

To:	Board	
Date of Meeting:	28 October 2010	Item: Paper (10) 73

Title:	Evaluation in the LSB Business Plan	
Workstream(s):	Business Plan 2010/11	
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Status:	Protect	

Summary:

1. This paper describes how we propose to tackle evaluation in the Business Plan (**‘the Plan’**), which the Board will be asked to approve for consultation in November. The absence of such discussion is a topic on which the Bar Council in particular has been critical in previous years and where we do need a clear position at publication.
2. The cover paper sets out our approach on three separate issues:
 - first, how we will evaluate the delivery of the growing volume of “business as usual” work through specific key performance indicators (**KPI**)
 - second, how we will evaluate our impact on the front-line regulation of legal services
 - third, how we will evaluate our effectiveness in delivering long-term market change.
3. The paper does not aim to set out how we would tackle a holistic review of the cost- and delivery-effectiveness of the LSB as a whole. Ministry of Justice (**MoJ**) is considering a review of the organisation in 2012. Identifying how best to influence that agenda and doing some diagnostic work will be an important work strand in the second half of 2011, but the Executive does not believe that a major exercise now would be either helpful or sustainable in the light of the other priorities for the organisation.
4. Delivering market change is the subject of **Appendix 1**. We would particularly welcome discussion on this topic. The aim is to use the content, revised in the light of Board comment, as an annex to the Plan.
5. In relation to evaluating market change, we propose to:
 - first, set out the key milestones in 2011-12 (these will be refined over the next month as the text of the Plan develops)
 - second, set out the existing or potential data sources of which we are aware – as a general rule, these are *extremely* limited
 - third, indicate in broad terms, the other factors we will weigh in evaluating progress
 - fourth, indicate specific research and data gathering activity in 2011-12 – this is the area where most development is needed over the next month.
6. Our intention is then to:
 - integrate the outcome of the consultation with the products of the Regulatory Information Review, which concludes in May 2011;
 - present some initial conclusions with our Annual Report in mid-2011;
 - refine the approach further and consult on improvements in the context of the Business Plan 2012-13.

Risks and mitigations	
Financial:	N/A.
FoIA:	Appendix 1 – to be reviewed post-meeting.
Legal:	N/A.
Reputational:	N/A.
Resource:	N/A.

Consultation	Yes	No	Who / why?
Board Members:	✓		Nicole Smith and Bill Moyes – at short notice only.
Consumer Panel:		✓	
Others:	N/A.		

Recommendations:
<p>The Board is invited to comment on:</p> <ul style="list-style-type: none"> (1) the handling of evaluation in the Business Plan in general; and (2) the approach to handling market impact in particular.

LEGAL SERVICES BOARD

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Evaluation in the LSB Business Plan

1. We need to evaluate our overall performance at three levels:
 - monitoring and evaluating our delivery of our 'business-as-usual' tasks
 - evaluation of our delivery of a change in regulatory practice through regulatory actions and thematic reviews
 - evaluation of our effectiveness in delivering long-term market change as set out in **Appendix 1**.

Day-to-day effectiveness

2. Perhaps the easiest task is to evaluate day-to-day delivery of our role as oversight regulator. "Regulatory decisions" cover those approval activities that the LSB is required to undertake:
 - approving changes to regulatory arrangements
 - extension of the reserved legal activities that individual Approved Regulators (**AR**) can regulate
 - designation as an AR or licensing authority (**LA**)
 - cancellation of designation as an AR or LA.

We have agreed a set of timescales around publication of the applications and decisions along with targets for the time in which the decisions must be made. These KPIs are summarised at **Appendix 2**.

3. In addition to these process milestones, there is an overriding objective of making high quality decisions, measured ultimately by the number of decisions that we make which are overturned in court. We need to hit the difficult twin goal of zero court defeats, while avoiding risk averse decision-making.

Regulatory effectiveness

4. The changes we promote in the way that legal services are regulated are more difficult to measure. We are seeking to change regulatory *culture* as much as the processes themselves, moving away from a reactive rules-based regulatory framework to an outcomes-focused regulatory approach, backed by hard-nosed risk assessment. These changes have already started to occur. We now need to track their actual impact on decision-making. Specific KPIs may have some role in some of these areas, but are likely to tell only part of the story.
5. Given the complex nature of these changes, we will carry out a series of reviews to evaluate in detail the effectiveness of specific aspects of the changes. These reviews will include a review of first-tier complaints handling and implementation of regulatory independence. On the latter, we will assess the risks and produce 'RAG' ratings for each of the regulators. Our own KPI for independence will be to ensure that all regulators are at, or close to, a green 'RAG' rating by the end of the year.

6. We will develop proposals for other reviews in the context of the Plan. Regulation of conveyancing, effective disciplinary and enforcement processes and improving management information are the key early candidates. We will probably also need to investigate implementation of our final proposals on referral fees.

Long-term market change

7. **Appendix 1**, which we will develop and incorporate into the final Plan as a standalone piece of text, is concerned with this third strand only. Inevitably – and rightly – it is the delivery of market changes to improve access to justice via more innovative and better value services that will stand as the benchmark for the success or failure of the LSB. So we need to find ways to link all our activities to changes in the legal market as experienced by consumers.

Regulatory Information Review

8. The success of any evaluation is dependent on the evidence available to support it. We started the Regulatory Information Review to identify all the relevant evidence and to identify optimal ways of filling the very many gaps in what is currently available. We have completed the initial review of published evidence and will now explore in more detail unpublished research and data held by regulators and professional bodies.
9. The third stage will be to prioritise which gaps we will fill once the full data-gathering is complete. We have already identified significant additional resources to this process through the first project, outlined on **page 8**, which, with further development over the next month, will help baseline legal supply to allow later evaluation of the impact of the introduction of Alternative Business Structures.

Next steps

10. The appendix will be developed alongside the LSB Business Plan 2010/11, with more detail, particularly around milestones. Once this consultation has closed, we will review the approach 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 the evaluation. We will present some initial conclusions in the Annual Report 2010/11.
11. The aim would then be to move to an annual cycle, with changes to the evaluation methodology consulted on with the draft 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.

APPENDIX 1: Evaluating the medium-term effectiveness of legal services reforms

[REDACTED]

Appendix 2: Key Performance Indicators for LSB Regulatory Decisions

[REDACTED]