



Putting consumer and
public interests at the heart
of legal services regulation

Final Business Plan
2011/12



Our regulatory objectives and the professional principles

Section 1 of the Legal Services Act 2007 sets out a very 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 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 also gives the LSB a duty to assist in the maintenance and development of standards of regulatory practice and the education and training of lawyers.



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Introduction

When the Legal Services Board (LSB) began operating, we set out an ambitious three-year plan for the first-stage of the reform programme for legal services in England and Wales. We highlighted three core priorities: embedding independent regulation, opening up the market and establishing a new complaints-handling regime. The 2011/12 period represents the final stage of that three-year plan and marks a year of transition as we move to the next phase of the reforms.

Core priorities

Ensuring independent regulation remains an urgent priority for the Board. It is of fundamental importance if we are to deliver public confidence in regulation - all of the other reforms rely on it.

It also drives our own way of working. The more that approved regulators deliver effective and independent regulation themselves, the less we will need to intervene directly. In 2011/12, we will continue to work to ensure that compliance with our Internal Governance Rules (IGRs) happens in practice as well as in aspiration. The approved regulators have laid firm foundations: we start the year with a good base for further progress.

We will see the first Alternative Business Structures (ABS) begin trading this year. We are already processing applications to allow the Solicitors Regulation Authority (SRA) and Council for Licensed Conveyancers (CLC) to become Licensing Authorities (LAs) for ABS. The emergence of new types of legal business will open up the market for consumers and practitioners alike. That is not a basis for short-term gimmicks this autumn, but for long-term transformation of the market. We will continue to make sure a robust regime for consumer protection is in place. This, alongside firm, fast and fair enforcement action, is a crucial component of outcomes-focused regulation, an approach we are pleased to see a number of the approved regulators are taking on board.

We are already starting to see the impact of the new approach to resolving complaints in the legal sector through the work of the Legal Ombudsman Scheme. This provides access for consumers and practitioners to a free, impartial and speedy dispute-resolution service. We will be looking to ensure that the Ombudsman continues to make its important contribution to the development of the legal

services market and to work with approved regulators to make sure lawyers improve their own complaints-handling performance.

The year ahead

Three years in, we are now better able to appreciate the flow of our work. We can increasingly see that it falls into three broad groupings: mandatory decision-making; developing regulatory standards; and anticipating the regulatory implications from market developments.

Our work to approve changes to approved regulators' regulatory arrangements – including recommending designation of approved regulator status for new bodies, and changes to reserved legal activities – is core. We have built processes that ensure proper consideration, before delivering speedy decisions in a way that is transparent to all those who have an interest as well as to the wider public. Initial feedback on these processes from partners has been positive but we want to maintain and improve our performance and so we have set demanding targets for ourselves and against which we can be held to account,

There can also be no doubt that we would be failing in our duty as a regulator with oversight responsibilities if we did not also ensure that regulation in the sector acts as a vehicle to protect and promote the interests of consumers and the public and improve their experience. During the year ahead we will be investigating in detail, a small number of areas where there appears to be scope for either regulatory improvement or an emerging risk of consumer detriment. This includes consideration of the regulatory approach to will-writing where some approved regulators, and others, have suggested that our scrutiny is essential. We will also work to develop a more coherent approach to maintaining and developing regulatory standards, starting with a consultation issued in parallel with this plan. We believe that common understanding of the core components of regulation for legal services will challenge and enhance approved regulators' own performance and so mitigate against a more interventionist or directive LSB.

Finally, we need to make sure that we keep our heads above the detail, but not in the clouds. It is far too easy to become immersed in live issues and to risk either

missing the early warning signals of troubles ahead or emerging opportunities. As such, our work to anticipate the needs of the workforce of the future, the development of measures to recognise quality and to identify where the strangely defined scope of the regulatory system may inadvertently hinder consumer protection is vital.

Our research and evidence-gathering activities are an important part of this work. We committed to be, at all times, an evidence-led regulator – even in circumstances where the conclusions driven by the evidence are unpopular. As such, we make no apologies for investing in research. It is simply crucial given the enormous data gaps across the sector, particularly in areas such as the economic rationale for regulation and on workforce and diversity issues. Creating new partnerships with academics and other researchers in a range of disciplines, both nationally and internationally, must be an essential task for regulators in filling those evidence gaps.

Partnership is key

The model of oversight regulation anticipated by the Act demands strong partnerships between the LSB and the approved regulators. Delivering the reform agenda depends on the effectiveness of the frontline regulators in leading work across each respective arm of the profession. Strong partnership working will continue but it is not an end in itself: it is the most effective way of underpinning better outcomes.

But, we would be remiss if we limited our partnership working only to approved regulators. We have already, and intend to continue to build our links with others who have keen and legitimate interests in a vibrant, internationally competitive legal services market for England and Wales. Where clear alignment with Government's policy interests occur, we will be pro-active in contributing evidence and thinking.

It is in this spirit that we will participate in the consultation led by the Department for Business, Innovation and Skills concerning representation for consumers in policy-making – underlining the value we attach to ensuring that the contribution made by the Legal Services Consumer Panel ('the Consumer Panel') and other consumer bodies be maintained.



David Edmonds

David Edmonds Chairman

Our work in will-writing provides another excellent example of where our interests in achieving better results for consumers align with the Office of Fair Trading and we look forward to continuing to work closely with them. Finally, the Consumer Panel will publish its own work-plan in April. We have indicated throughout this Plan where we intend to ask for specific Panel advice, notably whether consumer protection requirements may differ in relation to services provided by not for profit bodies. The Panel are an integral part of our regulatory approach and we welcome their active and challenging contributions.

Our resources

We are maintaining our budget for 2011/12 at the same level as for 2010/11. This is despite undertaking an additional tranche of work related to immigration advice, the increase in VAT on goods and services, retail inflation and the additional 1% employers national insurance increase. In addition, we are under pressure from increases to our contractual services and general running costs, but we are pleased to confirm that costs to our levy payers will not increase this year. We will, of course, constantly scrutinise our ways of working and seek to operate as efficiently and effectively as we can so that we can continue to provide not only excellent value for money to our levy payers but also transparency on how their funds are spent.

The transition year

We now find ourselves in the closing stages of this initial tranche of reforms. The major feature of work so far has been to modernise the institutions and machinery of regulation to bring it up to date with a fast-changing market. Alongside this, we have updated the approach to focus on outcomes and better assess risk. This business plan sets out the final steps of the initial three-year plan, bringing to a close the capacity-building stage for regulation. The impact will be a reshaped institutional landscape which provides a powerful foundation both for consumer confidence and for the next stage of the reforms.



Chris Kenny

Chris Kenny Chief Executive

Section 1: The regulatory context

Overview

1. The LSB is the independent body responsible for overseeing the regulation of legal services in England and Wales.
2. Our goal is simple and clear – to reform and modernise the legal services market-place in the interests of consumers, enhancing quality, ensuring value for money and improving access to justice across England and Wales.
3. Funded by, but wholly independent of, the legal profession our three major priorities are:
 - assuring the public about the rigour and independence of legal regulation by ensuring a common baseline of regulatory competence, learning lessons from other sectors and maintaining clear independence from both government and professional interests;
 - better consumer redress when things go wrong through a new independent ombudsman for complaints, ensuring fair, effective and rapid dispute resolution for everybody concerned;
 - giving consumers more choice and lawyers new business opportunities by opening up the market and increasing competition to allow new types of legal business to emerge.
4. These remain our core priorities for the final year of our three-year strategic planning cycle and we now move to consider the regulatory consequences that flow from them. This means we need to consider the skills, distribution and make-up of the legal workforce that the changing market-place is going to need. We must address the scope and remit of regulation as the structure and nature of service delivery changes. And we must ensure that service users of all kinds are able to make judgements about quality of service provision as the range of providers open to them diversifies.

Approved regulators

5. We oversee eight approved regulators who themselves are required to ensure independent regulation of the eight branches of the legal profession. These are:
 - The Law Society, who through the Solicitors Regulation Authority (SRA) regulate 112,246 practicing solicitors¹;
 - The General Council of the Bar, who through the Bar Standards Board (BSB) regulate the 16,455 practicing barristers²;
 - The Institute of Legal Executives (ILEX), who through ILEX Professional Standards regulate 7,500 practicing fellows³;
 - The Council for Licensed Conveyancers (CLC) who regulate 989 practicing licensed conveyancers⁴;
 - The Chartered Institute of Patent Attorneys (CIPA), who through the Intellectual Property Regulation Board (IPReg) regulate 1,817 practicing chartered patent attorneys⁵;
 - The Institute of Trade Mark Attorneys (ITMA), who through the Intellectual Property Regulation Board (IPReg) regulate 794 practicing trade mark attorneys⁶;
 - The Association of Costs Lawyers (ACL), who through the Costs Lawyer Standards Board (CLSB) regulate 246 practicing costs lawyers⁷;
 - The Master of the Faculties who regulates 827⁸ notaries.
6. In addition, from 1 January 2010, two further professional bodies from outside the traditional legal services sector were designated formally as approved regulators for reserved probate activities⁹:
 - Institute of Chartered Accountants in Scotland (ICAS);
 - Association of Chartered Certified Accountants (ACCA).

7. The Act also allows new bodies to apply to the LSB to become approved regulators.

Our approach

8. Our starting point in approaching regulation is as follows:
- The Legal Services Act 2007 sets out clear regulatory objectives. These objectives will provide a strategic underpinning for all of the work of the LSB and we will always map our proposals back to them. Our approach to the regulatory objectives was set out in a document published in July 2010 “The regulatory objectives”¹⁰.
 - The better regulation principles are enshrined within the Act – so our activities will always be transparent, accountable, proportionate, consistent and targeted.
 - We expect that the approved regulators will act in accordance with the regulatory objectives and better regulation principles, as required by the Act, limiting the need for us to use either our direct regulatory or enforcement powers, and reducing to a minimum any requirement for us to duplicate work undertaken competently by others. However, we will not hesitate to do what is necessary, should the need arise.
 - We will set out the anticipated impact on consumers and the professions of alternative regulatory options in our consultation papers and seek views from others about whether we have made the right assessment.
 - We will work with approved regulators to identify risks and manage them as we open up the legal services market. This means less of a focus on prescriptive rules that apply to everyone, and greater supervision of lawyers and business that present risks to specified outcomes. We expect that approach to apply both to our activities and to the approach of the approved regulators.
 - We will continue to develop strong working relationships with key stakeholders including the Ministry of Justice (MoJ), the approved regulators, citizen and consumer groups, the professions, firms and partnerships across the sector, potential

new entrants to the market, other regulators and redress providers and the academic community.

- Above all, the public interest will guide us in our work. Our touchstone will be what works best for the citizen and the consumer, (including small business and corporate clients), not any particular interest group.

Evaluating our impact

9. We will evaluate our overall performance at three levels:
- monitoring and evaluating our delivery of our ‘business as usual’ tasks;
 - evaluating our delivery of a change in regulatory best practice through regulatory actions;
 - evaluating our effectiveness in delivering long-term market change.

Day to day effectiveness

10. On page 32 and 33 we describe the timescales we have agreed we will work to in:
- performing our role in “regulatory decisions”;
 - responding to freedom of information and data protection requests; and
 - paying our suppliers.

11. In addition to setting ourselves challenging timescales, we will review the quality of the work undertaken and keep under constant review the decision-making processes.

areas of concern. We describe the process we will use to evaluate long-term market change in the LSB's Evaluation Framework. We expect to publish our first evaluation in Q4 2011/12.

Evaluating the development of regulatory standards

12. The changes that we are seeking to promote in legal services regulation are more difficult to measure. We want to change the client experience in the legal services market by changing regulatory culture as much as the processes themselves. This includes moving away from a reactive rules-based regulatory framework to an outcomes-focused approach, backed by hard-nosed risk assessment. These changes have already started to occur. We now need to track their actual impact. Specific key performance indicators may have some role in some of these areas, but are likely to tell only part of the story.
13. Given the complex nature of these changes, we will carry out a series of reviews to evaluate in detail the effectiveness of specific aspects of the changes. These reviews will include:
- a review of first-tier complaints-handling;
 - implementation of regulatory independence;
 - appeals mechanisms;
 - conveyancing; and
 - immigration.

Evaluating long-term market change

14. We will carry out a triennial evaluation of the market reforms brought about by the Legal Services Act 2007 in the form of a report on the legal market. Data will be collected from a number of different sources both LSB and external. We will then look to distinguish our role in delivering the changes seen by the market. Inevitably, this analysis will be challenging. We propose to draw together the data, provide conclusions where possible and highlight

Notes

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- 1 <http://www.lawsociety.org.uk/documents/downloads/ls-report-accounts08.pdf> as at March 2009
 - 2 <http://www.barcouncil.org.uk/assets/documents/Annual%20Report%202008%20-%20Final.pdf> as at December 2008
 - 3 http://www.ilex.org.uk/media/facts_figures_for_the_media.aspx
 - 4 http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/levy_consultation_paper_merged_final_080710.pdf as of 1 April 2009.
 - 5 Register of Patent Attorneys, <https://www.cipa.org.uk/members/directory/default.asp?dir=2> as of 18 November 2009
 - 6 http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/levy_consultation_paper_merged_final_080710.pdf as of 1 April 2009.
 - 7 Source: *ibid.*.
 - 8 Source: *ibid.*.
 - 9 At 1 April 2011 neither of these bodies has authorised any member to carry out these activities.
 - 10 http://www.legalservicesboard.org.uk/news_publications/publications/pdf/regulatory_objectives.pdf

Section 2: Work programme 2011/12

Our activities for the year ahead

15. The period 2011/12 represents our third year of operation and our second year with our full regulatory oversight responsibilities. The natural rhythm of our work is now clear and, as the new framework has become better understood by all parties, so our relationships with the professions' regulators have matured and we have been able to draw a better picture of the work that will come our way from them.
16. This means that our Plan for the year ahead has two elements: our core regulatory activities and our strategic initiatives. So in Sections 2A and 2B we outline how we will undertake our day-to-day activities, including our approach to approval of changes to regulatory arrangements, our programme of thematic reviews and our evidence-gathering approach. In Sections 3A-3E we describe the five areas in which we will be undertaking work to deliver our statutory responsibility to assist in the maintenance and development of standards of regulation in the sector and the education and training of lawyers.
17. We have structured our work to maintain momentum towards delivering our vision for the legal services market of the future. As we have stated in our previous Business Plans we want to see:
- Greater competition and innovation in service delivery;
 - Access to justice for all consumers;
 - Empowered consumers, receiving the right quality of service at the right price;
 - An improved customer experience with swift and effective redress when things go wrong;
 - Constantly improving legal professions, as diverse as the community they serve;
 - Clear regulatory structures, which command wide confidence in the public and the market.
18. This vision derives from the regulatory objectives set out in the Act and our work aims to deliver it. The majority of the work described in this Plan represents continuity with work already begun in 2009/10 and 2010/11.
19. For the avoidance of doubt, the loss of a work-stream dedicated to 'putting the consumer and public interest at the heart of regulation' should not be taken to mean we have decided to put that work to one side or that we believe it is complete. Nothing could be further from the truth. Promoting the consumer and the public interest is at the heart of our programme and the Plan's title illustrates that it is an important part of all of our work.

RO1

Protecting and promoting the public interest

RO2

Supporting the constitutional principle of the rule of law

RO3

Improving access to justice

RO4

Protecting and promoting the interests of consumers

RO5

Promoting competition in the provision of services

RO6

Encouraging an independent, strong, diverse and effective legal profession

RO7

Increasing public understanding of the citizen's legal rights and duties

RO8

Promoting and maintaining adherence (by authorised persons) to the professional principles

Section 2A: Developing regulatory standards



Overview

20. We have now built the machinery for oversight regulation including new systems for approving new rules and wider changes to regulatory arrangements, as well as processes for designation and cancellation of approved regulator and Licensing Authority (LA) status. We will continue to deliver these systems efficiently, with appropriate review, alongside our partners across the frontline regulators.
21. We also have a responsibility to ensure that our approach to the regulation of approved regulators is consistent and appropriate. In all of our regulatory work we are mindful of needing to operate in a way that is consistent with the Better Regulation Principles. In particular, we have promoted outcome focused regulation and explained our expectations in terms of supervision.
22. In order to ensure that we maintain a consistent approach, we believe we need to develop a mechanism to give assurance to the Board, the public and the profession, that all of the approved regulators are acting in way that is consistent with the regulatory objectives and better regulation principles. During Q1 2011/12, we will be consulting on a proposed approach to making such an assessment.
23. We will also use thematic reviews to scrutinise areas that appear to present regulatory risk. We may initiate these in response to a range of factors such as market conditions, regulatory capacity, new regulatory functions or to follow up previous regulatory changes.

Why this work matters

24. The Act sets out a clear role for the LSB as the independent oversight regulator, providing assurance of the quality of regulatory outputs in the sector through supervision and monitoring. Section 4 of the Legal Services Act 2007 states that the Board must assist in the development of standards in relation to regulation. In doing so, we must have due regard at all times to better regulation principles and must stay focused on the regulatory objectives laid down by the Act.
25. The modern, more dynamic market needs regulators to do more than maintain a register, create and manage a detailed set of rules and take enforcement action when specific issues come to their attention. Regulators must also understand consumer detriment, and tackle it through risk-based supervision that is focused on good outcomes achieved by acting in the spirit of compliance with the rules rather than box-ticking. We expect to work ever more closely with approved regulators on these practical aspects of their work, as outcome-based regulation spreads in the sector.

Regulatory decisions

26. We now have a full year of experience of handling changes to regulatory arrangements and, we have begun to assess the first applications to extend reserved legal activities. We will build on this experience during 2011/12 to refine the process and act upon lessons including through feedback from partners. A major part of that process will be to work with the approved regulators to develop a better understanding of how they approach changes to regulatory arrangements.

27. The work for 2011/12 is likely to include the following activities:

Approved regulator initiated:

- Process applications for changes to regulatory arrangements
- Process applications to extend reserved legal activities
- Consider LA applications

Core work:

- Processing Practising Certificate Fee applications, ensuring that we and the approved regulators implement actions from our lessons-learned exercise whilst working alongside their budgeting and business planning timetables
- Consideration of the Solicitors Disciplinary Tribunal (SDT) budget and any rule changes
- Consideration of applications from any other bodies that seek approved regulator or LA status

28. The metrics and methods we will use to measure our performance in undertaking these tasks are described on page 31 to 33.

Thematic reviews

29. As an oversight regulator, we need to be able to demonstrate that those that we regulate are effective and are addressing the appropriate risks and issues. Equally, in common with those we regulate, we need to identify and evaluate risks to make sure we target our own resources at the key issues. Regulatory intervention should occur only where there is evidence of consumer detriment and/or actual or potential risks to the wider public interest and other regulatory objectives.
30. During 2011/12 we intend to undertake reviews in a small number of areas where intelligence suggests we may need to respond to risk. As part of determining the need and then the scope of any particular investigation, we will first spend time examining the issue to provide evidence to support the need for a review. There are a number of ways we might do this, including reporting and self-assessment by the approved regulators, reviews of approved regulators' rules, guidance and enforcement activity. In every case, we will work with the approved regulators to make sure we understand how they assess compliance and use their enforcement powers.
31. In addition to the work we propose to do to evaluate effectiveness of our interventions into independence of regulation and effectiveness of first-tier complaint-handling described later in this Plan, we will look in detail at the following areas during 2011/12.

Appeals mechanisms

32. Our experience in developing rules for ABS Licensing Authorities suggests that there is scope for comparative and collaborative work to identify best practice in this area. In particular, we believe that there is scope for exploring greater alignment of appellate bodies. We will explore this during 2011/12 and expect to build on this work as we move towards 2012/13 by extending the review to consider wider disciplinary and enforcement processes across the approved regulators. We recognise that the impact of the establishment of the Legal Ombudsman on approved regulators' processes needs to be understood before we commence this work.

Immigration

33. In view of the transfer of oversight functions to the LSB in respect of immigration advice provided by lawyers authorised by approved regulators, we expect to start to review current arrangements during Q1 (11/12).

Conveyancing

34. A number of conditions suggest strongly that a review of conveyancing is warranted. The SRA's consultancy report on client protection recommends that the SRA undertake a review of the regulation of conveyancing as this area produces the highest number of claims against the various client protection mechanisms. Alongside this, anecdotal evidence suggests that levels of fraud are rising across a number of industries - creating new demands on trade and regulatory bodies including the Financial Services Authority (FSA), Association of British Insurers (ABI), the Council of Mortgage Lenders (CML), the SRA and the CLC.
35. Against this background, it is as yet unclear whether, and if so where, consumer detriment is occurring. Alongside partners, we need to understand the extent to which legal services regulation might be an appropriate vehicle through which to tackle harm and, if so, whether change is needed in either the regulatory framework and/or its application. We will issue a call for evidence to establish the need and likely scope of a detailed review in Q2 (11/12).

Smaller approved regulators

36. We want to understand, engage and support the smaller approved regulators so we can be sure that they have the capacity to deliver regulation that is both compatible with the regulatory objectives and which protects consumers. This is key to ensuring that we are a proportionate regulator, sensitive to particular conditions across the sector. We will be publishing a study into the challenges facing smaller approved regulators in Q1 (11/12). In light of the outcome of debate on this study, we will consider whether and how we need to adjust our regulatory approach. In many respects, this is work that will be addressed across our programme rather than being the focus of a specific review.

Looking ahead*Referral fees*

37. Our response to our 10/11 discussion paper, to be published in May 2011, will consider what, if any, further action is needed. We expect this is likely to lead approved regulators to consider their regulatory arrangements during the remainder of 11/12.

Public legal education

38. Both we, the Legal Ombudsman and the approved regulators share a responsibility to increase public understanding of citizens' rights and duties. This is a major challenge and one that is already the subject to activity by organisations such as PleNET. It is also an area addressed through work by a variety of other organisations such as Citizens Advice, others, others. During 2011/12, we will see the results of the Consumer Panel's investigation into price comparison websites and we will consider the extent to which we can usefully add value to the range of existing initiatives during 2012/13.

Activity	Description	Milestone/output
Regulatory standards	Developing a consistent and proportionate approach to assessing standards of regulation	<p>Q1 (11/12): Consult on proposed approach to assessing standards of regulation</p> <p>Q2 (11/12): Publish decision document and way ahead</p>
Regulatory decisions	Process requests for LSB approvals	<p>Q1/3 (11/12): Consider requests for approval of Practising Certificate Fees as submitted</p> <p>Q1 (11/12): Consider Solicitors Disciplinary Tribunal budget</p> <p>Q4 (11/12): Approve Office for Legal Complaints budget</p> <p>Q1/4 (11/12): Process submissions for approval for changes to regulatory arrangements/extensions of reserved legal activities/approved regulator status/Licensing Authority status as required</p>
Thematic reviews	<p>Appeals mechanisms</p> <p>Immigration</p> <p>Conveyancing</p>	<p>Q1 (11/12): Consultation on scope and process</p> <p>Q2 (11/12): Self-assessment by approved regulators and appellate bodies</p> <p>Q3 (11/12): Findings and recommendations</p> <p>Q1 (11/12): Request for evidence and views on issues</p> <p>Q2 (11/12): Decisions on next steps</p> <p>Q2 (11/12): Request for evidence and views on issues</p> <p>Q3 (11/12): Decisions on next steps</p>

Section 2B: Developing our evidence base



39. Delivery of our Plan relies on a comprehensive programme of research to ensure we have a robust evidence-base to inform our regulatory decision-making. Consultation, Board and Consumer Panel input and seminars with academics and other stakeholders in January 2011 have helped inform our research plans.
40. During 2011/12, we will continue to consult our Research Strategy Group (RSG), which comprises a mixture of LSB non-executives, staff academics and representatives from approved regulators and professional bodies. This Group is vital to informing our understanding of the research and evidence-gathering plans of approved regulators and others. It is through this group that our role as a hub in bringing those involved in researching the legal services market together is crystallised.
41. Alongside our programme of externally commissioned work, we expect to conclude our Regulatory Information Review (RIR) early in 2011/12. We started the RIR to identify all the relevant and available evidence on the legal services market and to identify optimal ways of filling the very many gaps in what is currently available. We have completed the initial review of published evidence and identified more than 500 studies. We will now explore in more detail unpublished research and data held by regulators and professional bodies. Once the data-gathering is complete, we will identify and prioritise gaps that need to be filled. We hope to publish the database so that it can be used by all with an interest in the data.
42. All of this work will help to 'baseline' current legal supply to allow later evaluation, including of the impact of the introduction of ABS. We describe our plans in more detail in Sections 3B and 3E.
43. Our research team also supports the independent Consumer Panel, contributing to the design and management of their research programme as professional advisors. The Panel's work programme for 2011/12 is published separately.
44. But research is only one way in which we gather important information to inform our work. Of no less value are the views we hear expressed to us directly by consumers, by lawyers, by clients of all kinds and indeed by anyone with an interest in the provision of legal services. Whilst inevitably subjective and personal, such views are nevertheless important to us so we can get an impression of the mood of the market.
45. We therefore intend in 2011/12 to continue our occasional programme of seminars out of London, to maintain our commitment to accepting speaking engagements and meeting requests, and to actively reaching out to the quieter and hard to reach voices that nevertheless have things to say that we need to hear. We will also continue with a programme to understand the interests of a variety of third sector organisations in legal services.
46. We will be working with the Consumer Panel to ensure that we continue to understand and reflect the particular needs of the market in Wales.

Section 3A: Ensuring effective redress for consumers



Workstream overview

47. With the Legal Ombudsman now operational, our focus will be to ensure that all stages of complaints resolution, at both provider and Ombudsman level, are effective and that the valuable information that can be gleaned from complaints is collected and used appropriately to ensure a virtuous circle of constant improvement. The LSB is responsible for monitoring the robustness of the OLC's oversight of the Legal Ombudsman scheme. We will do this primarily through assessment of the information we receive from the OLC about the performance of the Legal Ombudsman scheme against our agreed performance management framework.
48. In September 2010, we agreed with the OLC that it would provide us with quarterly information about how the Legal Ombudsman performs in four key areas:
- timeliness – the percentage of complaints within jurisdiction resolved within three months;
 - cost efficiency – the total cost of considering a complaint, calculated by dividing the total cost of the organisation by the number of cases resolved;
 - quality – in relation to timeliness, customer service and accuracy of decision-making; and
 - satisfaction – to be determined using both annual surveys and quarterly research on feedback.
49. Information that we receive from the OLC about performance in these areas will provide us with a clear indication of how the new service is developing and form the basis of firm targets for 2012/13. We expect to see the first full data set from the OLC in July 2011.
50. We will also continue to work to improve systems for first-tier complaints-handling, based on the findings of a qualitative review of approved regulators' arrangements. This will include looking at how approved regulators have used information sources to identify particular and systemic issues that should inform decision-making and, more widely, how they assess consumers' experience of complaints-handling. This allows approved regulators to assess the effectiveness of the regulatory arrangements they have adopted for complaints-handling and to develop action plans where there are gaps and/or areas for improvement. We will generate consumer research to compare with information provided by approved regulators.
- ### Why this work matters
51. A perception of poor complaints-handling by the legal profession was one of the primary drivers for the programme of legislative reform. The system was felt to be bewilderingly complex, difficult for consumers to navigate through and often slow to reach a resolution. In response, a fundamental requirement of the 2007 Act was the establishment of the Legal Ombudsman scheme to make sure that users of legal services have recourse to a single, independent and impartial body to resolve disputes involving their lawyer. As part of the arrangements, approved regulators must ensure legal service providers have effective procedures in place for the resolution of complaints. Together, these initiatives will simplify and rationalise the complaints-handling system.
52. Consumers also need to know about their right to complain and be signposted towards redress mechanisms if their complaints are not resolved. They should feel confident that they will have their complaint dealt with effectively at the first-tier and, if it needs to go further, that it will be resolved impartially by the Legal Ombudsman. Similarly, approved regulators should actively collect and analyse this data to assess the effectiveness of their own complaints framework, and also to help identify broader systemic risks and issues which may call for a regulatory response.
53. System improvements are likely to result in raised levels of consumer satisfaction with legal services as more disputes are settled and clients are retained. We hope to see legal services providers realise that complaints data provides a valuable opportunity

to respond to consumer demand – particularly in relation to gaps in the services offered and standards of customer service – and thus to bring commercial benefits. Ultimately, this has the potential to improve public confidence in the profession and levels of satisfaction with the performance of practitioners. Similarly, regulators should also take use this data to help tackle any specific issues they identify and to develop an evidence base for addressing wider issues.

Research/evidence

54. We will draw extensively on management information from the Legal Ombudsman in relation to all aspects of this agenda. This will be supplemented for

first-tier complaints by consumer research. In Q1 2011/12, we will publish our benchmark assessment of consumer satisfaction. In Q4 2011/12, we will repeat the exercise to provide the first evaluation of complaints-handling by entities. Alongside this we will commission research into best practice across the sector.

55. The findings from Legal Ombudsman customer satisfaction surveys will also provide an important source of information on the effectiveness of, and satisfaction with, complaints resolution at both first and second tier. So will evidence collected by the approved regulators on complaints made against individuals and firms both for service and conduct issues.

Activity	Description	Milestone/output
Research into consumer perceptions of the outcomes that they experience with first-tier complaints-handling	We will research consumer perspectives on their experience of complaints-handling by legal service providers and measure those against approved regulators' self-assessments	Q1 (11/12): Research is completed and published
Review of first-tier complaints-handling regulatory frameworks	Procedural and qualitative review of approved regulators regulatory arrangements and regulatory activity	Q1 (11/12): Process development Q2 (11/12): Consultation with approved regulators and review commenced Q3 (11/12): Review commenced Q4 (11/12): Publish assessment
Monitor Legal Ombudsman performance targets	Data provided quarterly by OLC	Ongoing
Review consumer satisfaction with the Legal Ombudsman process and outcomes	We will work with the Legal Ombudsman on the development of their surveys	Ongoing

The medium-term outcomes that this work will contribute to

56. We wish to see the complaints-resolution system in its entirety developed to such a degree that an objective assessment would conclude that approved regulators are focused on achieving outcomes for consumers, are in full compliance with the Act and have mechanisms in place to learn and apply

lessons from complaints. At practitioner level, complaints should be similarly viewed at the most senior levels as an opportunity to improve the quality of legal services. We would expect that practitioners, having identified and acted on this, will innovate and compete towards developing new ways to address gaps and meet needs.

Section 3B: Widening access to the legal services market



Workstream overview

57. During 2011/12 we will see, first, the emergence of Licensing Authorities (LAs) for ABS and then the first of these new business models opening their doors for trading. The process of dealing with applications to become LAs, which will start in the early part of 2011/12, will be the culmination of two years work in developing the licensing framework and governance rules.
58. Throughout 2010/11 the SRA and the CLC have made progress towards developing licensing rules and the other information about capability needed to assess applications for designation as a LA. We received applications from the SRA and CLC for designation as LAs before the start of this business plan year. This progress has meant that we did not have to consult during 2010 on our own approach to licensing.
59. The Act provides for the LSB to act as “licensing authority of last resort” in the absence of a competent or potentially competent LA to ensure proper assessment and, where appropriate, regulation of a potential ABS entity. During 2010/11, we established a LA Committee to fulfil the functions of the LSB in preparing to act as and in its capacity (if any), as a LA and to deal with any matters that arise in relation to being a LA. The progress made in recent months makes it less likely that this power will have to be used, but we are continuing to consider when and how best to implement the direct licensing requirements in the Act. We will consult on this, as necessary, in the course of 2011/12.
60. We will continue to take forward consideration of designating a single body to hear all legal services appeals, a proposal that has received widespread support. We will do this primarily through our thematic review of appeals mechanisms (see Section 2A). We will separately consult on our approach to the SRA’s proposal to use the SDT as an appellate body in Q1 2011/12.
61. We will continue to build the evidence base on market developments, as well as looking to the future. This will include engagement with both regulators and market participants to get an understanding of the emerging risks, models for organisation and outcomes. Alongside this, we will work with the wider landscape of regulators, including those who may wish to become LAs in the future. Finalising a set of baseline measures for wider monitoring, with indicators on diversity, access to justice and service quality will be key to tracking impact.
62. As part of this, we will increase our levels of engagement with voluntary sector bodies delivering legal and advice services as we look towards the lifting of the transitional protections on special bodies in April 2013.

Why this work matters

63. The introduction of ABS is potentially one of the most transformative developments in the history of legal services provision. It will bring new investment, fresh ideas and new ways of working to the market. A well-regulated dynamic market for legal services will deliver across the regulatory objectives. By removing historical restrictions - whilst replacing them with robust risk-assessment measures focused on outcomes - practitioners will be able to innovate and reshape their offer in ways that were previously not possible. New forms of collaboration and new entrants into the market will increase consumer choice, whilst greater competition will raise standards. Existing law firms will be able to attract new capital – providing a driver for sustainability and growth in difficult economic times.

64. Opening up the market can also have a major impact on widening access to justice at a critical time. Increased levels of supply from new entrants, alongside greater innovation in the way services are packaged and delivered, will create competitive forces that lower prices and widen access. In the current economic climate, and in the context of new pressures on legal aid, this has the potential to have a major impact – particularly for those consumers who, whilst better-off than the threshold for public support, still struggle to afford to engage good-quality legal advice. Competition is more likely to extend the reach of provision in these areas than current restrictive practices will allow.
65. This programme will also contribute to a greater degree of plurality in the market, bringing new working practices and career pathways.

Research evidence

66. We will build on the work that we have done on the impact of allowing ABS. We will publish a baseline assessment of the legal services sector that will allow future developments, including the impact of ABS, to be benchmarked against the position now. Alongside this we will publish a pilot study applying the framework to a particular segment of the market. Later in the year we will apply the framework to other segments of the market giving us a complete picture of the provision of legal services before the introduction of ABS. We are likely to supplement this with further consumer research in Q4 2011/12 to explore changing consumer experiences of legal services as well as drawing on evidence from the Legal Ombudsman and our complaints research.

Activity	Description	Milestone/output
Designation of Licensing Authorities	Processing applications to become Licensing Authorities	Q1 (11/12): Applications for Licensing Authority status are received Q2 (11/12): Begin to issue recommendations for designation decisions
Commencement of Part 5 of the Legal Services Act 2007	Working with the MoJ to ensure that the Orders associated with ABS are made	Q1/2 (11/12): Orders to be made Q3 (11/12): ABS 'go-live'
Designation of an appellate body for ABS appeals	Further development of appeals work	Q2 (11/12): S80 Orders to be made designating appellate bodies for ABS appeals Q3 (11/12): Implementation
Ongoing development of market-readiness and Licensing Authority readiness	Working with the widest possible group of external stakeholders to identify and manage risks and opportunities presented by ABS	Ongoing engagement, particularly through ABS implementation group meetings
Development of policy approach with respect of special bodies	Working with special bodies and their representative groups to ensure they are well placed for the removal of the transitional protection measures	Q1 (11/12): Commission research Q1/3 (11/12): Commission advice from the Consumer Panel regarding consumer protection in relation to not for profit providers Q4 (11/12): Development of options and assessment of regime
Initial evaluation of the impact of opening markets	Consumer research to compare the changing consumer experience of legal services with MoJ baseline study	Q4 (11/12): Commission research

The medium-term outcomes that this work will contribute to

67. This work will contribute to a wider change in approach when it comes to compliance with regulation amongst legal services providers. Rather than focusing on 'box-ticking' in respect of the detailed letter of the rules, the focus will be on delivering good outcomes for clients. Alongside this clearer focus on consumers, a more dynamic market for legal services means that more people can engage affordable legal advice.
68. The embedding of robust consumer protection measures and governance requirements within ABS will mean that, where things do go wrong, active regulators with the right tools will be able to quickly identify and minimise consumer detriment. For the legal services workforce, there will be a greater plurality of delivery models and new working methods brought into the market. This will bring new career paths, where partnership is not the only route to success and career development.

Section 3C: Securing independent regulation



Workstream overview

69. Our Internal Governance Rules (IGRs) set down a range of structural and functional standards to underpin independent regulation. They address matters such as budget-setting for the regulatory arms, lay majorities on boards, shared services arrangements and the ability to shape strategy. Each applicable approved regulator and their regulatory bodies has reviewed their governance arrangements against the framework for securing independent regulation provided by the IGRs – with the aim of submitting a dual self-certificate of compliance. These are statutory rules and, whilst compliance is non-negotiable, we will be proportionate in assessing how they are delivered and upheld by each approved regulator.
70. Dual self-certification is an annual process and certificates will be due for submission by applicable approved regulators once again in Q1 (11/12). The LSB will consider these arrangements during the following quarter. Our focus will be shifting from reviewing the newly established governance arrangements towards, instead, insisting on practical and effective measures to embed those arrangements in systems and the conduct of personnel. In other words, ensuring independence is happening in practice as well as on paper. This is important as obstacles to independent regulation may be cultural just as much as they may be systemic.
71. We will use a risk assessment process to provide an open and transparent framework for assessing and monitoring compliance with the IGRs. Along with intelligence gathering and scrutiny of decision-making, this will allow us to identify the level of ongoing supervision needed and to target our interventions appropriately.

Why this work matters

72. Securing regulatory independence has been one of the core institutional reforms to the regulatory framework and, as such, is one of the main priorities for our first three years of operation. Reassuring the public about the rigour of legal services regulation, both in the sense of independence and competence, has been a key starting point.
73. The institutional separation through the creation of the regulatory arms was a key first step, but one which must be backed by systems, processes and the development of a culture which is genuinely independent. Consumer and public confidence in the independence and objectivity of regulation depends on embedding this across all levels. Monitoring continued compliance in practice is particularly important in the light of the changing legal services environment and the threats and opportunities that this creates for current practitioners.

Research/evidence

74. The focus of this work will be to define the type of data we need as part of the annual return and which is needed to form part of an ongoing risk assessment process. We will work with the approved regulators and wider stakeholders to ensure that we co-ordinate and use information received across our work appropriately.

Milestones/outputs

Activity	Description	Milestone/output
Annual dual self-certificate	Submission of self-certificates	<p>Q1 (11/12): Applicable approved regulators will return self-assessment certificates</p> <p>Q2 (11/12): Self-assessments to be reviewed and LSB assessment published</p> <p>Q2/4 (11/12): Onwards risk-based supervision informed by intelligence across operational issues</p>

The medium-term outcomes that this work will contribute to

75. The regulation of legal services in England and Wales will be – and be seen as – world leading in its:
- clarity of responsibilities;
 - transparency of processes and costs;
 - clear focus on the public interest as the starting point of all regulation;
 - robust governance arrangements, which clearly separate representative and regulatory functions;
 - effective compliance disciplines which demonstrate that both the letter and the spirit of separation are being met in practice.

76. In addition, we expect that approved regulators with a dual representative and regulatory function will be able to take advantage of the potential for representative arms now no longer constrained by regulatory responsibilities, to re-focus and re-prioritise to meet their members' needs and to re-assert their role as advocates for professional excellence.
77. Crucially, with appropriate governance arrangements in place across the landscape, regulators will be able to use their machinery to target interventions appropriately in a way that addresses risk of consumer detriment.

Section 3D: Developing a changing workforce for a changing market



Workstream overview

78. The legal services market is changing rapidly and the workforce must evolve to meet changed needs. As new business models and new ways of working become widespread we need to ensure that legal services practitioners have the skills to properly serve their diverse client base. More specifically, as the oversight regulator, we need to work with approved regulators to ensure that regulatory requirements and activities:

- develop the education and training framework to ensure that it equips both the existing workforce and the workforce of the future;
- focus on ensuring quality through continual development and lifelong learning;
- promote diversity and social mobility.

Education and training

79. We want to understand how education and training requirements can be used as a regulatory tool to ensure proper standards of professional and ethical competence are in evidence across the legal workforce. Inevitably, as the market changes, the existing education and training framework will need to evolve to meet new conditions and changed needs.

80. To address this, SRA, BSB and IPS will conduct a wide-ranging review into education and training requirements during 2011/12, stretching across all stages, from non-graduate entry routes and undergraduate degree level, through to qualification, continuing professional development (CPD) and post-qualification quality assurance including the appropriate requirements to be placed on regulated entities. We expect the review to deliver a strategic assessment of the needs of legal workforce in 2020 and firm proposals to improve the regulatory education and training framework to ensure these

are met. We will offer constructive challenge throughout the review to ensure that it does so.

81. Our education and training work in 2011/12 will be to:
- articulate the LSB's view on what is required to meet the regulatory objectives in the context of education and training;
 - specify the outcomes that we would like to see approved regulators achieve through their review;
 - define principles that any proposed changes to education and training requirements would need to meet.

Quality

82. We are overseeing the delivery of a Quality Assurance for Advocates (QAA) scheme being developed jointly by the SRA, BSB and IPS through the Joint Advocacy Group (JAG). But this is just one aspect of our work on quality assurance. We recognise that it will be important to determine whether additional regulatory requirements are needed post-qualification to tackle risk of consumer detriment, particularly in the context of increasing specialisation. There is also a range of other regulatory interventions that could be used to ensure minimum quality standards (for example in relation to the provision of information or in relation to the supervision of those providing reserved activities).

83. Alongside QAA, we therefore intend to:

- develop a better understanding of quality risks in the legal services market;
- produce a 'tool-kit' to identify the regulatory tools and interventions that could be used to ensure minimum quality standards;
- develop a framework for assessing risks to quality to enable targeted responses.

84. As part of this work, we will ask the Consumer Panel to conduct further research on the characteristics of robust quality schemes, to supplement their advice to us in 2010/11, and to measure existing schemes against these criteria.

Diversity and social mobility

85. We have made clear to approved regulators that our immediate priority is to build an evidence base around the composition of the workforce in order to inform targeted cross-sector policy responses. Based on findings, we will expect approved regulators to evaluate the impact of existing diversity initiatives, with a focus on identifying effectiveness, gaps and lessons that can be shared. Alongside this, we will work to promote transparency measures about workforce diversity at entity level to create more of an incentive on owners and managers to take action both to widen access and support progression and retention.
86. Our future priorities will be determined by considering where we can best add value in addressing these cross-sector issues and in supporting the development of research. On the latter, we will collate cross-sector data provided by approved regulators to build a picture of the shape of the legal services workforce across the eight diversity strands, whilst also giving a clearer idea of levels of socio-economic mobility. However, our aim is not just to gather data. We expect to see robust action by approved regulators to continue to promote diversity at all levels, not just at entry stage, and to see rigorous evaluation of such initiatives.
87. Recognising the changing dynamics of the market, we will ensure LAs embed diversity and social mobility requirements in their rules concerning ABS. In carrying out this work, we will continue to work in partnership with other bodies across the public policy landscape that share a common interest in this work, including Government initiatives in the area of social mobility.
- 2007 Act gives a specific duty to the LSB to assist in the maintenance and development of standards in relation to education and training.
89. Making sure that the workforce is genuinely open to the widest pool of talent is key in guaranteeing that the lawyers of the future represent the best and brightest of each generation, not just those from traditional backgrounds. But that is not just an end in itself. Crucially, if we achieve that, we ensure that all citizens from the diverse communities in modern Britain have confidence in the rule of law and find themselves better able to access justice when they need it. Diversity in the profession is about making the law work better for a diverse society – not just about more work for more diverse lawyers.
90. A key question facing regulators is the degree to which initial qualification requirements are sufficient to ensure competence throughout the career of a lawyer, particularly in keeping up with changed practices. An increase in specialisation across the market has tended to indicate towards additional regulatory requirements on professional development and quality assurance. More widely, ongoing training and quality assurance is an important strand of the 'regulatory toolkit' for the regulation of conduct of business.
91. In terms of professional development, regulation needs to support appropriate standards of competence at all times, as well as an understanding of ethical behaviour in order to protect consumers and ensure maintenance of professional identity and integrity. Additionally, we need to assess how best to frame existing competency measures in a way that is clear for consumers, avoids unnecessary duplication and addresses gaps. Supporting professional development does not mean supporting professional exclusivity or remote, poor value services.

Why this work matters

88. The LSB and approved regulators have a shared regulatory objective to ensure an independent, strong, diverse and effective profession – with this work also supporting the delivery of high-quality services to a diverse client base. Section 4 of the

Research /evidence

92. Once the scope of the review of education and training to be conducted by the SRA, BSB and IPS is clear, we will consider whether there is any requirement for us to conduct complementary research to assist the review.

93. We will review the evidence presented by the Consumer Panel in their advice to us about quality schemes before considering whether additional research about quality issues, is required.

94. We are examining whether to commission further quantitative research in the field of workforce diversity to build on the qualitative research carried out during 2010/11. We will continue to collate workforce diversity data from approved regulators for analysis to provide a whole-sector picture of progress.

Milestones/outputs

Activity	Description	Milestone/output
Education and training	Track and review progress of approved regulators' review of education and training requirements	Q2 (11/12): Consider the need for additional research to support review led by approved regulators
	Set out the key principles for education and training against which reforms can be assessed	Q1/3 (11/12): Engage with stakeholders to consider and develop key principles
		Q4 (11/12): Publish key principles
Quality assurance (including QAA)	Develop quality tool-kit and risk assessment framework	Q1 (11/12): Commission advice from Consumer Panel on quality schemes
		Q3 (11/12): Receive advice
	Decision on rule change to enable implementation of QAA (Crime)	Q4 (11/12): Completed tool-kit and framework published
Diversity	Increasing transparency and improving the evidence base	Q2 (11/12): Application by relevant approved regulators to change their regulatory arrangements to incorporate QAA (Crime)
		Q2 (11/12): Publish decision document following 10/11 consultation, outlining action expected of approved regulators
		Q4 (11/12): Review approved regulators' latest diversity data with a view to scoping work for 12/13

95. We will be working closely with academics drawing on existing experience of surveying the diversity of the legal sector to improve our own proposals for the collection and publication of diversity data. We will also be drawing on the market supply studies to understand the changing nature of the supply of legal services and how this is impacting on the diversity of the sector.

The medium-term outcomes that this work will contribute to

96. Consumers will be confident that their access to justice is facilitated by a legal workforce that:
- at all levels can be transparently compared to and ever more closely matches the diversity of the population of England and Wales;
 - actively works to overcome discrimination and disadvantage in its own working practices and cultures, meeting both its statutory equality objectives and the specific regulatory objective of the Act;
 - is rigorous in setting, monitoring and communicating competency levels;
 - consistently modernises itself through formal continuing education requirements and a consistent culture of professional learning and improvement;
 - is transparent in its diversity and quality assurance to allow consumers to make informed choices about the type of provider that they use and allows aspirants to choose the type of provider they work for.

Section 3E: Improving access to justice: rationalising the scope of regulation

R03

R04

R05

R07

Workstream overview

97. During 2011/12 we will undertake an examination of regulation and reservation in order to develop a rational and intellectually coherent approach to assessing whether and where regulation is required. We want to ensure that regulation is most effectively promoting the regulatory objectives and represents best regulatory practice. Our work will include developing proposals for making decisions about the scope of regulation – including for considering the circumstances in which we might look to recommend to the Lord Chancellor that the list of reserved activities be amended. ‘Reservation’ is permitting only certain persons authorised by an approved regulator to carry out particular activities, is at the most extreme end of the range of regulatory tools. We believe we need to look beyond this and consider whether existing reservation continues to be justified and also establish when it is appropriate to initiate less limiting interventions.
98. To inform our approach, we need to develop a better understanding of how demand and supply sides interact to provide services to consumers. The legal services market is poorly served in terms of data and analysis. This hampers any attempt to improve how the market works, such as through ensuring that regulation is targeted and proportionate.
99. During 2011/12, we will build a more detailed picture of the legal services market including through market and consumer segmentation, outlining the types of problems most likely to occur in different areas. By researching each of those segments and examining how regulation interacts with supply and demand sides of the market, we will be able to consider how regulation helps or hinders access to justice. Understanding how to most flexibly and appropriately use alternative regulatory approaches to address detriment will form part of this analysis. We want to ensure that regulation and market forces combine to deliver an efficient and effective sector ie well-regulated competitive market that provides for consumer confidence and protection.
100. The first stage of our Regulatory Information Review will provide us with a complete overview of the data and analysis within the legal services market at present. That ‘knowledge bank’ will be the first port-of-call for the LSB in considering evidence and analysis to support regulatory policy and decision-making. It will also provide us with a clearer picture of the substantial gaps in data – with our research going on to target these areas.
101. We will also ‘test’ the market using case studies to see how the emerging decision-making approach might work in practice. One of these case studies will be will writing where, in response to concerns about consumer detriment, as well as in the light of developments in Scotland, we have committed to conducting a specific examination of the case for regulating will writing differently.
102. Where we find that the current tool-kit available to us is not capable of delivering the appropriate regulation we will look for options to provide greater flexibility, including identifying the need for legislative change where appropriate. In Q4 (11/12) we will set out our plan for implementing our approach, following consultation in Q2 (11/12).

Why this work matters

103. The LSB is subject to a statutory requirement to consider the scope of reservation. In order to discharge this duty appropriately, we need to establish a consistent policy and intellectual framework for such decisions. Regulation of legal services is undergoing a period of substantial reform. However, the core regulatory framework that evolved prior to 2007 remains largely unchanged. This is built around the six “reserved activities” set out in the Act. These activities are reserved to certain types of authorised lawyers. Research has revealed that there is little by way of a policy basis or consistent rationale for the current system of reservation.¹¹
104. Most legal advice does not fall within the reserved activities and therefore exists outside the scope of legal services regulation. Adding a further level of complexity, regulation is extended by virtue of requirements imposed on some parts of the professions to protect professional titles – having the effect that certain types of lawyer undertaking unreserved activity become the subject of regulation. A concern has been that there is an uneven playing field due to these restrictions, alongside a tangled web of interventions that has developed over time without strategic planning.
105. The reform programme has sought to increase competition and stimulate innovation across the market in order to raise standards and widen choice for consumers. This creates a new impetus for ensuring that we have a framework for weighing regulatory decisions that reflects the modern market and a greater plurality of delivery models. The 2007 Act strives to balance permitting more diverse delivery and competition with stronger and more appropriate consumer protections. Interventions should not go beyond what is required to ensure proper protections designed to prevent consumer harm, and offer redress when the service has fallen short. This work is crucial to ensuring that such a balance is achieved.

106. These important regulatory decisions depend on a fuller understanding of the workings of the legal services market and a proper framework for understanding the supply and demand sides. There is a lack of comprehensive data and analysis at present and more robust evidence is needed to support our overall objectives.

Research/evidence

107. The Consumer Panel will be reporting its findings on consumers’ experience of will writing services during Q2 (11/12). The results of this work will serve the wider purpose of testing our developing regulatory thinking. We will also draw on Legal Ombudsman data concerning complaints in areas outside of their jurisdiction and on the evidence gathered through the approved regulators’ review of education and training.

Activity	Description	Milestone/output
Regulatory framework	Developing an approach to deciding whether to regulate and, if so, the appropriate regulatory regime	Q1 (11/12): Seminars to discuss early thinking around the approach for deciding whether regulation is required, consumer outcomes and range of regulatory interventions Q2 (11/12): Discussion document on proposed approach Q4 (11/12): Publish approach for making regulatory decisions
Will writing		Q2 (11/12): Receive Consumer Panel advice Q3 (11/12): Potential Section 24 investigation into making will writing a reserved legal activity Q4 (11/12): Consultation on the results of the will-writing investigation if required
Regulatory Information Review	Review of published research and data on the legal services market	Q1 (11/12): Publication of summary report Q1 (11/12): Publication of research database
Completion of market supply benchmarking studies	Developing an evidence base to understand how regulatory changes have affected the supply of legal services	Q2-4 (11/12): Summary reports on market segments

The medium-term outcomes that this work will contribute to

108. In the medium term we will have established a rational approach which can be applied to the full range of regulatory decisions that the LSB must enact. We will have reinforced our grasp of market issues through building an evidence base of economic issues that have the potential to lead to consumer detriment, backed by a greater

understanding of the outcomes that consumers themselves say matter to them. By setting out for the first time an underlying rationale for regulation, both the LSB and the approved regulators can be agile in identifying the right extent and form of regulation that is needed to protect consumers in an increasingly dynamic market.

Notes

11 Legal Services Institute "Reserved Legal Activities: History and Rationale" August 2010

Section 4: Budget and governance

Resources to deliver our Plan

109. Our budget for 2011/12 is £4,931k to deliver our Business Plan. This is equivalent to our budget for 2010/11; we have frozen pay increases for two years and have undertaken to absorb additional non-pay increases from our contractual services and general running costs. This is against a backdrop of taking on more work (see next paragraph), the increase in VAT on goods and services, retail inflation and the additional 1% employers' national insurance applicable from 1 April 2011.
110. As stated in paragraph 33, from 1 April 2011, we will undertake additional work associated with the commencement of Schedule 18 of the Act . This sees the LSB take on regulatory oversight for immigration advice provided by lawyers authorised by approved regulators – a function previously carried out by the Office of the Immigration Services Commissioner (OISC). We estimate that the cost of the work we will be absorbing will equate to £110k per annum – this is based on the Immigration Services Commissioner (Designated Professional Body) (Fees) Order 2010 made by the Home Office in March 2010.
111. Figures for 2012/13 and 2013/14 are highly provisional at this stage. Although we will be emerging from a two year pay freeze, we have held the figures level in cash terms. However, were the LSB to have to become a Licensing Authority for a significant number of firms or take on the functions of a failing approved regulator, costs could increase sharply. On the other hand, growing levels of competence and capability in approved regulators could see costs decrease. We are working towards the latter outcome but cannot guarantee it at this stage.

Table 1 – LSB budget for 2011/12 and predicted budget for 2012 – 14

	2011/12 Operational Budget £000	2012/13 Operational Budget £000	2013/14 Operational Budget £000
Staff	2,856	2,927	3,001
Accommodation	585	611	600
Research	300	300	300
IT/Facilities/Finance	251	233	220
LSB Board	210	205	200
Consumer Panel	48	48	48
Office costs	153	135	125
Depreciation	151	80	80
Contracted out services	127	110	80
Legal reference/support	84	90	80
TOTAL exc OLC Board	4,765	4,739	4,734
OLC Board	166	152	150
Total inc OLC Board	4,931	4,891	4,884

Recouping our costs

112. We are required by Part 7 of the Act, specifically Sections 173 – 175, to meet all our and the OLC's costs through a levy on the approved regulators. The Act allows us to propose different methodologies for apportioning the running costs of the LSB from the OLC. The methodologies for recouping running costs for both the LSB and OLC were agreed in October 2010 and The Legal Services Act 2007 (Levy) (No.2) Rules 2010 was laid on 31 December 2010 and is now in force.

Supporting our delivery

Corporate governance

113. 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 explained within Framework documentation which has recently been revised to ensure it remains in line with best practice across Government.

114. The Board welcomes its duty under the Legal Services Act 2007 to have regard to generally accepted principles of good corporate governance. In accordance with this, the Board has adopted a comprehensive Governance Manual¹² 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).

115. The ARC's remit includes: reviewing and endorsing the annual budget, Annual Report and Accounts; external audit and any issues arising from the interim and final audits; appointing the internal auditors, approving the internal audit plan and receiving internal audit reports; and overseeing risk management. The RNC's remit includes: agreeing, monitoring and reviewing the terms and conditions of service of the Chief Executive and other colleagues; agreeing, monitoring and reviewing the pension arrangements for LSB colleagues; and monitoring and reviewing the induction process for Board Members.

116. The Senior Management Team is responsible for implementing the strategy of the Board and day-to-day organisational management. The current organisation chart is at **Annex 1**.

Risk management

117. The LSB is committed to robust risk management across all of its activities whether regulatory or operational. Risk is managed at all levels in the organisation - within projects, across the work

programme, at SMT, ARC and Board level through regular review.

Corporate services

118. Underpinning all of our regulatory activity is a slim corporate services function. We actively designed our organisation to rely so far as possible on low cost, out-sourced 'back-office' support and thus our IT, finance administration, telephony and facilities are all provided by the Competition Commission. Our HR advice is provided by a commercial provider. 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.

Measuring our performance

119. As outlined in paragraph 10 we intend to evaluate our performance in delivering our 'business as usual' activities. This section describes the service standards against we will measure our performance for three areas:

- a. Regulatory decisions performance
- b. Finance process performance
- c. Freedom of Information and Data Protection Act requests

120. We will keep these under review as our work progresses over the year and, in particular, we will undertake "lessons learned" exercises, particularly once we have some experience of a new process, and where appropriate update our targets.

Regulatory decision performance

121. We will continue to use "lessons learned" reviews to identify areas of good practice that can be used elsewhere and areas for improvements. We will actively seek feedback from approved regulators and other stakeholders, using a range of methods including one-to-one and group meetings and on-line surveys. We will report on the outcome of all lessons-learned reviews, issuing additional or new guidance where appropriate.

122. For those applications where the applicant must pay a fee, we will record the time spent assessing the application across the LSB to measure whether the work done is reflective of the fee charged.

Notes

12 http://www.legalservicesboard.org.uk/about_us/our_board/board_code_of_practice/index.htm

	Change to regulatory arrangements	New AR designation or extending reserved legal activities	LA designation	Cancellation of designation for approved regulators*	Cancellation of designation for LAs*
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 our: - Advice received from mandatory consultees (and others as appropriate) - Written representations from applicants - Prepared report for any oral representations - Recommendation 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: - 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 row two (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 25 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.

Finance process performance

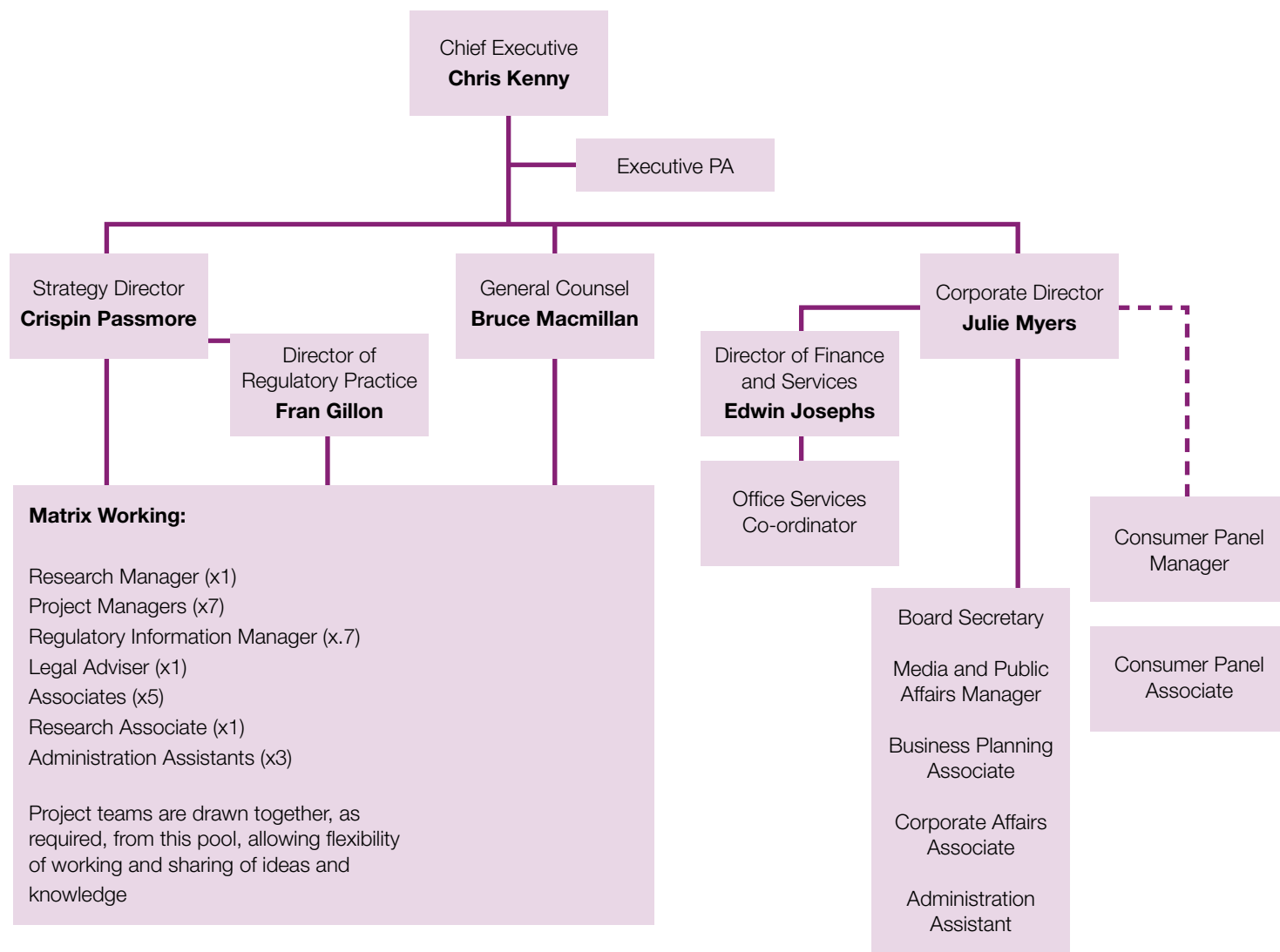
123. In our annual report and accounts, we detail our success at paying all undisputed invoices within 30 days. We have also undertaken to meet the 2008 Cabinet Office guidance for Departments and we have set a target of paying undisputed invoices within ten days of receipt. We support the Cabinet Office's aspiration to support businesses through ensuring the public sector pays its bills swiftly.
124. We note that, from a commercial perspective, this would seem irrational as the longer an organisation retains its funds the more it can either earn in interest or reduce its borrowing. As the LSB is a Non-Departmental Public Body, we are obliged to keep all of our cash resources with the Government Banking Service and we are unable to receive any interest on these funds.

Freedom of Information and Data Protection Act requests performance

125. We will aim on average to acknowledge and to respond fully to freedom of information requests within respectively 3 and 15 working days. The statutory maximum for responding is 20 working days and our current average is 12 working days.
126. We will aim on average to acknowledge and to respond fully to data protection subject access requests within respectively 3 and 20 working days. The statutory maximum for responding is 40 calendar days.

Annex 1

Organisation structure as at 1 April 2011



Legal function

The legal function, led by the General Counsel, provides focused and effective support to the Board, to the SMT and to the LSB as a whole to ensure that all acts and decisions made by the LSB are legally sound and legal considerations are understood by the decision makers.

Finance and services

The LSB participates in a shared services arrangement with the Competition Commission to achieve maximum value for money and efficiency. This provides both resilience and efficiency in meeting the transactional processing elements of its corporate services of Finance, IT and Facilities.

Annex 2

Key milestones for the year

Quarter 1 2011/12 April - June	Workstream	Quarter 2 2011/12 July - September	Workstream
Consult on proposed approach to assessing standards of regulation	2A	Publish decision-document and way ahead on regulatory standards	2A
Consideration of scope and process for review of appeals mechanisms	2A	Review of approved regulators arrangements	2A
Immigration regulation oversight: Call for evidence	2A	Immigration: Review of evidence and decision on next steps	2A
Consider SDT budget	2A	Conveyancing: Call for evidence	2A
Research into consumer experiences of first-tier complaints-handling is published	3A	Consultation with approved regulators around review of first-tier complaints-handling regulation	3A
Applications for designation as Licensing Authorities are received	3B	Recommendations for designation decisions for Licensing Authorities	3B
Commission research around special bodies	3B	S80 Orders to be made designating appellate bodies for ABS appeals	3B
Commission advice from Consumer Panel on consumer protection in relation to not for profit providers	3B	Orders to be made under Part 5 of the Legal Services Act 2007	3B
Submission of self-certificates by applicable approved regulators	3C	Self-assessments of applicable approved regulators reviewed and LSB assessment published	3C
Commission advice from Consumer Panel on quality schemes	3D	Consider the need for additional research to support review led by approved regulators	3D
Seminars to discuss early thinking around the approach for deciding whether regulation is required, consumer outcomes and range of regulatory interventions	3E	Application by relevant approved regulators to change their regulatory arrangements to incorporate QAA (Crime)	3D
Publication of RIR summary report	3E	Publish decision document following 10/11 consultation, outlining action expected of approved regulators	3D
Publication of research database	3E	Discussion document on proposed approach to scope of regulation	3E
		Receive Consumer Panel advice on regulation of will writing	3E

Quarter 3 2011/12 October - December	Workstream	Quarter 4 2011/12 January - March	Workstream
Conveyancing: Review of evidence and decision on next steps	2A	Publish assessment of approved regulators arrangements for first-tier complaints handling	3A
Commence review of approved regulators arrangements for first-tier complaints handling	3A	Development of options around special bodies	3B
Implementation of appellate bodies arrangements	3B	Commission consumer research	3B
Receive advice from Consumer Panel on not for profit bodies	3B	Publish key principles against which education and training reforms can be assessed	3D
Receive advice from Consumer Panel on quality schemes	3D	Quality: Complete tool-kit and framework published	3D
Potential S.24 investigation into making will writing a reserved legal activity	3E	Review approved regulators' latest diversity data with a view to scoping work for 12/13	3D
		Publish approach for making regulatory decisions	3E
		Consultation on the results of will writing investigation if required	3E

Annex 3

The regulatory objectives matrix

Although, broadly speaking, most strands of our work will further, to a greater or lesser degree, each of the regulatory objectives, some strands of work will have particular relevance to specific regulatory objectives. The following matrix highlights where specific projects directly support particular regulatory objectives:

	2A Regulatory excellence	3A Ensuring redress	2B Widening access	3C Independent regulation	3D Workforce development	3E Improving access to justice
The public interest	X	X	X	X	X	
The rule of law		X		X		
Access to justice			X		X	X
Consumer interest	X	X	X	X	X	X
Enhancing competition			X	X	X	X
Independent, strong and diverse profession	X	X	X	X	X	
Citizen's rights and duties	X	X		X		X
Professional principles		X	X		X	



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