



*Independent Regulation and Widening  
Access to Justice:*  
***The Legal Services Board***

APIL 2009: "People First"  
LSB Chief Executive, Chris Kenny

# The Legal Services Board

- **Who are we?**
  - LSB is new oversight regulator
  - established under Legal Services Act 2007
  - majority ‘lay’ board, appointed last September
  - focus on consumer and public interest (“*people first*”)
- **Why should you care?**
  - direct (day to day) regulation for “approved regulators”
  - we have statutory mandate to set standards
  - our Business Plan sets out the strategy: you will see change and we are keen to engage you on the details

Thank you for the invitation to be here today. I want to talk about the role of the Legal Services Board, our real priorities and how we want to work with the profession in future.

Let me begin by describing who we are. The LSB is the new oversight regulator for the Legal Services market as a whole, replacing a spider’s web of old responsibilities and, in some cases, providing oversight for the first time. We were established under the Legal Services Act 2007, with a majority lay Board appointed last September under the Chairmanship of David Edmonds, former Telecoms Regulator. I was appointed as the inaugural Chief Executive and took up the post on 1 January this year.

Our focus is on both consumer and the public interest. The House of Lords felt they were very radical in ensuring that the legislation reflected both strands. But in a way there is nothing new in that. APIL itself hits both buttons firmly on the head with your slogan of “People First”. We are in the same business as you – literally and metaphorically.

We are here to provide oversight. The job of direct regulation is for the Approved Regulators – The Law Society, The Bar Council, The CLC and others. But we do have a statutory mandate to set standards and you will see changes as a result of our activity. I will talk to you today about our Business Plan and Strategy, but also how you can help us develop it.

## What drives the strategy? The regulatory objectives...

- Protecting and promoting the interests of **consumers**
- Protecting and promoting the **public interest**
- Supporting the constitutional principle of the **rule of law**
- Improving **access to justice**
- Promoting **competition** in the provision of legal services
- Encouraging an independent, strong, diverse and **effective legal profession**
- Increasing **public understanding** of citizens' legal rights and duties
- Promoting and maintaining adherence to the **professional principles** (interests of client etc)

Our strategy is driven by the regulatory objectives. The Legal Services Act is over 300 pages long and pretty impenetrable in places, but it has a great first section which spells what it is there for and what we are here for. It gives eight regulatory objectives, which are:

- Protecting and promoting the interests of **consumers**
- Protecting and promoting the **public interest**
- Supporting the constitutional principle of the **rule of law**
- Improving **access to justice**
- Promoting **competition** in the provision of legal services
- Encouraging an independent, strong, diverse and **effective legal profession**
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- Promoting and maintaining adherence to the **professional principles** (interests of client etc)

Those are big aims, but we find them inspiring, rather than daunting.

## Our culture

- *“Above all, the public interest will guide our work. Our touchstone will be what works best for the citizen and the consumer”*
- We will:
  - Be independent and act with integrity
  - Strive for excellence
  - Be open, accessible and clear about our role
  - Be accountable for what we do, and what we spend

But if we are going to make them work we have to be clear about the starting point. And that is unequivocally the public interest – finding out what works best for the individual, both as a citizen and as a consumer.

But we can't do it on our own. The objectives are shared with all of the Approved Regulators – and, dare I say it, with all Approved Persons. So, if we are going to deliver them together, we will need to be clear about our approach and values. We will be independent both of the Profession and Government and act with integrity in all our dealings.

We will not settle for second best. We will strive for excellence – and challenge the regulators to do the same.

We will not make policy in a smoke filled room. We will be open, accessible and clear about our role.

And, just as we hold the Approved Regulators to account, so we will be accountable for all we do and what we spend.

## Business Plan 2009/10 (1)

- *“We will reform and modernise the legal services market place in the interests of consumers, enhancing quality, ensuring value for money and improving access to justice”*
- Putting **consumers** at the heart of the system
  - Rome wasn’t built in a day...
  - A role for our Consumer Panel?
  - Shorter term imperatives v longer term priorities

Our Business Plan sets out our immediate priorities in terms of modernising and reforming the Market, enhancing quality, ensuring value and approving access to justice.

That means putting consumers at the heart of the system. We can’t do that overnight, but we do expect to be held to it, not least by the Consumer Panel which we will be appointing in the next few weeks.

## Business Plan 2009/10 (2)

- Widening **access** to the market
  - Opportunities for consumers and providers alike
- Improving **complaints** handling
  - In-house mechanisms as important as OLC processes
- Developing **excellent** and **independent** regulation
  - Regulatory performance reviews
  - Separating ‘reg’ from ‘rep’
- Promoting access to a **diverse** profession
  - Momentum from Milburn. Danger of reinventing wheels
- Developing **Public Legal Education** strategies
  - APIL’s work shows we’re not starting from scratch

We will open access to the market. I will say rather more about Alternative Business Structures in a few minutes.

We will improve complaints handling – that is as much, if not more, about helping firms to get complaints handling right first time, as ensuring that the Office for Legal Complaints provides excellent Ombudsman Service, which provides clear dispute resolution more quickly, fairly and transparently than ever before.

We will encourage excellence in regulation by reviewing the performance of Approved Regulators to spread best practice as rapidly as we can and ensuring separation of regulating representative functions to ensure that both are performed well, so that the public can have no concern that one impinges unfairly on the other.

We will promote access to a diverse profession. There is a lot of good work on which to build – we do not want to reinvent wheels – but we know that Government expects more through the work of the Forum on Social Mobility and we also, if we look closely at ourselves, know that good practice at entry level into the profession is not always replicated in progress or promotion. This is as much about business sense, as it is about social policy.

And finally we will develop public legal education, to help inform customers. And again, we are slightly following work that the APIL has led in your interest in work on accreditation and in particular the “no-logo, no go” campaign.

## Our early focus (1)

- **Regulatory Independence**
  - *“Independent and transparent regulation is an essential hallmark of a publicly credible regulatory system”*
  - Some ARs have already made changes in the absence of formal rules
  - Consultation marks opportunity to introduce consistent approach across the sector
  - If we don’t get this right now, formal structural separation might loom on the horizon

One early focus is going to be about independence. Self-regulation, pure and self-contained, is a thing of the past. Independent and transparent regulation is now the essential hallmark of any publically credible regulatory system.

Many of the Approved Regulators have already made changes in the light of the Act, but they have not done so in a systematic way guided by the rules which the Act compelled us to make. The consultation we launched in March provides the opportunity to introduce this consistent approach.

And, make no mistake, if this doesn’t happen then formal structural separation cannot be ruled out. Half-hearted implementation will cause more problems than it solves.

## Our early focus (2)

- **Opening up the market**

- “*Greater competition in service delivery and the development of new and innovative ways of meeting consumer demand*”
- LDPs now permitted... and slowly emerging
- Laying the groundwork for ABS now. Discussion paper due in May
- First licences to be issued mid-2011
- Opportunities for:
  - **Consumers** – tailored services from more accessible entities
  - **Providers** – greater flexibilities around investment and organisation

Our second focus will be on opening up the market through competition to enable greater innovation. The SRA have done a great job in putting the process for LDPs in place. Momentum is starting to develop – slowly, it is true, but developing it is. I expect, as other Regulators resolve their position, pace to increase.

There will be a lot of learning from LDPs to inform the ABS process, but we are getting on with that. We will publish a discussion paper next month with a view to getting the first licences issued by the middle of 2011.

But this is not about ideology - competition for competition's sake. It is not even about regulatory intervention to keep us in a job. It is about providing opportunities for consumers to get more tailored services from firms which are more accessible and responsive to their needs and it is about giving greater commercial certainty to providers by giving them greater flexibility about how they organise themselves and how they access capital.



## In the longer term...

- **Can't let the urgent crowd out the important**
  - Referral fees
  - Accreditation
  - Regulatory gaps (including will writing)
  - Protection of titles
- **We need to work with you**
  - All of our stakeholders can add real value

But, while our Business Plan sets out immediate priorities to implement the Act, we are very conscious that there are other big issues in the marketplace. The consultation on our plan has highlighted areas where stakeholders want to see more work done and where we hope we will receive some help from our Consumer Panel in developing our thinking in order for us to be able to devote some resource to it in future years.

The subject of referral fees is a particular one of interest to this audience. Both the Law Society and the SRA know that there are difficult issues and have asked us to help develop a consistent approach across the market openly to work with you in achieving that.

I have already referred to your work on accreditation. We want to think more seriously about that. It can be one way of avoiding intrusive regulation. But, in other sectors, the OFT would say it can create a barrier to entry. And do consumers always understand really what a plaque in the window means? And who accredits the accreditors?

Many people are concerned about gaps in regulation. Should will writing be regulated, for example? Maybe regulation would give greater consumer protection and certainty. But what if it simply drives up the prices and makes the service less accessible? There are a lot of issues to be tested.

And we need both opinion and hard evidence from you in doing that work.

# Stay in touch

- We have been **online** since the start of the year:

[www.legalservicesboard.org.uk](http://www.legalservicesboard.org.uk)

- Current consultations on **regulatory independence** and the **levy**
- **Alternative Business Structure** paper to be launched in May
- Our contact details are online. We can also be contacted at:

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So my final plea is for you to keep in touch with us. The Act has fundamentally changed the legal landscape. What we do in putting into effect will accelerate that. We are now open for business this slide gives details of our website our current and forthcoming consultations. We look forward to working with you in refining their content further.