

To:	Legal Services Board	
Date of Meeting:	30 January 2013	Item: Paper (13) 05

Title:	Adoption of British Standard 18477 for inclusive service provision	
Workstream(s):	Workstream(s) (see <u>Business Plan 2011/12</u>)	
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Status:	Unclassified	

Summary:
British Standards Institution published BS 18477 on inclusive service provision, requirements for identifying and responding to consumer vulnerability in November 2010. The standard is designed to support institutions in the “adoption of fair, ethical and inclusive practices”. We have analysed the standard and considered whether and how the LSB should seek to use it in our work.

Recommendation(s):
The Board is invited to agree that it should respond to BS 18477 by: <ul style="list-style-type: none"> a. Updating our consumer toolkit b. Developing and testing a clear strategy for incorporating the thinking from BS18477 into our policy work c. Challenging regulators and the Ombudsman to demonstrate how they have incorporated BS18477 into their work whether through regulatory effectiveness, the rule approval processes or though our usual oversight functions

Risks and mitigations	
Financial:	N/A
Legal:	N/A
Reputational:	We must be clear that while not formally adopting BS 18477 we will be incorporating the key ideas contained in the standard within our policy work.
Resource:	Resource required to update our consumer toolkit and integrate within policy work.

Consultation	Yes	No	Who / why?
Board Members:		x	
Consumer Panel:	x		Steve Brooker
Others:	N/A		

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
None	N/A	N/A

LEGAL SERVICES BOARD

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Adoption of British Standard 18477 for inclusive service provision

Executive Summary

Background

1. British Standard 18477 on consumer vulnerability was published in November 2010 and requires that providers understand the diverse needs of consumers and that regulators take proper account of consumers at risk of disadvantage. The standard is particularly powerful in its analysis of the potentially transitory nature of vulnerability. Instead of defining consumers in specific groups as always vulnerable, it identifies 'risk factors' related to a person's circumstances – such as bereavement, illiteracy, illness or disability – which could increase the likelihood of a consumer being at a disadvantage or suffering detriment. It is often the interplay between different risk factors that heightens vulnerability: poverty and disability; poor literacy and bereavement for example.
2. The standard makes it clear that those providing or regulating services play an important role, potentially contributing to, or increasing the risk of, consumer vulnerability and detriment. It can be seen as a further level of detailed development within the consumer segment of the OXERA segmentation framework.
3. Previously the LSB has produced a consumer toolkit which was designed to summarise key statistics about specific consumer segments to support policy analysis. This has proven useful in early policy formulation such as with scope of regulation and quality, and fits well with our approach to segmentation. The analysis contained within the BS18477 challenges our traditional approach of grouping individuals into easily classifiable segments and providing simplistic quantitative analysis. Instead it suggests a more nuanced approach, starting with quantitative analysis of risk factors, followed by a more detailed assessment of actual likelihood of vulnerability and approaches to offset these risks.

Should we adopt the standard?

4. The Legal Services Consumer Panel challenged the LSB to adopt BS 18477 (see **Annex A**) and highlighted the standard in their Annual Report 2011-12, noting that "we've adopted the new British Standard on consumer vulnerability and we're now expecting regulators and others to do the same". Since then the CLC have changed their rules to incorporate the standard within their code (approved by the LSB, though not yet brought into effect).
5. There is no formal process for "adopting" a British Standard. Instead each organisation must decide for themselves the extent to which they incorporate the analysis contained within a given standard into their work. We agree with the Consumer Panel that BS18477 (a brief summary is included in **Annex B**) provides a powerful tool to support regulators and practitioners in providing services to potentially vulnerable consumers. We have, through the Consumer Panel, purchased a copy of the standard which we can use in developing our

analysis of vulnerable consumers. The Consumer Panel have also secured free copies of the standards for each of the legal services regulators and the Legal Ombudsman.

6. The standard itself was primarily designed by the British Standards Institute to support institutions providing services directly to consumers. As such, we do not believe that it can be used, in the way in which it is primarily intended to be used, by the LSB – although there are undoubtedly aspects of the Standard that we should reflect in the small amount of directly consumer-facing activity we do undertake (such as correspondence, calls from the public etc).
7. This should not prevent us from incorporating many of the ideas contained within the standard in our policy work, by for instance:
 - building a more dynamic approach to consumer vulnerability within our policy development;
 - considering regulators' approach to vulnerability in the process of rule approval; and
 - looking for the incorporation of such analysis within our work on regulatory effectiveness when we discuss with ARs how they intend to ensure effective engagement and knowledge about consumers.

Regulators with more of a front line consumer facing role, as well as policy development should, if anything, have a wider range of applications of the standard.

Piloting on will-writing

8. As part of the will-writing project we piloted the use of BS18477 A matrix of the risk factors was developed and the team held a session to identify clusters of risks likely in the population affected. The clusters (e.g. bereavement, disability, illness) were then used to analyse where data was available to support our hypothesis and later to check that policy proposals were cognisant to the likely vulnerability of the population affected. This could provide a model for future projects.

Proposal

9. The Board is invited to agree to respond to t BS18477 by :
 - a. Updating our consumer toolkit (summarised in **Annex C**)
 - b. Developing and testing a clear strategy for incorporating the thinking from BS18477 into our policy work
 - c. Challenging regulators and the Ombudsman to demonstrate how they have incorporated BS18477 into their work whether through regulatory effectiveness, the rule approval processes or though our usual oversight functions.

Next steps

10. The LSB will put together a small project team, with non-executive input, to update the consumer toolkit and develop an approach for incorporating lessons from BS18477 within our work. We will report back to the Board with progress through the CEO's update later in the year.

17.01.13

Annex A

David Edmonds CBE
Chairman
Legal Services Board
Victoria House
Southampton Row
London WC1B 4AD



25 May 2012

Dear David

British Standard on inclusive service provision

Consumer vulnerability is a constant theme in the work of the Legal Services Consumer Panel. This year we will be taking forward a number of projects under the heading of Equality of access: ensuring that all consumers, especially those in a position of vulnerability, have access to affordable and high quality advice.

I am writing to encourage the Legal Services Board to join the Panel in adopting a new British Standard which sets out requirements for identifying and responding to consumer vulnerability.

The standard for Inclusive Service Provision (BS 18477) was developed by consumer organisations, charities and government bodies to:

- Encourage the use of fair, ethical and inclusive practices;
- Show organisations how to identify vulnerable consumers and how to treat them fairly to help them to comply with the law;
- Help organisations to understand what consumers have a right to expect from them;
- Improve accessibility to services for all; and
- Increase consumer confidence in service providers.

The Panel has found the standard to be very helpful in informing our work and we anticipate that the Legal Services Board could use it in many ways. For example, it could be used to help assess compliance by approved regulators with your regulatory standards; these include consumer engagement and specify that risk analysis should focus predominantly on consumer detriment, including those in vulnerable circumstances. The standard could also be used to inform your own consumer engagement projects and to train staff who deal with public enquiries.

As a public authority for the purposes of the Equality Act 2010, adopting the standard would demonstrate evidence of delivery against the public sector equality duty in this legislation. Specifically, this duty is intended to ensure that equal opportunities and fairness are promoted by public authorities and bodies and their representatives who are exercising public functions. It requires bodies to: have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not.

I am sure you will agree it is vital that everyone who needs to can access legal services and to ensure that clients receive a good service regardless of their personal circumstances. Unfortunately, our research has shown wide variation in experience of using legal services across the population. Most recently, our research with deaf and hard of hearing consumers revealed that legal services were often inaccessible to people with hearing loss and highlighted a lack of 'deaf awareness' among providers.

The Panel is also writing in similar terms to the approved regulators, the Legal Ombudsman, legal services providers and others to encourage take up in the sector more widely. We hope the Legal Services Board can assist us with this in at least two ways: firstly, leading by example through adopting the standard; and, secondly, by helping to raise awareness of the standard. As part of this effort, we will be creating an area of our website where all those organisations which adopt the standard will be listed.

I sincerely hope that the Legal Services Board will adopt BS 18477 as part of your commitment to the shared regulatory objective of promoting and protecting the interests of consumers, which must surely include the interests of those in vulnerable positions. I should be grateful if you would inform me if you do decide to adopt the standard.

Yours sincerely



Elisabeth Davies
Chair

BS 18477: Inclusive service provision – Requirements for identifying and responding to consumer vulnerability

The standard outlines the following guiding principles for inclusive service provision:

- Commitment to treating vulnerable consumers' fairly;
- Resources available to ensure fairness
- Competence of those employed
- Transparency of it's intent to provide an inclusive service
- Accessibility of services
- Communication in a range of formats suitable for all
- Confidentiality of personal information
- Fairness achieved by policies and processes
- Awareness of managers and staff of how they should treat customers

The standard focuses on the delivery of inclusive services through three stages (see fig 1 below).



Annexes to the main document provide examples of the potential effects of vulnerability and scenarios to illustrate the factors which can result in consumer vulnerability.

LSB Consumer Tool Kit

The Consumer Toolkit was developed and implemented in August 2011. It provides a framework for policy teams to take a structured approach to understanding the impact on consumers of the issues that arise from their projects, to help them develop policy proposals.

The consumer toolkit supports policy teams in ensuring that the objectives of a project are consistent with the interests of a consumer. It offers guidance for producing a suitable analysis at the project planning stage to identify whether the project needs to be re-scoped in order to achieve those objectives. It's aim is also to help analyse whether further research is required to understand the issues for consumers.

The toolkit looks at consumers from a general perspective and defines them in the context of the Legal Services Act (2007) which provides a wide-ranging definition that goes from persons who use, have used or are contemplating using legal services to persons whose rights or interests may be adversely affected by the use of services by people acting on their behalf.

The principles of the toolkit are embedded into the project planning process via the Project Initiation Document. This document highlights project objectives and also requires project teams to bring together their thinking on the consumer issues in a 'consumer analysis'.

The toolkit contains guidance intended to support policy makers during the consumer analysis stage. These include a series of consumer profiles which describe, at a very high level, how different types of consumers cope with different issues and how they behave in different markets. It also give policy teams examples of the types of questions that should be answered in order to identify what a policy needs to do for consumers. Using this document teams are helped to understand tactics for consumer and stakeholder engagement activities that may be appropriate in the policy development.

The toolkit does touch on vulnerability and refers to the BSI standard. Although in this context vulnerability has not been considered as a transitional, users are urged to consider how the issue that the policy is addressing will impact on vulnerable consumers and provides guidance on how some of the potential effects of vulnerability may affect different consumer groups.