



Council for Licensed Conveyancer Response to The Legal Services Board consultation on draft budget and business plan for 2025-26

We welcome the opportunity to feed into the LSB consultation and set out below our response to the consultation questions.

Q1 – Do you agree that our proposed workstreams for the 2025/26 business plan reflect the biggest challenges affecting the sector?

Investment in Statutory Decision team: Notwithstanding the complexity of applications for changes to regulatory arrangements, determination of formal applications can take a considerable time. Extensions to the determination period risk operational delay and other knock-on consequences for regulators, and we would therefore like to see some of the proposed investment go towards reducing the time from formal submission to final determination, something that would have a beneficial impact for regulators and indirectly, for the consumers safeguarded by the regulatory arrangements.

We would welcome investment in a review of the proforma application form for changes to regulatory arrangements. The existing form is cumbersome and difficult to format and, in our experience, does not seem to elicit all the information the LSB requires *in the format required* to enable timely determination of applications. We would be happy to discuss this further with LSB colleagues to see how that might be improved.

We also suggest that the LSB might consider reviewing the granularity of its approach to the scrutiny of proposed new or amended rules. It can sometimes seem that the LSB is ‘second-guessing’ frontline regulators’ decisions, rather than satisfying itself that a process has been followed by the regulator to ensure that the decisions it has reached are reasonable and evidence based.

We were encouraged to note the recent LSB board paper titled ‘Discussion on LSB approach to regulatory oversight’ which highlighted that oversight regulation ought to be focused on identifying high-level risks to the good functioning of the whole legal services market and ensuring that frontline regulators act to address risks in their areas of the market, where necessary.

The paper went on to make a further point which is that it is for *frontline regulators* to identify specific risks within their sectors and to address those. We support this approach to oversight and would reiterate that, with our detailed understanding of our respective markets, the information and intelligence we gather, and the close monitoring we undertake, frontline regulators are well equipped and better positioned than the LSB to determine how any sector-wide risks prevalent in their regulatory area should be addressed, and what regulatory levers to engage to effect change in the areas for which they are responsible.

Taken together, these steps may help to reduce the intensity of the resource taken to review applications from frontline regulators.

Oversight of the OLC: a few years ago, we were assured that the LSB were taking a proactive approach to the oversight of the Office for Legal Complaints Office (OLC) at a time of escalating cost and productivity issues at that organisation. Given the ongoing cost, productivity and proposals regarding data usage (as evidenced in its recent business plan consultation) we would welcome the LSB's renewed interest in that area, informed by broader insights than simply the assurances of the OLC and Legal Ombudsman, crucially from consumers, regulators and the regulated community who all work closely with or are subject to OLC and Legal Ombudsman investigations and decisions.

The insights of those that experience the services of the OLC firsthand will provide the LSB with a further perspective, particularly in relation to where the LSB can exert regulatory pressure to drive further change and improvements by the OLC.

Whilst we welcome the progress made by the OLC thus far, the OLC does not represent good value for money for those who ultimately fund its work – the consumer of legal services. In particular, the OLC could help improve consumer protection across legal services by making better use of the data it gathers.

The CLC has frequently raised concern about the disproportionate cost of resolving complaints, so many of which result in little or only very modest additions or uplifts to settlements that had been offered by practices to the client. A focus on information and training for the sector that aims to reduce the number of such cases could pay dividends

The CLC is taking steps to address the root causes of second tier complaints with the aim of driving down the number that reach the OLC. However, in the interests of our regulated community and consumers, we think the LSB could play a powerful role ensuring value for money from the OLC by exerting regulatory pressure on the OLC to publish data about first tier complaints and complaints handling in a timelier way, and to use this data to play a greater role in educating and informing change at first tier.

Ensuring accountability for expenditure to those who pay practising fees: Regulators must be able to demonstrate that decisions regarding practising fees are supported by evidence and sound business planning, and that relevant market factors and impact on regulated individuals has been considered. However, unless regulators' decisions are not evidence based or entirely irrational, we are of the view that it is regulators rather than the LSB that are best placed to determine practising fees, and the role of the LSB is best focussed on oversight in the true sense. This is especially true of the CLC, which is a pure regulator whose funding is not linked in any way to the funding of a representative body or non-regulatory purposes.

Cultural change regarding professional ethical conduct: The CLC strongly supports further work to drive a cultural step-change however, it is important that there is recognition of the fact that the serious ethical misconduct issues observed in some areas of the legal profession are not present at all or to the same degree in every area of practice. To a very large extent, the lawyers regulated by the CLC are not subject to all the drivers that can encourage practitioners to abandon ethical behaviour. Where that is the case the CLC's own Codes and enforcement mechanisms would deal with this. Any proposals put forward by the LSB should be proportionate and take account of the diverse nature of the legal profession, allowing different regulators to develop their own response that is proportionate to the risks in its regulatory ambit.

Disciplinary and enforcement review: Many of the enforcement tools available to regulators are determined in primary legislation and as such, change may not within the direct control of regulators. Thus, any LSB review of effectiveness of regulators' enforcement processes and tools should take account of instances where primary legislation constrains any such activity.

Q2 – Are there any areas missing from our proposed business plan 2025/26 that you consider should be included?

In its Business Plan the LSB notes the potential for further monitoring activity for other regulators depending on the outcome of the statutory process underway in relation to the SRA. We hope that lessons learned from the incident and ensuing regulatory action could be used to sharpen the focus of oversight regulation, rather than simply increase the frequency, complexity and depth of monitoring. .

We welcome plans to assess the effectiveness of the LSB's oversight activities however and suggest that the frequency, coverage and format of the currently annual regulatory return should be included in any such review.

The RPA is currently a very wide-ranging and detailed annual process, which tends to look at *inputs* to regulation i.e. how regulators deliver their statutory duties, at the expense of the *outcomes* of regulatory activity, an approach which is inconsistent with true risk based oversight of outcomes focussed regulation.

Rather than a blanket approach to oversight across all frontline regulators, we would like to see the LSB focus on risk in determining the proportionality of the annual oversight activities in relation to each regulator, particularly in determining the frequency and exact nature of oversight activities.

In determining the degree of oversight and level of reporting required in relation to the CLC, relevant risk factors might for example include the fact that we have a full, externally conducted audit programme and independently audited annual accounts, our proactive and robust risk-based approach to monitoring and inspection, and the effectiveness of our enforcement activities.

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

See our comments in response to Q5 below.

Q4 - Are there any opportunities for us to benefit from other research and/or find ways to collaborate with others in the sector to build on existing research/evidence?

It may be that the LSB could play a greater role in bring together the learning from the large amount of research and e.g. sandboxing that is underway across the sector (by regulators and across the regulated community) to understand and ensure an effective regulatory response to emerging technology. Past work in the area was useful but perhaps did not reach its conclusion and the opportunities and threats presented by new and emerging technologies have developed significantly since then.

Q5 – Is there anything missing from our proposed research programme that you think we should focus on?

Given the rate of technological advancement even since the LSB's 2022 Use of Technology and Innovation Survey, as well as the growth in take-up of technology and greater use of AI in legal services, it may be apt to include research into consumer perceptions and experience of technology and AI within legal services.

Given the LSB's strong focus on consumer empowerment, a further area of research might include how to drive greater consumer awareness of, and use of digital comparison and pricing tools so that regulators can play a more informed role in helping to change the LSB statistic which currently suggest that only 3% of consumers use online comparison sites.

Q6 - Do you agree with our proposed budget for 2025/26?

We are disappointed to note that the LSB has not taken a 'polluter pays' model in relation to the legal costs arising because of regulatory action against the SRA. The blanket increase of £3.84 to the

practising fees of all authorised persons wrongly punishes those not within SRA regulation. This potentially adds to concerns and risks undermining confidence in oversight regulation.

We wonder whether this could be revisited, particularly when set against wider factors impacting the entire economy.

Q7 – Are there any other factors regarding the proposed budget for 2025/26 that you believe we should consider?

Reflecting on the LSB's processes and approach to the oversight of the SRA may identify opportunities which would mitigate the need for spend on external legal advice in future and thus avoid burdening the broader profession with costs increases absent a move to a polluter pays model by the LSB.

Investigating the way the LSB procures legal advice may help to identify opportunities for costs savings, and there may be opportunity for savings in relation to the office move were the LSB to consider relocating from the West End.

Q8 – Do you have any comments regarding equality issues which, in your view, may arise from our proposed business plan for 2025/26?

Nothing to add.

Q9 – Are there any wider equality issues and interventions that you wish to make us aware of?

Nothing to add.

Submitted 03 February 2025.

END.