



Solicitors
Regulation
Authority

Corporate Strategy 2017-2020: Response document

Closed consultation

November 2017

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Introduction

1. On 27 July 2017, we published a consultation on our Corporate Strategy 2017–20. This is the first time we have consulted on our Corporate Strategy, and is part of our commitment to openness and transparency
2. We sent the consultation to representative bodies, professional groups, consumer representative groups and a variety of other interested parties to hear their views. We also promoted the consultation through the trade press, our website and social media. The consultation closed on 21 September 2017.
3. This document summarises the key points and themes from the responses we received, and covers our response and amendments made to the Corporate Strategy 2017–20 following consultation.

Background

4. This strategy sets out what we want to achieve between now and 2020.
5. When drafting our strategy we looked at what is taking place in the legal sector that would or could impact on what we do.
6. We are seeing change in how legal services are delivered, change in people's expectations of those services and how they can find the information they need. We are also seeing change in how the profession is made up and its aspirations.
7. And, of course, we have the backcloth of changes in the UK-EU relationship and what that this could mean for relationships between England, Wales, Scotland and Northern Ireland.
8. But, some of our drivers remain constant. It is important that members of the public from every background and businesses of every size should have access to high quality legal services that meet their needs. But we know that is not the case. Nine out of 10 members of the public and small businesses are not using legal services – even though they often recognise that they would benefit from doing so.
9. As we set out in the strategy, our role in addressing this difficult issue has a number of aspects.
10. First, we must make sure that our regulation helps, rather than hinders, an open, competitive and growing legal market that meets people's needs at affordable prices. It should be a market in which people and businesses can find the right service, at the right time, at the right price for them.
11. Second, we must work to make sure that the public has confidence in the quality, professionalism and trustworthiness of those we regulate.

12. Third, we need to make sure we play our part in helping people find relevant, useful and readily accessible information so they can choose the right service for them. Our strategy has components that touch on all of these aspects of our role.
13. Added to these, diversity in law firms is improving, but there is much more for the profession to do and we will play our part in supporting its work. And, concerns about risks such as money laundering and cybercrime will not go away over the next three years.
14. Over the past three years we have begun a major transformation of our approach to regulation and of ourselves as an organisation. We are working to make both fit for the future and fit to meet the complex challenges we face. We are also working to improve access to high quality legal services for the people who need them.
15. Our aim for 2017–20 is to continue that work in collaboration with the public, those we regulate, the justice system and other regulators. This will help us to better understand and meet the needs of everyone we serve.
16. To do this, we proposed five new strategic objectives for 2017–20:
 1. We will set and apply consistently high professional standards for the individuals and firms we regulate and make sure they are appropriate to meet the challenges of today and the future.
 2. We will make sure our regulatory requirements are proportionate, providing solicitors and firms with the flexibility to innovate and better meet the needs of members of the public and businesses, while maintaining appropriate levels of public protection.
 3. We will increase the availability of relevant and timely information to help people make informed choices in the legal services market.
 4. We will make sure that our regulatory arrangements work as effectively as possible for the public, businesses, solicitors and firms in the context of constitutional developments within the UK and any new relationship with the EU.
 5. We will work better together and with others to improve our overall effectiveness, our responsiveness and the delivery of our regulatory functions.
17. We will publish our business plans every year, giving further detail on how we are delivering this strategy. We will publish details of our progress in delivering our strategic aims in our Annual Review.
18. We will review and assess the impact of our regulatory reform initiatives, and we will engage with others to ensure as wide an understanding of their impact as possible.
19. We will continue to publish information about our budget and financial performance in our Annual Review, in the Law Society Group Annual Report and Financial Statements, and on our website.

Our comments and next steps

20. Respondents welcomed the draft Corporate Strategy and appreciated the opportunity comment.
21. We received 21 responses to the consultation. We are grateful to all those who took the time to respond and for the feedback. We have carefully considered all the points that respondents made.
22. Overall, the Corporate Strategy was positively received and respondents endorsed the principle of our five new strategic aims. The majority of respondents were in support of where we believe our focus should be. We were pleased to receive support from a variety of sources, such as law firms, legal sector stakeholders and responses from groups representing lawyers, which provided a breadth of views.
23. One organisation said that it “indicates a thoughtful and progressive approach to the legal services sector”. Another commented that “the document makes pertinent assessments of the legal landscape at this time and builds flexibility and innovation” into our approach.
24. The responses we received have helped us confirm our final strategy. They have also provided us with a rich background of information and views to help us form our annual business plans, our future change programmes including on our regulatory reforms, and our delivery of our current operational work.
25. Our Corporate Strategy 2017–20 is now available on our website. The responses are attached in annex 1. One respondent asked to remain anonymous, while another asked for their response not to be published. This has been omitted from the annex.

Consultation – key points and themes

26. Outlined below are the key points and themes to each of the questions asked in the consultation and our response where needed. In addition to the responses to our strategy we were pleased to receive submissions relating to all aspects of our work. Those comments have been passed on to relevant areas of the business to inform their work.
27. Several respondents were keen to await further consultations that had not yet been published at the point of submission.
28. The most consistent theme of feedback was regarding engagement, communication and collaboration. We were pleased to receive expressions of interest to collaborate on future work. We welcome this engagement and are committed to working with stakeholders.
29. An addition has been made to the corporate strategy to reflect this commitment, it is reflected within strategic aim two, consumer protection.
30. All our policy development work will include significant stakeholder engagement and feedback, not only through the consultation process but direct meetings, workshops, events and surveys. Some 700 people are now members of our virtual reference groups and we have seen a huge growth in online engagement.
31. The Solicitors Qualifying examination (SQE) was referenced by some respondents. We announced in April 2017 that we would be introducing the SQE in September 2020 at the earliest. This decision was taken following two rounds of public consultation. Since then, we have consulted again on the regulations which would bring the SQE into force. We plan to publish our response to that consultation later this autumn.
32. Other common suggestions related to policy decisions that we put forward in phase one of our Handbook reforms. Our Board has since taken decisions on these policy positions, and so we are unable to review or consider them in this document.

General comments and the Strategic Aims

33. Alongside the five questions asked in the consultation, a number of responses focused on the key issues raised in the five strategic aims. We feel it would be useful to address these first.

Strategic aim one

We will set and apply consistently high professional standards for the individuals and firms we regulate and make sure they are appropriate to meet the challenges of today and the future.

34. Overall, there was strong support for this aim.
35. One organisation, while it supports the aim, suggested that there needs to be more effective monitoring of those already in the profession to ensure they are providing a quality service.
36. The Law Society agreed that setting professional standards at a consistently high level is an important aim, however it stated that our focus should be “setting the regulatory rules to ensure high *minimum* standards”.

Strategic aim two

We will make sure our regulatory requirements are proportionate, providing solicitors and firms with the flexibility to innovate and better meet the needs of members of the public and businesses, while maintaining appropriate levels of public protection.

37. There was some support for, and agreement with, our changes to the Handbook, to ensure more proportionate regulation.
38. One local law society raised concerns that the changes will adversely affect legal professional privilege in relation to client protection.
39. With regards to any regulatory changes around supporting innovation in the sector, a local law society wanted us to consider consumer protection and sound evidence for regulatory change. This was reiterated by the Law Society, which highlighted that public protection is paramount and must be balanced against flexibility.
40. In consideration of the above we have added a sentence at the end of the first paragraph of strategic aim two, to reflect innovation and technological advances.
41. One local law society raised concerns over the new Codes of Conduct, which it suggested were vague.

Strategic aim three

We will increase the availability of relevant and timely information to help people make informed choices in the legal services market.

42. One local law society was supportive of this aim, adding that “clients and prospective clients must always be entitled to and can obtain the best quality information”.
43. The Law Society supported the aim. However, it added that if regulation were introduced, it said it should not be “too rigid in its approach” and should meet the need of the client to allow for flexibility.
44. We know that there is significant unmet legal need. Nine out of 10 people never use a solicitor or barrister when they have a legal problem. Plus, three out of four of those who do use a solicitor never shop around.
45. The Competition and Markets Authority (CMA) has concluded that the market is not working well for public and small businesses. By removing outdated restrictions, solicitors will have the freedom to work where they want. That could help make it easier and more affordable for people to access the expertise and high standards that solicitors offer. As well as more public choice, this provides opportunities for solicitors as well.
46. However, while one local law society agreed that future accessibility of legal services was a major issue, it said that scoping out the problems needs more work. They and another respondent, concluded that the CMA study was arguably too narrow in its scope and not detailed enough to “extrapolate its findings across the entire legal sector”.
47. We will need to be clear about the extra protections available when using a solicitor in a regulated firm, as well as what protection members of the public have if using a solicitor in a non-regulated firm.
48. We are looking at improving the information available to the public so that they can make an informed choice.
49. However, several respondents felt that there was the need for an increase in relevant timely information to both clients and the profession, to assist them in making informed choices and choosing the right service at the right price.

Strategic aim four

We will make sure that our regulatory arrangements work as effectively as possible for the public, businesses, solicitors and firms in the context of constitutional developments within the UK and any new relationship with the EU

50. One organisation was supportive of this aim, and welcomed our focus on consumers in Wales and our continued relationship with the panel.
51. The response from the Welsh Government welcomed our proposals for cohesive working. It said that Welsh law should form part of the SQE. We

have given thought to the place of Welsh law within the examination and have been in discussion with Welsh universities. Based on these discussions, we do not think that the curriculum being tested in the SQE differs between English and Welsh law. We will expect candidates to demonstrate that they understand where there are distinctions and to understand the devolutionary settlement and we will continue to monitor any divergence between English and Welsh law.

52. The Welsh Government also asked that we consider how we will support solicitors to use the Welsh language. We already provide translation facilities on our website, publish our core documents in Welsh and provide practising certificates in Welsh. We will continue to record all requests for Welsh language translation and services and will review demand from stakeholders and assess where we can do more.
53. Several respondents were pleased to note the promotion of the benefits of the current arrangements.
54. One key issue respondents had concerns over was Brexit. We understand this concern, which is why we included it as a key issue in Strategic aim four. Several respondents highlighted that it should be a key priority and we should put on hold regulatory framework changes in times of uncertainty. However, we feel that the uncertainty which has followed the EU referendum result does not change the need for reform. Instead, these reforms could open the market up to more innovation and increased competition, helping the sector to grow and attract inward investment, as well as being good for consumers. Modern and proportionate regulation is essential for the vibrant and competitive international and UK legal market of the future. The Legal Ombudsman also supports this view and applaud us for “remaining focused” and commented that Brexit should not be at the “expense of everything else”.
55. We know many solicitors will be concerned about whether they will have the right to argue before EU tribunals, such as the European Court of Justice, in the future. That right is currently acquired through being a qualified lawyer of an EU member state. As more information from the negotiations becomes available we will monitor the impact on solicitors working in the EU very closely. We will provide solicitors with up to date information when it is available.
56. For further information, we published a report in September 2016, [Exiting the European Union: an update for lawyers](#). We have created a [hot topic webpage](#) to provide the latest updates on the UK exiting the EU and will continue to produce papers and resources to help solicitors.
57. One local law society asked why there was an increase in the number of strategic aims (from four to five). We do not have a defined view on how many strategic aims would be appropriate for any one three-year period. Having five aims in this instance reflects our views on our priorities over the next three years.

Strategic aim five

We will work better together, and with others, to improve our overall effectiveness, our responsiveness and the delivery of our regulatory functions.

58. One organisation supported our plans to modernise our IT system and the programme of engagement. They are concerned however, that there is not enough “consumer research and testing to guide regulation across the sector”. They said that, within this area, we could play a bigger role collaborating on research.
59. One local law society supported any work that would result in the improvements of the effectiveness, responsiveness and the delivery of our regulatory functions. It suggested that we may want to revisit our key performance indicators (KPIs).
60. This view was also expressed by the Law Society, which also suggested amending our KPIs to better reflect quality measures.
61. We agree that quality is important and use a range of KPIs across all our internal work. These are under constant review.

Consultation question one: Do you have any comments on the key factors we have identified in the legal services market and wider environment?

62. Overall respondents were supportive of our proposals and provided helpful comments captured below.
63. One respondent commented that they were “all good proposals to create opportunities for solicitors in-house or in private practice”. Another response appreciated that we will be looking into new areas.
64. One organisation provided a comprehensive response. In summary, it was in support of focusing on the changing market and innovation and commended us for the “high standards of service provided compared with other regulators”. It was clear throughout its response that regulatory structure and oversight is fundamental. It said that we need to consider preserving and evolving the regulatory structure and to ensure high standards. It also expressed concern over the insufficient numbers of solicitors breaking into new practice areas, especially with a consumer focus.
65. The same organisation also welcomed the promotion of Legal Choices as part of our commitment to transparency, but asked for this to go further with more information and engagement.
66. They believe that the legal services offered should be regulated rather than the full focus being placed upon the type of legal service provider.
67. One local law society recognised the key issues set out, including the need to provide reliable information and the importance of improving diversity. This was also echoed by another respondent, which also encouraged progression at senior levels.

Consultation question two: What should be our key priorities over the next three years?

68. Several respondents suggested the exit from the European Union as being a top priority. One local law society also believes that money laundering and cybercrime are key areas. It welcomed information and support, and was reassured that we will “take a sensible and pragmatic approach to anti-money laundering supervision”.
69. One organisation said that a key priority should be the “CMA’s transparency remedies in light of the deficiencies found in the market”.
70. Another organisation agreed in principle with the key priorities set out for the next three years. It highlighted sections where they felt further emphasis or focus was needed, one being to increase the engagement between those companies who use the data and how they use it.
71. We are currently consulting on publishing more of the regulatory data we hold about solicitors and firms we regulate as part of [Looking to the future: better information, more choice](#). We are also considering asking solicitors and firms to publish more information on the legal services they provide. One of the propositions is to build a register that holds our key regulatory data about solicitors and firms we regulate in one place and to make this available to the public.
72. Commenting on strategic aim two, one local law society raised concerns over the new Codes of Conduct. It said that it could make it “easier” for us to take action against solicitors. It suggested that the Enforcement Strategy will be need to clear and well communicated. Our current [Looking to the future: phase two of our Handbook reforms](#) consultation includes our revised enforcement policy, which underpins the Principles and Codes of Conduct we consulted on last year. This provides more clarity about how and when we will or will not enforce and factors we would consider. It reflects the findings of our Question of Trust campaign.
73. Other general comments related to:
- making it easier to report solicitors for breaches
 - publication of decisions
 - making sure that there is a consistency to enforcement
 - making sure firms and individuals know what is expected of them
 - focusing on the review of the Code of Conduct.
74. We are moving away from enforcing compliance with prescriptive rules, towards a model which seeks to enforce standards through a transparent framework that those we regulate can clearly understand. We set standards that establish clear expectations but also build in appropriate flexibility as to how solicitors ought to behave to meet those standards. The revised Enforcement Strategy will act as a guide to the expected behaviours which underpin our standards.

75. One local law society when answering question two suggested that the joint regulators' Legal Choices website should be extended to those working in the legal profession as well.
76. Several respondents commented on our complaints procedure and that we should focus on improving it. We are constantly looking at ways to improve our service and our procedures are monitored and reviewed frequently.

Consultation question three: Do you have any comments on our proposed programme of work?

77. Several respondents were supportive of the work contained within our strategic aims. They did, however, suggest that more detail would be helpful, specifically within our Enforcement Strategy.
78. One local law society welcomes the introduction of the new Codes of Conduct and the introduction of more proportionate, less burdensome regulation. However, it adds that we will need to be "more flexible than has been the case to date".
79. Several respondents raised the issue of regulated solicitors practising in unregulated entities. There was some support for the objective behind it to allow for a wider choice. However, there was concern over the possibility of large scale retailers entering the legal market and the impact of the system of redress.
80. Another respondent questioned whether our programme of work was flexible enough to adapt to change should we need to do so. We think that the publication of yearly business plans will focus on our objectives for the year, while this strategy keeps us focused on our high level aims. Should any changes arise, we believe we have the flexibility to respond.

Consultation question four: What in our Corporate Strategy 2017–20 do you think will make the greatest impact?

81. Several responses welcomed our Modernising IT strategy and business improvement, referencing specifically the sharing of information.
82. One organisation said that it would be an enormous benefit to the profession if we can achieve modernisation of the industry while maintaining and evolving excellent standards of regulation and consumer protection.
83. One local law society considers that if we were to engage more effectively with the profession then aim five could have the most significant impact. It also considers that we need to get the balance right between public protection and enforcement, relating to aim two.
84. One local law society had concerns around the SQE, how great an awareness the public would have of the rules associated with unregulated firms, and whether this could lead to a reduction in consumer protection.
85. Several respondents were concerned that the fragmentation of legal advice will lead to people becoming disillusioned as they deal with the unregulated

sector. There were suggestions that this may create a two-tier profession as well as reducing trust and confidence.

Consultation question five: What have we missed?

86. One local law society asked for more information on how we will be engaging with hard to reach groups referred to in strategic aim three. We work closely with local law societies, the Sole Practitioners Group, the Black Solicitors Network, the Society of Asian Lawyers, and other member groups. We also make efforts to ensure that we gather the views of groups who may traditionally have been under-represented through formal consultation responses, for instance through public focus groups and surveys. We will continue to do this over the next three years.
87. One organisation welcomed our commitment to promoting equality and opportunity in the profession, and supported our work on collecting diversity data from the profession.
88. They would like to see more on how we propose to use that information. We use firms' diversity data to help us quantify and identify disparities across diverse groups in the profession. We publish [reports on diversity in the profession](#) to provide an understanding of the demographic changes over time. We also use the data in-house to help us reflect on progress and identify areas for improvement. This helps us plan better and target our efforts in encouraging diversity in the profession more accordingly.
89. Several respondents expressed concern that there was no specific objective on diversity.
90. We are mainstreaming our work on Equality, Diversity and Inclusion (EDI) and have therefore decided not to set a standalone objective or to have a separate EDI strategy this year. All of our strategic aims have aspects of EDI, which are embedded in this Corporate Strategy. For example, strategic aim one:
 - involves positively supporting an increase in diversity at the point of entry to the profession through the SQE
 - working with the profession to improve diversity
 - monitoring the impact of the new strategy, including on the proportionality of regulatory outcomes across the range of protected characteristics.
91. We are drafting an EDI action plan setting out our activities under five priority themes, which are drawn from the work outlined in our Corporate Strategy. The action plan will include the diversity outcomes set by the Legal Services Board in their publication, [Encouraging a diverse workforce](#), and will be published in the autumn.
92. Several respondents raised the issue of transparency relating to our Board meetings and asked us to reconsider reinstating the public sessions. As part of our commitment to the ongoing review of our governance. The Board concluded that our current public meetings were not working well. The public were not attending and attendance from other observers was very limited –

for example no one at all attended our open session in January 2017. We are committed to effective and direct Board engagement with our stakeholders and the Board therefore decided to take a new approach. With effect from March 2017, we have moved away from public Board meetings to pro-active engagement around a series of Board meetings each year.

93. We have therefore extended our reach across the country, holding meetings in Wales and elsewhere in England, in addition to Birmingham and London venues. Board meetings have associated outreach activity across the full range of our stakeholders. For example, Board members have participated in focus groups with the public, seminars with groups such as the Legal Services Consumer Panel and Citizens Advice, and receptions for local consumer groups and firms. This is so we can continue to both hear from and talk with people about our work. We also continue to hold media briefings after every Board meeting and publish minutes of each meeting and as many papers as possible. We will keep this strategy under review.
94. One local law society commented on the exclusion of any commentary and financial tables. We have noted this and added a sentence to the last paragraph of the Corporate Strategy “making best use of our resources” to reference our funding and approval. Full budget setting and reporting is included in our annual NFR setting exercise and Group Annual Report.
95. The same local law society also highlighted that, while it agrees that a well-managed SQE could provide greater assurance of consistent standards at the point of entry to the profession, it was disappointed that we did not say anything about making sure the SQE raised entry standards in the strategic aims. Bristol Law Society was concerned about whether the SQE will do enough, or indeed anything, to encourage an independent, strong, diverse and effective legal profession, as set out in the Legal Services Act 2007 as a key regulatory objective.
96. One local law society was also concerned that issuing warning notices, while recognising their importance, could lead to firms ceasing to act on certain types of cases.
97. There were several responses relating to strategic aim five and making sure that we are open and transparent and tying that in with effectiveness. Specifically, one local law society felt there should be better communication with the public and local law societies.
98. We are committed to improving our overall communication and have made recent changes to build on this. Since June 2016, we now publish responses to our consultations in their entirety, unless respondents ask us not to. They are published alongside our response document to make sure information is in the same, accessible place.
99. As part of our Question of Trust campaign, we documented the views of 5,350 members of the public and profession on what should happen when solicitors get things wrong. We have engaged with many different groups about our new SQE in a variety of formal and informal ways. Over the past two years, we have spoken to almost 9,000 people, and received more than 500 responses to our two consultations.

100. Some respondents commented that we should focus on greater recognition of the challenges facing those we regulate and detail on how we will work with the Law Society. Several respondents also expressed that there appears to be more of a focus on members of the public and businesses than there is on the solicitors' profession.
101. One local law society was concerned that we had overlooked small, traditional law firms, and highlighted the need for this to be addressed as part of the issue of access to justice and unmet legal need.
102. We want to make sure that sole practitioners and small firms can comply with our rules in ways that work best for them, so that they can get on with doing business and serving their clients. We have set up a small firm virtual reference group in addition to other representative groups, and we offer the small firm helpline. We will continue to look at ways in which we can improve the work we do with small firms and find ways to make complying with our rules easier.
103. One organisation highlighted that as part of our reform programmes, we discuss the benefits to the public but we do not acknowledge the associated risks. When we put forward policy reforms we carry out and publish an impact assessment that looks at risks and mitigations. We also discuss major proposals with a wide range of stakeholders including members of the public. This process forms an integral part of our considerations.