



16 February 2018

Dear Sir/Madam,

### **Consultation on the LSB's draft Strategy 2017–21 and Business Plan 2018/19**

The Legal Services Consumer Panel (the Panel) welcomes the opportunity to respond to the Legal Services Board's (LSB) consultation on its Strategy for 2018-21 and Business Plan for 2018/19. We have tailored our response to mirror the structure of the LSB's consultation document.

#### **The operating environment - trends and drivers of change**

The Panel agrees with the trends and drivers of change described by the LSB. In this context, it is also important to highlight the impact of legal problems on consumers. We know that 31% of those experiencing legal problems report developing a stress-related or physical illness because of their experience.<sup>1</sup> Additionally, women are less confident in the UK justice system than men, and 67% of women experience a legal problem of any kind as compared to 59% of men.<sup>2</sup> Therefore, the Panel would like to emphasise that a well-functioning legal services market can mitigate against some of the adverse effects legal problems present to consumers, and more importantly not exacerbate them.

#### **The LSB's strategic objectives for 2018-21**

We are broadly supportive of the LSB's strategic objectives. We would encourage the LSB to include plans for evaluating its objectives at an appropriate time in the three-year cycle.

#### ***Strategic objective one - Promoting the public interest through ensuring independent, effective and proportionate regulation.***

We welcome the LSB's focus on supporting effective and proportionate regulation for the public's interest. We agree that regulation should remain proportionate and should not put any unnecessary burden on the regulators or providers. We are supportive of the LSB's vision of fostering an environment where regulators can easily learn and adapt their approach to future challenges raised by, for example, new technology. The Panel's work-programme for 2018/19 has a strong focus on the impact of technology

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<sup>1</sup> Global Insights on Access to Justice, World Justice Project, January 2018.

<sup>2</sup> Ibid.

on legal services consumers and we hope to be able to work with the LSB and other regulators to ensure that technology delivers good consumer outcomes.

***Strategic objective two - Making it easier for all consumers to access the services they need and get redress.***

We are supportive of the LSB's objective to make it easier for all consumers to access the services they need and get redress. Consumers find it hard to access information on price, quality and redress in order to make informed choices. From our annual tracker survey, we know that only 6% of consumers find price information on the provider's website and 61% of consumers have a conversation with their provider to determine the price. In addition, the ease of comparing providers has fallen from 57% in 2016 to 48% in 2017.<sup>3</sup> Therefore, we would encourage the LSB to focus on the need for transparency in the legal services sector. It is equally important that the LSB provides thought leadership, and assesses how regulators communicate information arising from the transparency measures to various groups of consumers, so as to maximise opportunities, and minimise confusion in an evolving market.

We continue to believe that the LSB should give greater priority to the Panel's concerns about the increasing fragmentation of professional indemnity insurance and compensation arrangements across the sector. We remain concerned that the gaps in consumer protection, the confusion around levels of protection, and the sheer complexity of multiple regulators, and providers ability to now change regulators means that clear guidance on minimum standards and good consumer outcomes is now a necessity.

Concerning access to redress the Panel has recently received several inquiries from consumers and the profession about third party complaints<sup>4</sup> to the Legal Ombudsman (LeO). We appreciate that this is an area where LeO does not have full jurisdiction, although we understand that LeO accepts third party complaints in limited circumstances. Consumers and indeed the profession may find it helpful if LeO clarified which third party complaints it does accept.

The Panel believes that some of the LSB's indicators of success are not challenging enough, for example 'consumers' satisfaction with legal services is maintained'. Consumer satisfaction is currently high at 80%.<sup>5</sup> Nevertheless, the Panel would expect that consumers' satisfaction should go up instead of simply being stagnant. In addition, we believe the fourth and seventh indicators<sup>6</sup> are very similar, and they could be replaced by keeping only the fourth indicator.

***Strategic objective three - Increasing innovation, growth and the diversity of services and providers.***

The Panel is supportive of the LSB's objective to increase innovation, growth and the diversity of services and providers. A strong and competitive market driven by innovation should improve access for consumers. In our 2020 Legal Services report,<sup>7</sup> the Panel said that innovation has the potential to create new markets, cheaper services, increase transparency, empower consumers, and enhance access to justice. We however advised regulators to remain mindful of the needs of vulnerable

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<sup>3</sup> Market transparency in legal services, Legal Services Consumer Panel, 2017.

<sup>4</sup> Complaints from third parties" – individuals who are not the lawyer's client.

<sup>5</sup> How consumers are using legal services, Legal Services Consumer Panel, 2017.

<sup>6</sup> Indicator 4 - Fewer consumers, particularly vulnerable consumers, "do nothing" when they have a legal problem. Indicator 7 - Fewer 'silent sufferers' (dissatisfied consumers who take no action).

<sup>7</sup> 2020 Legal Services, How regulators should prepare for the future, Legal Services Consumer Panel, 2014.

consumers who may not always be able to take advantage of innovation like technological developments.

The Panel would like to see the LSB offer thought leadership on the new skills required to maximise opportunities where innovation is concerned e.g. the right consumer data and analytical tools to help with managing risks. While we agree that regulators need to be flexible to facilitate growth and allow providers to innovate, they must also be alert to the need to increase consumers' understanding of innovations and to provide adequate protection for them, especially vulnerable ones.

## **The LSB's Business Plan 2018/19**

### ***Strategic objective one - Promoting the public interest through ensuring independent, effective and proportionate regulation.***

#### *Regulatory performance and enforcement*

The Panel notes the new regulatory performance assessment process and the Internal Governance Rules changes to be undertaken by the LSB over the next 12 months. We support these strands of work and will monitor their implementation very closely.

#### *Technology and regulation*

We welcome the LSB's project on the implications of new technology and how regulators can respond to these without stifling innovation or reducing consumer protection. We are supportive of the project, as it will raise awareness and build understanding across the sector. We believe that new technology and artificial intelligence offer both opportunities and risks for the consumers and the profession. It is crucial that the right balance is struck between supporting regulators to foster innovation and protect consumers adequately.

### ***Strategic objective two - Making it easier for all consumers to access the services they need and get redress.***

#### *The CMA Action Plans*

The Panel is supportive of the LSB's engagement with regulators on their proposals to implement the CMA's transparency measures. The Panel has consistently supported mandatory regulatory intervention around price transparency and quality. We have said this is necessary to improve competition that delivers good consumer outcomes. The CMA's transparency remedies are crucial for good consumer engagement and competition.

#### *Individual and small business legal needs survey*

The two pieces of research planned - on individual and small businesses legal needs - are much welcomed by the Panel. We believe the research would be useful, as it would identify and offer further understanding on the scale of unmet legal need and some of the factors that contribute to it. It is however important that the LSB uses the findings of this research to address policy concerns. The Panel would find it helpful if the LSB could clarify how it would ensure that the research findings are understood and used to improve consumer outcomes.

### *Consumer Segmentation*

In 2016, the Panel published a report on consumer segmentation<sup>8</sup> where we highlighted that regulators can use segmentation to improve regulatory outcomes, and encourage providers to deliver products and services that meet consumers' needs. Consumer segmentation will also enable regulators to better target access to justice solutions, improve and tailor their communication with consumers, and identify risks and mitigate against them more effectively. The Panel highlighted in its report that segmentation exercises must be proportionate and practical for each regulator. We believe that the application of segmentation will strengthen the information remedies proposed in the CMA's report, and enhance regulators Action Plans and the respective follow up consultations.

We are pleased that the LSB proposes to explore this area further. We would be pleased to work with the LSB on this area.

### ***Strategic objective three - Increasing innovation, growth and the diversity of services and providers.***

#### *Planning for EU exit*

During the next financial year, the LSB is planning to facilitate work to identify the risks to the regulatory objectives related to the UK's departure from the European Union (EU).

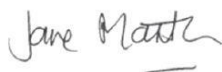
Looking at the financial services sector, we note that the Financial Services Consumer Panel, HM Treasury, and other stakeholders have worked together on research to identify a post-EU exit regulatory framework that delivers good consumer outcomes for the financial sector. The Panel has previously encouraged the regulators and other stakeholders to collaborate on similar research as soon as practicable. The UK is the largest legal services market in Europe, currently worth more than £32bn per year to the economy.<sup>9</sup> Therefore, more needs to be done collectively to ensure that the market continues to deliver wider economic benefits and good consumer outcomes post exiting the EU.

#### *Innovation survey*

We welcome the joint research funded with the SRA focusing on innovation and technology to evaluate the level of innovation amongst legal services providers. The Panel would find it helpful if the Business Plan could clarify how the LSB would use the research results to support innovation amongst providers.

We would be very happy to meet and discuss any aspect of this response in further detail. Please contact Lau Ciocan for further queries at [lau.ciocan@legalservicesconsumerpanel.org.uk](mailto:lau.ciocan@legalservicesconsumerpanel.org.uk).

Yours sincerely,



Dr Jane Martin

Chair

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<sup>8</sup> Consumer Segmentation, LSCP, 2017.

<sup>9</sup> UK Legal Services Market Report 6<sup>th</sup> edition, IRN Research, 2016.