

Encouraging a diverse workforce

LSB decision document on changes to statutory guidance for regulators issued under Section 162 of the Legal Services Act 2007

February 2017

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Introduction

In September 2016, the LSB opened a consultation on proposed changes to its diversity guidance for regulators first issued in 2011. This document provides a summary of responses received to the consultation, our response to those comments and the final guidance that will come into place on 15 February 2017.

Background and longstanding interest

1. The Legal Services Board (the LSB or the Board) is one of the organisations created by the Legal Services Act 2007 (the Act) and is responsible for overseeing legal regulators, (referred to as the approved regulators in the Act) in England and Wales. The LSB's mandate is to ensure that regulation in the legal services sector is in the public interest and that the interests of consumers are at the heart of the system. The Act requires the LSB and the approved regulators to act compatibly with the same regulatory objectives and a requirement to have regard to the better regulation principles.
2. The LSB shares with the regulators a regulatory objective to encourage an independent, strong, diverse and effective legal profession. Delivery of the regulatory objectives in the Act requires a diverse profession, which reflects the society that it serves – one that understands and can respond to the differing needs of a disparate range of clients. A diverse legal workforce will better lend itself to innovation, and better meet consumers' legal needs and limit wasted talent.
3. In 2011, we demonstrated our commitment to this issue through publication of statutory guidance to regulators on data collection about the diversity of the legal workforce. We know that regulators, firms and representative bodies share this commitment, recognising the business and wider benefits of a diverse profession. Many have introduced initiatives to allow the widest possible talent pool to access legal careers at all levels in the sector.
4. We remain determined to continue our support of the delivery of this objective. Our key focus is to ensure that regulation supports measures to improve diversity in the profession. When we published our guidance in 2011, we said we would regularly review the progress made and identify what further measures we can take to support diversity initiatives. In our recent Market Evaluation, we found that there has been some progress in increasing the diversity of the profession.¹ Entry to the profession, when compared to the population of England and Wales was broadly comparable. However, at the profession's senior level, results were not as positive and the sector remains disproportionately male. There is a long way to go before we can be confident that careers in law at all levels are open to all.

¹ <https://research.legalservicesboard.org.uk/wp-content/media/2015-2016-FINAL-Market-Evaluation-Main-report.pdf>

Case for change

5. The LSB's 2016/17 business plan set out that we would carry out a review of the 2011 guidance to establish whether it required updating, and if we should change our approach to allow regulators to carry on their work on diversity more freely.
6. Since we issued the 2011 guidance, all regulators have started collecting diversity data and have worked towards meeting the specific terms of the 2011 guidance. The degree to which regulators have used this data to develop their regulatory processes varies ranging from merely adhering to the guidance to more in-depth consideration of diversity in their decision-making.
7. Discussions with all regulators in 2016 suggested a change in our diversity guidance could be beneficial and allow regulators more freedom in developing their own approaches to encouraging a diverse profession. We are conscious that any changes should not detract from the previous five years of data collection.

Scope of the new guidance

8. The new guidance reaffirms the LSB's interest in and commitment to encouraging a diverse legal sector. The emphasis on outcomes rather than inputs reflects the belief that by taking this approach more can and should be achieved with regard to the diversity of the workforce. Since 2011, we have proactively engaged with regulators on the work that they are doing to improve diversity and carried out our own work looking at how the diversity of the workforce has changed over time. The removal of prescription from the guidance will allow regulators the flexibility to take targeted approaches to diversity, and acknowledges that a 'one size fits all' approach led by the LSB will not have as much impact as one led by the regulators in their own professions.
9. We have removed the model questionnaire from the guidance. Before, regulators were required to notify us of proposed changes to their data collection methods if it was a departure from that specified in the guidance. Regulators will now be able to maintain and develop their own, independent data collection methods based on their own experiences.
10. Regulators should continue collecting data on the diversity profiles of their respective professions. This will allow comparison across all legal services professions. We also expect regulators to work together and agree a common methodology, including common definitions, for diversity data collection.
11. The outcomes in the new guidance are designed to encourage regulators to use the diversity data they have collected to inform regulatory and policy decisions. To achieve the outcomes, regulators that have not undertaken work in this area will need to improve their use of diversity data in their wider policy analysis and decision-making. The need to make improvements in approach will be reflected in the future performance assessments.
12. We will introduce a formal assessment of diversity work carried out by regulators.

Consultation process

13. The proposals were set out in a consultation paper published on 29 September 2016 and consulted on for a nine-week period, which ended on 2 December. We received 19 written consultation responses, including seven responses from the regulators. All responses are available on our website unless respondents requested that they remain confidential.
14. This paper provides a summary of the range of responses we received to the consultation. A full list of respondents is at **Annex A** (including a glossary of acronyms where necessary).
15. This paper also records the Board's decision on the final form of the guidance. The guidance is at **Annex B**.

Common themes in responses

16. Respondents highlighted some common themes in their answers to the consultation questions. The themes cover multiple consultation questions and we address these below.
17. A number of respondents raised concerns that the flexibility we are offering regulators through the outcomes focused guidance might mean they stop carrying out work on diversity, or merely work towards a minimal level perceived to be satisfactory to the LSB.
18. Several respondents highlighted the importance of cultural change throughout the sector as being necessary to improve diversity properly.

LSB response

The suggestion that a switch to a focus on outcomes and less prescription is the LSB taking a 'step back' from its commitments to diversity is unfounded. This revised guidance has the aim of delivering an improvement to the diversity of the workforce. This guidance is less input focused, but that is by design. The new guidance gives the regulators the responsibility to improve their work in this area, for which we will hold them to account.

We intend to use our performance assessment process, and other LSB work such as the Market Evaluation, to ensure regulators are working towards the achievement of the outcomes in a satisfactory way. This will ensure the guidance is effective as well as allowing more flexibility. The flexibility offered will allow regulators to work towards a common goal in different ways. While we have not finalised the revised performance assessment format, we are working towards a model that will allow us to highlight both good and bad performance. The assessment will provide us with the evidence to make judgements on the regulators' work, and allow us to state publicly how they are performing. This will include ensuring regulators are encouraging firms to be more diverse as we agree that improvements in diversity requires cultural change throughout the sector.

19. Some respondents challenged the scope of the proposed guidance. Respondents raised questions concerning the definition of diversity and the scope of the guidance, whether it focused on the diversity of the 'workforce' or the 'profession'.

LSB response

In the decision document in 2011, we stated transparency was our initial priority. As such, we took a decision to require a more limited entity-level publication requirement that excluded data on sexual orientation, religion or belief and gender reassignment due to concerns about the sensitive characteristics. This position has not changed. We were very clear in 2011 that these three characteristics are

no less important than any other protected characteristic and we hoped the sector would expand the range of data collected. With this revised guidance, we reiterate that we want regulators to understand and address issues relating to all protected characteristics. As part of our continuing role in diversity, we intend to meet with interested groups to develop our knowledge on diversity and evidence base and better inform the regulators on their practices.

The full list of characteristics the LSB expects regulators to focus on is:

- Age
- Caring responsibilities
- Disability
- Gender (reassignment and identity)
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation
- Socio-economic background

We will share with the regulators our learning from our engagement with parties with particular experience and expertise on the above characteristics.

We agree with respondents that the diversity of the entire workforce is within the scope of the regulators, including roles such as business services and support functions. As such, this document will use the word 'workforce' where appropriate.

Specific issues raised outside scope of consultation

20. The Faculty Office stated that the proposed guidance goes beyond 'guidance' and questioned whether it can be guidance using the definition given in s162 of the Act. It said it is closer to a set of expectations or requirements with which regulators are required to comply within the specified timescale.

LSB response

We have reviewed the proposed guidance and s162, and compared the new guidance to the previous version. We are content that the new document complies with the definition of guidance as per s162 of the Act.

The guidance contains information and advice to the regulators on the outcomes that the LSB will be assessing them against, and suggestions on how the regulators might evidence their endeavours to deliver those outcomes. It would be remiss of the LSB not to prepare a clear guidance document on this issue, particularly as we intend to assess performance in this area.

21. One respondent suggested that the LSB's role in diversity should go further than publishing guidance and instead set rules. The respondent suggested that

regulators should submit, to the LSB, programmes that use diversity data to improve diversity in the workforce, and that the LSB should take a more proactive stance in judging regulators on how they are meeting their diversity obligations. Further, the respondent added that the LSB's approach would have greater weight if it were widened to include data on provider schemes to develop diversity.

LSB response

Under s162 of the Act, the LSB is able to issue guidance for the purposes of meeting the regulatory objectives. The guidance contains information and advice to the regulators on outcomes that the LSB will be assessing the regulators against and suggestions on how the regulators might evidence the achievement of those outcomes. This is not a rule.

Based on the evidence gathered ahead of the consultation, we consider that it is appropriate for us to be less prescriptive in this area, and regulators should be free to develop their own approaches. We have also actively moved away from the 2011 guidance and the extra layer of process it added where regulators would have to inform the LSB when changing their approach to diversity. We are confident that this guidance will place more responsibility on the regulators to be more proactive on diversity issues, and implement effective work that will deliver change. Stakeholder feedback to this consultation has supported this confidence.

We agree that the LSB should take a proactive role in judging to what extent the regulators are meeting their obligations. We will do this through performance assessment, as set out below.

Consultation question responses

Question 1: Is the proposal to switch the focus of the guidance to outcomes beneficial to encouraging the diversity of the profession?

22. Most respondents were positive about the more flexible approach we are proposing, with the focus moving towards the regulators working to deliver a set of outcomes identified by the LSB as opposed to prescriptive guidelines around data collection and publication. Many of the comments noted the benefits of moving away from a narrow, prescriptive approach, and allowing regulators scope to think more broadly about the work they are doing to improve diversity throughout their respective workforces. Some respondents remarked that the flexibility offered would provide legal services providers the opportunity to move away from treating diversity as a box ticking exercise, and instead ensure diversity supports business objectives.
23. Some respondents considered that in order to be properly outcomes focused, and to drive change at the front line, the language used in the guidance should be firmer in setting out a link between regulatory expectations and the desired outcomes in the workforce. Respondents remarked that the guidance might be more beneficial if it set targets for what we expect regulators to deliver.

LSB response

We are pleased that the majority of respondents agree that our proposal to move to outcomes focused guidance will be beneficial to encouraging diversity in the legal sector workforce.

We considered using firmer wording for the outcomes however, taking account of the work regulators are already carrying out in this area, we do not consider it necessary to be overly prescriptive. The outcomes are not targets, but instead a way for regulators to demonstrate their positive work in the area. We are confident that the outcomes encourage continuous improvement.

We are confident that the outcomes offer sufficient encouragement for regulators to continue their work, even though change may only be measurable in the long term. We recognise improvements in diversity take place incrementally over longer periods, and as such writing targets would not be an effective way to measure regulator performance. We further agree that the business strategies that embed proactive steps to address diversity issues throughout all their aspects are delivering the most change.

Question 2: Will the proposed guidance allow regulators the opportunity to develop their own approaches to addressing diversity issues in the legal services profession?

24. The majority of respondents agreed that the proposed guidance would allow regulators the opportunity to develop their own approaches to addressing diversity issues in the legal sector workforce. However, many noted that they did not think that giving regulators this opportunity would deliver real change for diversity or increase collaboration between regulators. Some thought it allowed too much flexibility.
25. The Faculty Office thought the proposed guidance was too prescriptive and required regulators to achieve a set of LSB-defined actions within an imposed timescale that could divert attention away from the 'bigger picture'.
26. The SRA suggested that diversity needs an integrated approach both within the regulator and with other stakeholders, and the guidance should highlight this factor. CILEx remarked that this guidance could lead to some regulators giving more emphasis to particular protected characteristics over others.

LSB response

We are encouraged that most respondents agree that the proposed guidance will allow regulators the opportunity to develop their own approaches to addressing diversity issues in the legal services workforce, as this was our intention.

We agree that real change in diversity needs an integrated and connected approach. We consider that the outcomes will encourage regulators to take that

approach by embedding evidence from data collection in policy decisions, collaborating with others and communicating their plans to stakeholders.

As CILEx noted this guidance could lead to some regulators giving more emphasis to particular protected characteristics over others at different points in time.

Regulators should analyse the data that they collect and target their effort where it is needed most and where it will have the most impact.

We do not agree that the guidance is too prescriptive and would divert attention away from achieving a diverse workforce by offering the opportunity to achieve the minimum. The majority of respondents' comments support this view. Based on feedback, we are confident that 18 months is sufficient time for regulators to have begun working to deliver the outcomes, if they are not already doing so. By this stage, they should be able to show us what work they will be undertaking to encourage diversity. We are also of the view that having activities in place to achieve the outcomes proposed in the guidance is the best way for regulators and their regulated communities to understand diversity.

Question 3: To what extent are regulators already demonstrating achievement of the outcomes? If they are not, why do you think this is?

27. Respondents pointed to a number of initiatives that regulators are currently doing to achieve the outcomes proposed in the consultation. This includes data collection, analysis and publication; collaboration amongst regulators; and using diversity data in regulatory policy development and decisions.

28. Some noted that regulation is only one part of the work required to improve diversity. Respondents stated other influences on the workforce make it difficult to show how initiatives have affected diversity. For example, the Bar Council pointed to legal aid cuts affecting the diversity of the Bar and the Law Society said that firms own diversity outcomes and without sanctions or penalties, the regulators could have little control over diversity.

LSB response

The LSB is pleased that some regulators consider they are already achieving a number of the outcomes proposed in this guidance. We consider replacing the 2011 guidance will give all regulators the freedom to achieve all the outcomes proposed.

While the LSB acknowledges that regulators are only one of the groups in the legal sector responsible for improving diversity, we think that they have an important role to play. Regulators have the unique power to request and collect relevant data about the workforce; they can use this data to develop initiatives that help to encourage a diverse workforce and allow others to use the outputs of the collection exercise.

However, to encourage regulators to be as effective as possible one of the outcomes in the revised guidance is for regulators to collaborate with and encourage others to effect change.

Question 4: How can the LSB ensure that the data the regulators collect continues to be comparable?

29. The majority of respondents suggested that the best way to ensure that regulator diversity data continues to be comparable is for the LSB to maintain a template questionnaire of some form.
30. The SRA, BSB and CILEx Regulation agreed regulators could work together to ensure comparability of data, and the LSB should note the importance of comparability and promote collaboration in its guidance.
31. The SRA and the LSCP stated it would be helpful for the LSB to cite what it considers the leading authority of diversity data collection in the guidance.

LSB response

One of the aims of this revised guidance is to place more responsibility on the regulators, and to encourage them to take ownership of diversity within their workforce of their profession. Feedback over the past five years has identified issues with a number of the questions in the model questionnaire, and regulators have come to us to request changes to make the questionnaire more suited to collecting the best data within their workforce. The LSB is of the view that the regulators should have the knowledge to develop, implement and monitor the functionality of a questionnaire for their own workforces, and this should be their responsibility and not the LSB's. The 2011 template was a good start for collecting basic diversity data and allowed the development of an evidence base to gain a better understanding of diversity within the legal sector. We consider that regulators should use their experience to develop questionnaires that will give them the most useful data.

Regulators should work together to ensure that their internal data remains comparable wherever possible.

To reinforce this point, in response to comments from respondents, we have amended the guidance to make clear the importance of data comparability. We are confident monitoring trends over time will maintain the ability for stakeholders to compare and review progress. This is something we envisage being part of the performance assessment over the longer term, for instance by asking the regulators for data over a number of years as evidence of the impact of work.

Regulators could demonstrate their work in this area to the LSB in a performance assessment by showing us their changes to the questionnaire to, for instance, increase participation or provide a better snapshot of the profile of the workforce.

We agree with the SRA, BSB and CILEx Regulation that regulators can work together in this area, and would encourage collaboration wherever possible.

The SRA and LSCP suggest we cite what we consider the leading authority of diversity data collection. Again, we believe that the frontline regulators should

develop approaches based on what can have the most beneficial effects on diversity of their workforce.

The LSB will continue its role as oversight regulator and will identify and circulate examples of best practice to the regulators, but regulators should work towards a better understanding of how they can improve their datasets independently. We encourage regulators to engage with other groups with specific expertise on areas where the regulator is carrying out work to address matters relating to a particular characteristic.

Question 5: Given the LSB's proposal to assess regulator performance in this area, what would be the most effective way to carry this out? How long should we allow regulators to implement changes before any potential future performance assessment?

32. Respondents offered a number of different ideas of assessment methods. Many of the regulators themselves shared ways in which they were already assessing themselves on the delivery of their diversity initiatives. One example is the work the SRA is doing to identify diversity indicators and how they can be used to measure effectiveness of work in the short and longer term.
33. Many respondents said that assessments should take place on an annual basis. However, others made interesting points around diversity and its 'slow burning' progress, and how it might be difficult to measure year-on-year change.
34. Some representative bodies raised issues around data reporting, and what would be required to fulfil the obligations annually, both at the regulator and within legal services providers. It was said that annual reporting can be expensive and resource intensive.

LSB response

We are of the view that an assessment is crucial to ensuring the new guidance achieves its aims. The LSB will carry out an effective and comprehensive analysis of regulator performance to ensure that the new guidance has not allowed regulators to step away from their responsibilities on diversity.

We have not come to a final decision yet on how best to assess regulator work on delivering improvements to the diversity of the legal sector workforce. The consultation responses did not present a consensus on how to carry out a performance assessment, but did offer a considerable amount of information for us to consider further. In developing a performance assessment, we intend to raise the subject with the regulators when we hold discussions with them in August 2017. We would also like to stress to the regulators not to feel constricted by the suggested evidence in the guidance, and to be creative in the ways they demonstrate achievement of the outcomes.

We agree that the diversity statistics will not be the best way to assess regulator performance in the short term. We envisage complementing the performance assessment with other LSB work such as the Market Evaluation, which will show how the situation is improving over time. The performance assessment will look more at what regulators are doing to have a positive impact on diversity in their workforce.

We also agree that an initial annual assessment of regulator performance on regulator diversity work could be beneficial. In August 2017, we will contact regulators to check how work to deliver the outcomes is progressing. Then in August 2018, we plan to commence the first formal assessment of regulator performance on diversity issues. How this will be carried will be informed by the feedback received to this consultation and the information gathered from discussions with regulators in 2017. The LSB will keep the frequency of regulator assessments in relation to diversity under review.

Question 6: Will the proposed guidance:

- a. deliver better services for consumers?
- b. support innovation in legal services?
- c. allow regulators to encourage business-led diversity initiatives?
- d. a more diverse profession?

35. Respondents generally stated that they considered that the guidance would deliver the four benefits listed above, at least in theory.

36. Respondents said a more diverse workforce will support the delivery of better services for consumers, and others said that improved diversity is likely to improve access to justice and the quality of legal services.

37. Much of the feedback from the profession agreed that the guidance would deliver better services through generating a more diverse legal sector where talent has not been lost because of certain characteristics.

38. Some respondents agreed that consumer confidence could increase if the workforce was more reflective of society. It was the view of a number of organisations that a diverse workforce can provide businesses with a greater competitive advantage, and that diverse individuals will be aware of the needs of their peers, which can lead to the development of services to meet those needs.

LSB response

The feedback to this question reflects our confidence that the guidance can achieve its intended goals.

While it might be difficult to measure the impact diversity will have on the quality of service, research indicates that a diverse workforce will increase quality of service. We have looked at a number of different documents and research, including the

Law Society's business case for diversity and inclusion in law firms.² This document highlights a number of ways diversity can be of benefit to firms.

The LSB agrees that initiatives that have the most impact on changing attitudes and generally improving diversity are business-led. The guidance should encourage regulators to consider their role in improving diversity, and ensure that the sector is dedicating sufficient commitment to make change. The outcomes also offer the regulators the opportunity to demonstrate not only their knowledge of the workforce, but also the work they are doing with other organisations to improve their workforces' profile.

While some regulators do not regulate entities, we would still expect to see collaboration with other relevant bodies as well as businesses that operate in the markets they regulate. We would also expect regulatory activity to highlight where firms are only carrying out activities that achieve minimum improvements to diversity.

We are encouraged by the views that the new guidance will allow regulators more flexibility to deliver the desired changes. We also recognise the argument that, while highlighting the business benefits of diversity is a good way to incentivise change, regulators should work with stakeholders and businesses to push for cultural and attitudinal change.

Amendments

39. Following consultation, the following amendments have been made to the guidance (paragraph numbers refer to guidance document at **Annex B**):

- The word 'workforce' has replaced 'profession' where appropriate throughout the document.
- Paragraph 7 – We have added the full list of characteristics we expect regulators to focus on improving representation of throughout the workforce. Amendments to the suggested evidence under Outcome 1 will encourage regulators to consider their research design and ensure questions take into account best practice concerning the list of characteristics.
- Paragraph 8 – We have provided clarity on the need for regulators to maintain the ability to monitor trends on all characteristics over time. We have amended the suggested evidence under Outcome 1 on this point. We have also made clear that regulators should collect data by the most appropriate method, especially with respect to sensitive characteristics.
- Paragraph 12 – We have clarified that the assessment process will initially take place annually starting with discussions with regulators in August 2018, and that the LSB will keep this under review.

² <https://www.lawsociety.org.uk/support-services/practice-management/diversity-inclusion/diversity-and-inclusion-in-law-firms-the-business-case/>

Conclusions

40. We are pleased that the majority of respondents agreed that our proposal to move to outcomes focused guidance would be beneficial to encouraging diversity in the legal workforce. Most respondents agreed that the proposed guidance would allow regulators the opportunity to develop their own approaches to addressing diversity issues in the legal sector workforce.
41. In response to comments from respondents, we have edited the guidance to make clear the importance of data comparability and have changed the language to refer to the 'legal workforce' rather than the 'legal profession'.
42. We are of the view that an assessment is crucial to ensuring the new guidance achieves its aims. We have not come to a final decision on how best to assess regulator work. In developing a performance assessment, we intend to raise the subject again with the regulators when we hold discussions with them in August 2017.

Annex A: List of respondents to the consultation process

Association of Women Solicitors	ASW
Bar Council	
Bar Standards Board	BSB
Chartered Institute of Legal Executives	CILEx
CILEx Regulation	
Costs Lawyer Standards Board	CLSB
Council for Licensed Conveyancers	CLC
The Faculty Office	
Gender Identity Research and Education Society	GIRES
Hogan Lovells International LLP	
The Honourable Society of the Inner Temple	
Intellectual Property Regulation Board	IPReg
Junior Law Division of the Law Society	
The Law Society	
Legal Services Consumer Panel	LSCP
Minster Law	
Professional Paralegal Register	PPR
Solicitors Regulation Authority	SRA
Dr Steven Vaughan	

Annex B: Final guidance

Guidance for legal services regulators on encouraging a diverse workforce (February 2017)

The provision of guidance

1. Section 162 of the Legal Services Act 2007 (the Act) allows the Legal Services Board (the LSB) to give guidance:
 - About the operation of the Act and any order made under it
 - About the operation of any rules made by the Board under the Act
 - About any matter relating to the functions of the LSB
 - For the purpose of meeting the regulatory objectives
 - About the content of licensing rules
 - About any other matters about which it appears to the LSB to be desirable to give guidance
2. Guidance under section 162 may consist of such information and advice as we consider is appropriate. We will have regard to the extent to which an approved regulator has taken into account guidance when exercising its functions.
3. This guidance replaces that published by the Board in July 2011. It may be updated from time to time.

Purpose of this document

4. This document sets out our guidance to regulators on their regulatory arrangements and other activities for encouraging a diverse workforce. It is aimed at existing regulators and those applying for designation as an approved regulator or licensing authority.
5. We consider a diverse workforce a key aspect of developing a legal sector that best serves consumers and supports innovation. As such, we expect all regulators to be considering diversity through all regulatory activity, and as part of achieving a high performing legal sector. This guidance sets out the outcomes we expect the regulators to be able to display to stakeholders to prove that their work on diversity is evidence-based and effective.
6. We consider the information provided here gives sufficient clarity as to the outcomes we expect the regulators to achieve. We envisage that this guidance will allow regulators more freedom to develop suitable, targeted approaches in their respective communities. This guidance will allow regulators to demonstrate a better understanding of the regulated community as a whole, and provide opportunity for collaborative working both across regulators and with other legal sector stakeholders.

7. The LSB will also use this document to set out the characteristics we expect regulators to focus on. This list is:
- Age
 - Caring responsibilities
 - Disability
 - Gender (reassignment and identity)
 - Marriage and civil partnership
 - Pregnancy and maternity
 - Race
 - Religion or belief
 - Sex
 - Sexual orientation
 - Socio-economic background
8. Regulators have flexibility to develop their own diversity data collection approach, and should review their collection method to ensure it collects the best possible data by the most appropriate method, particularly with respect to sensitive characteristics. However, the regulator should maintain the ability to report on trends across characteristics since 2011.

Our approach

9. Under section 3 of the Act, it is our duty to promote the regulatory objectives and to have regard to the Better Regulation Principles.
10. One of the regulatory objectives relates to encouraging an independent, strong, diverse and effective legal sector workforce. This objective specifically mentions the importance of encouraging a diverse workforce. This is reinforced by the references to a strong and effective workforce, as the workforce will be at its strongest and most effective if it harnesses the broadest range of talent from across the diversity of society.

Performance assessment

11. We have publicly committed to a performance assessment to assess regulator work on encouraging a diverse workforce.³ We intend to use these outcomes to form the basis of this assessment.
12. The first formal assessment will commence in August 2018, and will initially take place annually. The LSB will keep the frequency of regulator performance assessments on diversity under continuous review.

Outcomes

13. By August 2018, we expect regulators to have appropriate activities in place to encourage a diverse workforce that deliver the following outcomes:

³ http://www.legalservicesboard.org.uk/about_us/board_meetings/2015/PDF/15_17_LSBs_Leadership_Role_On_Diversity.pdf

- 1) The regulator continues to build a clear and thorough understanding of the diversity profile of its regulated community (beginning at entry), how this changes over time and where greater diversity in the workforce needs to be encouraged;
 - 2) The regulator uses data, evidence and intelligence about the diversity of the workforce to inform development of, and evaluate the effectiveness of, its regulatory arrangements, operational processes and other activities;
 - 3) The regulator collaborates with others to encourage a diverse workforce, including sharing good practice, data collection, and other relevant activities;
 - 4) The regulator accounts to its stakeholders for its understanding, its achievements and plans to encourage a diverse workforce.
14. Beneath each outcome below, we provide examples of evidence that a regulator might use to demonstrate achievement of the outcomes. Regulators should not feel restricted by these, and should be confident in providing alternative evidence should it display success in this area.

Timetable

15. We will monitor the progress that regulators have made in August 2018. Thereafter, we envisage on-going monitoring of regulators' performance on encouraging a diverse workforce to be carried out through a formal performance assessment.
16. We will contact regulators six months after publication for an update on the work being done by that point to inform the scope of the formal review that will take place after 18 months.

Outcomes

Outcome 1: *The regulator continues to build a clear and thorough understanding of the diversity profile of its regulated community (beginning at entry), how this changes over time and where greater diversity in the workforce needs to be encouraged*

Evidence of progress/ achievement could include...	<ul style="list-style-type: none"> • Data collection, trends analysis since 2011 and publication • Best practice in research design (including question design across all characteristics) • Well networked in sector • Awareness and understanding of other initiatives in the sector – what works and what doesn't
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Outcome 2: *The regulator uses data, evidence and intelligence about the diversity of the workforce to inform development of, and evaluate the effectiveness of, its regulatory arrangements, operational processes and other activities*

Evidence of progress/ achievement could include...	<ul style="list-style-type: none"> • Analysis of data collected • Impact assessments in policy development • Sharing good practice examples from supervision etc.
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Outcome 3: *The regulator collaborates with others to encourage a diverse workforce, including sharing good practice, data collection, and other relevant activities*

Evidence of progress/ achievement could include...	<ul style="list-style-type: none"> • Understanding of work being done to address diversity issues in regulated community by others, for instance by representative bodies, by employers and firms, or education and training providers • Working with stakeholders – other regulators, professional bodies and groups, firms and employers – to build and educate the workforce on the business case for diversity • How regulator data is being used to inform others' work – being transparent with the data it collects
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Outcome 4: *The regulator accounts to its stakeholders for its understanding, its achievements and plans to encourage a diverse workforce*

Evidence of progress/ achievement could include...	<ul style="list-style-type: none"> • From time to time, the regulator states publically what it knows about the diversity of the workforce and the actions it is taking, both directly and indirectly, to encourage a diverse workforce (for instance in its annual report or on a section on its website) • Publishes details of its firm-led diversity initiatives/activities • If nothing is proactively provided, this outcome could be demonstrated in response to a request from the LSB
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