

Strategy 2018 – 2021 and business plan 2018/19

Consultation response document

April 2018

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Acronyms used

ACCA – Association of Chartered Certified Accountants

CILEx – Chartered Institute of Legal Executives

CMA – Competition and Markets Authority

IGR – Internal Governance Rules

LASPO – Legal Aid Sentencing and Punishment of Offenders Act

LSA – Legal Services Act 2007

LSB – Legal Services Board

LSCP – Legal Services Consumer Panel

SRA – Solicitors Regulation Authority

Introduction

1. On 5 December 2017, we published a consultation on our draft strategy for 2018-21 and Business Plan for 2018/19. A press release accompanied the publication and the documents were sent by email to regulators and representative bodies, consumer and citizen groups, professional groups, other regulators, the judiciary and a variety of other interested parties. The consultation closed on 19 February 2018.
2. We held a workshop with stakeholders during the consultation period. The attendees who submitted written responses reflected the views given in the workshop. We have included in our consideration the views of those who attended but did not submit a written response. We are grateful for the contributions received.
3. This paper summarises key points from the responses received to the consultation, the LSB's response to them and the material changes made to the Strategy and Business Plan since consultation.

The responses

4. We asked for comments on all aspects of our draft strategy and business plan and we received 11 responses to our consultation. The overall tenor of responses was supportive of the outcomes the LSB is looking to deliver for consumers, the public and the profession. There was a good degree of support for almost all aspects of the work proposed in the Business Plan.
5. All of the respondents provided views on the draft strategy and on a number of projects in the draft business plan. Some respondents commented on our research proposals and there were a small number of comments on our budget and on the overall presentation of the documents.
6. Where respondents consented to their responses being made public, these have been published on our website alongside this consultation response document. Annex A lists the consultation respondents and the organisations represented at the workshop.
7. We are grateful to each organisation that took time to consider our proposals and to respond or to attend our workshop. All of the points made have been considered carefully and taken into account as we have finalised our strategy and business plan. Our finalised Strategy 2018-21 and Business Plan for 2018/19 documents are now available on our website.
8. In considering the responses, we have taken into account that we received a small number and that they are primarily from bodies who either have a role in representing the profession or who are subject to the LSB's oversight. Contributions from outside of this group were limited.

Summary of key changes made

9. The responses we received to our consultation, alongside our own internal analysis have informed the development our final strategy and plan. The significant changes are:
 - refocus our effort on **consumer segmentation** to support the LSCP in its work to encourage frontline regulators to develop their own approaches to this
 - rather than carry out a discrete follow up project on the **small business legal needs research**, we will continue to raise awareness of the research, conduct further analysis of the research data and proactively engage in debates on how best to break down barriers to access for small businesses. This revised approach represents a change in focus, not a scaling back of activity

Summary of responses

10. The following pages address the range of points raised by respondents and our response to them where needed. There are a few common themes, however, which we consider useful to address at the outset.

Common theme 1: Our role in relation to legal aid

11. The Bar Council, CILEx and the Law Society considered that we should develop a policy view on changes to legal aid and/or have a greater focus on this in our work. The Bar Council stated that we risk being seen as acting as though we are another department of government by merely making statements that legal aid is a Ministry of Justice matter. More generally the Law Society said that we should put more weight in our first strategic objective on the needs of more vulnerable consumer groups.

Response

12. Unmet legal need among individuals and small businesses is a key concern for us. A number of the LSB's regulatory objectives are relevant to this issue and the LSB agrees that it is appropriate for us to assess and comment on the impact of public policy on those regulatory objectives. Our strategy acknowledges changes to legal aid and other government policies as drivers for change. Our existing research activity, in particular the individual legal needs survey, includes analysis on legal aid. The re-run of this research in 2018/19 will allow for an assessment of changes in use of legal services, including use of legal aid, from 2016 onwards. As with all our research, we will publish this report alongside the raw data, so that other stakeholders can access and use it. Similarly, our last triennial market evaluation exercise contains many references to legal aid and the impact that this has on the market, consumers and providers.
13. In relation to suggestions that we develop a policy position on legal aid, we will continue to use the evidence from our research to highlight where public policy decisions have implications for the regulatory objectives. However, how government chooses to allocate public money is ultimately a question for it and Parliament, and we are not in a position to understand or comment on the trade-offs involved in allocating tax revenues amongst many different possible areas of spend.

Common theme 2: The importance of impact studies

14. The Law Society and CILEx raised the issue of impact assessments in relation to rule change applications. The Law Society stated that the LSB should not approve changes where proposals do not provide evidence or projections of likely impacts.
15. CILEx suggested we conduct robust impact assessments to quantify the impact of our proposed strategy and subsequent business plans, as well as incorporate impact assessments into relevant research activity. It felt that by doing this we would set a tone and expectation for frontline regulators to emulate. However, in its comments on measuring our impact, the Bar Council cautioned that change in the market could be entirely unconnected with any steps taken by the LSB.

Response

16. Similar points were made in some of the responses to our 2017/18 business plan consultation. As we emphasised previously, the LSB is required by the Act (amongst other things) to have regard to the better regulation principles¹ in carrying out its functions. Under our rules, the LSB requires an approved regulator to explain why the benefit of proposed changes to their regulatory arrangements outweigh the negative effect on other regulatory objectives. In considering this aspect, the LSB has an expectation that the approved regulator will provide a narrative on potential impacts, supported where possible by evidence. We assess applications on a case-by-case basis, and the degree of impact projection and evidence will depend on the nature and extent of the changes proposed. In this regard we will evaluate whether there is a need to introduce impact assessments in considering rule change applications to better understand implications for all the interested parties.
17. In relation to our own work, we will continue to develop ways to provide assurance on the delivery of our strategy where possible linking outputs from specific activities to our strategic objectives and indicators of success. In doing so, we recognise the challenges of impact assessment work, not least the difficulty of linking cause and effect, and acknowledge the potential influence of a broad range of factors on market outcomes.

Common theme 3: Legislative reform and impact of EU exit

18. The Bar Council and Law Society both discouraged us from advocating for legislative reform given the impact of EU withdrawal and the response by the Ministry of Justice to the CMA recommendations. Both organisations suggested that the instability that reform could cause would be unwelcome and that it risked damaging the international standing of the England and Wales legal system. By contrast, ACCA appreciated scope for change may be limited due to the government's focus on delivering EU exit, but suggested this should not prevent the LSB from pressing for legislative reform. More generally, the Law Society suggested we should focus on instilling greater stability and confidence in the legal sector during a time of change and uncertainty, and in this context highlighted the volume of changes being introduced by the SRA.

¹ These are the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed.

Response

19. The external environment has of course informed the development of our strategy and business plan. The CMA market study and our Market Evaluation confirmed that outcomes for consumers need to improve and we are clear further change is needed in this and other areas of our work to secure the necessary improvements.
20. We acknowledge that wholesale reform of the legislative framework is not likely to be a priority for Government during the period of EU exit. Our business plan is based on this assumption and we will continue to seek to maximise the potential of the existing system, not least through the internal governance rules review. However, in our status as the oversight regulator in the sector, operating independently of Government, we consider that we have a duty to highlight where problems in the legislative framework are hindering delivery of the regulatory objectives. Therefore, while no specific projects on legislative reform are planned, we will continue to make the case for any necessary changes as opportunities present themselves.

Strategy: market trends and drivers for change (Question 1)

General comments

21. Most respondents agreed with the market trends or drivers for change identified in the draft strategy. Some respondents identified additional possible trends or drivers. CILEx and the Legal Ombudsman both highlighted the post-legislative review of LASPO. CILEx also highlighted other government reforms, such as proposals to reform the small claims limit and introduce fixed recoverable costs in some types of case. CILEx highlighted the role of before the event (BTE) and after the event (ATE) legal expenses insurance and said we may wish to consider the role these policies can play, and what regulatory or consumer/public issues may need to be addressed. Legal Beagles highlighted drivers impacting on the courts, including changes to legal aid and a lack of information to support litigants in person, and the increase in consumers handling their matters alone rather than seeking advice. The SRA highlighted the Brady Review of claims management, HM Treasury's Insurance Task Force and government reforms in areas such as anti-money laundering and data protection. Like some others, it highlighted key technological developments.
22. ACCA welcomed the focus on vulnerability, but cautioned against an approach that requires segmentation or over-prescriptive requirements.
23. The Legal Ombudsman and Legal Beagles both highlighted the role of unregulated providers and implications for consumer protection. The Legal Ombudsman suggested that we begin planning for scenarios should the scope of regulation extend, including the impact on resources and consumer redress. The Legal Ombudsman also noted it was receiving more complaints and wished to work with us to understand why this is.

Response

24. We are grateful for the additional suggestions of market trends and drivers for change and these will inform the delivery of our strategy. We agree with ACCA that an over-prescriptive approach to vulnerability could be counter-productive and this is certainly not our intention. In relation to unregulated providers, we undertook a mapping project in 2016 to improve our understanding of this part of the market. We will await the outcome of the Ministry of Justice review on whether there is a case for extending redress to consumers using unregulated providers (part of its response to the CMA market study) before considering further work.
25. We are grateful to receive a number of interesting proposals for new work. We will discuss these further with the organisations concerned but continue to think that the projects in the draft business plan are our priorities for 2018-19. We consider that the Legal Ombudsman is best placed to lead work on its jurisdiction and rising levels of demand for its services, as it considers necessary.

Strategy: strategic objectives (Question 2)

General comments

26. Some respondents offered views on what our main priorities should be over the next three years. ACCA suggested our strategic focus should be on working closely with individual approved regulators to enhance regulatory performance. The SRA was pleased to see our focus on independent regulation and making it easier for consumers to access the services they need, which aligned with its own reforms.
27. CILEx encouraged us to more clearly demonstrate the relationship between the LSA regulatory objectives and our strategic objectives, and to provide clear reasons where regulatory objectives are not being prioritised. The Law Society suggested that the proposed strategic aims need to reflect more closely all of the regulatory objectives. It was concerned the strategic aims do not apply sufficient weight to promoting the welfare of consumers, public interest, rule of law, access to justice, and strong independent diverse legal profession. Further, it felt a broader consideration of the regulatory objectives should lead to a greater focus on quality of legal services.
28. The Bar Council welcomed our intention to seek efficiencies in our work, but believed this aim could be more ambitious, and could also include ensuring that we only undertake activity which has a clear focus and which is anticipated to have a sufficient benefit to justify the cost of the activity.
29. CILEx Regulation welcomed acknowledgement of the increasing role of technology but wished to see more focused strategic objectives which allowed us to ensure that legal regulation is fully engaged with these innovations and is able to keep pace and accommodate new developments. CILEx Regulation also said it was concerned that our diversity objectives will not lead to any significant change in the sector, favouring instead an approach based on setting precise targets and developing transformational plans in conjunction with the regulators. Finally, it encouraged us to

explicitly remove barriers to competition, and saw we had a role to play in promoting and raising awareness of the existence of competition in our sector to those who deliver essential complementary services.

30. Hook Tangaza provided a helpful overview of key technological developments and associated trends such as demographic change. It suggested that technology was cross-cutting in nature and should be a mainstream driver in our strategy, rather than a subset of our innovation objective. It also suggested that technology will eventually drive the need for more radical change in the regulatory model.
31. The Legal Ombudsman suggested that the third strategic objective is rephrased to *promote* rather than *increase* innovation, growth and diversity. It said this might better reflect our role to create the conditions for change in the market rather than mandating innovation, through working with regulators and the profession.
32. The LSCP supported the three objectives, including the strong focus on technology and increasing market transparency. It encouraged us to give greater priority to its concerns about the increasing fragmentation of PII and compensation arrangements. The Panel suggested that we offer thought leadership on the new skills required to maximise opportunities where innovation is concerned. Finally, it felt that some of our indicators of success were not challenging enough. For example, it considered we should seek to increase, not just maintain, current high levels of consumer satisfaction.

Response

33. We welcome the broad support for our proposed strategic objectives and have decided not to make any changes to the wording of them.
34. We do not agree that our strategic aims favour some regulatory objectives over others. In all of our work, we must consider how best to promote the regulatory objectives and weigh them in the balance. Within this, the purpose of the strategy is to set out our priorities for the next three years. In the light of the feedback we have received, when reporting on our work we will take care to clearly demonstrate the linkages to the regulatory objectives.
35. In response to the Bar Council's comment on our budget, we will continue to look for efficiencies, but we are satisfied the scale of our organisation is appropriate given our specific statutory responsibilities and wider role to promote the regulatory objectives.
36. We welcome the support for our role in relation to the performance and independence of the frontline regulators, both of which will be a core focus over the strategy period. During this period the frontline regulators will be implementing plans to improve market transparency following the CMA market study and we remain committed to monitoring their progress. Technology is relevant to a number of our projects and we are pleased that a number of respondents considered we have a useful contribution to make here.
37. In response to CILEx Regulation's comments, we will continue to identify areas where unnecessary restrictions may be removed. We are always happy to share our learning with other regulators, which we do through our membership of UKRN, the

Regulators' Forum (which brings together the legal services regulators) and ongoing relationships with a range of regulatory bodies. On diversity, we issued statutory guidance in February 2017 which gave the frontline regulators more flexibility in how they encourage diversity in the workforce and we will be reviewing progress in August 2018. The outcome of this review will inform our future approach to increasing diversity.

38. In response to the LSCP's comments, our Board recently considered this issue and came to the view that to-date we had not seen evidence of consumer detriment arising from the variation between different regulators' PII arrangements to warrant intervention. We will continue to monitor the situation closely so that we are in a position to respond as required. On our proposed indicators of success, we will keep these under review and naturally we would welcome evidence of continuous improvement in consumer satisfaction. A regulator's interest is in maintaining good levels of consumer satisfaction bearing in mind that some consumer dissatisfaction may inevitably be related to unhappiness with the outcome of the legal matter in question rather than poor service as such.

Strategy: equality objectives (Question 3)

General comments

39. ACCA supported revisions to the equality objectives in order to maintain their relevance and achieve greater alignment with the outcomes set for regulators. The Bar Council said the objectives made sense, but urged us to ensure there is no overlap between our role and that of the approved regulators. The Law Society supported the revised objectives and offered to share its experience in this area. In addition, it expected the strategy to ensure that any regulatory change proposed by frontline regulators has a positive impact on the equality and diversity of the profession.
40. Legal Beagles suggested that discrepancies in equality should be highlighted to consumers and encouraged a focus both on diversity in the workforce generally and on specific issues such as equal pay.
41. The Legal Ombudsman said that the objectives seemed appropriate and welcomed the intention to collaborate and engage with organisations to improve diversity of provision. It was supportive of efforts to conduct more research and suggested research on non-stereotypical cases of vulnerability (such as grief, financial difficulty) to supplement work already done.
42. The SRA welcomed the objectives and said it valued the additional information which LSB published about the actions we are undertaking to achieve these objectives. It suggested that it might be useful to include a commitment to this, perhaps in similar terms to the regulators' diversity outcome which 'accounts to its stakeholders for its understanding, its achievements and its plans to encourage a diverse workforce'.
43. CILEx stated it was not satisfied that the changes had been sufficiently consulted on, as it felt there was no detailed rationale for the changes, or indeed specifics on what changes were made. Further, it argued that it was unclear how the equality

objectives relate to the strategic objectives, and suggested they could benefit from having a more prominent place in informing the strategic objectives and subsequent business plans.

Response

44. We welcome general support for our revised equality objectives, as well as comments from Legal Beagles, the Legal Ombudsman and the SRA. We will consider their suggestions as we develop our work in these areas.
45. We are grateful to TLS for its offer to share its experience in this area.
46. We note comments from the Bar Council that there should be no overlap between our work and that of the regulators. We note that these are our corporate objectives. We are not seeking to duplicate work of other organisations.
47. We further note comments from CILEx about the sufficiency of consultation and the view that that the objectives could be more closely linked to our Strategy and plan. We consider the best approach is for our corporate equality objectives to be integrated into our work as business-as-usual, rather than tied to specific, individual strategic objectives. The rationale behind the changes to our corporate equality objectives was to more closely align these with the outcomes in our statutory guidance for legal services regulators on encouraging a diverse workforce.

Strategy: market intelligence (Question 4)

General comments

48. The majority of respondents were supportive of our proposed approach to market intelligence. Respondents noted that our position as oversight regulator makes us well placed to carry out market-wide studies, said our research generated useful information and encouraged us to continue to publish the raw data from our surveys.
49. ACCA was the only respondent to suggest there should be less emphasis in our strategy on conducting research and publishing reports. It urged us to be clear about the need for research and how success will be measured. CILEx encouraged us to build impact assessments into relevant research activity, as a way of helping us to decide which business plan projects should be undertaken.
50. The Bar Council, Law Society and Legal Ombudsman welcomed our emphasis on finding opportunities to work in partnership with other organisations. There were a small number of specific suggestions for areas where new research would be helpful as well as offers to explore partnership opportunities.
51. The Bar Council and LSCP welcomed the emphasis on maximising the impact of our research, the latter encouraging us to demonstrate how we ensure research findings are understood and used to improve consumer outcomes. Similarly, Hook Tangaza encouraged us to improve the visibility of our work and its potential use by innovators.

Response

52. We are pleased there is overall support for our market intelligence activity. We are also grateful to receive specific ideas for new areas of research and offers to work in partnership, which we will explore further with the organisations concerned.
53. All research projects will continue to be prioritised carefully. Our periodic surveys of legal need, innovation and prices provide important evidence on the health of the market and guide where the sector should focus its resources to seek improvement. We have stepped up our efforts to increase the visibility of our research and maximise its impact and will continue to explore further ways to achieve this.

Strategy: presentation and content (Question 5)

General comments

54. Respondents generally welcomed the shorter, more visual format of presentation. However, the Bar Council considered it lacked transparency in some respects.
55. ACCA felt that the different areas of work set out in the proposed strategy and plan could be better prioritised. It was concerned that by grouping activities under the two headings of 'overseeing performance' and 'acting as an agent of change' we would put equal resource on each, whereas in its view the focus should be on the former. ACCA also considered there was little mention of costs and wanted an indication from us about whether the £18.33 cost per authorised person was at a satisfactory level. Further, it said there was no estimate or acknowledgement of the additional cost per authorised person incurred by approved regulators as a result of our work.

Response

56. We are pleased that respondents found the revised format accessible and easy to follow so we have retained this style in the finalised documentation. We recognise there is a balance to strike between producing simple and concise documents, and ensuring appropriate transparency. Our website contains detailed information on all our projects and is regularly updated. In relation to transparency on our costs, we publish detailed information in our annual report and in our standalone cost statement.² During 2016-17 we encouraged all the frontline regulators to publish similar cost statements and look forward to extending this approach to ACCA in future. We do not consider it is possible for us to produce a meaningful estimate of the additional cost per authorised person incurred by approved regulators as a result of our work. Approved regulators are better placed to do this should they wish.

² http://www.legalservicesboard.org.uk/Projects/Transparency_of_Regulator_Costs.htm

Business plan (Question 6)

Promoting the public interest, through ensuring independent, effective and proportionate regulation

Regulatory performance

57. Several respondents expressed support for our work in this area and some referenced comments they made in their responses to the consultation on a revised regulatory performance framework carried out by LSB during June to September 2017. The Bar Council said it made sense to assess regulators on their preparedness to adapt to future challenges but would welcome clarity from LSB on what these challenges might be. CILEx felt there was little substance in the business plan on how we will hold the frontline regulators to account. The SRA said that it would ultimately like the work on equalities included within the overall assessment framework, to demonstrate that equalities are at the heart of our shared work.

Response

58. We welcome the support for this work and our focus in the next period will be putting our revised regulatory performance framework in place. There is detailed information about this on our website.³ In response to the Bar Council's comment, we hope that the market trends and drivers of change identified in our strategy will assist regulators in preparing for future challenges. Technology will clearly be a source of opportunities and challenges; our project on this should help regulators to identify possible risks. Responding to the SRA's comment, we see the potential merit in integrating equalities work within the overall performance framework and will consider this further following completion of our planned review during 2018-19 of the progress the regulators are making on implementing our diversity guidance (see paragraph 83).

Internal Governance Rules review outcomes

59. CILEx said the review was work only the LSB can undertake, and should be our main priority. Similarly, the SRA said that maximising the independence of regulation within the current framework should be our key priority over the next three years.

Response

60. It is likely that we only received a small number of comments on this work because respondents commented separately in our recent consultation on the IGR review. Taking forward the IGR review will be a key priority in 2018/19. We are considering responses to our consultation exercise and plan to publish our decision in Q2.

Technology and regulation

61. As noted in paragraphs 48 to 51 above, some respondents suggested that technology should be a more explicit feature of our strategic objectives and noted that we had a positive contribution to make in this area. ACCA urged us to avoid

³ http://www.legalservicesboard.org.uk/Projects/Regulatory_Performance/Index.htm

duplicating research that has already been done by regulators and encouraged us to focus on the provision of legal services angle of technology. It further suggested that any requirements should be set out as 'broad, but fundamental principles'. The Bar Council said we have the potential to conduct useful research, but should be mindful not to forget the Bar's perspective. The Law Society noted its keen interest and recent work in this area and said it was open to sharing its expertise and working closely with us. The LSCP welcomed our proposed work and noted the need to strike the right balance between supporting regulators to foster innovation and protecting consumers adequately.

62. Hook Tangaza provided a helpful overview of the key developments in technology and suggested a number of potential areas where LSB could help. As well as addressing regulatory implications, it encouraged us to be mindful of the fact that technology offers the potential to crack seemingly intractable problems in the legal sector.

Response

63. We are pleased that a range of respondents considered LSB has a useful contribution to make in this area. We will consider the points made as we develop this work and we anticipate this will involve collaboration with a range of interested organisations, perhaps in the form of a seminar series drawing in experts in our areas of interest.

Enforcement end to end review

64. The SRA was the only respondent to comment on this work. It outlined the steps it has already taken to improve its approach to enforcement and said it would welcome discussion on this work. Also, it would like to explore whether there may be more cost-effective ways for LSB to review its performance than a detailed end-to-end review.

Response

65. We are taking a phased approach to this work starting with the Bar Standards Board. We will use the learning from this first phase to inform future work in relation to the SRA's enforcement activities and we will discuss our proposed approach with it.

Making it easier for all consumers to access the services they need and get redress

CMA action plans

66. CILEx Regulation and the SRA affirmed their focus on delivering their respective CMA action plans. The LSCP was supportive of the LSB's engagement with the regulators and highlighted the importance of these issues from its perspective.
67. While ACCA welcomed the reference to the CMA recommendations it felt we had not paid due regard to the diversity of legal services providers, and the extent to

which each may be required to address existing shortcomings. It discouraged us from public reporting on progress against action plans in favour of improving standards, where required, through effective engagement with the approved regulators.

68. The Bar Council questioned how LSB will judge what ‘appropriate changes’ are and said it expected us to defer to the judgement of the independent regulators. The Law Society said it expected the LSB to ensure that measures by regulators to implement the CMA recommendations are risk-based, targeted and proportionate.

Response

69. The LSB’s response to the CMA’s recommendations is well-established, summarised in an LSB document published in April 2017.⁴ This document emphasises that we respect the autonomy of each of the frontline regulators to exercise independent judgement on the recommendations directed to them in light of the circumstances in their parts of the market. Where regulators propose to implement the CMA recommendations by making changes to their regulatory arrangements we will assess applications from them via our statutory decision-making processes in the usual way.
70. Transparency on the performance of regulators in this area is important, not least due to the focus of the CMA’s recommendations on improving transparency in the market. We remain committed to publishing a progress report in October 2018.

Individual legal needs survey

71. Respondents’ overall comments on our approach to market intelligence are covered in paragraphs 48 to 51 above. The LSCP expressed its support for the research as a way of offering further understanding on the scale on unmet legal need and some of the factors that contribute to it. The Bar Council and Law Society, which partnered with us on the previous wave of this research, both expressed an interest in working with us.

Response

72. We welcome the support for this work. We are grateful for offers from organisations to work with us and will explore this further before commencing the work during 2018.

Small business legal needs

73. Again, respondents’ overall comments on our approach to market intelligence are covered in paragraphs 48 to 51 above. There were no specific comments on this work, which may reflect that we published the research about the same time the consultation period closed. However, we sought views from participants attending our stakeholder event about where LSB could best add value in future.

⁴ http://www.legalservicesboard.org.uk/Projects/pdf/2017/20170413_DeliveryofCMArec.pdf

Response

74. Following the publication of our research and stakeholder event we will continue to develop relationships with the Small Business Commissioner, Federation of Small Businesses and other stakeholders. Rather than carry out a discrete follow up policy project, we think that we can best add value by continuing to raise awareness of the research, conducting further analysis of the research data and proactively engaging in debates on how best to break down barriers to access for small businesses. This revised approach represents a change in focus, not a scaling back of activity.

Consumer segmentation

75. The LSCP, which published a report on consumer segmentation last year, welcomed our work in this area and indicated it would wish to work with us. The SRA welcomed our plans to work with regulators to encourage the development and use of consumer segmentation and noted its current work. Legal Beagles highlighted the importance of segmenting by demographic types across the LSB's market intelligence activity.
76. CILEx Regulation cautioned that a proper segmentation analysis would cost a significant amount of money and considerable thought is required to ensure best use of this investment. The Law Society believed that, given the diversity of the market, it may be difficult to design a segmentation template that can be of practical use to a wide range of services with specific characteristics; it considered instead that case studies of specific sectors may be more useful.

Response

77. We believe the best approach is for us to support the LSCP in its work to encourage frontline regulators, both individually and collectively, to develop their own approaches to consumer segmentation. We share concerns about the practicality of developing a single segmentation model in such a diverse sector. We note our revised regulatory performance framework (e.g. standards RA3, RA5) provides scope for us to hold the regulators to account for their performance here.
78. We have published our overall approach to segmentation of the market.⁵ We will continue to carry out segmentation analysis in relation to the research that we commission, with both consumers and providers, and continue to make the raw data from our surveys available to enable others to carry out their own such analysis.

Increasing innovation, growth and the diversity of services and providers

Planning for EU exit

79. There was general support for our work in this area. ACCA summed up our role as being ready to respond to changes, and to facilitate work to identify risks to the regulatory objectives. The Bar Council asked for more clarity about proposed

⁵ <https://research.legalservicesboard.org.uk/news/market-segmentation/>

actions, but acknowledged it may be a little early in the withdrawal negotiations for specific steps to be included in the business plan at this stage. The Law Society said it was keen to work with us on initiatives relating to the promotion of England and Wales legal services with stakeholders to help maintain the international competitiveness of the jurisdiction. The LSCP used its response to encourage frontline regulators and other stakeholders to carry out research that would mirror work in financial services to identify a post-EU exit regulatory framework that delivers good consumer outcomes.

Response

80. Our work in this area will necessarily need to be flexible as the withdrawal negotiations evolve during the course of 2018/19. Our work will aim to protect consumers and the public, and to ensure we and the regulators are ready to play our parts in a successful transition. We will put plans in place to deal promptly with a possible series of rule change applications in Q3/4.

Diversity guidance

81. ACCA said it strongly supported open access to the legal profession and transparency concerning diversity data, but suggested appropriate change may only come about through compliance with well-articulated ethical principles, rather than more prescriptive requirements. It also urged us not to assume a relationship between the diversity of legal services providers (and their approved regulators) and diversity within authorised firms (especially at senior levels) as each has different impacts on such issues as competition, innovation, unmet need and opportunity.
82. The SRA noted our plans to review progress and highlighted that it is looking to mainstream its commitment to equality, diversity and inclusion into all its work rather than addressing it as a separate activity.

Response

83. We welcome the SRA's approach to integrate its commitment to equality, diversity and inclusion into all its work. In response to ACCA's comments, our revised guidance is focused on supporting approved regulators to meet the statutory objective of encouraging a diverse profession by thinking broadly about how diversity should best be encouraged within their own regulated communities. Our most recent Market Evaluation report identified that there is still progress to be made in this area, and it is important that approved regulators continue to monitor and evaluate the data they collect about their regulated communities to identify where changes can be made or joint working would be fruitful. We look forward to seeing how the regulators have reflected on our guidance in the pursuit of encouraging diversity during the formal assessment in August 2018, which will build on the recent progress updates.

Innovation survey

84. Respondents' overall comments on our approach to market intelligence are covered in paragraphs 48 to 51 above. Hook Tangaza encouraged the research to take a more rigorous definition of innovation, such as that used by Deloitte.

Response

85. The fieldwork has begun. We have included new questions on technology to provide insights for the dedicated project on technology elsewhere in our business plan.

Strategy and business plan: opportunities for more detailed dialogue and/or joint working (Question 7)

General comments

86. ACCA, CILEx and SRA made generalised comments welcoming the opportunity to engage across our work and encouraging us to work collaboratively. CILEx offered to liaise with its Specialist Reference Groups to provide practitioner thinking through surveys, promoting research activity and direct engagement. The Law Society offered to share its research, including member surveys and other pieces of research.
87. Some respondents highlighted specific projects where they would welcome more detailed dialogue and/or joint working with us. The Bar Council highlighted the individual legal needs research, planning for EU exit and internal governance rules. Hook Tangaza and Legal Beagles both said they were keen to support our work on technology. The Law Society identified promotion of England and Wales legal services with national and international stakeholders, technology and innovation, and the individual legal needs survey. The Legal Ombudsman said it was eager to engage on research projects, in particular changes in demand for its services and vulnerable consumers.

Response

88. We are committed to working openly and collaboratively on our policy development and research activity. We are grateful for specific expressions of interest and offers of support, which we will follow up directly with the organisations concerned.

Annex A

Organisations represented at the Strategy and Business Plan consultation workshop

Bar Council

Chartered Institute of Legal Executives

Competition and Markets Authority

Institute of Chartered Accountants in England and Wales

Intellectual Property Regulation Board

Ministry of Justice

Office of the Immigration Services Commissioner

Solicitors Disciplinary Tribunal

Solicitors Regulation Authority

The Law Society

Consultation respondents

Association of Chartered Certified Accountants

Bar Council

Chartered Institute of Legal Executives

CILEx Regulation

Hook Tangaza

Law Society

Legal Beagles Group

Legal Ombudsman

Legal Services Consumer Panel

Solicitors Regulation Authority

One anonymous, confidential response