

Strategic Plan 2012-15

Business Plan 2012/13

**Summary of consultation submissions received and the
LSB's response to them**

April 2012

Contents

Introduction	3
The responses	3
Summary of responses	3
Annex A – List of respondents	20

Introduction

1. On 15 December 2011, the Board published its draft Strategic Plan for 2012-15 and Business Plan 2012/13. The document was news released and 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 9 March 2012.
2. This paper summarises the consultation submissions received and the Board's response to them.

The responses

3. We asked for views on all aspects of the draft Plans and we received 16 responses to our consultation. The responses included comments on the way in which the Board performs its statutory functions, suggestions for either new areas of work or areas where the Board should cease activity, alongside commentary on specific aspects of the Plans.
4. Where respondents have provided their consent, we have published their response on our [website](#), alongside this consultation response document. **Annex A** lists the 16 respondents.
5. We are grateful to each organisation that took time to consider our proposals and to respond. The Board considered all of the responses carefully and they provided an important contribution to the decision-making process on the final Strategic Plan for 2012-15 and Business Plan 2012/13. Both of these documents are now available on our [website](#).
6. In considering the responses, we took into account that the number of submissions we received was small and that they were primarily from bodies with either an interest in representing the professions' interests or from those subject to the Board's oversight. We were disappointed not to have received responses from consumer or citizen groups but we know from our ongoing informal discussions with a number of such groups that one reason for a lack of formal comment is broad contentment with the Board's plans and performance to date. As we have to date, however, we will continue to meet regularly with consumer and citizen groups, outside of formal consultation exercises, to ensure we understand their views and concerns so that we can weigh them in the balance.

Summary of responses

7. As in previous years, some responses contained generic commentary on the way in which the Board undertakes its statutory functions. Others focused solely on single areas of the Board's work. Only a small number actually commented on the detail of the Board's activities or suggested new or different work priorities. The following pages address the range of points raised by respondents and the Board's response to them.

8. Seven of the responses were from approved regulators (either regulatory or representative arms (or both)), six were from legal professional bodies or providers, one from a legal education charity, one from an academic body and one from a government body albeit the latter, from the Legal Services Commission, was simply an acknowledgement rather than a substantive response. One legal representative body, the Criminal Bar Association, sought only to align themselves with the Bar Council response. One legal representative body, The Tunbridge Wells, Tonbridge and District Law Society simply commented that the Plan did not address the key issues of customer freedom of choice and access to justice.

The role of the Legal Services Board

9. The Bar Council (BC), Bar Standards Board (BSB), Chartered Institute of Patent Attorneys (CIPA), Council for Licensed Conveyancers (CLC) and The Law Society (TLS) all made comment on the way in which the Board exercises its statutory functions under the Legal Services Act 2007 (the Act). Their broad theme, albeit expressed in a variety of ways, was that the LSB appears not to understand its role and as a result exceeds its remit. Specifically:
 - a. BC, BSB, CIPA and TLS all urged the Board to restrict its role to one of oversight. BC, BSB and CIPA all used the term micro-management, either warning the Board to guard against it or suggesting it appeared to be the Board's preferred mode of working (albeit CIPA used it with reference to the Board's oversight of the Legal Ombudsman). CLC commented that it perceived the LSB not to be adopting the risk and outcomes-focused regulatory approach it requires of regulators. BSB suggested that the Board adopts an overly prescriptive approach citing requirements for first-tier complaints handling and equality and diversity data collection as examples. CLC expressed concern that LSB makes both too many demands of regulators and does not address differences between them.
 - b. As regards the principle of oversight, the BSB stated that regulators should be allowed to develop their own plans to address issues that they identify as requiring intervention. They reiterated that statute limits LSB intervention in areas where Parliament has entrusted regulators to decide. This appeared to align with TLS's view that the LSB's language suggested an unduly proactive approach.
 - c. BC and TLS suggested that the LSB has an inappropriate interest in being a market or economic regulator. TLS noted that the Act did not intend for the LSB to be such a regulator. BC stated that nowhere in the Act is there a remit for LSB (or approved regulators) to stimulate a growing market for legal services and that the LSB's use of market terminology was inappropriate.

Response

10. We continue to reject firmly any suggestion that there is any lack of clarity on the part of the LSB as regards its statutory role or remit. There is not. The Act provides the LSB with its statutory duties and obligations and we act to deliver them in line with better regulation principles. To date there is no evidence that we have acted out-with our remit, or unreasonably eg by way of successful legal challenge to our decisions. We are aware that it is possible that the assertions of lack of understanding actually mask a more inherent dissatisfaction with the regulatory settlement brought about by the Act. The changes in regulatory architecture it brought about represented seismic shifts for the professional bodies and those they represent. The introduction of objective and critical oversight by an external body, the need to act in accordance with wide-ranging regulatory objectives, the demands which follow a shift in regulatory focus from professional to consumer and public interests and to consider competition and market issues in addition to individual behaviour, amount to a wholesale package of reform.
11. These are not things that can be delivered overnight. It is change for the long-term - cultural and operational. To date, it appears that there has been an inconsistent response from regulators in the extent to which they have both understood and responded to this new challenge in terms of both their overall regulatory framework and its practical day-to-day delivery. The need to probe this perception and develop a fuller understanding of the state of play in individual organisations lies behind the initiative on regulatory effectiveness.
12. However, we are still in the comparatively early days of the regime. We only took on our statutory powers on 1 January 2010. So, whilst the need for change had been in the offing for many years before this, only in the past two years has real change manifested itself. Bearing in mind the amount of work still to be done, no statutory body could abdicate its role and rely on un-evidenced assurances of good and honourable intentions. That would indeed represent a misunderstanding of our statutory functions. So our oversight will continue to be targeted and proportionate.
13. More generally, we comment that, in our first two years of operation, we have issued a formal "Warning Notice", notifying a regulator that we are minded to turn down a rule change, on only one occasion and have issued minimum amounts of statutory guidance. This seems to us consistent with a philosophy of proportionate intervention, rather than micro-management. On most occasions, the process of challenge and assurance documented in our decision documents will, we hope, continue to be the most appropriate mode of operation.
14. For the sake of balance, we were also struck by the warning issued by the Chartered Institute of Legal Executives (CILEx) and ILEX Professional Standards

Ltd (IPS) in their joint response that we should be more robust in our oversight - or risk one or two regulators continuing to be non-compliant or resistant to change.

15. For the avoidance of doubt, we are quite clear that we are not an economic regulator in the sense that we lack formal powers under either the Enterprise or Competition Acts and do not make referrals to the Competition Commission. But it seems to us a misreading of the regulatory objectives to equate this with meaning regulators should not concern themselves with issues of competition – indeed not only do we think stimulating the market is essential to meeting the objectives of support a strong profession, but we fail to see how access to justice can be achieved without it. The Act is quite clear in the regulatory objectives that the LSB, Office for Legal Complaints (OLC) and approved regulators are required to operate in a way that is compatible with promoting competition in the provision of legal services. This has some analogies with the role of the Financial Services Authority and its successor bodies.
16. We are aware that, historically, the legal services profession has steered clear of use of terminology common across the rest of the economy but we are comfortable to do so. Indeed, it seems appropriate language for a sector that contributes £25 billion pounds to UK plc, that has its services purchased by millions of individual people and businesses every year, and which employs in excess of 330,000 people. In some respects, to think of it as anything other than a market risks undermining the success of the profession and industry nationally and international by understating its record of innovation, modernisation and continued commercial success.

Areas where the Board should seek Consumer Panel advice

17. At the time of publication of the draft Plan, the Board anticipated asking the Legal Services Consumer Panel for three specific pieces of advice:
- a. consumers and financial protection – what are the financial risks consumers face when using legal services and are the current financial protection regimes adequate to address them?
 - b. how far do approved regulators put consumer interests at the heart of their regulatory design and delivery – to what extent do approved regulators understand consumer interests and use knowledge about risks to inform their decisions?
 - c. how far do approved regulators help consumers choose and use legal services and advise on options for improvement?
18. Only two respondents, CILEx/IPS and CLC commented on the suggested advice requests. CILEx/IPS noted the three areas and commented that they would be

interested in the consumer protection advice expressing a hope that it be published. CLC stated that they did not agree that the Panel should be asked about approved regulators work to help consumers choose and use and suggested that, instead, the Panel be asked to assess how far the LSB could help consumers and what part regulators might play in this.

Response

19. The LSB has reviewed the possible Panel advice requests and has concluded that, at this stage, only two advice requests should be specified in advance – around consumer protections and the appropriate contribution for regulation in relation to informing and influencing consumer behaviour. We have decided not to proceed with the request for advice around consumer centrality to regulatory design and decision-making because this would duplicate work underway through our regulatory standards initiative.
20. The question of what constitutes appropriate consumer protection, including arrangements for financial protection, remains of paramount importance. It is clear from the cases seen by the Legal Ombudsman, the interventions against law firms that hold client monies and the changing nature of service provision that the need for protection is without doubt – but there is no consistent approach to ensuring that protection across the legal services sector. In addition, there has been no analysis to date of how much risk it is appropriate for consumers themselves to bear in the legal services context. We will therefore be asking the Consumer Panel to prepare advice on the consumer interest in relation to risk and protection, including financial protection, during the course of 2012/13.
21. On the second advice request, we agree with CLC that the request should be reformulated. However, rather than focus the advice on either the role of the LSB or the role of the regulators, as if they were different or in opposition, we intend to ask the Panel to consider the role of the regulatory system in its entirety. We expect this to draw out where work may best be done to inform consumer behaviour eg at individual ‘frontline’ level, collectively by all regulators or driven centrally by the LSB. We have no preferred solution only a desire to avoid well-meaning initiatives that deliver no practical consumer benefit or which duplicate work of other bodies operating in this space, such as Law for Life.
22. As with all Consumer Panel advice to the LSB, both will be published.

Comments on the regulatory objectives

23. A small number of respondents made specific reference to the regulatory objectives.
24. CILEx/IPS stated that protecting and promoting the public interest must underpin all of the Board’s work and urged the Board not to overlook the importance of the

rule of law and the need to improve access to justice. They warned that the regulatory objectives must not be weighted in any way. Conversely, CLC rejected the notion that there should be no hierarchy of regulatory objectives, suggesting that the experience of the last two years allowed for such a hierarchy to be developed and noting that to do so would provide greater certainty to regulators.

25. Inner Temple welcomed the draft Plan's focus on an independent, strong, diverse and effective legal profession and encouraged work to build effective partnerships with others working to achieve the same aims. Law for Life also welcomed the emphasis of the needs of consumers and the public brought about by the Act.

Response

26. The LSB set out its views on the regulatory objectives and the way it would seek to apply them in a [paper](#) published in July 2010. We remain of the view that the Act obliges us not to apply any sort of hierarchy and so to do so would both be at odds with statute and might lead to an inflexible response to individual situations.

27. We do appreciate that some commentators have concerns about our strong focus on consumer interests and worry that in so doing we ignore or reject our role in relation to the rule of law or wider public interest. We understand this concern, but note that our initial work has been driven by the implementation priorities set by the Act. It is also fair to say that our strong initial view is that these objectives need to be seen as underpinning all regulatory activities, rather than being seen as calling for specific initiatives in their own right. Finally, while oversight in these areas continues to be necessary, the Board is aware that these issues have been higher on the agenda of legal regulators historically and therefore require less development work than areas which are new to the practice of legal regulation.

Proposed strategic priorities

28. The Board proposed three strategic priorities to underpin all of its work for 2012/15:

- a. assuring and improving the performance of approved regulators
- b. helping consumers to choose and use legal services with confidence
- c. helping the changing legal sector to flourish by delivering appropriate regulation to address risks.

29. Three respondents, BC and Society of Trust and Estate Practitioners (STEP) and Society of Legal Scholars (SLS) agreed that the priorities appeared reasonable or broadly appropriate.

30. With regard to **assuring and improving performance**, CILEx/IPS accepted that robust procedures needed to be in place but advised that terminology implying LSB would always take a 'tough-minded' approach was inconsistent with better regulation, which implied a targeted rather than standard approach should be adopted. More generally, they commented that, as with Internal Governance Rules (IGR) compliance, regulators should be given time to transition to good.
31. With regard to **helping consumers to choose and use**, CILEx/IPS confirmed agreement that regulators need to understand the consumers of those they regulate and welcomed any assistance LSB may be able to offer. This would include helping consumers to understand that the term 'lawyer' does not just mean 'solicitor' or 'barrister'. Law for Life welcomed this strategic priority and suggested that the LSB may wish to develop work already undertaken by Law for Life and the University of Bristol.
32. With regard to the **last priority**, CILEx/IPS queried how far the LSB intended to question approved regulators' existing arrangements. TLS warned that the LSB's proper task is to ensure that regulators address issues of risk rather than carry out its own risk assessments.
33. CIPA assessed that, through pursuit of the first and third strategic priority, the second strategic priority (helping consumers to choose and use) would naturally flow – and thus any proactive work in this area was nugatory. Additionally, they stated that such work was more legitimately the role of the Office for Legal Complaints (OLC), noting that the public will have the necessary confidence because of the success of the Legal Ombudsman.

Response

34. The LSB takes comfort from the absence of strong criticism of the three priorities it proposes to pursue over the next three years and does not propose to alter them. We do however take note of CILEx/IPS warning reported in paragraph 30 and have amended the language in the final plan accordingly. With regard to helping regulators understand their regulatees' consumers, whilst conscious of the criticism levelled against us elsewhere regarding risks of undertaking work more appropriately done by regulators, we would of course be interested to discuss how best we could assist with developing such an understanding, subject to budget constraints. On the point made by TLS on risk, we agree. The LSB does however need to be assured that regulators are taking steps to proactively identify and address risk and recognises that it is better placed than the regulators to use such information to identify where cross-sector risks are emerging that may not be immediately obvious to individual regulators.
35. Finally, we do agree with CIPA that the Legal Ombudsman has an important role to play in helping consumers to choose and use legal services with confidence. A

well-functioning complaints system is a critical component of a consumer protection regime. The work that the Ombudsman has started to do to inform consumers and the profession of common themes in complaints – most notably its recent excellent advice on problems around costs – is warmly welcomed.

Evaluation

36. The draft Plan summarised the work that the Board is undertaking to evaluate the changes to the legal services market. This work was begun in 2011 and was the subject of a discrete publication, [Evaluation Framework](#), published in April 2011. The draft Plan outlined the 17 measures across the market that we intend to attempt to measure to build up a body of evidence to monitor changes to the market in the coming years. The first report in this area, our Interim Baseline report, from which future changes will be measured, will be published alongside our Final Plan for 2012/13.
37. Some respondents commented on this approach. BC asked whether it was an appropriate and effective use of resource to monitor all 17 measures, some of which appeared duplicative. CLC did not agree that all outcomes can be measured and urged the LSB to take account of qualitative outcomes also, noting that they may be of more value to consumers. SLS observed that few of the measures would pick up whether changes to legal education and training were working effectively. Law for Life encouraged the Board to build in measures relating to public legal education.

Response

38. The LSB will publish its Interim Baseline Report alongside this consultation response summary, which will allow respondents to see how the evaluation framework operates in practice. It is fair to say that some of the 17 measures are difficult to evidence in isolation. We have therefore used a variety of proxy indicators which, when looked at in combination, give a sense of the state of the primary indicator. We would encourage all with an interest in the legal services sector to review the Interim Baseline Report. This will also reiterate the need for active work to fill important data gaps in the sector – work that it is not just for the LSB alone to fulfil.
39. At this stage, we do not propose to amend the evaluation framework but we do recognise the points made by SLS and Law for Life and will consider how we might address them during the course of 2012/13.

Risks

40. Only Inner Temple commented on any of the specific risks facing the legal services market that the LSB had identified. They agreed with the risk that liberalisation of entry might lead to a decline in standards. They warned that

opening up of access to justice must be accompanied by quality of service provision and outcomes.

A: Regulatory performance and oversight

Developing standards and performance

41. The BSB urged that they be allowed to decide how best to implement the regulatory standards framework, warning the LSB not to become prescriptive. This was echoed by CILEx/IPS who also urged the avoidance of an unduly detailed approach. They asked the LSB to help provide information on what work certain members of the profession can undertake and to engage with Government to remedy any legislative concerns.
42. CLC commented that there is no shared understanding of what constitutes risk-based and outcomes-focused regulation, nor the degree of risk the consumer should be prepared to accept. TLS observed that the self-assessment programme appears intrusive and mechanistic and stated that it was inappropriate for the LSB to require this of regulators.
43. CIPA believed that now that the regulatory framework is in steady state, with IGR compliance in place, self-certification should therefore only be about providing assurances. Only in evolving areas such as ABS should more direct LSB oversight be required.
44. Approaching this work from a different perspective, Manchester Law Society expressed their fear of a risk of inconsistent regulation emerging between alternative business structures (ABS) and non-ABS firms, and noted a fear of regulator shopping, with firms looking for 'safe harbour' from what they might perceive as a more burdensome regulatory regime. They also urged LSB to encourage greater consistency of enforcement between SRA and the Claims Management Regulator (CMR) where they perceived the SRA were 'tough' on firms breaching eg referral fee rules but the CMR was not equally tough on similar breaches in its sector.

Response

45. The LSB consulted on this work in 2011 and published its [final approach](#) in December 2011. We note the comments about the way in which we should undertake this work and will bear them in mind as we undertake our first review of regulator self-assessments. We believe that the approach of self-assessment, rather than prescriptive inspection, enables the right balance between flexibility and a broader consistent approach to the assessment of regulatory quality.
46. We thank Manchester Law Society for their comments. It is precisely to address these risks that we believe the work to ensure regulatory standards is important. Regulatory certainty and consistency of outcome is as important to providers as it

is to consumers and to the public. We are not sure that there is evidence to suggest that the CMR is 'lighter-touch' than SRA but we will bring the comments to the attention to MoJ and CMR.

Thematic reviews and response

47. Only CILEx/IPS commented on our proposals for thematic reviews, suggesting that employment law may represent a more valid subject for a thematic review than conveyancing and requesting more detail on the scope of the appeals review. This has been clarified in the final Plan.

Ensuring effective redress for consumers and response

48. CILEx/IPS requested more detail on the process LSB uses to oversee OLC assurance of Legal Ombudsman performance and on the LSB's plans for a rolling annual review programme of first tier complaints handling. This has been provided in the final Plan.

49. CLC expressed disappointment that the Legal Ombudsman was unable to provide more details about complaints to assist with regulation. This is a matter for the Legal Ombudsman and we encourage regulators and the Ombudsman to engage with each other directly to address any such concerns.

Widening access to justice and the legal services market

Special bodies and response

50. CILEx/IPS regretted the lack of a firm commitment to ending the transitional period for special bodies. We expect to publish our proposals on this area for consultation later in April 2012.

LSB becoming a licensing authority and response

51. BC, BSB, CILEX/IPS all commented that it was premature for the LSB to undertake detailed preparatory work to become a licensing authority of last resort. We agree. Our intention is to do only the minimum work required by the Ministry of Justice (MoJ) to allow the relevant statutory provisions to be 'switched on'. No other work is intended and we have clarified the Plan in this regard.

Other matters and response

52. CLC urged the LSB to take an active role in breaking down barriers between sectors eg by minimising switching costs for example in relation to run-off cover when a firm wishes to transfer from SRA to CLC jurisdiction. They regretted that the LSB had not pursued this work which had been identified previously in preparation for ABS implementation. We are currently considering a number of issues to do with compensation and will address the point in that context.

53. Manchester Law Society additionally urged the LSB to encourage the Solicitors Regulation Authority (SRA) to have greater interaction with the Financial Services

Authority (FSA) on suitability of entrants to the professional indemnity insurance market for solicitors (PII).

54. Whilst CILEx/IPS welcomed our stated intention to carry out work on consistency of approach to Criminal Records Board checks, we have decided to omit this work from our final Plan for 2012/13 in light of the Ministerial steer around the last Order on this subject and the direction of travel of policy on rehabilitation of offenders.

B: Strategy development and research

55. CIPA stated that the LSB should not be carrying out any of the work in this section of the Plan, and that approved regulators are best placed to determine what work is needed to address the regulatory objectives. The LSB's role should be limited to providing support and guidance to the approved regulators. We note these comments and welcome the increased engagement of the regulators with research issues in recent years. However, we continue to believe that there remains a considerable role for the LSB in stimulating and directly funding research in a market which is light in evidence and where research investment has been historically low and focussed on representative priorities.

Reviewing the scope of regulation

56. CILEx/IPS and CLC expressed disappointment that the LSB appeared not be undertaking a 'bottom-up' assessment of what activities should be reserved or not and seemed to be approaching the issue on a piece-meal basis.

57. STEP warned that industry-led solutions needed to be considered carefully before deciding that they were best placed to address issues of regulatory concern. They also mooted a view that the only way regulation could not act as a barrier to entry into markets would be to alter the current regulatory structure – advocating a move to activity-based regulation.

Response

58. The LSB will be publishing its response to its [July 2011 consultation](#) on assessing the boundaries of regulation later in April 2012.

Developing a changing workforce for a changing market

59. The BC objected that it was premature for the Board to be driving forward a broad review of education and training as it risked second-guessing the regulators' own review. CILEx/IPS observed that the outcomes of the review would be for the regulators to implement not the LSB and that the LSB's remit is to assist not deliver. Inner Temple urged the LSB to take into account the work of the Inns as it considered education and training matters. SLS urged caution to make sure the regulators' education and training review did not result in changes already being made being lost. Partnerships would be key. STEP urged greater

reference to working with other bodies, not just approved regulators, in relation to education and training.

60. Both BC and CILEx/IPS objected that there was no evidence to justify the Board's assertion that lawyers were being trained for a bygone age and risk that England and Wales will fail to keep up with global changes.
61. Manchester Law Society expressed a concern that too many students were being allowed to study and that vested financial interests were taking priority over the welfare of students.
62. On diversity, BC noted that LSB should not proactively monitor data received, as this should be a task for the regulators. CILEx/IPS noted that change would not be delivered overnight, a point echoed by Inner Temple who advised that strong partnerships should be forged with those who shared the LSB's ideals. Inner Temple also recommended that the LSB undertook work to articulate the business case for diversity.

Response

63. For the avoidance of doubt, the LSB is not undertaking its own review of education and training. We wait with interest to see the outcomes of the review being undertaken by BSB, SRA and IPS. In the meantime we will continue to offer assistance by stimulating debate, encouraging radical and innovative thinking and engaging the broadest range of interests. We have clarified the Plan where necessary. However, we continue to believe that radical change may very well be necessary given the length of time since there has been a cross-sectoral review and in the light of growing evidence that UK qualifications are being perceived less favourably than American models in emerging markets
64. We have changed the drafting of the Plan to make it clear that we do not intend to duplicate regulator analysis of the diversity data they receive but that we will be interested to see the analysis and conclusions drawn.
65. We have also revised the Plan to indicate that we will start some very exploratory work to assess whether there are gender issues in pay differentials.

Approaches to quality

66. BSB observed that if the LSB delivered a 'pick and choose' framework for quality then it could be a helpful contribution to regulation. They worried, however, that LSB might adopt a prescriptive approach and require all regulators to adopt the framework. Work also risked being duplicative where regulators were already working on quality measures. CILEx/IPS also expressed an interest in seeing more details of the toolkit.

67. Conversely, CLC suggested that there were compelling arguments to say that it is the Courts, not the regulators, which should make judgements about the quality of legal services. They recommended that this issue be resolved before the LSB starts inquiring how quality measures should be implemented.
68. Finally, Inner Temple warned that quality must take into account the desirability of ensuring broad professional legal application and knowledge in service delivery rather than a functional specific focus. They would not want to see quality being sacrificed for cost.

Response

69. The LSB published its discussion document on [approaches to quality](#) in March 2012. This document offers a variety of suggestions on how best risks to quality might be addressed with a view to developing a framework against which regulators can self-assess.

Research

70. CILEx/IPS expressed a wish that all regulators be involved with the LSB's work on professional principles. CIPA suggested that the LSB should only undertake research if it was cheaper to do it that way and stated that it had seen that LSB was duplicating regulators work which was an unnecessary waste of resource. TLS also commented that LSB should only undertake research where it was impractical or unduly expensive for regulators to lead. They also considered any work directed at market issues was a waste of resources and misguided.

Response

71. The LSB will of course work with all regulators on its work on professional principles. As regards its general approach to research, the LSB is assisted by a Research Strategy Group which has the opportunity to consider all LSB research proposals and on which a number of approved regulators are represented including TLS and BC/BSB. The Research Plan for 2012/13 will be published alongside this consultation response document and we judge that it represents work that is legitimate for the LSB to commission and are confident that it does not duplicate any work planned by the approved regulators – based on information we have received.

C: Statutory decision making

72. Only two respondents commented on the LSB's work to approve changes to regulatory arrangements or other statutory decision making functions. BC stated that a lack of understanding of the barrister profession on the part of the LSB meant that it has fundamentally misunderstood issues resulting in extra and duplicative work and delay. CILEx/IPS asked for reassurance that LSB policy developments would be proportionate and in keeping with better regulation principles as they implicitly drive changes to regulators' codes.

Response

73. When considering requests for changes to regulatory arrangements, the LSB is bound by statute as to the criteria we must take into account when reviewing an application by a regulator. We published [rules](#), as required by the Act, for approving changes and issued [guidance](#) to assist regulators in making applications. Where we call for additional information or explanation it is to ensure that we are able to satisfy ourselves that the necessary statutory tests have been met and we hope that with continued experience of the process, regulators will continue to improve the quality of their applications including the evidence they provide to justify them.

74. We have welcomed the extensive briefing and visits facilitated by the Bar Council and BSB on the role of barristers and, taken with the presence of an experienced barrister on our board and a former senior BSB manager as one of our Directors, consider that we have the information necessary to fulfil its functions.

Budget

75. The LSB has proposed a reduction of 9% in its budget for 2012/13. This includes a staffing headcount reduction from 34 to 31.

76. BC, BSB, CIPA, Guildhall Chambers and TLS all welcomed the budget reduction but stated that the reduction should have been larger with some referencing Whitehall budget cuts of 20 – 25%. BC and BSB both asked for more detail on how the reduction had been received both commenting that it appeared to predominantly from depreciation. A number of these respondents suggested that the LSB should base its budget on an assessment of what is required to deliver 'business as usual' work looking forward rather than work that has been done to date.

Response

77. The table below shows our proposed budget for 2012/13 and shows where the reductions from 2011/12 are delivered. We are proposing a budget of £4,498k to deliver our Business Plan for the year ahead. This is a reduction of almost 9% from the 2011/12 budget (£4,931k).

	2012/13	2011/12	Change
Staff	2,650	2,864	-214
Accommodation	565	585	-20
Research and Professional Services	300	300	0
IT/Facilities/Finance	251	251	0
LSB Board	194	210	-16
Consumer Panel	44	48	-4
Office Costs	122	153	-31
Depreciation	16	143	-127
Governance and Support Services	96	127	-31
Legal Reference/Support	84	84	0
TOTAL excl OLC Board	4,322	4,765	-443
OLC Board	176	166	10
Total inc OLC Board	4,498	4,931	-433

Staffing

78. The LSB has now been operating more for just over three years. This initial period required discrete skills from colleagues, which in some cases were not the same as those needed for an organisation in normal operating mode. The Chief Executive, in consultation with the Board, reassessed the skills and roles that the LSB needed going forward and has made changes to the budget. This has been delivered by reducing headcount, reallocating some responsibilities between other posts and taking advantage of colleagues moving on to achieve a structure capable of delivering the strategy for the next three years. We certainly do not rule out further reductions in future years, but this will, as the Board has stated on

many occasions, be driven by its assessment of how effectively regulators are discharging their functions, rather than being taken as a given.

79. It is clear already from experience to date that our investment in 'business as usual' activity will not decline and may indeed increase. Whilst we have adopted processes that 'front-load' activity in such a way as to minimise the call on LSB's resources, it is beyond question that the resource investment required to manage the flow of work associated with applications for alterations to approved regulators' regulatory arrangements, performance oversight of the OLC, and anticipated applications is significant.

80. These changes have resulted in the largest change to our budget going forward, £214k.

Accommodation and related services

81. Although a small tenant in a large building we have been heavily involved with landlord/tenants meeting and are continuing to hold the new managing agents to account for what they propose to spend. Even though most costs under this heading are fixed (rent, rates, service charges) we have been able to take full advantage of bulk buying power and receive the benefit of favourable fixed utilities contracts. This heading has been reduced by £20k.

LSB Board

82. We have taken full advantage of the opportunity provided by the 'end of term of appointment' for LSB Board members and recommended to the Lord Chancellor that we reduce the complement by one post. This has now been implemented. We have also reorganised the schedule of both Board and Committee meetings and agreed a reduction in travel costs. The overall expected reduction is £16k.

Office costs and related services

83. This comprises the general office overhead costs – stationery, licences, travel, telephony, postage, media subscriptions, publishing costs and website, etc. We plan to redesign our website and introduce a 'content management system' which will allow LSB colleagues to upload documents without the need to purchase these services from our current provider. In line with our Publication Scheme, we publish a large volume of documents including Board Papers. This heading has been reduced by £31k.

Governance and support services

84. This includes internal and external audit as well as general recruitment costs and professional advice. We do not engage consultants on an interim basis and have been able to set this budget at £31k less than 2011/12.

Depreciation charges

85. These are the costs of assets that we have purchased which are charged to the accounts over their useful life. Most of these purchases were IT-related and will have been fully depreciated prior to 1 April 2012. We have delayed any planned replacement programme of equipment and have consequently reduced this heading by £127k.

OLC Board

86. We have increased the number of members on the OLC Board by one and this has resulted in an increase of £10k.

Next steps

87. The Strategic Plan for 2012-15 and Business Plan for 2012/13 has now been updated to reflect the comments and decisions above and has been published on the LSB's website.

Annex A – List of respondents

(in alphabetical order)

Bar Council (representative)

Bar Standards Board (regulatory)

Chartered Institute of Legal Executives and ILEX Professional Standards Ltd (joint response) (joint representative and regulatory)

Chartered Institute of Patent Attorneys (representative)

Cost Lawyers Standards Board (regulatory)

Council for Licensed Conveyancers (regulatory)

Criminal Bar Association of England and Wales (representative)

Guildhall Chambers (legal professional)

Honourable Society of the Inner Temple (legal professional)

Law for Life: The foundation for public legal education (education)

Law Society (representative)

Legal Services Commission (government)

Manchester Law Society (representative)

Society of Legal Scholars (education)

Society of Trust and Estate Practitioners (representative)

Tunbridge Wells, Tonbridge and District Law Society (representative)