

Sent by email only to consultation@legalservicesboard.org.uk

2 October 2023

Draft Guidance on promoting technology and innovation to improve access to legal services.

Dear Sir/Madam,

The Legal Services Consumer Panel (the Panel) welcomes the opportunity to respond to The Legal Services Board's (LSB's) consultation on innovation and the use of technology.

We have contributed to the development of the guidance in internal discussions and in written submissions to the LSB. We are satisfied that some of issues we raised have been considered and addressed in a comprehensible manner. Overall, the Panel is supportive of the LSB's approach. We agree that this guidance is necessary. We also agree that the guidance should form part of the performance review framework.

The guidance strikes the right balance between the opportunities and risks of innovation and technology. We are therefore supportive of the proposed outcomes and the narrative that informs them.

That said, we are still of the view that there are two areas that should be strengthened further. The first is the impetus on regulators to cooperate and collaborate. The second is the need for practical prompts or questions to guide the regulators, particularly the smaller regulators, who may not have the human and monetary resources to invest in this important area.

Collaboration

The LSB has set out compelling reasons for collaboration which we do not need to reiterate. However, given the poor history of partnership in the sector, and the need for partnership to effectively deliver outcome 3 '*the legal services sector is open to technology providers and innovators and barriers to entry is lowered*', we are of the view that that the LSB needs to do more to support and empower regulators and potential innovators. The LSB should therefore establish and facilitate collaboration by creating a **cross sector innovation and technology forum** where regulators meet quarterly to discuss and agree a shared approach to innovation and technology, hear from innovators and law tech providers, and other interested stakeholders, including consumer representatives. We believe this forum will be crucial for achieving some of the aims and culture change mooted in the guidance.

Practical support for regulators

In 2019, the Panel published a paper on Lawtech¹, in that paper we set out clear and practical questions to guide regulators in this important area. The paper draws on development within and outside the sector, most of which remain relevant. At the end of that paper, we posed practical questions to help aid and guide regulators to consider the consumer interest better when encouraging innovation and technology. These questions remain pertinent, and we think regulators will benefit from these practical questions if they are included as stimuluses in the sourcebook or attached as an annex to the guidance. We have reiterated the questions below.

A checklist for all frontline regulators supporting the profession and consumers with lawtech.

1. Have you incentivised providers to use lawtech in widening access to legal services?
2. Have you considered the issue of consumer choice?
3. Have you taken steps to ensure that: a. consumers have access to plain English explanations of how lawtech arrives at particular conclusions b. the data inputted in AI systems is transparent, traceable and auditable?
4. Have you required any ongoing quality assessment of lawtech solutions?
5. Have you adapted the regulatory framework to deal with: a. potential biases in the data sets b. determining liability for non-clear-cut circumstances?
6. Have the existing redress mechanisms been adapted adequately to safeguard consumers?
7. Is the consumer interest represented at all stages of developing, testing, evaluating and monitoring lawtech?
8. Have you considered any regulatory barriers that might stifle innovation for the profession?
9. Are you using the CPD framework to support the profession in using lawtech safely and effectively?

Finally, the Panel is also of the view that the LSB should continue to encourage regulators to consider the digitally disenfranchised and the challenge posed by cyber risks.

I hope you find these comments helpful, should you have any questions pertaining to this response, please contact Lola Bello, Consumer Panel Manager (lola.bello@legalservicesconsumerpanel.org.uk)

Yours sincerely,



Sarah Chambers
Chair
Legal Services Consumer Panel.

¹ <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2019/06/LSCP-Technology-Paper-2019.pdf>