

16 MAR 2009

# NATIONAL CONSUMER FEDERATION

THE GRASSROOTS CONSUMER WATCHDOG

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16<sup>th</sup> March 2009

Chris Kenny  
Chief Executive  
Legal Services Board  
Victoria House  
Southampton Row  
London WC1B 4AD

Dear Mr Kenny

## **Response to Legal Services Board Draft Business Plan**

I attach our committee's response to the above Draft Business Plan. We look forward to seeing the final version.

Yours sincerely,



Lindsey Squire  
Chair of the Legislation and Related Issues Committee

**NATIONAL CONSUMER FEDERATION  
LEGISLATION AND RELATED ISSUES**

**COMMITTEE AIMS:**

- a) To identify and promote the interests of consumers, with reference to the key guiding principles of Choice, Information, Representation, Access to goods and services, Quality, Fairness, Safety and Redress.
- b) To consult with and represent grassroots members, to circulate, publish and disseminate their views and where appropriate to respond to consultation on their behalf in consumer related issues.

NATIONAL CONSUMER FEDERATION.

Chris Kenny,  
Chief Executive,  
Legal Services Board,  
7<sup>th</sup> Floor  
Victoria House,  
Southampton Row  
LONDON WC1B 4AD

16th March, 2009

Dear Chris Kenny,

**Legal Services Board Draft Business Plan**

The National Consumer Federation welcomes this opportunity to respond to the Draft Business plan of the Legal Services Board.

As the only grassroots consumer organisation covering the wide spectrum of consumer concerns, we have had a long standing interest in the reform of legal services and we followed the conception and birth of the Legal Services Act with enthusiastic support. We were very pleased to see the core goals of the Legal Services Bill, drawn from Sir David Clementi's proposals, realised in this radical, reforming Act.

We will restrict our response to those sections of the draft plan which deal with provisions in the Act perceived by members of the public as of direct concern to them: the Consumer Panel; the Office for Legal Complaints; Alternative Business Structures and research and public legal education strategies. We fully appreciate that all the elements of the Act addressed in the draft plan should integrate holistically to create an improved customer experience, but the client will not in the main, be aware of or best place to comment on the mechanisms of regulation which have contributed to that improvement.

We are pleased to see that the Board has wasted little time in pressing forward with this draft business plan and that it shows that the commitment in the Act to put consumers first, is undiluted. Unlike in any other area of national life today, the voice of the consumer of legal services has been muffled if not silenced up until now, but we recognise in the draft plan an understanding that for the overriding intent of the Act to be realised, there is a need to give effective expression to the experiences of individual clients and small businesses at grass roots level.

Therefore, we are particularly encouraged by the prominence in the draft plan of the role of the **Consumer Panel**. We are, however, concerned to note (at paragraph 51) reference

to the commendable intention to make it one of its first priorities being “ Subject to resources”. We cannot see how one of the Board’s first priorities can be any more subject to resources than any of its other commitments. If the consumer perspective is to be at the heart of the Board’s work then it is essential that it is established at the start of the Board’s life and accorded its proper share of resources. Experience has taught us that mere lip-service can be paid to the needs and interests of consumers in legislation: the beguiling words may appear in an Act of Parliament but the deeds do not follow, or flow in such a way as to seriously diminish the promised protection and promotion of the consumer interest. We believe that by establishing the Consumer Panel according to the planned time-scale and in the planned manner and ensuring that it is properly resourced, the Board will be well placed to ensure that this does not happen with the implementation of the Legal Services Act.

Our Federation will be pleased to respond to invitations to engage in dialogue with the LSB and others on consumer safeguards for the proposed **Alternative Business Structures**. We are pleased to note that the Board sees the liberalisation of the legal sector as a very high priority and we anticipate much needed benefits from increased and more transparent competition, with more choice and information and better value arising from the injection of innovative service, management and ownership structures in the legal services market. However, as recognised in the draft document, the right regulatory framework is essential to protect consumers and this is best established by engaging all stake holders, especially consumers, in the process of constructing that framework.

We acknowledge that there are very good models of complaints handling processes in other areas of the market and we note that the Bar Council and the Law Society have taken action recently to improve their handling of complaints. We also note that both the Chair and Board members for the **Office for Legal Complaints** have already been appointed and hope that a thorough review of models in other sectors of the marketplace both in the UK and abroad, will be the first priority to encourage fresh thinking and avoid trying to build on dead wood. We endorse the approach of focussing initially on improving first-tier complaints handling. Other than reference to the intention to approve the rules for the Ombudsman scheme by the end of 2009 early 2010 we do not see reference in the draft Plan to the recruitment and training of ombudsmen. We understand that the role of appointing staff including ombudsmen is for the Chair and Board of the OLC and trust that this will be one of their early priorities: Investigating complaints that have failed to be resolved in-house in a proportionate, balanced and impartial way is skilled work which will require a carefully planned recruitment process with initial and ongoing training programmes. We would like to be assured that recruitment will adhere to the principles discussed during the gestation of the Act. Ombudsman’s schemes have mushroomed in recent years and the term can be applied to a diverse range of provision some of which can be said to mislead complainants as to the true impartiality of the investigator, which, of course, will not be a problem with the OLC. We believe that planning and recruitment for this much needed consumer service should be timetabled to ensure that it is operational early in 2010.

We agree the LSB's intention to act as a hub developing **research and public legal education** and we earnestly hope that the Consumer Panel will be in a position to initiate much needed projects at an early stage of their work. Due to lack of resources, research has always been a major weakness in consumer representation in most areas of activity and concern, but particularly so in the area of legal services provision. The uneven playing field of resources has worked to the detriment not only of consumers but, we believe, of service providers, and the justice system as a whole, both civil and criminal, and, therefore, the public interest. Not only provider organisations but also the Justice Department in its various conformations have invested considerable sums in research projects but few programmes have been instigated by consumer organisations addressing the real concerns of consumers of legal services as reported to them. Besides, until the implementation of the Act, legal services have been left to the provider organisations with few of the checks and balances of consumer market power and little oversight by outside authority. We note the reference to the Director of Strategy and Research but not when the appointment will be made.

A healthy progressive market requires empowered informed consumers and we would hope that the LSB will consider that its role includes devising methods of delivering information and advice to clients of legal services and promoting the Board's work to the public, as well as informing everyone working in legal services of best practice aimed at putting the consumer - their clients - first.

We welcome the promotion of access to the legal profession as we are concerned by the current high level of fees required to qualify as a solicitor or barrister. We feel this prevents a diverse profession to the detriment of the consumers of legal services where their legal adviser fails to understand the background and needs of the consumer.

Thank you for this opportunity to respond to the Legal Services Board's Draft Business Plan 2009/10. We look forward to the final version.

Yours sincerely,

Lindsey Squire  
Chair of the Legislation and Related Issues Committee

Anne Thomas  
Member of the Legislation and Consumer Issues Committee