

Regulatory approach worked examples

Example 1: Increasing market transparency for consumers (2017/18)

Identifying key risks:

- Risks to consumers' interests and competition in the market from a lack of transparency have long been recognised by LSB's project and research work, for example, we have championed the need for greater transparency in the market, conducted research on prices of common legal services, and worked alongside others to facilitate the emergence of Digital Comparison Tools (DCTs) to aid consumer choice.
- The CMA's market study (2016) concluded that competition in the legal services sector for individual consumers and small businesses is not working well. Its main concern was a lack of information weakens consumers' abilities to drive competition through making informed purchasing decisions.
- The above evidence suggests that increasing transparency of price, service and quality is essential for consumers to get a better deal. Direct regulatory intervention is necessary to address these issues as the sector will not resolve itself.

Setting out our expectations:

- We have set four high-level outcomes in relation to market transparency - deliberately mirroring the broad areas of action identified by the CMA.
- The outcomes are supplemented by a non-exhaustive list of
 - (i) types of activities that could indicate frontline regulators are taking appropriate action (mirroring the specific recommendations that the CMA has made to the frontline regulators), and
 - (ii) types of evidence of changes that we would expect to see in the market in the medium to longer term.

Seeking assurance through oversight:

- Requesting action plans and periodic progress updates.
- We will assess the sufficiency of action plans against our high-level outcomes using a proportionate assessment mechanism – a qualitative judgement of the sufficiency of action plans based on information submitted and discussions with each regulator, taking into account size, risk profile and resources of each regulator and their views on what a proportionate response would be.
- Publishing our assessment of sufficiency over the summer.

- We are also a full member of the implementation group, alongside the regulators.
- In due course scrutiny of regulators' actions will be overseen through the LSB regulatory performance assessment process.
- We will also monitor and review results of surveys demonstrating market changes, and specifically through next LSB Market Evaluation (expected 2019) to establish whether the regulators' actions are leading to improved outcomes.

Example 2: Statutory decision making

Setting out our expectations:

- The LSB has set out rules for considering changes to the approved regulators' regulatory arrangements. These set out the requirements and explain the process by which applications will be dealt with. They supplement the provisions in the Act that set out the criteria for refusing an application.
- We have also produced guidance about how to submit applications.

Seeking assurance through oversight:

- We seek assurance through assessing applications in line with our rules and guidance and against the criteria set out in the Act.
- Where we have concerns that a proposal may have a negative impact on the regulatory objectives, we will seek further information from the approved regulator to establish whether the impact has been considered and how any negative impacts may be mitigated.
- If the refusal criteria set out in the Act are not met, we will approve the application.
- In some instances we will approve an application but note certain concerns in the decision notice. This would normally result in targeted follow up work to monitor the impact of the changes and ensure that the concerns do not manifest in negative impacts on consumers or the regulatory objectives.