

Draft Business Plan 2023/24

A consultation on the LSB's draft business plan for 2023/24

This consultation will close on **3 February 2023**

This Consultation Paper will be of particular interest to:

Approved Legal Regulators

Providers of Legal Services

Legal Representative Bodies

Legal Advisory Organisations

Other Third Sector Organisations

Consumer Groups

Law Schools/universities

Legal Academics

Members of the Legal Profession

Accountancy Bodies

Potential new entrants to the ABS market

Think tanks

Political parties

Government departments

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Executive Summary

1. In March 2021, we published ‘Reshaping Legal Services: A sector-wide strategy’.¹ The “golden thread” of the strategy is a need to reshape legal services to better meet society’s needs. The strategy outlines a series of nine challenges that need to be overcome to do this, under three themes: fairer outcomes, stronger confidence, and better services. All of our work is underpinned by the eight regulatory objectives laid out in the Legal Services Act 2007 (the Act).
2. The challenges facing the legal sector are complex and can only be addressed through concerted, collaborative efforts. To enable this, the strategy set out a ten-year strategic direction (2021-31) for the sector to work towards, and priority areas of focus over a three-year period (2021-24) to help reach this destination. These priority areas of focus relate to how legal services regulation can help to reshape legal services, and we suggested how the LSB can contribute to these areas.
3. 2023/24 will be the third year of the strategy and marks the conclusion of the first three-year strategic cycle. In this time, we have delivered some key priority activities, including two statutory statements of policy on consumer empowerment and ongoing competence, a revised regulatory performance framework, a joint statement on tackling “counter-inclusive” misconduct and a wide range of research that we make available for use across the sector. Further, many of the activities that we have begun in the last two years will continue to be our focus into 2023/24, including our work on the rule of law and professional ethics, financial protection arrangements for consumers, enforcement and disciplinary arrangements, and equality, diversity and inclusion.
4. In 2023/24 we will place a particular focus on embedding our revised regulatory performance framework. The new framework sets out our expectations more clearly than ever before, while giving regulators greater freedom to decide how to provide assurance that they are meeting the standards. It enhances regulators’ autonomy and emphasises their Boards’ responsibilities to demonstrate that they meet all the regulatory objectives.
5. In addition to ongoing work, we have identified several new workstreams for 2023/24 that will help deliver on our strategic objectives. These include increased market surveillance, further work to support consumers in vulnerable circumstances, and an evaluation of our internal governance rules (IGR).

¹ LSB, ‘Reshaping Legal Services: A sector-wide strategy’ (March 2021)
https://legalservicesboard.org.uk/wp-content/uploads/2021/03/Strategy_FINAL-For-Web2.pdf

6. Our proposed annual budget for 2023/24 is £4.679m. While this would represent an increase of 9.1% (£392k) on last year's budget (£4.287m), when adjusted for inflation, it is a real terms reduction in the budget of 2.0%.
7. We have critically assessed our proposed activities for 2022/23, and our proposed budget reflects the resources required to meet the scale of the challenges facing the sector. We consider that all our planned work will deliver positive impacts for consumers and the public. This is particularly important given the ongoing difficult economic conditions and consequent impacts on the legal sector.

Background

8. The LSB is the independent body responsible for overseeing the regulation of legal services in England and Wales. We are independent of both government and the profession. We are funded by a levy on the approved regulators. We operate within a statutory framework set out in the Act, which describes our functions and our powers. The Act sets out eight regulatory objectives,² which we share with the approved regulators and regulatory bodies that we oversee. We also oversee the Office for Legal Complaints (OLC), and we have certain functions in relation to the Solicitors Disciplinary Tribunal (SDT).

Progress against the LSB business plan 2022/23

9. Since the launch of the 'Reshaping Legal Services' strategy in 2021, we have made progress on the following activities contained in our business plans for 2021/22 and 2022/23:
 - We have continued to discharge our **statutory functions**, including considering applications for changes to regulatory arrangements in line with new Rules and Guidance, and practising fee applications in line with our new Practising Fee Rules, 2021.
 - As part of our statutory functions, we have continued to monitor the **regulators' performance**, and developed a **revised regulatory performance framework** to be implemented in 2023.

² The eight regulatory objectives are: protecting and promoting the public interest; supporting the constitutional principle of the rule of law; improving access to justice; protecting and promoting the interests of consumers; promoting competition in the provision of services; encouraging an independent, strong, diverse and effective legal profession; increasing public understanding of the citizen's legal rights and duties; and promoting and maintaining adherence to the professional principles.

- **Equality, diversity and inclusion:** we have issued a joint statement with regulators to tackle counter-inclusive misconduct through disciplinary processes. By April, we will have published research on the lived experiences of legal professionals encountering counter-inclusive practices.
- **Empowering consumers:** we have issued a statement of policy on consumer empowerment and established the Market Transparency Coordination and Oversight Group (MTCOG) to oversee regulators' progress.
- **Ongoing competence:** we have issued a statement of policy on regulators' arrangements to ensure professionals' ongoing competence, with compliance due by January 2024.
- **Small businesses:** we published our latest Small Businesses Legal Needs Survey and have engaged with stakeholders to encourage the development of a strategy to support small businesses.
- **Technology and innovation:** we have worked with regulators across the year on the development of a tool that achieves the functionality of a 'single digital register' of regulated providers.
- **Scope of regulation:** we published research into the unregulated sector and by April, we will have undertaken a first-principles analysis of the current reserved legal activities.
- **Financial protections:** we have developed our understanding of professional indemnity insurance (PII) and compensation arrangements in the sector and will have conducted econometric analysis as we consider how the policy framework can best support consumers.
- **Curating the strategy:** we launched our microsite and hosted our first annual conference. We monitored and evaluated progress on meeting the nine challenges in the Reshaping Legal Services strategy through quarterly performance reports.

Draft business plan 2023/24

10. At Annex A, we have included a draft business plan for 2023/24. This sets out the work we plan to complete as we enter the third year of the 'Reshaping Legal Services' strategy.

Continuing workstreams for LSB in 2023/24

11. Much of our planned work in 2023/24 will continue current workstreams, building on the strong progress we have made in 2022/23:

- Developing principles to underpin effective **disciplinary and enforcement processes** among the regulators that build public confidence, deliver fairness for professionals and uphold proper standards of conduct and competence. This may include thematic reviews of regulators' current approaches.
- Advancing our **equality, diversity and inclusion** work, so that we better understand existing regulatory interventions, including how to address counter-inclusive practices. We will prepare a statement of policy setting out clear expectations of progress from the regulators.
- Establishing how regulation can best support the **rule of law** and high standards of **professional ethics** in the legal services sector. We will encourage a wide-ranging debate and build an evidence base by working collaboratively.
- Progressing our **technology and innovation** work to foster responsible innovation that increases access to legal services. We will gather evidence and collaborate with stakeholders to inform proposals for new statutory guidance promoting technology for access.
- Developing a toolkit for regulators on arrangements for **financial protections** to support consumers and legal professionals as the PII market hardens.
- Reviewing our existing rules and guidance on **education and training** and handling **first-tier complaints** to ensure they are effective and working as intended.
- Continuing to advocate for a **legal support strategy for small businesses**, building on our legal needs research.
- Maintaining momentum and progress on the 'Reshaping Legal Services' strategy within the sector through our **curating the strategy** project. We will hold our second annual conference. We will also undertake strategy development work to identify priority activities for the next three-year strategic cycle of 2024-2027.
- Continuing to **discharge our statutory functions**, considering applications to change regulatory arrangements and overseeing the OLC and SDT.

- We will monitor the regulators' performance through our revised **regulatory performance framework** with increased resource dedicated to this as we implement the new approach. We will conduct our first set of assessments under the new framework and ensure regulators' delivery against our policy statements on **ongoing competence** and **consumer empowerment**.

12. Where issues relate to the delivery of the regulatory objectives, we will continue to play a role in discussions on wider public policy matters. Some of the challenges we identified in the strategy have only increased in recent years, and access to justice remains a significant and growing concern. Across our work programme, we will reflect on how we can best use our powers, whether using regulatory levers, undertaking research or exercising our convening role, to help address the challenges identified in the strategy.

Proposed new workstreams for LSB in 2023/24

13. In addition to our continuing workstreams, we have identified four areas in which we want to carry out new work in 2023/24.

Market surveillance and horizon scanning

14. As the oversight regulator, it is important that we are able to anticipate and respond to risks across the whole of the sector. We need access to the full range of information and intelligence that will best support us to foresee and address emerging and escalating issues in the sector.

15. By closely monitoring environmental drivers, including political, economic, regulatory developments, we will be able to adapt and evolve our projects so that they remain relevant and fit for purpose. We will be able to set out our understanding of the risks and issues facing the sector more clearly. This will inform our policy development, our oversight regulation, and our delivery of the strategy.

16. Climate change and the cost-of-living crisis, and their consequent impacts on the legal services sector and consumers, are two examples of areas where we will seek intelligence to inform our regulatory approach, ensuring we remain on the front foot in these important areas.

- We will review our existing data sources to determine which can be used to support further intelligence gathering. We will then consider what additional sources of information would be beneficial and seek to obtain these.
- Through our ongoing performance monitoring, we will consider the development of balance scorecards to determine regulators' risk profiles.

- We will then aim to embed a robust horizon scanning and market surveillance process including periodic analysis for our Board.

Consumer vulnerability

17. Earlier this year, we published research to better understand consumer vulnerability in the legal services sector. The findings showed that it can be difficult for anyone with a legal problem to navigate the system, because there is an inherent market vulnerability. Further, people in certain circumstances may find the sector particularly challenging. Those who took part suggested improvements to the system, including the need for better consistency and standardisation in how legal services are delivered, and an inclusive design approach.
18. We want to undertake further work to understand the needs of, and how to best support, vulnerable consumers. The cost-of-living crisis makes it even more pertinent for us to build on the findings of the research.
 - We will build our understanding of both regulators and providers' current arrangements to support consumers in vulnerable circumstances and look to best practice beyond the sector.
 - We then intend to develop a set of high-level principles focusing on the importance of inclusive design that ensures everyone with a legal need can access services. We expect these principles could be developed in a similar way to the joint statement on counter-inclusive practices in enforcement and disciplinary processes, through light-touch collaboration with the regulators.

Review of LSB's enforcement policy

19. In preparing the business plan, we undertook an assessment of our policy framework and considered which existing LSB rules, guidance and other policies require evaluation, review or amendments. The LSB's statement of policy on enforcement was last reviewed in 2017 and it is important that it remains aligned with the LSB's current approach to regulation.
 - We will review the scope and use of the current statement of policy. We will identify possible changes and consult on a revised statement, to ensure that the LSB's use of enforcement powers aligns to existing expectations set out in LSB rules, guidance and policy statements.

Evaluation of Internal Governance Rules

20. Our IGR and accompanying guidance establish the appropriate relationship and governance arrangements between the approved regulators and regulatory

bodies. These rules and guidance were issued in 2019 and fully implemented in 2020 following a transition period. At that time we committed to an evaluation three years after implementation. We therefore plan to conduct a full evaluation of the operation and effectiveness of the IGR in the next business plan year. This will require information gathering and engagement with both approved regulators and regulatory bodies. We expect to launch this work in early 2024.

21. In addition to seeking to deliver our final business plan, during 2023/24 we will continue to remain responsive to the needs of the legal sector and prioritise or re-prioritise our work accordingly. For example, early in 2022/23 we launched previously unplanned work to understand how regulators were making arrangements to manage the new sanctions regime imposed on legal services providers due to the war in Ukraine.
22. We note that the Government is proposing the introduction of a new regulatory objective through its Economic Crime and Corporate Transparency Bill.³ If this legislation is passed, we would expect to undertake some work on interpreting and implementing the new regulatory objective, which might include developing and consulting upon new rules, guidance or a policy statement.

Q1 – Do you agree with our proposed workstreams for the 2023/24 business plan?

Q2 – Are there any areas missing from our proposed business plan 2023/24 that you consider should be included?

Research

23. Research and evidence-gathering will continue to underpin our policy and regulatory work in 2023/24. The focus of our work in 2023/24 will continue to support the strategic themes of fairer outcomes, stronger confidence, and better services. Our proposed work will focus on the following areas:
- **Datasets:** We will use our existing datasets to generate insight. We will also continue to develop and iterate our interactive dashboards, including our dashboards on the health of the market and diversity.
 - **Public Panel:** In 2020/21, we established a public panel to enable us to engage more directly with members of the public, and so that we can ensure the public are at the heart of our policy development process. We successfully retendered this contract in 2022/23. The Public Panel is also an option for the regulators, the Legal Services Consumer Panel and other

³ <https://bills.parliament.uk/bills/3339>.

stakeholders. We will continue to support those who wish to use the Public Panel in 2023/24.

- **Research:** Our regulatory and policy work is underpinned by evidence, and we plan on building our evidence base in 2023/24, including:
 - Undertaking our next Individual Legal Needs Survey, in partnership with the Law Society.
 - Commissioning research on how the rule of law and professional ethics should be upheld across the legal services sector.
 - Consumer research with the Public Panel on perceptions of the importance of the rule of law and professional ethics.
 - Research on equality, diversity and inclusion regarding further barriers to progression and retention in the profession.
 - Preparing for our next wave of Prices Research, to be launched the following year.

24. We will seek to integrate our proposed new market surveillance function with our ongoing research programme. Building on our existing datasets and identifying new sources of information will be an important first step in the market intelligence work.

Q3 – Do you have any comments on our proposed research programme?

Q4 - Is there anything missing from our proposed research programme that you think we should focus on?

Enabling services

25. All our statutory, oversight and policy work is underpinned by our internal enabling services teams. These teams deliver essential functions, including delivering governance and assurance mechanisms, ensuring that we work to sound project management principles, enabling our people to have the right tools and skills to work effectively, and ensuring that we communicate and engage with stakeholders effectively.

26. Our work continues to be underpinned by our internal, enabling services teams. This includes:

- **Governance and Assurance:** including public appointments, supporting the new Chair, regularly reviewing our governance policies and procedures to ensure that they are fit-for-purpose and proportionate,

annual evaluation of our Board, risk management and performance reporting.

- **People Services and Facilities:** including recruitment, retention, performance management, and investing in our people capability with initiatives on Learning & Development, diversity, well-being and ways of working. In 2023/24, we will undertake preparatory work in advance of the lease ending on our office space in November 2024. This will involve seeking Cabinet Office approval to retain a base in central London and securing premises which is fit for purpose for our future needs.
- **Communications and engagement,** including delivering a programme of stakeholder engagement to support our business plan.
- **ICT, Legal and Finance services,** including providing timely and robust support and advice, ensuring that complete, accurate and timely financial information is available for internal and external stakeholders, and providing our staff with the technology to perform their roles effectively.

Behaviours

27. Our delivery approach is enabled by four behaviours:

- **Lead:** We set the agenda, and through our convening power, we bring different people together to push for change.
- **Innovate:** We are creative in our approach to ensuring regulation evolves and benefits everyone in society.
- **Transform:** We use evidence to inform our work and to show its impact, because we are committed to making a difference for consumers.
- **Communicate:** We value openness, listen, share knowledge and promote the regulatory objectives.

Draft budget

28. Our proposed annual budget for 2023/24 is £4.679m. This would represent an increase of 9.1% (£392k), on our 2022/23 budget (£4.287m). This equates to a decrease of 2.0% after inflation (11.1%)⁴, and would add £2.11 onto the

⁴ This is in line with figures from the Office of National Statistics (ONS). See: ONS, 'Consumer price inflation, UK: October 2021' (16 November 2022) <https://www.ons.gov.uk/economy/inflationandpriceindices/bulletins/consumerpriceinflation/september2022>.

practising fees paid by authorised persons.⁵ In comparison to historical budgets, our proposed budget is £84k (2.0%) less than the 2022/23 budget (adjusted for inflation) and £119k (3%) lower than the 2017/18 budget (also adjusted for inflation).

29. Our proposed budget reflects our efforts to keep the resources we need to meet the scale of the challenges facing the legal sector, as identified in the State of Legal Services 2020 report⁶ to an absolute minimum. At a time when legal need is likely to grow given the economic challenges in wider society, it remains vital that we ensure consumers and the public can secure fairer outcomes, stronger confidence and better services.
30. We have critically appraised our proposed workstreams and consider that each of the activities we have included in the draft business plan for 2023/24 will make a meaningful contribution to consumers, society and the wider sector, as well as promote the regulatory objectives.
31. We have undertaken a rigorous exercise to develop detailed projections of our 2023/24 proposed costs. These reflect our planned business activities, headcount resource requirements, changes to business operations and take account of further opportunities for efficiency savings. We have also conducted a benchmarking exercise to identify the likely costs of research next year in the context of inflation. This year we have improved the integration of our resource planning alongside our annual financial calculations to ensure that we are making the most accurate forecasts.

Q5 – Do you agree with our proposed budget for 2023/24?

Q6 – Are there any other factors regarding the proposed budget for 2023/24 that you believe we should consider?

Equality Act assessment

32. Advancing equality, diversity and inclusion in the legal sector is a key strategic priority for the LSB. Accordingly, the LSB has taken account of its obligations under the Equality Act 2010.⁷ Some of the work proposed in this consultation (for example, our work on equality, diversity and inclusion and consumer

⁵ Based on the number of practising persons, 185,503 as at Apr 2022.

⁶ LSB, 'State of Legal Services 2020 report' (November 2020) <https://legalservicesboard.org.uk/state-of-legal-services-report-2020>

⁷ Public Sector Equality Duty: public authorities have to consider all individuals when carrying out their day-to-day work – in shaping policy, in delivering services and in relation to their own employees. It also requires that public authorities have due regard to the need to: eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities. The LSB is a public authority listed in Schedule 19 of the Equality Act 2010.

vulnerability) may have an impact on individuals with protected characteristics to varying degrees.

33. We will actively consider those impacts in line with our Public Sector Equality Duty as we go through the process of carrying out those activities. Equally, we will consider those impacts carefully when carrying out our statutory decisions work, which includes applications for changes to regulatory arrangements, and approval of the practising fees and budgets of the OLC and SDT.
34. We welcome any comments respondents may have on any equality issues they believe arise from our proposed business plan. We also welcome any comments and suggestions on wider issues and interventions that we should have regard to in relation to diversity and inclusion.

Q7 – Do you have any comments regarding equality issues which, in your view, may arise from our proposed business plan for 2023/24?

Q8 – Are there any wider equality issues and interventions that you wish to make us aware of?

Next Steps

35. This consultation will close on 3 February 2023. During the consultation, we will host a stakeholder event to provide an opportunity for stakeholders to discuss the draft business plan, and to ask any further questions.
36. Once the consultation has closed, we will consider the feedback received and make any relevant amendments to the business plan. We will publish our responses to the consultation, alongside the final business plan, by the end of March 2023.

Questions

Q1 – Do you agree with our proposed workstreams for the 2023/24 business plan?

Q2 – Are there any areas missing from our proposed business plan 2023/24 that you consider should be included?

Q3 – Do you have any comments on our proposed research programme?

Q4 – Is there anything missing from our proposed research programme that you think we should focus on?

Q5 – Do you agree with our proposed budget for 2023/24?

Q6 – Are there any other factors regarding the proposed budget for 2023/24 that you believe we should consider?

Q7 – Do you have any comments regarding equality issues which, in your view, may arise from our proposed business plan for 2023/24?

Q8 – Are there any wider equality issues and interventions that you wish to make us aware of?

How to Respond

37. We welcome views and comments on all aspects of our draft business plan 2023/24 by 5pm on **Friday 3 February 2022**.

38. We would prefer to receive responses electronically (in MS Word format or PDF).

39. Responses should be sent to:

E-mail: consultations@legalservicesboard.org.uk

40. We intend to publish all responses to this consultation on our website, unless a respondent explicitly requests that a specific part of their response, or its entirety, should be kept confidential. We will record the identity of the respondent and the fact that they have submitted a confidential response in our summary of responses.

41. If you want to discuss any aspect of this consultation, or need advice on how to respond, please contact the LSB by telephone (020 7271 0050) or via the above email address.

Complaints

42. Complaints or queries about the LSB's consultation process should be directed to the Consultation Co-ordinator, at the following address:

Consultation Co-ordinator
Legal Services Board
3rd Floor, The Rookery
2 Dyott Street
London
WC1A 1DE

Or by e-mail to: consultations@legalservicesboard.org.uk