

The Legal Services Board

National Assembly of Wales

Open Forum

Chris Kenny, Chief Executive

12 May 2010

Agenda

- Legal Services Board
- Vision and Regulatory Objectives
- Responding to a changing environment
- Milestones and Priorities
- Changes in regulation
- Regulating for competition
- Building capacity
- Access to justice
- Next steps

Legal Services Board

- **Small, professional executive**, focused on achieving outcomes for consumers and practitioners, rather than either a bureaucracy or a think tank
- Concerned to provide **value for money** – and ensure that the legal services market does so for consumers – both individual consumers and businesses
- LSB made up of just 32 staff – but ultimately our size will be determined by the success or failure of the ARs
- Funded by a levy on practitioners calculated on following basis:
 - LSB - number of professionals regulated by each Approved Regulator
 - Legal Ombudsman – number of complaints generated by professionals regulated by each Approved Regulator

Vision and regulatory objectives

Shared with the Approved Regulators, the regulatory objectives:

- Protect and promote the public interest
- Support the constitutional principle of the rule of law
- Improve access to justice
- Protect and promote the interest of consumers
- Promote competition in the provision of legal services
- Encourage an independent, strong, diverse and effective legal profession
- Increase public understanding of the citizen's legal rights and duties
- Promote and maintain adherence to the professional principles

Changes in regulation

- Act commits the LSB and ARs to the principles that regulation should be:

Proportionate: Regulators should only intervene when necessary. Remedies should be appropriate to risk posed, and costs identified and minimised.

Accountable: Regulators must be able to justify decisions, and be subject to public scrutiny.

Consistent: Government rules and standards must be joined up and implemented fairly.

Transparent: Regulators should be open, and keep regulations simple and user friendly.

Targeted: Regulation should be focused on the problem, and minimise side effects.

- Proportionality means we will identify outcomes, but rarely means prescriptive rules
- This demands greater maturity in the assessment and management of risk

Vision: keeping pace with change

- **Changing consumer needs** – cash-strapped, time-poor
- **Changing technology**
- **Changing political environment** – particularly through a focus on public policy approach to access to justice
- **Changing economic climate** – both for individual consumers' needs and for businesses as consumers
- **Ongoing professional debates**
 - Inside the sector - Hunt findings
 - Alongside partners in other sectors – eg. Fair Access to the Professions

Vision and regulatory objectives

- **Greater competition** and the development of new and innovative ways of meeting demand
- A market that allows **access to justice for all consumers**, helping those whose incomes exceed legal aid thresholds but who need support
- **Better empowered consumers**, receiving the right quality of service at the right price
- An improved customer experience with **effective redress if things go wrong**
- Greater **innovation and partnership** between lawyers and other professionals

Milestones and priorities

- **May 2008** LSB Chair David Edmonds appointed
- **July 2008** LSB members in place
- **December 2008** Appointment of Elizabeth France, OLC Chair
- **January 2009** Board “goes live” with power to make rules
- **March 2009** Major consultation on independence
- **September 2009** Consumer Panel appointed
- **November 2009** ABS: Approaches to Licensing
- **January 2010** Board goes “fully live” with enforcement powers
- **March 2010** Board announces start date for ABS
- **April 2010** Full staffing, second year Business Plan published

Milestones and priorities

- In our first year of operation we have given particular priority to:
 - **Ensuring regulatory independence** – with the establishment of the Internal Governance Rules.
 - **Removing anti-competitive restrictions on practice and opening the market to ABS** – Reported on *Approaches to Licensing* and set out timeline
 - **Establishing the Legal Ombudsman to ensure fair, impartial dispute resolution and effective redress** – scheduled to open in Birmingham in October 2010.

Changes in regulation

- **Moves towards more outcome-focussed regulatory regime** can deliver:
 - scope for better outcomes for consumers;
 - better understanding of standards amongst practitioners;
 - more opportunities to apply experience from other sectors;
 - risk assessment driving proportionate and targeted regulation;
 - entity, as well as, individual regulation.

- **Provided that**
 - firms don't lose sight of professional ethical fundamentals
 - and develop their compliance capacity alongside professional skills

 - Regulators develop their own capacity to identify risks and systems and weaknesses
 - and take action when necessary

Regulating for competition

- ABS can be precursor for **more responsive regulation** generally
- New scope for lawyers to deliver **packages of professional services** in collaboration with other professionals
- **Timeline announced** in March 2010:
 - Prospective ABS can apply for licence from June 2011
 - Open for trading from October 2011
- **Minimum standards of protection between ABS and non-ABS** – level playing field and consistent consumer protections;

Building capacity: the regulators

- Ensuring **common baseline of competence** and independence
- **Regulatory Reviews** - Intelligent monitoring and review at specified intervals, alongside dual self-certification of ARs
- Marshalling ARs' impact on the way in which Authorised Persons address **First-Tier Complaints Handling**
- Working with ARs to **gather evidence on complaints**
 - Conducting an assessment of first-tier complaints-handling processes
 - Collecting data – both qualitative and quantitative
 - Identifying trends – reporting and reviewing
- **Continual evidence-gathering** – Research Strategy

Building capacity: the workforce

- **Building an economic case for diversity** – building on good practice across sector but doing more to marshal progress
- Working with ARs to **develop a measurement framework** to benchmark
- **Reviewing qualifications** – whilst collecting information on fair access to Higher Education;
- **Widening the focus** from just entry level onto retention and progression, particularly of women and BME practitioners;
- Investigating consumer attitudes to existing **Quality Assurance schemes** and reviewing

Access to Justice

- **Addressing information asymmetry** in the market
 - Deepening understanding of entry paths to justice
 - Examining this for different types of consumer
- **Vehicles** to widen access to justice – particularly in view of limits to legal aid
- **Reserved and unreserved legal activity**
 - Should unregulated activity become regulated to protect consumers?
 - Is the level of regulation in the market necessary to protect consumers or does it act as a barrier to the delivery of cheaper, more effective services?

Next steps

- **Second Year Business Plan** has been published
- **Legal Ombudsman** open for business from October
- Working with prospective LAs to allow **first ABS** from October 2011
- Releasing economic research and receiving advice from the Consumer Panel on **referral fees**