

REMEDIES PROGRAMME IMPLEMENTATION GROUP (RPIG)

**Minutes of the third meeting of the RPIG
held on Wednesday 21 June 2017**

<i>Attendees</i>	
Sheila Kumar – CLC, CEO (Chair)	Sharon Horwitz – CMA, Director
Ann Wright – IPReg, CEO	Paul Kellaway – CMA, Assistant Director
Helen Whiteman – CILEX Regulation, Director of Policy & Enforcement	Matteo Bassi – CMA, Manager
Ewen MacLeod – BSB, Director of Strategy and Policy	
Peter James – ICAEW, Head of Regulatory Policy	
Howard Dellar – Faculty Office, Registrar	
Crispin Passmore – SRA, Executive Director for Policy	
Paul Philip – SRA, CEO	
Caroline Wallace – LSB, Strategy Director	
Stephen Brooker – LSB, Head of Research and Development	
Vibeke Bjornfors – LSB, Regulatory Policy Manager	
Lynn Plumbley – CLSB, CEO (by telephone)	<i>Apologies from Vanessa Davies, BSB</i>

Introduction

1. The Chair welcomed Members to the third meeting of the RPIG and introduced Vibeke Bjornfors from the LSB who would be involved in the review of regulator action plans.

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:
 - The CMA had circulated its high-level comments on the draft action plans that it had received.
3. Following-on from a discussion at the second RPIG, the Chair asked about the structure of the LSB template on action plans and Steve Brooker confirmed that these were based on the summary issues raised by the CMA and that the detailed recommendations throughout the report mapped against them.

Action plans

4. The CMA had received draft action plans from most regulators. All regulators confirmed that they were aiming to meet the 30 June milestone.
5. The Group discussed the likely dependencies of different elements of future consultations and rule changes, such as the collaboration between regulators in seeking a common approach in certain areas of law and the importance of implementing changes affecting common services (eg conveyancing) broadly at the same time. The Group discussed issues of scope, particularly where providers offered bundled services that cut across any areas of law where enhanced disclosures might be developed.
6. The SRA noted that it would likely consult on enhancing disclosure requirements in a limited number of areas of law. Sharon Horwitz asked the SRA whether it intended to expand these requirements into other areas of law if they were found to be successful. The SRA's view was to see how the market reacted and reflect on the need for any further intervention depending on whether providers of other services started making better quality information more generally. Both CMA and LSB expressed the desirability of having a broad coverage of interventions and voiced an expectation that mass market services would be covered – conveyancing was a good example where in order to really bring about change all regulators of the service would need to be involved, working to a collaborative timetable.
7. The Group discussed the risks around potentially increased regulatory burdens on small high street firms which served consumers and small businesses, whereas larger firms servicing large corporate clients would be potentially less likely to be affected. Research submitted to the SRA by one

business had however suggested that certainty over price might actually grow the market and reduce unmet legal need, as many consumers overestimated the cost of legal services and thus never sought professional help.

8. The group noted the important dependency on the Legal Ombudsman's data, the availability of which hinged on the OLC's plans for change and considered that it would be useful to meet with OLC to understand the change programme and whether it should be factored into consultations.

ACTION: CMA to circulate action plans received to date

ACTION: Regulators to circulate draft action plans once they have received appropriate approvals

ACTION: CMA to invite OLC to next RPIG.

9. A number of regulators were seeking approval for their action plans from their Board or other relevant governance bodies. Regulators requested any final feedback from the CMA to be provided as soon as possible.

ACTION: CMA to provide feedback

Timing

10. Sharon Horwitz outlined that the CMA was keen not to lose any momentum and that where possible, tightly scoped trials or pilots could be used in advance of wholesale regulatory changes which might necessarily have a longer lead time. This had already been mentioned at the previous meeting but having seen the plans it seemed that some actions looked like they may not happen until the end of 2018 at the earliest and that would be a long time from the report being published and give little time for market adjustments before the CMA's three-year review. CMA was keen to see progress on a shorter timeframe even if incremental and iterative.
11. The Group noted that should the CMA have any concerns over timescales (including the detail and contingencies of timing) to include it in any feedback and regulators would seek to address.
12. The Chair asked the LSB whether it had a preference on how proposed rule changes as outlined in action plans are submitted for review, either in tranches or alongside other elements of regulatory changes. Caroline Wallace said that the LSB would seek to be as flexible as possible and would support regulators in whichever approach worked for them. The LSB did not want to be a reason to hold anything up.

Legal Choices and digital regulatory registers

13. Crispin Passmore outlined the latest proposals for the development and promotion of Legal Choices. Although the SRA had taken the lead in developing the proposals and setting them out, they were owned jointly by the regulators.
14. There were some final discussions that needed to be concluded in relation to the funding and governance arrangements.
15. The CMA noted that its report recommended that the Legal Choices website should present a comprehensive whole of market overview of different types of provider including those not regulated by frontline regulators. The Group noted that the content of the website will be developed following the CMA recommendations, and noted the dynamic content of Legal Choices will be managed by the funding regulators.
16. Howard Dellar noted it would be useful to get a sense of the scale of traffic to Legal Choices. Ann Wright noted that whilst the Legal Choices site itself was one source of information, its presence on social media in engaging with consumers was a significant driver of traffic.

ACTION: SRA to circulate information on traffic and sources for Legal Choices.

17. The SRA shared its most recent analysis of regulatory data published by each regulator.

Engaging with third parties

18. The Group discussed potential avenues for ongoing engagement with third parties. Three groups of stakeholders were identified:
 - (a) Consumer and business groups
 - (b) Representative bodies
 - (c) Self-regulatory bodies
19. It was agreed that engagement with consumer and business groups would be most usefully done with a single approach rather than multiple regulators each making contact. There had been some initial contact with groups by the SRA in relation to Legal Choices, but there was scope to seek input in advance of any consultations later in 2017 and as developments were taken forward.

20. Caroline Wallace noted the LSCP's work on information remedies and suggested that regulators could draw on and reference to this work in finalising their action plans.

ACTION: Sheila Kumar as Chair of RPIG and CMA to approach consumer and business groups to hold a roundtable to identify issues to be covered in consultations.

21. Several regulators had met or were due to meet with their respective representative bodies to discuss potential actions in response to the CMA report. The CMA had three such meetings scheduled to date.

ACTION: Individual regulators to meet with their respective representative bodies, with attendance from CMA as appropriate.

22. Caroline Wallace noted that the LSB would be happy to participate in any meetings where it would be useful for them to attend. Furthermore, the LSB had developed a number of contacts in the unregulated sector as a result of its research which it could share with the CMA.

23. It was noted that many self-regulatory bodies and schemes had various requirements, such as PII, to at least in part compensate for a lack of regulatory brand and assuage consumer concerns and that many unregulated legal services providers were transparent. However, there might be scope for a general level of consistency and transparency where both regulated and unregulated providers are operating. It was agreed by all regulators that though there might be some static content on these bodies on legal choices, they could not and would not be involved in the editorial board or governance.

ACTION: CMA to engage with self-regulatory bodies at the appropriate time, which would likely be once more progress had been made in developing the transparency requirements.

Communications strategy

24. The Group discussed the indicative timing of respective publication.
25. Ann Wright suggested that there might be value of producing a summary of the proposals.

ACTION: Regulators and CMA to liaise and confirm plans to publish action plans.

Next steps – consultation

26. The Group discussed the timing of the next RPIG, which was likely to be 8 September ahead of the next milestone, to hold a consultation on their respective plans.
27. The CMA offered to provide any feedback on draft consultation documents as they became available and the Group agreed to share drafts in advance of the September meeting wherever possible to ensure a more consistent approach.
28. In assessing any subsequent rule changes the LSB was clear that it would seek to work with the frontline regulators to assess any proposed changes within 28 days and that if regulators wished to prioritise aspects of proposed changes the LSB would be happy to review changes in tranches if it would be useful to get things into operation more quickly.

ACTION: Regulators to circulate consultation documents to other regulators as appropriate.

AOB

29. The Group briefly discussed any possible data protection issues arising from publishing regulatory data and noted the need to reflect on the future impact of GDPR. However, there was commonly held view that publication of regulatory data could be dealt with by the usual wording at the point of licensing, which clarifies how data may be used.