

Draft:

Business Plan 2013/14

For consultation

This consultation will close on Monday 4 March 2013

December 2012

This consultation paper will be of interest to:

Approved regulators

Providers of legal services

Representative bodies

Advisory organisations

Third sector organisations

Relevant non-departmental public bodies

Consumer groups

Law schools/universities

Legal academics

Members of the legal profession

Accountancy bodies

Potential new entrants to the market

Think-tanks

Government departments

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
- 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 eight approved regulators (two of which are also licensing authorities), which between them directly regulate approximately 148,000 lawyers¹ and 59 alternative business structures² operating throughout the jurisdiction. The approved regulators are:

- The Law Society, which through the Solicitors Regulation Authority, regulates around 120,000 practising solicitors and 43 alternative business structures
- The General Council of the Bar, which through the Bar Standards Board, regulates around 15,000 practising barristers
- The Chartered Institute of Legal Executives, which through ILEX Professional Standards Limited, regulates around 8,000 practising fellows
- The Council for Licensed Conveyancers, the regulator of over 1,000 practising licensed conveyancers and 16 alternative business structures
- The Chartered Institute of Patent Attorneys, which through the Intellectual Property Regulation Board, regulates around 1,800 practising chartered patent attorneys
- The Institute of Trade Mark Attorneys, which through the Intellectual Property Regulation Board, regulates over 600 practising trade mark attorneys
- The Association of Costs Lawyers, which through the Costs Lawyer Standards Board, regulates over 500 practising Costs Lawyers
- The Master of the Faculties who regulates over 800 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)
- The Association of Chartered Certified Accountants (ACCA)

¹ Figures are based on numbers provided to the LSB by the approved regulators on 1 April 2012

² Figures for alternative business structures correct as at 11 December 2012

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Foreword by Chairman and Chief Executive

In every Business Plan, we have talked about operating in a time of change. We've talked about change that has happened: such as change in the legislative environment, with the introduction of the Legal Services Act 2007; change in regulatory structures, with the establishment of independent regulators; and change in the legal landscape, with new forms of organisation, staffing and technology in legal business practice emerging. Yet change is still needed: regulators need to improve their effectiveness; legal services' providers must improve the way they resolve complaints about their services; and culture must evolve to ensure that barriers to developing a truly diverse workforce are eradicated.

And we know that the Legal Services Board (LSB) also needs to change. We listened carefully during the Ministry of Justice's (MoJ's) Triennial Review of the LSB and Office for Legal Complaints (OLC) and we have taken stock of where the economy as a whole and the legal services sector within it now stand. As a consequence, while we retain the same statutory duties and strategic objectives, we know that what we do, and how we do it, needs to evolve. In this draft Plan, we describe how our work will increasingly be focused on regulators' performance and on our holding them to account for delivery.

It is worth reflecting on the purpose of regulation in the legal sector. Everybody recognises the importance of the rule of law, a robust legal system and a healthy legal services market to economic growth. Combined they:

- aid businesses of all kinds by guaranteeing enforceability of contracts
- generate considerable revenue for the UK because of the reputation of English and Welsh courts, professions and legal education internationally
- help to underpin innovation in a wide range of sectors as new commercial and not-for-profit models emerge in product and service markets in challenging economic times.

This success helps to bolster public, consumer and business confidence and so can create a virtuous circle of continued growth and improvement. It depends on maintaining core historical strengths and embracing some challenging developments. Indeed, it is one of the great strengths of the professions - and the sector as a whole - that they have managed to do both throughout history.

Legal services regulation must play its part in maintaining and enhancing this confidence by:

- improving access to justice by ensuring that the legal market becomes ever more open to new, ethical business models and practitioners – it's competition, rather than barriers to entry, that acts as the best guarantor of high standards and accessible services
- stripping away outdated regulatory rules where these inhibit innovation, impose unnecessary cost and/or encourage "tick box" compliance
- getting to the right balance between empowering firms and individuals to make compliance decisions themselves and referring decisions to the regulator for approval
- maintaining the broader underlying regulatory objectives of protecting the rule of law and the professional principles and
- responding promptly and effectively to threats to the consumer and public interest by taking swift action when it is justified.

Doing less than this risks being positively harmful in the current climate. As such, regulators need to guard against:

- focusing only individuals, rather than businesses as well (and barristers' chambers become more business-like in every sense of the term by the day)
- seeking to protect specific exclusive professional titles rather than guaranteeing competence at all levels and
- substituting their own judgement for that of the firm on detailed issues of organisational design or training provision.

What does this mean for the LSB and the regulatory bodies we oversee? The institutional framework for the new regulatory regime is in place with all of the essential rules, policies and processes that are required to support it. Clear expectations have been set for independence, standards of regulatory performance, quality and diversity. Regulators have told us that they now know what they need to do to meet those expectations and to deliver the statutory regulatory objectives: they tell us that they can be trusted to deliver.

We are clear about the approach they need to adopt to do that – an outcomes focused code rather than a detailed rule-book, clear identification of risk at all levels, proportionate supervision and robust enforcement. By the start of 2013/14, we will have completed our first full assessment of each regulator's performance - and each regulator will have a clear individual action plan in place to build their capability. There is no better time than now to put the regulators' categorical commitments to delivery to the test.

In 2013/14, we will be holding regulators to account on delivery of their performance improvement action plans and on commitments already made – for instance on immigration advice and on measures to improve quality. We will focus relentlessly on driving necessary improvements so that frontline regulators play their unique role in delivering competitive markets that work well for consumers and providers alike.

This will be an intensive programme of work for the regulators. Maintaining an appropriate pace of delivery, whilst also responding to emerging challenges, will be demanding. There is a real leadership challenge for regulatory boards to avoid micro-management of the minutiae of policy issues, and instead focus on rigorous challenge to their executive on performance and delivery. Where this works and we see progress, with timetables that are met and agreed changes being delivered, the LSB will not need to provide guidance or direction. Indeed, that would be the clearest indicator of the LSB's success.

But perhaps the clearest signal that regulators understand this shift in approach will be how far they are seen to display similar trust and freedom, backed by proper supervision, to their regulated communities. There should be a clear trade-off between improving performance and more targeted oversight in all parts of the legal regulatory system.

Only one substantive new initiative is included in this draft Plan and it is included in direct response to the challenge made to the LSB by representative bodies and others in the MoJ's Triennial Review, that the current regulatory framework is unnecessarily complex and costly.

We have worked hard to drive down our own costs. In 2013/14, we are again proposing to reduce our budget, proposing a cash reduction of £50k from 2012/13 (although the actual saving in overall costs will be greater than this as we will absorb all pay and non-pay

expenditure increases). But we know that our costs represent but a fraction of the total that practitioners face simply in order to be able to practise. Wider costs include practising certificate fees (including elements for non-regulatory 'permitted purposes'), insurance and compensation, and compliance costs, all of which are ultimately passed on to purchasers, both public and private.

We understand why there are worries that the current regulatory framework for legal services might impose unnecessary costs on firms and practitioners: we share the concerns that such costs are inevitably transferred to those who pay for services. This seems to us an area where the LSB, uniquely, will be able to draw together work into the totality of regulatory costs, not simply the direct costs of statutory levies and practising certificate fees, and to start to unpick how far the underlying legislative framework for regulation, the actions and requirements of regulators themselves and unnecessary caution by providers in interpreting these requirements contribute to that.

We have already received a positive response to this project and would like to encourage anyone with ideas on aspects that we should look at to get in touch. We are keen to find ways of looking at the practical impact – do regulators really know the full cost and benefits of what they impose on providers, and do firms over-interpret requirements generating unnecessary costs? We also want to identify underlying causes – for instance, over time, should we be seeking to persuade government to simplify the statutory labyrinth of multiple Acts and Statutory Instruments on which the regulatory maze identified by Sir David Clementi stands?

As part of our own cost reduction strategy, we would like to refine our approach to research funding. The light we have been able to shine on the operation of the legal services market through our investment in primary research is one of our proudest achievements. We have used research, not simply to explore some of the market issues which are obviously amenable to qualitative examination, but also core professional challenges for regulators, such as how to track changes in the level of professional ethics in a measureable way. We are delighted that we have received recognition for these developments from many in the legal services community, including academics and providers, but it remains a disappointment that we have been unable to generate a similar level of enthusiasm from representative bodies and many regulators. In a sector so light on data, so light on evidence – in particular on drivers of consumer behaviour – it is incumbent on those who need to use such evidence to commission it. Data and evidence is essential to justify existing regulatory requirements on the sector, quite as much as new ones.

In this draft Plan, we set out a programme of research that we would like to see commissioned to fill important evidence gaps and inform proportionate and targeted regulatory responses. It is ambitious and it is unlikely that we will be able to afford to deliver it within our current budget. We are therefore asking partners to join us in funding, or co-funding, these projects. The greater degree of external funding we are able to secure, the more value we will be able to deliver from our research budget and indeed, there may be scope for reduction. We will publish a final research plan in April 2013 informed by responses to this consultation.

Our revised approach also extends to our work with the Legal Services Consumer Panel where, unless we hear strong messages to the contrary in this consultation, we do not

propose to start the year with a series of formal advice requests. This will allow the Panel the flexibility to both respond reactively to our work programme where important messages about consumer interests need to be heard by us but, more importantly, will allow the Panel to use its scarce resources to proactively identify consumer issues that are not yet on our or the regulators' agendas.

These important adjustments in the approach of the LSB reflect the state of development of the regulators and their ability to meet the challenge thrown down by the Legal Services Act 2007.

It is in no way a withdrawal from our primary objective of ensuring that the legal services market in England and Wales delivers the maximum possible benefits to consumers, the public and the economy. We are still some way from having a regulatory system that is, in its entirety, fit for purpose and which enables greater growth, innovation and competition whilst also protecting the wider public interest and consumers. We will continue to identify gaps, support the regulators to meet such challenges and to develop regulatory approaches that deliver consistent outcomes for the public, consumers and providers alike - regardless of who provides the service.

We remain passionate about what needs to be done to ensure all in society are able to exercise their right to access justice.

David Edmonds

Chairman

Chris Kenny

Chief Executive

Introduction

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 annual budget equates to a little under £30 per year for each lawyer³.

Our vision

4. The regulatory objectives set out in the Act provide the framework for regulation. We bear all of these in mind, all of the time, and it is from them that we developed our vision of what legal services regulation must strive to deliver. Our starting point is that a competitive legal services market, underpinned by appropriate regulation, will deliver the regulatory objectives most effectively.
5. We believe that such a market - one 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
 - constantly improving and consistently ethical legal professions, as diverse as the communities they serve
 - clear and proportionate regulation, that protects fundamental principles, removes barriers to entry, targets market failure and commands wide confidence in the public and the market.
6. We know that this is a vision that will not be achieved over night: it is change for the long term and it is change that will happen incrementally. We are committed to measuring change as it occurs and will, on an annual basis, publish an evaluation of the legal services market looked at from a number of perspectives. This work will take as its starting point the position of the legal services market in 2012 as described in our October 2012 report “**Market impacts of the Legal Services Act 2007 – Baseline Report (Final) 2012**”.

³ based on the numbers of authorised persons declared by each of the frontline regulators as at 1 April 2012.

Our responsibilities

7. The primary responsibility for devising, developing and implementing regulation that guarantees public trust and confidence in the legal profession in England and Wales belongs to the regulators. The role of the LSB is to make sure that they meet this responsibility.
8. All that we do is designed to ensure that regulators have the competence, capability and capacity to promote and adhere to the regulatory objectives, free from representative influence. We do this through performance of our statutory responsibilities of:
 - **approval and recognition** – we consider a range of applications from both existing regulators (including applications to become a licensing authority, changes to regulatory arrangements and extension of scope) and those seeking to become an approved regulator
 - **monitoring and investigation** – we monitor regulators' compliance with regulatory requirements; oversee performance of the OLC; and perform some specific duties in relation to the Solicitors Disciplinary Tribunal (SDT). We also examine the wider market place to identify trends, gaps in regulation, competition issues and how both our own rules and those of regulators are working in practice
 - **enforcement and disciplinary activities** – we ensure that regulators and licensing authorities perform their duties in a way that meets the regulatory objectives and, where necessary, exercise the powers at our disposal to ensure that this happens. These powers include the power to set targets, give directions, publicly censure a body, impose a fine, intervene in the running of the body and ultimately recommend cancellation of a body's designation as an approved regulator and a licensing authority
 - **regulation, education and training** – we have a duty to assist in the maintenance and development of standards of regulation by approved regulators and in the education and training of persons carrying out reserved legal activities
 - **scope of regulation** – we have powers to make recommendations to the Lord Chancellor on the designation of new activities as reserved and the removal of existing designations.

Our approach

9. In performing all of our duties, we focus on ensuring that regulation is proportionate – reduced where possible to remove unnecessary barriers to delivering the regulatory objectives and only imposed where necessary. Our default position is to set clear outcomes, while enabling the maximum flexibility in the means by which they are achieved. We seek to encourage competition while ensuring that regulation:
 - maintains the rule of law and the professional principles

- reacts and develops to protect against and mitigate emerging risks
 - supports innovation
 - incentivises a strong consumer focus and restricts the ability of providers to exploit consumers for their lack of knowledge or power.
10. In 2013/14, our approach will be underpinned by the following principles, many of which have informed our work since the start of the LSB:
- mapping all of our work back to all of the regulatory objectives of the Legal Services Act 2007 and to the better regulation principles – so our activities will always be transparent, accountable, proportionate, consistent and targeted⁴
 - working with regulators in a relationship of openness and trust, finding the right balance between the need for consistency of approach and the need to tailor responses to differing conditions and risks in the light of our common responsibility to act in accordance with the regulatory objectives
 - avoiding at all costs duplication of work undertaken competently by others but without hesitating to do what is necessary, within our remit, where the need arises
 - setting out the anticipated impact of alternative regulatory options in our consultation papers, seeking views from others about whether we have made the right assessment – and expecting similar disciplines from regulators in the proposals they make to us
 - wherever possible, working with regulators to identify risks and manage them as the legal services market changes and in a way that will help legal services providers to take advantages of new opportunities and improve their service offering
 - reinforcing strong working relationships including with regulators, citizen and consumer groups, the professions, firms and partnerships across the sector, the Ministry of Justice (MoJ), Welsh Government, representative bodies, potential new entrants to the market, other regulators and redress providers and the academic community
 - above all, being guided by the public and consumer interest in all of our work.

⁴ Our approach to the regulatory objectives is outlined in our publication [The Regulatory Objectives](#), published in July 2010.

Our equality objectives

11. It is very important to us that we put equality and diversity at the heart of our work. In December 2011, we consulted on our equality objectives for 2012/13 and confirmed those objectives in April 2012.
12. In Annex 1, we report interim progress against delivering our responsibilities for 2012/13 (in accordance with the requirements of the Equality Act 2010). We will publish a full report for the year alongside our 2012/13 Annual Report.
13. After considering carefully our progress in delivering our objectives, and in light of our work programme for 2013/14, we are proposing to maintain our agreed equality objectives into 2013/14. These are below. **We would welcome views on whether these objectives remain appropriate.**

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
- 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
- continuing to encourage the Legal Services 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
- applying recruitment processes that are in line with our Equality Duty.

Proposed work programme for 2013/14

14. In the following pages, we outline the work we propose to do in 2013/14. As this will be the second year of our 2012-15 strategic plan, it continues activities already started in 2012/13. Increasingly our emphasis is on holding regulators to account for delivery of commitments they have made and ensuring that their performance is in accordance with appropriate regulatory standards, rather than generating further initiatives.
15. At this point in the year, there are inevitably aspects of our draft Plan that depend on the outcome of work still to be done in the remaining quarter of 2012/13. This is particularly the case in relation to our work on developing standards and performance of regulators, where action plans are still to be finalised with all regulators. Nor are we able to confirm the outcome of our investigation into the regulation of will-writing, probate and estate administration, where our recommendation to the Lord Chancellor has still to be made. We have, however, tried to be as clear as we can be about the direction of travel for this work and will provide more detail when we publish our final Plan for 2013/14 in April 2013.
16. Our regulatory work programme continues to be delivered through three strands – regulator performance and oversight; strategy development and research; and statutory decision-making. The specific activities have all been assessed to make sure that they are not only targeted at addressing the most significant risks to regulators delivering the regulatory objectives and better regulation principles, but also our three strategic priorities for 2012-15:
 - assuring and improving the performance of approved regulators
 - helping consumers to choose and use legal services
 - helping the changing legal sector to flourish by delivering proportionate regulation to address risks. [We have talked about “proportionate” rather than “appropriate” to better reflect the better regulation principles].
17. For the avoidance of doubt, all of the regulatory objectives underpin all of our work. In practice, we balance each objective appropriately according to the particular circumstances of the issue being addressed. We think that is the right way to approach the objectives - they are not ranked or in any sort of hierarchy. Our proposed work programme continues to focus on those objectives which require most immediate attention, and which are most tractable to regulatory action. That is not the same as prioritising pursuit of one regulatory objective over another. Where stakeholders perceive a deficit in our activity, we are open to suggestions for cost effective activity by the LSB to help underpin progress on the same issues by the front-line regulators.
18. We are aware that some interpret our focus on access to justice, competition and consumer interests (which we see as being intimately related and very often calling for the same policy interventions) as implying we in some way ‘care less’ about other objectives such as promoting adherence to the professional principles. That is not the case. Our focus is firmly on maximising delivery of all of the regulatory objectives in as

cost-effective a way as we can – and in ways that are most suited to the remit of a body with oversight responsibilities. Where we are reassured that the regulators' activities are already delivered with vigour, such as promoting the rule of law, there is no need for us to duplicate efforts.

A: Regulator performance and oversight

Developing standards and performance

Overview

19. In December 2011, the LSB concluded that best regulatory practice for legal services regulation must be delivered in accordance with better regulation principles and comprise four constituent parts:
 - an outcomes-driven approach that gives the correct incentives for ethical behaviour and has effect right across the increasingly diverse market
 - a robust understanding of the risks associated with legal practice and the ability to profile those regulated according to the level of risk they pose
 - supervision of the regulated community at entity and individual level according to the risk presented
 - a compliance and enforcement approach that deters and punishes appropriately.
20. During 2012, we asked all current regulators to assess how far they had embedded the four constituent parts of legal services regulation into their approach, and to assess their own overall capacity and capability. At the time of publication, six regulators had submitted their self-assessments to us together with their action plans for development. We expect the remaining one (from the Bar Standards Board (BSB)) to be submitted in January 2013
21. In 2013/14, we will monitor regulators' adherence to their action plans closely and, where appropriate, take action for failure to keep to them without good reason. Progress on implementing the plans will be a key factor in making decisions on changes to regulatory arrangements and designation applications.
22. We will also be looking to ensure that new approved regulators and licensing authorities (or existing ones wanting to expand or change their regulation) are able to demonstrate that their proposed approach meets the required standards.

Why this work matters

23. The four regulatory standards were framed with explicit reference to the Act's requirement that legal services regulators must, as far as is reasonably practicable, act in a way which is compatible with the regulatory objectives and also that their regulatory activities must have regard to the principles that regulatory activity should be transparent, accountable, proportionate, consistent and targeted.
24. Effective delivery of the four constituent parts of regulation should contribute to growth in the sector and more widely and, in particular:
 - lead to higher standards of professional conduct and competence and greater levels of innovation in practice and management

- encourage innovative practitioners and firms who, if posing few risks, are not subject to intrusive or inflexible regulation and supervision
- introduce a level of consistency in the approach to the regulation of legal services
- help to develop a consistent and transparent approach to the oversight of the legal sector
- result in legal services regulation that meets the needs of consumers but does so in the most efficient way for practitioners.

25. As such, the work is fundamental to how we operate in our role and meet our strategic objectives.

What we will do

26. During the year we will:

- review reports from each regulator on their delivery of their action plans (tailored for each regulator and based on their own timescales) and hold them to progress. We will consider what an appropriate response would be should any regulator fail to keep to action plans without good reason
- take the regulators' progress on implementing action plans into account in assessing applications by any for a new designation or extension of responsibilities
- require all new applications to show competence on all issues (or to have rigorous plans to be competent) by the date of designation
- provide an end of year overview to feed into our 2014/15 business plan and future strategic planning.

27. There are also areas of work where we have either required regulators to deliver outcomes during 2013/14 or where we have previously committed to review progress during the year. These activities remain in our programme of work for 2013/14 (to the extent they need to be) to ensure that the agreed actions and outcomes are being delivered at the agreed times.

Referral fees, referral arrangements and fee sharing

28. In our decision document on our consultation 'Referral fees, referral arrangements and fee sharing', published in May 2011, we set out an approach to referral fees that would secure clear outcomes for consumers but left regulators free to find the best ways of working towards them in their own parts of the legal services market (and in the context of later developments regarding the ban on referral fees in personal injury claims). We made clear that it was up to regulators to justify their own approach in the light of evidence, rather than there being a blanket presumption of approval or ban. This represented the right balance between the need for consistency of approach and the need to tailor the response to the different conditions and risks across the sector.

29. The Board made clear its intentions to review regulators' progress to achieving the outcomes in 2013/14. Therefore this year we will be reviewing the regulators' approaches to regulating referral fees, arrangements and fee sharing, reflecting the new statutory provisions in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 where appropriate. Initially this will be in the context of reviewing all requests for changes to regulatory arrangements on referral fees as part of our statutory decision making process.

Regulation of immigration advice by qualifying regulators

30. In July 2012, we made clear that qualifying regulators were expected to take immediate action to mitigate the risks to consumers in the provision of immigration advice and services and to each identify what needs to be done to ensure satisfactory quality by providers. This included mechanisms for identifying and stopping advisers who provide unsatisfactory levels of quality.
31. In Q2, we will ask the qualifying regulators to demonstrate their progress towards achieving the outcomes for consumers who need immigration advice and services against the outcomes that were set out in July 2012. Our next steps, if any, will be informed by the progress that regulators make.

Complaints handling by legal service providers (first-tier complaints)

32. In July 2012, we wrote to all regulators setting out action points which we considered they should carry out in order to help improve the way in which complaints are considered by lawyers and to ensure that their regulation is targeted at areas of greatest consumer detriment. They were designed to be proportionate to the needs and abilities of each regulator without losing sight of the need to improve performance of complaints handling by legal services providers.
33. In 2013/14, we will expect each regulator to provide responses to the LSB on their progress against the action points. This is designed to provide evidence to show that the regulators are taking active steps to improve complaints handling. We will continue to work closely with the Legal Ombudsman to understand how developments at first-tier are working from their perspective.

Review of regulatory sanctions and appeals processes

Overview

34. The current systems for taking action against lawyers (and others) who have breached their regulator's code of conduct have been built up over many decades and are often based on historical practices rather than the requirements of the Act.
35. As the market grows and develops, firms will employ different types of authorised person, there may be new approved regulators and new licensing authorities. The complications and inconsistencies in the current systems will be exacerbated. For example, the Solicitors Regulation Authority (SRA) as a licensing authority will use the

civil standard of proof when deciding whether to impose a penalty on an alternative business structure (ABS) for improper accounting, but the SDT will use the criminal standard when considering the same breach for a traditional law firm. The appeal routes will also use different standards. A separate issue is the sheer inefficiency of having so many different enforcement systems.

Why this work matters

36. It is essential that consumers be protected from lawyers who are corrupt, negligent or of poor quality. The mechanisms for doing that need to be effective and deliver consistent outcomes across regulators so that one “brand” of law is not seen as being weaker than others (for example because cases take longer to deal with or regulators have less effective powers). From the work we have done so far, it is not clear that the systems are consistent, transparent or are designed to work in the best interests of consumers. Arguably, that inconsistency undermines the rule of law quite as much as it does the effectiveness of the market.

What we will do

37. We will work on the basis of three clear aims to ensure consumer protection:
- that the Administrative Justice and Tribunals Council’s criteria⁵ for administrative justice are met (both within approved regulator/licensing authority processes and across the legal services regulators)
 - that regulators/licensing authorities have appropriate powers to deliver compliance and enforcement (this includes, but is not limited to, consideration of whether decisions should be made using the test of the balance of probabilities or beyond reasonable doubt, the regulator/licensing authority’s own powers to impose penalties and getting the right balance between the regulator making decisions and having an independent hearing)
 - delivery of consistent consumer protection and the prevention of arbitrage between different types of law firms and different regulators by ensuring consistency of decision making at the final appeal stage.
38. We will publish a discussion document before the end of 2013/14 setting out:
- the current systems and any potential risks including: to the rule of law (arising from inconsistency); of consumer detriment; or to effective regulation that they raise
 - the barriers to achieving an appropriate system (some of these may be statutory but others will only require rule changes) and options for change.
39. In the meantime, we continue to expect new applicants for designation or related changes to use the General Regulatory Chamber for their appeals.

⁵ http://ajtc.justice.gov.uk/docs/principles_web.pdf

Completing the regulatory framework

40. 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, although it is very unlikely that the LSB would need to license an ABS, we believe that it is pragmatic 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.
41. We will therefore work with MoJ to establish what needs to be done to commence relevant parts of the Act, so that the LSB can, if needed, become a licensing authority.

Ending the transitional arrangements for licensable bodies and the regulation of “special bodies”

Overview

42. 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. Many of those affected are traditional law firms, but the arrangements also protect “special bodies” such as not for profit advice agencies and some charities. We are dealing with these separately.
43. The Intellectual Property Regulation Board (IPReg) is in the process of preparing an application to enable it to license intellectual property firms once the transitional arrangements are removed.
44. During 2012, we consulted on what arrangements needed to be in place before the transitional protection for special bodies could end. The consultation raised a number of issues and, as a result, we have revised the timetable for our work.

Why this work matters

45. 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.
46. 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

47. For special bodies, we will continue our constructive engagement with the sector in order to ensure that regulatory requirements do not impose unnecessary or duplicative burdens on them and are developed in a way that fully takes account of the way in which these organisations operate. We will continue to press the SRA to make the

changes to its current regime identified in our December 2012 progress report. We will not recommend ending the transitional protection until we are confident that there will be a licensing authority that can regulate the sector appropriately. Our next step in this process will be to issue draft guidance for licensing authorities in Q1 2013/14. Once the guidance is finalised we will consider applications for rule changes from existing licensing authorities and applications for designation from new bodies. The amount of work to be done on this issue means that the transitional arrangements for special bodies are unlikely to end before 2015, although potential licensing authorities will need to work on developing their arrangements in the course of 2013/14 in order to meet that deadline.

48. We will also continue to work with IPReg as it develops its application to become a licensing authority. We will aim to make a decision within six months of the designation application being received. Our decision to recommend ending the transitional arrangements will take into account the progress of the application and work on the practical and legislative steps with MoJ. We will also discuss with regulators such as the Costs Lawyer Standards Board (CLSB) and the Master of the Faculties how those they regulate may be affected by ending the transitional protection.

Regulatory performance and oversight milestones by quarter

Activity	Milestone / Output
Developing standards and performance	
Monitor regulators' delivery of regulatory effectiveness action plans	Q1-4 Receive and review reports from regulators on progress on delivering their action plans and other policy areas where action is needed
Immigration	
Improving the regulation and provision of immigration advice and services	Q2 Review qualifying regulators' progress to achieving outcomes for consumers
First-tier complaints handling	
Monitor effectiveness of regulators' progress in improving first tier complaint handling	Q 2 Receive and analyse reports from Council for Licensed Conveyancers (CLC), CLSB, IPReg, ILEX Professional Standards (IPS) and the Master of the Faculties on progress against action points set out in our July 2012 letters
Review of regulatory sanctions and appeals processes	
Ensure consumers are protected from lawyers who are corrupt, negligent or of poor quality	Q4 Publish discussion document identifying options for change
Ending transitional arrangements for licensable bodies and the regulation of special bodies	
Special bodies	Q1 Issue draft guidance for licensing authorities Q3-4 Consider rule change applications from licensing authorities and designation applications

Licensable bodies	<p>from new licensing authorities</p> <p>Q1 Work with regulators to understand how those they regulate will be affected by ending the transitional protection</p>
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49. The detail of work required later in the year will depend upon the outcome of decisions taken late in 2012/13 and early in 2013/14.

Aims for this work

Developing standards and performance

50. We expect that regulators will make progress against their own action plans and will be able to show improvements in the way they regulate. We also expect that the requirements for regulatory effectiveness will have a significant influence on regulators' approaches to applications to change their regulatory arrangements and for those bodies that apply for designation as an approved regulator or licensing authority.

Review of regulatory sanctions and appeals processes

51. We expect to be able to show how far the current systems are from appropriate and identify whether and if so how quickly they can be changed.

Ending the transitional arrangements for licensable bodies and the regulation of "special bodies"

52. We expect that the not-for-profit sector will have a much greater awareness of the requirements of legal services regulation. We also expect to have put in place requirements for a targeted and proportionate regulatory framework for special bodies that are understood by the not-for-profit sector.
53. We expect to have given certainty about when the transitional period will end for traditional law firms and not-for-profit organisations.

B: Strategy development and research

Reviewing the scope of regulation

Overview

55. Regulation has to be targeted at risks, and the costs and benefits of regulation need to be understood, to ensure it is proportionate in delivering the regulatory objectives. This means that ‘what’ is regulated is as important as ‘how’ regulation is delivered. By the start of 2013/14, the LSB expects to have made a recommendation to the Lord Chancellor about the regulation of will writing and estate administration. But the need to maintain the focus on what is and is not regulated remains and the Board will continue to be mindful of the extent to which regulation is warranted in different areas of legal activity. We will also continue to develop our thinking about the extent to which the convoluted and potentially exclusionary process of “reservation to authorised persons” provides an appropriate trigger for regulatory action in all cases.
56. We will continue our work on will-writing, probate and estate administration and start to look at general legal advice to individual consumers.

Why this work matters

57. Legal services should be subject to effective, proportionate regulation. This must ensure that core principles are maintained and consumers protected. Of equal importance, however, is the need to identify and remove disproportionate regulation which hinders innovation and growth. Outcomes focused regulation targets regulatory efforts at risk and moves away from a blanket protection approach which layers unnecessary cost on low risk activities. Our work on scope aims to assess how far regulation should stretch across areas of legal activity and to ensure that any regulatory intervention is appropriately targeted and risk-based both in existing and new areas of regulated legal activity.

What we will do

58. We will:
 - pending the decision by the Lord Chancellor on any recommendation made by the LSB regarding the regulation of will-writing, probate and estate administration, work with MoJ to take forward proposals
 - investigate, including research, whether common risks occur across general legal advice to individual consumers
 - publish a discussion paper highlighting our emerging work on general legal advice.

Developing a changing workforce for a changing market

Overview

59. This work continues our workforce development activity from the 2012/2013 Business Plan.
60. We are seeking to work with regulators to improve the quality of legal advice and the diversity of the profession. Following our review of the regulators' analysis of their first years' diversity data, which will be published at the end of 2012/13, we will be working with regulators to ensure that practical solutions are developed to address the issues raised in the data.
61. We will also be continuing to monitor regulators' progress in relation to the success criteria set out in our quality consultation response document, as well as the introduction, ongoing development and evaluation of the new Quality Assurance Scheme for Advocates (QASA).

Why this work matters

62. There is a risk that the benefits of liberalisation of ownership and control of legal business that are being secured through ABS will be limited if the education and training of lawyers and the legal workforce remains inflexible. Innovation in education and training supports innovation in legal business because flexibility in any workforce is crucial to firms being able to meet the needs of different consumers in different ways.
63. The output of the Legal Education and Training Review, being conducted by BSB, IPS and SRA, is expected to shape not only their own regulatory thinking but also that of all of the regulators. We trust this work will ensure that individuals, firms, educators, training organisations, and others are free to design, develop, deliver and utilise a range of routes into the legal workforce, to becoming an authorised person with or without a professional title. We will help regulators to keep a clear focus on the educational, professional and ethical outcomes to be attained and maintained, but without prescription about the way that this is achieved. There are no regulatory objectives that are untouched by this work.
64. A diverse population using legal services benefits from a diverse legal workforce. As all regulators share the obligation to encourage a diverse profession, we believe that doing no more than simply avoiding falling foul of statutory provisions on diversity is not sufficient. We will be working with regulators to ensure that diversity monitoring is effective and transparent at the level of individual organisation as well as the overall profession, that analysis pinpoints where improvements could be made and that practical solutions are developed, implemented and evaluated where required to address issues highlighted in the data. We will continue to expect particular weight to be given to action on social mobility.

65. Finally, this work looks more broadly at quality issues, whether directly following our 2012 consultation on approaches to quality, the introduction of QASA or through our interest in the relationship between regulators and price-comparison websites.

What we will do

66. The Legal Education and Training Review report is due to be published in January 2013. Regulators will then be considering how to take forward the report's findings. Our role will be to support and challenge regulators as they take forward both any immediate and strategic action informed by the recommendations of the review.
67. Regulators and legal entities will start to publish diversity data in Q4 2012/13. We will be reviewing this data to produce a benchmark from which to measure change and identifying any issues with the data collection with the intention of improving data collection in future years. This work may highlight specific areas for policy development or areas where additional research is required. We hope that this analysis, together with targeted research will help us promote best practice in addressing diversity concerns.
68. Much of our initial work on quality issues was completed in 2012/13, so in 2013/14 we will be working closely with the regulators to ensure that the agreed actions are taken forward. We will also be continuing to monitor regulators' progress in relation to the success criteria set out in our quality consultation response document through our ongoing work on regulatory effectiveness. We will also be monitoring closely the effective introduction, development and ongoing evaluation of quality assurance for advocacy.
69. We will also discuss with regulators how they are responding to our work on price comparison websites as part of our ongoing work during 2013/14.

Cost and complexity of regulation

Overview

70. Respondents to the MoJ's Triennial Review of the LSB and OLC highlighted the costs of regulation as a concern. In our response to the Review, we committed to investigate the cost of legal services regulation and its impact on the regulated community. This work will address not only costs of the LSB and the OLC, but will aim to identify the totality of costs that practitioners face simply in order to be able to practise. These wider costs include practising certificate fees (including elements for non-regulatory 'permitted purposes'), insurance and compensation, and compliance costs, all of which are ultimately passed on to purchasers, both public and private.
71. This investigation will also attempt understand underlying causes for costs and the impact that the complex legislation underpinning the regulatory framework, the approach of regulators and the perceptions of the regulated community have on the costs burden.

Why this work matters

72. The Triennial Review highlighted the importance of understanding the costs imposed by legal services regulators and regulation. This project aims to bring greater clarity and evidence to this debate. By understanding more clearly the costs imposed by regulation on the legal services market we hope to stimulate a longer-term programme of work aimed at simplifying legal services regulation.

What we will do

73. The work will focus on the following areas:
- costs imposed on the legal market by the LSB and regulators, both directly and indirectly
 - benchmarking the costs imposed by the Legal Ombudsman
 - analysis of the cost imposed on the market by expenditure of representative bodies on permitted purposes
 - analysis of the costs and benefits of specific regulations
 - analysis of whether the current framework's legislative and regulatory complexity, inconsistencies and gaps present structural barriers to better regulation, lead to sub-optimal consumer and regulatory outcomes and prevent de-regulation.

Research and evaluation

Overview

74. In April 2011, we outlined our approach and commitment to evaluating the impact of the market reforms anticipated by the 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. Our evaluation work will be pulled together in the annual evaluation report in October 2013.

Why this work matters

75. Understanding how the market is changing and the impact that regulation is having is essential if we are to ensure that regulation is proportionate and effective. To deliver the true spirit of the reforms 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, the activity of others and the impact of the external factors, both anticipated and unforeseen, 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.

What we will do

76. This year we will update the previous evaluation report and focus specific analysis on the market for legal services to individual consumers.

Research and evidence

Overview

77. Underpinning all of our work is a comprehensive programme of research to ensure we have a robust evidence base to inform our regulatory decisions.
78. During 2013/14, we will continue to consult our Research Strategy Group (RSG), which comprises a mixture of LSB non-executives, colleagues, academics and representatives from regulators and professional bodies. The RSG is vital to informing our understanding of the research and evidence gathering plans of 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. We will continue to seek to close gaps where we find them in the existing evidence base held by approved regulators through continued joint working with third parties.
79. In particular, we will be seeking to enhance the role played by jointly funded research projects in our research programme, whilst also ensuring that no conflicts of interest that might threaten the reality or perception of independence in research findings arise.

Why this work matters

80. Robust independent evidence is essential for the development of effective regulatory policy.

What we will do

81. This year we will be considering potential research projects in the following areas, and possibly others added as a result of consultation, where possible seeking funding partners:

Title	Description	Work supported	Source
Cost and complexity of regulation	Case studies to look at costs and benefits of individual aspects of regulation	Regulator performance and oversight	Probable mixture of In-house and external expertise
Public access to the Bar	Improve understanding of the role that public access plays and the clients served	Regulator performance and oversight Statutory decision-making	External commission ideally with a Bar funding partner

Client communications	Potentially through a random control trial, we would like to explore how best to deliver client communications	Regulatory performance and oversight	External commission ideally with a partner such as a regulator or the Legal Ombudsman
General legal advice	Testing the risks of general legal advice	Scope of regulation	External commission
Best practice in diversity	Research and highlight best practice in supporting the legal careers of women and BME lawyers	Workforce development Diversity	External commission ideally with funding partners
Understanding equal pay	Updating the evidence and analysis on the existence of pay gaps in the legal sector	Workforce development and diversity	External commission ideally with funding partners
Mapping the unregulated market	Following on from our work on high-street solicitors, work to benchmark in more detail the provision of legal services in the unregulated market. Due to the size and complexity of this sector of the market, we are likely to focus on a specific segment.	Evaluation	External commission ideally with funding partners
Consumer experiences of 'DIY law'	Depth exploration of consumers' experiences of self-help tools and whether their desired outcomes were delivered.	Evaluation	External commission with Legal Services Consumer Panel and ideally other partners such as the Legal Ombudsman

82. We acknowledge that this programme is ambitious for a budget of £250,000 and it can only be delivered in its entirety if funding is shared with partners. We would welcome the opportunity to talk to potential research partners with an interest in working with the LSB on research in 2013/14, or from those who may already be planning to do work of this nature. The greater degree of external funding we are able to secure, the more value we will be able to deliver from our research budget and indeed, there may be some limited scope for budget reduction. We will publish a final research plan in April 2013, informed by responses to this consultation.

Strategy development and research milestones by quarter

Activity	Milestone / Output
Reviewing the scope of regulation	
Will writing, probate activity and estate administration	Q1 Lord Chancellor decision on recommendations for will-writing and estate administration Q1-4 Pending positive Lord Chancellor decision, work with MoJ to take forward proposals
General legal advice	Q3 Publication of discussion document
Developing a changing workforce for a changing market	
Education and training	Q1-4 Support and challenge the regulators as they take forward the recommendations of the review Q2 Consider publishing policy criteria for education and training in light of initial views on way ahead from regulators
Diversity	Q1 Review of regulators' implementation of action plans Q1-4 Review the regulators' analysis of the first year's data to: <ul style="list-style-type: none"> • produce a benchmark for future years • identify any specific areas for policy development including any specific issues with the data and/or its collection • work with regulators to improve collection in future years Q4 Carry out research into best practice by legal entities to promote a positive approach to diversity
Comparison websites	Q3 Revisit actions with regulators
Cost and complexity of regulation	
Analyse whether the current framework's regulatory complexity, inconsistencies and gaps present structural barriers to better regulation, lead to sub-optimal consumer and regulatory outcomes, and prevent appropriate de-regulation	Q1 Publication of work programme Q1-4 Analysis Q3 Initial report
Research	
Evaluation	Q3 Publish second full evaluation report
Evidence	Q1 Publish Research Plan

Aims for this work

Scope of regulation

83. We recognise that our work on the scope of regulation is likely to take longer to impact on the regulatory objectives than in many other areas. Even so, our work has already identified problems with the way that existing regulation currently provides quality assurance. This will start to be addressed over the coming year. In the longer term, a better targeted regulatory system can be expected to ensure that unnecessary regulatory burdens do not raise the cost of legal advice to consumers or restrict competition in the market, and seek to ensure that all consumers are adequately protected when they purchase legal services, increasing confidence in the legal market and increasing access to justice.

Workforce development

84. This work is designed to encourage the development of a flexible training system linked to clear risks and the regulatory objectives. This greater flexibility, and the stripping away of unnecessary rules, will support the legal market in becoming more dynamic, more diverse and better able to meet the needs of consumers. Equally, the effective, transparent publication of diversity data by legal firms will allow the comparison of firms' performance across a range of diversity characteristics for the first time, helping regulators to target regulatory action accordingly.

Research

85. Our research is designed to inform both the development and assessment of our regulatory policy and support our evaluation of the impact of reforms to the regulation of legal services. Our planned projects, such as testing the risks arising in general advice, will input directly into the scope of regulation project. It will help us identify the scale of any risks present and inform our analysis of the most appropriate response. Our evaluation work will continue to track changes in the legal market providing an early warning of significant changes and any problems that may occur.

C: Statutory decision making

Overview

86. The LSB has a range of statutory decision-making responsibilities. Some are ad hoc, in response to requests from the regulators and others, and some are recurring; we want to ensure that this work is consistent with, and supports, all our other activities
87. Ad-hoc decisions include applications for designation for reserved legal activities and proposals by approved regulators to change their regulatory arrangements.
88. Recurring work includes:
 - approving the annual practising certificate fees set by each approved regulator
 - assessing evidence that the regulatory arms of approved regulators and licensing authorities are acting independently of representative interests
 - approving the annual budget for the OLC
 - approving the annual budget for the SDT
 - recouping our costs, and those of the OLC, through the statutory levy on approved regulators.

Why this work matters

89. Approving new designations and changes to regulatory arrangements is a key part of our statutory role. We need to ensure that in exercising our statutory decision making powers we act in a way that is consistent with our work on regulatory effectiveness; this will support the work that regulators are doing to improve the standards of regulation.
90. For new entrants and new designations, we ensure that their regulatory arrangements meet the four constituent parts of regulation by being outcomes focused; informed by risk; apply proportionate supervision; and deploy effective enforcement. We also review capacity and capability and consider these aspects when assessing applications to change regulatory arrangements.
91. Our regular annual work also contributes to the LSB's wider programme and to meeting our regulatory objectives. For example, our work on practicing certificate fee approval contributes to a better understanding of the costs of regulation and the annual review of Internal Governance Rules compliance aims to give further confidence that the regulatory arms of the approved regulators do in fact act independently of the representative arms and the profession as a whole.

What we will do

92. We expect to have to consider the following applications within statutory or agreed timeframes (as applicable):

- from existing approved regulators and licensing authorities to extend the range of reserved legal activities for which they are designated
 - from new entrants seeking designation for the first time
 - for changes to regulatory arrangements
 - from all approved regulators and licensing authorities to approve their practising certificate fees
 - from the SDT and OLC to approve their budgets.
93. For 2013/14, our assessment of regulatory independence will continue to be based on a dual certification, targeted at specific issues for each applicable approved regulator. Through this, we will be able to identify and address any concerns about a regulator's independence from representative interests defined widely, ie both the representative arm of any applicable approved regulator and wider professional interests.
94. In all of these areas of work, we will keep our own rules and processes under review to ensure that they keep pace with, and contribute to, our wider work on regulatory effectiveness. This will include further refinement of our approach to assessing regulatory independence for the longer term. We will consider whether to publish a discussion document on our future approach to independence during 2013/14.

Reviewing the levy

Overview

95. When making the Levy Rules in 2010, the Board gave a commitment to review the methodology used to collect the amounts due for both the LSB and OLC.
96. This recognised that, at that time, there was insufficient data to provide an alternative to the then preferred apportionment methods of 'per authorised person' for LSB costs and based on 'an average of three years complaints data from approved regulators ending on 31 December 2009' (the last full year before OLC began its operations) for OLC costs.

Why this work matters

97. The Act at s173 (3) states that 'Before making rules under this section, the Board must satisfy itself that the apportionment of the levy as between different leviable bodies will be in accordance with fair principles'. We believe that these principles should be consistent with the principles of better regulation and the apportionment of the levy should therefore be transparent, accountable, proportionate, consistent and targeted.
98. In 2010 there was general agreement that the apportionment methods for LSB and OLC were the 'best available' in the absence of any other reliable data. The Legal Ombudsman Scheme has now been operating since 6 October 2010 and 2013/14 is an appropriate time to revisit both apportionment methods. This is to ensure that the

methodology continues to comply with ‘fair principles’.

99. As new regulators are designated, we also need to ensure that any revised methodologies also capture their share of both LSB and OLC costs, both as they enter the regulatory system and on an ongoing basis.

What we will do

100. We will explore with all existing approved regulators and other stakeholders whether there are better alternative methodologies which will meet the criteria of ‘fair principles’, after which we will conduct a formal consultation.
101. Following an analysis of the consultation responses, we will make recommendations to the Board to retain or alter the existing levy rules. If alteration is proposed, we will compile an appropriate Statutory Instrument for submission to the Lord Chancellor in accordance with s173 (4) for consent and subsequent laying in Parliament.
102. We will aim for any new rules to be effective from the 2014/15 financial year.

Statutory decision making by quarter

Activity	Milestone / Output
Statutory decision making	
Internal governance rules	Q1 Receive signed dual certificates
SDT budget	Q3 Assess budget application
OLC budget	Q4 Assess budget application
Practising certificate fees	Q2 and Q3 assess applications
Reviewing the Levy	
Information gathering Consultation Agree new rules	Q2 Informal meetings with regulators Q3 Prepare and publish proposals for consultation Q1 14/15 Produce updated rules in light of consultation for Board approval and Lord Chancellor consent (including draft SI)

Aims for this work

103. Through our statutory decisions work we will ensure that approved regulators and licensing authorities continue to develop regulatory arrangements that are outcomes focused and reflect the risks in the legal services areas in which they operate. The work on new designations - from either existing approved regulators and licensing authorities or new entrants - will contribute to greater competition in the provision of legal services while ensuring that there are appropriate arrangements for the protection of consumers and the wider public interest.

Delivering our Plan

Budget

104. The table below shows our proposed budget for 2013/14. Based on our planning assumptions we are again proposing a budget reduction.

105. Figures for 2014/15 and 2015/16 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 deliver value for money.

LSB budget for 2013/14 and predicted budget for 2014-16 (£000)

	Operational budget 2013/14	Operational budget 2014/15	Operational budget 2015/16
Staff	2,585	2,585	2,585
Accommodation	610	589	589
Research and professional services	250	250	240
IT/facilities/finance	245	240	230
LSB Board	194	194	194
Consumer Panel	41	41	41
Office costs	101	100	91
Depreciation	90	59	50
Governance and support services	72	80	70
Legal reference/support	84	90	90
TOTAL excl OLC Board	4,272	4,228	4,180
OLC Board	176	170	168
Total inc OLC Board	4,448	4,398	4,348

Budget assumptions

106. Based on the current staffing complement, approximately 90% of the planned running budget of the LSB will be made up of 'fixed' costs (Board, OLC Board, staffing, accommodation, depreciation and outsourced services). The remaining 10% will be accounted for by the research, professional services and office running costs needed to support the LSB's work programme for 2013/14.

107. We will deliver the proposed £50,000 budget reduction by reducing both our staffing and research budgets and absorbing all other increases on non-pay expenditure headings, including for increased levels of activity and the contractual uplifts in our Service Level Agreements with the Competition Commission (CC) for the provision of

IT, finance and facilities support. This could equate to an efficiency gain of 3.5% depending on the final CC increases.

108. The budget is also based on an assumption that the LSB will stay in its current accommodation, with services provided by the CC, for the entire financial year. There is a degree of uncertainty attached to this in light of the pending establishment of the Competition and Markets Authority, which will bring together the CC with the competition and markets functions of the Office of Fair Trading (OFT).
109. Costs will continue to be recouped through the statutory levy on approved regulators.

Supporting our delivery

Our people

110. 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.

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. The Triennial Review suggested that this document may benefit from updating and we await proposals from MoJ.
112. The Board welcomes its duty under the Legal Services Act 2007 to have regard to generally accepted principles of good corporate governance and was pleased by the endorsement of its practices in the Triennial Review. 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 2012 and minor changes were agreed at the November 2012 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
 - 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
- reviewing equality and diversity trends across the organisation
- monitoring and evaluating at a strategic level the impact of employment policies
- reviewing talent management and succession planning
- advising on issues relating to appointment and succession for OLC and Consumer Panel members.

Relationship with the Office for Legal Complaints

115. The LSB has a statutory relationship with the OLC. This includes a responsibility to review its performance in administering the Legal Ombudsman scheme. Members of the two Boards meet on a quarterly basis to review the way in which the OLC Board is overseeing performance and to look at the Ombudsman scheme's key performance indicators. To date, the LSB has not been required to set or direct performance targets.

116. The LSB may also require the OLC to report to it on any specified matter. To date only one request of this type has been made of the OLC. In 2013/14, we will:

- continue to review the OLC's performance
- approve the OLC's budget
- appoint a new Chair and members of the OLC when current terms expire.

117. More generally, we work to encourage effective joint working between the Legal Ombudsman and regulators to ensure that both operational work and policy development activities of each organisation are informed by the perspectives and experiences of the other. This is clearly important in relation to complaints issues directly, but is of far wider application. We would like to see improved data sharing and transparency from all parties to help underpin these relationships.

Risk and information management

118. We are committed to robust risk management across all of our activities whether regulatory or operational. In November 2012, our risk management framework was reviewed and minor changes were made to reflect ongoing changes in the organisation. 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.

119. One area where we work hard to avoid both regulatory and operational risk arising is information management. All of our work is underpinned by the evidence we gather,

the information we hold and the decisions we make. This information must be managed well to ensure we make sound decisions and are able to fulfil our statutory obligations under both freedom of information and data protection legislation.

120. Work conducted by our internal auditors on our IT security, data privacy policies and business continuity planning, and an advisory visit by the Information Commissioner's Office both provided assurance that the LSB's information risk and assurance policies were broadly robust and in line with prevailing best practice. We do however have some work to do to embed those policies more fully into practice and will be revising our procedures during 2013/14, whilst continuing to comply with our statutory responsibilities.

Corporate services

121. 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 CC. Our human resource 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 a competitive tender process which is currently being refreshed. 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 will keep these arrangements under continuous review to ensure that they remain the most appropriate way of securing value for money.

Measuring our performance

Finance process performance

122. 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

123. We aim to acknowledge and to respond fully to freedom of information requests within 3 and 15 working days, respectively, on average. The statutory maximum for responding is 20 working days and our current average is 7.5 working days.
124. We aim to acknowledge and to respond fully to data protection subject access requests within respectively 3 and 20 working days on average. The statutory maximum for responding is 40 calendar days.

Statutory decision performance targets

	Change to regulatory arrangement	New approved regulator designation or additional 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"> • Decision; • Extension; • Warning; and • Refusal to consider; 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.

Responding to this consultation

125. We welcome views and comments on all aspects of our draft Business Plan by 12 pm on **Monday 4 March 2013**.

126. We would prefer to receive responses electronically (in Microsoft Word format), but hard copy responses by post or fax are also welcome. We are also keen to engage in other ways and we would welcome contact with anyone with an interest in the work proposed in this draft Business Plan during the consultation period.

127. Responses should be sent to:

Email: consultations@legalservicesboard.org.uk

Post: Michelle Jacobs
Legal Services Board,
7th Floor,
Victoria House,
Southampton Row,
London
WC1B 4AD

Fax: 020 7271 0051

128. We intend to publish all responses to this consultation on our website unless a respondent explicitly requests that a specific part of the response, or its entirety, should be kept confidential. We will record the identity of the respondent and the fact that they have submitted a confidential response in our summary of responses.

129. If you want to discuss any aspect of this consultation, or need advice on how to respond, please contact the LSB by telephone (020 7271 0050) or by one of the methods described above.

130. We will consider all responses to this consultation and will publish the final Business Plan for 2013/14 in April 2013.

Complaints

131. Complaints or queries about the LSB's consultation process should be directed to Michelle Jacobs, Consultation Co-ordinator, at the following address:

Michelle Jacobs
Legal Services Board
7th Floor
Victoria House
Southampton Row
London WC1B 4AD

Or by e-mail to: michelle.jacobs@legalservicesboard.org.uk

Annex 1 - Interim report on equality objectives for 2012/13

1. The Equality Act 2010 consolidated and harmonised all previous equalities legislation in England, Scotland and Wales. It places an equality duty on public bodies and others carrying out public functions and covers the protected characteristics of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
2. The public sector equality duty (section 149 of the Act) came into force on 5 April 2011. It supports good decision-making by ensuring public bodies consider how different people will be affected by their activities, helping them to deliver policies and services which are efficient, effective, accessible to all and meet different people's needs. Specifically, in our work we must have due regard to the need to:
 - eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
 - advance equality of opportunity between people who share a protected characteristic and people who do not share it
 - foster good relations between people who share a protected characteristic and people who do not share it.
3. We are also subject to specific duties, set out in regulations that came into force on 10 September 2011, which require public bodies to publish relevant, proportionate information demonstrating compliance with the equality duty; and to set specific, measurable equality objectives.
4. The LSB provided its first report on compliance with the general equality duty in December 2011 and consulted on proposed equality objectives for 2012/13 at the same time. We confirmed our objectives for 2012/13 in April 2012 and included these in our Business Plan.
5. This annex describes what we have done to comply with our equality responsibilities in the eight months of financial year 2012/13. A full report will be published alongside our Annual Report for 2012/13 (due to be published June 2013). By delivering our objectives we aim to demonstrate our ongoing efforts to deliver our responsibilities. We have a firm organisational commitment to integrate diversity and equality into our work and organisational culture.

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
- continuing to engage with approved regulators and others on how best to enhance a more diverse workforce across the legal sector.

Progress

6. The LSB firmly believes that the legal workforce needs to reflect better the communities that it serves. We have conducted research⁶ that identified significant challenges facing diversity in the workforce. Based on those findings, we have made clear that we expect the approved regulators to evaluate their diversity initiatives, assess their effectiveness, and share learning points.
7. In July 2011, we issued guidance⁷ to the approved regulators introducing new transparency duties at firm and chambers level to monitor and publish diversity statistics. This initiative is designed to create a commercial incentive to take action to widen access and support progression and retention.
8. In 2012, we received action plans from each regulator as to how they intended to meet the requirements of our guidance and we assessed those plans. All of our assessments, and the corresponding action plans can be found on our website at http://www.legalservicesboard.org.uk/Projects/workforce_development/index.htm.
9. We maintained our engagement with key groups including the Government's Gateways to the Professions Collaborative Forum and Social Mobility Business Compact.

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
- 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.

Progress

10. In 2012, we launched a new resource⁸ for all with an interest in research into legal services. These new pages on our website contain not only all evidence and data commissioned by the LSB, but links to all publicly available data and research we have been able to identify. Wherever possible we have included links to raw data sets so that researchers and others with an interest in the demand and supply of legal services can undertake their own analysis.
11. This is an invaluable resource and informs all impact analysis, including equality impact analysis that is undertaken by the LSB. In 2012, we have so far produced

⁶ <http://research.legalservicesboard.org.uk/reports/diversity-of-the-legal-profession/>

⁷ http://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/diversity_guidance_final.pdf

⁸ <http://research.legalservicesboard.org.uk/>

formal equality analysis for two policy areas – our statutory investigation into the regulation of will-writing, probate and estate administration services, and the regulation of special bodies.

12. We expect the review of our internal ‘consumer toolkit’ to take place in Q4 of 2012/13.
13. Our engagement with a diverse range of groups and organisations continues both proactively – as we seek opportunities to discuss our developing thinking and learn about emerging concerns and challenges – and reactively – when we receive responses to consultations or queries about issues affecting legal services providers or consumers, particularly those from vulnerable groups. This work is enhanced by the work programme of the Legal Services Consumer Panel who, in 2012, have just started a joint research exercise with the LSB and Mencap to look into issues facing people with learning disabilities as they seek legal advice.

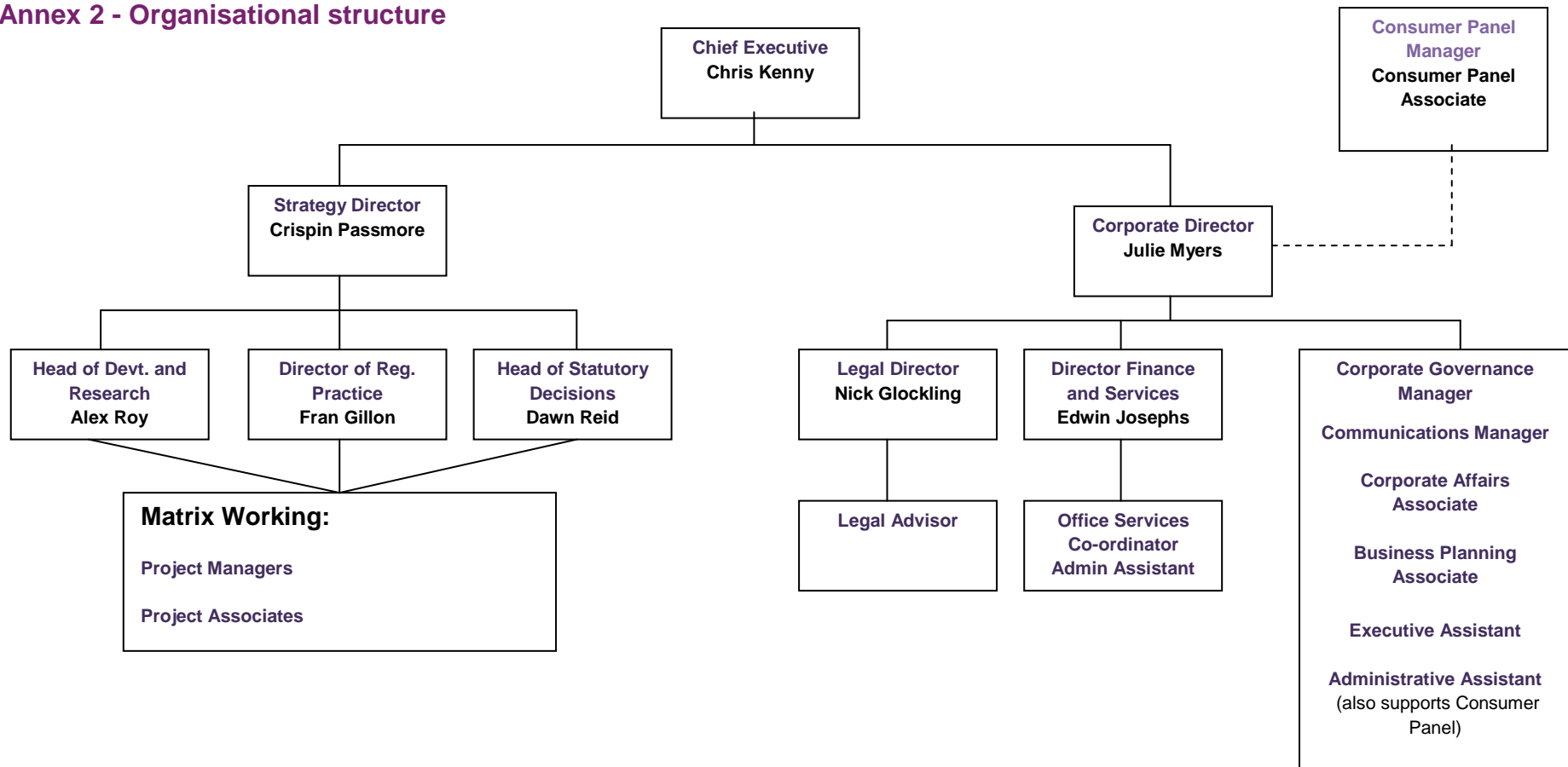
Objective 3: To ensure that the LSB’s own practices and policies, including its internal staff and external stakeholder engagement focus on equality and diversity issues, and are examples of the approach we promote to others. We will do this by:

- 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
- applying recruitment processes that are in line with our Equality Duty.

Progress

14. Our default mechanism for making our information and publications available is electronic and we publish all of our documents, data and papers on our website in PDF format (CSV and Excel for data). To date in 2012, we have not received any request for information in alternative formats, nor needed to correspond with a member of the public using anything other than the telephone, email or written correspondence. In Q4 of 2012/13, we will look at whether we can improve the way we make clear to those interested in our work that we can make any necessary adjustments to our communication methods, and make sure that we have appropriate arrangements in place for when we receive such requests.
15. In June 2012, we conducted a diversity survey of our non-executives, including Consumer Panel members, and staff and published this on our website. This used the model diversity questionnaire that we developed for use by regulators and their regulated communities. As such, it addressed a wide range of protected characteristics and social mobility.
16. We continued to make a commitment to diversity an important consideration in our procurement – primarily in tendering for research providers – and, in the small number of recruitment competitions run, we stressed the need to secure a diverse range of candidates from our recruitment partners and conducted diversity monitoring.

Annex 2 - Organisational structure



Annex 3 - 2013/14 milestones

Quarter 1 Workstream April - June		Quarter 2 Workstream July - September	
Special bodies: Issue draft guidance on regulation for licensing authorities	A	Immigration: Review qualifying regulators' progress to achieving outcomes for customers	A
Licensable bodies: Work with regulators to understand how those they regulate will be affected by ending transitional protections	A	First-tier complaints: Review reports from CLC, CLSB, IPReg, IPS and Master of Faculties on progress	A
Lord Chancellor decision on recommendations for will-writing, estate administration and probate activities	B	Will-writing: Pending positive Lord Chancellor decision, work with MoJ to take forward proposals	B
Diversity: Publish review of regulator implementation of action plans	B	Consider publishing policy criteria for education and training in light of initial views from regulators	B
Publish work programme in regards to the cost and complexity of regulation	B	Review regulators' analysis of year one diversity data to produce a benchmark for future years analysis	B
Publish Research Plan	B	Identify any specific issues for development from diversity data and/or collection	B
Independence: Receive dual certifications	C	Assess practising certificate fee applications	C
		Levy: Meetings with regulators	C

Quarter 3 Workstream October - December		Quarter 4 Workstream January - March	
Special bodies: Consider rule change and designation applications	A/C	Sanctions and appeals: Publish discussion document identifying options for change	A
Will-writing: Pending positive Lord Chancellor decision, work with MoJ to take forward proposals	B	Special bodies: Consider rule change and designation applications	A/C
General legal advice: Publish discussion document	B	Will-writing: Pending positive Lord Chancellor decision, work with MoJ to take forward proposals	B
Review regulators' analysis of year one diversity data to produce a benchmark for future years analysis	B	Identify any specific issues for development from diversity data and/or collection	B
Identify any specific issues for development from diversity data and/or collection	B	Carry out research into best practice by legal entities to promote a positive approach to diversity	B
Revisit actions with regulators in regards to comparison websites	B	Assess OLC budget application	C
Publish initial report on the cost and complexity of legal regulation	B		
Publish second full Evaluation Report	B		
Assess SDT budget application	C		
Assess practising certificate fee applications	C		
Prepare and publish levy rules consultation	C		