

5 March 2009

Cathryn Hannah
Legal Services Board
Sent by email

Draft Business Plan

Dear Cathryn,

Consumer Focus is delighted to comment on the Legal Services Board's first draft business plan. Our predecessor organisation, the National Consumer Council, played a formative role in the design of the new regulatory framework for legal services and so it is particularly pleasing to see this work begin to come to fruition.

We are encouraged by the scope, tone and content of the draft work plan. It rightly promises an ambitious programme of activity which seeks to turn the principles set out in the Legal Services Act into a series of concrete steps designed to transform the legal services market around the needs of consumers. We are pleased to see a strong focus on the consumer interest, including vulnerable consumers, as a thread that runs throughout the document. This is fully consistent with the spirit of the recent reforms as summarised by the subtitle of the Government's white paper: 'putting consumers first'.

Whilst we are satisfied that the early signs indicate the LSB has the consumer interest at its core, the same cannot currently be said for all the Approved Regulators. The LSB's forthcoming consultation exercise on achieving a proper split between the regulation and representation functions of the ARs will be a crucial step in ensuring that regulation of the legal services market is conducted in the interests of users of legal services. Improved governance arrangements is also in the interest of the profession as they should provide the assurance that enables a regulatory environment in which the ARs can go about their daily work with minimal intervention from the LSB.

It is also important that the LSB itself receives effective scrutiny of its work, which is why the Consumer Panel is such a critical ingredient of the new framework. The Consumer Panel will have the best chance of adding maximum value if it is unfettered in its freedom to advise and scrutinise the LSB. The success of the Consumer Panel will also depend in large part on the quality of its members. We are therefore concerned to learn that there isn't scope within the current budget to remunerate Panel

members. This would be out of step with practice in other statutory consumer panels and is necessary in our view to attract a membership of sufficient calibre and diversity.

More widely, it is important that the LSB is properly resourced to do the job, although excessive regulation is not in the consumer interest as these costs are passed on to consumers through higher prices. The proposed allocation of costs set out in the draft business plan seems appropriate.

We are encouraged by the emphasis on a principles-based approach to regulation. We are of the view that nothing short of a transformation in the way that legal services are provided to consumers is needed to deliver the promise of the reform agenda.

Alternative business structures will provide a market stimulus to this end, but the LSB's choice of regulatory style will also be important. A principles-based regime has a better chance than writing detailed rulebooks of changing the behaviour of legal firms as it seeks to tackle the underlying cultural problems.

We are also pleased to witness a desire to identify and apply best practice lessons from the models of consumer and market regulation in place elsewhere. A theme that emerged from a recent study we conducted on the performance of regulators from the consumer perspective, *Rating Regulators*, was an apparent absence of sharing of best practice. Our research highlighted many examples of good practice and innovation, but these were rarely replicated from one regulator to the next.

Indeed, we encourage the LSB to use the assessment framework contained within our report, which was deliberately designed to apply across a wide range of regulatory environments, to inform its own organisational development. Further, there is an opportunity for the LSB to use the framework to help build capacity and assess the performance of the ARs from the consumer perspective. We would be very happy to discuss with the LSB how it might use our framework towards these ends.

Consumer Focus views this work plan as an important milestone on the road to an improved legal services marketplace for consumers, but there is still much work to do. We look forward to working with the LSB to put its vision into practice.

Yours sincerely,



Steve Brooker

Head of Fair Markets