

**REMEDIES PROGRAMME IMPLEMENTATION GROUP (RPIG)**

**Minutes of the second meeting of the RPIG  
held on Friday 12 May 2017**

<i>Attendees</i>	
Sheila Kumar – CLC, CEO (Chair)	Rachel Merelie – CMA, Acting Executive Director
Ann Wright – IPReg, CEO	Sharon Horwitz – CMA, Director
Jill Durham – CILEX Regulation, Director of Policy & Enforcement	Paul Kellaway – CMA, Assistant Director
Sue Chandler – CILEX Regulation, Consumer Engagement and Policy Officer	Matteo Bassi – CMA, Manager
Dr Vanessa Davies – BSB, Director General	Lola Bello – Legal Services Consumer Panel, Panel Manager (Item 5)
Peter James – ICAEW, Head of Regulatory Policy	
Howard Dellar – Faculty Office, Registrar	<i>Apologies: Stephen Brooker – LSB</i>
Crispin Passmore – SRA, Executive Director for Policy	
Paul Philip – SRA, CEO	
Caroline Wallace – LSB, Strategy Director	

**Introduction**

1. The Chair welcomed Members to the second meeting of the RPIG. Due to availability of attendees, a revised agenda order was proposed by the Chairman.

**Action points from previous meeting (agenda item 1)**

2. The Group discussed action points from the previous meeting. In relation to the action points that were not due to be discussed under other agenda items later in the meeting:

- All regulators present confirmed that they had taken action to amend their websites to ensure that there was a clear and prominent reference to the Legal Choices platform.
- Paul Kellaway outlined ongoing CMA engagement with MOJ, the Government Digital Service and consumer and business groups. Due to Purdah, the Government's formal response to the CMA's findings and recommendations would be delayed until after the General Election. The CMA would continue to liaise with the MOJ on developments in the sector.
- Vanessa Davies outlined the findings of BSB's review of content on GOV.UK which had identified a large number of pages (over 270) where improved signposting could be introduced.

### **Legal Choices and digital regulatory registers (agenda item 2b)**

3. Crispin Passmore outlined a high-level three-year strategy for developing the Legal Choices website. The priority in the first year was to ensure that there was appropriate governance and oversight of the website and to develop content. The focus in the second year would be on driving traffic to the website. There would be scope to test different approaches to promoting the website and in the third year there would be an evaluation of the project.
4. Members expressed support for the website as a tool to help consumers engage with the legal services. The site would sit in a complicated space occupied by various consumer groups and comparison tools and it would be important to work with others to ensure appropriate signposting. Suitable metrics would need to be determined to identify the website's impact. Whilst increasing traffic was important, it was equally important to ensure that visitors to the site were engaging with its content and found the content useful. Any expenditure on Legal Choices would incur an opportunity cost and regulators would need to assess the impact including on any practising certificate fees.
5. Members discussed the importance of having a defined governance structure of the Legal Choice editorial board. They also discussed the risk of cost overruns in promoting the website though it was noted that expenditure could readily be capped and that experience to date was that focused short term campaigns might be most effective. Given potential demands on regulators' time, a detailed assessment of the likely costs would be needed.
6. Crispin Passmore outlined the SRA's approach to developing its register that could then be used as a joint register. Members agreed that the priority in

relation to regulatory registers was to develop consistency in their respective data sets before moving towards a single register.

**Action point:** SRA to develop a more detailed plan setting out future governance of Legal Choices and details on costs and funding.

**Action point:** Regulators to:

- agree a governance structure and forward looking plan
- meet to discuss data structures of existing registers with the aim of building a common structure.

### **Information remedies (agenda item 5)**

7. Lola Bello presented on the Legal Services Consumer Panel's research on information remedies explaining the genesis and scope of the research as well as how its findings interacted with issues around customer segmentation. She explained that the report had not benefitted from its own primary research but was focused on assessments carried out by a number of regulators of their own interventions.
8. In developing regulatory requirements, regulators should at a minimum consider the 9 criteria identified in the report for successful implementation and consider if the intervention was likely to achieve them. Human behaviour was such that even with trials and lab experiments, unanticipated results were to be expected. The research noted that in some cases prescriptive requirements were necessary rather than pure outcome based regulation.
9. A question was raised as to whether research on effectiveness of information remedies extended into large corporates as purchaser. Paul Kellaway noted that the nature of regulatory interventions by the CMA and other regulators had largely been focused on individuals and small businesses, though in some markets such as statutory audit regulatory intervention had been necessary. As a result, most evaluation of effectiveness of remedies conducted by the CMA had been focused on consumer facing information remedies.

### **Action Plans (agenda item 2a & 2c)**

10. The Members outlined their progress to date and proposed approach in meeting the 30 June 2017 (publication of action plan) and 30 September 2017 (consulting on proposed approach) milestones. Members had made preparations for presenting their draft plans to their respective Boards for

approval ahead of the milestone. The majority of regulators present had shared a draft action plan with the CMA for informal discussion.

11. The CMA and LSB emphasised that all regulators should publish action plans by the 30 June 2017, even though some of the regulators may be less far advanced at that date in terms of developing the proposals that form the basis of the consultations in September.
12. It was noted that regulators had to consider a range of factors in designing their approaches including:
  - (a) The need to balance each of their eight statutory objectives and not just consumer engagement; and
  - (b) The need to be proportionate in the context of the Nolan principles and the government's approach to red-tape such as one-in-two-out targets for regulatory burden.
13. The ICAEW noted that it would need to adopt an approach that worked both for those entities that it regulated in respect of legal services and a much larger number of firms active in accountancy and other professional services. Using the definition of legal activities under [s.12 of the Legal Services Act 2007](#) was a potential approach.
14. Regulators were keen to consider issues in relation to international competition and how to avoid unintended consequences.
15. The CMA outlined a number of areas where regulators might be able to work collaboratively either in developing action plans or in delivering content.

**Action point:** CMA to circulate overview of areas for further discussion between regulators

**Action point:** All regulators to ensure action plans published by 30 June 2017.

### **LSB implementation of CMA recommendations (agenda item 3)**

16. Caroline Wallace outlined the approach that the LSB was taking in response to the CMA's recommendations:
  - (a) The LSB agreed with the CMA's findings.
  - (b) The LSB's proposed approach was considered proportionate.

- (c) The LSB had produced an optional template that regulators could adopt that had been designed to ensure consistency of approach and facilitate LSB's assessment of the action plans.
17. Caroline recognised the positive and collaborative approach adopted by regulators to date.
  18. Sheila Kumar asked if the template placed a greater emphasis on comparison tools and intermediaries than the CMA report had done; Caroline Wallace explained that the structure of the template was based on issues raised in the CMA report, but would check that issue.
  19. It was for regulators to decide what their respective priorities were. LSB would not second-guess regulators' decisions on proportionality, but regulators would need to show their reasoning and that the issues had been given due consideration – the action plan template could be used for doing this. In particular, the LSB would be keen to know what governance processes had been adhered to in reaching decisions, particularly decisions not to act. Caroline also said they would expect regulators to consider and reflect the 9 criteria from the LSCP information remedies research in their action plans.
  20. LSB offered, as did CMA, an opportunity for regulators to discuss their draft action plans informally with them prior to publication. It was agreed that given the timing of the LSB review of the action plans and the need to meet the consultation deadline, all regulators should carry on with implementation and not wait for the LSB decision. This was endorsed by the CMA.
  21. **Action point:** LSB to confirm scope of template compared to CMA recommendations.

#### **Involvement of third parties (agenda item 4)**

22. It was agreed that third parties such as representative bodies, and consumer and business groups had a role not only in helping to develop the content of Legal Choices, but also in advising on how to ensure any transparency requirements would be relevant and useful for consumers. Engagement with consumer groups was an area that the regulators could address together.

#### **AOB and action points (agenda items 6 &7)**

23. There was no other business.
24. Action points agreed by attendees.