

Responses to Draft - Strategy 2018-2021 & Business 2018-2019 Plan consultation paper

Q1 – Are there any additional significant market trends or drivers for change that you are aware of that we should also take into account?

The LSB have made note that “the population is growing and ageing. We can expect this to carry over into more, but on average older, people needing legal services.” However, this does not recognise that today’s younger generation are internet savvy used to researching and comparing products and services on-line and they will become the ‘older people’ who will increasingly need legal services. This change in consumer buying habits has an impact on the methods used to purchase legal services in the future and we feel needs to be recognised. Of course, until the younger generations mature there is continued need for legal services to be easily sourced by methods other than via the internet, but we believe the internet will become the main focus for consumers in the longer term.

There is a growing issue for consumers generally to be able to access affordable legal services, due to the cuts to legal aid and the perception that instructing lawyers is expensive and daunting. This needs to be recognised and addressed as part of a driver for change in how affordable, legal services can be accessed.

We believe there is a continued perception amongst consumers that there is little or no difference between regulated and unregulated service providers. We believe this needs to be addressed more forcefully to ensure consumers are aware of the repercussions and possible causes of action that may or may not be available to them, should things not proceed as they would expect. The provision of unregulated services is welcome from the point of view of creating a competitive market, but not at the expense of accurate legal advice and services being available to all in our society.

Increased competition and the increase in unregulated area providers has been seen to push prices in some areas down, but at the risk of providing sub-standard services, due to the lack of, or no qualification or adequate training of the providers. In turn, to remain in business, regulated providers are keenly aware price can be a huge factor for consumers despite some research indicating otherwise (we suspect this may be due to the character traits of the many of the demographic group approached to respond), but competing on a price basis with the unregulated sector providers is untenable, for many regulated law firms. Lack of consumer knowledge on what options are available and what protections certain sectors provide does not help the situation. This is probably a far wider area to be dealt with across the board and whether the funding of research and proposals for change should be borne by the regulated sector is a serious consideration, when many of the issues are driven by the expansion in unregulated sector providers.

Q2 – Do you have any comments on our proposed strategic objectives?

We broadly agree with the continued proposed strategic objectives but are unsure how the LSB proposes the objectives are achieved. Increased or perceived increased costs of using legal services, the huge reduction in legal aid availability, lack of free information, that is readily available to assist litigants in person (LiP) in dealing with their own matters sensibly and in assessing the cost benefits of pursuing matters, are all factoring into the issues being experienced with the Court system

becoming clogged and the reluctance of consumers to utilise legal services even when their outcomes may well be improved. This then has knock-on effects to the Court system with further increasing running costs, wasted time and increased frustration on all sides.

As mentioned above, more consumers handling their matters alone rather than seeking advice, is often resulting in poorer outcomes for consumers. We believe this also increases feelings of negativity about the legal system as a whole and feeding into a poor perception about engaging in the legal process. None of which aids access to justice for consumers.

There is a distinct lack of promoted reasonably priced alternatives that could assist consumers eg ADR, free advice or very low-cost advice, to assist parties who are forced to access legal services without the support or guidance of legal service providers. It is also necessary to point out that although ADR can be a useful tool, many consumers still need agreements or arrangements backed up by legal advice, particularly where there are vulnerable parties involved. The legal advice needed to support these alternative options also needs to be affordably priced. A 2- tier system is a great risk, where wealthy have legal representation in all matters with all that entails and the poorer, often more vulnerable are left to struggle alone and not achieve the results they are equally entitled to just because they cannot access the best money can buy.

Another issue arises with the regulated sector bearing a significant cost in compliance and PII, whilst the unregulated sector does not face these requirements and can therefore continue to push down prices and in some instances quality of products. As mentioned previously, consumers have little recourse when things go wrong with an unregulated sector provider they may have used and they are not aware of this. Maybe more information regarding regulated and unregulated providers needs to be available to consumers, highlighting the potential issues that may arise, so that the consumer can make a more informed choice when they require legal services.

In an increasingly technological world, it is essential that access to justice is ensured for all. This can be achieved more readily with the use of technological advancement and improvement, ensuring regulation is maintained. However, we cannot forget the current older population, who are less likely to have access to, or be used to searching the internet for information, at this stage. In the longer term we believe this will be an issue that diminishes significantly. Technology will become even more widely used by a wider aging demographic. Technology is a perfect tool which can future proof access to justice for more and more consumers in years to come.

Q3 – Do you have any comments on our proposed equality objectives?

Equality across all regulated areas must be ensured and any discrepancies should be highlighted to consumers.

Encouraging diversity in the workforce must be continued, together with issues of equality that continue, such as inequality in pay.

Q4 – Do you have any comments on our proposed approach to market intelligence within our strategy?

It is important to be consulting both regulated and unregulated sectors as far as possible, but without one side being burdened with the cost of doing so. The consumer's needs and habits should be at the forefront enabling tailoring of access to justice in the future. The services consumers

receive must be acceptable and redress should be available to consumers in the event things do not go to plan.

It may be helpful to have more information relating to specific demographic types in relation to specific questions. As previously indicated above, as the younger generations mature they will be more likely to access legal services via the internet. These generations are digital natives who are far more used to accessing information and making significant choices through research via the internet. The older generations who are not so tech savvy need to be catered for and have the ability to locate the necessary information required to empower them, enabling informed choices to be made, when they need legal assistance. This may require access to walk in clinics or telephone services for those without access to the internet or the inability to access such on-line services. Technology could be utilised for this group in the centres by way of others accessing information for them or the use of Artificial Intelligence over a phone service, ensuring they have access to the same information available to the tech savvy consumers.

Q5 –Do you have any other comments about the presentation or content of our strategy?

Access to Justice and the Rule of Law are paramount. There has been a huge reduction in the availability of access to justice, particularly for the more vulnerable and the poorer in society, with nothing filling the gap. This needs to be addressed by Government so it may be limited what can be done by the LSB, other than working with all stakeholders to look at ways to redress the balance and make recommendations to government.

In the meantime, further consideration could be given within the strategic plan to explore other options to fill the gap. This may be through the use of further technology, for example the use of legal forums or legal drop in centres where technology can be accessed either by consumers directly or with assistance. It could be a cost-effective way of reaching many consumers and ensuring quality legal advice and support can be provided to those who require it, at the time they need it.

There is an opportunity for the regulated sector to be highlighted as proponents of access to justice for all, which should be flagged to consumers, to continue improving their perceptions of the regulated legal sector.

Q6 – Do you have any comments on our proposed business plan and work for 2018/19? Are there any workstreams that you disagree with? Is there any work that you think we should pursue that is not currently included?

The supply of information for consumers would be assisted enormously by enabling information to be available in one place. Currently, we believe consumers are confused by the number of legal regulators and their actual responsibilities within the sector. For example, information can be obtained from the SRA but to complete the picture, further information is required from the Law Society and which is often inaccurate as it is dependent on law firms keeping up to date the information held by the Law Society eg confirmation of legal areas practiced in a firm.

There are too many places to go to find the necessary information to be able to form an accurate picture of the firms, services available and fees payable. It seems the only place they can find all information in one place would be a commercial enterprise that collates all the random information, how that information is collated and then published in a format that is easily understandable for consumers. The current wide spread of locations for differing information relating to regulated

services could also be seen to be preventing transparency for consumers using regulated legal services.

The use and regulation of technology could greatly enhance access to justice, particularly for the more vulnerable, poorer individuals and less wealthy businesses. Empowering individuals and companies to help themselves as far as they are able and enabling them to make a judgment on the services to engage if needed, would greatly assist access to justice. In addition, with more readily available information through advances in technology, issues that are arising with more LiP using the Court service could also be addressed. The availability of sensible, easily accessible, practical information for individuals, will enable consumers to make more informed choices as to whether they need to utilise regulated services.

We appreciate that leaving the EU is going to dominate huge areas of regulated services over the coming months but it is imperative that access to justice and the rule of law are upheld to enable those more vulnerable in society to access their rights, particularly in such times of potentially significant change.

Q7 – Please identify any elements of our strategy or business plan that you think present an opportunity for more detailed dialogue and/or joint working between your organisation and the LSB.

We have identified several areas in response to Ques 6 above but confirm that we would welcome the opportunity to explore the use of technology, free or low price advice and assistance and the general empowerment of consumers, both in being able to access the information they require to correctly identify the best legal service providers for any issues that arise for them, but also providing the correct information for them to make an informed choice in respect of regulated and unregulated service provision.