

LSB strategy consultation: Bar Standards Board Response

1. The BSB welcomes the opportunity to contribute to the LSB's strategy development and looks forward to working with the LSB over the course of its next strategic plan. Our answers to the consultation questions are provided below and we would be happy to discuss any of these matters further.

Question 1: Do you have any comments on the strategic themes that we have identified?

2. We support the strategic themes of fairer outcomes, stronger confidence and better services.

Question 2: Do you have any comments on the nine challenges that we have identified for the sector? Are there any important challenges that we have not addressed?

3. We welcome the LSB's acknowledgement that the challenges facing the sector are deep-rooted and can only be fully addressed in the long term, with a cross-sector approach and collaboration.
4. We broadly support the destination that the LSB is seeking to move towards, subject to comments made below about the need for prioritisation.

Question 3: How can you / your organisation contribute to overcoming the sector wide challenges we have identified?

5. The BSB will fulfil its role as one of the frontline regulators in the sector. We will be producing and consulting on our own strategic plan for 2022-25 during our next business year, focused on the specific regulatory challenges of the Bar, and will have regard to the priorities set by the LSB in doing so.
6. Our current strategic priorities are likely to remain relevant and are compatible with those identified by the LSB: delivering risk-based, targeted and effective regulation; encouraging an independent, strong, diverse and effective legal profession; and advancing access to justice in a changing market.
7. The BSB recognises the need for the legal professions to continue to increase focus on diversity and inclusion. We recognise the need to work with others (who may be better placed than the regulator to act) to address these issues. We want to work with stakeholders to understand where we can best add value, in the context of initiatives being undertaken across the profession to promote diversity and inclusion. Our aim is to agree some shared objectives with stakeholders as we develop our own strategy and we welcome the LSB's continued focus on this important area. We encourage the LSB to use its convening power to promote a cross-sectoral approach to challenge common facets of the legal services culture which work against diversity: examples include a presumption in favour of recruiting candidates from particular universities; long working hours; informal social contacts guiding the distribution of work; and so on.
8. Another key focus for the BSB will be setting the professional standards expected of barristers and ensuring that they meet them throughout their careers, which is fundamental to our role as a regulator. We have in place a strategy which is designed to fulfil that role,

but we will critically assess what further action might be needed to assure standards across the profession, guided by evidence of risk.

Question 4: Do you have any comments on the suggested areas of priority for the sector 2021-24?

9. A key challenge in the short to medium term will be prioritisation of collective efforts, particularly as the sector recovers from the impacts of the pandemic. We think it may be more effective to commit to measurable progress in a smaller number of priority areas rather than more diffuse commitments that may be difficult to implement or may struggle to make an impact. We have identified some of our key priorities in our answer to the previous question.

Fairer outcomes:

10. The priority of lowering unmet legal need is welcome. We agree that, “there needs to be a shift in mindset to seeing the justice system as a benefit not a cost to society, and where the whole system costs of legal issues are properly recognised in public spending priorities. At the same time, the legal sector needs to get better at quantifying these impacts, evaluating what works and demonstrating the benefits of interventions.” We should also seek to identify where unmet need risks leading to poor outcomes for individuals and society. For example, are economically viable SMEs at risk in the wake of the health emergency because of difficulties accessing legal advice about loan agreements or employment issues?
11. On reducing non-financial barriers, the LSB promotes Legal Choices as having a critical role in improving knowledge about how the legal system works and who people can turn to for help. The LSB is aware of the BSB’s views on this topic – we do not believe that the Legal Choices website alone provides what consumers need and we continue to support a joined-up strategy across the sector on public legal education.
12. The LSB seeks to draw on the experiences of other parts of the economy, where regulators have identified people in vulnerable circumstances and sought to make sure firms treat their customers fairly and embed vulnerability considerations into their culture, policies and processes. A focus on building such capacity across the sector would be welcome, if appropriately targeted.

Stronger confidence:

13. We agree with the aim of focusing regulation on areas of greatest risk, but a review of reserved legal activities is a significant undertaking and we agree with the suggestion that it is not a top priority right now.

Better services:

14. Efforts to build sector capacity to understand and respond to technology and innovation would be welcome – the LSB proposes that regulators’ capacity to deal with these issues should form part of its regulatory performance assessment. It will be important to ensure that a one size fits all approach is not taken here – innovation and technology may develop at different paces in different parts of the sector. An immediate priority might be to understand

how the use of remote technologies during the health emergency has affected access for consumers in vulnerable circumstances. A sharper distinction between technologies which aim to provide legal services or advice direct to consumers and technologies which aim to support the providers of services may also be helpful here.

15. The LSB has suggested developing a suite of 'simple legal products' to improve consumer engagement. We believe there may be merit in this work, if it focuses on those activities that can more easily be standardised.

Question 5: Do you agree with our proposal to pursue these workstreams? Is there anything missing that you think we should focus on in 2021-22?

16. See our comments elsewhere about the need for prioritisation, particularly where activities require input from the other regulators.

Question 6: Do you see any areas of joint working between the LSB and you/ your organisation?

17. Yes – see answer to question 3.

Question 7: Do you agree with our proposals that we should not undertake a statutory review of reserved legal activities in 2021-22?

18. Yes.

Question 8: Do you have any comments on our proposed market intelligence work? Is there anything missing that you think we should focus on?

19. No.

Question 9: Do you have any comments on our proposed budget for 2021/22?

20. No.

Question 10: Do you have any comments regarding equality issues which, in your view/experience, may arise from our proposed business plan for 2021/22? Are there any wider equality issues and interventions that you want to make us aware of?

21. No.

Bar Standards Board

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