests. Consumer bodies, such as the Board's Consumer Panel, can help to shape and supplement these definitions. We expect to see a market emerging where consumer needs are understood and there is a range of options to help them. In evaluating our success we will be looking for evidence that:
 - new services are emerging
 - consumers are accessing legal services in new ways
 - consumers have choice between different pricing mechanisms
 - there are clear trade-offs between price and quality
 - the market is becoming more competitive
 - investors are entering the market to deliver new services.
43. Through greater competition and innovation, consumers can better influence the types of services offered and how they are delivered. We will not define what new types of new service will emerge: services should be designed by providers to meet identified consumer needs. The Act envisaged a plurality of new services emerging – whether these new services succeed or not will be a matter for the market, not the regulators.
44. Our role is both to act to promote the competitiveness of the provision of legal services and to remove and avoid unnecessary barriers that inhibit innovation. For example, we expect the introduction of ABS to increase directly the competitiveness of the sector and our study of referral fees seems to point to the need to avoid the introduction of new restrictions.
45. There is no single standard to judge if a market is competitive or not. Traditional measures focus on entry and exit, market concentration and the existence or otherwise of supernormal profits. Newer economic approaches focus on differences in relative profits between firms in a market. These measures require significant data and analysis, not least developing a definition of the market as well as an understanding of firm level profitability. We expect this to be a priority area for LSB research.
46. Innovation to secure competitive advantage is a further feature of a competitive market. Again, we are unlikely to find a single measure that captures this. Instead, we will look for a mixture of evidence, for example the emergence of different types of legal service providers and diversification of service models within existing firms.
47. To help evaluate the impact of the introduction of ABS, we will commission research to develop a benchmark for the make-up of the legal services market. We will develop a methodology (or methodologies) that can be applied in key markets: conveyancing, will-writing, family, personal injury, crime and corporate to develop a detailed benchmark covering level of provision, services provided, competitiveness, market entry and exit etc. We can then measure change as a result of the introduction of ABS. The first stage will be to commission research to design a methodology to capture the data from legal service providers that would enable us to evaluate changes in the market. This methodology would then need to be piloted in a specific area (or areas) and then revised before being used in the remaining markets to develop our evidence base.
48. We will use consumer research to explore how consumers perceive the changes in legal service provision over time. In particular we would expect greater competition to lead to increased access to justice for all individuals, we explore this in the section below.

Access to justice for all individuals

49. Access to justice means more than access to legal services. Justice is more than the resolution of disputes: it includes ‘just’ relationships underpinned by law. Justice is underpinned by legal knowledge, legislative frameworks, dispute resolution and the infrastructure of the legal services market and the court system, as well as the outcomes that consumers secure. We believe that the reforms we are promoting will lead to a more innovative market where investors and lawyers within the market will work harder understand consumer needs and target services at the price and quality required to meet these needs.
50. Ultimately the success of our reforms to facilitate greater access to justice will be judged by consumers themselves. Are services being delivered in ways that meet their changing needs? Where they are looking for bundled services, is the market providing the services they need? Our evaluation will need to gather evidence from consumer research conducted across the market to measure whether access to justice is improving, which acknowledging that other factors, such as changes to legal aid spending, could have an equally significant impact. We will want to gather evidence on pricing, affordability, nature of client base for different services and regional variations. But we will also be interested in attitude surveys to understand the client experience of legal services and to what extent they felt that the interaction they had was appropriate for their circumstances. This will give us one route into considering the impact of workforce and training development issues on the client experience.
51. The MoJ’s 2010 report¹ provides one good source of evidence on consumer views of accessing legal services before changes currently being introduced. Similarly, the research carried out by the Legal Services Research Centre² helps benchmark consumer access – in their case, taking a wider view by looking from a perspective of need rather than use. But even these studies provide an incomplete picture, missing specific minority groups, focusing on traditional legal services delivery, suggesting a need for a wider assessment of evidence when considering access to justice.

Empowered consumers, receiving the right quality advice at the right price

52. We believe that these reforms should support the development of a market where consumers play an effective and powerful role in shaping the legal services market. They will be able to communicate their needs to the market and in turn will feel confident that the market is delivering the services that they need at the right price. To evaluate we will be considering questions such as: are consumers confident that they can access affordable options for legal advice? Can they easily understand the options available and find the option that best meets their needs?
53. Recent research from the Consumer Panel³ reveals that consumers feel unable to judge the *technical* quality of the legal advice they receive. However, they do understand the quality of the *service* they received. They were consistent in their expectations: they wanted to be treated with empathy, the firm or individual to have efficient processes, deliver the outcomes they had been led to expect, explain the issues with clarity and demystify legal terms. Consumers want to be confident that regulation is supporting them in ensuring an independent and trust-worthy market.
54. Quality of advice must cover the whole service given to consumers: engagement, customer service and the outcomes they receive. A competitive market relies on

¹ “Baseline Survey to Assess the Impact of Legal Services Reform”, Ministry of Justice Research Series 3/10, March 2010.

² “Civil Justice in England and Wales 2009”, Pleasance, Balmer, Patel and Denvir, 2010.

³ “Quality in legal services” A report prepared by Vanilla Research for the Legal Services Consumer Panel, September 2010

consumers having the tools to drive change through their choices and so ensure the delivery of quality, access and value. In evaluating the market we will be exploring consumers' views on how their perception of the market on these measures changes over time. That means specific evaluation of individual tools, for example, price comparison sites, but also of the rigour and comprehensibility of quality marks more generally to consumers. It also means establishing clear evaluative strategies for schemes, such as Quality Assurance for Advocacy, where the use of accreditation meets a direct consumer protection as well as consumer information need.

55. Measuring success is particularly challenging in this area. Empowered consumers may *demand* more and better legal services, but this will only translate into higher take-up if services demanded are available at an affordable price. More empowered consumers may also complain more often, but if the quality of advice and service improves as a result, this could lead to reduction in complaints in the medium-term. So we will need to use and evaluate a number of data sources, both quantitative and qualitative, together in order to interpret properly the effectiveness of our actions in delivering the outcomes.
56. In particular, understanding the trade-off between quality and price will be vital. Innovative new schemes, such as QAA, should allow us to benchmark quality, but new sources of information on cost may also be required. Alternatively, proxies such as take-up of legal services in specific regions or by specific sub-groups of the market may provide a method to test the affordability of legal services. We will also need to consider different groups of consumers and their experience of the price and quality of legal services, whether these consumers are domestic, corporate, local or central government.

An improved customer experience with swift and effective redress when things go wrong

57. Consumers have high expectations of both the quality of service and legal advice they receive from lawyers. Too often for complacency, these expectations are disappointed and complaints arise. This was one of the main drivers behind the regulatory reform agenda. A key objective therefore is that there should be an improved customer experience both in the service provided, thus avoiding complaints in the first place, and in the complaints process when things go wrong.
58. Competition is one key to improving customer experience of legal services, as is focusing regulation much more on outcomes for consumers. Alongside this, we are developing evidence-based proposals on the types of outcomes that consumers are looking for from legal services, which we believe will help the sector target the real needs of their clients and us benchmark the success of our reforms in improving customer experience.
59. One area where we will be working hard to gather evidence is the existence of effective feedback mechanisms from complaints practice in firms and at the Legal Ombudsman into day-to-day practice and customer service and wider regulatory policy development, as well as in ongoing improvements to complaints mechanisms and redress practice itself. This is not an area where it is easy to establish a benchmark, but we believe that some attempt at evaluation will be crucial in ensuring ongoing effectiveness of consumer protection and, we would hope, providing enough evidence of positive cultural change to enable less intrusive or detailed regulatory requirements in many areas.

Constantly improving legal professions, as diverse as the community they serve

60. As outlined in our vision for the legal services market, we expect these reforms to result in a legal services profession that is clear and confident about its professional ethics and

how they apply to the legal services market. Regulation should support this and we will be evaluating the extent to which the regulatory framework both retains professional ethics and promotes competition and diversity of the supply of legal services.

61. A diverse legal profession is one that reflects and is representative of the full spectrum of the population it serves, harnessing the broadest possible range of talent in the delivery of legal advice. At entry, retention and progression, we will support and challenge ARs to ensure that there are no artificial barriers or discriminatory hurdles to legal careers. Our recent publication⁴ highlighted significant barriers to diversity that still exist, as well as the progress made in many areas. Further publications have summarised the wealth of literature looking at diversity in legal services⁵ and existing initiatives by the trade bodies and ARs to improve the diversity of the profession⁶.
62. Compared to our other outcomes, measuring the diversity of the profession is relatively straightforward, but data improvement is still necessary. Existing sources focus on a narrow definition of employees and types of diversity, both of which will need to be expanded. We need to look across both the diversity of the individuals working in the firms and the diversity of the firms themselves, both in services offered and their ability to serve diverse clients in diverse locations and with diverse needs. We will also need to assess diversity from a consumer perspective with evidence of whether their needs are matched by the diversity of provision of legal services.

Clear regulatory structures, which command wide confidence in the public and market

63. As the LSB oversees a more proportionate and focused regulatory regime, market pressures and regulation that is more effective will ensure that individuals in new and existing service providers alike will act within the professional principles, as the vast majority of lawyers already do. But effective regulation must identify and target those firms and individuals that present the greatest risk, regardless of their professional background. Consumers should be confident that regulations provide them with the protection they expect and that they will be compensated should problems arise. Effective regulation will also affect the international standing of the English and Welsh legal system.
64. We will need to consider evidence of consumer confidence from many parts of the market – wider than simply existing consumers of legal services, but instead overall public confidence in legal services. We will also seek similar broadly based evidence from the regulated community on how their experiences of regulation have changed over time and from the ARs and trade bodies. International evidence of the impact of regulatory changes on our exports of legal services will be considered alongside evidence of consumer confidence from domestic customers.
65. Securing independent regulation is a key performance measure in our early years. We will assess this in-house through monitoring changes to the constitutions of the regulators, the make-up of their boards, and the nature and number of decisions that we believe were taken with inadequate independence. We will be increasingly concerned about the impact that this independence has had on the outcomes for consumers – e.g. has it increased access to justice by reducing regulatory barriers? Do consumers have greater confidence about the regulation of legal services?

⁴ “Diversity in the Legal Profession in England and Wales: a qualitative study of barriers and individual choices”, Sommerlad, Webley, Duff, Muzio and Tomlinson, October 2010.

⁵ “Barriers to the Legal Profession”, Legal Services Board, July 2010.

⁶ [Add reference once published]

Next steps

66. Once this consultation on the draft Business Plan has closed, we will revise the approach here as necessary and, following the completion of the Regulatory Information Review in May 2011, update it further to include the evidence that will be used to complete early evaluation.
67. We then aim to move to an annual cycle, with changes to the evaluation methodology and short-term priorities consulted on with the draft Business Plan, with a broad assessment of overall progress in the Annual Report, complementing specific evaluations in specific areas that will be specified as necessary through the project planning process.