

SRA BOARD
2 December 2015



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SRA Research Programme – 2015/16

Purpose

- 1 This paper provides the Board with project information and budget details of the research programme for the financial year 2015/16.

Recommendation

- 2 The Board is asked to:
 - (a) note and consider the research projects.

If you have any questions about this paper please contact: Crispin Passmore, Executive Director, Policy Directorate, crispin.passmore@sra.org.uk or 0121 329 6687.

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Background

- 3 This paper details the proposed research projects to be delivered over the next financial year. The Research and Analysis team has recently moved to the Policy Directorate. This has led to the focus moving from operational risk towards supporting evidence-based regulatory policy making.
- 4 A summary table of the research projects including their estimated costs, indicative timetables and links to SRA's strategic aims is at Annex 1.

Governance

- 5 The research programme was produced following extensive consultation with directorate and team managers to determine where there were gaps in evidence to support our ongoing policy reforms. It was also considered by external stakeholders through the sector-wide research group chaired by the LSB. The final short list of projects and their associated budgets was approved by the Executive Policy Forum. The governance and project management arrangements are currently under review following the move the Policy Directorate.

The Research Projects

Framework for assessing regulatory changes

- 6 The project will devise a methodology to determine key performance indicators to identify and measure quantitative and qualitative of impact of the SRA's policy changes and regulatory reform on the legal services market. It will also estimate the reduction in regulatory burden to firms and report on the SRA's Business Impact Target to Department for Business, Innovation & Skills (BiS).
- 7 This is critical to understanding how our regulation is affecting the market and whether reforms reduce burdens whilst providing proportionate public protection. We will need to establish KPIs against which to assess impact of future policy and regulatory changes. The methodological framework will be in place by September 2016.

Economic impact assessment (EIA) of regulatory changes

- 8 We will conduct an EIA of recent policy changes to better understand both the organisational and market costs of our regulation and how reform is changing the profile of service providers. A number of methods could be used including:
 - (i) cost-benefit analysis of regulatory reform using cases studies;
 - (ii) data on the rates of new business start-ups or business innovations to measure the effects of changes in our regulatory processes;

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- (iii) modelling of internal data (e.g. number of interventions) and economic growth in the legal services market before and after implementation of regulatory reforms; and
- (iv) qualitative data from surveys and consultations on firms' attitudes towards regulation.

9 The most appropriate methods will be selected and the Research and Analysis team will work with colleagues in Regulation and Education to deliver the project in Spring 2016.

Review of prior regulatory changes

10 We will conduct reviews that the SRA has already committed to of previous regulatory changes. This will include a study to evaluate the impact of removal of minimal salary for trainees. When the decision was taken to remove the minimum salary for trainee solicitors, the Board committed to keep the impact of the change under review. The removal of the minimum salary was introduced on 1 August 2014. It is therefore appropriate to review the impact of the change August 2016, as by then two years' trainees will have been recruited.

11 The review will need to consider: the impact on the salaries paid to trainee solicitors, in different sectors and by protected characteristics. We will also look at trends in the numbers of training contracts registered in the same period in different sectors and by protected characteristics. The project will be completed by the end of the 2015-16 financial year.

Authorisation and firm management of risk

12 This project will investigate the overall market impact of the current authorisation process, the effect on new businesses and whether the rigour of the process has a net positive or negative impact on the public. If there is evidence that the process hinders new businesses we will take appropriate policy steps. If parts of the process prove to have a positive impact on regulatory behaviour, and other business benefits, we could look to capitalise on these aspects of the process. We will also explore the effect the process has on competition, growth and innovation.

13 We will profile firms that have come through the authorisation process and identify different cohorts of firms to assess the proportion that have had regulatory issues. A case study review of firms who have been through the process will be conducted to assess the impact the process had on their business objectives. This internal project will be completed by early spring 2016.

Personal Injury

14 In this study we aim to gain an understanding of the profile of firms/entities providing legal services to PI claimants and discover the main changes firms have implemented in response to Legal Aid, Sentencing and Punishment of Offenders Act (2012) (LASPO) reforms. We will profile the current PI market from both supply and

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demand-side perspectives and the decisions and processes implemented by firms to respond to legislative and market changes. The study will also identify the impacts these decisions, processes and practices are having on claimants, defendants, firms and the wider PI market.

- 15 Using a mixed-method approach combining internal, thematic research and external consultation and survey of claimant and defendant PI firms we aim to identify examples of good and poor solicitor practices, within PI. This information will be used to gain an insight into the competence of solicitors in PI. This project is currently in progress and will be delivered in Spring 2016.

Representation of vulnerable consumers

- 16 The project will identify areas of the legal market with an increased likelihood of consumer vulnerability. This will help us to understand their experience of legal services in relation to access, quality and cost. The research will also explore whether solicitors who practice with vulnerable clients is in alignment with our Competence Statement.
- 17 We will select areas of law (e.g. Family, Mental Health) where vulnerability, caused by limited access to justice, lack of choice or provision, is more likely. A survey of consumers may also be used that includes over sampling of consumers with protected characteristics. This research will provide evidence to support our role as a regulator in offering proportionate public protection and highlight areas of good and bad practice. The project is currently being scoped to determine which areas of law to focus on. The report will be delivered in Autumn 2016.

Criminal practice

- 18 This research is part of a thematic review to explore practices standards of service, and client vulnerability in criminal practice. The study will examine the views and experiences of practitioners, clients of legal services (both individual and corporate) and the courts using mixed methods research. Issues such as factors affecting consumers' choice of advocate and solicitor behaviours related to the ban on referral fees are within the scope of the study.
- 19 Qualitative research with judges will explore whether there is evidence of a decline in standards of advocacy as a result of solicitor and CPS advocates 'working beyond their level of competence'. We will also gain their views on the perception that solicitor firms are retaining work in-house that is beyond their competence. Work with the Thematic Team is currently underway to determine the scope of the project. The report will be completed in Spring 2016.

Diversity in the legal profession: Career progression

- 20 The project will explore the experiences of individuals as they progress through the legal profession. It will investigate differences in respect of protected characteristics

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at different stages of the legal career. There is a dearth of robust quantitative analysis on diversity in the legal profession.

- 21 We are proposing to hold a workshop with invited academics and other interested parties. We would present our existing data to stimulate invitees to consider a more robust quantitative approach to explore the issues around diversity where there are gaps in our knowledge. This could include linking our data with additional longitudinal and labour market datasets. We would encourage invitees to obtain external funding to pursue this research. We can provide co-funding for innovative and methodologically sound research that will tell us something new about diversity. The report will be completed in Spring 2016.

Value of training contract and work based experience

- 22 This will be a small research project involving the collection of data using an online survey to be co-designed between the Research and the Regulation and Education teams. It will be used to inform decisions on the provision and format of work-based experience within the proposed centralised assessment. It will provide an evidence base for the development of the assessment framework and the June 2016 consultation on the future role of work-based experience.
- 23 The study also has the potential to further explore any issues that respondents to the December 2015 consultation may raise that are related to the training contract and work based experience. This report will be completed in early 2016.

Credible Deterrent

- 24 The project aims to further our understanding of firms' perceptions of SRA enforcement and whether it is a credible deterrent to non-compliance. The study will analyse recent SRA data on non-compliance, the actions taken as a result and the outcomes. We will then profile non-compliant firms and carry out a qualitative study of why these firms are not complying.
- 25 The findings of the study will help us understand what actions the SRA could take to improve compliance levels and to improve perceptions of the SRA as a credible deterrent to non-compliance. There is also scope to compare our enforcement strategies with other regulators through desk-based literature review and consultations with other regulators.

Next Steps

- 26 All research reports will be project managed by the Head of Research and Analysis. These governance arrangements are currently under review in order to produce a Research Delivery Manual to capture best practice. This will be approved by the Executive Policy Forum. In the interim, research reports will be submitted for review to the Director of Regulatory Policy and Executive Director of Policy and Education. They will also be approved by Executive Policy Forum and sent to the appropriate committee for feedback prior to publication.

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Recommendation: the Board is asked to:

- (a) provide feedback and endorsement of the research projects.**

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Summary of Research Programme 2015-16

Research Project	Description	Estimated Cost	Use of Findings	Indicative timetable
Reform of regulation to enable growth and innovation in the market whilst ensuring consumer protection				
Framework for assessing regulatory changes and reporting on SRA's Business Impact Target to Department for Business, Innovation & Skills (BiS)	To determine key performance indicators to measure the impact of policy changes and regulatory reform. To estimate the reduction in regulatory burden to firms.	£50K	External: including report to BiS	April 2016- September 2016
Economic impact assessment of regulatory changes	To conduct an EIA of recent policy changes.	£100K	External	November 2015- March 2016
Reviews of prior regulatory changes	To conduct reviews of previous regulatory changes (e.g. impact of removal of minimum salary for trainees)	£25K	External: including report to LSB	Ongoing
Authorisation and firm management of risk	To investigate the impact of the current authorisation process, the effect on new businesses and whether the rigour of the process has a net positive/negative impact on the public.	Internal	Internal	January 2016 – March 2016
Personal Injury	An assessment of the market for Personal Injury (PI) and the experience of people making a claim.	£75K	External	October 2015 – May 2016
Representation of vulnerable consumers	To identify areas of the legal market with an increased likelihood of consumer vulnerability. To understand their experience of legal services in relation to access, quality and cost.	£60K	External	March 2016- September 2016

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Raise standards and uphold core professional principles				
Criminal practice (largely internal but may require a survey)	Thematic review by the research and RM thematic teams to learn more about practices, standards of service, and client vulnerability.	£30K	External	October 2015 – March 2016
Diversity in the legal profession: Career progression	To explore the experiences of individuals as they progress through the legal profession. To investigate whether there is disproportionality in respect of protected characteristics at different stages of the legal career.	£25K	External	October 2015-April 2016
Value of training contract and work based experience	To inform the development of the assessment framework for the centralised assessment and the role of work-based experience.	£10K	External: including report for Consultation 2 on Centralised Assessment	December 2015 - February 2016
Improve operational performance and make fair and justifiable decisions promptly, effectively and efficiently				
Credible Deterrent	To assess the effectiveness of our current approach to enforcement and supervision and to inform our wider regulatory framework approach.	Internal	Internal	April 2016 – July 2016
TOTAL		£375K		