



Final Business Plan
2010/11

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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Foreword

The Legal Services Board's first year was characterised by intense activity, robust debate and almost continuous change. In introducing this, our Business Plan for 2010/11, it is clear to us that our second year of operation – our first with our full suite of statutory powers and duties – will be similar.

We are an independent regulator with oversight responsibility for the regulation of the legal services sector, we are clear about our role: 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.

This is not an agenda that can be achieved in one year, by one organisation and by making small changes at the margins. An agenda for the long-term, it requires co-ordinated and complementary activity by the LSB, by approved regulators, by training providers and by those who provide and use legal services. This Plan describes what we will do and how we will do it.

We are in a changing environment. The Legal Services Act 2007 provides the framework but the real impetus for change is coming from within the existing market. A critical mass of practitioners is emerging who are looking to seize the opportunities the Act permits. I remain encouraged by the appetite and enthusiasm shown by those we have met to embrace the new opportunities they can see ahead.

Our levers for delivering our vision are different to those of economic regulators or front-line professional regulators. Direct regulatory impact on service providers will come from the independent regulatory decision-makers within approved regulators – not the LSB. We still have much to do to ensure the regulation of legal services provision is focused on consumer needs and able to harness the benefits of competition. But we are starting to see more than just the first glimmer of the legal services market place of the future.

Many lawyers are delivering or planning to deliver their services in different ways. They are committed to serving the public. The LSB wants to encourage the many forms of practice being developed by innovative lawyers, and others, committed to providing services to the public and to business in ways that are mutually beneficial.

It is essential that the representative bodies, no longer constrained by regulatory responsibilities, can re-focus and re-prioritise to meet their members' needs and to re-assert their role as advocates for professional excellence.

The coming year will also see the opening of the Legal Ombudsman scheme, administered by the Office for Legal Complaints. Elizabeth France and her Board continue to make great progress. When they open their doors to their first case – before the end of 2010 – we will see the benefit of an efficient and cost-effective dispute resolution service. This is an outcome I know the independent Consumer Panel, chaired by Dr Dianne Hayter, will also be watching closely.

This Plan describes how we intend to continue to improve the regulation of legal services and perform our statutory duties. Running throughout is commitment to challenging, informing and encouraging action to maintain and develop standards of regulation, education and training and service provision.

In all of our work during the year ahead, we want to hear your views. Please don't wait for formal consultation exercises – if there is something on your mind, let us know. We are committed to full, frank and open dialogue with the widest range of commentators – this is essential if we are to understand the immense variety of perspectives on the regulation of legal services provision.



David Edmonds
David Edmonds Chairman

Chief Executive's overview

When we published this plan for consultation in December, we were about to assume our statutory powers. Since then, we, the Ministry of Justice (MoJ) and our partners in the approved regulators and Office for Legal Complaints (OLC) have taken major steps in concluding delivery of the 2009/10 programme. We have made significant progress in relation to the development of Alternative Business Structures (ABS) and outcome based regulation and the smooth implementation of our key 'business as usual' process of oversight of changes to regulatory arrangements.

We therefore have the best possible base for going forward. And I'm delighted to report that the consultation exercise on the plan revealed very wide consensus on the precise steps that should be taken in 2010/11. Those organisations and individuals who responded in writing or took part in our consultation workshops, supported the main thrust of the work programme, while providing helpful clarification and challenge on a range of specific issues. We have taken all of the points on board. Some are reflected in changes to the text that follows, others are being, or will be, incorporated into the detailed project work to drive implementation. We are grateful to all who contributed.

In introducing the draft plan, I said that implementation of the Legal Services Act 2007 presages a major change in the scope, style and ambition of the regulation of the legal services sector in England and Wales. It not only gives us a large job to do: it challenges the approved regulators whom we oversee – and the entire legal services profession and industry – to modernise to achieve the ambitions of the legislation. The sector, in short, stands on the threshold of potentially momentous change. It is our job – and those of our partners – to ensure that those changes deliver tangible benefits for the public as consumers and as citizens. (For the avoidance of doubt, we use the term citizen throughout our work to mean all members of society: not a narrow legalistic interpretation relating to citizenship).

I will not repeat the material in the consultation document about our delivery in 2009/10. But I will repeat my thanks to our partners for their forbearance in this process and the creative way in which they have engaged with our activities throughout the year. I want to underline that, while the

content of our work will continue to develop, the style of frank engagement we have adopted will remain unchanged. We will continue to rethink and adopt good ideas put to us in debate and to be as open, flexible and available in gathering views. Whilst formal written consultation remains the backbone of regulatory engagement, we will continue to hold as many face-to-face meetings as possible with individuals and disparate groups of stakeholders to get under the skin of points at issue at the start and throughout the policy development process.

So our style will not change. Nor will the clarity of vision for the legal services sector in 2013. 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.

These remain our medium-term goals and are ones which look to be shared by an increasing number of our partners. This Business Plan sets out the next set of milestones in achieving those goals. It reflects the change from set-up to implementation, monitoring and delivery. It also differentiates between proactive long-term strategic work and reactive on-going operational activity – although there is a clear linkage between them in many cases.

Our starting point is, as ever, the eight regulatory objectives in the Act: there are very few regulators which have such clear, exciting and stimulating challenges in primary legislation. The draft plan (in its Annex 1), set out how we understand those objectives. We will be publishing that analysis as a stand-alone document shortly as we see that it underpins all of our activity through to 2013, not just for the year ahead.

We have ensured that the eight objectives run, like the proverbial lettering through the stick of rock, throughout our full programme of activity, acting as the test against which we measure the relevance and impact of our activities.

That understanding and focus underpins our business as usual work, just as much as our developmental agenda. On rule approval, for example, approved regulators are already doing more to show how their proposals for change push forward achievement of the objectives and derive from strong engagement with consumers and other stakeholders, and a robust evidence base. That is helping us to achieve our shared aim of more rapid and targeted analysis and approval than ever before to ensure that the public and profession can benefit from such reforms all the sooner. And we will be jointly learning lessons on all sides from our early activity.

There is still some way to go before we can assess fully the volume and resource intensity of our 'business as usual' work. For that reason, we do not think that our first full year of operation is one in which we should start thinking about disinvestment. But our commitment to value for money and delivery remains strong: the more the approved regulators rise to the challenges set for them by the Act, the less there will be for the Board to undertake directly. We remain committed to being a catalyst for change, rather than a 'make work' organisation.

One area where we received fair challenge in consultation was the need to demonstrate our own effectiveness. Where we can develop performance indicators, we will do so. However, we want to develop our public reporting more widely. We are beginning to challenge approved regulators to show how they will review the impact and effectiveness both of individual rule changes and their wider regulatory strategies. For the same reason, we will increasingly spell out how we will measure and evaluate the impact of the activities we have undertaken directly or inspired to ensure that we can similarly judge ourselves, and be judged, by our stakeholders.

The focus on the regulatory objectives and the need to both innovate and evaluate also explain our research agenda. Our proposals have been and will continue to be

evidence based – but we will not be afraid to experiment and evaluate where evidence is patchy. We are building a robust research programme, underpinned by strong governance. This includes input from academia and regulatory partners, strong partnerships with Law and Business Schools and large parts of the sector to ensure that the best evidence is in place to underpin creative solutions going forward. We will fill gaps, but wheel reinvention is not on our agenda.

And the regulatory objectives will also underpin how we tackle our supervisory duties. We talked last year about gold standard regulation. Let me be crystal clear. Gold standard does not mean gold plated. Proportionality is the touchstone and regulation is not the answer to every issue within the industry. But we will continue to work to ensure that approved regulators have the capacity and capability to tackle their challenges and to learn from each other in doing so. And that means ensuring that *their* 'business as usual' work meets the needs of the public and those they regulate, as well as ensuring that they have the capacity to meet future challenges.

There is, of course, a significant follow through from our agenda in 2009/10. We look forward to reaching agreement with the individual approved regulators early in this plan period on how, and how quickly, they will move into compliance with our rules around regulatory independence. We will continue to work hard to support the equally challenging ambitions of the Legal Ombudsman to open in October 2010, and are working with the Legal Complaints Service and approved regulators to ensure that their current standards of complaints handling do not decline in the intervening period. This will supplement our focus in working together to improve standards of first line complaints handling in the industry, so that the caseload of the Legal Ombudsman is focused only on those cases where there is a genuine issue of substance that cannot be resolved without third-party involvement.

And, we will continue to press for the removal of barriers to new business models to ensure that those within and without the legal services sector can use the full range of their creativity to provide the access to justice on which a civilised society depends in ways which are innovative and offer best value to the public. We are not starry eyed

about this. There are risks in new models – just as there are in the existing market. Where these risks are unique to ABS, there will be unique protections. Where there are generic risks, there will be common protection. We will not rig the market. But nor will we allow present patterns of service delivery to solidify. The legal services industry – in the High Street, in rural areas, in the City – cannot be immune from the transformations facing all other service sectors. Our sense is that increasing numbers of legal services providers share this view. This is change and transformation that is increasingly being driven by lawyers themselves, not done to the profession by a faceless regulator for ideological motives. Unless wanting good service to the public from a strong and robust industry is ideology, in which case we plead guilty.

We will also make sure that the regulatory framework continues to be modernised. We have been clear in our practice that we will increasingly specify the outcomes we expect approved regulators to achieve for the public and profession, rather than impose specific rules upon them. We believe that approved regulators themselves can increasingly move in that direction – and that a self-confident, ethically robust profession should welcome that change. But it will call for development in regulatory capacity and practice to ensure that all live up to the standards of the best and that corrective action is taken rapidly if standards fall to an unacceptable level. That is the challenge to which we want to help regulators to rise.

Above all, we see 2010/11 as the year when, with our full staffing in place, we begin to tackle the important, as well as the urgent. Tackling these structural issues in partnership with all stakeholders is, in the long run, as, if not more important, to the public than acting as a detailed maker of rules or a policeman of regulatory practice.

For example, our plan sets out a challenging agenda on workforce issues, going beyond our focus on diversity last year into a broader range of discussions on how far current educational arrangements are fit for purpose or need reform. And access to justice remains a key cornerstone of our approach to ABS and the full range of activities around our objective on Public Legal Education,

where we will continue to work with government and others to make a step change in the impact of the many disparate initiatives.

Our independent Consumer Panel, and their dedicated support team, is already having an influence on our work. We positively welcome the challenges the Panel will pose not just the LSB, but also the Legal Ombudsman, the approved regulators and lawyers themselves, over the coming years. We welcome their own ambitious work programme, published on 30 March, and look forward to their advice on referral arrangements – and indeed on all of our work.

Throughout the programme, we are conscious that we must be continually alert to emerging developments and be ready to re-focus appropriately when necessary. Our work is not and should not be wholly self-generated. We want to complement the plans of approved regulators and those who seek to enter the regulatory community. We want to respond to the needs and ideas of consumer and citizen groups and of the profession itself. Engagement so far suggests that our assumptions have been robustly based to date. We look forward to continuing dialogue to ensure that they stay that way through a further year of debate, development and delivery.



Chris Kenny
Chris Kenny Chief Executive

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The regulatory context

Overview

1. The Legal Services Board 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. We will continue to focus on these priorities in the year ahead but will also be able to undertake a broader programme of work now that our full staffing complement is almost in place.
- the Bar Standards Board regulate the 16,455 practicing barristers²;
- The Institute of Legal Executives, who through the ILEX Professional Standards Board regulate 7,500 practicing fellows³;
 - The Council for Licensed Conveyancers who regulate 906 practicing licensed conveyancers⁴;
 - The Chartered Institute of Patent Attorneys, who through the Intellectual Property Regulation Board regulate 1,817 practicing chartered patent attorneys⁵;
 - The Institute of Trade Mark Attorneys, who through the Intellectual Property Regulation Board regulate 836 practicing trade mark attorneys⁶;
 - The Association of Law Costs Draftsmen who regulate 270 practicing costs draftsmen⁷;
 - The Master of the Faculties who regulates 887⁸ notaries.
6. In addition, two further professional bodies from outside the traditional legal services sector were designated formally as approved regulators from 1 January 2010. Those bodies, which are both listed as approved regulators in relation only to reserved probate activities, are:
 - Institute of Chartered Accountants in Scotland (ICAS);
 - Association of Chartered Certified Accountants (ACCA).
 7. The Act also allows for new bodies to apply to the LSB become approved regulators and in Section 2D we describe our work to consider these applications.

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 regulate 112,246 practicing solicitors¹;
 - The General Council of the Bar, who through
- ### Our approach
8. Our starting point in approaching regulation is as follows:
 - The Legal Services Act 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.

- 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, as required by the Act, limiting the need for us to use our direct regulatory 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 businesses that present risks to specified outcomes.
- We will develop strong working relationships with key stakeholders including the 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.

9. All of our experience to date has confirmed that this approach provides a strong basis for our work.

Measuring impact

10. In assessing regulatory activity, both our own and the approved regulators, against the regulatory objectives we will take a wide view rather than a narrow ‘target’ or key performance indicator

approach. In each circumstance, we will take into account any evidence that we believe to be relevant, ensuring an ongoing risk assessment of performance and proposals against the regulatory objectives and a focus on where we consider the risks are greatest and the potential for incompatibility with the objectives most significant. On page 11, we set out what we consider to be the broad questions that will help us, approved regulators and indeed others make these assessments. The questions are those we will be constantly seeking answers to – and reviewing how those answers change over time – to assess the extent to which both we and the approved regulators are fulfilling the regulatory objectives.

11. We also recognise the importance of our day-to-day business alongside our work to reform regulation. In particular, we will strive for excellence in the way that we handle rule change applications by approved regulators, applications to become an approved regulator or Licensing Authority (LA), or to change reserved activities of existing ARapproved regulators. On page 34 we set out some initial key performance indicators for rule changes as part of our commitment to be transparent about our performance.

Notes

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- 1 <http://www.lawsociety.org.uk/documents/downloads/lis-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 Council of Licensed Conveyancers, figures correct as at 18 November 2009.
 - 5 Register of Patent Attorneys, <https://www.cipa.org.uk/members/directory/default.asp?dir=2> as at 18 November 2009
 - 6 The Institute of Trade Mark Attorneys, as at 18 November 2009
 - 7 The Law Costs Draftsmen Profession, as at 18 November 2009
 - 8 Master of the Faculties as at 23 Nov 09

*“How is access to legal services being measured and improved?
(Volumes, innovation and use of IT in delivery, client profile, outcomes,
service/problem/need, affordability, price transparency, geographical
spread, needs of vulnerable consumers)”*

*“How are consumers engaged to shape regulation
and shape the legal services market?
(Understanding legal need of individuals and businesses, consumer
empowerment, knowledge symmetry, public legal
education, transparency of regulation and market)”*

*“How is consumer confidence in regulation
and legal services measured and improved?
(consumer survey, complaints analysis
and complaints handling)”*

*“What understanding of your market do we have?
(Market definition, market segmentation,
supply side and demand side analysis, individual and entity ability to move
within legal sector, international aspects, in house and govt lawyers)”*

*“What measures of market dynamism and competition
are in place and what action taken to improve competition?
(Take up of new structures, market entry and exit numbers,
size of legal market, links between legal and other sectors)”*

*“How is evidence collected and research
focused on which to base regulatory interventions?
(Research plans, appropriate data collection,
shared approaches with other regulators)”*

*“How is compliance targeted and proportionate?
(Macrory principles, risk based, imposed cost of market
compliance with regulation, transparency of outcomes)”*

*“How are the Hampton principles being upheld?
(Better regulation, principles and outcomes based, proportionate,
relevant, up to date, benchmarking in sector and beyond)”*

*“Can we demonstrate the independence and capacity of regulators?
(Independence from representative arms; from Government; from
dominant consumers/purchasers. Resourcing and capability of regulators,
value for money, best practice governance and behaviours)”*

*“Is there professional confidence in regulation?
(Strong ethical framework, surveys, robust discipline of
transgressors, fair discipline systems, choice of who
regulates entities driving quality up not down)”*

*“What diversity initiatives are undertaken and how is their impact
measured in order to drive improved outcomes for the profession?
(Initiatives targeted at evidence based analysis, impacts measured, targets set)”*

*“What understanding is there of current and future workforce needs?
(Routes to qualifying, relevant training, numbers/diversity/quality of training/
trainees, appropriateness of CPD, ethical framework for sector)”*

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Policy focus 2010/11

Our work programme

12. As the next sections illustrate, we have set ourselves an ambitious work programme for 2010/11, and the following pages describe the areas that we will focus on:

- A. Putting consumer and public interest at the heart of regulation
- B. Widening access to the legal market
- C. Improving service by resolving complaints effectively
- D. Developing excellence in legal services regulation
- E. Securing independent regulation
- F. Developing a workforce for a changing market
- G. Improving access to justice

13. This represents the second year of the programme of work we set out in our Business Plan for 2009/10, adjusted to reflect the move from planning and preparation to delivery. All of the work-streams contain an indication of the evidence base we intend to obtain to inform our work and confirm the outcomes we expect to see in the legal services market in the medium-term.

14. In addition, our experience in 2009/10 has allowed us to identify more clearly the activity we need to undertake in two areas – workforce diversity and access to justice – to ensure a co-ordinated approach to achieving progress. As such, we have expanded the content of work streams 2F and 2G to explain our role in these important areas.

15. The programme takes into account that from the start of January 2010 we became fully operational with the full regulatory infrastructure in place, and are therefore able to take action to enforce compliance using our enforcement powers. We will not resile from using these where necessary. However, it is our firm intention to work constructively with approved regulators to ensure that our common goals are achieved.

RO1 Protecting and promoting the public interest

RO2 Supporting the constitutional principles of the rule of law

RO3 Improving access to justice

RO4 Protecting and promoting the interest 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

Putting consumer and public interest at heart of regulation

Regulatory objectives supported



Work stream overview

16. We are committed to ensuring that we have a comprehensive understanding of the views and experiences of all with an interest in the legal services market. Specifically, we must understand and take into account the input of consumers, so that the regulatory system works in their interests. We will do this through two key ways that support all our other work streams:

- working with the Legal Services Consumer Panel;
- direct consumer research and engagement.

17. Our view is that we can only put consumers and the wider public at the heart of regulation if we understand and are able to articulate their needs, views and concerns. This must be evidence based.

18. We will work with the Consumer Panel to assess what research is required to support their first full year work programme to understand and advise on the consumer interest. This will enable the Consumer Panel to fulfill its role as our 'critical friend'.

19. We will develop our evidence gathering and research work so as to ensure that our policy proposals and regulatory interventions are evidence based and focused on both the consumer and public interests. We will gather evidence through research, consumer surveys, engagement with consumer bodies, citizen groups and, of course, through feedback from approved regulators and the regulated community.

20. To do this successfully we are developing a programme of original research and by ensuring that our work is independently scrutinised by the Consumer Panel. We will identify appropriate routes to directly engage with consumers and have also established a Research Strategy Group to steer the research programme, challenge our methodology,

provide independent oversight and recommend an annual research budget to the Board.

21. The Consumer Panel has now published its 2010/11 work programme and we are confident that it will help us ensure that we develop a broader and deeper understanding of consumer interests across the range of issues being considered over the next year. We await with particular interest, the Consumer Panel's work to develop a Consumer Welfare Index which will assist us in assessing what further work is needed to measure the impact of reforms. We have agreed a Memorandum of Understanding with the Consumer Panel that explains the nature of our working relationship.

Why this work matters

22. We need to understand the perspectives of the users of legal services so that we can target our work on those whose interests have not been met by the regulatory system – or the market – in the past. As such, understanding consumer needs lies at the heart of our entire programme of activity. We are committed to considering changes to the regulatory landscape with due regard to the possible impact of changes on the end user – as well as to practitioners and the market itself.

23. We are similarly committed both to open and transparent research and to effectively and honestly measuring the anticipated impact of our proposals so that we can demonstrate that the decisions we take have consumers at the heart. This will also enable us to review the impact of our interventions and thus create a continual updating of our evidence base in the light of a changing regulatory landscape and market.

Research evidence

24. We are committed to using research to keep consumers and public interest at the heart of regulation, both by benchmarking the existing market and commissioning original research to ensure we have an evidence base to support all our regulatory objectives.

25. Our research programme will split into two key strands: measuring and understanding consumers' experience of the market today; and developing an evidence base to underpin our work to meet our regulatory objectives. The two are, of course, entwined.
26. We will be using existing evidence and commissioning new research that together will enable us to understand the problems faced by different consumers in the market, whether a first time house-buyer, an asylum seeker or a small business. This research will also help us to track the performance of the LSB over time in meeting its regulatory objectives. Through consultation on this plan and wider dialogue with stakeholders, we have developed a strong programme of work for 2010/11, for which we are beginning to seek partners. The plan also sets out some of the research and evidence that we think is important for each work stream.

Detail of work we will do in 2010/11

Activity	Description	Milestone/output
Measuring and understanding consumers' experience in the market today	<p>We will be commissioning research to explore how consumers of all types interact with the legal services market and what problems they face.</p> <p>We will seek new ways to engage directly with users of legal services and hold a research seminar to gain insight from consumers' representative bodies.</p>	<p>Q1 (10/11): hold research seminar on initial research findings</p> <p>Q2 (10/11): introduce new direct engagement with consumers</p>
Developing an evidence base to underpin our work to meet our regulatory objectives	<p>We will be working to ensure that all our research that we commission is published and freely available online to consumers, the approved regulators and academia.</p> <p>Work with a wide range of academics in order to influence research priorities and join up regulatory, consumer demand, competition and other relevant specialisms so as to create a dynamic research environment.</p> <p>Ensure that research contributes to shape of future work programme.</p>	<p>Q1 (10/11): publish our finalised research programme for 2010/11</p> <p>Q1/2 (10/11): sponsorship of Legal Service Research Centre conference</p> <p>Q3 (10/11): consult publicly on 2011/12 research programme</p>
Engage with the independent Consumer Panel	<p>We will provide appropriate resources to allow the Consumer Panel to conduct its work.</p> <p>We will seek the Panel's advice on matters where we need to better understand the consumer interest, including but not restricted to referral arrangements and accreditation, and ensure that their advice is considered and reflected in our work.</p>	Ongoing

By 2013 we expect

27. The regulation of legal services will be a model of best practice. The LSB and approved regulators will be recognised as excellent in the way that they:
- target and assess the impact of their activities on the consumer and public interest;
 - engage with the widest variety of consumer and civic society groups in developing policy and practice;
 - find the most creative ways of identifying actual consumer experience of services and feeding them through into policy development;
 - use the LSB's Consumer Panel to underpin progress by bringing creative challenges.
28. The improved regulatory performance stemming from this approach will lead, in turn, to better access and outcomes so that:
- consumers are more confident in accessing the legal services market and can make better informed decisions about purchases;
 - cultures and systems of quality assurance are embedded throughout the legal services sector to give consumers confidence in the services they purchase.

Widening access to the legal market

Regulatory objectives supported



Work stream overview

29. To date there have been wide-ranging restrictions on the ownership and management of legal service providers. The Act allows for the introduction of non-lawyer managers and owners. We will be working with approved regulators and potential Licensing Authorities (LAs), to develop their rules and capability to regulate these new business structures in preparation for an October 2011 start date. In meeting this date, we will not compromise on consumer protection, or allow LAs or ABS that fall short of delivering agreed outcomes.
30. Our work in 2009/10 was concerned with developing the policy framework. In 2010/11, work must turn to implementing the framework, and the baton of activity, in many respects, passes to approved regulators who wish to become LAs. We plan to step-up our communications efforts to make sure we speak to as many interested parties as possible to understand the opportunities and implications of the new regulatory framework. We will build our own capacity to consider applications to become LAs, building on our work to agree rule changes and new approved regulators.
31. With an ever greater diversity of models to regulate, it is important that regulators are able to specify the outcomes they are seeking and focus on supervising those individuals and entities that present the greatest risk. We will, therefore, work with prospective LAs to build their regulatory and supervisory capacity. This will also include approved regulators and LAs developing effective Memoranda of Understanding between themselves that ensure that multi-disciplinary and cross-regulatory regime entities enhance, rather than undermine, consumer and public interests.
32. To be clear, we will not prescribe particular models for legal services. We are neutral as to any particular model for any particular service and as such can see no justification for the maintenance of regulatory restrictions on investors and owners as to how they structure their business beyond those prescribed directly in the Act.

Why this work matters

33. It is our view that the relaxation of the ownership rules, if done in a way that ensures the continued protection of consumers, the professional duties of lawyers and which supports the rule of law, will result in new forms of business practice that benefit both consumers, lawyers and society as a whole. In particular, innovations that will mean consumers get the services they need and want, in ways that suit them at prices they can afford. And innovations that allow lawyers, of all kinds, and other service providers to offer legal services in a way that delivers improved commercial returns and business efficiencies. A more dynamic market will support a more diverse legal profession.

Research evidence

34. We see the introduction of alternative business structures (ABS) in the wider context of changes in the way legal services are provided and changes in the way consumers expect to receive professional services. Following from our first round-table on future developments in the legal sector (to be held in Q1 2010/11) we will undertake appropriate research to monitor trends and develop a set of measures that can track how the market responds to the changes brought in by ABS, including the experience of Legal Disciplinary Practices (LDPs).

Detail of work we will do in 2010/11

Activity	Description	Milestone/output
Issue final guidance on content for licensing rules	Following consultation, issue the final guidance that sets out the core regulation that applies to ABS.	Q1 (10/11): publication of final guidance on licensing rules. (We delivered this milestone ahead of schedule in March 2010)
Ongoing work with potential LAs	Working with potential LAs to ensure that they have suitable rules and sufficient capability to become competent LAs.	Ongoing
Development of LSB's direct licensing approach	Should no approved regulator be able to regulate ABS, the LSB will have suitable plans in place to license directly from mid 2011.	Q2 (10/11): scoping requirements Q3 (10/11): determining potential LAs progress Q4 (10/11): consultation on LSB's rules (if needed)
Ongoing development of market readiness for ABS	Working with the widest possible group of external stakeholders identify the risks and opportunities presented by ABS.	Regular ABS implementation group meetings Open fora held throughout England and Wales
Considering applications to become Licensing Authorities	Existing and new approved regulators will be able to apply to become LAs from August 2010. We will develop our process and criteria for receiving applications from prospective LAs.	Q2 (10/11): have in place a process for considering applications Q3 (10/11): be ready to consider applications

By 2013 we expect

35. The legal services market will be significantly more diverse and vibrant than today. Access to justice will be enhanced because more law firms will offer services in partnership with other professionals – and new entrants will offer legal services as part of a wider 'one stop shop' to the consumer.

36. Overall, the market will offer better value and choice for consumers as a result of innovation driven by:

- a wider range of ownership and investment arrangements in firms providing legal services;
- new forms of corporate structure and operational management;
- strengthened competition leading to higher standards and better value for money, driven by new entrants to the market place;
- effective consumer protection regulation through proportionate licensing arrangements.

Improving service by resolving complaints effectively

Regulatory objectives supported



Work stream overview

37. We have already started work with the approved regulators to improve the way in which those they regulate respond to complaints and to develop a set of common outcomes that will be reflected in complaints handling procedures. We expect the approved regulators to develop action plans to ensure that there are effective complaints handling procedures in place by the time the Legal Ombudsman becomes operational in the second half of 2010. During 2010/11 we will continue to work with the approved regulators, the Legal Ombudsman and consumer representatives to monitor the implementation of those action plans. As part of this, we will also oversee the approved regulators own complaint handling performance and service to ensure appropriate levels are maintained, particularly as the commencement date for the Legal Ombudsman draws nearer. We will also continue to work with the Legal Ombudsman as they commence their work to resolve disputes between consumers and legal services providers.

Why this work matters

38. A perception of poor complaints handling by approved regulators and the individuals and entities that they regulate was one of the main drivers behind the regulatory reform agenda. A key objective for the LSB is therefore that there should be an improved customer experience with swift and effective redress if things go wrong. The creation of the Legal Ombudsman will address many of the concerns, but there still appear to be a number of areas for improvement within first-tier complaints handling.

Research evidence

39. We consider that it is fundamental that approved regulators monitor the effectiveness of complaint handling procedures to ensure that enforcement is targeted at issues of consumer detriment and that review processes are able to identify and address systemic issues.
40. We will continue to engage with approved regulators to discuss the most appropriate data (both qualitative and quantitative) to collect to ensure that they and we can monitor improvements in first-tier complaints handling. As a first step we have already asked approved regulators to conduct an assessment of:
 - current first-tier complaints handling requirements;
 - the performance of lawyers' first-tier complaints handling;
 - the effectiveness of their current regulation of legal services in this regard, including enforcement; and
 - first-tier complaints handling monitoring (including data collection), reporting and reviewing.
41. We will also be discussing with the Legal Ombudsman what information they can provide to us and the approved regulators so that we can assess over time how the changes made to first-tier complaints handling procedures have made a difference to consumers. We will also consider the best way to engage consumers on this issue.
42. We want to make sure that we strike the right balance between getting sufficient data on which to base decisions and not impose unnecessary burdens on those providing it.
43. We will also work to ensure that second-tier complaints handling organisations provide responsive service to the public. This will be challenging for all concerned in the course of 2010/11. The Legal Complaints Service and analogous parts of the other approved regulators will need to work hard to maintain performance as they work towards the change of remit that comes with the opening of the new Ombudsman scheme. We will support

and challenge them in that role, mindful of the fact that complaints handling is a key regulatory function. We will also oversee the Office for Legal Complaints as it develops performance metrics for

the Legal Ombudsman service, mindful both of the uncertainties facing a new scheme, but also of the need to be able to demonstrate clear consumer benefit as early as possible.

Detail of work we will do in 2010/11

Activity	Description	Milestone/output
Working with approved regulators to develop the outcomes sought for effective complaints handling procedures and collecting baseline information on complaints handling from them.	The Act requires all authorised persons to have complaints handling procedures in place.	Ongoing: the LSB will monitor the approved regulators implementation of their action plans against the specific objectives and milestones in them, including information gathering
Regulatory review: Complaints handling	Reviewing how successful approved regulators have been in implementing effective complaints handling procedures, monitoring processes and signposting the consumer's right to complain rule.	Q1/2 (10/11): consultation and engagement with approved regulators on the form of the review Q3/4 (10/11): review the implementation of complaints handling procedures by approved regulators and agree next steps
Agree and monitor performance targets with the OLC	Before the OLC opens for business in October 2010, the LSB will agree a suite of key performance indicators with the OLC and will monitor on an agreed basis.	Q2 (10/11): initial KPIs agreed Q3/4 (10/11): ongoing monitoring
Oversee maintenance of customer facing performance by current second-tier complaints bodies	We will work with the LCS and others to minimise detriment to complainants and lawyers alike as their work ends and the Legal Ombudsman takes on its responsibilities.	Q1: Monitoring regimes and risk triggers agreed with existing bodies

By 2013 we expect

44. Consumers can be confident that:

- if things go wrong, their legal services provider will be responsive to their concerns and able and willing to act swiftly and informally to sort matters out;
- in cases where disputes cannot be resolved, the Legal Ombudsman will act swiftly, rigorously and impartially to determine the dispute and, where appropriate, award fair redress.

Developing excellence in legal services regulation

Regulatory objectives supported



Work stream overview

45. This work-stream is concerned with ensuring that the LSB carries out its duty to assist in the maintenance and development of standards in regulation by approved regulators. It has three strands: first, conducting regulatory reviews; second, our work to consider applications from new bodies that might wish to become approved regulators; and third, our role in considering requests from approved regulators to amend their regulatory arrangements.

Regulatory reviews

46. There are three elements to this part of our work. Firstly, themed reviews will focus on the assessment of, or compliance with, specific policy areas. Secondly, broader reviews will consider the broad performance of approved regulators in terms of day-to-day regulation and how that is being changed in the light of the Act. Thirdly, we will consider specifically how smaller regulators can best deliver excellence.
47. For our initial themed reviews we will examine the way in which approved regulators are complying with the final internal governance rules developed by the LSB. We will base this review on the information provided during the dual self-certification process that is being developed with approved regulators. 2010/11 is a transitional year for this work but the reviews will form the basis of the future dual self-certification process. We have also stated that first tier complaints handling is likely to be the subject of an early themed review.
48. We will base our broader reviews on a combination of self assessment, challenge and auditing. We set out in our draft business plan (at Annex 1) an expanded explanation of the regulatory objectives and we received some useful feedback on this

section. We will publish that as a separate document as it has a life beyond an annual business plan. We also set out a more practical application of how we could test the compatibility of regulation with these regulatory objectives. Those questions are set out on page 11 and will provide the basis for the broader regulatory reviews. We will develop this approach through 2010/11 and it will inform future regulatory reviews.

49. We will also consider during 2010/11 how best smaller approved regulators can play their important role in regulating legal services. We are acutely aware of the need for proportionate regulation and oversight; but similarly recognise the clear duty to regulate in a manner compatible with the regulatory objectives. This work will help develop standards within regulation and inform our criteria for considering new approved regulator applications.

Designating new approved regulators and reviewing revised regulatory arrangements

50. During 2009, we consulted on and introduced rules and mechanisms for approving applications from organisations wishing to be designated as new approved regulators. We also worked with the existing approved regulators to develop the rules and processes to approve applications from them to make changes to their arrangements for regulating their members and to begin regulating other areas of reserved activity should they so wish.
51. A core part of our 'business as usual' in 2010/11 will be to receive and process such applications. We aim to do this in a manner that will lead applicant approved regulators, their regulatees, consumers and all other interested parties to be confident in the effectiveness, speed, rigour and proportionality of our processes. Ahead of our original schedule, we are now setting initial key performance indicators and these are set out on page 34.

52. We have worked closely with the approved regulators that have submitted the earliest applications. We will conduct a lessons learned exercise from these applications in the first quarter of 2010/11. We will only refuse applications for rule changes where the statutory criteria for a refusal are met; but we expect to garner useful information to develop our understanding of the regulatory regimes in place through a careful analysis of each application. Where appropriate we will use this information to feed into our wider work to develop overall regulatory strategy and promote excellence in regulation.

Why this work matters

53. Appropriate and targeted monitoring and reviewing at specified intervals will enable the LSB and the approved regulators to judge the effectiveness and continuing relevance of their approaches to regulation. Thematic reviews will also assist the LSB in assessing the impact of its policies after they have been introduced.

54. We expect a combination of regulatory reviews and, potentially, competition between regulators to help drive up standards of regulatory performance. The Act allows for new approved regulators in the legal sector and this will create competition. We consider that regulatory diversity within a framework of oversight regulation can drive up standards of regulation and improve the performance of regulated firms for the benefit of consumers. In this context, however, it is vital that our approval process embeds consistently excellent standards across new and existing regulators. In devising the methodology for regulatory reviews, we will be mindful of any requirements placed on new entrants.

55. The approved regulators have an important role in ensuring their regulatory arrangements maintain and enforce compliance with appropriate standards of education, training and practice for the benefit and protection of consumers and the legal services industry. Approved regulators will have to make changes to these standards and arrangements as circumstances change over time and having regard

to best regulatory practice. The front-line regulators require the freedom and flexibility to decide what the best regulatory arrangements are and how to best achieve their goals. However, we must have sight of these changes and have the processes to approve, refuse or exempt them appropriately to assure ourselves that changes do not compromise the regulatory objectives. A proportionate and targeted approach that finds the right balance is essential to effective regulation.

Research evidence

56. Self-assessment by approved regulators will form a significant part of the regulatory review process. Robust self-monitoring processes that can elicit objectively verifiable information will therefore underpin performance reviews. The ability of approved regulators to provide us with the data we require to make rigorous and defensible assessment of progress towards KPIs will be as important as the quality of that information in informing our regulatory response.

57. For our core business that has a direct impact on consumer experience (such as first-tier complaints handling), we also expect to obtain survey data to inform our assessment of reviews.

Detail of work we will do in 2010/11

Activity	Description	Milestone/output
Thematic review: separation of regulatory and representative functions of approved regulators	Reviewing approved regulators' compliance with the LSB's rules.	Q2 (10/11): assessment of approved regulators' dual self-certification and next steps
Thematic review: first tier complaints	See page 19	See page 19
Wider reviews: approved regulators' effectiveness	Develop appropriate methodology. Review lessons learned.	Q1 to Q3 (10/11)
Approval process for designation as an approved regulator and alterations to regulatory arrangements.	Receive applications and progress in accordance with the processes and timings set out in the rules. Continuous improvement based on collaborative evaluation of early applications. Undertake review of processes and timings for introduction of KPIs in 2011/12 to inform consultation on proposed future processes and KPIs.	On-going: published records of applications received and decisions made. Q4 (10/11): publish review and consult on KPIs

By 2013 we expect

58. New and existing legal services regulators in the England and Wales will be seen as world leaders, not simply in their independent governance arrangements, but in the full range of their activities. Consumers will therefore be confident that their lawyers are proportionately regulated by bodies which:
- keep constantly modernising and updating registration and education requirements to promote diversity in, and wider access to, the profession and reflect changing social and consumer needs;
 - maintain and enhance standards of professional conduct in the light of changing circumstances and best practice elsewhere;
 - ensure that robust and independent systems of quality assurance are in place;
- monitor and, where necessary, take enforcement action to ensure that professional standards are put into action at ground level;
 - are accessible and responsive to concerns put to them.
59. Authorised persons should also be confident that their regulators are:
- proportionate and consistent in their decision making, monitoring and enforcement activities;
 - well-governed and cost-effective;
 - up to date in their professional thinking and management practice.
60. All stakeholders will be confident in the effectiveness, speed and rigour of the LSB's own processes for approving rule changes.

Securing independent regulation

Regulatory objectives supported



Work stream overview

61. Throughout 2009, regulatory independence was a prime focus. We developed, consulted on and settled our Internal Governance and Practising Fees Rules. Focus must now change to implementation. In 2010/11, the importance we attach to the need for independence has by no means diminished but the nature of the work will change. Now that the framework is set, approved regulators and we must move to effective implementation. We expect that from 2011/12 this work will no longer require a specific work stream and will become 'business as usual' activity forming part of the 'developing excellence in legal services regulation' strand.
62. In 2010/11:
- **Internal Governance Rules (IGR)** – we will work with approved regulators while they review their governance arrangements in light of the rules we make. It will be for approved regulators to demonstrate that full compliance will be achieved within a reasonable period. Each approved regulator must submit action plans (including proposed timetables) no later than 30 April 2010. Those action plans must then be agreed by the Board. Unless there are very strong reasons, we would expect to see all approved regulators bringing themselves into compliance well before the end of the 2010/11 year. The ongoing annual need to self-certify compliance is designed to ensure continued compliance.
 - **Practising Fees Rules (PFR)** – applications for practising fee approval will be made by each approved regulator through the course of 2010. Early engagement will be vital. All the approved regulators will have their own separate budgeting timetables and individual needs. Close working on
- a one to one basis with each approved regulator should ensure that the first year of operation is smooth.
- ### Why this work matters
63. Independent and objective regulation, furthering the regulatory objectives, is and remains central to our regulatory framework. The separation of regulation from representation, and maximising the transparency of practising fees are important foundations for most of the regulatory framework that we are charged with overseeing.
64. Whilst we expect independence and transparency to become less and less visible, collectively this work remains of particular importance:
- consumers must have faith that regulation is designed to protect their interests;
 - a regime that maintains high levels of consumer and public confidence will allow us to maintain our focus on oversight regulation; and,
 - accountability means that regulated legal professionals should have clear visibility of what they pay their mandatory practising fee for.
- ### Research evidence
65. Focus here will be on how we ensure the Practising Fee Rules work as effectively as possible. In accordance with the Act and our Practising Fee Rules, approved regulators may only apply amounts raised by practising fees for one or more of the purposes permitted under our rules.
66. Prior to the Act's reforms, the bodies which formally become designated as approved regulators, have had to ensure that all fees received from practising certificates are applied only for permitted purposes. Those permitted purposes are now set out by our rules. The question we need to answer is how best to ensure approved regulators are complying with this legal requirement. The solution must not be disproportionate, but it should demonstrate that legal requirements are being met.

67. The focus of our research will therefore be on the type of information that is available in each of the approved regulators, and how that information should be communicated to us through the yearly application cycles.

Detail of work we will do in 2010/11

Activity	Description	Milestone/output
Annual dual self-certification procedure	Submission of dual self-certification returns from each approved regulator in respect of IGR compliance.	<p>Q1 (10/11): ARs must submit their dual self-certification to the LSB</p> <p>Q2 (10/11): LSB response in respect of adequacy of proposed action plans</p> <p>Q4 (10/11): unless disproportionate, full compliance with the rules demonstrated by each approved regulator</p>
Practising certificate approval	Considering and approving applications submitted by approved regulators in respect of proposed practising fees for 2011/12.	Q2/3 (10/11): receive, consider and determine applications

By 2013 we expect

68. 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.

69. 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.

Developing a workforce for a changing market

Regulatory objectives supported



Work stream overview

70. The focus of the LSB's first year was on 'promoting access to a diverse profession' and developing the networks of approved regulators, legal educators, representative groups and other interested parties to progress our stated aims. In 2010/11, we will extend our focus to consider more widely what consumers and procurers of legal services need, want and should be able to expect from the legal workforce. This goes beyond diversity. We intend to support the approved regulators to develop a workforce strategy that covers three primary areas:
- widening access (diversity and social mobility);
 - education and training;
 - quality assurance.
71. We will agree with approved regulators and others, responsibilities and timescales for delivery. Progress in some areas will require deep-seated cultural change and will take some time to achieve. In other areas, benefits can and must be achieved much more quickly. It is our ambition to make this happen.
72. Throughout, we will encourage approved regulators and practitioners to systematically collect and display transparent, consistent, measurable and, understandable information across the three strands of this work stream. This will better enable consumers to make informed choices about the type of provider that they use: mainstreaming the issues for the owners and managers of legal service providers and incentivising continuous improvement that can be robustly measured. Visibility and competition will place a market and consumer value on the range of quality assurance measures available, as well as on the diversity of the workforce.
73. We can only deliver this work in partnership. From the provision of education and training at under- and post-graduate levels, training contracts and continuing professional development, change can only be delivered by educational establishments, legal services providers, the profession and regulators working together. Similarly, it is only through signing up to shared ambitions and clear targets that we will achieve the break through in diversity that we are seeking.
- ### Diversity and social mobility
74. Promoting a legal workforce that is genuinely open to the widest pool of talent is recognised across the legal sector and government as a priority area. There are many laudable initiatives underway in this area and considerable resources are being expended. We will build on the mapping of issues and initiatives undertaken in the previous year to identify synergies and agree a set of common priorities with the approved regulators where combined pressure could create tangible results.
75. We are clear that 'doing things' does not equate to success in its own right – there must also be defined outcome measures linked to these initiatives. We will work with the approved regulators to set the framework to measure the effectiveness of the current programmes. We aim to shift the emphasis from what is being done to what is being achieved.
76. We will also continue to work with partners across the legal sector and with government officials to implement focused strategies for improving opportunities for aspirants from lower socio-economic backgrounds to keep pace with the expectations rightly raised by initiatives such as the Milburn Panel of Fair Access to the Professions. This includes chairing a sub-group of the Gateways to the Professions Forum, which is advising the Department of Business, Innovation and Skills, on how regulators across the professions can achieve progress in meeting the Milburn Panel's recommendations. Crucial to making and demonstrating progress will be finding ways to overcome the paucity of workforce information in this area.

Quality assurance

77. In 2010/11, we will focus on developing evidence of how consumers view quality and what they understand of the range of assurance measures and titles provided by different arms of the sector.
78. We will drive transparency of quality assurance measures which will help the understanding of both consumers and procurers of legal services. This is important to instill confidence that a competent level of service will be received but also to aid competition
79. As the body with responsibility for overseeing the regulation of the legal profession, we will also take the lead in achieving clarity of understanding over which bodies should be responsible for the development and delivery of different types of quality assurance or accreditation schemes. This is particularly important when the schemes relate to the types of service delivered rather than the arm of the sector that is providing it.
80. Our initial focus is on the quality assurance of advocacy. Commercial pressures have combined with regulatory changes over many years to see the advocacy market opening up. This, allied with judicial concern over the quality of some advocacy in the criminal and family courts, has led us to conclude that early progress on a comprehensive quality assurance scheme for advocacy is required. We will work with regulators and other stakeholders to drive this forward. We welcome the coming together of regulators through the Joint Advocacy Group to deliver a scheme for criminal advocacy by mid 2011. Their ownership of the scheme is central to its success but we will continue to galvanise all stakeholders to support urgent progress.

Education and training

81. Systems of education and training provide the lynchpin for delivering success in any workforce development strategy. Fair access to education and training, and flexibility in the way it can be accessed, may help to unlock the opportunities that will allow

the widest pool of talent to enter and progress within the legal sector.

82. Furthermore, education and training provisions allow for an effective workforce that is seen to be both competent and possessing the appropriate range of expertise and skills wanted by the range of consumers, procurers and providers of legal services. It is important that provisions effectively address entry-level requirements but also continuous improvement and safeguards for those within the workforce.

Why this work matters

83. There are clear statutory requirements in this area that we share with the approved regulators – many of the regulatory objectives cut across the aims of this work stream. Section 4 of the Act also requires the LSB to assist in the maintenance and development of standards in relation to approved persons; and in relation to their education and training.
84. Moreover, professional diversity, education and training and quality assurance are at the core of a credible legal workforce that inspires confidence. A workforce that does not reflect the full social diversity of the population may be questioned by modern, global consumers and a public that increasingly demands equality of opportunity. Further, for any workforce to succeed in a challenging economic environment it must be responsive to the changing expectations of consumers, procurers and the public. Regulation must facilitate and encourage innovation and modernisation.
85. There are therefore clear business advantages to a workforce of different cultural, social, educational and commercial backgrounds. We intend to highlight these advantages over the next 12 months.

Research evidence

86. We highlighted in last year's plan that there is a significant amount of valuable work already underway in this area. Our approach is and will continue to be to develop networks across all interested parties and encourage collaborative working. This will ensure maximum efficiency of effort, build the widest possible evidence base and identify the gaps where we can most effectively target our own limited resource facility.

87. In 2010/11 we aim to:

- produce the map of diversity issues, initiatives and gaps commissioned by the LSB's diversity forum of professional regulators;
- highlight examples of diversity within the legal sector having a positive economic impact;
- investigate what consumers understand of the existing quality assurance schemes and drivers for selection.

Detail of work we will do in 2010/11

Activity	Description	Milestone/output
Workforce access (diversity and social mobility)	<p>Work with the approved regulators to agree the framework to measure the effectiveness of current programmes</p> <p>Map current sector diversity as a baseline for measuring the impact of future changes.</p>	Q2 (10/11): publish framework and review progress against it at least annually
Education and training	<p>Develop a broad understanding of current qualification routes and work collaboratively with approved regulators, educators, Skills for Justice and other stakeholders.</p> <p>Work with Gateways to the Profession Collaborative Forum to embed social mobility into development of education and training</p>	Q1 (10/11): publish single source map of qualification routes
Quality assurance	<p>Develop understanding of how consumers view quality and what they understand of the range of assurance measures and titles provided by different arms of the sector.</p> <p>Take the lead in achieving clarity of understanding over which bodies should be responsible for the development and delivery of different types of quality assurance.</p>	<p>Q3 (10/11): publish research report</p> <p>Q4 (10/11): initial analysis of other accreditation schemes</p>

By 2013 we expect

88. 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, going above and beyond its statutory objectives;
- 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.



Improving access to justice

Regulatory objectives supported



Work stream overview

89. We set out what we mean by access to justice in our draft business plan at Annex 1. We will publish an updated version of this (and what we mean by the other regulatory objectives) separately but in short we believe that access to justice is the acting out of the rule of law in particular circumstances. So it is wider than access to services or the availability of lawyers; it is equally more than simply giving consumers what they want; and it involves public interest considerations of the highest importance.
90. There are many factors affecting access to justice. Our work programme seeks to address these by working with approved regulators and others to gather evidence and understanding of the barriers to access that exist in the legal services market place and the factors that drive consumer behaviour in the choice and use of legal services. Over time, this work will help us to develop a more co-ordinated and sophisticated approach to public legal education, and the work we do with partners and stakeholders, to make a measurable contribution to improving access to justice. We will explore the potential for legal helplines and comparison websites to improve consumer education.
91. In addition, we will consider whether the current scope of regulation, in terms of the activities that are regulated as 'reserved legal activities', is in any way affecting the ability of the legal services market to deliver access to justice. In this instance, we expect to need to balance better consumer protection with additional costs of regulation. In reaching a position on the issue of currently non-reserved activities we will need to consult widely as there is a very wide range of legal type services currently not regulated. We will also need to consider how differently regulated areas such as claims management and immigration and asylum fit into the overall regulatory landscape.
92. As part of our work exploring the limits of current regulation, we will consider how the protection of title affects the market.

Why this work matters

93. Access to justice is one of the key foundations to the maintenance of civil society and one of the most difficult things to deliver. This is recognised in the Act by the requirement placed on LSB and the approved regulators to improve access to justice. It is also an area of activity to which we are likely to be held to account over the coming years.
94. A proper consideration of access to justice requires sophisticated understanding of the market – both in terms of supply and demand. For individuals eligible for legal aid to those currently above the legal aid eligibility levels and for small business to major corporations – we must ensure that the regulatory framework supports this area. Our work in the next year will help us to better understand the current performance of the market and serve as a baseline for improving access to justice in the future.

Research evidence

95. This is an area of work where robust understanding of consumer behaviour and the factors that influence choices will be essential. We intend to review existing research (consumer, academic etc) and to commission original research to gain a better understanding of what characterises consumer behaviour in the legal services market.
96. We will seek to bring robust analysis to the areas of market segmentation and penetration; customer journeys and legal need. We will review existing research, commission further research (with partners wherever appropriate) and publish accessible summaries of research where this will help drive evidence based regulatory interventions.

97. We have commissioned economic research on the impact of referral fees and will use this, alongside the research commissioned by the Consumer Panel, to better understand how or if referral fees impact on the consumer and public interest. We will also take full account of Lord Justice Jackson's findings, review existing research on referral fees in legal services and other markets and available data or evidence on the impact of referral fees.

Detail of work we will do in 2010/11

Activity	Description	Milestone/output
Understanding how and when consumers use the legal services market	<p>We will review existing research on legal need and commission further research where appropriate.</p> <p>We will work with stakeholders to consider the potential for a 'legal direct' advice and signposting service and consider the impact of 'comparison' type websites.</p>	Q3 (10/11): publish a review of demand and supply side research on the legal market
Making the decision to regulate	<p>Understand the costs and benefits of regulating currently unreserved legal activities.</p> <p>Identify criteria for determining whether an area of advice should be regulated.</p> <p>Undertake an initial review of the existing regulatory frameworks for claims management and immigration and asylum so as to inform our approach to reserved/unreserved legal advice.</p>	Q3 (10/11): publication of consultation document on the decision framework for making a legal activity reserved
Civil litigation costs	<p>Consider and if necessary develop a consistent approach to the regulation of referral fees in legal services market, using evidence and analysis provided by the Consumer Panel and others.</p> <p>Understand the impact that civil litigation costs have on access to justice.</p>	Q2 (10/11): launch consultation on a coherent approach to referral fees in legal services market

By 2013 we expect

98. In the legal services market:

- consumers will be more knowledgeable about how to access legal advice from a range of sources and be better equipped to find the answers they need on any given issue;
- improved access to justice for all consumers will be facilitated:
 - by bridging the divide for those whose incomes exceed legal aid thresholds but fall below the level required to purchase essential legal services;
 - by addressing information asymmetries through the provision of trusted sources of information which give better insight into the costs and quality of legal services.
- approved regulators and the LSB will be better informed about the operation of the legal services market with data and evidence to support that analysis.

3

Demonstrating value for money and good governance

Resources to deliver our Plan

99. Table 1 shows our budget for 2010/11, our first year of operation at our full capacity. The figures presented represent the outcome of detailed work on our baseline costs, for example in ensuring that we have the necessary legal advice and resources available in a timely fashion. It is designed to underpin the current proposed level of activity, in particular the need to ensure that we have a robust research programme to evaluate the evidence base on legal services reform and to fill the gaps that we perceive in it, if the policies we develop are to be soundly based.
100. We have also taken on board comments made by many of the approved regulators and consumer organisations and identified and resourced the Consumer Panel to an appropriate level in order for it to function effectively and independently. The sum identified allows for appropriate reimbursement of Panel members, high quality support staffing and a small budget to ensure that its other direct support needs can be met. We expect that the Panel will have a major impact on how the Board chooses to spend its research budget and that many projects will in effect be co-sponsored.
101. Table 1 also sets out planning assumptions for 2011/12 and 2012/13. These are necessarily somewhat speculative, given:
- the absence of a track record of forecasting activity levels for our core 'business as usual' activities;
 - uncertainty about whether, and if so to what extent, the LSB itself has to take on any direct regulatory or licensing activity role;
 - the uncertainty about the extent to which the regulatory review process uncovers the need for further investment or, conversely, enables us to commit less resource in key areas;
 - while we hope never to have to use them, any use of the LSB's enforcement powers is likely to generate significant resource pressures for the organisation;
- the possibility of reform of arms' length bodies in general and changes in the justice arena in particular.
102. However, as demonstrated by the fact that we are on course to clearly keep within the implementation costs ceiling, and our stated intention of keeping the body to around 35 staff, we can be clear that the LSB has no agenda to expand its remit. In the first instance, we will always seek to accommodate new tasks within existing resources or through reprioritisation before deciding whether to pass costs through to those who pay the levy.
103. Against that background, our planning assumption is that our spend in both 2011/12 and 2012/13 will increase only by the level of the RPI. We will seek to mitigate this by seeking ever improving methods of working and where practicable savings in our support services. However, our small scale means that the scope for significant savings are limited and we will not compromise on progressing the regulatory objectives for purely financial reasons.

Table 1 – LSB budget for 2010/11 and predicted budget for 2011-13

	2010/11 Operational Budget £000	2011/12 Operational Budget £000	2012/13 Operational Budget £000
Staff	2,700	2,800	2,850
Accommodation	585	590	610
IT/Finance/Facilities	251	233	240
Research	300	300	300
Office costs	153	168	165
LSB Board	226	221	216
Legal ref./support	68	51	55
Contracted out services	127	127	127
Consumer Panel	204	210	216
Depreciation	151	136	136
Total Excluding OLC Board	4,765	4,836	4,915
OLC Board	166	162	160
Total Including OLC Board	4,931¹	4,998	5,075

1. The total figure of £4,931,000 is £15,000 higher than was detailed in the draft plan consultation. This difference is due to increased anticipated depreciation charges, which will be fixed for the 2010/11 year.

Recouping our costs

104. We are required by Part 7 of the Act (specifically S173 – 175) to meet all our, and the OLC's costs through a levy on the approved regulators. In April 2009, we consulted on the proposed methodology for the apportionment of all leviable expenditure for the establishment of the LSB and the OLC, and the running costs of the LSB until the end of March 2010.

105. The Act allows us to propose different methodologies for different aspects of the levy. As a result, we proposed a different methodology for apportioning the set up costs of the LSB from the OLC. This met with general support and acceptance.

106. We did, however, take into account responses to our initial consultation proposals which objected to the suggested payment schedule of recouping 70% in the first year, 20% in the second year and 10% in the final year. After considering the response we proposed recoupment of a minimum of 34% in the first year and then 33% in each of the second and final year.

107. We have committed to consult widely again in early 2010 to determine how to levy to recoup the ongoing running costs of both the LSB and OLC from the approved regulators in a way which is as fair as practicable and avoids undue administrative burdens.

Governance structure

108. The LSB is committed to the highest standards of corporate governance. We are accountable to Parliament through the Lord Chancellor and are sponsored by the MoJ. The principles and strategic framework of the relationship between LSB and MoJ are set out in Framework documentation. As a Non-Departmental Public Body (NDPB), the scrutiny provided by our sponsor department contributes to providing the necessary assurance to those who fund us that we operate as efficiently as we can, demonstrating value for money and ensuring that we do not seek to 'gold plate' any of our activities.

109. Internally, the Board is responsible for the strategic leadership and direction of the LSB, as well as ensuring that we comply with principles of good corporate governance. The Board has established

an Audit and Risk Committee whose role 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 in LSB. The Board has also established a Remuneration and Nomination Committee. The Board sees minutes of both of these Committees and also receives written reports about any significant issues arising during the meetings.

110. At working level, the Senior Management Team (SMT) is responsible for the implementation of the strategy agreed by the Board and the day-to-day management of the organisation. The organisation chart as at 1 April 2010 is attached at Annex 1.

Risk management

111. We have implemented a risk management strategy across the organisation in order to ensure that we are not prevented from achieving our objectives by having to react to unforeseen pressures. The principles outlined in the 2009/10 business plan have been embedded into the strategy and a process of collecting and logging risk has been set up.
112. Risk identification is an ongoing process within the LSB and there is a collective responsibility for the identification and monitoring of both corporate and project risks, through regular review at our Programme Board, SMT, Audit and Risk Committee and Board meetings.
113. The Board's tolerance for risk will vary depending on the nature and severity of individual risk. However, in general the work of the LSB whilst it continues to establish itself will carry with it a high degree of risk to allow it to achieve its ambitious programme of work. We will regularly review our approach to risk and ensure that the actions that we take are proportionate to the operational requirements of the organisation.

Measuring our performance

114. We expect to be publicly scrutinised for our performance by Parliament, those we regulate and those we regulate for – legal services professionals and consumers of legal services.
115. Our work plan describes both the medium-term outcomes we expect to see both directly and indirectly as a result of the activity we undertake, and the milestones we intend to meet in year (see Annex 2 for a summary). Whilst we can readily report our progress against delivery of 'hard' milestones, many of the medium-term outcomes we are aiming to facilitate are subjective and do not readily lend themselves to 'hard' numerical indicators.
116. We therefore intend to develop an approach to measuring and accounting for our performance which incorporates a combination of hard indicators of organisation performance and soft assessment of market impact.
117. In addition, as we begin to exercise our direct regulatory responsibilities – reviewing applications by approved regulators to changes to their regulatory arrangements and considering applications for approved regulator and licensing authority status – we will develop and publish appropriate service standards so we can measure and account for our performance. Our first set of measures – for approving changes to regulatory arrangements – is listed below
- We will acknowledge rule change applications within two working days
 - When acknowledging an application we will provide a named contact for that application
 - We will publish applications on our website within two working days of receipt so long as they are complete
 - We will either make a decision on a case within 28 days or provide an explanation as to why we need longer

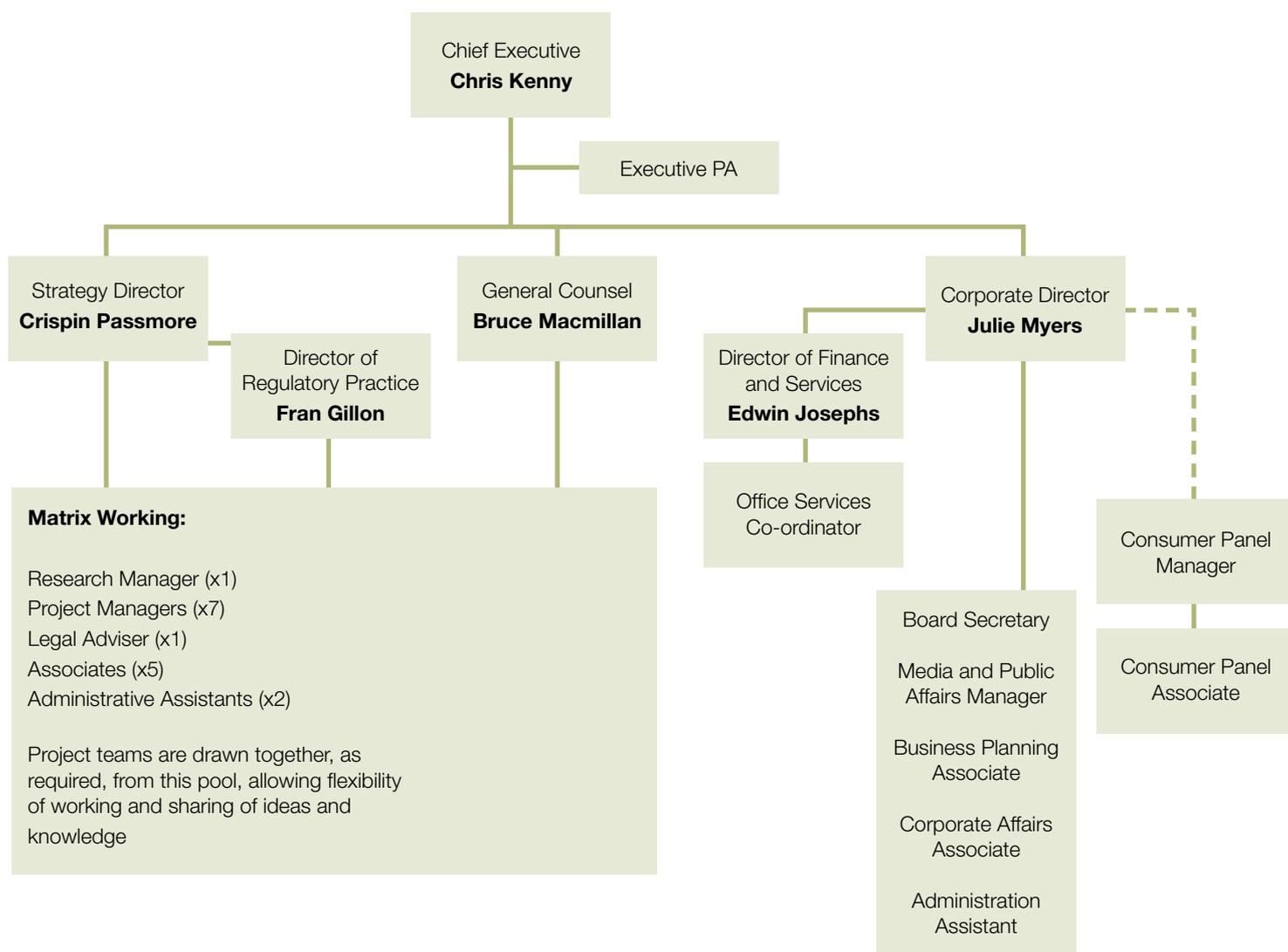
- We will publish our decisions on our website
- We will develop and publish KPIs for the processing of applications within certain timeframes by December 2010
- We will provide feedback to approved regulators on their applications in order to help them submit applications that can be dealt with rigorously and quickly

118. We will also measure our own performance as a regulator against the methodologies we develop for approved regulators when we undertake regulatory reviews.

- RO1** Protecting and promoting the public interest
- RO2** Supporting the constitutional principles of the rule of law
- RO3** Improving access to justice
- RO4** Protecting and promoting the interest 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

Annex 1

Organisation structure as at 1 April 2010



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 2010/11 April - June	Workstream	Quarter 2 2010/11 July - September	Workstream
Hold research seminar on initial research findings	2A	Introduce new direct engagement with consumers	2A
Publish our finalised research programme for 2010/11	2A	Have in place a process for considering applications to become LAs	2B
Consultation and engagement with approved regulators on the form of a review of first-tier complaints handling	2C	Initial performance targets for the OLC agreed	2C
Monitoring regimes and risk triggers agreed with existing bodies	2E	Assessment of approved regulators' dual self-certification on IGR compliance and next steps	2D
Approved regulators must submit their dual self-certification to the LSB	2E	LSB response in respect of adequacy of proposed action plans	2E
Publish single source map of qualification routes	2F	Publish framework for work on workforce diversity and review progress against it at least annually	2F
		Launch consultation on a coherent approach to referral fees in the legal services market	2G

Quarter 3 2010/11 October - December	Workstream	Quarter 4 2010/11 January - March	Workstream
Consult publicly on 2011/12 research programme	2A	Consultation on LSB's rules (if needed to become a direct Licensing Authority)	2B
Be ready to consider applications to become LAs	2B	Publish review and consult on KPIs	2D
Review the implementation of complaints handling procedures by approved regulators and agree next steps	2C	Unless disproportionate, full compliance with the rules demonstrated by each approved regulator	2E
Publish research report on consumer understanding of quality assurance measures	2F	Initial analysis of quality accreditation schemes	2F
Publication of consultation document on the decision framework for making a legal activity reserved	2G		
Publish a review of demand and supply side research on the legal market	2G		

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 Consumer and public interest	2B Widening access	2C Resolving complaints	2D Regulatory excellence	2E Independent regulation	2F Workforce diversity	2G Access to justice
The public interest	X	X	X	X	X	X	
The rule of law			X		X		
Access to justice	X	X				X	X
Consumer interest	X	X	X	X	X	X	X
Enhancing competition	X	X			X	X	X
Independent, strong and diverse profession	X	X	X	X	X	X	
Citizen's rights and duties	X	X	X	X	X		X
Professional principles			X			X	



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