

# Strategic Plan 2012-15

## Business Plan 2012/13

---

**April 2012**

## Our regulatory objectives and the professional principles

**Section 1 of the Legal Services Act 2007 sets out a challenging set of regulatory objectives for the Legal Services Board, approved regulators and Office for Legal Complaints. These are to:**

- protect and promote the public interest;
- support the constitutional principle of the rule of law;
- improve access to justice;
- protect and promote the interests 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; and
- promote and maintain adherence to the professional principles.

**Section 1 of the Act further defines the professional principles as:**

- acting with independence and integrity;
- maintaining proper standards of work;
- acting in the best interests of clients;
- complying with practitioners' duty to the Court to act with independence in the interests of justice; and
- keeping clients' affairs confidential.

Section 4 of the Act also gives the Board a duty to assist in the maintenance and development of standards of regulatory practice and the education and training of lawyers.

## Approved regulators

**We are responsible for overseeing the eight approved regulators, which between them directly regulate approximately 147,000 lawyers operating throughout the jurisdiction<sup>1</sup>. The approved regulators are:**

- The Law Society, which through the Solicitors Regulation Authority, regulate around 120,000 practicing solicitors;
- The General Council of the Bar, which through the Bar Standards Board, regulate around 15,000 practicing barristers;
- The Chartered Institute of Legal Executives, which through ILEX Professional Standards Limited, regulate around 7,500 practicing fellows;
- The Council for Licensed Conveyancers, the regulator of over 1,000 practicing licensed conveyancers;
- The Chartered Institute of Patent Attorneys, which through the Intellectual Property Regulation Board, regulate around 1,800 practicing chartered patent attorneys;
- The Institute of Trade Mark Attorneys, which through the Intellectual Property Regulation Board, regulate around 800 practicing trade mark attorneys;
- The Association of Costs Lawyers, which through the Costs Lawyer Standards Board, regulate over 400 practising Costs Lawyers; and
- The Master of the Faculties who regulates 845 notaries.

**In addition, two further bodies from outside the traditional legal services sector are formally designated as approved regulators for probate activities, though neither has any members offering these services at present. They are:**

- The Institute of Chartered Accountants in Scotland (ICAS); and
- The Association of Chartered Certified Accountants (ACCA)

---

<sup>1</sup> Figures are based on numbers provided to the LSB by the approved regulators on 1 April 2011

## Contents

Chairman’s foreword .....	5
Chief Executive’s overview.....	7
Our role.....	11
Strategic priorities for 2012-15 .....	14
The LSB’s 2012/13 work programme .....	18
A: Regulator performance and oversight.....	19
B: Strategy development and research .....	26
C: Statutory decision making.....	34
Delivering our Plan.....	36
Annex 1- Organisational structure .....	41
Annex 2 - 2012/13 milestones.....	42

## Chairman's foreword

The Legal Services Board (LSB) has delivered the primary targets that we set for ourselves for our first three years of operation. An effective Ombudsman service has been created to resolve complaints and the framework for the introduction of alternative business structures (ABS) is in place. In addition, genuine independence of legal regulation is well on the way to being established across the sector, with internal governance rules backed by practical arrangements giving confidence that lawyers are regulated in a way that meets the public interest. Working with the approved regulators, strong foundations have been laid, allowing important benefits to be delivered to the public, the profession and the economy.

Regulators now have to act with a firm commitment to independent, public interest focused regulation, distanced from the inappropriate influence of representative interests.

We have seen changes in important areas beyond the formal architecture of regulation. First, there is a change in mind-set. Many more legal services firms and professionals understand that not only is it important that they provide sound legal advice to their clients, they must also provide a good quality service. This understanding of law as a business - alongside its status as a profession - is going to be fundamental if the legal services sector is to maintain its reputation for excellence and expand its important contribution to the UK economy, both as a supporter of UK business and a major service industry in its own right.

Second, there is a much more transparent debate - encouraged by the ease of access to new media outlets - about fundamental issues such as widening access to justice and key areas for the future of legal services - such as legal education, diversity and quality assurance. In all these areas - and in many others - the LSB has and will continue to fulfil the duties set for it in the primary legislation. The legal profession by its nature creates articulate lobbyists and we expect a constructive debate with the representative arms as well as the regulatory arms of the approved regulators. Consumer voices are not so often heard nor so vociferously expressed and we are all indebted to the Legal Services Consumer Panel for their work in filling that important gap.

Third, there continues to be great change in the nature of legal service provision - even before ABS becomes a key element in the provision of services. The increasing use of technology offers opportunities for new forms of service delivery - but it is not risk-free. We must understand the nature of those risks, mitigate for them, including by helping consumers to understand their nature, and ensure appropriate redress mechanisms are in place in case things still go wrong. This will require close working with the Legal Ombudsman. His work supplements that of the regulators and is an invaluable source of intelligence about consumers' experiences.

I am proud that our drive, commitment and focus are helping to deliver these changes. The legal services profession in England and Wales has a justifiable reputation and we want to make sure that regulation plays its part in helping to maintain and build upon it. But there remains much to do: this plan describes many of the specific challenges that have to be met. I am convinced that the LSB, as oversight regulator, will need to play as strong a leadership role - in developing strategic direction and challenging regulator performance - on those issues as we have on our three initial priorities. That, rather than passive monitoring and occasional crisis management is at the heart of our statutory role.

The LSB has an important and continuing role to make sure that legal services regulation is as strong, fair and effective as it needs to be to deliver the regulatory objectives. We are also uniquely placed to identify and articulate the broader and strategic risks that need to be addressed by regulators across the legal services sector. The LSB is open-minded about where best the drive and ownership for these important initiatives then comes from. We have neither the ambition - nor the resources - to assume the role of the frontline regulators. But we will not stand by if we see apathy or avoidance. The public, the profession and all who rely on legal services deserve more.

We will continue to make sure that we, and all of our partners in the approved regulators and beyond, work together to make the legal services market work well for consumers, for providers and for the public interest.

That theme underpins the LSB's forward programme for the next three years.

**David Edmonds**

**Chairman**

## **Chief Executive's overview**

We took our initial priorities straight from the Legal Services Act 2007. The work we have done on independence of regulation, improving complaints resolution and developing ABS represents three of the more visible outcomes of reform.

Good progress has been made on all of them, but we cannot be complacent. If regulation is to enable and support a legal services market that works for consumers and citizens it must ensure that the spirit of the reforms happens, not just the architecture. Without both, society will not reap the full benefit of the reforms.

### **Independence**

In our first year, we focused on ensuring that each approved regulator with representative functions had arrangements and structures able to deliver truly independent regulation. In our second year, we reviewed each of the relevant approved regulators' progress towards achieving compliance. This allowed us to target risks to independent regulation and deal quickly and proportionately with them.

By January 2013, all of the approved regulators will have regulatory boards with lay majorities, they should all be fully compliant with the rules that embed independence and they should have addressed any outstanding issues in the area of shared services and the setting of strategy and resources. Yet this does not mean that regulatory independence is a matter that can now be ignored.

Independence requires a truly independent regulatory culture and measures to avoid regulatory capture. It is and will remain a challenge for all regulators. We have tackled and will continue to tackle some of the most egregious opportunities for undue influence but, and to paraphrase, the price of independence is eternal vigilance. Independent regulation is and remains central to our regulatory framework. This work is crucial because it helps give the public, as both citizens and consumers, faith that regulation protects their interests.

### **Improving complaints resolution**

Making sure that complaints are handled well requires constant attention. It is important that providers and regulators ensure that the lessons that can be learned from complaints are identified and used for continuously improving services, promoting competition and protecting consumers.

Regulators have yet to demonstrate that their regulatory arrangements will achieve the outcomes that consumers need. We will continue our annual review process to ensure that the pressure to improve remains.

Much of our ongoing work here will be on the effectiveness of monitoring, enforcement and use of evidence to identify and respond to serious issues involving consumer harm and those that are systemic. The other key strand will be working towards changing the culture of first-tier complaints handling from defence to opportunity for legal practitioners to improve their customer service and regulators to improve their regulatory arrangements, raise standards across the industry, identify opportunities and develop education and training programmes.

This work touches on both our responsibilities towards and our working relationship with the Office for Legal Complaints (OLC) and the Legal Ombudsman. We review the OLC's assessment of the Legal Ombudsman's performance quarterly, in four key areas: timeliness, cost-efficiency, quality and satisfaction. We will be looking to see that the OLC delivers a dispute resolution scheme that is quicker, cheaper, better than that which went before.

## **Opening-up the market**

Historically, the legal services market has had a number of restrictions on market entry. The main way of regulating the market was through barriers at entry and action to impose disciplinary sanctions identified in the main by third party complaints, rather than pro-actively through regulatory activity. This created barriers for new suppliers to enter the market, in particular there were restrictions on capital from non-lawyers and non-lawyers taking management positions within law firms. Removing these barriers is expected to enhance the level of competition and increase incentives to innovate and offer services at lower cost. So, the regulatory objectives relating to access to justice and competition complement each other and are both delivered by a deregulatory agenda.

The opening-up of the legal services market has steadily progressed since 2007 with the introduction of Legal Disciplinary Practices (LDPs) which allowed up to 25% non-lawyer ownership. The introduction of ABS and shift toward outcomes-focused regulation are the next steps in the move toward greater liberalisation and better targeted consumer protection.

Both the Council for Licensed Conveyancers (CLC) and the Solicitors Regulation Authority (SRA) are designated as licensing authorities for ABS. We envisage that other approved regulators and regulators in other sectors may also apply for licensing authority status at some stage in the coming year.

It is difficult to estimate both the take-up and immediate impact of ABS. Although initial applications to the SRA are high, it remains to be seen how many applicants are approved as the tests are, rightly, rigorous. So the change is unlikely to be a "big bang" with large overnight changes. However, it is likely that over the next five years the market will change considerably as a direct result of these reforms. For example, many of the emerging franchise schemes can be seen as being driven by the impending market liberalisation.

We will continue to monitor the take up of ABS across England and Wales, and the changes being experienced by consumers as a result, feeding lessons back into regulatory practice and the policy framework.

## **Looking ahead**

To the LSB these three areas are intrinsically linked: independent regulation will focus on consumer outcomes and harness competitive forces to improve them. We believe these links are as important now as they were in 2009 when we started our work and they inform a new set of priorities as we move into the next three years of legal services reform.

The legal services market - those who provide services, receive services and all of us who rely on its crucial role in supporting the rule of law - need a regulatory regime that is dynamic, flexible and focused on key risks. This is a shift that is already underway as a



result of our work of the past three years. It is upon these foundations that our programme for the next three years is built.

While we will not lose sight of our initial three priorities, we need to shift the focus if we are to maintain momentum in legal services reform. Going forward our work will increasingly be focused upon overseeing the regulators' performance: that is what the Act envisages and that is what the LSB will deliver. In doing so, we aim to protect and promote the regulatory objectives - and to make the market work well.

Making the market work well must inevitably include addressing the complex jurisdictional issues that have been bequeathed to us by the passing of the Act - the most well-known being the differing regimes for the writing of wills. These jurisdictional issues are not at all new but they have become more visible with the advent of the Legal Ombudsman and the changing market for legal services, particularly as providers realise that 'title' is not required to provide a large range of services commonly thought of as 'legal'. There will be an inevitable tension between better regulation, that rightly requires rolling back from regulation where it is not justified against the regulatory objectives, and the argument that complete consistency is essential to avoid public confusion, which can be used to argue for significant 'regulatory creep'. We will work through the issues in detail, not being forced to either of the unrealistic ends of the spectrum.

We will also play our part in enabling a market for education and training which is similarly diverse in the provision offered and the students and practitioners it attracts. There is little point in trying to liberalise the legal services market if the practice and regulation of legal training and education moves too slowly to respond to the present day realities for professionals, employers and clients alike. The Act provides us with the authority and the mechanisms to investigate and address these issues. We will do so best by developing strong partnerships with all with an interest in them. I have talked already about the approved regulators and the OLC - but the issues we are required to face also require the involvement of others: the professions, consumer and citizen groups, the Office of Fair Trading (OFT), academics and commentators. The Act's toolbox is well equipped but the instruction manual for wielding its contents is complex. We must take care to avoid unintended consequences.

## **Understanding the market**

As in previous years, we continue to reinforce the importance of developing a solid understanding of the legal services market, of those who provide services and those who use them. We will inform our programme through our own evidence gathering and original research and we will continue to work closely and in partnership with others where research interests align. The publication of our Interim Baseline Market Impact Report at the same time as this Plan is an important milestone.

## **Our operating environment**

Whilst delivering our regulatory responsibilities, we are also conscious of our place within the disciplines of the wider public sector. The functions of the LSB and the OLC - and the Legal Services Consumer Panel - are currently subject to Triennial Review, a Cabinet Office mandated process for reviewing the functions of non-departmental public bodies (NDPBs), the appropriateness of the body's delivery mechanism and its governance arrangements.

We are engaging closely with that process, which is taking place just as the substantive component of the reform programme become real with the start of ABS licensing by the SRA. If there are lessons for us to learn from its results, we will do so. We will also disseminate any lessons for the wider legal regulatory community.

We have additional responsibilities beyond those in the Act, not least our duties under the Equality Act 2010. Our objectives for the year ahead, reached after consultation, are also included in this Plan. These duties are important to us and reinforce our pre-existing commitment to addressing inequalities.

We will also continue to contribute to the wider public policy agenda: to growth, to social mobility and to transparency. On the latter, we will be developing the information we proactively release on a refreshed website. If we can go further, we will. It is important that those that pay our bills see that they get value for money. I am therefore pleased that we have been able to propose a budget for 2012/13 of £4,498k - a reduction of almost 9% from our 2011/12 budget. We believe this demonstrates our commitment to proportionate and continually improving regulation.

It also reinforces our oft delivered message that how big the LSB is, what we need to do and how long we need to exist for, depends ultimately on the performance of the approved regulators in delivering regulation that is fit for purpose.

We look forward to working with everyone with an interest in legal services regulation to make sure that we achieve that goal.

**Chris Kenny**

**Chief Executive**

## Our role

### Overview

1. The Legal Services Board is the independent body responsible for overseeing the regulation of legal services in England and Wales.
2. We have a very simple goal - to reform and modernise the legal services marketplace in the interests of consumers, enhancing quality, ensuring value for money and improving access to justice across England and Wales.
3. We are funded by, but wholly independent of, the legal profession.

### Our vision

4. The regulatory objectives described in the Act provide the framework for regulation. We have used these to develop a vision for the legal services market that we believe regulation must strive to deliver. Our vision takes as its starting point that a competitive legal services market, underpinned by appropriate regulation, will deliver the regulatory objectives most effectively.
5. A market that works better for consumers and providers alike would be characterised by:
  - greater competition and innovation in service delivery;
  - access to justice for all;
  - empowered consumers, able to choose a quality service at an affordable price;
  - an improved customer experience with swift and effective redress when things go wrong;
  - a constantly improving and consistently ethical legal profession, as diverse as the community they serve; and
  - clear and proportionate regulation, that removes barriers to entry and targets market failure and which command wide confidence in the public and the market.
6. The work we intend to do in the next three years is designed to stimulate a healthy and improving market for legal services that is constantly evolving towards our vision. We know that we must work with and through a wide variety of partnerships to achieve it. We are fortunate that we share our regulatory objectives with the approved regulators and the OLC. In the context of providers themselves, we know that they are committed to the highest professional principles. We have a good base from which to work.

## Our approach

7. Our efforts will focus on ensuring that regulation is proportionate - reduced where possible to remove unnecessary barriers to delivering the regulatory objectives and only imposed where necessary to support consumer and/or public interest outcomes including to support the rule of law. Our regulatory approach will seek to encourage competition while ensuring that regulation reacts and develops to protect against and mitigate for emerging risks.
8. Our approach to the way we perform our role remains little changed from when we started and is as follows:
  - The Act sets out clear regulatory objectives. These objectives underpin all of the work of the LSB and we will always map our proposals back to them.
  - The better regulation principles are enshrined within the Act - so our activities will always be transparent, accountable, proportionate, consistent and targeted.
  - We expect that the approved regulators will work with us in a relationship of openness and trust and act in accordance with the regulatory objectives, as required by the Act, and reducing to a minimum any requirement for us to duplicate work undertaken competently by others. However, we will not hesitate to do what is necessary, should the need arise.
  - We will set out the anticipated impact on consumers and the professions of alternative regulatory options in our consultation papers and seek views from others about whether we have made the right assessment.
  - We will work with approved regulators to identify risks and manage them as we open up the legal services market. This means less of a focus on prescriptive rules that apply to everyone and greater supervision of lawyers and businesses that present risks to specified outcomes. We expect that approach to apply both to our activities and to the approach of the approved regulators.
  - We will develop strong working relationships with key stakeholders including the Ministry of Justice (MoJ), the Welsh Government, the approved regulators, citizen and consumer groups, the professions, firms and partnerships across the sector, potential new entrants to the market, other regulators and redress providers and the academic community.
  - Above all, the public and consumer interest will guide us in our work.

## Our equality objectives

9. We will also maintain a firm and clear commitment to delivering our statutory responsibilities under the Equality Act 2010 throughout our work. In December 2011, we consulted on our Equality Objectives for 2012/13 and will work to deliver these throughout our programme.

**Objective 1: Through our regulatory oversight role, encourage and work with the approved regulators to promote equality and diversity, including developing a diverse workforce across the legal sector at all levels, by:**

- assessing regulators' implementation plans to gather and evaluate diversity data;
- reviewing and monitoring the progress made by regulators in delivering their implementation plans; and
- continuing to engage with approved regulators and others on how best to enhance a more diverse workforce across the legal sector.

**Objective 2: Ensure our decisions take account of all relevant equality and diversity information by:**

- factoring equalities and diversity elements into our research, whether on workforce or consumer issues;
- undertaking Equality Analysis, where appropriate, when developing our programme and policies for consultation;
- reviewing and developing our 'consumer toolkit', which helps us identify and analyse consumer groups and their needs, including, in particular consumers who might be vulnerable;
- engaging with diversity groups and organisations; and
- continuing to encourage the Consumer Panel to develop a wide range of contacts and to incorporate diversity and equality into its consideration of consumer issues.

**Objective 3: To ensure that the LSB's own practices and policies, including its internal staff and external stakeholder engagement, focus on equality and diversity issues and are examples of the approach we promote to others. We will do this by:**

- ensuring that our publications are available in a variety of formats on request;
- monitoring and publishing the diversity profile of our staff and responding to the results (bearing in mind the size of the organisation);
- when tendering for services, work with firms who can demonstrate that they have a commitment to equality and diversity; and
- applying recruitment processes that are in line with our Equality Duty.

## Strategic priorities for 2012-15

10. Our programme of activity for the next three years is designed to ensure that we perform our statutory functions in ways that drive the legal services market to work better, and which reinforce all of the regulatory objectives - not least 'maintain the rule of law'.
11. By building on our three original strategic priorities, and considering what we have learned over the last three years, we have developed our priorities for the period ahead. These underpin all of the work currently under way and work planned.
12. These are the strategic priorities for the LSB for the coming three-year period:
  - assuring and improving the performance of approved regulators;
  - helping consumers to choose and use legal services with confidence; and
  - helping the changing legal sector to flourish by delivering appropriate regulation to address risks.

### Assuring and improving the performance of approved regulators

13. We all rely upon regulation and the performance of regulators. In legal services, consumers and the public want the reassurance of an effectively regulated profession. Professionals want to know that their regulator will treat them fairly and proportionately but will also deal with rogues robustly. Having worked with professional bodies and regulators to secure independent regulation it is vital that we ensure that regulation also meets the better regulation principles. We have already seen real change amongst the regulators as they embrace the new world and rise to the challenges it presents. New designations as licensing authorities and granting of new rights to regulate wider reserved activities are agreed only where appropriate regulatory arrangements and demonstrable capability and capacity are in place. We will continue take this rigorous approach to new applications. And we will provide appropriate oversight through our regulatory standards work. The priorities set out here are best delivered by effective regulators, and by working with them, we will modernise regulation to ensure that the legal services market works for those who rely on it.

### Helping consumers to choose and use legal services with confidence

14. The more consumers are able to choose and use legal services with confidence, the less that prescriptive and restrictive regulation is required and the more that the regulatory objectives are secured - specifically access to justice and the rule of law. We know that the most empowered corporate consumers effectively drive quality through competition and there are increasing signs of competitive forces driving the retail consumer market. It will become increasingly important that regulators really understand the diversity of the consumers of those they regulate to be able to target consumer protection properly. In some markets, such as criminal advocacy, for example, before the event quality assurance is much more valuable than an after the event right of redress. In other markets, perhaps those where client money is at stake, it may be that insurance and related financial protection are paramount. As we

consider the need and extent of regulation in areas such as will-writing, estate administration and probate we will ensure that regulation does not act simply as a barrier to entry, but provides targeted consumer protection. This priority will also drive education and training reform as well as developing better consumer information and public legal education and informing our statutory decisions. Putting consumers at the heart of regulation and thus at the centre of a working legal market remains an important motivation for us.

## **Helping the legal sector to flourish by delivering only regulation that address risks**

15. The removal of outdated and restrictive regulations has already begun - the arrival of ABS is visible proof of that. This degree of regulatory change is designed to allow the entire legal services market to flourish - but embracing the change is not compulsory. We know that some providers will remain content to deliver services in the way they always have done and equally that some clients will remain happy with traditional service provision. Our role is not to make decisions for businesses but to allow businesses to make their own.
16. There is more change to come. Our work on the scope of regulation; the regulators' review of education and training; and the development of outcomes-focused regulation across the whole legal market will provide further opportunities to make sure that regulation is only in place where it can be justified against real risks. We also expect this priority to be at the core of our statutory decision making on new designations and rule approval. Removal of unwarranted restrictions will free up business to innovate; to drive consumer focused services and help harness a competitive market for consumers' benefit.

## **The way forward**

17. There is no need at this stage for a change of direction. The three priorities set out here are the heart and soul of the Act and we can only take this next step because, with others, we are delivering independent regulation, ABS, and improving complaints handling. As we look forward over the next three years, we expect consumers to reap the benefits of a legal services market that is regulated so that it works for them. But there is also a range of other outcomes that we expect the legal services reform programme to deliver.

## **Outcomes for the legal services market**

18. To measure the outcomes to improvements in the legal services market, we have developed 17 measures for the professions, consumers, the public, the market and for investors. These form our Evaluation Framework<sup>2</sup>, which we published in April 2011. As part of our research and evaluation programme, we will start to measure these outcomes to build up a body of evidence to monitor changes in the legal services

---

2

[http://www.legalservicesboard.org.uk/news\\_publications/publications/pdf/evaluation\\_framework\\_april\\_2011.pdf](http://www.legalservicesboard.org.uk/news_publications/publications/pdf/evaluation_framework_april_2011.pdf)

market over the coming three years.

19. The emerging evidence base we, and others, are starting to build is helping us with our work. This is a slow process given the unusual absence of data, when compared to other markets, and whilst great strides are being made, we cannot be wholly confident it will be sufficient even by 2015 for fully objective judgements to be made about the impact of reforms. We published our Interim Baseline evaluation of the impact of the Act and the Board's interventions alongside this Business Plan.

Participants	Outcomes
The professions:	<ul style="list-style-type: none"> <li>• Diversity of the legal profession shows greater similarity to the client population than in 2009</li> <li>• Quality of legal services is improved overall compared to 2009</li> <li>• The profession, judiciary and public maintain confidence in the independence and reputation of the sector</li> <li>• Education and training of the legal workforce supports the delivery of high-quality legal services</li> </ul>
The consumer:	<ul style="list-style-type: none"> <li>• A higher proportion of the public are able to access justice than in 2009</li> <li>• Consumers have confidence in the regulation of the legal services</li> <li>• Consumers have confidence in the legal profession</li> <li>• Consumers are confident and empowered in their dealings with legal services</li> </ul>
The public:	<ul style="list-style-type: none"> <li>• Wider confidence in the law and legal profession</li> <li>• An efficient legal system delivering quality legal service at a reasonable cost</li> <li>• Wide confidence in the standards and ethics of the legal profession</li> </ul>
The market:	<ul style="list-style-type: none"> <li>• The market for legal services is more competitive than in 2009</li> <li>• More consumers are able to get legal services at an affordable cost</li> <li>• There is a greater plurality of and innovation in legal services than offered in 2009</li> </ul>
For investors:	<ul style="list-style-type: none"> <li>• A legal market that is attractive to all appropriate sources of finance including external investors</li> <li>• Proportionate regulation allowing an in-flow of capital</li> <li>• Risk-based supervision of legal practitioners</li> </ul>



## Risks facing the legal services market

20. We recognise that the legal services market will face a number of challenges in the coming years. These are not for us alone to manage - some are intrinsic to the nature of legal services, many are not within our gift or our remit to address. In delivering our programme, we will be alive to the context in which services are being provided and the challenges and risks that inevitably accompany any programme of regulatory reform. Our intention is that our work will help in providing some mitigation for them. These include:
- The scale of change in regulation and the legal market creates uncertainty and deters new entry and investment in high quality services.
  - Consumers lose confidence in legal services because of increased awareness of the patchwork of different regulators and different patterns of regulatory protection in different services.
  - Regulators, the legal market and legal profession fail to grasp the opportunity to deliver a diverse profession, leading to a loss of consumer and public confidence in legal services and, ultimately, the justice system.
  - Liberalisation leads to either entry by unethical players and/or a decline in standards as input costs are lowered too sharply or in the wrong places and regulators fail to identify it and/or intervene too slowly to prevent it happening.
  - The economic growth opportunities presented by the liberalised and properly regulated market that the LSB is encouraging are not seized by purchasers, policy makers, existing legal services providers and new entrants alike.
  - The current economic situation creates a climate of reduced capital for investment, leading to fewer new entrants and less innovation. This is compounded by demand-side changes related to increased need among the most disempowered consumers and reductions in external funding. The result is a growing gap between supply and demand of high quality, low cost services.
21. This pattern of risk validates the responsibility on the LSB and the approved regulators to focus on understanding and regulating for the whole market structure, not confining attention to matters of conduct alone.

## The LSB's 2012/13 work programme

22. As with previous business plans, most of the projects that the Board undertakes are interdependent and support more than one of our priorities. We have used a combination of regulatory objectives, strategic priorities and work streams to categorise our work over the last three years. This has ensured that no single project or activity is developed in isolation; we will continue this crosscutting focus over the coming three years.
23. Going forward, our regulatory activity will be organised into three main strands and we have made some changes to our internal structures and operating model to match this division:
  - A. Regulator performance and oversight;
  - B. Strategy development and research; and
  - C. Statutory decision making.

## A: Regulator performance and oversight

### Developing standards and performance

#### Overview

24. We must ensure that the better regulation principles are embedded across the existing and any new approved regulators and licensing authorities to implement a consistent and transparent approach to the oversight of the legal sector. This work is fundamental to how we operate in our oversight role. It also contributes to the development of legal services regulation so that it meets the needs of consumers but does so in the most efficient way for practitioners.
25. Each approved regulator is expected to carry out an assessment of their own regulatory arrangements against the four constituent parts of regulation: outcomes-focused code or handbook, a risk identification framework, proportionate supervision targeted at risk and an appropriate approach to compliance and enforcement. This self-assessment will be carried out against a series of indicators developed by the LSB and submitted with an action plan that identifies areas for improvement. Our core priorities underpin this work: high performing regulators will increasingly get the right balance between regulation and freedom to practise, in turn offering consumers the best environment in which to choose and use legal services.
26. The framework and assessment process will also be an important tool for:
  - potential approved regulators to help them decide whether they have or can develop the capacity and capability to regulate legal services; and
  - existing approved regulators that want to expand their regulatory remit to other reserved legal activities to help them identify whether they understand the markets in which those activities are carried out.

#### Why this work matters

27. The legal services market will become more efficient if regulation and enforcement is targeted on areas of greatest risk to consumers and gives providers of legal services flexibility to develop different ways of delivering services and organising their businesses. Better access to justice requires innovation - poorly focused regulation can hamper that.
28. Developing a proportionate and consistent approach to regulation, with common themes that are targeted on sector-specific issues will provide appropriate protection for consumers, whatever type of legal services provider they choose to use. This means setting clear outcomes, but enabling multiple means of achieving them. Provided that this intellectual approach is backed by strong practical action to target risks and intervene proportionately to manage it, we believe that this provides the best regulatory framework to foster strong consumer-focused legal businesses. Outcomes-focused regulation means having all the elements in place, not simply making the

rulebook slightly less prescriptive.

29. In 2012/13, we expect several organisations (both existing approved regulators and new entrants) to apply to be designated as licensing authorities. We will need to work with them to ensure that they understand the requirements for designation. In addition, existing approved regulators and licensing authorities may want to regulate additional reserved legal activities and/or new reserved legal activities may be created, needing regulation by an approved regulator/licensing authority.

### **What we will do**

30. During the year, we will:

- expect approved regulators to complete self-assessments and produce action plans;
- review and discuss the self-assessments and action plans with the approved regulators;
- work with approved regulators to finalise plans and monitor their implementation; and
- identify Orders or Statutory Instruments that may be needed to make any designation effective and liaise with MoJ to establish likely Parliamentary timing.

### **Thematic reviews**

#### **Overview**

31. Informed by our research and regulatory development work, we will undertake thematic reviews on particular issues where evidence of consumer detriment and/or actual or potential risks to the wider public interest and other regulatory objectives are identified. They will help us to embed the better regulation principles across the approved regulators and to put in place a consistent and transparent approach to oversight regulation.

#### **Why this work matters**

32. A proportionate, consistent approach to regulation on common issues will provide appropriate protection for consumers, whatever type of legal services provider they choose to use. In some cases, where serious problems are identified, it may be appropriate to carry out formal enquiries under our scope of regulation work (see paragraphs 56 - 61) but our starting point is to make sure that the design of the current regulatory framework and performance within it is as effective as it can be.

## What we will do

33. Our approach to each review will vary depending on the issue and the amount of evidence we have at the outset. Often we will need to start only with a review of publicly available information and engagement with approved regulators and others. But in some cases, we may commission research or ask for additional evidence in order to decide whether a deeper review is appropriate.
34. During the year, we will continue to:
  - analyse the effectiveness of regulation and develop recommendations, as necessary, for immigration and conveyancing;
  - build evidence for our continuing review of all appeals mechanisms and broaden the work to consider the effectiveness of enforcement processes; and
  - identify and analyse other areas of legal services activity that appear to be causing consumer detriment;
  - seek advice from the Legal Services Consumer Panel on the extent to which the respective parts of the regulatory system do currently, and should, help consumers to choose and use legal services.

## Ensuring effective redress for consumers

### Overview

35. The information revealed by complaints provides vital information for those involved with the legal services market. We expect both the Legal Ombudsman and regulators to maximise the use of this evidence to drive lasting improvements in complaint handling and service more generally. We will continue to assess the effectiveness of the way in which the regulators do this. We will also continue to work with licensing authorities, regulators, the Legal Ombudsman and Ombudsmen from outside the legal sphere to ensure that there are clear processes to resolve multi-disciplinary complaints and that consumers do not “fall between the cracks”.
36. The Act also provides us with the power to set or direct the setting of performance targets for the OLC. To date we have not needed to do so and, in light of the OLC’s robust oversight of the Legal Ombudsman scheme, we do not anticipate needing to do so in 2012/13. We will continue to work closely with the OLC to ensure that the Ombudsman scheme performs at the level to which the LSB believes it should aspire ie that it improves upon the pre-Act arrangements. And we will work with the Legal Ombudsman to ensure that the regulators and we have the most rapid insight into emerging consumer problems.

## **Why this work matters**

37. Complaints handling was a key driver of reform and an immediate priority for the LSB. This included establishing the OLC and ensuring that improving the complaints handling approach of legal services providers was high on the agenda of approved regulators. Information from complaints can be crucial evidence for service improvement and consumer protection in a changing environment.
38. Regulators will need to be able to demonstrate that their regulatory arrangements will achieve the outcomes that consumers require; qualitative consumer research will be important to establishing this. To ensure the focus remains on assessment and continuous improvement, we have put in place a rolling annual assessment process to ensure that the pressure and responsibility to improve complaint handling remains clearly with the approved regulators.

## **What we will do**

39. During the year, we will:
  - ensure the approved regulators take forward issues raised by both the LSB and regulators' own qualitative consumer research;
  - focus on the effectiveness of monitoring, enforcement and use of evidence to identify and respond to serious issues involving consumer harm;
  - ensure that approved regulators actively work towards changing the culture of complaint handling to see it as an opportunity to improve consumer confidence in the regulation of legal services;
  - commission advice from the Legal Services Consumer Panel on the extent to which regulators' financial protection arrangements, including compensation, are adequate and the appropriate level of risk that consumers should expect to bear; and
  - review the OLC's assessment of the Legal Ombudsman's performance on a quarterly basis through receipt of Legal Ombudsman performance statistics and review of the OLC's assessment of them.

## **Widening access to justice and the legal services market**

### **Overview**

40. The first ABS are now licensed and operational. Although this ends a significant part of the LSB's initial work programme, additional work is required to complete the full regulatory framework, including ensuring that those providers that are currently benefiting from transitional arrangements are brought within the Act's framework.

## **Why this work matters**

41. Opening the market to new providers and forms of practice has the potential to increase access to justice - making services more accessible and affordable for consumers, leading to an increase in people solving legal problems and being satisfied with the outcome.
42. However, it is important for consumers to have confidence that regulation will be consistently applied, whatever type of legal services provider they use. This confidence and consistency in regulation will also create a market that is attractive to investors.

## **What we will do**

### *Ending the transitional protection for licensable bodies*

43. The Act provides a transitional period during which regulated legal service providers that would otherwise have to apply for an ABS licence do not need to do so. In order to end the transitional period, an Order needs to be made by the Lord Chancellor on the LSB's recommendation and we will need to progress this in the course of 2012/13. Several approved regulators will need to make changes to their regimes to reflect this change.
44. Depending on what designation applications are made, we will work with the MoJ and the approved regulators to ensure an orderly change to full licensing, as and when required.

### *Regulation of 'special bodies'*

45. The Act gives certain types of non-commercial legal services providers (not-for-profit bodies, community interest companies and trade unions) special provision. They are entitled to carry out reserved legal activities without a licence for a 'transitional period'.
46. These 'special bodies' often provide access to justice where more formal and traditional services have not. They range from large-scale commercially sophisticated third sector agencies, through to voluntary services embedded in community action groups. Either way, they have helped to uphold the rule of law and improve access to justice for the most marginalised of consumers, often by adopting innovative service approaches and maximising welcome pro bono contributions from professionals.
47. Once the transitional provisions in the Act end, these bodies if they provide reserved legal services will need to be authorised and regulated by a licensing authority as an ABS. In the same way as ending the general transitional period, an Order will need to be made by the Lord Chancellor on the LSB's recommendation.
48. We recognise that advice from special bodies is often to vulnerable consumers and therefore careful consideration will be needed as to the treatment of special bodies,

taking account of wider Government policy such as changes to legal aid expenditure. It also takes place in the context of clear and consistent government policy to remove unnecessary barriers to third sector economic activity. The LSB's consideration of special bodies' regulation will also take into account our developing thinking on the scope of regulation. The users of special bodies need protection, but so do the bodies themselves.

49. We will work with the MoJ, the approved regulators, advice agencies and others to assess the impact of lifting the transitional provisions for special bodies.

#### *The LSB as a licensing authority*

50. The Act makes provision for the LSB to be a licensing authority 'of last resort' ie if there is no existing licensing authority with licensing rules suitable for licensing a particular type of ABS. In practice, it is very unlikely that the LSB would need to license an ABS, though the Act allows the LSB up to twelve months to prepare for the role once it has decided that an entity can apply to it for a licence. We believe that a pragmatic approach is to be prepared to fulfil this role if required. But we will not do substantive work to develop licensing rules and processes unless and until we need to do so.
51. We will, however, need to work with the MoJ to establish what needs to be done to commence relevant parts of the Act to enable the LSB to become a licensing authority should the need become apparent.

#### *Solicitors Regulation Authority's compensation fund arrangements*

52. To ensure that there were appropriate consumer compensation arrangements in place when the SRA started to license ABS, an Order was made enabling the SRA to operate a single compensation fund. This Order contains a sunset clause of 31 December 2012, in advance of which, the SRA planned to review its consumer protection arrangements including what type of compensation arrangements are appropriate.
53. This review has not yet been carried out, but we are working with the MoJ and SRA to ensure that a single fund can continue to operate and have made clear that we expect the SRA to carry out a comprehensive review without further delay.

#### *Evaluation and monitoring of ABS*

54. The introduction of ABS is clearly a significant change to the legal services market. In order to understand if the regulatory reforms have achieved the desired outcomes, and whether the guidance for licensing authorities is effective, we will need to monitor the changes that occur. In doing so, we will draw heavily on our August 2011 report "*Research Note: The legal services market*" which brought together evidence and current thinking on how the market may develop following the emergence of ABS. This will form part of our evaluation work described in paragraphs 78 - 79.



## Regulatory performance and oversight milestones by quarter

Activity	Milestone / Output
<b>Developing standards and performance</b>	
Self-assessment for the approved regulators	Q1 Analyse and discuss plans with regulators
	Q2 Receive final plans from regulators
	Q3-4 Monitor implementation of plans
<b>Thematic reviews</b>	
Immigration	Q2 Publish responses to discussion document and assess next steps
Conveyancing	Q1 Review and assess next steps (if required)
Appeals mechanisms	Q1 Define, scope, carry-out a review and determine next steps in light of internal scoping study
<b>Ensuring effective redress for consumers</b>	
Monitor approved regulators' arrangements for first-tier complaints handling	Q2 Review qualitative assessment plans and decide on further action as necessary
	Q3 Procedural assessment
	Q4 Qualitative assessment
<b>Widening access to justice and the legal services market</b>	
Ending transitional arrangements	Q4 Review arrangements by year-end based on designation applications
Regulation of special bodies	Q1 Consult on regulation for special bodies
	Q2 Consider responses to consultation
	Q3-4 Recommendation to Lord Chancellor and development of orders (if required)
LSB as a licensing authority	Q1-2 Develop Orders (if required)
SRA compensation fund	Q1-2 Work with MoJ and SRA to ensure a single fund can operate after 31 December 2012
	Q2-4 Monitor SRA progress on the compensation review

55. The detail of work required later in the year will depend upon the outcome of decisions taken early in 2012/13.

## **B: Strategy development and research**

### **Reviewing the scope of regulation**

#### **Overview**

56. The boundaries between reserved and unreserved legal activities have existed for many decades, as legal services remained predominantly provided by regulated persons. Growing competitive pressures, accelerated by the opportunities provided by the Act, were recognised by Parliament, which gave the LSB powers to investigate the scope of regulation. Since the passing of the Act, the pressure for change on regulatory boundaries increased, even before the first ABS opened its doors. We will ensure that we prioritise analysis and action on areas where the regulatory objectives are most threatened.
57. Over the past year, we have developed and piloted our approach to considering regulatory boundaries through our work on will-writing, probate activity and estate administration. We chose these areas based on problems identified by stakeholders, Government and the Legal Ombudsman. We will consult on the specific options in this area early in 2012/13. We will also publish our approach to analysing the scope of regulation issues in the light of responses to our July 2011 Discussion Paper.

#### **Why this work matters**

58. It is important to find the right, evidence based, balance for regulation in the market to protect the public and consumers, while at the same time not placing a disproportionate burden on those offering legal services. Outcomes-focused regulation targets regulatory efforts at risk and moves away from a blanket protection approach which layers unnecessary cost on low risk activities.
59. Access to justice is best served by getting the right mix of regulatory interventions for any specific market. Too much regulation imposes high and unnecessary cost and stifles innovation and competition. Too little regulation can undermine consumer confidence and weaken the bedrock of consumer protection. We will therefore work to find the right balance of regulation, avoiding blanket solutions whilst ensuring precise targeting of consumer protection measures.
60. In line with our responsibility under the Act, we will also investigate the boundaries of regulation if requested to do so by certain named organisations. This will include working closely with the Legal Ombudsman and others, such as the Claims Management Regulator, to explore and understand the implications for consumer redress that emerge from regulatory boundary issues.

## What we will do

61. During the year, we will:

- develop final recommendations on will-writing, probate activities and estate administration for consultation;
- develop responses to recommendations to regulate in other markets received in response to our July 2011 Discussion Paper;
- prioritise areas to research (which may include general legal advice to individual consumers);
- investigate the evidence for problems and causes of problems in the areas chosen for investigation; and
- work with the Legal Ombudsman and others to ensure that redress arrangements keep pace with any changes to regulatory boundaries.

## Developing a changing workforce for a changing market

### Overview

62. Lawyers (or people authorised to undertake reserved legal activities), will remain at the core of the liberalised legal services market. Their training - at all stages - must be relevant to that changing market. We want to make sure that the quality of, and access to, legal services is maintained and improved where necessary following the reforms to the legal services market. Rethinking how we recruit, promote, educate and train the legal workforce is as important as removing inappropriate restrictions on ownership and control.
63. We will be supporting the SRA, Bar Standards Board (BSB) and ILEX Professional Standards (IPS) as they carry out their education and training review and implement its findings. The LSB will want to be sure that the recommendations will deliver the necessary reform in the context of the changing legal market, both globally and domestically. Other regulators will want to learn from this review and ensure that their own education and training regimes are also outcomes-focused and supportive of the regulatory objectives.
64. A diverse population using legal services benefits from a diverse legal workforce. We believe that, given that all approved regulators share the obligation to encourage a diverse profession, doing no more than simply avoiding falling foul of statutory provisions on diversity is not sufficient. We will be working with approved regulators to ensure that diversity monitoring is effective, that analysis pinpoints where improvements could be made and that practical solutions are developed where required to address issues highlighted in the data. We will continue to expect particular weight to be given to action on social mobility; while individual initiatives are welcome

and the Deputy Prime Minister's Compact is adding important momentum, it is important that the issue also remains close to the top of approved regulators' agendas.

65. We will also start some exploratory work on the issue of equal pay, as there appears to be some evidence that the position for female lawyers as compared to male lawyers may be worse than in the wider labour market. The concept of equal pay for work of equal value is well known and we cannot at this stage take a view as to the existence or cause of any such pay gap. We will share any findings with the Equalities and Human Rights Commission whose role it is to help eliminate discrimination and reduce inequality.

### **Why this work matters**

66. The LSB has a role in ensuring that regulation through education and training requirements both encourages appropriate regulatory protections and service quality but also supports the objectives of access to justice and improving diversity. Having adequate numbers of trained practitioners is essential, but so too is keeping the bar to entry to the profession raised to the appropriate level to reflect the skills required given the tasks performed and the risks they present.
67. Without reform of education and training, we believe that there is a significant risk that England and Wales will fail to keep up with changes in global markets for both legal education and legal services. This could reduce the availability of legal advice domestically and the global role of its legal firms. Improving the diversity of the profession can both support the development of an innovative and effective legal sector, able to compete globally, as well as helping the sector better meet the needs of the diverse population of England and Wales.

### **What we will do**

68. During the year, we will:

#### *Education and training*

- hold seminars with stakeholders to stimulate debate to support the education and training review;
- work with the education and training review team to provide support to the review through facilitating public debate or additional research (if required); and
- support approved regulators as they take forward the recommendations of the review.

## *Diversity*

- support the approved regulators in developing their data collection and ensuring plans will deliver open, transparent and effective data collection and publication at firm and entity level;
- review the regulators' analysis of the first year's data to produce a benchmark for future years' analysis;
- identify any specific issues with the data collection and work with approved regulators to improve collection in future years;
- identify any specific areas for policy development from data; and
- review the available evidence base on pay and identify whether any additional research is needed.

## **Approaches to quality**

### **Overview**

69. There is not a 'one size fits all' approach to securing appropriate quality of legal service. Different consumers want, and need, different levels of quality in different circumstances and the most appropriate regulatory intervention will vary from case to case. Access to justice is as much about quality as it is about availability and affordability.
70. Post-qualification, regulation can play a role in ensuring that risks of consumer detriment are addressed through quality assurance. Our work in this area includes research into risk, support with assessment and the development of a toolkit to identify appropriate regulatory interventions. But, as work on Quality Assurance Schemes for Advocates (QASA) shows, we will not hesitate to steer more direct interventions when there is a proved need, demonstrated in this case by judicial feedback.
71. Many from the regulated community have questioned the likely impact that the reforms introduced in the Act will have on the quality of service and advice delivered. Although we note that the evidence base about current levels of quality is thin, we agree that is important for regulators to develop robust strategies to monitor service and advice quality. We will support the approved regulators to develop these by refining the quality monitoring toolkit described in our March 2012 discussion paper.

### **Why this work matters**

72. Ensuring that the right services are supplied at the right price is not the direct role of the oversight regulator. The LSB's oversight role includes the need to ensure that regulatory barriers are proportionate across the market and that education and training requirements provide the most effective regulatory protections.

73. While we are keen to reduce unnecessary restrictions, ensuring quality remains a key regulatory concern in legal services. Reforms that deliver affordable advice, but at an unacceptable level of quality would present huge risks to legal services customers; we must ensure that regulatory changes balance this tension. Our core priorities will help us focus this work through the next year.

### **What we will do**

74. During the year we will:
- commission or work through the approved regulators to build the evidence base of the impact of defined regulatory interventions across market segments and for consumer segments;
  - work with approved regulators to integrate our quality toolkit within their regulatory work;
  - identify any specific issues with quality risks; and
  - continue to oversee implementation and evaluation of QASA as developed for criminal advocacy.

### **Research and evaluation**

75. Delivery of our Plan relies on a comprehensive programme of research to ensure we have a robust evidence base to inform our regulatory decision-making. During 2012/13, we will continue to consult our Research Strategy Group (RSG), which comprises a mixture of LSB non-executives, colleagues, academics and representatives from approved regulators and professional bodies. The RSG is vital to informing our understanding of the research and evidence gathering plans of approved regulators and others. It is through this group that our role as a hub in bringing those involved in researching the legal services market together is crystallised. We believe that both hard data and qualitative evidence, robustly gathered and assessed, is critical to the decisions we take as, and we will continue to seek to close gaps where we find gaps in the existing evidence base held by approved regulators.
76. In 2010/11, we focused considerable research resources in scanning all available evidence and data sources through our Regulatory Information Review, the results of which we will make available shortly. This was accompanied by original research commissioned to produce a framework for assessing changes in legal services. Over 2012/13, further research is planned to fill the priority evidence gaps to inform our understanding of the legal services market and to support evaluation of the reform programme.
77. To support our work on the scope of regulation, our research efforts have focused largely on will-writing, probate and estate administration, though we have also published original research on the economics of regulation. We will use this to

underpin our work in the coming year. To support our workforce analysis, we have undertaken a series of in-house literature reviews as well as publishing original research on the international importance of the existing legal qualifications. Further research to support the education and training review may be needed over the coming year. Research, whether in-house or externally commissioned, forms a key plank of the evidence gathering we believe is necessary for all our work and we encourage all of the frontline regulators to place such importance on evidence in their work. We will continue to publish all of our research, including raw data, so that others can use it to inform their own work. Our Research Plan for 2012/13 is published alongside this Business Plan.

## **Evaluating the impact of the Legal Services Act 2007 reforms**

### **Overview**

78. In April 2011, we outlined our approach and commitment to evaluating the impact of the market reforms anticipated by the Legal Services Act. In doing so, we explained that we would focus on the impact of the reforms, rather than solely our own impact, because we recognise that there are a broad range of forces acting on the legal services market - and the economy as a whole - from which it is almost impossible to extract our distinct contribution. This evaluation will not be a one-off piece of work, rather it will be part of an ongoing collection and assessment of evidence to understand the impact of reforms on market and where necessary adjusting regulatory action to ensure the regulatory objectives are met.
79. It is also not an evaluation for us alone to make - during 2012 and beyond, aspects of the reform programme will no doubt come under scrutiny from a variety of other mechanisms, such as the Triennial Review. We will take care not to duplicate these and to make sure we share our evidence widely.

### **Why this work matters**

80. To deliver the true spirit of the reform set out in the Act, the LSB must not only deliver the structural elements, but also ensure that these reforms and our core work programme delivers the Act's regulatory objectives. By evaluating our own activity and the activity of others, we will be able to understand what works and what needs to be changed. The implementation risks posed by a major programme of reform need to be monitored closely to ensure its success in tackling the problems identified in the existing market.

## Research and evidence

81. In this first year of our new strategy, we will focus our research and evaluation on a number of areas.

### *Understanding solicitor practices*

82. Working with the MoJ and The Law Society, we will be carrying out research to improve our understanding of the structure of solicitor practices outside of those captured in our 'city' practices research report. This will help us track changes over time in the delivery of legal advice by solicitor firms.

### *Benchmarking small business access to justice*

83. Building on work begun in 2011/12, we are hoping to work with all of the regulators to develop a baseline of access to justice for small businesses. This will help us track changes over time in access to justice.

### *Benchmarking professional principles*

84. Working with all of the regulators, we would like to build on the work we started in 2011/12 with the SRA, to benchmark and understand changes in authorised persons' compliance with the professional principles. This will help regulators understand better the risks posed by the community they regulate and will help us identify where regulatory changes might support or undermine desired outcomes.

### *Understanding consumer behaviour*

85. We will continue to work closely with the Legal Services Consumer Panel to identify and commission research that we believe is necessary to understand how the changes in regulation are affecting consumers' access to justice.

## What we will do

86. During the year, we will:
- analyse and publish Regulatory Information Reviews (RIRs);
  - gather statistical collections and other available data from the approved regulators;
  - analyse existing published studies, identify and fill evidence gaps;
  - publish the Interim Baseline Report alongside the 2012/13 Business Plan; and
  - publish an updated Baseline Report in October 2012.



## Strategy development and research milestones by quarter

Activity	Milestone / Output	
Scope of regulation investigation	Q1	Publish general approach
	Q3	Provide progress update
Scope of regulation investigations: Will writing, probate activity and estate administration	Q1	Release public consultation document
	Q2	Publish provisional report and consult
	Q3	Publish final report
	Q4	Decisions arising from any change in scope
Diversity	Q1-3	Monitor implementation of agreed approved regulator action plans
	Q4	Review findings of approved regulator data
	Q4	Review the evidence base around equal pay
Approaches to quality	Q2	Publish responses to consultation
	Q4	Identify next steps
Evaluation of the impact of the Legal Services Act	Q1	Publish Interim Baseline Evaluation
	Q3	Publish expanded Baseline Evaluation

## C: Statutory decision making

### Overview

87. The Legal Services Act gives the LSB a range of approval or decision making powers. Some of these are recurring, which means they can be planned for, such as budget or Internal Governance Rule (IGR) Certificate reviews. Others are ad hoc, which require us to have the capacity to respond as necessary. Given tight statutory deadlines, we will continue to work closely with approved regulators, other stakeholders and the MoJ, to ensure we can respond as effectively and efficiently as time permits.
88. Ad hoc decisions for current approved regulators that might be required in 2012/13 include:
- changes to the reserved legal activities that they can regulate;
  - changes to regulatory arrangements that they have in place, either as a result of their own initiative or in response to LSB policy developments; and
  - applications to be designated as a licensing authority.
89. In addition, new entrant organisations might seek to be designated as an approved regulator and licensing authority.
90. The Act also specifies that the LSB must approve approved regulators' annual Practising Certificate Fees, the Solicitors' Disciplinary Tribunal (SDT) annual budget and the annual budget for the OLC and consent to any changes to its Scheme Rules.

### Why this work matters

91. As an oversight regulator, approving new designations and changes to regulatory arrangements is a key part of our role. As with the work on regulatory standards, we will use the rules change process to ensure that approved regulators continue to move towards outcomes-focused regulation.
92. These decisions often represent the culmination of work across our remit. For example, decisions we make in 2012/13 about the regulation of will-writing, probate and estate administration could lead to regulatory decisions being made about specific regulators and new applicant regulators later in 2012/13 and beyond. These decisions will be made in line with the strategic priorities outlined in this Plan, rather than as self-contained 'one-off' decisions.
93. In addition, although we hope that the process for approving IGR Certificates becomes easier over time, it remains work that is integral to the statutory role of the LSB.

## What we will do

94. During the year, we will consider:
- the annual dual IGR Certificates;
  - the SDT budget;
  - the OLC's budget; and
  - seven Practising Certificate Fees.
95. We will work with approved regulators, and new approved regulators, as they develop their applications - to the extent that it is appropriate to do so and our resources permit - in order to make sure that their approach and proposals are consistent with what we are doing under regulatory standards.
96. We will also consider all applications for changes to regulatory arrangements, licensing authority and new reserved legal activities applications made to us by approved regulators and applications from organisations seeking designation for the first time. This work is reactive and timing depends on when submissions are made to us. Our regulatory oversight and development work provides both the strategic context and often the subject matter of these decisions.

## Statutory decision making by quarter

Activity	Milestone / Output	
Internal governance rules	Q2	Assess dual IGR certificates
SDT budget	Q3	Assess budget application
OLC budget	Q4	Assess budget application
Practising certificate fees	Q2	Assess five applications
	Q3	Assess two applications

97. Timing of decisions relating to the applications made to us is not listed, as work is dependent on timing of submissions.

## Delivering our Plan

### Budget

98. The table below shows our proposed budget for 2012/13. Based on the planning assumptions we describe below, we are proposing a budget of £4,498k to deliver our Business Plan for the year ahead. This is a reduction of almost 9% from the 2011/12 budget (£4,931k). It reflects the move from start-up and development work to delivering our core responsibility of overseeing regulation, although things will never be routine.
99. Figures for 2013/14 and 2014/15 are highly provisional at this stage and would be subject to planning for the detailed activities that we would need to undertake in those years. Whatever our requirements, we will continue to drive efficiency savings and secure value for money.

### LSB budget for 2012/13 and provisional budget for 2013/14 and 2014/15 (£000)

	Operational budget 2012/13	Operational budget 2013/14	Operational budget 2014/15
Staff	2,650	2,650	2,650
Accommodation	565	575	569
Research and professional services	300	280	250
IT/facilities/finance	251	251	246
LSB Board	194	194	194
Consumer Panel	44	44	44
Office costs	122	120	110
Depreciation	16	15	15
Governance and support services	96	74	74
Legal reference/support	84	80	80
<b>TOTAL excl OLC Board</b>	<b>4,322</b>	<b>4,283</b>	<b>4,229</b>
OLC Board	176	175	170
<b>Total inc OLC Board</b>	<b>4,498</b>	<b>4,458</b>	<b>4,399</b>

### Budget assumptions

100. Based on the current staffing complement, approximately 87% of the planned running budget of LSB will be made up of 'fixed' costs (Board, OLC Board, staffing, accommodation, depreciation, and outsourced services) and the remaining 13% will be accounted for by research and professional services, governance and support services, and office running costs etc. This 13% of costs will be determined largely by the activities that LSB undertakes in the 2012/13 year and relates directly to the level of planned activity.

101. We have reduced our staffing headcount complement from 34 to 31 and we will continue to scrutinise carefully any other vacancies that may arise to establish if the posts need to be replaced.
102. We have absorbed all the increases on non-pay expenditure headings including for increased levels of activity and the contractual uplifts in the Service Level Agreements with the Competition Commission for the provision of IT, finance and facilities support.

### **Recouping our costs**

103. We are required by Part 7 of the Act, specifically Sections 173 - 175, to meet all our and the OLC's costs through a levy on the approved regulators. The levy rules have been enshrined in legislation through Statutory Instrument 2911 2010 (The Legal Services Act 2007 (Levy) (No. 2) Rules 2010) and we have committed to review these in 2013/14 at the latest. This Statutory Instrument requires approved regulators to submit information on the numbers of authorised persons that they regulate as at 1 April of each year in order to calculate their relevant proportion of the Legal Services Board levy.

### **Supporting our delivery**

#### **Our people**

104. The LSB depends on its people. We strive to recruit the best, through open and fair procedures, and to reward people fairly. As a small organisation, we know that we will find it difficult to offer significant career progression through promotion and so we are committed to being an organisation that provides learning and development opportunities to allow people to take from us as much as they can.
105. We encourage continual development through both formal and informal routes. Each year we identify cross-organisation training needs, through the performance management process, and provide colleague training to meet those. Alongside this, we endeavour to provide all colleagues with a Personal Training Budget to meet individual needs. Line managers are encouraged to coach colleagues through more complex or challenging work to allow people to grow and flourish and to deliver to the best of their abilities. We also offer a varied programme of 'lunch and learn' sessions where speakers from a range of organisations meet colleagues and debate. We are grateful to the many partner bodies that have helped in this process.
106. Early in 2012/13, we will conduct our first all-colleague survey to see how the LSB is living up to its ideals as an employer and will develop an action plan to meet any development needs identified.
107. The current organisation chart is at Annex 1.

#### **Information**

108. As a knowledge driven organisation, we also rely on good corporate knowledge. This requires excellent information management. In 2011, we implemented a new

document management system and in 2012/13, we will take the next steps in ensuring that our corporate memory is organised, searchable and secure. We have to be able to refer easily to historic information so we can be confident that we are consistent in our decision-making and that we are learning from what has gone before.

109. Alongside this, we will refresh our organisation-wide approach to complying with our responsibilities under data protection and freedom of information legislation, specifically as legislative requirements change.
110. We will also meet both the letter and spirit of the Government's transparency agenda, seeking to meet requirements at the lowest cost and with maximum impact.

### **Corporate governance**

111. The LSB is accountable to Parliament through the Lord Chancellor and is sponsored by the MoJ. The relationship between the MoJ and the LSB is outlined in our Framework Document, which was updated in June 2011.

112. The Board welcomes its duty under the Legal Services Act 2007 to have regard to generally accepted principles of good corporate governance. In accordance with this, the Board has adopted a comprehensive Governance Manual which includes the Board's Code of Practice and Schemes of Matters Reserved To and Delegated From the Board alongside Terms of Reference for the Board's two Committees - Audit and Risk (ARC) and Remuneration and Nomination (RNC). The Board's Governance Manual was reviewed during 2011 and minor changes were agreed at the November 2011 Board meeting.

113. The ARC's remit includes:

- reviewing and endorsing the annual budget, Annual Report and Accounts;
- external audit and any issues arising from the interim and final audits;
- appointing the internal auditors, approving the internal audit plan and receiving internal audit reports; and
- overseeing risk management.

114. The RNC's remit includes:

- agreeing, monitoring and reviewing the terms and conditions of service of the Chief Executive and other colleagues;
- agreeing, monitoring and reviewing the defined-contribution pension arrangements for LSB colleagues; and
- monitoring and reviewing the induction process for Board Members.

## **Risk management**

115. The LSB is committed to robust risk management across all of its activities whether regulatory or operational. Risk is managed at all levels in the organisation: within projects; across the work programme; at senior management, ARC and Board level through regular review.

## **Corporate services**

116. Underpinning all of our regulatory activity is a slim corporate services function. We actively designed our organisation to rely so far as possible on low cost, out-sourced 'back-office' support and thus our IT, finance administration, telephony and facilities are all provided by the Competition Commission. Our HR advice is provided by a commercial provider. We have two in-house lawyers and access to a panel of general and specialist advisors, appointed through competitive tender. By adopting this approach, we have managed to keep in-house staffing requirements to a minimum and have secured appropriate and proportionate commercial services at competitive prices. We keep these arrangements under continuous review to ensure that they remain the most appropriate way of securing value for money.

## **Measuring our performance**

117. We continually evaluate our performance in delivering our 'business as usual' activities:

- regulatory decisions;
- finance process performance; and
- Freedom of Information and Data Protection Act requests.

## **Finance process performance**

118. In our annual report and accounts, we report our success at paying all undisputed invoices within 30 days. We have also undertaken to meet the 2008 Cabinet Office guidance for Departments and we have set a target of paying undisputed invoices within ten days of receipt. We support the Cabinet Office's aspiration to support businesses through ensuring the public sector pays its bills swiftly.

## **Freedom of Information and Data Protection Act requests**

119. We aim to acknowledge and to respond fully to freedom of information requests within three and 15 working days, respectively, on average. The statutory maximum for responding is 20 working days and our current average is five working days.

120. We aim to acknowledge and to respond fully to data protection subject access requests within respectively three and 20 working days on average. The statutory maximum for responding is 40 calendar days.

## Regulatory decision performance

	Change to regulatory arrangements	New AR designation or extending reserved legal activities	Licensing Authority designation	Cancellation of designation for Approved Regulators*	Cancellation of designation for Licensing Authorities*
We will publish applications on our website as long as we consider the applications to be complete	Within 2 days	Within 5 days**	Within 5 days**	Within 5 days**	Within 5 days**
We will make a decision or recommendation on the application	Within 28 days for simple applications*** Within 3 months for complex applications***	Within 130 days^	Within 130 days^	Within 65 days	Within 65 days
Where appropriate, we will publish advice from mandatory consultees and any representations on that advice	Within 5 days	Within 5 days	Within 5 days	Within 5 days	Within 5 days
We will publish recommendations to the Lord Chancellor	Within 5 days	Within 5 days	Within 5 days	Within 5 days	Within 5 days
Where appropriate, we will publish our: <ul style="list-style-type: none"> <li>• Decision;</li> <li>• Extension;</li> <li>• Warning; and</li> <li>• Refusal to consider;</li> </ul> notices on our website	Within 2 days	Within 2 days	Within 2 days	Within 2 days	Within 2 days

*Note: All days are working days, except for decisions or recommendations on regulatory arrangements, which are in calendar days.*

*\*This KPI only applies under sections 45(3) and 76(3) of the Legal Services Act 2007 (that is, where the approved regulator applies for cancellation, and therefore, is not as a result of an enforcement process).*

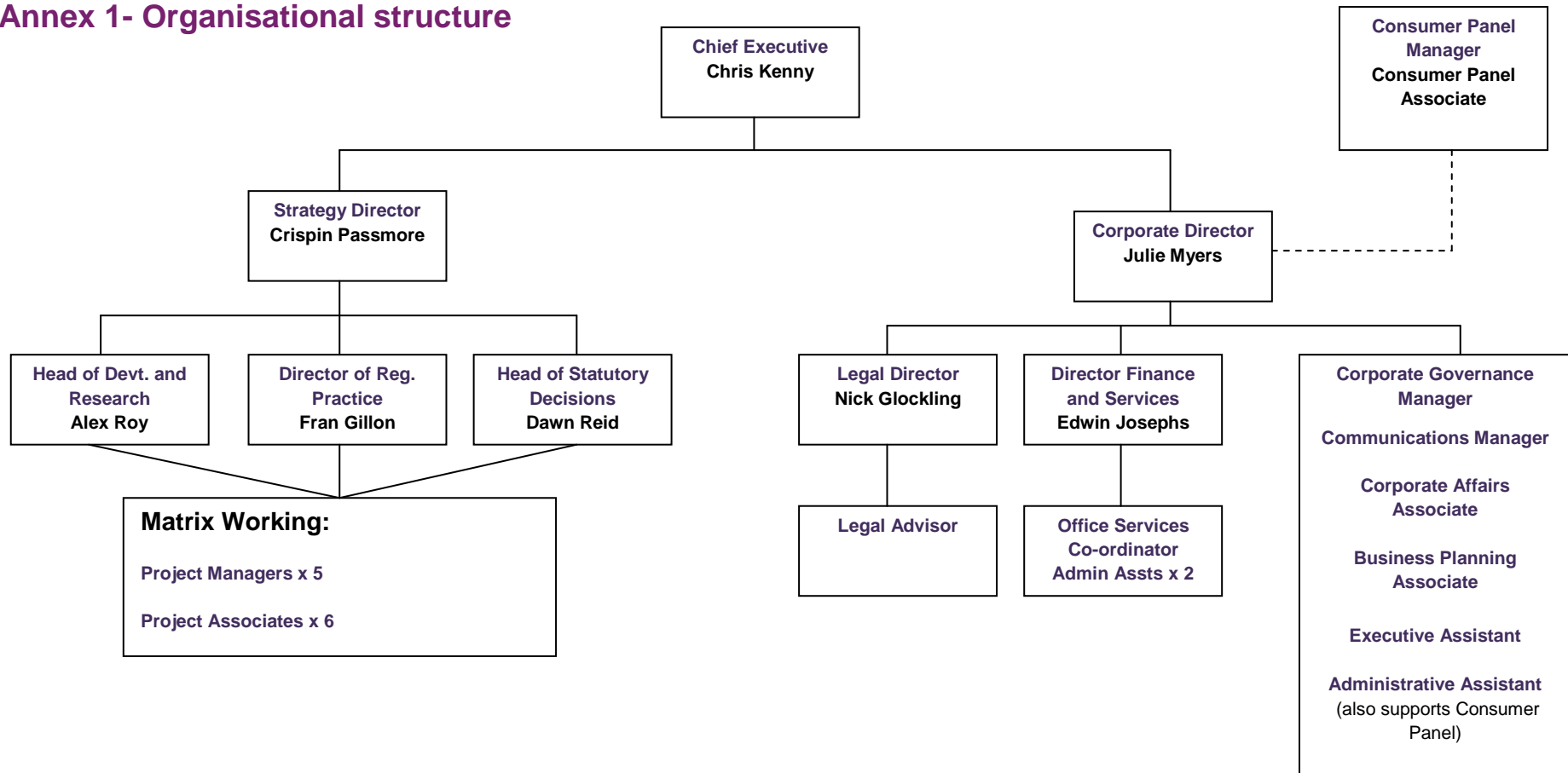
*\*\*The applications will be published on our website as long as they are complete. The LSB reserves the right during this period to request further information from the applicant.*

*\*\*\*Paragraph 26 of Part 3 of Schedule 4 to the Legal Services Act 2007 provides for a maximum decision period of 18 months from the date the applicant received a warning notice from the LSB.*

*^Paragraph 15 of Part 2 of Schedule 4, and paragraph 13 to part 1 of Schedule 10 of the Legal Services Act 2007 provides for a maximum decision period of 16 months.*



## Annex 1- Organisational structure



## Annex 2 - 2012/13 milestones

Quarter 1 April - June	Workstream	Quarter 2 July - September	Workstream
Analyse and discuss self-assessment plans with regulators	A	Receive final self-assessment plans from regulators	A
Review and assess next steps (if required) on conveyancing review	A	Publish responses to immigration regulation discussion document and assess next steps	A
Define, scope, and carry-out a review of appeals mechanisms and determine next steps in light of internal scoping study	A	Review qualitative assessment plans for first tier complaints and decide on further action as necessary	A
Consult on regulation for special bodies	A	Consider responses to consultation for special bodies	A
Develop Orders to become a licensing authority (if required)	A	Develop Orders to become a licensing authority (if required)	A
Work with MoJ and SRA to ensure a single compensation fund can operate after 31 December 2012	A	Monitor SRA progress on the compensation review	A
Publish general approach to scope of regulation investigations	B	Publish provisional report and consult on will writing, probate activity and estate administration	B
Release a public consultation document on will writing, probate activity and estate administration	B	Monitor the implementation of agreed approved regulator diversity action plans	B
Monitor the implementation of agreed approved regulator diversity action plans	B	Publish responses to consultation on approaches to quality	B
Publish Interim Baseline evaluation of the impact of the Legal Services Act	B	Assess dual internal governance rules certificates	C
		Assess five practising certificate fee applications	C

<b>Quarter 3 October - December</b>	<b>Workstream</b>	<b>Quarter 4 January - March</b>	<b>Workstream</b>
Monitor implementation of self-assessment plans	A	Monitor implementation of self-assessment plans	A
Procedural assessment for first-tier complaints handling	A	Qualitative assessment for first-tier complaints handling	A
Recommendation to Lord Chancellor and development of orders for special bodies (if required)	A	Review ending transitional arrangements by year-end based on designation applications	A
Monitor SRA progress on the compensation review	A	Monitor SRA progress on the compensation review	A
Provide progress update on the scope of regulation investigation	B	Develop Orders for special bodies post consultation (if required)	A
Publish final report on will writing, probate activity and estate administration	B	Decision required from any change in scope for will writing, probate activity and estate administration	B
Monitor the implementation of agreed approved regulator diversity action plans	B	Review findings from approved regulator data on diversity	B
Publish updated Baseline evaluation of the impact of the Legal Services Act	B	Review the evidence base around equal pay	B
Assess the budget application for the Solicitors' Disciplinary Tribunal budget	C	Identify next steps for approaches to quality	B
Assess two practising certificate fee applications	C	Assess the budget application for the Office of Legal Complaints	C