

Business Plan 2020/21: Consultation responses

September 2020

List of respondents

Name	Respondent type
Association of Consumer Support Organisations	Representative consumer group
Junior Lawyers Division	Representative professional group
Legal Ombudsman	Other
Legal Services Consumer Panel	Representative consumer group
The Law Society of England and Wales	The Law Society
ID5 (requested do not publish)	Law firm or other legal services provider
ID10	Anonymous Individual
ID22	Anonymous Individual

The Association of Consumer Support Organisations (ACSO) submission to the Solicitors Regulation Authority (SRA) consultation 'Business plan 2020/21'

The Association of Consumer Support Organisations ([ACSO](#)) welcomes the opportunity to respond to the Solicitors Regulation Authority (SRA) [consultation](#) on its Business Plan for 2020/21, which covers the first year of the SRA's new [Corporate Strategy](#) (2020-23).

ACSO was established in January 2019 to represent the interests of consumers in the civil justice system and the reputable, diverse range of organisations who are united in providing the highest standards of service in support of those consumers. Its role is to engage with policymakers, regulators, industry and the media to ensure there is a properly functioning, competitive and sustainable civil justice system for all.

In January 2020, ACSO submitted a response to the SRA's consultation on its Corporate Strategy for 2020-23. Within this response, we highlighted the need for the SRA to engage more regularly and directly with the profession through organisations such as ACSO to ensure continuous, contemporary insights are gained on the evolving legal services sector. We recognise that in consulting on its business plan for 2020/21, the SRA has taken a step forward in meeting this recommendation, alongside its commitment to greater transparency and accountability.

However, there is a lack of contextual information provided within the consultation, thereby making it difficult to assess how successful the SRA's proposed work and priorities will be in meeting the objectives outlined in its Corporate Strategy. It can therefore be expected that the submissions received in response to such a broad, yet brief, consultation will be wide-ranging in nature. As such, they may not enable the SRA to gather sufficient insight on what role stakeholders believe the regulator should play within the sector.

Second, we note that little mention is made of vulnerable consumers within the discussion paper. Within the context of the Coronavirus pandemic, the SRA states "the access to justice needs of the public, especially the vulnerable, need to be met in a variety of ways... as all parts of the legal sector have worked to adjust to more online and virtual delivery".¹ It is difficult to disagree with this statement, owing to its broad nature, however no mention is made as to how the SRA intends to help meet the needs of those consumers, particularly those with vulnerabilities.

As disruptive technologies, regulatory changes and consumer preferences continue to alter the way legal services are sought, structured and delivered, awareness of the needs of vulnerable consumers has become ever-more pressing. Access to justice is the foundation of the British rule of law, and it is essential that legal services are available to all. The SRA should carefully consider the experiences of vulnerable consumers in accessing and using legal services and provide additional measures to ensure their needs are met.

¹ Solicitors Regulation Authority (SRA), [Business Plan 2020-21: Consultation](#), June 2020, p.6.

Finally, the Competition and Markets Authority (CMA) recently announced that it plans to assess the extent to which the recommendations made in its 2016 report of the legal services sector have been taken forward and the impact of those changes on competition.² This assessment will enable the CMA to consider what further action is required to increase standards of transparency of price, service and quality across the sector, and to help consumers better navigate the market and receive value for money.

In preparation for this review, the SRA will need to consider the recommendations made by the CMA in its 2016 report and what more needs to be done to ensure healthy competition and growth within the sector.

Q.1. Do you agree with the priorities for our work in 2020/21 towards meeting objective one of our Corporate Strategy 2020-23?

Broadly, yes; we agree with the priorities the SRA has set in order to meet objective one of its Corporate Strategy.

At present, ACSO is engaging with the SRA on a number of work streams that fall within the scope of advancing objective one of the SRA Corporate Strategy, in particular the SRA's ongoing work on the standards of criminal and civil advocacy.

As the landscape of the legal sector continues to undergo considerable change – resulting from a multitude of factors including disruptive technologies, regulatory developments and shifting consumer habits - it is imperative that legal professionals acquire and maintain the necessary knowledge and skills to deliver legal services competently and effectively. On assessing existing competency assurance methods, we highlight the Legal Service Board's (LSB) current work on ongoing competence.³ We urge the SRA to engage with the LSB and coordinate areas of their research and analysis.

We commend the SRA's focus on setting and maintaining high standards for the profession, however it is essential that the SRA works on the best means of communicating the quality of legal services to consumers. In the absence of quality indicators, consumers are unable to make informed decisions and secure best value for money.

In agreement with the Legal Services Consumer Panel (LSCP), regulators and professional bodies have not been placing enough energy or resource into the consumer engagement and research that is needed to understand how consumers determine the quality of a legal service.⁴ In conjunction, additional research is required as to what information should be collected in order to communicate quality in a clear and comparable way, and where best to display this information. ACSO urges the SRA to conduct direct consumer research in relation to these matters, alongside continued work with a broad range of industry stakeholders in order to help consumers understand what to expect from the legal services sector. ACSO would be very pleased to contribute further advice or evidence as required.

² Competition and Markets Authority (CMA), [Annual Plan 2020/21](#), p.12-13.

³ Legal Services Board, '[Ongoing competence](#)', [online], accessed 14 August 2020.

⁴ Legal Services Consumer Panel (LSCP), [Annual Report 2020](#), 11 August 2020, p.2.

On anti-money laundering (AML), we agree with the importance of the SRA's continued focus on this matter. Money laundering has a corrosive effect on the UK's economy, government and social well-being, and costs the UK more than £100 billion each year.⁵ As illicit activities are constantly evolving, the threat of money laundering remains significant. As the government stated in its Economic Crime Plan (2019), "the ever-evolving and clandestine nature of economic crime means it can only be combatted by harnessing the capabilities, resources, and experiences of both the public and private sectors".⁶ For this reason, we urge the SRA to gather in-depth intelligence and data on money laundering from solicitors and law firms in order to enable the identification and prevention of economic crime.

Despite serious concerns that law firms are at high risk of being exploited by criminals to launder money, the SRA's own research found that one in five UK firms fail to maintain adequate systems to prevent money laundering.⁷ Furthermore, according to the UK National Crime Agency, the number of suspicious activity reports (SARs) submitted by solicitors in 2018/19 made up only 4.9 per cent of the total number submitted.⁸ As such, it is essential that the SRA continues to work to create a culture where solicitors and firms take responsibility for reporting suspicious financial activity. ACSO notes that it is the role of the SRA find a way to promote and enforce AML requirements, albeit with help and guidance from other regulators, government, membership bodies including ACSO and other key industry players.

Q.2. Do you agree with the priorities for our work in 2020/21 towards meeting objective two of our Corporate Strategy 2020-23?

Yes. Although the legal sector has historically been seen as lagging in the adoption of new technologies, innovation is disrupting the traditional delivery of legal services. Additional research is required on how new ways of delivering legal services will impact consumers and the structure of the UK legal system itself. As such, we welcome the SRA's intention to increase its understanding of the use of technology in the legal sector.

Technology and innovation should be largely welcomed as a means to increase efficiency, reduce costs and improve the problem of incomplete or asymmetric information within the legal services sector; the latter being a significant concern highlighted in the CMA's 2016 report.⁹ Law firms which are not investing in technology are likely to struggle to compete in a commercial landscape that is shaped by changing consumer preferences, the implementation of the 2018 Civil Liability Act and other regulatory impacts. For this reason, ACSO welcomes the SRA's development of specific initiatives to promote and develop the use of technology and innovation. However, it should be made clear that innovative technologies need to be

⁵ National Crime Agency (NCA), '[National Economic Crime Centre leads push to identify money laundering activity](#)', 17 May 2020.

⁶ HM Government, '[Economic Crime Plan 2019-22](#)', July 2019, p.2.

⁷ Solicitors Regulation Authority (SRA), '[SRA review shows fifth of law firms fail on money laundering compliance](#)', October 2019.

⁸ National Crime Agency (NCA), UK Financial Intelligence Unit, '[Suspicious Activity Reports: Annual Report 2019](#)', July 2019, p.16.

⁹ Competition and Markets Authority (CMA), '[Legal Services Market Study: Final report](#)', 15 December 2016, p.7.

rigorously tested before being implemented, with the aim of clearly understanding the impact they could have upon consumers and access to justice.

The consultation document states the SRA's intention to "look closely at how Covid-19 has and will affect access to justice".¹⁰ The pandemic presents unprecedented challenges to the effective operation of the civil justice system. Serious questions arise as to the lack of data currently available on the impact of increased online and virtual delivery of legal services upon consumers and quality of justice. Although the SRA has not clarified what level of data collection and analysis it intends to conduct when "*look[ing] closely*" at these issues, ACSO welcome the recognition of the need to do so.

ACSO believes that lessons from the response to the Covid-19 crisis can and should be used to help shape future thinking on how the civil justice system can function in the best interests of consumers. However, we urge the SRA not to narrow its investigation of the impact of technology and innovation upon consumers solely within the context of the crisis.

Technological and data-driven advances offer many advantages to consumers; however, they should not be seen as a panacea for all ills within the UK legal system. Indeed, for every opportunity they offer, there can exist risks. For this reason, we reiterate the need to ensure that adequate impact assessments are conducted on technological innovations, corresponding policy proposals, access to justice and consumer empowerment. ACSO would be very pleased to contribute further advice or evidence as required.

Q.3. Do you agree with the priorities for our work in 2020/21 towards meeting objective three of our Corporate Strategy 2020-23?

Yes. As mentioned above, there is a concerning lack of research from regulators and professional bodies to address the issues of how consumers perceive the quality and cost of legal services, as well as helping to identify consumer needs and concerns. We welcome the SRA's prioritisation of more research to inform policy development and implementation.

Consumers often require legal services at a point of some personal distress, such as to resolve a landlord or housing dispute, or to alleviate future distress, such as the writing of a will or probate. Moreover, many consumers are confused or intimidated by the legal services market. Research is continually required, in pace with the changing nature of the sector, in order to determine what measures should be enforced to help ease the consumer experience, improve confidence, and ensure they are receiving the highest-quality service. ACSO recommends that the SRA works with a broad range of industry stakeholders in order to help consumers understand what to expect from legal services, what protections are in place, and to allow flexibility for the sector to grow and innovate. Again, we would be very pleased to contribute further advice or evidence as required by the SRA.

In addition, we urge the SRA to share its findings and any conclusions it draws from horizon scanning and intelligence gathering. Shared lessons will benefit firms and the wider sector by identifying best practice, particularly in regard to aiding the consumer experience, and

¹⁰ Solicitors Regulation Authority (SRA), [Business Plan 2020/21: Consultation](#), June 2020, p.10.

enabling the identification of common or systematic market issues. It is imperative that the SRA works to build trust and public confidence in legal services throughout England and Wales; the regular sharing of data and insights is likely to lead to initiatives that help improve consumer outcomes, including for vulnerable consumers, whilst simultaneously stimulating competition between service providers and raising industry standards.

Finally, as mentioned above, the CMA recently announced that it plans to assess the extent to which the recommendations made in its 2016 report of the legal services sector have been taken forward, and the impact of those changes on competition.¹¹ The 2016 report repeatedly highlighted how consumers' ability to make informed decisions on which legal service provider to choose, and secure best value for money, was hindered by insufficient information on price, quality and service. Four years on, these issues remain pertinent. For example, according to the LSCP Tracker Survey, 67 per cent of consumers do not shop around for legal service providers and 47 per cent of consumers found it is difficult to find information about the cost of a legal service as no upfront information is provided.¹² The CMA's reassessment of the legal services sector is timely, and we urge the SRA to continue to advance the initiatives outlined in the 2016 study.

Q.4. Do you agree with our anticipated budget for 2020/21 and the proportion we allocate to our work under each of the three objectives?

In the absence of a detailed cost analysis, we are unable to make an informed statement at present.

Q.5. Do you agree with the proposed principles for setting the levels of contributions to the Compensation Fund?

The Compensation Fund is not directly applicable to ACSO's work. As such, we do not feel able to provide a well-informed response on this matter and respectfully decline to answer question 5.

Q.6. What information about our forward work and budget do you think we should provide in future consultations and how should we present it?

ACSO welcome the SRA's decision to consult on its business plan for the year ahead, in line with its commitment to increased transparency and accountability. However, we note that little detail has been provided within the consultation document on why the SRA has chosen to focus its attention on specific issues for 2020/21. As such, there is a risk that the SRA will be unable to gather sufficient insight on what role stakeholders believe the regulator should play in effectively regulating the evolving legal services sector. The SRA should consider including more targeted questions with additional contextual information within future consultations.

26 August 2020

¹¹ Competition and Markets Authority (CMA), [Annual Plan 2020/21](#), p.12-13.

¹² Legal Services Consumer Panel (LSCP), [Annual Report 2020](#), 11 August 2020, p.6.

For further information, please contact:

Rachel Cairnes

Policy and Public Affairs Adviser

The Association of Consumer Support Organisations (ACSO)

rachel.cairnes@acso.org.uk



The Law
Society

SRA consultation
Business Plan 2020/21
Junior Lawyers Division response
August 2020

SRA Business Plan 2020/21: Consultation A response from the Junior Lawyers Division

Introduction

1. The Junior Lawyers Division ("JLD") is a division of the Law Society of England and Wales with an independent representative voice. The JLD is one of the largest communities within the Law Society with over 70,000 members. Membership of the JLD is free and automatic, for those within its membership group including Legal Practice Course ("LPC") students, LPC graduates, trainee solicitors, solicitor apprentices and solicitors up to, and including, five years qualified.
2. The JLD welcomes the opportunity to respond to the SRA's draft business consultation 2020-21 (the "Consultation") which includes three objectives (the "Objectives") and to comment on its proposed budget (the "Budget"). We have commented below on the specific aspects of the Consultation which impact upon junior lawyers.

Objective one – setting and maintaining high standards for the profession and ourselves

Question 1: Do you agree with the priorities for our work in 2020/21 towards meeting Objective one of our Corporate Strategy?

Solicitors' Qualifying Examination

3. The JLD notes that, within this Objective, the SRA also aims to work to promote diversity within the profession and support the profession as the UK begins a new relationship with the EU. The JLD agree that the SQE must be a priority for the SRA in the next year and that, to meet its Objective one, the SRA should be looking at the quality of the SQE and ensuring it has a positive impact on diversity within the profession.
4. With regard to the Equality, Diversity and Inclusion ("EDI") recommendations set out in the Bridge Group report, the JLD questions how the SQE will support those who require reasonable adjustments and how these reasonable adjustments will be put into place.
5. The JLD has continued to advocate its concerns with the SQE for several years and has raised these in previous consultations. We are particularly concerned by the risk that, in attempting to widen access to the profession, the introduction of the SQE will create a two-tiered legal system due to the likely cost of the preparation courses, and that individuals with protected characteristics, such as those with a disability or from a BAME background, may be further disadvantaged (evidenced from the results of the

SQE Pilot 1). The JLD requires the SRA to explain how it intends to address these risks and to monitor the diversity data once the SQE is implemented.

6. The Consultation suggests that the SQE will not be fully tried-and-tested prior to its introduction (para. 24, *Draft Business Plan and Budget, November 2020 to October 2021*). The JLD is concerned that the SRA therefore knows the SQE will not be guaranteed to be fit for purpose when rolled-out in autumn 2021. If the SQE is inadequate, its introduction could be disastrous for the careers of the first cohorts of junior lawyers that qualify under it. The JLD therefore expects the SRA to introduce the SQE only once it is ready and confident the SQE is of high quality, once it is confident that it will not harm EDI in the profession and the SRA's objectives should include ensuring robust safeguards are established to protect the first group of SQE students should the exam fail them (and also possibly risk harming the consumer of legal services).
7. The SRA notes that it will continue to work with stakeholders and relevant individuals to develop the SQE, and the JLD hopes that the SRA will listen to the junior lawyers who will be most affected by it. Trust in the quality of the SQE will be essential to its efficacy within the profession, and more widely to the international reputation of England & Wales as a jurisdiction of choice due to the quality of its legal professionals. Failure to ensure this perception is safeguarded risks drastically undermining the future of the legal services industry, and so the JLD expects the SRA to treat the pre-roll-out preparation with the utmost gravity.
8. The JLD expects the SRA to clearly set out how it will evaluate whether SQE has been a success prior to its introduction, (noting that the SRA has used the cost of the current system, number of complaints/insurance claims against solicitors and the existence of a qualification 'bottleneck' (which the JLD believes will move from training contracts to NQ roles) to justify introduction of the SQE). The JLD expects the SQE to be independently evaluated, and also expects the SRA to set out a plan for what will happen if issues are found (particularly any concerns over quality/standards and impact of EDI) with the SQE post-implementation.

Solicitor competence

9. We understand that the future of solicitor competence will be determined somewhat by the success of the SQE. As set out above, we would expect the SRA to set out how it intends to monitor the impact of the SQE, particularly in relation to solicitor competence and ensuring high standards within the profession.
10. Further, the SRA wants to enhance the quality assurance of the Police Station Representatives Accreditation scheme qualification and ensure competent advice is given. The JLD understands the SRA's reasoning for focusing on this, to ensure the vulnerable are safeguarded, however we believe it is also to ensure that the solicitors working at the police stations are safeguarded appropriately. We therefore eagerly anticipate seeing the SRA's 2021-22 proposals on this, in particular given the majority of police station work tends to fall to junior lawyers.

Our regulatory model, Standards and Regulations and Transparency Rules

11. The JLD is pleased that there will be a one-year review of the Standards and Regulations which were introduced in November 2019. The JLD is also pleased that the SRA will assess EDI implications in light of this review. The JLD would like to understand further how the SRA plan to achieve this and how the SRA will measure impact and diversity. The JLD would like to emphasise the importance of focusing on EDI to ensure that the legal profession becomes well represented at all levels.
12. Before the implementation of SQE in 2021, the JLD hopes that the SRA puts regulations in place to protect junior lawyers undertaking qualified work experience ("QWE"), to ensure these aspiring lawyers are not exploited (for example by ensuring individuals are paid for their work and paid a fair salary for such work – noting that there is no longer the protection of a mandatory minimum salary for those junior lawyers training to become a solicitor – and that QWE is being signed off in circumstances where it has been undertaken to ensure that junior lawyers are not being held back unfairly from progressing with the SQE). The JLD has previously expressed concern about the lack of regulation of training contracts, training principals and the lack of a mandatory minimum salary for trainee solicitors and the SQE does not offer any solution or protections regarding these concerns. We would welcome further thoughts from the SRA about measures that are being put in place and how any reports of possible exploitation will be handled by the SRA.
13. The SRA's Enforcement Strategy and plans to improve the monitoring of investigation and disciplinary work is concerning. The JLD understands that the SRA will establish an in-house 'arms-length' quality assurance team for all their disciplinary work. However, we are unclear as to how the SRA will ensure such a quality assurance team is independent if it is in-house, how it will be governed, and how it will operate?
14. The JLD considers it is extremely important that this team has a proportional approach to determining fines and disciplinary actions. The JLD has had significant concerns recently as to how the SRA has disciplined a number of junior lawyers. It is important that the SRA considers the unintended consequences its decisions could have on junior lawyers, for example by encouraging them to hide their mistakes due to a fear of disproportionate sanctions. We understand that the SRA is aware that there is already an issue with lack of reporting, particularly from junior lawyers. There is also a perceived difference in how the SRA has treated junior lawyers compared to more senior lawyers, and this requires addressing.
15. The JLD would like to highlight that the individual's level of experience, remuneration and mental health must be taken into consideration when determining penalties. The JLD supports a publication policy for the SRA's disciplinary findings, however, this must be anonymised to ensure the relevant individuals are adequately protected. Following any review, a future publication policy must still take care to anonymise details where appropriate.
16. We welcome the SRA's commitment to collaborating and engaging with professional and representative bodies. We invite the SRA to continue its dialogue with the JLD.

Equality, diversity and inclusion

17. The JLD supports the SRA's plans to promote diversity and equality within the profession (subject to the above concerns re SQE and access to the profession). The JLD understands that the SRA plans to collect and share its diversity data with relevant stakeholders, and as part of the research the SRA will establish an advisory group to ensure all minority communities have a voice. The JLD thinks that EDI should be a key priority for the SRA, as it is important to not only promote this, but to actively ensure that the legal profession is well-represented at all levels. The JLD considers the SRA should be more involved with this and should consider other ways in which the SRA can encourage EDI.

UK-EU exit

18. We are pleased to see that the SRA will monitor the UK-EU exit, and that it aims to ensure that there is a smooth transition. The JLD wants to ensure that the transition does not have a detrimental impact on foreign students who intend to practise law in the UK or on those junior lawyers who intend to dual qualify (either in the UK following qualification abroad or vice versa). We look forward to hearing the SRA's proposals in due course.

Developing our work in Wales

19. We welcome the establishment of an office in Wales as for the JLD it is of significant importance that the SRA represents Welsh solicitors. We understand that the SRA's office in Wales will also work closely with The Law Society's Cardiff office and the JLD hopes these establishments will ensure that the needs of Welsh junior solicitors are voiced and met.

Objective two – technology and innovation

Question 2: Do you agree with the priorities for our work in 2020/21 towards meeting Objective two of our Corporate Strategy?

20. We believe it is important to look at LawTech and its development. However, the JLD does not support the SRA's role in actively promoting legal technology, as it is not clear how this fits within the remit of the regulator. Instead, the JLD believes the SRA should help to foster an environment in which legal technology can thrive.

21. The JLD is unclear of the SRA's focus in regards to technology overall and whether it is more geared at ensuring client data is secure, as it is stated that the aim of Objective 2 is to build public trust in LawTech solutions to increase access to justice. However, the JLD is concerned that this is not the correct approach to build public trust and expects the SRA to explain its approach in greater detail.

22. Given it is considered to be clearly beyond the scope of the profession's regulator, the JLD believes that the allocation of 4% of the Budget to Objective 2 seems high and welcomes further information as to the SRA's intentions with regard to technology and

how that aligns with its role as regulator. We look forward to hearing the SRA's specific workstreams identified as areas where the SRA can add value at the end of the year.

Objective three – anticipating and responding to change

Question 3: Do you agree with the priorities for our work in 2020/21 towards meeting Objective three of our Corporate Strategy?

23. The JLD is pleased that the SRA will focus on understanding the key issues of the profession through conducting regular research, particularly in light of the impact of COVID-19. The pandemic has clearly had a significant impact on all legal professionals, but particularly on junior lawyers – many of whom are now operating without sufficient supervision. In addition, many individual junior lawyers have been furloughed, had a decrease in work hours or salary or been made redundant, and it is important that all these areas are considered. Additionally, the SRA could research the advantages and disadvantages of working from home and how junior lawyers could ensure the same quality of experience and supervision working remotely in circumstances where many firms are considering an increase in agile and flexible working, with reduced office space.
24. This Objective is very broad in scope, and the SRA should provide further information on which issues will comprise its focus.
25. The JLD supports the educational work mentioned with regards to EDI within all levels of education within the profession. We have addressed this also above in relation to the SQE.
26. As well as looking at immigration and asylum services, the JLD recognises that it is important to consider other legal areas which need reform. In particular, this includes legal aid and criminal defence work which is now on the brink of collapse. There is a real sustainability crisis, which has only been accelerated by the current pandemic, and it is not clear how the SRA plans to assist in this crisis, to ensure that there law firms specializing in criminal defence work or social justice continue to operate, train junior lawyers and ensure the public has access to justice. We welcome further information from the SRA on this important issue.

Question 4: Do you agree with our anticipated Budget for 2020/2021 and the proportion we allocate to our work under each of the three Objectives?

27. The JLD has noticed a significant increase in staff expenditure in 2020-21 compared with 2019-20. This is surprising as, due to COVID-19, there have been many workers furloughed or made redundant within the legal sector. Also, the economy is struggling and we are currently in a recession. The JLD do not think it is appropriate for such a significant increase and do not think this is proportionate considering the impact on the legal sector.

28. The JLD also believe that the SRA could use more Budget for Objective 3 rather than Objective 2. Increasing the Budget for Objective 3 could ensure that the SRA can put significant resource researching the legal industry in light of COVID-19.

Compensation Fund contribution level principles

Question 5: Do you agree with the proposed principles for setting the levels of contributions to the Compensation?

29. The JLD notice the Compensation Fund is the same cost of contributions for 2020-21 and 2019-20. The JLD believe this could be looked at further to explore whether the contributions could be reduced, particularly given the cuts law firms are needing to make and the state of the economy.
30. The JLD's view is that the proposed principles for setting the annual contribution to the Compensation Fund are well laid out and provide transparency to the profession. The JLD believe that as well as publishing financial statements, it might be possible to give a high-level review of how the Compensation Fund was utilised (not individual cases given rules around data protection). It would also give those interested in looking to utilise the Compensation Fund, a better understanding of what it has been used for previously.

How we consult on our business planning and budget in future

Question 6: What information about our forward work and budget do you think we should provide in future consultations and how should we present it?

31. The JLD believes that the SRA's business plan could be more detailed in places as some areas are not specific and it is unclear what work the SRA is planning to carry out.
32. Examples of information that the JLD believes is lacking:
- i. the approach on enforcement strategy under Objective 1;
 - ii. regulating continued competence under Objective 1;
 - iii. evaluating the Standards and Regulations and Transparency Rules under Objective 1;
 - iv. how the SRA will implement certain areas under Objective 2; and
 - v. What key areas of the legal profession will the SRA focus on under Objective 3.

We welcome the opportunity to respond to consultations such as this one, and hope that the issues outlined above are taken into consideration.

The views expressed in this consultation response are those of the Junior Lawyers Division and do not necessarily reflect the views of the Law Society of England and Wales or any other organisation unless stated.

Sent by email only to businessplan@sra.org.uk



7 September 2020

Dear Sir/Madam

Consultation: The SRA's Business Plan 2020/21

The Legal Services Consumer Panel (the Panel) welcomes the opportunity to respond to the SRA's Business Plan.

The Panel agrees with the SRA's summation of the current challenges and opportunities facing the legal sector, particularly the current Covid-19 pandemic that is raising challenges for all three objectives. Indeed, both the pandemic and the UK exit from the EU can potentially have a substantial economic impact on consumers. It is paramount that throughout these considerable external changes consumers continue to have access to legal services, remain protected and are aware of the implications to their legal rights arising from these events.

The Panel welcomes the new governance arrangement where the SRA will operate as a distinct legal entity within the Law Society Group. This will allow the regulator to be more effective and send a clear message that regulation is organised independently from the profession.

Objective one – setting and maintaining high standards for the profession and ourselves.

The Panel would like to emphasise the importance of the imminent re-assessment of the sector by the Competition and Markets Authority against the various transparency recommendations it made in 2016.¹ It is positive that the SRA now publishes aggregated data on first tier complaints. However, there is much more still to be done, both to make price transparency effective and in particular to introduce a comprehensive quality indicator framework. We continue to encourage the regulator to make rapid steps, working with the Legal Services Board (LSB) and other regulators, to develop and implement such a framework for quality indicators, including consideration of the metrics that should be used in different segments of the legal sector. Consumers must have easy access to comparable and comprehensive information, both on price and on quality, so that they can make fully informed decisions when choosing a legal service provider.

We support the emphasis made in the consultation on monitoring and evaluation. The SRA will know that a recent survey by DG Legal² reported a low compliance rate on transparency. They found that 90% of the solicitors firms' websites surveyed did not fully comply with the SRA's transparency rules for price and almost 75% are not complying with publishing complaints handling information rules.

¹ LSCP, SRA – Corporate Strategy consultation 2020-23, January 2020.

² DG Legal, <https://dlegal.co.uk/news/sras-transparency-rules-survey-websites/>

Our own research³ shows that although shopping around is at an all-time high with 30% of consumers shopping around, consumers still struggle to find information about the cost of the service or information on service. In 2020, 56% of consumers who find it difficult to access information on price (about a solicitor) said it was due to no upfront information, a jump from 40% in 2019. And 48% of consumers who shop around for a solicitor did not come across information on service in 2020, an increase from 44% in 2019. Research published by the LSB also shows a continuing trend of wide variation in prices, for the same services, supporting the need for consumers to shop around.⁴

Under the first objective the consultation mentions the Solicitors Qualifying Examination (SQE) and solicitors' ongoing competence. Overall, we are supportive of the SRA's proposals for the SQE, for introducing the SQE in Welsh and for planning to set up an office in Wales. On ongoing competence, the Panel has said⁵ that a lawyer's initial education and training cannot offer a career-long guarantee of competence. We support the SRA's plan to undertake a strategic review of its approach to regulating solicitors' ongoing competence. We look forward to seeing the actions following this review.

The SRA's states that it plans to monitor diversity data and commission research and establish an advisory group of experts to help with these complex issues over its three-year strategy. We are not convinced that this is enough, and we have said repeatedly that the SRA needs to do more. In 2017, in response to the SRA's corporate strategy we said the regulator needs to "continue to work with the wider profession to improve diversity at the point of entry and beyond".⁶ In response to its current corporate strategy we said "it is crucial that the regulator does more than monitor or carries out research."⁷ We specifically said that the Panel would like to see the SRA giving "supportive steers, guidance and recommendations to improve diversity, especially in seeing progress at senior levels, as well as in monitoring the impact of legal service provision on different groups of users."⁸

Objective two – actively support the adoption of legal technology and other innovation, that helps to meet the needs of the public, business community, regulated entities and the economy.

The Panel believes the pandemic has accelerated the use of digital tools by providers and consumers. The SRA should enable the development of technical solutions at a faster pace. To foster innovation and accelerate consumers' access to services in response to the pandemic, we would encourage the regulators to work actively with frontline advice services, e.g. Citizens Advice and Law Centers, to understand where the pinch points that hinder access to legal services are in the current context. Moreover, regulators should access insights that already exists with these organisations to help consumers and intervene to support access to legal services.

However, it is important to note that access to digital solutions can vary. Some consumers have limited digital literacy - roughly 9 million people in the UK (16%) are unable to use the Internet and their device by themselves.⁹ We acknowledge that it is helpful to undertake research to understand how best technology can help those with limited or no access to digital services, but the SRA should also consider alternative

³ LSCP, Tracker Survey 2020,

⁴ LSB, Price Research, September 2020.

⁵ LSCP, LSB - Ongoing competence, 2020.

⁶ LSCP, SRA - Corporate Strategy Consultation 2017-20, September 2017.

⁷ LSCP, SRA - Corporate Strategy, January 2020.

⁸ Ibid.

⁹ Lloyds Bank UK Consumer Digital Index 2020.

ways to support all consumers to access legal services. Thus, we endorse the proposal to increase guidance and support materials for both the profession and consumers.

We welcome the acknowledgement that using innovative tools to increase access goes beyond simply using technology and it also comes with risks. Indeed, action must be taken to avoid creating opportunities for cyber-crime while using digital tools, so security considerations are crucial. The regulator can learn from other sectors that have worked hard to secure online transacting and apply the learnings to its own context.

Objective three – build understanding of emerging opportunities and challenges for the users of legal services, the legal sector and our role in effectively regulating it.

The Panel welcomes SRA's plans to engage with multiple stakeholders and to monitor the research findings undertaken by other organisations. Consumer engagement and research is the primary way for the regulator to deepen its understanding of consumers' concerns. Therefore, we endorse the consumer research showing that the regulator plans to listen to consumers' needs, reflecting our previous recommendation.¹⁰ We would also like to remind the SRA of the opportunity to use the newly established public panel set up by the LSB and the Panel as a way of accessing consumers' views in developing and assessing policies.

The SRA aims to look at the impact of Covid-19 on the structure of the legal market over several years and consider the challenges faced by consumers in accessing services. Improving access is an area of special focus under this objective although it cuts across all three strategic objectives. Access to justice and public legal education, including through the further development of the Legal Choices website, is important for many consumers who do not understand their legal rights.

We have consistently said¹¹ that, apart from cost, consumers find it difficult to navigate the legal system that is often laborious and complex in many areas of law. Technology can indeed be used to support and facilitate access to justice in "desert areas", reduce the cost and the time it takes to get them delivered, but also it can make the process more straightforward. As we highlighted above, it is important that the regulator considers and reduces the risks that come with using technology to ensure consumers can use these tools securely.

As for the proposed work on immigration and asylum services, we note the work the SRA is doing with stakeholders to assist consumers of these services to understand their rights and access quality advice. The Panel agrees that these are vulnerable groups and we would encourage the SRA to consider extending the price transparency rules to asylum services. This will help consumers using asylum services by supporting them to make informed decisions on price. This could be particularly important in the coming months if the UK's departure from the EU poses new challenges for immigration services users cutting across different jurisdictions.

Setting out the Compensation Fund contributions

The Compensation Fund is a crucial consumer protection measure that should provide a safety net for risks which Professional Indemnity Insurance is unable to cover. We accept that there is a need to review, adjust and consider the need for this fund to be financially sustainable, but primarily it should ensure it is effective, i.e. it protects consumers. The Panel is of the view that consumers should be at the heart of this

¹⁰ LSCP, SRA - Consultation Strategy 2020-23, January 2020.

¹¹ Ibid.

process because they are asked to take on a disproportionate level of risk while entrusting the profession with their money and with important decisions impacting their lives. The Panel's submission to the consultation on this matter earlier this year remains its current position.¹²

Last, we welcome that the SRA wants to be transparent in its decision making and will publish the Compensation Fund financial statements annually.

We would be very happy to meet and discuss any aspect of this response in further detail. Please contact Lau Ciocan for further queries at lau.ciocan@legalservicesconsumerpanel.org.uk.

Yours sincerely



Sarah Chambers

Chair

Legal Services Consumer Panel

¹² LSCP, SRA - Compensation Fund consultation, April 2020.

Legal Ombudsman

PO Box 6806
Wolverhampton
WV1 9WJ
T 0121 245 3100

www.legalombudsman.org.uk

Paul Philip
Solicitors Regulation Authority
The Cube
199 Wharfside Street
Birmingham
B1 1RN

X August 2020

Dear Paul,

RE: SRA Business Plan 2020/21 consultation

Thank you for the opportunity to comment your Business Plan for 2020/21. The Legal Ombudsman does not have any substantive comments to make in relation to the consultation questions posed and we agree with the overall direction that the business plan is taking.

As you noted in your response to our Business Plan consultation, the work on transparency rules and quality indicators is a particular area of overlap between our organisations. We look forward to seeing the outcomes of the Legal Choices beta testing of the trust product app, and how the Legal Ombudsman data can be used as part of this.

Some of the work the Legal Ombudsman is considering as part of our transparency discussion looks at the balance between the provision of information which supports consumer choice and that which support improved standards. While our data can support consumers in their choice of service provider we want to do more to ensure that our data and insights is used by regulators. We've begun to address this with the SRA through our regular operational meetings and I hope we can progress this further over the year looking at both patterns of complaints as well as individual providers.

Of course we are also following with interest the work the sector is doing in relation to technology and innovation. We are looking at the opportunities that technology can

The logo for the Legal Ombudsman features the word "LEGAL" in a bold, pink, sans-serif font. A large, stylized, pink cursive flourish starts above the letter 'L' and loops around the top of the word "LEGAL". Below "LEGAL", the word "OMBUDSMAN" is written in a black, all-caps, sans-serif font.

LEGAL
OMBUDSMAN

provide for our own service, but simultaneously want to keep abreast of and understand the implications of these changes in the legal sector.

We look forward to continuing to work with the SRA over the coming year.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Marsh". The signature is written in a cursive style with a large initial 'R'.

Rebecca Marsh
Chief Ombudsman

Legal Ombudsman
Telephone: 0121 245 3188
www.legalombudsman.org.uk

ID 10

Do you agree with the priorities for our work in 2020/21 towards meeting objective one of our Corporate Strategy 2020-23?

No. Ironically the SRA is the biggest threat to the "reputation, status, viability and diversity of the profession" and of "access to legal services", by increasing regulation and the costs of regulation, prosecuting trainees inappropriately, spending money on misguided projects like the Legal Choices website, demanding badges on websites, demanding outrageous costs at the SDT, etc. I also feel the SRA fails to justify why it should be concerned with the diversity of the profession; while it may be a conduct issue if direct discrimination occurs, the SRA should otherwise keep out of such matters. As for "consumer protection" by which I assume the SRA means "client protection", since the professional nature of being a solicitor is being watered down so that we're at the level of a second hand car salesman and appear on comparison websites etc., I don't see why we should offer any particular "consumer protection" over and above what any other business offers. The role of the SRA should be to require firms/solicitors to provide clear notice of the terms on which they operate, but otherwise leave it up to the client. For example, if they want to hire someone without PII, let them.

Do you agree with the priorities for our work in 2020/21 towards meeting objective two of our Corporate Strategy 2020-23?

No. The SRA should be entirely neutral on the adoption of legal technology. Most legal technology doesn't impact the SRA's work in any material way in any event. For example, the SRA talks of "the challenges in explaining how algorithms reach a particular conclusion" - why is this of concern to the SRA? The solicitor can explain to the client, the opponent, the court, and anyone else who is interested that that's the case. What concern is it of the SRA? It seems as though this is an excuse for the policy department to grow exponentially for no apparent reason.

Do you agree with the priorities for our work in 2020/21 towards meeting objective three of our Corporate Strategy 2020-23?

No. "We are already seeing [...] issues with leasehold purchases" - this was due to the SRA allowing referral fees for conveyancing solicitors, leading to estate agents recommending dubious firms and therefore being less inclined to raise problems about leases. If you haven't dealt with the situation for so many years, what's the sudden urgency? And you haven't even proposed what you would actually do to solve the problem. "We need to anticipate and address emerging problems as swiftly and effectively as possible. This means actively horizon scanning and building our evidence base, using all the sources of intelligence available to us including discussion with consumers, charities and third sector groups, the profession, other regulators and government." - This sounds like a lot of policy meetings with stakeholders, for the sake of 'having a chat'. It's also unclear as to why this is a "priority" or how this can't be achieved with "through the grapevine" awareness. This again sounds like creating work for a policy department. "We know that as we write this many people cannot access the services they need to exercise their rights. Costly and complex processes in many areas of law, limited public legal education, reduced access to legal aid and patchy legal services in many communities are all pressing issues, particularly for people who are vulnerable." - The ever increasing regulation and red tape from the SRA is unlikely to help in reducing fees, making legal aid more viable, or assisting people in accessing solicitors. "Raising public awareness of legal services and how to use them." - The Legal Choices website, a very poor use of money, appears to show that the SRA doesn't know how to do

this appropriately. It's also unclear as to why the SRA needs to be engaged in this in the first place. Surely it stands to reason that solicitors would want to make it known that they are available to provide legal advice.

Do you agree with our anticipated budget for 2020/2021 and the proportion we allocate to our work under each of the three objectives?

No. The SRA is a bloated organisation and needs to be cut down massively. It is not representing good value for money. I don't see how a Welsh office would help.

Do you agree with the proposed principles for setting the levels of contributions to the Compensation Fund?

No. I see no valid reason for the compensation fund continuing to exist. With the deregulation of solicitors generally, it should be a voluntary scheme which solicitors can choose to show as an additional incentive to clients.

What information about our forward work and budget do you think we should provide in future consultations and how should we present it?

An excel spreadsheet of any expenditure for a single project or contract expected to go beyond £100k (in a "band" e.g. £100k-200k if the precise figure can't be disclosed for commercial reasons), together with a list of how many alternative quotes were sought for that work. Also details of any employees on more than £100k, again, in an excel spreadsheet together with their departments.

ID 22

Do you agree with the priorities for our work in 2020/21 towards meeting objective one of our Corporate Strategy 2020-23?

We have considered the workstreams you intend to undertake over the next year to objective one and offer the following comments:

Introduction of the SQE: We agree that continuing to work towards the release of the SQE compliments objective one of your Corporate Strategy. As part of this project, we would welcome continued support for firms developing the next generation of lawyers to enable them to provide equal levels of support to those electing to qualify via the traditional route or the SQE.

AML Supervision: We agree that this is a worthwhile project to direct your resources towards, particularly as the emergence of Covid-19 has exposed a greater proportion of the sector to the risks associated with remote working. We would welcome the continued provision of detailed guidance in relation to any proposed changes to your AML supervisory activities to assist firms with continued compliance.

Continuing Competence: We agree that this is an area that you are well placed to add significant value to the profession. We would welcome guidance at both a firm and individual practitioner level to help firms to provide quality support for their solicitors around continuing competence and empower individual practitioners to take ownership of their professional development.

Evaluation of your reforms: We agree it would be prudent to evaluate the impact of your regulatory reforms over the next 12 months and suggest that part of this evaluation consider the challenges to continuing compliance that have been faced by firms due to the emergence of Covid-19. Guidance to support firms better evaluate any changes they have implemented to adapt to your regulatory reforms would also be helpful.

The promotion of diversity: We concur that this is an immensely worthwhile workstream and welcome further initiatives and support for firms to continue to celebrate, promote and encourage diversity within our profession.

Providing support to the sector in relation to Brexit and Covid-19: We recognise that 2020 has already been a tumultuous year in terms of challenges to the legal sector and so would encourage the addition of your voice to help firms be on the front foot and navigate their way through legislative and other challenges to the profession.

Establishing an office in Wales: Whilst we recognise the need to provide effective regulatory support to the regulated community practicing in England and Wales, we wonder whether a physical presence is the only way to achieve this goal given the current climate. Against the backdrop of increased remote working, we suggest it may be worth considering whether investing in a digital solution could be just as effective.

Do you agree with the priorities for our work in 2020/21 towards meeting objective two of our Corporate Strategy 2020-23?

Given the increase in remote working in the wake of Covid-19, we concur that it would be prudent to commence work towards objective two with an initial fact-finding mission as the landscape has dramatically changed since your 2020-23 Corporate Strategy was released. We anticipate there are likely to be some useful learnings arising out of the requirement for much of the sector to rapidly scale up their digital offerings which may inform your approach

moving forwards. As part of this exploratory work, we suggest that there is some focus on understanding the extent of any potential negative impact on access to justice experienced by vulnerable users of legal services due to the increased prevalence of legal services being offered digitally. It is with this understanding that effective solutions to any identified issues can be created. It would also perhaps be worthwhile considering the impact of the increased use of technology on those entering the profession as well as on those already practicing e.g. remote supervision for trainees, remote interviews with a view to ensuring sufficient support is in place for those who may find the process more challenging. The increased use of technology within the sector also has the potential to influence consumer expectations with many perhaps expecting legal services to be provided in this way moving forwards. Some of your initiatives to promote the use of technology could involve exploring the extent to which the sector could support each other for example through the sharing of best practice to foster some sense of consistency for the consumers of legal services. We suggest that when developing initiatives to promote and develop the use of technology, you are mindful of the potential to inadvertently create a disparity between firms who can invest in and implement digital solutions and those who are not in a position to do so. It would perhaps be worthwhile considering what support firms falling into the latter category would benefit from so that clients of such firms are not indirectly prejudiced and do not face barriers in accessing justice.

Do you agree with the priorities for our work in 2020/21 towards meeting objective three of our Corporate Strategy 2020-23?

We concur that consumer concerns are an important area of focus given the current climate has perhaps prompted more individuals to seek legal services, particularly in certain areas of law. However, given the legal sector has encountered and continue to encounter significant challenges arising out of the Covid-19 pandemic and the UK's exit from the EU, it is suggested that your horizon scanning also focus inwards with a view to meeting these head on and overcoming them, unless it is felt that these issues are adequately tackled by other elements of your business plan.

Do you agree with our anticipated budget for 2020/2021 and the proportion we allocate to our work under each of the three objectives?

We concur with the proposed allocation of your resources for the coming year but anticipate there may need to be an element of flexibility built into your plans to account for any unexpected changes which may lead you to alter your priorities.

Do you agree with the proposed principles for setting the levels of contributions to the Compensation Fund?

We agree with your proposed principles for setting the level of contributions to the Compensation Fund. We are of the view that this is an important resource for those in the greatest need of support. We recognise that a balance must be struck between maintaining the viability of the fund with regard to any potential future demand and not overburdening those required to contribute.

What information about our forward work and budget do you think we should provide in future consultations and how should we present it?

It would be helpful for information regarding future projects to include lead times to implementation, together with guidance on key issues with the potential to impact firms to enable them to effectively plan any required adaptations.



SRA Business Plan 2020-21 Consultation Paper

Law Society Response

August 2020



SRA Business Plan 2020/21: Consultation

A response from the Law Society of England and Wales

Introduction

1. The Law Society welcomes the opportunity to respond to the SRA's draft Business Plan consultation 2020-21 and to comment on its proposed budget. This consultation response and the comments made within it are made in the Law Society's representative capacity as the professional membership body for solicitors. We previously sent [this response](#) to the SRA's draft Corporate Strategy 2020-23.
2. There are a number of areas of focus within the business plan that we welcome, such as: making the introduction of the SQE a key priority; conducting research to review the effectiveness of the pricing and transparency requirements; conducting a one-year review on the period since the introduction of the Standards and Regulations; the SRA playing its part in the UK-EU transition and supporting the profession as the UK begins a new relationship with the EU; and the establishment of an SRA office in Wales.
3. We agree that the establishment of the SRA as a distinct legal entity within the Law Society Group creates an opportunity for a clearer demarcation of our respective roles and responsibilities, avoiding unnecessary cost and duplication.
4. In this context we make a number of comments below with a view to ensuring, particularly in the areas of equality and diversity and technology and innovation, that our efforts are appropriately coordinated.
5. We were pleased to see an explicit recognition that the Covid-19 pandemic has brought into sharp relief the access to justice needs of the public, especially the vulnerable. Reducing disproportionate regulatory burden and costs assists in making legal services more affordable. In many areas, such as debt, social welfare and family, reducing the cost of the relevant legal service assists but what is missing is the kind of support that exists in the health and in education. We have also been publicising the issue of advice deserts, in housing and community care.
6. The willingness of the SRA to speak up where public protection is at risk (paragraph 72) is welcome. It would indeed be helpful if the SRA were to join the Society in being vocal about the need for investment in legal aid as a necessary and central component of measures intended to increase access to justice. The Law Society would welcome a conversation with the SRA on this topic. It would be extremely helpful if the SRA were to publish any relevant data it possesses, perhaps after it has undertaken its analysis of the first year of the new Standards and Regulations.
7. The Law Society recently pointed out that there are 124 fewer criminal legal aid firms than in 2019 – a drop of 10%, and that as a result of the pandemic, work for criminal legal aid firms has fallen through the floor – leaving many hanging on for survival. We would welcome the SRA joining us in calling for criminal legal aid not to be allowed to fall by the wayside.
8. Apart from the question of funding, Public Legal Education has an important role to play in ensuring that people get access to justice. We welcome the explicit recognition of its importance in the SRA's plan at paragraph 74. And we note the SRA's intention to develop a strategy for the provision of Public Legal Education. We would like to discuss the strategy with the SRA at an early stage, to avoid duplication of effort.

Objective one – setting and maintaining high standards for the profession and ourselves

Question 1: Do you agree with the priorities for our work in 2020/21 towards meeting objective one of our Corporate Strategy?

Solicitors Qualifying Examination and solicitor competence

9. We are pleased to see the SRA has highlighted the introduction of the SQE as a key priority. It is hugely important that the SQE delivers on its aims of making access to the profession more open, flexible and affordable, while not compromising on quality. We are pleased also that the SRA will focus on addressing the EDI recommendations set out in the Bridge Group report as it moves from policy development to implementation, and prepares to monitor the impact of the reforms in practice. We will continue to work with the SRA and other stakeholders to help ensure the profession is fully prepared for the implementation of the SQE in 2021. In that context:
- How does the SRA intend to measure and evaluate the impact of the introduction of the SQE in relation to fair access to the profession and to the profile of the profession over time? At what stage will the SRA collect data from SQE candidates?
 - Will any measures of social mobility be included in application processes to facilitate monitoring the impact of the SQE?
 - How will the SRA ensure that the SQE is fully accessible for all disabled students (e.g. reasonable adjustments, accessible exam centres)?
 - Will the SRA commit to a transparent and collaborative approach on research and on action to address any concerns about negative impacts on EDI of the SQE?

Anti-money laundering

10. We are interested in the SRA's intention to increase its monitoring of anti-money laundering (AML) arrangements, and would welcome the opportunity to work with the SRA to increase AML compliance across the profession. We are keen to work with the SRA to ensure that our guidance gives practical assistance on AML compliance, particularly for those practitioners who are not as well resourced as others. We note the SRA's intention to undertake a thematic review into tax advice and look forward to contributing to that review.

Our regulatory model, Standards and Regulations and Transparency Rules

11. We agree on the importance of the SRA conducting research to review the effectiveness of the pricing and transparency requirements. The Society is keen to work with the SRA in the run up to the publication of the CMA's follow up report on its 2016 market study.
12. With regard to the SRA's target of two to three million views for the Legal Choices website, we would suggest that a target that concentrates on website hits alone is an

oversimplification of the issue. The focus should be on the quality of the information provided to consumers rather than just page views

13. It is also important that information aimed at consumers on the Legal Choices website is kept up-to-date.
14. We are pleased that there will be a review of the Standards and Regulations. The new rules significantly changed the legal services market. It is important to understand the extent to which unmet legal need has or has not been affected by the regulatory changes, and whether unregulated entities have reduced the cost of legal services as intended.
15. With regard to Enforcement Strategy and the SRA's plans to improve the monitoring of investigation and disciplinary work, we would make the following points.
 - Any future publication policy should still ensure that anonymity is preserved where appropriate, particularly where information about third parties is concerned. Furthermore, published decisions should provide sufficient information for the public to understand an outcome and the reasoning behind it.
 - A review of the bandings for disciplinary fines should continue to have a view to proportionality. The regulated person's means should remain a consideration in determining the appropriate penalty.
 - Any proposed changes should be clearly communicated to the profession, accompanied by appropriate guidance and examples. The reasoning behind published decisions will not only benefit consumers, but also members of the profession, who can thereby avoid others' mistakes.
16. The Society would welcome the opportunity to comment on changes made when the policies above are reviewed.

Equality, diversity and inclusion

17. The Law Society is placing great emphasis on the need to promote diversity and inclusion in the profession. This is one of the major issues of our time, and a subject that has assumed additional urgency in the light of recent world events. How we and the SRA focus on this issue within the profession and the steps we take ourselves to address diversity, equity and inclusion, will be under even greater scrutiny in the months and years ahead.
18. The SRA has highlighted that it should seek to complement existing work rather than duplicating it, and it has also talked about the need to collaborate with others. As said above there is an opportunity for a greater transparency on roles and responsibilities now that the SRA is a separate entity. The SRA should also consider its unique role and powers as a regulator and how it can embed EDI into its regulatory and compliance activities. The various stakeholders need to work together and within their individual remits, in order to avoid duplication and mixed/diluted messaging to the profession.
19. The EDI aims of the SQE are welcomed, but we would encourage the SRA to include retention and progression in its plans. Evidence shows more diversity amongst those entering the profession, but those practitioners are not staying or reaching senior levels in proportionate numbers. Most recently this has been highlighted for BAME solicitors, but the same is also true for women and other under-represented groups.

20. We have not commented separately, but we note that EDI issues are not highlighted under objectives two and three. In particular, technology and innovation can have real impact for inclusion, for example disabled solicitors.

Scope of current publications/ tools for reviewing diversity of the solicitor profession: coverage quality, diversity and inclusion

21. We note at paragraph 40 that the SRA intends to commission research and to establish an advisory group of expert voices to consider the over-representation in your disciplinary processes of small firms, men and BAME communities. We would be interested in learning more about this research, in order to avoid any duplication of work.

22. We also welcome the opportunity to know more about the SRA's new IT systems and how these can be used to improve diversity data collection response rates on mySRA.

23. It would be helpful to get clarity on which sections of the solicitor profession are not covered in the SRA's current diversity tool. We understand that the SRA collects diversity data from all the law firms it regulates which covers more than 180k people working in over 9,500 firms. However, the term 'people' in this context covers non-lawyers and non-solicitors to the best of our understanding. It would be helpful to get clarification on:

- Which sections are not covered by this tool – e.g. solicitors not working in law firms
- Whether there is a way to differentiate between solicitors and non-solicitors in the data. Currently the term solicitor partner or lawyer in the data includes barristers, CILEx practitioners and others who are not solicitors.
- We welcome the inclusion on data on in-house solicitors in the SRA's most recent diversity data analysis ("how diverse is the legal profession" 20 March 2020). However, it would be useful to know how this data was captured and whether the SRA intends to add characteristics (other than gender, ethnicity and disability which are currently covered) for the review of in-house solicitors. Solicitors working in-house make up almost 20% of the profession hence the importance of having a comprehensive analysis of their diversity.

24. The quality of the SRA's MI ethnicity data has declined since the introduction of a voluntary online approach in 2015. Ethnicity data for example is missing for around one-fifth of PC holders. Data that was shared with us in preparation for the combined statistical report on judicial diversity indicated significant differences in ethnicity reporting patterns between solicitors with more than 6 years PQE and those with 0-6 years PQE with the latter group presenting a concerning drop in the response rate of down to 28% only for 0-4 years PQE and less than 50% for 5-6 years PQE. We would be interested in any steps that the SRA is proposing to take to address the lack of important data.

UK-EU exit

25. We are pleased to see that the SRA's key areas include playing a constructive role in the UK-EU transition and supporting the profession as the UK begins a new relationship with the EU as part of objective one.

26. The UK is the second largest legal services market in the world and the largest legal services sector in Europe. In 2018, the legal sector contributed almost £60 billion (GVA) to the economy and was responsible for exports of £5 billion.
27. The concentration of legal and financial services in the City is one of the key factors in the UK's economic prosperity. London currently hosts 87 of the world's top 100 law firms ranked by 2016 revenue, and five of the top 10 global law firms are headquartered in the City. More broadly, legal services are vital in developing new export markets and supporting UK companies' international operations. Over 200 international firms are based in the UK – particularly London – from over 40 jurisdictions.
28. However, the UK's withdrawal from the EU poses a challenge to the global standing of the UK jurisdiction, and to regulatory certainty, particularly if changes coincide with the continuing effects of the Covid crisis.
29. It now appears very likely that the UK's revised relationship with the EU will commence from the 1 January 2021. Against this backdrop, we have advised members that they must prepare for the significant changes which will kick in from the start of next year, which will affect both their own businesses and their clients. Even if a future trade agreement is reached, it seems unlikely that UK legal services will have the same latitude to trade within the EU as at present.
30. The UK needs to promote the advantages of its legal system and expertise to international markets. The Law Society has sought to do so in its new jurisdiction of choice report¹ and through its Global Legal Centre campaign.
31. The Law Society would like to work with the SRA to respond to the regulatory consequences of the UK's withdrawal from the EU and to adapt regulatory arrangements in light of the final agreements. The UK Government is also seeking to negotiate new trade agreements with other jurisdictions such as the US, Japan, Australia and New Zealand. The SRA and Law Society ought to work together to stress the importance of professional services within such agreements.
32. It will be important that the SQE also continues to attract foreign lawyers to become solicitors.

Developing our work in Wales

33. We welcome the establishment of an office in Wales. The Law Society's Cardiff office looks forward to the increased opportunities to build further on its existing relationship with the SRA.

Continuous improvement

34. The SRA has indicated its intention to review the fees it charges solicitors and law firms and develop an updated approach to its regulatory fees model.
35. It is unclear what such a review will cover, but in general terms the Society welcomes any fresh approach. We consider that it is particularly important to recognise that the repercussions of the current pandemic will be long term and severe, with the financial impact for firms being felt for many years to come.

¹ The Law Society's Jurisdiction of Choice report is available to download at:
<https://www.lawsociety.org.uk/policy-campaigns/campaigns/global-legal-centre/>

36. In our PC Fee Consultation 2020, many respondents expressed concern at the current levels of the PC fee, based on the effects of lockdown on their practices (some firms had at that point been closed for 3 or more months). Furthermore, many respondents felt that the PC fee should be reduced in recognition of the impact that lockdown and Covid has had on their businesses.

Objective two – technology and innovation

Question 2: Do you agree with the priorities for our work in 2020/21 towards meeting objective two of our Corporate Strategy?

37. The priorities for the SRA's work in 2020 to meet objective two merit further clarity.
38. This objective states: “We will actively support the adoption of legal technology, and other innovation, that helps to meet the needs of the public, business community, regulated entities and the economy.”
39. The priorities set out in paragraphs 50, 51, 53 and 59 of the main paper (and page 10 of the consultation paper) cover a wide range of areas including:
- (i) the use of technology in legal practice and its adoption;
 - (ii) the use of technology in the justice system;
 - (iii) the use of technology to support legal services to mitigate the adverse impact of Covid 19;
 - (iv) the use of technology to make the justice system more accessible for individuals and businesses; and
 - (v) cybersecurity risks faced by legal services providers.
40. In our view, all of these themes are distinct in purpose and application, carrying with them unique obligations and considerations. The SRA has a role to play in LawTech and it is essential that the proposed work is closely coordinated with the other regulators, the Law Society and other organisations involved in that area to avoid duplication.
41. For example, paragraph 59 suggests that the SRA would publish guidance for the profession and the public on: particular products and services; awareness raising and support material; and how “LawTech” start-ups can secure investment. In the Society’s view, much guidance already exists that meets the needs of the regulated population and the public interest. We would therefore be interested to know what additional guidance the SRA has in mind.
42. At paragraph 58, a review of the SRA innovation space is welcome. It would be helpful if this included a review of relevant initiatives and their impact on the legal services sector. The Law Society views as positive a second round of the Regulators’ Pioneer Fund with £10m funding to increase access to justice.
43. Given the number of existing participants and current initiatives in LawTech and the public investment available, a proposed spend of 4% (c £3 million) seems high in comparison with some of the other objectives set out in the business plan and the existing work being done by other bodies, such as the LTDP, City of London Corporation and the Law Society which already cover the areas listed above. Close collaboration with other stakeholders leading on LawTech could lead to the proposed spend of 4% being reduced.

Objective three – anticipating and responding to change

Question 3: Do you agree with the priorities for our work in 2020/21 towards meeting objective three of our Corporate Strategy?

44. We recognise both the importance of the SRA concentrating on its core regulatory functions while updating its data and understanding of the key issues for the profession through regular research.

Budget

Question 4: Do you agree with our anticipated budget for 2020/2021 and the proportion we allocate to our work under each of the three objectives?

45. We agree with the proportion the SRA allocates to its work under each of the three objectives. In relation to the budget we are disappointed that the outcome is one which has not been able to result in a reduction of the PC fee.

Compensation Fund contribution level principles

Consultation question 5: Do you agree with the proposed principles for setting the levels of contributions to the Compensation Fund

46. The Law Society is pleased to see a reduction in the cost of contributions to the Compensation Fund this year, although they remain comparatively high when set against the historical level of contributions. Given the current circumstances, the Law Society agrees that the first recourse should be the Fund's reserves, rather than our members, who may already be facing financial difficulties. We hope that it will be possible to reduce the size of contributions in the future, by analysing past claims, identifying the sources of claims, and refocusing regulatory attention to manage those issues.

47. The SRA is aware of our views about changes to the Compensation Fund rules submitted to the LSB.

How we consult on our business planning and budget in future

Consultation question 6: What information about our forward work and budget do you think we should provide in future consultations and how should we present it?

48. We welcome the greater transparency shown by the SRA in relation to its proposed strategy and Business Plan. It is important that the profession sees that the SRA and the Law Society are focusing on their respective but different objectives of regulation and representation, while adding value and avoiding overlapping costs and effort.