



Strategy 2021-24 and Work Programme 2021/22

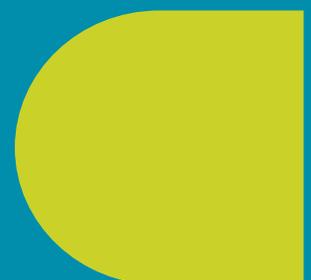
April 2021

Our vision

A market where everyone can access legal services that meets their needs and where consumers are placed at the heart of regulation.

Our remit

To represent the interests of the many different consumers of legal services, including small businesses and charities. A core emphasis is on the needs of vulnerable consumers.



Foreword

There is nothing like a real crisis to shine a spotlight on both the good qualities and the developing problems in any part of life, or indeed in any economic sector. The legal sector is no exception. The pandemic has shown us how hard-working legal professionals have pulled out the stops and adapted to serve their clients in all sorts of



new ways, under an array of unfamiliar pressures. The courts and the judiciary have jumped through previously unimagined hoops to set up online hearings and “Nightingale Courts” to keep the wheels of justice moving.

But for many ordinary citizens in need of the protection provided by legal services, this has been a really hard year. Problems that had already been identified before COVID-19 hit us, such as the appalling backlog in court lists, and the build-up of unresolved complaints from consumers, have become even worse. The reduced levels of funding for those unable to pay legal costs themselves, and the evidence of inequality in the levels of service offered to those from ethnic minority communities, show no signs of abating.

There will be no silver bullet to cut through all these problems. The only sensible response is for all parts of the sector to collaborate together to seek to overcome them. There is huge unmet legal need, but also a growing number of qualified lawyers who cannot find a job, or have lost their job during the pandemic. New technology is presenting opportunities to deliver some legal services more efficiently, and hopefully at lower cost, than has been possible in the past. Can we collectively find a way to put the pieces of the jigsaw together in a way which will serve the needs not just of the most advantaged, but also of those with few resources, or on the wrong side of the “digital divide”?

We are pleased to see evidence of a more collaborative approach between the regulators, for example to improve the information available to help consumers choose a legal service provider suitable for them, and we very much welcome the Legal Services Board’s decision to produce a Strategy for the whole sector. The Board’s clear focus on

promoting the interests of consumers, and in particular the work they have been doing (with us) in the establishment and use of a public panel to obtain views from ordinary citizens, is music to our ears.

We are therefore happy to align our own strategy for the next three years closely with theirs. We too will shape our work around the objectives of *fairer outcomes*, *stronger confidence* and *better services*. On our own each one of us can only score small successes, but if the whole sector really works together we can achieve a big shift in the issues that matter to those who need their services.



Sarah Chambers
Chair

Our future focus

Context for our next strategy

The last twelve months have been challenging for everyone, including those working in, or served by, the legal services sector. The road to recovery, including a renewed definition of normal, will demand perseverance, patience, collaboration and innovation.

As consumers of legal services, as in other parts of our lives, we are now more aware of the interconnectivity of economies and markets. We may more readily accept the need for a common vision and partnership to deal with the aftermath of the pandemic. Indeed, we may demand to see it: a common vision and shared solutions.

In 2019, before the advent of Covid-19, the Legal Services Board (LSB) mooted the idea of a strategy for the sector. In the LSB's view, such a strategy would concentrate the power of the collective towards the common goal of achieving the statutory objectives and delivering good outcomes for consumers and providers alike.

We supported the idea of a common strategy from its inception. And the ramifications of Covid-19 further serves to reinforce our conviction that the sector needs a focused response and more collaboration in these challenging times.

For the first time in the Consumer Panel's history we have therefore decided to align our strategic objectives with those of the LSB.

Over the next three years we will focus on helping to ensure that regulation delivers fairer outcomes, stronger confidence and better services to consumers.

The objectives set by the LSB are ones we are happy to support and indeed to share. As noted above, this is a sector wide strategy, and as a statutory body charged with advising and challenging the sector, we are keen to work with the sector to deliver these goals.

That said, this collaborative approach will not prevent us from challenging the LSB or individual regulators if we believe they are failing to match up to our expectations.

It is also important to note that although we subscribe to the LSB's top-level objectives, the Panel will need to focus its resources on a limited number of projects within its general scope.

The Panel itself has no power to enforce, to command or direct activity. But it can and should advise, encourage and support the work of others, or occasionally advise against some activities. We plan to play as active a role as we can to work with the LSB and others in our joint quest to deliver a better service for consumers in this crucial sector.

The LSB's three-year strategy has three broad themes and nine objectives.

We will support them across the whole of this agenda, but our primary focus within it will be as follows:

LSCP's Strategy for 2021-24 at a glance

Our strategic objectives over the next three years.

1. Fairer Outcomes

Reducing unmet legal need

2. Stronger confidence

Ensuring high quality legal services and consumer focused regulation

3. Better Services

Empowering all consumers to obtain high quality and affordable services

Strategic Aim 1 - Fairer Outcomes

Reducing unmet legal need

Legal services are not required on a regular basis by most people, but when they are, they become critically important. That is why it is of concern that so many people find these services hard to access, for a variety of reasons.

First, we know that legal services can be unaffordable for a large part of the population. There is some evidence to suggest that Covid-19 has exacerbated this. The free support that many people have relied on in the past has been impacted by the funding cuts which have taken place over some years, but with an impact that has become even more obvious in this time of increased stress and unemployment. Advice deserts (areas where there is little or no supply of service of a particular kind) are likely to become more common and many vulnerable consumers will have nowhere to turn to for legal advice when they need it.

Second, the use of legal jargon can confuse consumers and deter them from engaging with lawyers or making best use of their services.

Third, the make-up of the profession, particularly its senior ranks, is not a balanced reflection of the communities it serve. This too can act as a barrier to engagement.

There must be a collective response and reaction to the immediate aftermath of Covid-19, as well as steady work towards the longer-term goal of closing the access gap.

A collective response must involve a dialogue with Government, and also a partnership with frontline advice providers, those who understand in these critical times where the gaps in access are causing most detriment.

Unregulated Services

There is no conclusive evidence to show that consumers who use unregulated services achieve a worse outcome than those who use regulated providers, though they do have different rights with respect to the use of these services.

We have expressed concern, consistently, that it is not right that consumers who use unregulated providers do not have access to redress, and are often unaware of the differences between regulated and unregulated providers. In this regard we proposed some time ago that the Legal Ombudsman should have its remit widened to accommodate unregulated providers.

This debate has now progressed further, with the Competition and Markets Authority's (CMA) assessment of the legal services market, and the Stephen Mayson Review.

Therefore, we fully support the proposal to develop a register for unregulated providers, with access to redress for those who use them.

More research and analysis is needed to inform us all about what the unregulated market looks like, and about the businesses and individuals who provide and use these services. We must also do more to understand the nature of consumers using these services, and crucially, how they are faring with unregulated providers. At present, this detailed assessment does not exist.

Disparity in the experiences of ethnic minority consumers

If we are to achieve a fairer outcome, it is critical that improvement in regulation and service delivery does not bypass any consumer segments. There should not be large or unexplainable disparities between how minority ethnic consumers and White British consumers experience legal services.

Where disparities exist, regulators, in pursuance of their statutory objective to widen access and to have consumers' interests at the heart of regulation, should be able to explain the variations and to address them.

Tracker Survey and other research findings:

In 2020:

- 3% of consumers had their legal needs met through legal aid, considerably lower than the 8% in 2014.
- The top three factors consumers consider to be barriers to using LawTech are: the technology not being user friendly (50%), lack of trust in AI technology (46%) and concerns over data security (44%).
- 87% consumers said they used a regulated provider compared to 84% in 2017.
- Levels of trust in legal services providers remain lower among BAME communities (51%) compared to White British (68%).
- The vast majority of consumers are satisfied with the service they receive from legal service providers (84%) and the outcome of the matter (88%).
- BAME consumers are less satisfied with both the service they receive and the outcome of their matter than White British consumers.
- BAME consumers are also less satisfied with the choice on offer and find it more difficult to compare prices.

Data from our Tracker Survey shows a consistent and worrying difference in how ethnic minority consumers are experiencing the market (see the box above).

Regulators cannot continue to ignore this disparity. There has been some much needed focus recently on addressing diversity within the profession, but hardly any on the differential impact of legal service provision on consumers.

Vulnerable Consumers

Research also shows that consumers in vulnerable circumstances have particular difficulties when using or seeking to use legal services, and are often most in need of the protection that good regulation gives them.

Before Covid-19 there was evidence that vulnerable consumers were experiencing legal services differently, particularly if they were less confident or not as well off. We expect that the pandemic will exacerbate this, particularly among the most vulnerable groups.

In recent years we have pointed to the lack of any clear regulatory strategy around how to deliver good outcomes for vulnerable consumers. Without a concerted effort across the sector, the impact of this is likely to become even more serious.

What we want to achieve

Over the next three years we will maintain a strong focus on reducing unmet legal need.

We will focus attention on the two reports we have published on the experiences of ethnic minority consumers¹ and the LSB's own research findings on vulnerable consumers². We will seek to persuade regulators and others to implement the recommendations we have made for improvements.

We will continue to use the Tracker Survey to analyse any variations which need to be signalled to the regulators.

We will also seek to convene the regulators, the organisations representing legal service providers, the advice sector and other relevant stakeholders, to explore what can be done to generate a coordinated response to the issues that have been exacerbated by Covid-19. And we will promote discussion about how best to tackle the rising problem caused by advice deserts.

We will talk to the Government about the reasons why some consumers of legal services cannot currently have their needs met. Our strategy will be to promote alternative creative ways to meet unmet legal need such as AI, but it must include adding our voice to point out the impact of current policy that does not fund the provision of legal advice for those who otherwise cannot afford it. For some legal services there is no funder of last resort, which means that those legal needs go unmet, and it is the most vulnerable of consumers who lose out.

¹ LSCP, Experiences of Black Asian and Minority Ethnic groups using legal services, January 2021.

² <https://legalservicesboard.org.uk/research/reports/experience-consumers-vulnerable>

Strategic Aim 2 - Stronger Confidence

Ensuring high quality legal services and consumer focused regulation

Consumer Focused Regulation

We do not consider that a consumer-focused culture currently permeates legal services regulation. The paucity of good quality consumer research and engagement by many of the regulators, and the slow pace of progress in areas such as quality indicators and price transparency is evidence of the resistance to change which still exists.

Over the next three years we want to collaborate with regulators to help them put the consumer voice at the heart of regulation, at all levels of policy development, implementation and evaluation.

We are of the view that regulators in the legal services sector need to do more to understand the nuances of the consumer interest, and to ensure that regulation is delivering good outcomes for all categories of consumers.

Therefore, regulators must weave the consumer interest into all their activities ranging from policy development, implementation, evaluation, supervision and enforcement.

Although we have been established to advise the oversight regulator and, by extension, the Approved Regulators, about the consumer interest, we remain of the view that the consumer interest is best served when regulators themselves begin to effectively build the consumer voice into their regulatory deliberations and obligations.

Regulators already have a statutory obligation to promote the consumer interest. Translating this obligation into the cultivation of a culture where the consumer voice shapes policy ideas has not yet been fully achieved.

Where policy impinges on consumer interest or protection, regulators must always be clear about the trade-offs or alternative benefits that may accrue for consumers. Where a reduction in a specific aspect of consumer protection (for example, in rights to compensation) are proposed, regulators must demonstrate why the bigger picture demands such a reduction and why this is in the wider consumer interest.

We will seek to hold regulators accountable for their actions in this area, to ensure that they will be more rigorous about this than they have been in the past.

Evidence that regulatory policies are delivering good outcomes

Regulatory policies or changes are not complete on implementation. We have consistently called for better monitoring and evaluation plans by regulators. Such plans should be set out in advance of implementation, and should include realistic timelines and indicate the metrics to be used.

We expect to see details of the type of plan described above on the face of policy documents, regulatory change applications and implementation plans.

Following any regulatory change, regulators should review what they have done or changed, analyse the impact on consumers, and be transparent about the process and findings.

When done well, this monitoring and evaluation exercises will enable regulators to adjust or tailor their policies in response to new evidence or changing needs.

A culture of effective monitoring and evaluation will also improve future policy proposals and contribute to a better understanding of risks.

Confidence in complaints handling and the Legal Ombudsman

Our research³ has shown that consumers lack the confidence to complain about poor services and many discover significant gaps in redress.

This cannot be acceptable in a market where consumer engagement is important for effective competition in the consumer's interest. We continue to highlight this problem, but we are yet to secure regulatory commitment to explore the issue in more depth or indeed to address it.

The Panel has welcomed the opportunity to explore, with the Legal Ombudsman, a number of ways to ensure that the service delivers good outcomes for consumers. The Legal Ombudsman has experienced many challenges which are well documented.

We remain concerned about its backlog and support their efforts to ensure that this is swiftly and fully addressed.

Covid-19 will no doubt add to the challenge ahead, and there is a real risk that ongoing delays will have an impact on consumer confidence in the sector, including the way in which it is regulated.

What we want to achieve

We will actively support regulators to develop a culture and practice of consumer-focused regulation, through learning from best practice in other sectors and helping them to introduce processes which will genuinely put the consumer at the heart of everything they do.

We will support the Legal Ombudsman in their quest to reduce the backlog of cases, and we encourage relevant parties to move as swiftly as possible to widen access to redress for consumers of unregulated legal services.

We will promote a dialogue with regulators and others to explore how best they can promote innovation in service provision so that it may become more affordable and flexible, to meet varying and emerging needs.

Consumer Impact Report and other research findings:

In 2020:

- Applications to employment tribunal rose by 26% in 2020 compared to 2019
- 46% of consumers would not know or are not certain about how to make a complaint about the service they received.
- Fewer BAME consumers (49%) know how to make a complaint when dissatisfied with the legal services they used compared to White British (55%).
- 39% of consumers did not do anything about it when dissatisfied with a service ('silent sufferers').
- We recommended that regulators develop effective and well-resourced consumer engagement strategies that are reviewed regularly at board level.

³ LSCP, Tracker Survey, August 2020.

Strategic Aim 3 - Better services

Empowering all consumers to obtain high quality and affordable services

When consumers are empowered they can more easily identify suitable providers, and support effective competition by being active participants in the market.

However, our research continues to show that consumers are not fully empowered to exercise their market power because of lack of meaningful information to inform their choices. Thus, too few shop around and those who do often find it hard to compare offers.

Effective implementation of the price transparency measures should improve consumers' understanding of pricing, and may even address the perception that legal services are always expensive. To this end we will continue to encourage regulators to fully implement and to evaluate the impact of price transparency measures.

We have said repeatedly that price transparency is only one side of the coin, and that without effective transparency about the quality of services, consumers will be hampered in their ability to choose with confidence the services they need.

Regulators must work together to ensure that there is a range of quality indicators, and easy mechanisms for consumers to compare the offerings of different service providers, on quality as well as price. Developing 'choice tools' that consumers can trust is a key part of the solution.

Using technology effectively and fairly

There is potential for new technology to plug some of the gap in access to justice referred to earlier, as well as to improve the range and quality of services across the board.

We would like to see all the regulators adopt a proactive approach to the development and regulation of technology in this sector. A purely reactive approach would be a waste of opportunity and potentially risky.

What we want to achieve

Over the next three years we will work with the regulators and representative organisations to secure full implementation and evaluation of the CMA's transparency measures, including the development of appropriate choice tools.

We will work with regulators to promote the development of a proactive sector strategy, in collaboration with legal service and technology providers, to respond to the emerging opportunities and risks associated with the introduction of new legal technology.

Our aims for 2021-24

Strategic aim 1 - Fairer Outcomes	<i>Reducing unmet legal needs</i>
Strategic aim 2 - Stronger Confidence	<i>Ensuring high quality legal services and consumer focused regulation</i>
Strategic Aim 3 - Better Services	<i>Empowering all consumers to obtain high quality and affordable services</i>

What we want to achieve during 2021-24

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| <ul style="list-style-type: none"> • Concerted action by regulators and others to implement the recommendations we have made to secure fairer outcomes for ethnic minority and vulnerable consumers • A co-ordinated and joined-up response across the legal sector to the problems exacerbated by Covid-19 • Effective action to deal with advice deserts • A stronger culture and practice of consumer-focused regulation across the sector, with regulators putting consumers at the heart of everything they do. | <ul style="list-style-type: none"> • Access to redress for consumers of unregulated services, and effective resolution of complaints for all • More innovative, affordable and flexible service provision across the sector to meet varying and emerging needs • Full implementation and evaluation of the CMA transparency measures, including the development of appropriate choice tools • A pro-active sector strategy to respond to the emerging opportunities and risks associated with the introduction of new legal technology |
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Our Work Programme for 2021/22

Much of our work over the coming year will be in support of others' projects, in particular of the projects detailed in the Sector Strategy published by the LSB,⁴ which are aimed directly at achieving the outcomes listed above. In particular, we will:

- Support the LSB in its drive to ensure the effective implementation of the outstanding CMA recommendations
- Support the LSB's research and work programme more generally

In addition, we will use our convening power to:

- Promote a coordinated sector response to meet the issues exacerbated by Covid-19
- Propose a regulatory response to the problem of advice deserts
- Encourage the regulators to develop and entrench a more consumer-focused approach to regulation

We will reinforce this work by publishing reports as appropriate, for example on:

- Metrics for evaluating and monitoring regulatory policies
- Consumer segmentation and how regulators could use this approach more effectively in their work

The foundations for all this work, and for our future efforts, will be the consumer insight provided by the research and analysis involved in our annual Tracker Survey, and our continued engagement with others and horizon scanning to identify future opportunities and challenges for regulation in this sector.

We aim to communicate on a more regular basis with all stakeholders with an interest in our programme, by publishing a quarterly consumer-focused news update for the sector in addition to our usual diet of blogs and commentary, and responses to regulatory proposals.

⁴ <https://legalservicesboard.org.uk/our-work/reshaping-legal-services-a-sector-wide-strategy>

Maximising our impact

Evidence based

As mentioned above, our ability to make an impact for consumers of legal services during the next three years will depend largely upon the quality of our evidence and our relationships with key stakeholders.

The Panel has carefully built its reputation on evidence-based policy, data and consumer insight. Our commitment to the Tracker Survey will continue over the lifetime of this strategy. We have limited additional financial resources to commission research.

We are therefore enthusiastic about working with organisations who would like to partner with us in any aspects of research related to our objectives. We also look forward to work closely with the LSB in utilising the public panel.

Influence decision-makers

Maintaining and enhancing our ability to influence decision-makers will remain at the heart of our strategy. As an advisory body embedded within the LSB, our value stems from being able to work collaboratively with LSB colleagues whilst maintaining our independence. Similarly, we have a close relationship with the Legal Ombudsman – sometimes working jointly and at other times providing external commentary, but always giving constructive challenge and support.

We will maintain strong relationships with a range of other stakeholders including the Government, the regulatory and representative bodies, consumer organisations, the voluntary sector and others. We will continue to engage with these organisations through a variety of mechanisms both across our work and in support of individual projects.

Measuring our success

Focused on impact

The Panel's overriding purpose is to improve outcomes for consumers of legal services. From the time we were established, we have consistently and rigorously assessed the effectiveness of our contribution towards these outcomes.

Armed with the Consumer Impact Report⁵ and our refined annual Tracker Survey, each year we ask the critical questions:

- What has changed for consumers?
- What has the Panel done?
- What should we do next?

Our success depends on the quality of our advice, the effectiveness of our partnerships, and on how we use statutory and other tools to influence those who make change happen.

An effective Consumer Panel

The Panel uses six criteria as indicators of our effectiveness:

- We have intelligence that keeps us in touch with the consumer experience.
- We are respected for the quality of our advice which is timely, constructive and evidenced-based.
- We can demonstrate that our recommendations have influenced policy decisions.
- We are the first place that people go to learn the consumer perspective on legal services.
- We operate transparently by publishing our activities and involving stakeholders in setting our priorities.

⁵ [LSCP, Consumer Impact Report, March 2020.](#)

About us

Our purpose

The Panel is an important feature of the regulatory framework in England and Wales, which is designed to focus the legal services market around the needs of its users.

Created by the Legal Services Act 2007, we are an independent arm of the LSB. As a permanent, discrete champion for consumers, we have an essential responsibility to ensure that regulators can consider and act on the user perspective, putting the consumer interest at the heart of regulation.

Our vision

A market where everyone can access legal services that meet their needs, and where consumers are placed at the heart of regulation.

Our remit is to represent the interests of the many different consumers of legal services, including small businesses and charities. A core emphasis is on the needs of vulnerable consumers.

How we work

The Panel provides high quality, evidenced-based advice and challenge to the LSB and Approved Regulators, in order to help it make decisions that are shaped around the needs of users.

The Panel's geographic remit is England and Wales. The Panel will remain alert to any differences in consumers' needs and will tailor its policy advice accordingly.

Who we are

The Panel is made up of eight lay members whose appointments are approved by the Lord Chancellor. Our members' varied experience and expertise include: charitable, private and public sectors; advice provision; consumer research; legal technology; and complaints handling. Panel members are not permitted to be practising lawyers. More information about the Panel members can be found on our website here.

Our approach to regulation

We support regulation which creates the right balance between access to justice and consumer protection. We will challenge and support regulation to enable consumers to benefit from high quality services.

Budget

Our proposed working budget for 2021/22 is £35,400.

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