

Annex A – Early thinking on LSB response to the CMA’s recommendations

The grids overleaf copy out the CMA’s recommendations and contain the executive’s early thoughts on our likely response to them.

The CMA has provided “a high-level framework to be overseen and developed further by the LSB and implemented by the regulatory bodies”. We are asked to lead on some specific actions, including quality indicators and a single digital register. Therefore, as well as consider the substantive policy response, we need to consider the appropriate governance arrangements to take this work forwards.

Using our statutory levers to move the policy agenda forwards

- The statutory statement of policy made under section 49 of the Act will set out expectations of the regulators on what they should be doing to improve consumer engagement in the market. As is evident from the first grid, this will provide a vehicle to bring together various strands of the transparency agenda incorporating price, quality, redress and regulation.
- We will monitor performance of the regulatory bodies under the regulatory performance framework, as now. Our plans to review the regulatory performance framework will take account of how best to incorporate major policy initiatives such as market transparency
- We must have regard to the statement of policy when considering applications from regulatory bodies to make alterations to their regulatory arrangements. It is likely that some regulators will wish to make changes to codes of conduct
- We have existing rules under section 112 of the Act (and associated guidance) relating to signposting to redress. As part of our planned work in 2021-22 on LSB’s Policy Framework, we will consider whether this should be reviewed

Using our convening power to deliver change

- It may be appropriate for LSB to chair the Remedies Programme Implementation Group (or a successor body). This initially proved a useful vehicle to coordinate action on the CMA’s 2016 recommendations and remains well-attended at CEO and director level.
- We should consider setting up and chairing a Task and Finish Group to establish a single digital register
- Other working groups could be convened to take forward specific strands of work. The regulatory bodies could chair these but report in to the RPIG or its successor
- We will wish to liaise closely with the chair of the Legal Choices Governance Board; however, membership is currently limited to those regulatory bodies that fund the platform. We will wish to keep the governance of Legal Choices under review, but the immediate funding crisis has been averted and the new chair should be given time to settle in before we consider acting further
- A Board lead(s) should be maintained to support this area of work.

Recommendations around transparency

CMA findings		Analysis
Recommendation	Specific actions	
Ensure that there are high levels of compliance with the minimum standard of transparency across the legal services sector	Take action to ensure compliance with the current rules on minimum standards of transparency	LSB to set expectations in statement of policy and monitor through the regulatory performance framework
	Review the scope of services covered by the minimum level of transparency	LSB to set expectations in statement of policy and refer to this when considering applications for changes to regulatory arrangements. Consider further LSB's role to broker consensus. Our surveys provide useful data on common legal transactions
	Review the effectiveness of a guidance approach and introduce rules if levels of transparency are low	LSB to set expectations in statement of policy
Improve the clarity, comparability and prominence of disclosures on providers' websites in relation to price, service, redress and regulatory status	More actively promote best practice in meeting the regulatory rules	LSB to set expectations in statement of policy
	Develop monitoring and compliance within the current rules	LSB to set expectations in statement of policy and monitor through the regulatory performance framework. We will refer to the statement of policy when considering applications for changes to regulatory arrangements. Consider the CMA's suggestion of a transparency quality mark, but we are sceptical about this.
	Enhance the rules for price and service transparency	
	Drive improvements in product standardisation and pricing	LSB to consider work on Simple Legal Products

Improve the provision of information on quality of legal services providers to consumers	Identify, design and implement effective quality indicators	LSB to continue policy development via discussion paper, then set expectations in statement of policy
	Measures to improve engagement with customer reviews	
Develop initiatives to help consumers engage actively with information on price, service and quality	The introduction of triggers or prompts to encourage shopping around	Consider the CMA's suggestion of triggers or prompts, but we are sceptical about this.
	Improving access to regulatory information, including through the development of a single digital register	LSB to lead work on developing a single digital register LSB to set expectations around public legal education and single digital register in statement of policy
	Further development of the Legal Choices site	LSB to set expectations in statement of policy LSB to continue monitoring role
	Encouraging participation by DCTs	LSB to continue policy development via discussion paper on quality indicators and increase engagement with DCTs. Set expectations in statement of policy
Develop initiatives to help consumers engage actively with information on price, service and quality	Testing of best practice guidance and formats for price and service transparency to consumers	The regulators can access LSB's Public Panel to test remedies and our research team can support smaller regulators. LSB to set expectations of evaluation in statement of policy Consider how to measure the impact of reforms as part of wider work on benefits tracking across the strategy.
	Testing consumers' understanding of questions and prompts used to gather feedback	
	Testing to measure the impact of interventions	
	Testing with vulnerable consumers	

Recommendations around regulation

CMA Recommendation	Analysis
MoJ should undertake the review of the current framework for legal services, as recommended in the Market Study	CMA’s preferred long-term recommendation, but below recommendations could achieve gradual progress to risk-based regulation in short-term Government expected to formally respond to recommendations within 90 days
MoJ should create, or empower the creation of, a mandatory public register for unauthorised providers	CMA state ownership of the register could sit with LSB or another third party LSB ownership of the register would be significant change in our functions. Board should take a view on this and we will wish to liaise closely with officials
LSB should carry out a review of the reserved activities	CMA state MoJ should ensure that LSB is funded to carry out a comprehensive review LSB to await responses to Strategy and Business plan consultation before deciding whether to pursue this work. The current plan to build our understanding of the unregulated sector and consider developments in technology could be a helpful precursor to a formal statutory review of the reserved legal activities in 2022-23
LSB should evaluate the impact of the revised IGRs before deciding on further action	We agree with CMA that more time is needed to assess the impact of the new IGRs LSB to develop plans for IGR evaluation
LSB should explore further conducting a market review of PII	CMA suggested this, but not as a formal recommendation LSB does not have necessary expertise or access to relevant evidence/stakeholders at present. We plan to consider this further in 2021/22