

## **CMA Call for Inputs: SRA Response**

### **Introduction**

The Solicitors Regulation Authority (SRA) is the regulator of solicitors and law firms in England and Wales. We protect consumers and support the rule of law and the administration of justice. We do this by overseeing all education and training requirements necessary to practise as a solicitor, licensing individuals and firms to practise, setting the standards of the profession and regulating and enforcing compliance against these standards.

We welcome the opportunity to input to the CMA's review of progress in the legal services sector in England and Wales. We engaged closely throughout the CMA's study of the sector and then drew up an action plan in response to the CMA's Legal Services Market Study of 2016. We have delivered on that action plan in full and set out our progress in detail throughout this response.

Since 2016, we have implemented our Looking to the Future reform programme to make our regulation more proportionate and flexible. We brought in a sharp focus on high professional standards, removing unnecessary bureaucracy and restrictions that added regulatory burdens and costs onto the sector without benefitting the public. Our reforms introduced new ways of working for the profession so that they could deliver legal services that meet the needs of consumers. We have also implemented our Better Information programme, introducing new information and transparency requirements to help consumers navigate the legal services market.

These include the introduction of a new clickable logo to help people see what consumer protections they have when using a regulated firm; wide ranging requirements on firms to publish much more information about their services and a new Solicitors Register enabling everyone to validate that a solicitor or firm is regulated by us and providing key information about both individuals and businesses.

We have started a longitudinal research programme to evaluate the impact of our reform programmes over a five-year period. We will undertake reviews one year, three years and five years after implementation. Our response to this call for inputs draws on new data from our Better Information One Year Evaluation study. We will shortly be publishing the full findings of this independent study, undertaken by market expert IRN, which sets out the views of over 2000 individuals and 1500 small businesses.

### **Questions regarding information remedies and supply-side developments**

#### **Question 1. What challenges have legal service providers faced in complying with transparency measures, and how could these be addressed?**

Our Better Information programme was introduced in December 2018 and has focused on increasing openness and transparency across the profession so that consumers could access the information they need. It placed new obligations on firms to publish information

about price, service, redress and regulatory protections - all the areas set out in the CMA's recommendations. As part of their introduction we issued extensive guidance to firms about these new obligations and engaged and communicated widely with the public and the profession. We continue with that communication through our ebulletins, publications, social media and events.

We have also conducted a programme of monitoring and engagement to encourage compliance. A major part of this has been a rolling programme of web sweeps. We have found that most firms that are offering services in the areas where we have mandated greater transparency have engaged and are starting to publish key information. This is supported by recent price of services research undertaken by the LSB and the CMA highlights that in general 40% more providers were displaying price information than in 2017<sup>1</sup>.

A small proportion of firms did not initially engage. In these instances, we have contacted them, informing them that they must come into compliance. A very small number of firms have continued not to meet their obligations and we have taken regulatory action against them. In July 2020, we began a rolling programme requiring cohorts of firms to provide declarations of compliance against the transparency rules. The majority of firms have stated that they are compliant.

We have found some variation in the way that firms have presented information and the detail of information that they have presented. In some cases, whilst firms have tried to meet the new requirements, the information provided has not been sufficient across all areas. We have provided advice to these firms in order to support them in becoming wholly compliant. The findings of the web sweeps have also allowed us to further develop our guidance which should improve compliance further. We have produced targeted guidance that addresses the most common areas of non-compliance. Alongside this, we have engaged with compliance companies and professional bodies and have made some changes to our guidance based on feedback received.

As noted, alongside the development of the reform programme we committed to an extensive longitudinal evaluation. As part of our Better Information One Year Evaluation study, we have conducted surveys and interviews with law firms to understand how they are adapting to comply with the rules, and where barriers might arise.

Most firms that we have surveyed said that they are engaging with all parts of our transparency requirements. The general view was that there has been minimal financial outlay required to meet our requirements although there were some human resource costs. Firms noted that the implementation of the rules appeared to have had no impact on their pricing. One potentially unintended consequence of the reforms that had been frequently suggested prior to their introduction was a 'race to the bottom' with firms artificially lowering prices to win business. As declared by firms in our evaluation, there appears to be no evidence of this in the market.

Surveyed firms said that the biggest challenges have been around:

- Not knowing how much price information to provide

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<sup>1</sup> <https://www.legalservicesboard.org.uk/wp-content/uploads/2020/09/Prices-of-Individual-Consumer-Legal-Services-Sept-2020-1.pdf>

- Variability in type and complexity of legal issue and associated cost

We will review our rules and guidance in light of survey information and do follow up work as well as incorporate the findings of the CMA review into our support for firms.

One potential barrier that has been raised with us by various stakeholders is that many firms have a negative view of complying with the rules. Some firms did report business benefits to publishing the information covered by the rules though, for the most part, the view was more negative. However, it should also be noted that we understand that most firms are not actively tracking impacts. This starkly contrasts to what we found when talking to individual and small business consumers of legal services, who are reporting benefits in having access to better information. We believe therefore that one of the key things we can do is publicise the benefits that consumers are gaining from increased transparency and shifting the perception of firms towards seeing the benefit of compliance. And potentially also publicising case studies of firms who have tracked, and are seeing, business benefits. This should highlight the benefits to both firms and consumers of a transparent and open market.

In order to address the key barriers of uncertainty about what types of information to provide, and how much of it, we will continue to learn from our web sweeps and evaluation work, and use these findings to update the guidance and support that we provide to firms.

**Questions 2 and 3 – combined answer. Are consumers engaging with the new transparency measures including the availability of price information, e.g. by accessing the pricing information on the provider websites and/or using this information in their interactions with providers? Does this differ between different areas of law?**

**How effective have transparency measures been in driving competition? Does this differ across areas of law?**

Through our Better Information One Year Evaluation study, we have found significant levels of engagement with the transparency measures from both individual consumers and small businesses. Around 80% of both groups reported that they found the information provided either useful or very useful and 85% of both groups reported that they had all the information that they needed to make a good choice.

In terms of how they were accessing information, around 70% of both individual and small business consumers looked at a firm website before instruction. This contrasts with the perception of firms, half of which believe that at most only 25% of consumers use their website before instructing them. This is a key finding in encouraging firms to comply and embrace greater transparency.

A majority of both consumer types indicated that they looked at price information – 68% of individuals and 56% of SMEs. Around a third of each group looked at information about timescales, who would do the work and whether the firm was regulated. Around 15% of both groups reported looking at the logo. A third of both groups also reported looking at quality marks with 47% of individuals and a third of SMEs looking at customer reviews – information that we do not mandate.

It is important to note that a significant number of consumers did report that whilst the information was useful, some of the information was hard to understand. This is where we will continue to support firms in providing clear information to consumers both through tailored support and further guidance where necessary.

One finding of significance is how information on pricing has changed consumer understanding and perception of legal services. We found in our evaluation work that in seeing pricing information only 10% of individuals and 13% of small businesses realised it was unaffordable. This compares to research conducted before our reforms showing that 63% of adults and 83% of small businesses saw legal services as unaffordable<sup>2</sup>. This indicates potential to improve access to legal services for some consumers by helping them understand that they can afford advice where previously they may have assumed the services was unaffordable.

Referrals and supplier reputation currently remain the most influential factor in consumer choice, though consumers do now have extra information to support their decision and provide a more accurate perception of service and cost prior to engagement.

As noted by the CMA, we do not expect immediate, substantive change in the market. We agree with the CMA hypothesis of a three-stage process whereby firms introduce the changes, consumers become aware and begin using the information, which then may lead to increased competition and significant market change. Although there is evidence that consumers are engaging with the information available, it is likely that we are still in the first stage of this process.

Our forward evaluation programme will play a key role in monitoring progress through the stages over the next five years.

**Question 4. To what extent has the Legal Choices website helped consumers to navigate the legal services sector? To what extent has improved content been actively promoted by regulators, consumer/industry bodies and service providers?**

Legal Choices is a joint legal regulators website and social media presence offering independent, objective and factual information that helps people and small businesses in England and Wales to get to grips with legal services. We run Legal Choices on behalf of the regulators.

In response to recommendations in the December 2016 CMA report, the regulators agreed a three-year development plan for Legal Choices. A full report of that programme of work has been submitted in response to the CMA call for inputs.

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<sup>2</sup> Hodge, Jones & Allen, Unjust Kingdom: UK Perceptions of the Legal and Justice System, Innovation in Law Report 2015, 2015, p10

Since the 2016 review we, along with the other frontline legal regulators (with the exception of the BSB which withdrew from the project in 2019), have delivered a three-year programme of content development and marketing with the long-term objective of building a resource that helps consumers to navigate the legal services sector. We set out to achieve a number of objectives as part of this programme:

- redeveloping the content offering of Legal Choices, based on rigorous user research, to provide a resource that truly reflects consumer need;
- scaling up and diversifying marketing activities whilst extending stakeholder engagement to grow the reach of Legal Choices; and
- consolidating internal governance.

In line with developing the content on Legal Choices, the regulators have followed a user-centric, evidence-based approach to content development, as detailed in the three-year report. The output of this research and testing has been the development of four new content products which are currently in beta. Three of these products are aimed directly at consumers and are called: Help me understand the process, Help me trust my lawyer, and Help me understand legal terms. A fourth content product is aimed at frontline advisers: Help me give good advice, meeting the CMA recommendation to support the vulnerable and digitally excluded. One of the beta products, Help me understand legal terms, has been accessed by almost half a million users over the past six months.

As noted, in order to increase the reach of Legal Choices we have also scaled up and diversified marketing activities. The regulators set out with an objective of achieving 2-3 million visits to Legal Choices in the three-year period to October 2020 and this objective has been met.

Much of this success has been because of targeted social, digital display and search marketing activities conducted in 2020. Our evaluation work has shown that 37% of individual consumers were aware of Legal Choices, and 11% had used it. Equally, over half of the small business we surveyed (52%) were aware and 22% had used Legal Choices. The regulators have also driven traffic from their respective websites to [legalchoices.org.uk](https://legalchoices.org.uk).

Active promotion of the Legal Choices content offering is essential to the long-term objective of helping consumers. In addition to wider marketing, Legal Choices also benefits from links and promotion by affiliates and this is an area which has already grown and will be developed further. Referral traffic (excluding social traffic) in the period March-August 2020 was almost double that of the same period a year earlier. Legal Choices currently has approximately 120 referrers, including 75 websites that fall into the following categories: consumer/industry bodies, charities, service providers. A further 45 referrers are categorised as regulator and government websites. In line with a CMA recommendation, Legal Choices is fully linked with GOV.UK.

Legal Choices governance has been enhanced with a new Legal Choices Governance Board chaired by the Council for Licensed Conveyancers and made up of the chief executives of each participating regulator to provide strategic and budgetary oversight, as well as a refreshed and expanded Legal Choices Steering Group, chaired by the SRA, with a

wider membership including the Legal Ombudsman and the Legal Services Consumer Panel.

It is supported by the Legal Choices Advisory Panel, established in late 2017. The panel comprises 17 member organisations including consumer focused organisations, charities and advice givers. The panel has played a key role in work to develop the Legal Choices content offering, with members actively participating in product ideation and testing of prototypes. Finally, Legal Choices signposts people to information for England and Wales. It also now provides links to resources that provide help to those in Northern Ireland and Scotland.

**Question 5. To what extent are quality indicators needed to drive consumer engagement and competition? Which further indicators are needed and what are the barriers to these indicators being developed?**

As part of the transparency requirements we have taken a number of steps towards helping consumers understand the quality of the service they are purchasing.

Firstly, we included within our new Transparency Rules the requirement for firms to publish information about the experience and qualifications of their staff. This was supported by guidance that provided examples of best practice. We also issued guidance to firms about engaging with review sites.

We have introduced the Solicitors Register that allows consumers to look up any solicitor or law firm regulated by us to check their status and see whether there have been any regulatory findings against them. We have also, for two years now, published aggregated data on complaints made to solicitors, providing an updated report annually. The LSB has encouraged other regulators to follow our example in this.

In our action plan in response to the CMA's 2016 report, we committed to properly evaluating the impacts of the obligations that we introduced and actions that we took. And to use the results to take an evidence-based approach to refining our approach or placing any further obligations on firms. We believe that further intervention to mandate indicators of quality should be informed by this evidence and similar evidence gathered by the other legal regulators.

We have included a number of specific questions in our independent Better Information One Year Evaluation study about what quality indicators consumers use and want, and what providers offer and think about the quality indicators that they provide. The study captures the views of over 2000 individuals and 1500 small businesses.

Even at this early stage, it is positive to see 74% of individual consumers and 82% of SMEs in this large-scale study reporting that it was easy or very easy to know the quality of service they may receive. Nearly half of individual consumers and a third of SMEs report already looking at customer reviews.

There were mixed views about what quality indicators are important to consumers and what information they value. Significantly, consumers reported that they value word of mouth over

digital information and there is some scepticism over review sites and comparison sites, with concerns that information can be manipulated, and reviews are not always independent. It is notable that a significant proportion of consumers that were aware of review sites and comparison tools chose not to engage them.

We are committed to properly evaluating the impacts of changes introduced so far and taking an evidence-based approach in considering whether amendments to our requirements or further interventions might be needed. This will help ensure proportionality and effective targeting, while minimising the risk of unintended consequences.

We will publish the results of our research and use this as a basis for wider discussion about what further information may help consumers. The findings do not clearly indicate whether or what further intervention is needed and what form it might take.

It is likely that further work will be needed to better understand some of the findings so that, as an evidence based regulator, we can consider how best to assist consumers further and to assess the benefits and risks of any options identified

As part of that we will hold a round table with third party DCT providers to gauge the impact of our transparency work to date and if it is giving them the information they need to develop and implement new tools in what is an open and competitive market. We also want to make sure we identify and tackle any remaining barriers to developing DCTs. To this end, we are already looking at the scope for a DCT in a specific area, such as conveyancing, in discussion with other regulators. Areas we will collectively want to understand better through any pilot work include the impact of regulatory intervention on the DCT market and how firms already using established products respond.

We are also undertaking analysis about how quality indicators might work across all services and areas of law and services for which we mandate transparency requirements. We are keen to explore how such indicators could work for less common legal services where there may be unmet need, in contrast to services such as conveyancing where most people buying or selling property use a lawyer or other professional help.

One area that the CMA also considered was whether a single register for all regulated legal services providers may help consumers. This was explored by the joint regulators in 2017. As part of that, we undertook a data mapping exercise across all the regulators and proposed a joint technical piece of work to build on that. The regulators decided that the time was not right to undertake that work.

We went on to build our Solicitors Register, covering the firms and individuals we regulate, and showing the regulator for individuals within the firms who are not on the roll of solicitors. This additional information offers clarity to consumers and others in what we recognise is a complex landscape.

Separately, in our Legal Choices workstream research and user engagement led to the development of the 'help me to trust my lawyer' product, which searches publicly available information from across the regulators' registers and provides disciplinary data to the enquirer. This product, which will also share Legal Ombudsman data, will cover the overwhelming majority of the legal sector in England and Wales.

**Question 6. To what extent are DCTs currently operating in the legal services market? What are the main barriers to greater use of DCTs in legal services and how can they be overcome?**

Alongside the introduction of the transparency rules, we have aimed to support the development (and use of) of digital comparison tools through improving our data sharing with these providers, putting in place an API to facilitate data feeds. There are currently 11 that access our data.

The initial findings from our Better Information One Year Evaluation study indicate that the use of digital comparison tools by legal services providers is still limited in this sector. Only 2% of providers provide information to DCTs and only 2% said that they intend to in the future. There remains scepticism from both consumers and providers about their overall usefulness and effectiveness.

The DCT market appears to be still emerging, in line with the CMA three stage model, and needs time to develop following the implementation of transparency requirements.

In order to support that development, we plan to refresh and publicise our relevant guidance in light of the evaluation findings and highlight the potential benefits, using case studies where possible. As referenced above, we are planning a round table with third party DCT providers to gauge the impact that our transparency work has had to date and whether it is giving them the information they need to develop and deliver new products. We also want to make sure we identify and tackle any remaining barriers to developing DCTs

We will also reflect the most up-to-date recommendations on standards for DCTs published by the Legal Services Consumer Panel and the CMA.

**Question 7. What impact have alternative business structures and lawtech had on driving innovation in the sector? Are there any barriers deterring further innovation?**

We began licensing Alternative Business Structures (ABS) in 2012. Whilst the uptake of the ABS model was initially slow, we now regulate 944 ABS' which is almost 10% of all providers that we regulate. The uptake of the ABS model in large firms such as the 'Big 4' accounting firms means that ABS' now account for around 17.4% of the market by turnover. Of these, 20 are multi-disciplinary practices, meaning that they provide legal services and other professional services under one roof.

Our own research, and that of others, has shown that ABS' are more likely to innovate than other types of legal providers. In 2018, [the LSB](#) found that ABS' are three times as likely as other law firms to be using lawtech, and that newer ABS providers and larger providers all have higher levels of service innovation. Firms cited intensity of competition and the availability of tech as the big influences on the introduction of new services, ahead of changes in demand, so it is clear that the work of ABS' in innovating has the potential to drive other firms to do the same.

The development of technology has traditionally been focused on supporting law firms to deliver effective and efficient commercial services. We are now seeing the development of



(and investment in) more lawtech designed to deliver services to individual and small business consumers. There is likely to be further acceleration as a result of the Covid-19 pandemic and a move away from face to face services.

We are currently exploring what we can do as a regulator to increase the adoption of technology and stimulate innovation across the sector. This is a core priority for us in the new Corporate Strategy. We recently completed the Legal Access Challenge, which has shown the importance of driving innovation to improve outcomes for consumers. Our two winners were a technology platform which helps survivors of domestic abuse protect themselves from violence and a chatbot designed to assist people, including those with learning disabilities, understand their social care rights.

**Question 8. Are there any other developments which have had or will have a significant impact on competition in the sector?**

The legal market, like any other, is currently experiencing a period of increased uncertainty caused by the Covid-19 pandemic. It will take some time before the implications for consumers and legal services providers are properly understood. But it is likely that there will be some disruption with potential for firm closures, mergers and diversification into areas of law less affected by the pandemic, whilst others who see an increase in demand may look to expand market share. These factors are likely to have a significant impact on competition in the sector. It is too early to tell whether individual solicitors will be more or less likely to take advantage of greater flexibility in a time of increased uncertainty. Equally, firms that may have previously been resistant to change and innovation have found themselves thrust into the new normal, which could improve outcomes for solicitors and their consumers.

Aside from this, and in line with the adoption of alternative business structures, there is likely to be increased competition from new entrants, particularly at the top end of the market. This is predominantly being led by alternative structures like the big four accounting firms but also from larger international law firms looking to move in the U.K market. With the societal move to greater flexibility, both in labour force, but also in the supply of services this shift is only likely to increase, perhaps at a greater speed than initially anticipated.

**Question 9. Are further measures needed to drive consumer engagement and competition in legal services in addition to the areas we have identified above?**

As noted, in the stages of change from policy reform to market shift it is likely that we are still in the first stage of implementation and compliance. We introduced the Better Information reforms in 2018, and although these types of reforms can take a long time to make real change, the results from our evaluation work are encouraging. Our Looking to the Future reform programme, which aims to encourage competition through supply side flexibility, was introduced more recently in 2019. Since then, the impact of the Covid-19 pandemic has introduced significant uncertainty for all our communities and into the legal market, all against the backdrop of the UK exit from the EU.

At this stage we believe our key role is in monitoring these programmes and understanding their impact which will in turn allow us to understand whether further measures are required. The current indication is that both of these programmes are having positive effects on legal

service providers and their consumers, though we do not believe the full effects have yet been realised. We are committed to ensuring an open competitive legal market and will work with others to consider whether further interventions are required and when.

**Question 10. Are there any issues specific to the provision of legal services for small businesses that should be considered in order to improve competition for such customers?**

Through our Better Information One Year Evaluation study we are seeing that the experiences of small businesses accessing legal services are broadly similar to that of individual consumers, and that they are benefitting from the transparency rules. It is worth noting that small businesses are more likely to have existing relationships with legal providers and engage with the same provider over time. Improvements in competition stimulated by increased shopping around could therefore be slower in this group, though that is not to say they will not happen. As highlighted above, further investigation and evaluation into the effects of the current reform programmes is needed to fully understand what more we can do.

We are conscious now more than ever of the needs of small businesses at a time of national and global economic uncertainty. Our findings therefore that small businesses are engaging with the mandated information and using it to get the advice they need along with realistic estimations of the service provided are encouraging.

**Questions regarding redress and regulation**

**Question 11. What measures can be taken to develop a more flexible and proportionate regulatory framework within the Legal Services Act 2007 without requiring any, or only light touch, further legislative change, for example a review of the reserved activities as being considered by the LSB?**

**Question 12. Would such measures above be sufficient to deliver effective change that can promote competition and optimise consumer outcomes in the longer term?**

Over the last five years, we have delivered our Looking to the Future reform programme to provide a flexible and proportionate regulatory regime within the existing framework. This included a wholesale review of our rule book to focus on clear standards while removing unnecessary rules and requirements. This approach provides solicitors and firms with more flexibility in the way they apply our standards to their practice. Our reforms have also provided greater flexibility about where and how solicitors can deliver services to the public, with different levels of protection for consumers to choose from.

Through our regulatory approach, we operate a degree of targeting and risk-based regulation. For example:

- Specific requirements that apply to those that handle client money (and restrictions on some types of provider from doing so)
- Undertaking risk-based assessments of firms AML systems and targeting activity towards areas where there is a potential concentration of bad practice

- Flexing our requirements to reflect other obligations and protections that might be in place such as for Multidisciplinary Practices that are subject to other sector regulation and cross-border firms subject to regulation in other jurisdictions

We note that there may be merit in Professor Mayson's recommendation that there should be an obligation on regulators to apply only the minimum necessary regulatory requirements to target an identified risk in order to keep the costs and burdens of regulation as low as possible. We have found through implementation of our reforms that there can be institutional resistance when trying to ease longstanding restrictions and requirements to be more flexible and proportionate. Such a change could therefore assist regulators with creating a more flexible and proportionate regulatory framework.

Nevertheless, there is more that can be done under the existing framework. For example, the development of activity-based licences (allowing individuals to provide individual reserved legal activities) has the potential to help address the issue of 'all or nothing' regulation raised in Professor Mayson's report. This is something that we may explore in the future. We would explore benefits and disbenefits, with any proposals being subject to consultation. Some limited legislative changes may be needed if we did decide to develop activity-based licences to ensure we can fully regulate providers and that our full range of protections are available to consumers. This would depend on where we decided to allow individuals with activity-based licenses to practise.

Another option that is open to regulators is to consider a voluntary scheme for providers wishing to deliver only unreserved legal activities, for example, will writing. Regulators could set requirements for providers wishing to be 'accredited' by them.

Beyond this, there are also limitations under the current framework. As we highlight in our new Corporate Strategy – the boundaries between professions, between sectors and between jurisdictions continue to blur and as a result the way services are delivered, who delivers them and how they are bought are all changing. This presents potential gaps and overlaps in protections and has the potential to be exacerbated by developments in innovation and technology.

**Question 13. To what extent is there merit in extending the regulatory framework to include unauthorised providers? What evidence is there of consumer detriment from unregulated providers, or other rationale, to warrant this?**

Complexity, fragmentation, consumer confusion and the capability of the regulatory framework to adapt to developments in technology are very real challenges that broadening the regulatory framework may help to address. It has been well documented that many consumers of legal services believe all legal services providers to be regulated and many are therefore mistakenly reassured that if things go wrong, they will benefit from protections that do not apply to them. Extending redress to these consumers would go some way towards addressing this disparity and would provide a minimum safety net for all consumers.

Such an extension would not be without its challenges, for example, in defining what is meant by legal services, agreeing a funding model and in bringing all providers within the scheme. There are also risks in terms of the additional costs of regulation being passed on to consumers and the potential impact of additional regulation on the pace of innovation. Even a low level of regulation has the potential to dampen innovation. Further, there is no guarantee that additional regulation will improve consumer confidence in the wider unregulated legal services market.

We have introduced measures to help consumers make informed choices about which legal services provider they choose, including the introduction of our digital badge for all regulated providers and the Solicitors Register. These changes already go some way to mitigate the risks around consumer confusion and lack of confidence.

Clearly, there is a balance to be struck and careful attention must be paid to all potential impacts. We would also caution against a starting assumption that all unregulated providers are 'bad'. As time goes on the evaluation of our reforms will provide valuable evidence in relation to the wider unregulated market and consumers ability to navigate it. We will also begin to see whether solicitors have moved into this market in any material way as a result of our rule changes and whether this has had the anticipated positive effects on standards.

**Question 14. We recommended a review of the independence of regulators both from the profession and from government, to the MoJ in the CMA market study. Is that review still merited, taking into account, for example, the work that has been undertaken by the LSB on IGRs and the arguments put forward by the IRLSR?**

We have already made significant progress under the current framework and continue to do so.

**Question 15. What work has been undertaken by regulators to reduce the regulatory burden on providers of legal services for individual consumers and small businesses? What impact has this had?**

We have made significant progress both before and after the CMA's market study in reducing the regulatory burden on the solicitors and firms we regulate:

- Our Standards and Regulations make for smarter and more focused regulatory expectations, and greater flexibility in terms of compliance approaches for firms. We reduced our Handbook from approximately 400 pages to around 100 pages and have similarly reduced the amount of regulatory guidance on our website. We have received positive feedback about these changes both from those we regulate and other legal services regulators
- We have undertaken "red tape challenge" exercises with firms that has resulted in us lifting burdens on small firms, adopting a more proportionate approach to reporting including accountants' reports and diversity data
- We have removed restrictions on how solicitors can practise and deliver services to the public, widening the legal market by allowing solicitors to practise on their own as freelancers and outside of regulated law firms. This provides more choice to consumers
- We have been clear that these changes offer opportunities to those that wish to change their model of practice or ways of operating, without additional burdens to those that wish to continue with their existing ways of working

- We have used our Innovation Space to facilitate piloting of different ways of working for those looking to change their business model or enter the legal services market – delivering proportionate and targeted regulation for innovators

We will be reviewing our regulatory fees over the course of our new Corporate Strategy to ensure they are proportionate and targeted. We have begun to assess the regulatory burden placed on providers by the Transparency Rules through our one year evaluation review of our Transparency Rules in particular. We asked them whether it was costly to implement the new requirements and found that after an initial outlay, the ongoing cost is low. Further, firms have avoided changing their pricing structures in response to our requirements.

We will begin the One Year Evaluation study of our new Standards and Regulations in 2021.

**Question 16. What impact has the removal of restrictions to allow solicitors to practise in unauthorised firms had on the availability of lower cost options in the sector?**

The removal of restrictions which provide greater flexibility to solicitors is one of the key rules that our executive and board are keenly interested in assessing and we are actively monitoring this through our evaluation programmes.

As noted previously, we do not expect the removal of restrictions to result in an immediate market shift, however we are seeing solicitors taking advantage of the new rules. Ten months after the rules were introduced, we currently have 229 solicitors that have registered with us as freelance solicitors, 59 of whom are providing reserved legal activities.

We are yet to see any significant impact generated by the removal of restrictions and it is likely to be too early to see such impact. We will continue to monitor this closely to ensure the rules are benefitting solicitors, and also not causing any detriment to consumers.

**Supplementary questions**

We have addressed most of the supplementary questions in the main body of our response. Please see relevant references below.

**Transparency: questions supplementing Q1-Q3 of the CFI**

**How satisfactory is progress, what are the key challenges and learning, what further work is planned including changes to rules or guidance, what is our enforcement strategy and what have we done to enforce the rules, examples of good and bad practice?**

*Please see our answer to question 1, with further information detailed below:*

Some of the key challenges that we faced in the early development and implementation of the rules were:

- Making rules which are consistent and workable across such a diverse range of legal services.
- Striking the balance between achieving the desired outcomes for consumers whilst minimising additional burdens for firms (with resultant costs to consumers)
- Ensuring that rules are targeted and proportionate for all types of providers that we regulate, from large corporate firms to freelancers.

Through engaging with numerous stakeholders during the development of the transparency rules we believe that we were successful in overcoming these challenges. However, as noted earlier we are also committed to reviewing our rules and guidance as part of our evaluation process.

Regarding our enforcement, the SRA has a clear [enforcement strategy](#). This sets out our approach to enforcement to ensure that we enforce our requirements evenly, consistently and fairly. In accordance with this strategy, we have carried out a range of activity from providing advice, through to formal regulatory action.

We have seen many examples of good practice, where firms have been careful to publish all of the required information on their websites in a way that is as accessible as possible to consumers. We have also come across examples of firms not complying with our requirements, including providing none of the required information, providing incomplete or confusing price information, or burying the required information within their websites. We have published guidance for firms following our first round of web sweeps, providing extra guidance on the six most common reasons that firms had not met our requirements.

## **Legal Choices: question supplementing Q4 of the CFI**

### **What are your views on the future of the Legal Choices website?**

Increasing public understanding of their legal rights and duties is a regulatory objective under the Act. It is also the right thing for any regulator to do and we take that obligation very seriously. That is why we not only contribute the majority of the funding to the joint Legal Choices website, but make a very substantial 'in kind' contribution by running and managing the website, the product development, the marketing and most of the administrative, legal and governance requirements.

We have real confidence in the Legal Choices website and its potential both to help individual consumers and as a sector wide contribution to public legal education and access to justice, which is all the more important against the backdrop of the Covid-19 pandemic.

#### **a) What key challenges has this faced to date?**

The three year development programme has been successfully delivered and the detail is set out in the summary report. There have been two key challenges. The withdrawal of the BSB in July 2019, so that they could deliver their own approach to public legal education, left a funding gap and the remaining regulators have now made up that funding shortfall for 2019/2020. The second key challenge has been agreeing the forward funding envelope. After detailed discussion over recent months, we welcome the agreement by fellow

regulators to funding the first year of the future programme and that of the overwhelming majority to funding the full three years.

**b) What funding and governance arrangements are most appropriate going forwards?**

In our view, agreement to a full forward three-year funding package, in line with the funding for 2017-20 programme, is necessary to allow the detailed planning and development required to make sure Legal Choices meets our shared ambition to support access to justice and help people in need of legal services. Legal Choices is a voluntary partnership between regulators so we believe the current governance arrangements are appropriate.

**Quality indicators: question supplementing Q5 of the CFI**

**What further analysis would be most helpful to develop an understanding of what type of quality indicators consumers find useful? What are the main barriers to the successful implementation of quality indicators?**

*Please see our answer to question 5.*

**DCTs: questions supplementing Q6 of the CFI**

**Is there more that regulators could do to encourage the development of DCTs? To what extent are providers engaging with DCTs? a) Has this improved since the market study and if not, why not?**

*Please see our answer to question 6.*

**Main options for short-term regulatory reform that requires no, or limited, legislative amendment. What issues would remain without longer term reform?**

*Please see our answer to questions 11 and 12.*

**What are your views on the options for extending redress to customers of unauthorised providers, such as extending access to LeO, or industry run 'kite schemes' requiring that providers direct consumers to ADR schemes?**

*We do not have any specific comments in relation to this question other than the broader points made in relation to unauthorised providers in our answer to question 13.*

**What are the key emerging regulatory challenges, for example with respect to lawtech? A) To what extent can these be addressed under the existing regulatory framework?**

*Please see our answer to question 12*

**What evidence is available on the experiences of consumers of unauthorised providers?**

*Please see our answer to question 16*