



Increasing market transparency: LSB's sufficiency assessment of action plans published by frontline regulators

October 2017

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Summary

1. We have assessed the action plans produced by the regulators in response to the final report of the Competition and Markets Authority's (CMA) legal services market study.
 - Our assessment is that all the action plans provide a sufficient starting point from which transparency reforms can be delivered.
 - The action plans are generally 'plans-for-a-plan' and as such we can only assess the sufficiency of what has been published thus far. We expect more detail to emerge in the forthcoming consultations.
 - The regulators are working well together to make progress on joint initiatives and to deliver a coherent approach in parts of the market where multiple regulators operate. This is welcome and it will be important for this collaborative style of working to continue.
 - This note identifies issues which are common to a number of the plans, which we would ask regulators to address in the next phase of their work.

About this document

2. This note provides summary comments on the action plans. It should be read in conjunction with our assessments of individual plans found in Annexes A to H.
3. Our expectations of the regulators vary based on their scale, the type of consumers that their regulated communities typically serve and the nature of services on offer.
4. In assessing sufficiency, we are judging the regulators' progress towards the outcomes identified by the CMA which advance our statutory objectives, including promoting competition and protecting the interests of consumers. Background information and detail on our approach can be found in Annex I.
5. ICAEW has advised us that it is currently rescoping its action plan in light of the Lord Chancellor's decision on its application to become an approved regulator and licensing authority for additional reserved activities. The ICAEW shared an action plan with us on 7 September 2017 that was subject to final ratification by its Probate Committee. We provisionally assessed this action plan as sufficient and Annex E to this document sets out what our final assessment would have been, had the ICAEW published the action plan it shared with us on 7 September 2017. We believe the ICAEW should continue with the actions it was planning to take in response to the CMA's

recommendations to it with the aim of delivering the important benefits to consumers which increased transparency will provide. We will discuss this issue with them so we can conclude our assessment of their action plan.

Common strengths in the plans

- **Ongoing engagement and collaboration:** The regulators are working well together as part of the Remedies Programme Implementation Group (RPIG) and via bilateral and multilateral engagement. It will be important for this to continue in order to both make progress on joint initiatives and deliver a coherent approach in parts of the market where there are more than one regulator.
- **Showing leadership:** We are pleased to see the SRA lead on Legal Choices and a possible shared digital register as well as the BSB lead on consistency of legal services information on Gov.uk for all the regulators. We are grateful to the Chief Executive of the Council for Licensed Conveyancers who is chairing the RPIG.
- **Research and consumer testing:** Most of the action plans committed to consumer testing of the proposed reforms and made reference to advice from the Legal Services Consumer Panel¹ on designing information remedies. We appreciate that small regulators face resource constraints which limit the amount of research and consumer testing they are able to do. For these regulators it should still be possible to draw insights from published research and the experiences of other regulators.

Common issues to address

- **Understanding existing levels of transparency:** Some of the regulators have undertaken a web-sweep to map current levels of price transparency. These web-sweeps are a cost effective way of gathering evidence that can support regulators in tailoring any new regulatory requirements to the areas that most need intervention. We encourage all regulators to carry out web-sweeps both as part of designing new transparency measures and as part of post-implementation evaluation.
- **Increased clarity about ‘pre-engagement’ and ‘at engagement’ information:** In some of the action plans the distinction between transparency at the pre-engagement and engagement phases of a consumer’s journey seems blurred. The CMA’s main focus was at the pre-engagement stage (information available to a consumer before engaging

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http://www.legalservicesconsumerpanel.org.uk/publications/consultation_responses/documents/Information%20remedies%20Final.pdf

a provider) to help consumers make informed choices and improve competition.

- **Mandatory requirements versus voluntary guidance:** Some regulators have indicated a preference for improving market transparency by introducing mandatory requirements while others intend to rely, at least initially, on voluntary guidance. In our April document we said that *'we agree with the CMA that the market cannot be expected to mend itself, rather regulatory intervention is required to sufficiently address the market failures that were identified.'* In relation to this issue, voluntary guidance may not create strong enough incentives for providers to disclose the full range of information that consumers need. There is also a risk of less consistency in approach among providers operating in the same sector, which would make it harder for consumers to compare providers. Where regulators intend to rely on voluntary guidance we expect them to evidence that this approach is currently one which works in their sector in relation to similar matters and to actively review and evidence (in due course) that providers are sufficiently transparent.
- **More information needed on quality:** In order to make informed choices, consumers need information on both price and quality. Some action plans were less developed on quality information compared to price information. In particular, some plans were silent on whether regulators were considering publication of first-tier complaints data, which the CMA specifically recommended.
- **Transparency on routes to redress:** The action plans contained relatively little information about how to improve consumer awareness of routes to redress. When considering this issue regulators should have regard to our updated requirements and guidance on complaints handling, which we published in July 2016².
- **Legal Choices:** The regulators have developed an ambitious plan for Legal Choices, which we encourage them to publish in due course. The regulators are in the process of agreeing governance arrangements for Legal Choices. It will be important to agree these arrangements quickly. Our view is that Legal Choices should also include balanced information about the whole market, which includes unregulated providers and accountants providing legal services.

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http://www.legalservicesboard.org.uk/news_publications/LSB_news/PDF/2016/20160722_LSB_Updates_Consumer_Complaints_Guidance_For_Regulators.html

- **Guidance to consumers on the possibility of using customer feedback platforms to help them choose.** We encourage all regulators to remind consumers about customer feedback platforms when shopping around to find a legal services provider. This information should complement the advice to legal professionals on using customer feedback platforms, which many of the action plans had included.
- **Joint Register:** The regulators are currently assessing the feasibility of a joint register. As an intermediate step towards a possible future register, we encourage all regulators to continue to work together to agree a set of data fields for disclosure of data ahead of any launch of such a register. The joint register should complement the individual registers already published by regulators. Expansion of these registers should not be held back by efforts to develop a joint register.

Pace of change

6. All the regulators achieved the first milestone of completing action plans by the 30 June timetable proposed by the CMA. We welcome commitments to consult on proposals by 30 September in accordance with the second stage of the CMA timetable. We look forward to these consultations setting out more detailed information about the proposed reforms.
7. Many milestones in the action plans are high level and several years into the future. Elements of some action plans were missing clear milestones. We would suggest that the forthcoming consultation documents should be as specific as possible on the timing of different proposals.
8. We acknowledge that regulators need to strike a careful balance between piloting and consumer testing to make sure interventions are well-designed and avoid unintended consequences and maintaining momentum so that consumers do not have to wait too long to see benefits.

Next steps

9. In line with CMA's recommendation to us we will now begin monitoring and engaging with the frontline regulators on their progress in implementing the action plans.
10. Our assessment of progress made by individual regulators will take account of the issues we have raised in both the relevant individual assessment sheet and in this summary.
11. We do not expect regulators to publish updated versions of their action plans, although of course they are free to do so. Instead we would ask them to include relevant information in forthcoming consultation documents or other policy documents as appropriate.

12. We will report publicly on the progress made by the regulators collectively in autumn 2018.

LSB assessments of market transparency action plans

Annex A - Bar Standards Board (BSB)

Date action plan was published: 29 June 2017

The action plan is published [here](#).

LSB Assessment: SUFFICIENT.

1. BSB's operating context is a key factor in our assessment. BSB currently regulates a relatively small number of entities and referral work is the main model for the self-employed Bar. However, public access work is becoming more common and we note that the CMA suggested that the solicitor's role as an intermediary between the barrister and the consumer may be strengthened if there are general improvements in the level of transparency in the sector. Therefore, we are pleased to see the ambition that the BSB has shown in not restricting its proposals to only cover public access barristers.
2. In particular, we welcome the BSB's commitment to ongoing collaboration with the other regulators on joint initiatives, such as the development of Legal Choices and exploring the feasibility of creating a single digital register. We commend the leadership the BSB is providing on behalf of all the regulators collectively in relation to Gov.uk.
3. We support the careful approach proposed which involves piloting proposals in the area of family law before potentially expanding into other areas. The plan to subject proposals to consumer testing is also welcome. We also welcome the commitment to develop remedies with regard to the LSCP's criteria for successful information remedies.
4. We welcome the desk research on current levels of transparency which gives confidence that the interventions set out in the action plan will be targeted in the right areas.
5. We highlight the following issues in relation to the action plan:
 - We note the interdependency between the CMA action plan and the ongoing review of public access.
 - We have clarified with the BSB that the forthcoming consultation document will address the CMA's recommendations around publication of first tier complaint handling data, which was not referenced directly in the action plan.

- The forthcoming consultation should explain how the research project published alongside the action plan, pilots and consultation all fit together and the timings of each element.
- It would be helpful if the proposed voluntary transparency pilots are designed so they begin to have an impact on the market and start to encourage greater transparency ahead of the formal regulatory requirements planned for December 2018.
- The BSB's pilots are likely to include family law which is an area relevant to other regulators. We would ask the BSB to seek to coordinate activity with other relevant regulators to promote a coherent approach in the market.

Annex B - CILEx Regulation

Date action plan was published: 29 June 2017

The action plan is published [here](#).

LSB Assessment: SUFFICIENT.

1. CILEx Regulation's operating context is a key factor in our assessment. Most of the individuals regulated by CILEx Regulation work in law firms regulated by other regulators. CILEx Regulation only started regulating at firm level in 2015 and regulates a small number of firms currently, but some of these firms deliver legal services to the types of consumer and in the areas of practice that are the focus of the CMA's recommendations. In this context we are satisfied that the approach which CILEx Regulation is taking is proportionate and well-targeted.
2. In particular, we welcome CILEx Regulation's commitment to ongoing collaboration with the other regulators on joint initiatives, such as the development of Legal Choices and exploring the feasibility of creating a single digital register.
3. We welcome CILEx Regulation's focus on consistency with other regulators. We agree with the careful approach to piloting, consumer testing and learning from the experience of other regulators before potentially rolling out transparency provisions across the market.
4. We acknowledge the work done already to improve client care letters following the joint research with other regulators and LSCP. Although not in the plan, the new Regulation Matters website³ is a welcome public legal education activity to raise consumer awareness. We welcome that CILEx Regulation has said it will take account of the nine principles developed by the Legal Services Consumer Panel for successful development of information remedies when developing its transparency proposals.
5. We highlight the following issues in relation to the action plan:
 - We encourage CILEx Regulation to seek to understand current charging structures and existing levels of price transparency among the firms it regulates. The web sweeps carried out by some other regulators show how this can be achieved at little financial cost. Such a step would help CILEx Regulation to decide whether any regulatory measures are necessary and if so where these might most effectively be targeted.

³ <http://www.regulationmatters.uk/>

- CILEx Regulation plans to produce voluntary guidance on transparency that supplements high-level outcomes in the existing code, rather than introduce mandatory requirements. Given the profile of CILEx Regulation's regulated community and the existing regulatory approach we consider this is proportionate, but we would ask CILEx Regulation to keep this under review.
- We welcome the inclusion of consideration of publication of data about enforcement action in the September consultation. However, the action plan is silent on whether CILEx Regulation is considering the publication of information on first-tier complaints. The CMA's recommendations envisage that such information might also be integrated into the published registers. As we set out in our document explaining how we will assess action plans, if this is not contemplated, we would ask CILEx Regulation to give reasons why action is not planned and explain the governance process used to reach this decision.
- We consider CILEx Regulation should explore whether the new transparency requirements and guidance around feedback platforms could be delivered before 2019 so that consumers do not have to wait this long to benefit from the proposed measures.

Annex C - Costs Lawyer Standards Board (CLSB)

Date action plan was published: 29 June 2017

The action plan is published [here](#).

LSB assessment: SUFFICIENT.

1. CLSB's operating context is a key factor in our assessment. CLSB is not an entity regulator.⁴ It regulates 622 individual costs lawyers; 246 of these are employed by firms regulated by the SRA and so will be subject to the transparency measures by this regulator. Data provided by the CLSB shows that three quarters of costs lawyers receive instructions from the legal profession only. The remaining quarter receive some instructions from lay clients and other sources, although overall lay clients represent a small proportion of all instructions. By contrast, the CMA's recommendations were focused primarily on the retail market. Therefore, we are satisfied that it is appropriate for the CLSB to take more limited action compared to some of the other legal services regulators, although well-targeted activity could make a positive contribution to improving market outcomes for those within scope.
2. In this context, it is encouraging that CLSB intends to continue to engage with the work to improve transparency. In particular, we welcome its collaboration to date with the other regulators on joint initiatives, such as the development of Legal Choices and exploring the feasibility of creating a single digital register.
3. We highlight the following issues in relation to the action plan:
 - We encourage CLSB to seek to understand current charging structures and existing levels of price transparency among the relevant costs lawyers it regulates. The web sweeps carried out by some other regulators show how this can be achieved at little financial cost. Such a step would help CLSB to decide whether any regulatory measures are necessary and if so where these are best targeted.
 - The action plan does not differentiate clearly between pre engagement information (available to a consumer before engaging a costs lawyer) and information, such as client care letters, provided to consumers at the point of engagement. Information of the first type is the main focus of those CMA recommendations aimed at helping consumers to compare and select the best provider for their legal needs.

⁴ CLSB's code of conduct covers the behaviours of individuals working in entities, even though it has no remit over the business activities of these entities. For example, the code of practice includes obligations on the information that should be given to clients when instructions are first received.

- CLSB plans to produce voluntary guidance on transparency, rather than introduce mandatory requirements. Given the profile of CLSB's regulated community we consider this is proportionate at this stage, but we would ask CLSB to keep this under review.
- We encourage the CLSB to consider the LSCP information remedies principles in its work in this area. These principles highlight areas to be aware of when developing information remedies which are helpful to consumers.
- The action plan refers to client surveys which have been created by the CLSB and are available to consumers on its website. CLSB encourages costs lawyers to use this survey. However, the CMA's report focuses on independent feedback platforms such as customer review websites. Both client surveys and feedback platforms are valuable, but they contribute in different ways. We would ask the CLSB to revisit this issue and consider providing guidance for costs lawyers on how best to engage with such platforms.
- Our suggested template asked regulators to provide information against a number of areas. The action plan is silent on options to enhance transparency around the quality of services provided by costs lawyers, such as publication of first-tier complaints or disciplinary information. The CMA's recommendations envisage that such information might also be integrated into the published register of costs lawyers on CLSB's website. As we set out in our document explaining how we will assess action plans, if this is not contemplated, we would ask the CLSB to give reasons why action is not planned and explain the governance process used to reach this decision.
- The action plan commits CLSB to 'assisting with implementation and funding [of Legal Choices] where considered appropriate by the CLSB board'. This language is less definite than the firm commitments provided by other regulators in their action plans. Since a costed three-year plan for Legal Choices has been developed we encourage the CLSB to make a clearer commitment to this initiative.
- The action plan states that the CLSB is 'monitoring' the work on developing a joint register. Since the recommendation is limited to considering the feasibility of such an initiative, rather than committing the regulators to delivering it, we hope that the CLSB will consider pro-actively the feasibility of this initiative.

Annex D - Council for Licensed Conveyancers (CLC)

Date action plan was published: 29 June 2017

The action plan is published [here](#).

LSB assessment: SUFFICIENT.

1. CLC's operating context is a key factor in our assessment. CLC is a specialist legal regulator. CLC regulates at both firm and individual level. Many of the customers using licensed conveyancers are individual or small business consumers requiring transactional services. The CMA's recommendations were focused primarily on the domestic retail market which means that this area of law is well suited for the information remedies proposed by the CMA. Against this background we are satisfied with the plan as published by the CLC.
2. In particular, we welcome the CLC's commitment to ongoing collaboration with the other regulators on joint initiatives, such as the development of Legal Choices and exploring the feasibility of creating a single digital register. We are pleased to note that the CLC, CILEx Regulation and the SRA are working together to generate a quote generator for conveyancing. We commend the leadership the CLC is providing through its Chief Executive chairing the Remedies Programme Implementation Group.
3. We commend the CLC for its work in developing a badge which regulated firms must display on their webpage and which links back to the firm's registered details on the CLC webpage. We encourage the CLC to share its expertise in this area with other regulators.
4. We highlight the following issues in relation to the action plan:
 - While this information was not included in the action plan CLC has clarified that they have undertaken work to look at charging structures and approaches over the last few years through their Annual Regulatory Returns. These have looked in detail at how firms set about determining their charges. CLC has also undertaken a trawl of quote generators on conveyancers' websites to inform the work it is leading to develop a template for the entire sector.
 - Compared to some other regulators, the action plan contains limited details on the transparency proposals, although we acknowledge the action plan commits to consulting across all four areas identified by the CMA: price, quality, redress and regulation. We have clarified with the CLC that it will publish a substantive consultation with a series of concrete proposals on price and quality transparency.

- CLC has clarified with us that the consultation will consider the correct mix of mandation, guidance, encouragement and support to achieve the desired outcomes for consumers while giving firms flexibility. In relation to this issue, voluntary guidance may not create strong enough incentives for providers to disclose the full range of information that consumers need. There is also a need to consider consistency issues given multiple regulators regulate conveyancing services. If the CLC decides to rely on voluntary guidance we would ask it to evidence that this approach is already working in its sector in relation to similar matters and to actively review and evidence (in due course) that providers are sufficiently transparent.
- Our suggested template asked regulators to provide information against a number of areas. The action plan is silent on the area of consumer testing. We acknowledge that CLC has limited resources for such activity, but encourage it to work with other regulators if possible or, as a minimum, seek to learn lessons from research carried out by others. Related to this, although not explicitly addressed in the action plan, CLC has assured us that the LSCP principles regarding information remedies will be considered when developing the forthcoming consultation. These principles highlight areas to be aware of when developing information remedies which are helpful to consumers.
- The action plan is unclear about what options the CLC is considering to enhance transparency around the quality of services provided by licensed conveyancers. We have clarified with CLC that it is considering a number of transparency options including proposals on first-tier complaints and disciplinary information as well as broader work around what indicators consumers would find most useful. The CMA's recommendations envisage that quality information might also be integrated into the published register of licensed conveyancers on the CLC's website. As we set out in our document explaining how we will assess action plans, if no action is contemplated, we would ask the CLC to give reasons why action is not planned and explain the governance process used to reach this decision.
- We recognise work is underway to encourage providers to use feedback platforms via mechanisms other than guidance. The CLC has clarified that it will provide guidance in this area, as recommended by the CMA. The action plan highlights 'scope' for regulators to do this and discusses a role for representative bodies. We consider there should be more information on this in future documents.

Annex E - Institute of Chartered Accountants in England and Wales (ICAEW)

Date action plan was published: It has not been published.

The ICAEW shared an action plan with us on 7 September 2017 that was subject to final ratification by its Probate Committee. This Annex sets out what our final assessment would have been, had the ICAEW published the action plan it shared with us on 7 September. We believe the ICAEW should continue with the actions it was planning to take in response to the CMA's recommendations to it with the aim of delivering the important benefits to consumers which increased transparency will provide. We will discuss this issue with them so we can conclude our assessment of their action plan.

LSB Assessment: SUFFICIENT.

1. ICAEW's operating context is a key factor in our assessment. ICAEW is currently an approved regulator and licensing authority for the reserved legal activity of probate. It currently regulates 280 firms, the majority of whom serve individuals and small business consumers. There is a close alignment between the focus of the CMA's recommendations and the legal activities which ICAEW regulates. The scale and focus of ICAEW's activities in relation to legal services shape our expectations of its response to the CMA's recommendations.
2. We welcomed ICAEW's commitment at the time it shared its action plan with us to ongoing collaboration with the other regulators on joint initiatives, such as the development of Legal Choices and exploring the feasibility of creating a single digital register. We also welcomed the planned programme of consultation and evidence gathering to understand current level of transparency and later on check the effectiveness of the proposals.
3. We highlight the following issues in relation to the action plan we received on 7 September:
 - ICAEW planned to produce voluntary guidance on transparency, rather than introduce mandatory requirements – at least initially. We note that voluntary guidance may not create strong enough incentives for providers to disclose the full range of information that consumers need. There is also a need to consider consistency issues given multiple regulators regulate probate services. However, we are encouraged that ICAEW planned to review the adequacy of taking a voluntary approach in the short-term (February 2018 in the version of the plan sent to us, although this was subsequently adjusted with our support to May 2018) and if there was insufficient uptake it would have given serious consideration to

mandatory requirements. We also note that ICAEW would have backed this guidance up with a package of measures setting out the purpose of the guidance, a dedicated consumer area on their website and compliance monitoring. This package would also have set out that doing nothing to comply with the guidance was not an option for providers.

- ICAEW's plan was to initially restrict the scope of its guidance to probate services only. In February 2018 (subsequently adjusted to May 2018 with our support) ICAEW would have decided whether to extend its transparency arrangements to clearly identifiable non-reserved legal services its probate firms were carrying out following research in this area; in time these might have been extended to other legal services. This phased approach is sensible as it would have enabled ICAEW to test its transparency arrangements in probate before rolling this out to other areas. We would encourage ICAEW (when it progresses this work) to extend the scope of its arrangements after the initial period and hope that potential barriers it has identified, such as the impact on the compensation scheme, are surmountable. This is because the fixed list of six reserved activities in the Legal Services Act is not the result of any recent, evidence-based assessment of the benefits or risks created by those activities. Furthermore, it is uncertain whether consumers understand the distinction between the reserved and non-reserved activities. Drawing the scope too narrowly might also lead to consumer confusion as different regulators require different levels of transparency eg. for will-writing.
- We welcomed the proposed approach to bundled services where it was proposed that the whole service be covered from the start.
- We are not aware of any plans for joint action by all the regulators on guidance in relation to feedback platforms. While we would welcome such an initiative, should this joint action not materialise we would ask ICAEW (when it progresses this work) to produce its own guidance for providers on engaging with feedback platforms.
- We are pleased that ICAEW wished to include Legal Ombudsman complaints data in the planned dedicated consumer area of its website along with details of disciplinary actions it has taken against regulated probate firms. ICAEW should also actively consider (when it progresses this work) whether to publish first-tier complaints data. If published, this data should then be made available to comparison tools and included in the register of firms.
- We note that ICAEW planned to conduct consumer surveys jointly with other regulators in the medium term to assess the impact of the

transparency changes. While we would welcome such an initiative, we are not aware that there are currently any plans for such joint activity. Should this joint action not materialise, we would ask ICAEW (when it progresses this work) to establish its own mechanisms to assess the impact of the changes it has made.

Annex F - Intellectual Property Regulation Board (IPReg)

Date action plan was published: 29 June 2017

The action plan is published [here](#).

LSB Assessment: SUFFICIENT

1. IPReg's operating context is a key factor in our assessment. IPReg regulates a relatively small number of entities, the majority of whom serve business consumers, with many of these clients based overseas. By contrast, the CMA's recommendations were focused primarily on the domestic retail market. Therefore, we are satisfied that it is appropriate for IPReg to take more limited action compared to some of the other legal services regulators. Despite this, small business consumers do need intellectual property services and our research indicates ongoing unmet need⁵ which greater transparency could help to address. Therefore, activity by IPReg in this area could positively improve market outcomes.
2. In this context, it is encouraging that IPReg intends to continue to engage with this agenda. In particular, it is welcome that IPReg is committed to ongoing collaboration with the other regulators on joint initiatives, such as the development of Legal Choices, consumer testing and exploring the feasibility of creating a single digital register. We also welcome the separate analysis of the action plan against the LSCP's criteria for successful information remedies.
3. Our suggested template asked regulators to provide information against a number of areas. Although the template we provided was optional we were clear that regulators should give reasons if action was not planned in these areas and explain the governance process used to reach this decision. IPReg's action plan did not include the required information in a number of areas. IPReg has since clarified that the decision on whether to take action in each case was made following input from Board members which was then discussed and agreed at Board meetings.
4. We highlight the following issues in relation to the action plan:
 - We encourage IPReg to seek to understand current charging structures and existing levels of price transparency among attorney firms. The web sweeps carried out by some other regulators show how this can be achieved at little financial cost. Such a step would help IPReg to decide

⁵ Analysis of our 2015 small business legal needs survey shows that intellectual property problems were strongly associated with no action being taken (46% of respondents took no action).

whether any regulatory measures are necessary and if so where these might most effectively be targeted.

- The main focus of IPReg's transparency measures is at the engagement stage, whereas the CMA's emphasis is on the pre-engagement stage (information available to a consumer before engaging a legal services provider). We would ask to see more details on the rationale behind the proposal for a fixed-fee scoping meeting and how unintended consequences, such as adding cost or creating an unnecessary barrier to accessing services, could be avoided.
- IPReg has not provided evidence as to why it would not be possible for firms to publish some fee information online, even if it is the case that some types of work carried out by attorneys are not amenable to predictable advance pricing. We believe that any risks of overseas competitors being able to undercut English and Welsh attorneys if there is price transparency will depend on how detailed any obligations are around increased transparency. Furthermore, there are competitive benefits of transparency in terms of building consumer trust so they will be more confident to purchase from a domestic firm compared to an overseas firm.
- IPReg plans to produce voluntary guidance on transparency, rather than introduce mandatory requirements. Given the profile of IPReg's regulated community we consider this is proportionate, but we would ask IPReg to keep this under review.
- IPReg has clarified that it publishes complaints data at an aggregated level in its annual report. Nevertheless, IPReg should explain why it does not consider it necessary at this stage to explore options to enhance transparency around the quality of services provided by named attorneys, at either individual or entity level. In particular IPReg should consider whether to publish first-tier complaints data. Further, we consider IPReg could integrate the disciplinary information it already makes available into the published lists of attorneys on its website. While there are low levels of complaints and disciplinary proceedings, we consider this would be good practice and can be achieved at little cost.
- While there are advantages in aligning implementation dates of transparency measures across the regulators, other regulators are not planning to focus on intellectual property initially. This means it could be a long time before consumers benefit from greater transparency in Intellectual Property. IPReg should not wait for other regulators before progressing the work that it considers is necessary.

- It is welcome that IPReg intends to encourage attorneys to participate in third party independent feedback platforms but it is unclear from the action plan how this will be achieved. We would like to clarify that there is no expectation that IPReg introduce specific feedback platforms for attorneys. We would welcome it if the market delivers such platforms on its own. IPReg has since confirmed that if the market delivers these platforms it will consider how to help its attorneys to engage with them.
- We note the absence of information about any plans for regulatory badges.
- The action plan does not propose review dates against any of the key milestones so we will need to agree these with IPReg.

Annex G - Master of the Faculties

Date action plan was published: 29 June 2017

The action plan is published [here](#).

LSB assessment: SUFFICIENT.

1. The Master of the Faculties' operating context is a key factor in our assessment. The Master regulates 775 individual notaries, most of whom are dually qualified and also work in entities regulated by other frontline regulators. The action plan notes that notarial activities are almost exclusively legal services which are provided to consumers who are engaged in transactions in jurisdictions outside of England and Wales. By contrast the CMA's recommendations were focused primarily on the domestic retail market. Therefore, we are satisfied that it is appropriate for the Master of the Faculties to take more limited action compared to some of the other legal services regulators.
2. In this context, it is encouraging that the Master of the Faculties intends to continue to engage with the work to improve transparency. In particular, we welcome the commitment to ongoing collaboration with the other regulators on joint initiatives, such as the development of Legal Choices and exploring the feasibility of creating a single digital register.
3. We highlight the following issues in relation to the action plan:
 - We encourage the Master of the Faculties to seek to understand current charging structures and existing levels of price transparency among notaries. The web sweeps carried out by some other regulators show how this can be achieved at little financial cost. Such a step would help the Master of the Faculties to decide whether any regulatory measures are necessary and if so where these are best targeted.
 - We appreciate that the cover paper to the action plan makes the distinction between transparency pre-engagement and on engagement, but we consider that the action plan itself is less clear. We understand that the current practice rules 8 and 18 (referring to complaints and fees) relate to transparency on engagement, rather than before. As such these rules are not designed to help consumers shop around prior to engaging a notary. We would ask the Master of the Faculties to consider further how information can be made available to consumers proportionately prior to the engagement phase.
 - We have clarified with the Master of the Faculties that he plans to amend both his Notaries Practice Rules 2014 (as amended) (which is compulsory

for notaries to observe) and his code of practice (which is guidance as to best practice, which notaries are required to have regard to).

- Our suggested template asked regulators to provide information against a number of areas. The action plan does not include consumer testing of transparency measures. We recognise this is challenging for a small regulator. However, we encourage the Master of the Faculties to work with other regulators if possible or as a minimum seek to learn lessons from research carried out by others. As we set out in our document explaining how we will assess action plans, if this is not contemplated, we would ask the Master of the Faculties to give reasons why action is not planned and explain the governance process used to reach this decision.
- We encourage the Master of the Faculties to consider the LSCP principles on the design of information remedies in relation to his transparency proposals. These principles highlight areas to be aware of when developing information remedies which are helpful to consumers.
- We are pleased that the Master of the Faculties plans to encourage notaries and their clients to take part in feedback platforms, but the action plan does not make clear how this will be achieved. We would ask for more information on this in future documents.
- The action plan does not provide information on whether there is any plan to review information published about complaints and disciplinary matters. In particular, the Master of the Faculties should consider whether to publish first-tier complaints data. As set out above, if this is not contemplated, we would ask the Master of the Faculties to give reasons why action is not planned and explain the governance process used to reach this decision.
- We query whether it might be feasible for feedback platforms to access the same real time feed that the E-Justice portal receives. If not, it would be helpful if the underlying information that is currently made available to feedback platforms could be updated more frequently than once a year.
- The action plan does not propose review dates against any of the key milestones so we will need to agree these with the Master of the Faculties.

Annex H - Solicitors Regulation Authority (SRA)

Date action plan was published: 29 June 2017

The action plan is saved [here](#).

LSB Assessment: SUFFICIENT.

1. The SRA's operating context is a key factor in our assessment. The SRA regulates a large number of entities and individuals, the majority of whom serve (amongst other types of consumer) individuals and small businesses. The CMA's recommendations were focused primarily on the domestic retail market which many solicitors serve. In this context, we welcome the ambition that the SRA has shown in delivering improved market transparency for consumers of legal services.
2. In particular, we welcome the SRA's commitment to ongoing collaboration with the other regulators on joint initiatives, such as the development of Legal Choices and exploring the feasibility of creating a single digital register. We commend the leadership the SRA is providing in the development and coordination of these initiatives.
3. We welcome the main emphasis on improving transparency at the pre-engagement stage. Further, we support the careful approach proposed which involves starting in a small number of areas of law and subjecting proposals to consumer testing. We also welcome the commitment to develop remedies with regard to the LSCP's criteria for successful information remedies.
4. We highlight the following issues in relation to the action plan:
 - It will be important to ensure that any dependencies on the new SRA handbook due to come into force no earlier than November 2018 and the IT upgrade, which will be completed in 2019, are managed and do not delay SRA's progress in delivering any of the proposals in the action plan.
 - The SRA's action plan contains multiple, interlinked strands. It would be helpful for the SRA to publicly set out clearly defined different work streams with specified related milestones and implementation dates. As well as aiding clarity, this should also help to show how the momentum of the transparency agenda will be maintained.

Annex I - Our approach to the sufficiency assessments

1. The CMA published the final report of its market study on 15 December 2016.⁶ The report concluded that competition in the legal services sector for individual consumers and small businesses was not working well. The CMA's main concern was that a lack of information weakens the ability of consumers to drive competition through making informed purchasing decisions.
2. The CMA recommended to the frontline regulators that they develop action plans designed to help consumers by increasing transparency in the market. In addition, the CMA recommended that the LSB:
 - Monitor and engage with the frontline regulators on their progress in implementing the CMA's recommendations directed to them
 - Report publicly, at appropriate intervals, on the sufficiency of action plans published by regulators individually and collectively and the progress in delivering those action plans
 - Take appropriate action where regulators fail to address information gaps

The process for these sufficiency assessments

3. In April 2017, the LSB published a document explaining that we would carry out a sufficiency assessment of the regulators' action plans and report on our findings.⁷ Our document set out our approach to these sufficiency assessments. We provided a template which set out the sort of indicative evidence of activities by front line regulators that we would be looking for when assessing the action plans. Regulators were free to use this template for their action plan if they wanted to do so. Where regulators were not planning to take action against the recommendations from the CMA, we asked that regulators explained their reasons for their decisions on what action to take, the scope of action and whether to take no action, and the process followed to make this decision, in each applicable high-level area.
4. Each of the front line regulators has, rightly, exercised independent judgement on the recommendations directed to them in light of the circumstances in their parts of the market. Our expectations of the regulators vary based on their scale, the type of consumers that their regulated communities typically serve and the nature of services on offer bearing in mind the focus of the CMA's recommendations on individual and small business consumers. We recognise the limited resources available to the smaller frontline regulators in particular.

⁶ <https://www.gov.uk/cma-cases/legal-services-market-study>

⁷ http://www.legalservicesboard.org.uk/Projects/pdf/2017/20170413_DeliveryofCMArec.pdf