

**Solicitors
Regulation
Authority**

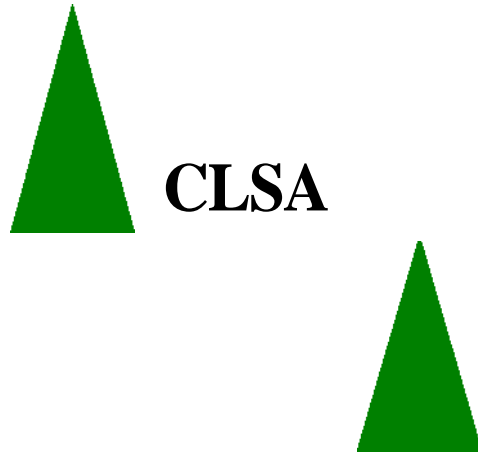
Corporate Strategy 2020-2023

Consultation responses

March 2020

List of respondents

Name	Respondent Type
Publish the response with my/our name	
<i>Responses from organisations</i>	
Criminal Law Solicitors' Association	Representative industry group
Junior Lawyers Division (JLD)	Representative industry group
Law Works	Other
Legal Beagles Group	Other
Legal Ombudsman	Other
Legal Services Consumer Panel	Representative consumer group
Liverpool Law Society	Law Society
The Association of Consumer Support Organisations	Representative industry group
The Law Society	Law Society
Yorkshire Union of Law Society	Law Society
<i>Responses from individuals</i>	
Nigel Jacklin	Other
Qasim Nawaz	Other
Publish the response anonymously	
<i>Responses from individuals</i>	
ID - 053	Other
ID - 076	Solicitor
ID - 090	Solicitor
ID - 094	Solicitor
<i>Responses from organisations</i>	
ID - 086	Law firm or other legal services provider
Publish my/our name but not the response	
<i>Responses from individuals</i>	
Maria Ruiz de Velasco	Solicitor



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**SOLICITORS REGULATION AUTHORITY OPEN CONSULTATION
CORPORATE STRATEGY**

The Criminal Law Solicitors Association (CLSA) has responded to the corporate strategy open consultation. Whilst the members of the CLSA are predominantly practitioners in criminal litigation, many of the committee members are either partners or directors in multi-disciplinary firms, and therefore bring a broad base of experience of working in a number of areas of law, and at a variety of levels, some small firms, some very large firms, and it is therefore hoped that the views put forward are not viewed simply as those of criminal practitioners.

In the forward to paper, Page one, "We have taken steps to increase competition, "this means people being able to access high quality affordable legal services" is in fact misleading. The SRA will be aware that there has been no increase in publically funded work for over 20 years. Since 2010, the level of criminal practitioner, who practise criminal law has shrunk, and the average age of a duty solicitor has increased. There is currently a haemorrhage of criminal solicitors towards the Crown Prosecution Services, and away from criminal practise, with no or few young people entering criminal practise, and many law schools now not offering the criminal law module. How does this tie in with the SRA strategy, if the SRA. are trying to be ahead of the curve there is simply no anticipation or response to change, the core work has not been undertaken.

Technology is a huge and important tool for practitioners. Both Criminal and Family practitioners have for years, if not decades, embraced technological tools in order to cut overheads, and increase access to cases, clients and research. How do the SRA propose to alert the profession to an obvious use of technology? It is being used, harnessed, and embraced.

If the SRA were looking at evidence and intelligence, looking to take advantage of opportunities, then it has failed miserably. Two tier contracts, MOJ cuts, countless reviews, dwindling criminal practitioner numbers, dwindling number of trainees entering the profession. Without using platitudes, how does the SRA intend to remedy this situation which is now becoming desperate?

Objective one

Has it not always been the case that the SRA sets high professional standards? How has this changed? Can the SRA explain in non-marketing terms precisely what it means by operational service?

What is clear, and always has been, is that the public should always have access to high quality independent legal advice. The terms, high quality and independent mean just that. There should be no political or social influence on the advice given by Solicitors in any area of legal practise. It is not for any regulatory body to become involved in changing domestic politics and trade.

There is a need for legal independence, and the CLSA are concerned at any moves to blur the lines of independence when advice is both sought and given.

Economic changes that create opportunities for some and challenges for others. The question which must be asked here is whether the SRA is in fact stepping outside of its regulatory function? How does the SRA propose to analyse, presumably at a cost to the legal profession, the economic, and therefore political situation at any one time. Does the SRA now propose to employ economists and accountants to review political policies and economic policies, and become embroiled in participating in economic and political decisions? If so, this is a dangerous departure from the need to be politically impartial.

The legal profession has undergone substantial changes in the past 20 years, regulation, and changes in regulation have only added to the uncertainty. Is it not time for the SRA to promote the profession, as opposed to constantly undermining it?

There seems to be a belief that the SRA can support the development and adoption of the responsible use of legal technology. Perhaps the SRA could give a proper explanation as to what this means in practise, and how they would do so, bearing in mind the technological movement, and the variety of technologies which are available? Does the SRA propose to involve itself with limited providers? What does the SRA mean by responsible use, and does not GDPR offer proper public protections?

Has the SRA considered the technological problems of defendants in certain cases being expected, without access to proper legal advice, to enter on line pleas to certain offences? What does the SRA propose to do about the lack of access to justice there, how is it to be funded? How do members of the public learn about access to justice?

On line divorces, this is a good idea to prevent no fault divorces, the technology exists, however, how does the SRA intend to ensure that those who will use this facility, actually understand what they are doing.

Technology has existed for decades in file and case management, most if not all Solicitors have access to this technology. How does the SRA then propose to involve itself in the use and development of technology? Is this a role that is available to the SRA in its regulatory capacity, or is this a more sinister intent by the SRA to micromanage solicitors and their practises in line with the political thinking of the day?

It is right that the SRA have high aspirations for the profession, but it singularly fails to acknowledge the problems faced by the legal profession in access to legal

services. Remuneration publicly is being cut, solicitors are not being attracted to those areas most in need, many are leaving the profession, viability is being consistently undermined, how does the SRA propose to respond to the market place both now and in the future?

The protection of those in society depends on accessibility to legal advice, there are legal deserts now! Housing, Childcare, Crime, Clinical Negligence, this is not new, the crisis is upon the legal profession, the platitudes in this document do nothing to address the real world, it is merely a wish list for the SRA without any knowledge of the current situation. There are articles daily about availability of lawyers, firms closing, and poor remuneration, how does the SRA propose to deal with that? Technology has to be paid for, where is the money, and the viability for that?

Collaboration and Engagement? The SRA clearly believes that only technology can save the legal profession, it is wrong, it is merely a tool to enable efficiency.

Anticipating and responding to change! A laudable aim, hollowly put forward. Why does the SRA consider it should be a valued voice about regulation? Perhaps the SRA should involve itself in ensuring the continuity of the profession, and assisting those parts which are withering on the vine, which is not about regulation, the profession is the most regulated of all professions, it needs promotion and assistance, not further meaningless regulation. There is dwindling access to Justice, the SRA understanding of unmet users and the most vulnerable is lacking.

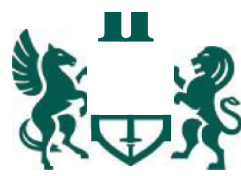
The strategy proposals for the next 3 years are opaque and lack any current knowledge of the crisis in the profession.

Question 3 shows a total lack of reality, and is merely a platitude, the SRA should engage with practitioners groups of all disciplines in order to establish precisely what problems exist in the legal profession, there is no meaningful reform program, the consultation is meaningless and opaque without knowledge or proper strategy.

Q4. See above

Q5. Yes, the SRA lacks insight into the current problems of the profession. There is sufficient regulation, again, the legal profession is the most regulated of all the professions. The SRA does nothing to promote the positives of the profession. It should not seek to micromanage the profession, neither should it become involved in political, economic or social engineering. It should concentrate on the challenges which exist now in the profession, and work with the profession, the

MOJ, and the Treasury to enable proper funding and access to justice. There are no ideas in this document, it is frankly worthless.



**The Law
Society**

**SRA Corporate Strategy
2020 - 2023**

The Junior Lawyers Division
response to the SRA consultation

January 2020

SRA Corporate Strategy 2020 - 2023

The Junior Lawyers Division response to the SRA consultation January 2020

Introduction

The Junior Lawyers Division (JLD) is a division of the Law Society of England and Wales with an independent representative voice. The JLD is one of the largest communities within the Law Society with over 70,000 members. Membership of the JLD is free and automatic for those within its membership group including Legal Practice Course (LPC) students, LPC graduates, trainee solicitors, solicitor apprentices and solicitors up to five years qualified.

The JLD wishes to highlight the points that are of particular concern to its members in the SRA's Corporate Strategy 2020-2023 ("the Consultation"). We have had the opportunity to read the Law Society's response and are broadly in agreement.

We will consider each of the objectives in turn, answering the questions posed where relevant to each objective.

Objective one: setting and maintaining high professional standards for solicitors and law firms

1. The new Solicitors Regulation Authority (SRA) Handbook ("the Handbook"), introduced in November 2019, will mean that the SRA needs to ensure that firms are compliant with the more flexible and less prescriptive rules. Further to this, and as with recent years, the next three years will be a time of significant change for the legal profession, particularly with Brexit and the impact it may have on (i) England & Wales being seen as the jurisdiction of choice, and (ii) the regulation of EU lawyers practising here. Notwithstanding this, in our view, the biggest change for education and training of solicitors will be the introduction of the Solicitors' Qualifying Examination (SQE), expected to be implemented in 2021.

Setting standards

We agree that setting professional standards to a consistently high level is an important aim and the role of regulator; however, the focus for the SRA as a regulator should be setting the regulatory rules to ensure high *minimum* standards. The SRA should not be focussing on many other ancillary projects to this core aim (such as some of the activities referred to in objective two, discussed further below).

3. The SRA should also ensure clarity and transparency in setting and monitoring standards by providing solicitors and law firms with sufficient guidance on how to comply with its regulations. While the SRA aims to "*relieve providers of legal services of unnecessary burdens that add cost and reduce flexibility*" with the Handbook, there is a concern that firms will adopt a more risk-averse approach in the coming years, until it is seen how the SRA will deal with enforcement of these new rules. This will

increase the cost of compliance for solicitors and firms. To alleviate these concerns, **the SRA's enforcement strategy** should be clear and properly communicated.

4. We note at page 11 of the Consultation that the SRA intends to “*monitor and evaluate the impact of [its] reform programme*” as well as “*monitor data on diversity within the profession and work with it and others to help to improve diversity*”. It would be helpful to be provided with details of how the SRA plans to do this, in order to consider the way in which the SRA plans to measure both impact and diversity. The SRA must be transparent in evidencing its monitoring, and the outcomes. This will increase trust in the SRA as regulator from the perspective of both the profession and users of legal services.
5. For example, in respect of the SRA's diversity monitoring, the JLD is concerned that the introduction of SQE will lead to a two-tier legal system, with individuals who can afford to take SQE preparation courses doing so, while those from lower socio-economic backgrounds cannot. There is also the concern, demonstrated by the results of the SQE 1 pilot, that individuals from a BAME background will be at a **disadvantage. The SRA's regulations must ensure that there is a diverse range of** individuals entering the legal profession, while at the same time promoting the public interest by ensuring that the minimum threshold for those qualifying is of a suitable standard. It should certainly not discriminate against any groups. The JLD's concerns regarding the SQE on these points have been outlined in previous responses to consultations and we refer you to the same for further details. We are yet to understand how the SRA intends to monitor the diversity data once the SQE is implemented, nor how it plans to work with that data to help improve diversity.

Maintaining and regulating such standards

It is important that the **SRA's approach to enforcement and investigation encourages** trust from the user of legal services and the profession that it regulates, as acknowledged in the Consultation. As is well-documented in previous correspondence we have had with the SRA¹, the JLD is concerned about the lack of regulatory protections for junior lawyers in particular (for example, the lack of regulation of training contracts and training principals, and the lack of a mandatory minimum salary for trainee solicitors).

Developing these regulations will go a long way in ensuring that junior lawyers are protected, encouraging open reporting and transparency between the profession and the regulator and, ultimately, increasing the likelihood of consistent high standards in the profession. In the period 2020-2023, with particular reference to the SQE, the SRA has the opportunity to put in place regulations that act as safeguards to protect junior lawyers undertaking the qualifying work experience (QWE) element of the SQE, to ensure that aspiring solicitors are not exploited. At the same time, clarity and information for firms about such regulations and safeguards surrounding this new route to qualification should ensure the same aim.

¹ <https://communities.lawsociety.org.uk/news/jld-fights-for-protection-of-junior-lawyers/5067494.article>

8. We welcome the SRA's commitment to collaborating and engaging with professional and representative bodies. We invite the SRA to continue its dialogue with the JLD, particularly around the introduction of SQE, and other relevant stakeholders.

Objective two: supporting the adoption of legal technology

9. The JLD has been vocal in its support for LawTech and supporting its members' development and understanding in this area. We are concerned, however, that this objective does not fit within the remit of the regulator. The SRA, as a regulator, should help to foster an environment in which legal technology can thrive, rather than being an active promoter and influencer of it.
10. We would like to see further information relating to how the SRA intends to build its understanding of the *"unmet needs of users"*, given that this is likely to vary vastly from firm to firm, and from practitioner to practitioner. Again, we are concerned that it is not within the remit of the regulator to *"work with providers and innovators to help to address these needs"*. We would expect the regulator to work with providers and innovators to outline the regulatory requirements needed, to preserve and uphold the professional standards but not waste its resources undertaking work outside of its scope.
11. It is understood that support for legal technology is an area in which the SRA currently assists, with its Innovate programme. It should, however, ensure that it communicates directly with practitioners to promote this programme more effectively. We believe that legal professionals generally are not aware of efforts being made by the SRA in this area.

Objective three: building the understanding of emerging opportunities and challenges for the legal sector

12. We consider this objective to be too broad in scope to be impactful or achievable. There will be considerable changes to the legal profession in a short period of time, some of which have been driven through by the SRA itself. The SRA should focus its resources more on ensuring high professional standards and working in a fair and transparent way.
13. It is noted that the SRA's reform programme is *"designed to increase access to justice"*, and that the SRA acknowledges that its work should be *"in line with [its] regulatory objectives"*. While general horizon scanning can assist the SRA in understanding the wider issues affecting the profession and can therefore develop its future regulatory policies as a result, we are again concerned that this objective falls outside of its scope of work as a regulator.
14. It is positive that the SRA intends to deepen its understanding concerns and requirements of users of legal services, but the focus should also be on understanding the "stakeholders", to include law firms and solicitors, and not just the general public. Working in the public interest is of the utmost importance, however,

so too is understanding the concerns of the individuals and entities that the SRA regulates.

Conclusion

In the coming years, the SRA should focus on ensuring that law firms and individuals alike are adequately prepared for the introduction of SQE, so that the high professional standard of solicitor in England and Wales is maintained. The JLD is concerned that this was not more explicitly referenced in the Consultation, given the impact that it will have on the way in which one can qualify as a solicitor and the negative impact it is likely to have on diversity and access to the profession.

The SRA should be careful not to let its focus stray into areas of non-regulatory work which are best suited to being carried out by other bodies but should continue to focus on maintaining high minimum standards in the profession.

As regulator the SRA should ensure it is continually researching and understanding the issues faced by users of legal services, and those delivering those legal services. We would assume that this role requires a balancing of the two to ensure delivery by solicitors of a high-level service and trust from the users of legal services in solicitors, which includes education of the public to ensure a better understanding of the protections and benefits of contracting with a solicitor. We believe this role falls to the SRA as regulator.

To summarise, we believe the SRA should concentrate on:

1. setting high professional standards for solicitors and law firms to ensure the protection of users of legal services;
2. forming policies and regulations based on well informed research (by engaging with the users of legal services and those it regulates on the issues they are facing) to ensure a trust in solicitors by the general public and users of legal services, and the delivery by the solicitor of high-level services;
3. in providing more flexibility in its regulations, the SRA have a responsibility to ensure that they are transparent in forming these regulations and sufficient clarity is given to those that must abide by these regulations. This includes the SRA being more transparent about its decisions to enforce regulations (anonymised case studies, for example, detailing why the SRA took action against the firm or individual) and providing clear guidance to solicitors and firms about regulatory changes to ensure that there as few as possible unanswered questions from the profession.

We welcome the opportunity to respond to consultations such as this one, and hope that the issues outlined are taken into consideration, even though it is already the year 2020 and therefore the period in question.

The views expressed in this consultation response are those of the Junior Lawyers Division and do not necessarily reflect the view of the Law Society of England and Wales or any other organisation unless stated.



Submission to the Solicitors Regulation Authority 2020-23 Corporate Strategy Consultation

Introduction

LawWorks is pleased to respond to the Solicitors Regulation Authority's (SRA) Corporate Strategy consultation which sets out what the SRA wants to achieve between now and 2023. As the draft Strategy identifies, the legal market will continue to evolve through uncertain economic challenges, taking account of the opportunities provided by technology and new ways of working.

LawWorks welcomes the focus in the strategy on standards, innovation and technology, and the SRA's capacity to anticipate and respond to change, including changes in the wider public policy and regulatory landscape. However, we also think that the strategy should place greater emphasis on responsiveness to changing legal needs, rooted in the core values of the profession, recognising and addressing the challenges of access to justice.

In this response we therefore urge the SRA to use this strategy review to expressly acknowledge, and treat as a priority, unmet needs and the barriers that many people face in accessing legal services – and therefore in accessing justice. In encouraging this approach, we look to the SRA to support and encourage a strong pro bono culture for solicitors within law firms and other organisations throughout England and Wales, and to become an active agent, for change and innovation in the legal services sector and policy to address the underlying issues of legal exclusion. We are clear that pro bono is not, and should not be seen as, an alternative to legal aid, nor to the funding of advice agencies and law centres. However, we believe that **more can be done to enable and support pro bono's** contribution in enabling access to justice and that the SRA can have a role in encouraging that.

About LawWorks

LawWorks (the Solicitors Pro Bono Group) promotes, supports and facilitates pro bono legal services that extend access to the law for individuals and communities in need and the organisations that support them. We champion pro bono because of the positive contribution and difference it makes for individuals, communities and society. We work (in England and Wales) with the solicitors' profession and with our members, the Law Society, law schools and law students, law centres, advice agencies and others to develop and support pro bono legal services, and to promote access to justice for all.

Our key programmes include:

Clinics - we support a network of 280 independent pro bono legal advice clinics across England and Wales, providing training, resources and guidance, and professional indemnity insurance;

Not-for Profits-programme - we broker pro bono advice for smaller charities and social enterprises on a broad range of legal matters;

Bespoke casework and representation ('secondary specialisation') - our in-house solicitors triage and supervise cases, including social security tribunal appeals, unpaid wages cases and support for the parents and carers of children with life-limiting conditions;

Free Legal Answers - currently at pilot stage, a new online platform to enable the public to seek initial legal advice directly from pro bono lawyers;

Supporting **Pro Bono Connect**, a project which connects barristers and solicitors working together on pro bono cases.

In addition, LawWorks promotes, supports and facilitates pro bono by providing training, knowledge sharing events, our pro bono awards, and our constructive policy voice – engaging with the regulators, Government and stakeholders to encourage a favourable environment for pro bono within a strong access to justice infrastructure. LawWorks has been able to facilitate pro bono by working with the SRA on the application of practice rules to in-house pro bono, and volunteering with not for profit bodies. For example, in response to LawWorks highlighting an issue about the practicing status of volunteer solicitors, the SRA published a helpful position statement stating that solicitors could provide pro bono without becoming an employee of a not-for-profit organisation.ⁱ

Consultation Questions

One general point we would make in answering these questions, is the importance of linking the Strategy to the overarching policy objectives of the Legal Services Act. This is important for the SRA and other relevant regulators both in terms of their statutory duties, and as a benchmark for performance and success as a regulator.

1. Do you have any comments on the key factors in the legal services market and wider environment that we have identified in the Corporate Strategy? Are there any additional factors we should consider?

The SRA identifies the following factors impacting the legal services market and its wider context:

Changing domestic politics and international relationships impacting on public policy and trade, affecting the priorities for public expenditure and the issues people face;

Economic changes that will create opportunities for some and challenges for others, impacting on access to justice;

Social changes as people consume services in different ways, communities become more diverse and public and professional expectations of each other and service provision change;

Technology and data-driven innovation disrupting the way that legal services are delivered and how the legal system operates;

Environmental change demanding different ways of living and working, increasingly affecting the economy, international politics and social tensions.ⁱⁱ

We welcome that the SRA has included access to justice, consumer expectations, and the wider public policy environment. It is important, however, that there is also a clear reference to legal needs, and specifically to unmet needs and those needs and groups which our system does not serve so well, such as welfare rights, housing, employment, and family law issues.

The **Ministry of Justice’s ‘Legal Problem and Resolution Survey’** found that “around a third of the population experienced legal problems, with certain groups more likely to experience problems than others, particularly those vulnerable to social exclusion (such as individuals on benefits, lone parents, those with a disability, those with low incomes). Around half of problems led to adverse consequences such as stress-related illnesses, physical ill-health, or loss of confidence. Some individuals reported experiencing multiple problems, with certain problem types clustering together, such as those relating to a relationship breakdown, or economic problems.”ⁱⁱⁱ

Whilst there is no magic bullet to addressing unmet legal needs, encouraging innovation, pro bono, public legal education, and supporting sustainably funded models for social welfare law practice must all have a role to play in making legal services more inclusive. We would therefore like to see the SRA develop a corporate strategy that adopts a pro-active role in shaping a more inclusive legal services market, and ensuring that the regulatory environment supports access to justice, **consistent with the Legal Services Act’s regulatory objectives.**

2. Do you agree with our proposed new strategic objectives? If not, what should our key priorities be over the next three years?

- Proposed SRA objectives 2020-2023
- 1) maintain high professional standards for the profession
 - 2) actively support the adoption of legal technology and other innovation that helps to meet the needs of the public, business community, regulated entities and the economy
 - 3) build our understanding of emerging opportunities and challenges for the legal sector and our role in effectively regulating

Whilst these are appropriate objectives for the SRA, they are quite broad - the intended scope of, and outcomes from, the objectives are not therefore immediately apparent. It is important that they are not progressed in a way that is disconnected from their context, and the regulatory objectives of the Legal Services Act. For example, the consultation document helpfully develops the first objective on standards within the context of people needing to be able to “place their trust in the rule of law and the administration of justice”, the reputation of the profession, and public confidence in access to justice.^{iv}

In respect of the second objective, given the rapid growth of the legaltech sector over recent years (and notably legaltech did not feature significantly **in the SRA’s previous strategy**), we understand why the SRA is making this a priority. However, unquestioning assumptions that legaltech will find solutions to fully “meet the needs of the public” should be avoided. Those with some of the greatest needs can also experience digital exclusion, and may be least able to benefit from legaltech solutions. As a recent report from the Law Society has found, the use of legal tech to **improve access to justice has huge potential but is beset by “confusion, variation and fragmentation.”**^v **The Law Society’s report also called for greater clarity on the role of**

government, regulators, professional bodies and innovation funders in supporting access to justice tech solutions.

New legaltech products in the sector need to work and be fit for purpose; so whilst we support innovation and products that can help people to access legal services, they need to be fit for the way that pro bono providers and users work, in order to make an impactful contribution to access to justice. For example over the past year **we have been developing “Free Legal Answers”, a platform for delivery of one off pro bono advice.**

3. Do you have any comments on our proposed way of achieving each objective (as set out under each objective in “How we will achieve our aims”)?

The SRA intends that the Solicitors Qualifying Examination (SQE), combined with the recently introduced **“Standards and Regulations” to replace the previous Handbook**, will work to drive up standards. However, it is important that these changes are monitored and assumptions are tested. In respect of the SQE there are ongoing concerns that the knowledge components and overall qualification framework pay insufficient regard to the social context of law and are quite tailored to commercial practice. A welcome development though in the SQE framework will be the ability to undertake “qualifying work experience” (QWE) through pro bono work in clinics, but it is important that the SRA works with key stakeholders to ensure that this early engagement in pro bono and accreditation for QWE works appropriately for clinics. (See LawWorks’ Briefing on the SQE).^{vi}

We note that under objective 3, the SRA intends to develop as an “authoritative commentator on and a valued voice in policy debate.”^{vii} We would welcome, for example, the SRA taking a clear and robust policy position on the importance of legal aid and also funding for law centres and advice agencies, as this would be **entirely consistent with the Legal Services Act regulatory objective of “improving access to justice.”** We do respect that the SRA may be limited in the extent that it can take proactive policy positions and effect policy change on politically contested issues of public funding, but nevertheless there are things the SRA can do as a regulator to give effect to the regulatory objective around access to justice. Such measures might include:

- encouraging pro bono work as part of social corporate responsibility;
- adapting the regulatory environment so that individuals and entities providing social welfare law services can thrive – for example, UCL’s Integrated Legal Advice Clinic (UCLiLAC), in addition to innovations such as operating in healthcare settings, is also now able to deliver legal aid in the categories of housing law and community care law;
- providing clear and well targeted guidance on areas of regulation that are sometimes seen as a barrier to solicitors undertaking pro bono (for example, **we have raised issues concerning the clarity of the SRA’s guidance on matters relating to section 15 of the Legal Services Act**);
- challenging the sector over market gaps and promoting greater transparency for consumers;
- developing tools, policies and programmes directed at early resolution and intervention, public legal education and information, and improving legal

capability – in much the same way that the Financial Conduct Authority, and its predecessor body, has taken on on financial inclusion and capability; using its role as the primary accreditor of the system of qualifications and legal **education, training and assessment to ‘design in’ social welfare law** capabilities into solicitor competencies - the SQE provides an opportunity to do this.

4. What specific areas of focus would you like to see us develop under each objective?

All three objectives are pertinent to access to justice, but we would like to see this focus developed, along the lines we suggest above. **The SRA’s** proposed objectives do not specifically reference support for pro bono, although we believe this to be relevant to the objectives, and also implied in the LSA regulatory objectives.

We have highlighted in other submissions that there are both real and perceived regulatory barriers to solicitors undertaking pro bono work. In our work on the SRA Standards and Regulations reforms we have stressed the importance of taking a proportionate, **‘risk based’ approach to pro bono work** (and the **‘entities’** that host or work with pro bono solicitors and projects), as sometimes regulatory costs and compliance can have a chilling effect in respect of solicitors getting involved in new pro bono initiatives. So, for example, in recent consultations we have particularly raised issues concerning:

- the prohibition on in-house solicitors from undertaking "reserved activities" "part of [their] employer's business" and the where those services are interpretation of the primary legislation 15.4 LSA) – we have called for a review and repeal of this provision;
- the difficulties in obtaining waivers, for example in respect of regulatory requirements that may be unsuited to pro bono models of delivery – we flagged some issues in our consultation response on **“A new approach to waivers”**;^{viii}
- the multiplicity of regulatory requirements around immigration, consumer and debt advice – all areas where there is a pro bono need – and the absence of appropriate passporting arrangements with the SRA;
- **clarity over “special bodies” and transitional protection arrangements.**

We hope to continue being able to work constructively with the SRA on pro bono practice issues, and to find constructive solutions to these issues.

5. Have we missed anything significant or included anything that we shouldn’t be focusing on?

It is noticeable that the consultation only makes two mentions of the Legal Services Act, and indeed the consultation appears to question its relevance – stating, on page 9, that “the rate of change makes it increasingly difficult for the regulatory framework laid down by the Legal Services **Act to remain relevant.**”

As an “approved regulator” the SRA is specifically mandated under the Legal Services Act to:-

- improve access to justice;
- increase public understanding of citizens’ legal rights and duties;**
- protect and promote the public interest, and
- support the constitutional principle of the rule of law

As we have indicated in this response, the SRA can influence this in a number of ways, such as promoting pro bono work as part of the core business of being a **lawyer and law firms’ corporate social responsibility, and encouraging market entry** and development of new models (for example in social welfare law) for delivering services to those with unmet needs or experiencing legal exclusion.

We note also that the Legal Services Board (LSB) in its recent business plan has adopted a five year policy objective to be “**at the forefront of enhancing public legal education**” (PLE), partly to advance the arguably much neglected Legal Services Act **objective to “increase public understanding of citizens’ legal rights and duties.”** It might therefore be appropriate to consider framing a fourth objective around PLE. We believe that the underlying policy objectives of the Legal Services Act remain sound and relevant, although the framework may need to evolve – for example, the growth of solicitors working in-house, should flag that issues around section 15 of the Act may need to be revisited. **Professor Mayson’s review of the LSA framework may** also be informative for the future development of legal services regulation.^{ix}

Endnotes

i <https://www.sra.org.uk/solicitors/guidance/waivers/waiver-employment-status-pro-bono-work/>

ii Corporate Strategy 2020-2023: Consultation, page 8

iii *Ministry of Justice research report 2017*

iv Corporate Strategy 2020-2023: Consultation, page 8

v <https://www.lawsociety.org.uk/support-services/research-trends/technology-access-to-justice-rule-of-law-report/>

vi <https://www.lawworks.org.uk/sites/default/files/LWBriefing-A-new-route-to-qualification-for-solicitors.pdf>

vii Corporate Strategy 2020-2023: Consultation, page 16

viii <https://www.lawworks.org.uk/sites/default/files/SRA%20Response%20-%20Waivers%20April%202017.pdf>

ix <https://www.ucl.ac.uk/ethics-law/publications/2018/sep/independent-review-legal-services-regulation>

Corporate Strategy 2020-2023

Response ID:89 Data

2. About you

1.
First name(s)

Kate

2.
Last name

Briscoe

3.
Please enter your SRA ID (if applicable)

6.
I am responding..

Legal Beagles

7.
On behalf of what type of organisation?

Other

8.
Please specify

Consumer organisation

9.
How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions

10.
1. Do you have any comments on the key factors in the legal services market and wider environment that we have identified in the Corporate Strategy? Are there any additional factors we should consider?

The factors identified in the Corporate Strategy are appropriate and fitting for the environment in which the legal services industry now operates. It is clear that there is urgency around ongoing modernisation in the sector and keen awareness of the changes appearing on the horizon.

11.
2. Do you agree with our proposed new strategic objectives? If not, what should our key priorities be over the next three years?

The three strategic objectives are logical and well suited for this point in time. It is vital that the trust and faith in the profession is defended and preserved but the objectives do capture the need to anticipate future changes needed to adapt to incoming technological innovation and the need to improve access to justice. On that note, we strongly welcomed the principle of placing special focus on access to justice across all three objectives. There is little doubt that technology will increase access to justice by creating new and innovative routes to solving/understanding legal problems, so it is especially important for the SRA to actively support such innovation whilst helping to create the required regulatory pathways to reduce the current level of 80% + of consumers/SME's not seeking legal support through recognised providers.

12.

3. Do you have any comments on our proposed way of achieving each objective (as set out under each objective in “How we will achieve our aims”)?

We believe the pro-active stance taken by the SRA in delivering these objectives is encouraging and based on a genuine recognition of the challenge ahead. Initiatives already underway such as the Legal Access Challenge and the SRA Innovate programme are indicative of a strong regulatory commitment to transformation and will provide a valuable method of assessing the developing legal tech market. It is reassuring to see consumer need placed at the heart of the objectives and we believe that supporting legal providers in tackling unmet need while developing and expanding consumer services will be a vital regulatory role over the next three years.

13.

4. What specific areas of focus would you like to see us develop under each objective?

We support the special focus on access to justice across the objectives and we believe this will ultimately allow the industry to adjust to the significant technological changes ahead.

14.

5. Have we missed anything significant or included anything that we shouldn't be focusing on?

The only principle we felt was omitted was a commitment to increasing public legal education, not just in understanding the difference between regulated/unregulated providers but also in helping the public gain understanding and confidence in getting initial help and advice.

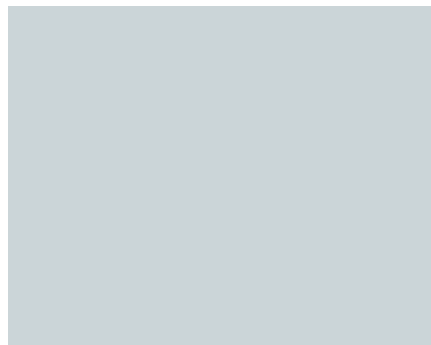


Solicitors Regulation

□ **M3UDSMAN Authority: Corporate**

Strategy 2020–2023

Consultation response



Introduction

The Legal Ombudsman was established by the Legal Services Act (2007). Our role is two-fold: to provide redress when things go wrong for people using the legal services market, and also to feed the lessons we learn from our work back to the profession, regulators and policymakers to allow the market to develop and improve, supporting access to justice.

We welcome the opportunity to respond to the Solicitors Regulation Authority (SRA) about its Corporate Strategy 2020-2023, which sets out an innovative and forward-looking agenda for the coming three years. It is particularly helpful to understand this as we also refine our new strategy for 2020-2023.

As a whole, at the high level, the SRA's plans appear to be complimentary and coherent with our own. We are encouraged to see its renewed commitment to the consumer protection element of its responsibilities, especially where people may be vulnerable when engaging a legal service provider. At the Legal Ombudsman we recognise that often it is a stressful, potentially life-changing event that leads people to seek out a solicitor, and as such it is crucial for regulators to ensure there are safeguards for people to rely on.

Our detailed comments on the SRA's plans are laid out below. We have reflected on our own experience and insight in providing our view on this new strategy.

SRA Corporate Strategy 2020-2023

Q.1 Do you have any comments on the key factors in the legal services market and wider environment that we have identified in the Corporate Strategy? Are there any additional factors we should consider?

We agree that this is a time of change and uncertainty across the key areas identified. We would suggest in addition that this is a time of particular challenge of traditional power structures and institutions – with more grassroots engagement in politics, more outspoken criticism of policy and spending, greater scrutiny of the influence of technology on our everyday lives, and more vocal advocacy of action on climate change.

This includes challenge from government and professional communities as well as the general public. Scrutiny is certainly apparent in the legal sector: we are aware that concerns about cost and complexity of regulation are particularly pressing for many

legal services providers, and have ourselves experienced the growing interest in regulatory activity from members of the public and policymakers. There is in many cases a desire to see parity of approach across organisations in the regulated market, and willingness of organisations to embrace changes for themselves that they have introduced for their regulated communities.

We (and other organisations in this space) need to be accountable to the profession, as well as ensuring the wider public has confidence in what we do and how we do it. Transparency is integral to this. We are currently working on increased transparency of our governance, processes and decision-making, and are aware that frontline regulators including the SRA are also undertaking action in this area. This is an additional factor that the SRA should take into account when making its plans for the years ahead.

Q.2 Do you agree with our proposed new strategic objectives? If not, what should our key priorities be over the next three years?

All three of the proposed strategic objectives seem sensible and appropriate to the demands of the legal services market as it stands.

We know that high standards are always expected of legal professionals and it is important that members of the public can come to a solicitor with confidence in their advice and service. Our learning and feedback work supports solicitors to achieve high service standards, and there are many ways that our insights can inform changes to the way a provider operates. Likewise, people must have trust in regulators in order to be sure that they are protected when things go wrong.

However, it is important that there is a clear sense of what 'high' standards really are, and that the desire to protect users of legal services and to increase trust in the profession is balanced carefully with other priorities. The SRA has stated that it will be guided by Better Regulation principles, and as such, should consider whether future standards-setting might increase the regulatory burden. We are concerned that if this were to happen, it might place regulated legal professionals out of reach for ordinary people who will be driven to the unregulated sector instead, where protections are few.

It is also crucial that high standards are implemented well and that there is evidence of this. At the Legal Ombudsman we naturally see a lot of what happens when legal professionals fall short of standards, but we are also interested in the cases that don't make it to us, and the impact this has on people's experience of the legal sector as a whole.

We are also aware of the growing role to be played by legal technology in helping the market to grow, adapt and become more accessible to a wide range of people. This is an area in which collaboration seems to be especially important. We are able to

provide a wider viewpoint on users of legal services and the issues they encounter, ensuring that opportunities are not missed and consumer protection not compromised. We would be interested to find out more about the SRA's planned projects, including whether there is any crossover with our own – and therefore opportunities to work together and share learning.

Our focus would necessarily remain on the impact on service and ability to obtain redress. We would be keen to see where technology can help with meeting the expectations of current and future users as well as supporting wider access to the services – particularly for those who are currently choose not to use, or are unable to afford, a solicitor.

Regarding the SRA's third objective, we agree that this is an important approach to take. We have a similar proposed objective for the next three years, in recognition of the pace of change in society and the sector at the moment. We are particularly interested in the SRA's commitment to identifying the current framework's limitations and speaking out where change is needed, which is something we will also be looking to do. This seems like another area in which collaboration between our organisations would be beneficial.

Finally, it is very encouraging to see that the SRA will be looking to support access to justice across all three of these strategic objectives. The focus of regulation appears to be shifting more towards this regulatory objective for all organisations in the sector, and we are pleased that this is the case. We also believe it is wise to recognise the wider, more significant factors that influence this outside of legal services. We hope that the authoritative voice of the SRA can be deployed well to raise awareness of the gaps and barriers that the public faces when engaging with our justice system as a whole.

Q.3 Do you have any comments on our proposed way of achieving each objective (as set out under each objective in “How we will achieve our aims”)?

As a general comment, we believe that the ways identified make sense and are likely to be helpful in ensuring that the SRA's aims are met. We take a specific interest in a few of them, as set out below.

At the Legal Ombudsman, our focus is always primarily on the service provided by lawyers. We will be keen to work with the SRA on monitoring the impact of the new Standards and Regulations, especially regarding numbers of complaints we receive about providers operating as freelance solicitors or out of unregulated businesses in the future. We have already had several discussions with the SRA about setting up a working group to do this, and would be pleased to put more definite plans in place over the coming year. We are also aware of the new separation in the Standards and

Regulations for firms and for individuals, and will need to consider the impact this may have over time on consistency in standards of service.

We are also interested to hear more detail about the SRA's plans to reform pathways for entry to the profession in the future, especially regarding the proposed Solicitors Qualifying Exam (SQE) and how this will reflect the need for robust service standards. We intend to take a more active role in influencing education, training and career development in the years to come. This is to ensure that legal service providers are equipped from the start to provide a good service to their clients (and others) and that they are encouraged to continue working on this throughout their professional careers.

We already produce a range of materials that communicate learning and insight from our scheme, and would be eager to explore with SRA how we could share these more widely and effectively. Furthermore, we would like to develop a closer working relationship with the SRA regarding firms that potentially pose consumer protection risks.

We, like the SRA, are committed to diversity and equality and agree that the impact of the new SQE must be closely monitored with regard to this.

With regard to the second objective, building understanding of user needs and new technologies (including their benefits and risks) seems to be a good place to start. It is possible to make many assumptions in evaluating technology in the legal services market, and not all of these are borne out by evidence. We are therefore keen to encourage and engage in approaches that are evidence-based, and as always, are interested in opportunities for joint research on this with the SRA and others.

The SRA's plan to deepen its understanding of consumer concerns and work with others to identify and find solutions is a good one. As an ombudsman scheme, we are well-positioned to present information about detriment caused to users of legal services and offer critique of areas that need improvement.

We would be interested to hear the SRA's views on whether the Legal Ombudsman should explore taking on 'own initiative' powers as a way to tackle practice that is below standard in the sector, with a view to contributing to this wider aim. This is one of the suggestions included in Professor Stephen Mayson's interim report on the regulation of legal services, and we are keen to understand other organisations' views on the matter.

Our final comment on the proposed ways of achieving each objective is with regard to the SRA's desire to 'raise public awareness of legal services and how to use them'. There is a very delicate balance between promoting access to justice, which potentially may encourage individuals to seek assistance from unregulated legal service providers, and making the public aware of the risks in the unregulated sector. We

suggest to the SRA that an acutely important element of this objective is ensuring that the public understand regulatory protections and their value. This is an area in which all evidence indicates that the general public's understanding is relatively poor, and yet it can have a huge impact on them where things go wrong. Our joint 'Better Information' research underlines this, with the consumer survey showing that 57% of respondents believe that all legal services providers are regulated.

As a more general point you refer to setting and maintaining high standards for yourself. We would comment that this may be easier to monitor if there were more specific and measurable KPIs in place for some of the objectives.

Q.4 What specific areas of focus would you like to see us develop under each objective?

We have identified several areas above that are of particular interest to the Legal Ombudsman. In addition to these, we would be particularly interested to understand more about the SRA's work on inclusivity in relation to technological innovation.

We have heard of some thought-provoking work being undertaken at the moment on diversity impacts of new technology, and would like to see the SRA develop this further with regard to situational vulnerability in particular. It would be very helpful to understand more about how different demographics might benefit or suffer with changes to service provision, especially where this might be unanticipated or even contrary to previous assumptions.

Q.5 Have we missed anything significant or included anything that we shouldn't be focusing on?

The strategy as presented seems fairly comprehensive. Nevertheless, the SRA may also want to reflect upon the degree to which its professional community feel that regulation works for them at the moment. This could be a very useful reference point for developing and realising future objectives, in order to ensure that the SRA retains the confidence of solicitors as well as other stakeholders. This consideration could potentially be incorporated into any evaluation of the success of this strategy as it is implemented.

Conclusion

Thank you for the opportunity to comment on the Solicitors Regulation Authority's Corporate Strategy 2020-2023.

Overall, we believe this strategy identifies worthwhile objectives for the SRA in the coming years. These reflect the topics in focus for the Legal Ombudsman at this time as well, and we look forward to many more opportunities for our organisations to work together over the lifetime of our new strategies.

For any questions about this response please contact our Parliamentary and Policy Officer [at support@legalombudsman.org.uk](mailto:support@legalombudsman.org.uk)

Sent by email only to consultation@sra.org.uk



31 January 2020

Dear Sir/Madam

Consultation on Corporate Strategy 2020–23

The Legal Services Consumer Panel (the Panel) welcomes the opportunity to respond to the Solicitors Regulation Authority’s (SRA) consultation on its Corporate Strategy for 2020-23. Please find our views on the consultation below.

The Panel agrees with the SRA’s summation of the current challenges and opportunities facing the legal sector and is particularly pleased with the emphasis on monitoring and evaluation, and on being pro-active in the face of technological and other change. The Panel would also like to highlight the imminent return of the Competition and Markets Authority (CMA) to assess the sector against the various transparency recommendations it made in 2016. It therefore remains important that the SRA continues to make progress, especially on quality indicators. We found the tone and language of some parts of the document disappointingly thin on the concept of “putting users at the heart of regulation”. The first half of the document appears to show a strong intent to work closely with professional bodies and other regulators, with users appearing almost as an after-thought. It is not until page 17 that we detected a serious emphasis on consumer engagement.

Objective one – setting and maintaining high standards for the profession and ourselves.

As mentioned above, we welcome the emphasis here on monitoring and evaluation. In our view, a key priority in this respect must be implementing the CMA’s transparency remedies considering the deficiencies found in the market. We are pleased with the work and progress the SRA has made in terms of mandating for price transparency and information on services, though there is more to be done in evaluating and improving impact. It is also positive that the SRA now publishes aggregated data on first tier complaints. We would continue to encourage the SRA to make rapid steps towards working with the Legal Services Board and other regulators to develop and implement a set framework for quality indicators and the respective metrics.

In November 2019, the SRA introduced new policies allowing solicitors to work in unregulated firms and opening the possibility for solicitors to “freelance”. We would suggest that the SRA pays special attention to how these policies are embedding and whether the information remedies designed to mitigate against the reduction in consumer protection are effective. We also expect the SRA to work with the Legal Ombudsman to monitor complaints in this area.

Under this objective the SRA also plans to monitor diversity data and work with stakeholders to encourage continual improvement. We believe it is crucial that the regulator does more than monitor by responding to a slow process. The Panel would

like to see the SRA give supportive steers, guidance and recommendations to improve diversity, especially in seeing progress at senior levels, as well as in monitoring the impact of legal service provision on different groups of users.

Objective two – actively support the adoption of legal technology and other innovation, that helps to meet the needs of the public, business community, regulated entities and the economy.

The Panel agrees that the adoption of new technologies has the potential to broaden and improve the provision of legal services. We are specifically interested in **maximising technology’s potential to address** the access to justice gap. Hence, we support the **SRA’s plans** to proactively use technology to improve access to justice while ensuring proper consumer protection. In that respect, we wholeheartedly support **the SRA’s view** that in maximising the potential of technology for consumers, understanding and addressing the new risks **technology brings will be key to the SRA’s** success.

Objective three – build understanding of emerging opportunities and challenges for the users of legal services, the legal sector and our role in effectively regulating it.

The SRA aims to become an **“authoritative commentator”** in the changing environment and the challenges faced by consumers. The Panel believes that consumer engagement and research is the primary way for the regulator to deepen its **understanding of consumers’ concerns**. We would like to see a greater emphasis on this in the development of **the SRA’s plans** in this area.

Improving access to justice is an area of special focus under this objective although it cuts across all three strategic objectives. Access to justice is a key issue for many consumers who cannot exercise their rights. Apart from cost, consumers report that it is difficult to navigate the legal system that is often laborious and complex in many areas of law. Technology can indeed be used to support and facilitate access to justice **for “desert areas”**, reduce the cost and the time it takes to get them delivered, but also make the process more straightforward. However, using innovative tools to increase access to justice goes beyond simply using technology and we welcome that the regulator has acknowledged this under the second strategic objective.

We are also supportive of the **SRA’s plans** to work with other legal services regulators, regulators across multiple sectors, and other stakeholders to make sure that people using legal services are protected and can trust both solicitors and regulation.

We would be very happy to meet and discuss any aspect of this response in further detail. Please contact Lau Ciocan for further queries at lau.ciocan@legalservicesconsumerpanel.org.uk.

Yours sincerely



Sarah Chambers

Chair

Legal Services Consumer Panel

Corporate Strategy 2020-2023

Response ID:78 Data

2. About you

1.

First name(s)

Mickaela

2.

Last name

Fox

3.

Please enter your SRA ID (if applicable)

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Law society

8.

Please enter the name of the society

Liverpool Law Society

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions

10.

1. Do you have any comments on the key factors in the legal services market and wider environment that we have identified in the Corporate Strategy? Are there any additional factors we should consider?

We agree that you have identified the key factors in the in the legal service market and the wider environment. We also consider that the stated objectives are fit for purposes and as broadly described appropriate. However, the document lacks specificity about the delivery of the SRA's aims and objectives and, importantly, for a corporate strategy how achievement of those aims and objectives will be judged and measured.

11.

2. Do you agree with our proposed new strategic objectives? If not, what should our key priorities be over the next three

years?

We agree but see comment in response to question 1. above.

12.

3. Do you have any comments on our proposed way of achieving each objective (as set out under each objective in “How we will achieve our aims”)?

The way the SRA proposes to go about achieving its stated objectives is very broadly described and not objectionable. The devil will be in the detail.

13.

4. What specific areas of focus would you like to see us develop under each objective?

We agree that the SRA is on the right lines and that the document lines up with its statutory objectives.

14.

5. Have we missed anything significant or included anything that we shouldn't be focusing on?

No.

Corporate Strategy 2020-2023

Response ID:88 Data

2. About you

1.
First name(s)

Matthew

2.
Last name

Maxwell Scott

3.
Please enter your SRA ID (if applicable)

6.
I am responding..

on behalf of an organisation

7.
On behalf of what type of organisation?

Representative group

8.
Please enter the name of the group

The Association of Consumer Support Organisations

9.
How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions

10.
1. Do you have any comments on the key factors in the legal services market and wider environment that we have identified in the Corporate Strategy? Are there any additional factors we should consider?

The Association of Consumer Support Organisations (ACSO) welcomes the opportunity to respond to the Solicitors Regulation Authority (SRA) consultation on its corporate strategy for 2020-23.

ACSO was established in January 2019 to represent the interests of consumers in the civil justice system and the reputable, diverse range of organisations who are united in providing the highest standards of service in support of those consumers. Its role is to engage with policymakers, regulators such as the SRA, our industry and the media to ensure there is a properly functioning, competitive and sustainable civil justice system for honest consumers.

In its work over the period ahead the SRA should be encouraged to increase its levels of engagement with the wider legal sector and with a broader range of professional and consumer bodies such as ACSO. A more collaborative approach will help ensure the SRA is receiving adequate sector specialist input, support and challenge and can deliver against an agenda that is as well informed as possible.

ACSO's members include a number of the UK's leading consumer law firms, as well as a range of other organisations who support consumers on civil justice matters, including charities, representative bodies, legal expense insurers, insurers, claims management companies and others. Their experience and expertise should be brought to bear by the SRA in order to improve consumer outcomes.

ACSO has already actively engaged with the SRA on a number of topics to help advance our shared objectives. In addition, both organisations sit on the Financial Conduct Authority (FCA) Regulatory Consultative Group and, at the invitation of the SRA, ACSO participated in its consumer roundtable in November 2019 to discuss its 2020-23 corporate strategy.

The focus of our engagement is to provide insights on behalf of our members and the sector to help support the SRA's understanding of evolving legal and associated landscapes and the impact these have on the consumer, those who operate within the sector and the dynamics of the market itself.

Technological and economic change is creating opportunities for consumers, with more savvy people benefiting from both an increasing range of services and from competitive forces which are driving value and improving many outcomes. However, there remains a significant proportion of people who because of various vulnerabilities need additional support. The FCA's Financial Lives Survey estimates that 54 per cent of the UK population are vulnerable or potentially vulnerable, and both they and the Civil Justice Council have recently consulted on how such consumers can best be supported, the latter looking at their particular needs as witnesses in civil cases. It is our view that vulnerable consumers are of particular importance and should be a discrete focus of the SRA's activities in the period ahead.

While the consultation document states that "technology has the potential to completely transform the way solicitors and law firms work and how legal services are delivered", this is something which is already happening. Technology and the application of artificial intelligence is the biggest driver of change across society as a whole, and while broadly beneficially to many, it brings with it the potential to exclude those without the right IT and literacy skills, as well as presenting problems with complex issues such as data protection, both for individuals and for groups.

It is essential that in embracing technology for the delivery of legal services, as well as the provision of further information to enable consumers to understand their legal needs and how these may be met - and by whom - the position of those consumers who won't be able use such technologies is understood.

Technology and data-driven innovation will continue to disrupt the way in which legal services are delivered and how the legal system operates. This is something which should largely be encouraged and not feared. It should increase the competitiveness of the market, improve productivity and help address the information asymmetry which persists. However, and as this consultation recognises, the legal sector has so far been slow to embrace many of the opportunities this presents. It may therefore be putting itself at a short-term disadvantage in terms of broadening and depending its potential markets and in terms of delivering better consumer outcomes.

While overall the SRA's objectives are sensible we would like to see additional focus on how the sector can encourage innovation, better understand the reasons for the relative lack of innovation from "traditional law firms" who still represent the majority of law firms, meet the needs of more vulnerable people and ensure that all consumers can benefit from an environment which is being rapidly reshaped by technology, challenged by new entrants and by customer expectations raised by experiences in other sectors. The SRA should consider doing more to help firms innovate and use technology offered by new finance, people management, funding and other services.

We also believe it is essential for the SRA to engage much more regularly and directly with the profession and other bodies, through organisations including ACSO, to ensure continuous, contemporary and insightful insights are gained on evolving

legal services. It should use such intelligence and the data available to monitor and manage the key factors which are shaping the profession.

11.

2. Do you agree with our proposed new strategic objectives? If not, what should our key priorities be over the next three years?

As outlined in the previous question, ACSO supports the SRA's new strategic objectives.

In respect of objective one, it is crucial the SRA understands the needs of consumers, including those with vulnerabilities. More insights and data are required to support the SRA's approach to regulation and decision-making processes.

These insights should be in the form of more generalised information on evolving consumer behaviours and the impact on the consumer of regulation, as well as wider reforms such as those which are government led.

The SRA should also seek to understand better the impact regulatory and broader factors have on the dynamics of the market and how these factors may change law firm behaviours.

The consumer and market insights required to support meeting objective one should be considered in the context of many areas of the market operating very differently to each other, with the dynamics and consumer experiences varying as well. The more granular the SRA's understanding of different market segments across the legal services sector, the better placed it will be to meet objective one.

Given the current levels of trust in the profession compared to many others – for instance in financial services providers, who are a reasonable comparator – it is clear that solicitors are performing reasonably well in many of their functions and in fulfilling broad consumer expectations. However, and as objectives two and three make clear, the landscape is rapidly changing and it is welcome that the SRA sees this as something to encourage in the consumer interest rather than prevent in the producer interest.

12.

3. Do you have any comments on our proposed way of achieving each objective (as set out under each objective in “How we will achieve our aims”)?

Although this consultation is very welcome, given the brevity of the document and the relatively small number of bullet points attached to each objective, it is not possible to set out comprehensive commentary. However, it is positive that collaboration and engagement feature strongly, and we would urge the SRA to deliver on its promise to work closely with professional and representative bodies and also, crucially, with consumer groups and others.

The SRA's work should take into account: granular insights on consumer needs and behaviours; the manner in which the profession is adapting to the regulatory and broader changes impacting the sector; and the impact of government actions and those of other regulators. The Competition and Markets Authority's legal services market study in 2016 highlighted the lack of competition within the market and the imbalance in information available to consumers. It is essential through further engagement that the SRA works with industry and consumer groups to address these issues.

As referenced within the consultation document, there is a blurring of regulatory boundaries and an increasing number of law firms dual regulated by the Financial Conduct Authority (FCA). One example where the boundaries of FCA and SRA regulation have become less clear, certainly from the perspective of the consumer, is in relation to claims management activity, which since 1 April 2019 has been regulated by the FCA. This has the potential to create confusion amongst consumers although could also work in their interest.

Claims management is an area in which law firm and non-law firms compete and in essence have a choice of regulator. There are also various models where the consumer interacts with separate entities when pursuing a claim, one of whom is SRA regulated and one FCA regulated.

This offers the opportunities for different regulators to learn from each other's activities, both in terms of what works and, on

occasion, where performance could be improved in the consumer interest. Consumers should expect comparable standards of service and regulatory protections regardless of the provider they engage with, and what is effectively competition between different regulators could contribute to better outcomes.

Further, it is essential for the SRA to understand in depth the complex needs people have, especially from those within vulnerable groups. However, it should be borne in mind that those outside of more easily definable groups can develop vulnerabilities which are exactly why they are seeking legal support in the first place, for example because of injury, employment issues, family breakdown, bereavement or financial distress. ACSO is pleased to continue working with the SRA to help bring together consumer groups and others to discuss the relevant issues and suggest proportionate and constructive approaches to tackling both existing and emerging challenges.

Further research into the experience of consumers in other jurisdictions, for example the United States and Germany, may be informative. This might include the impact of the take-up of subscription services, online and telephony support and legal expenses insurance (LEI) cover as well as how use of artificial intelligence can bring more services to consumers while addressing the cost issues which often represent the most significant barriers to access to justice. This may help build an understanding of the unmet needs of service users, which can then be used to provide an agenda to work with service providers and innovators inside and outside the sector to help meet these needs. Developments such as the planned appointment by the SRA of an executive director of strategy and innovation and its work with Nesta on the Legal Access Challenge are therefore welcome and should be further encouraged.

The horizon scanning and trends analysis vital to the success of product development is best achieved in partnership with service providers and their representative bodies. They have the detailed working knowledge of their segments within the legal services sector, and again ACSO would be very pleased to continue working with the SRA to facilitate this. The SRA should not be expected to anticipate every new development, opportunity or risk but it should be expected to work with reputable outside groups who can help them work towards this.

13.

4. What specific areas of focus would you like to see us develop under each objective?

Overall it is vital for the SRA to deepen its insights on the current and future legal services and connected markets, through regular meaningful engagement with organisations who have the specialist knowledge of their markets and for the market to be seen as one with general commonalities, but also discrete differences by segments. The commitment to greater engagement should be made at the highest level at the SRA, with increased contact not just with established partners such as the Law Society but with a wide range of other professional and consumer bodies. It is recommended that the SRA board makes clear its expectations that senior executives should significantly increase their levels of engagement across the legal market and that this is measured effectively.

As outlined, it is also particularly important that the needs of more vulnerable consumers are considered carefully, both in terms of existing and potential vulnerabilities.

14.

5. Have we missed anything significant or included anything that we shouldn't be focusing on?

As highlighted, there is much need for the SRA to engage with organisations like ACSO and the wider industry to support its understanding of the impact of non-SRA driven changes to the legal services sector. This will help it better predict the impact these changes will have both on the consumer and on those law firms the SRA regulates which are affected by these changes.

One example is the implementation of the Civil Liability Act, currently planned for 6 April 2020, which is likely to have a dramatic effect on the consumer experience and the nature of the relevant legal services market. While some of the challenges can be anticipated, many will only emerge once the new regime is in place, the Official Injury Claim online portal is operational and as legal services providers, insurers and consumers themselves respond to it. While these are not the only relevant reforms which will be of importance to consumers between 2020-23, they are likely to affect by far the greatest number of claimants. As such, this is an area of civil law which should merit considerable attention prior to the implementation

of the legislation, during the transitional period and once the market has adapted to the government-led reforms. Again, ACSO is pleased to work with the SRA and other regulators to consider the consumer impacts and opportunities. Another example of a reform occurring outside of SRA regulation which will impact the manner in which law firms conduct themselves is in relation to LEI products. The FCA recently concluded its latest assessment of general insurance add-on products, with its policy statement due in Q1 2020. This study examined the FCA approach to how products such as LEI are to have their value measures assessed and how behaviours of those law firms who support such products may change as a result of this and of the impact of the Civil Liability Act.

These are two of the examples of where ACSO and its members are engaging with the SRA to help provide the specialist and detailed insights required to assess the changes in market dynamics and the impacts on the consumer within this part of the legal services sector.

SRA Corporate Strategy 2020-23 Consultation

Law Society Response

January 2020

Introduction

1. The Law Society welcomes the **Solicitors Regulation Authority's** (SRA) consultation on its strategy and **is broadly supportive of the SRA's** strategic aims. However, we would like to see the SRA strike an appropriate balance between each of the aims.
2. The strategy acknowledges the legal sector faces many uncertainties driven by Brexit, regulatory changes (the SRA Standards and Regulations (STARs), the new Money Laundering Directive, GDPR), and wider market transformation. The regulator has a critical role to play in mitigating against adverse impact of these changes on the profession, consumers and the public.
3. The SRA recognises that *“at a time of uncertainty, people need to be able to place their trust in the rule of law and the administration of justice. High professional standards for entry to the profession and throughout practice are fundamental to that trust and must remain a priority for us”*¹. We agree that the public trust in the legal system is crucial, and the strategy presents an opportunity to build more trust between the regulator, the profession and the public. The SRA should therefore focus on its core regulatory function of ensuring high, professional standards of competence rather than diverting too high a proportion of its resource to other strands of work.
4. We welcome **the SRA's** emphasis on collaboration and engagement with representative bodies and regulated communities. Closer collaboration and more joined-up working are especially important in the course of implementation of significant recent and forthcoming regulatory reforms such as the new STARs, Solicitors Qualifying Exam (SQE) and other wider market regulations. We are keen to take a collaborative approach with the SRA on both the development of new regulations to ensure they are meeting their stated objectives and developing guidance and compliance tools to help practitioners to adhere to high professional standards.
5. We note the SRA proposes to promote access to justice across all its strategic objectives. While we agree that the SRA should challenge itself to look at ways to improve access to justice, many of the underlying factors behind unmet demand, such as legal aid cuts, court fee rises and low levels of legal literacy, cannot be addressed by regulatory changes. We encourage the SRA to engage with the wider policy debate on access to justice and be more vocal about other more significant factors, outside its regulatory remit, that prevent people from accessing justice.
6. **We support the SRA's** commitment to improving its operational services. The SRA should set itself clear and transparent performance criteria to measure the effectiveness of its work and conduct more robust impact assessments to demonstrate the extent to which its work and regulatory changes have delivered the regulatory objectives set out in the Legal Services Act 2007 (LSA). The Legal Services Board

¹ The SRA Corporate Strategy Consultation 2020 - 2023, p. 8;
<https://www.sra.org.uk/sra/consultations/consultation-listing/corporate-strategy-2020-2023/?s=o>

raised concerns with regulators about the poor quality of some rule change applications, with some lacking in supportive evidence and rationale.² More focus on evidence-based policy making and impact assessments should help the SRA to improve its regulatory performance.

7. We set out below detailed comments under each of the questions.

Objective 1: Setting and maintaining high standards for the profession and the SRA

8. The promotion of high professional standards should be at the core of the regulator's work since it builds public confidence in the profession, the rule of law and administration of justice. The maintenance of high standards is essential to protecting the public interest.
9. We welcome the SRA's intention to "*find the right balance between appropriately high standards and creating opportunity for competition and innovation*".³ Such approach should help the SRA to deliver the regulatory objectives, set by the LSA, in a more balanced and proportional way. Striking the right balance between the competing objectives will be paramount to the SRA's success and to the success of the new STARs, the implementation of the SQE next year, and developing regulation in response to new emerging risks. Where trade-offs must be made, the SRA should ensure it maintains a focus on promoting the public interest and a strong, independent and diverse legal profession.
10. Under the strategy the SRA plans to conclude its long-term programme of reforms and refocus its work on ensuring that regulated communities meet high professional standards set by the regulator. Given the recent significant regulatory changes (STARs, transparency rules, new Money Laundering Directive), it will be important that the SRA clearly explains and communicates to the profession not only what the new standards are, but also the SRA's expectations and the behaviour required to meet those standards. This is particularly important since the SRA is moving away from rules-based regulation towards a more risk-based approach, with less prescriptive rules, which could lead to ambiguity and uncertainty. Firms may not be sufficiently clear about accepted behaviour, or the circumstances in which enforcement action may be triggered. We are concerned about the cumulative impact of these changes on the profession and clients, and in particular the potential for a disproportionate impact on small firms and sole practitioners, which do not have the compliance resources of big law firms.
11. It will be vital that the SRA ensures adequate guidance and assistance to practitioners and law firms, and sets out what good looks like, to support the profession in compliance. This will help to ensure appropriate conduct, protect the public, avoid misunderstanding or disputes with the regulator, and ensure that high standards are maintained.

²The LSB draft Business Plan 2020/21 consultation, p. 10.

³The SRA Corporate Strategy Consultation 2020 - 2023, p. 10.

12. We are also pleased that the SRA intends to work with representative bodies and regulated communities in the course of delivering its strategy. Engaging more effectively with the profession in a constructive and positive manner will smooth the process of implementing the reforms, enable the SRA to get a better insight into potential gaps in guidance or support, and help to more effectively monitor the impact of the regulatory changes on the profession and clients.
13. **The Law Society's** committees have a breadth of expertise in regulatory issues, ethics and specialist areas of practice, and we are keen to continue to work closely with the SRA on identifying potential areas of risks, compliance gaps, as well as developing further support material for the profession. More joined up and collaborative ways of working can prevent work duplication and lead to **reduction in the SRA's operational cost**. This could also help to increase the trust of the profession in the regulator and deliver regulation fit for purpose.
14. We **support the SRA's overall** goal of improving diversity of the profession and monitoring diversity data. The Law Society is committed to the principles of the Equality Act and we believe equality and diversity will strengthen the profession and the wider legal sector. As such, it is important that the SRA ensures the impact on equality, diversity and inclusion (EDI) is considered in the process of embedding and monitoring outcomes of its STARS and forthcoming SQE reforms.
15. We have raised concerns with the SRA over potential EDI implications in relation to the introduction of the new SQE, such as issues around funding and accessibility of the assessments. We would also encourage the SRA to actively engage with Government to help make new professional loans available for aspiring solicitors. This will help the SQE to have a positive impact on diversity within the profession and ensure that all candidates have access to the funding they will need.
16. Similarly, the SRA needs to monitor the impact of STARS on BAME solicitors. There is a risk that constant regulatory change has an economic impact, especially on small firms and sole practitioners, with BAME solicitors disproportionately based in such **practices. The SRA's impact assessment** identified risks for BAME practitioners arising from the handbook reforms⁴. It is important the SRA is transparent and reports on the EDI impact in the assessments of its reforms. The SRA should also make clear how it intends to measure diversity, for example what type of practice (law firms, alternative legal service providers), and at what levels (senior partners, partners, associates or all areas of a business).
17. **As for the SRA's commitment to deliver excellent operational service**, we support any work that will result in improvements to the effectiveness, responsiveness and delivery of SRA regulatory functions.
18. With the new enforcement strategy in place, the SRA and the profession would benefit from a greater focus on the quality and consistency of decision making. This would

222

⁴ SRA Looking to the Future: Phase two of our Handbook reforms Impact assessment, June 2018, para 14, p. 19.

entail ensuring that the individuals making decisions on cases are appropriately trained and qualified.

19. In addition, we recommend the SRA publishes details on how it intends to measure the effectiveness and efficiency of its work. One of the measures should include the level of solicitor satisfaction with the SRA, which was used historically. Including this measure would help deliver greater transparency and accountability in relation to its work. In addition, the SRA should get insight from other renowned jurisdictions on how to drive improvements in performing the statutory duties of the regulator.

Objective 2: Technology and Innovation

20. We broadly support this objective, but it is not entirely clear that all aspects of the proposed workstreams fit within the ambit of the regulator. We encourage the SRA to engage closely with the Law Society as it further develops this strand of work. The Law Society plays an active role in promoting technological innovation in the legal sector and the opportunities it can offer to enhance the way solicitors work and the service they provide to clients. It is important the SRA works in partnership with the Law Society to prevent duplication. For example, the SRA strategy needs to factor in the Law Society's ongoing work with the SRA and NESTA to support the Legal Access Challenge Fund.
21. There is also a need to better understand and communicate the impact of the SRA's Innovate program over the last few years, before continuing this strand of work.
22. The SRA has stated it must consider the different types of technological products being applied to the legal services sector, how they will be used by the sector and the practical and ethical implications for practitioners and consumers. It is positive the SRA plans to engage with the UK's LawTech ecosystem to ensure regulation is not placing unnecessary barriers on innovation. However, given the transnational nature of technology, it is important the SRA conducts comparative analysis to learn lessons from territories who lead in designing, deploying and regulating LawTech. For example, the International Bar Association (IBA) is currently leading work on regulatory approaches to unregulated legal services providers and we recommend the SRA takes account of its work when scoping future policies.⁵
23. Prior to understanding and analysing unmet legal needs and how technology can help to alleviate the problem, the SRA should engage with the profession to better define unmet needs as there is no sector-wide agreed definition.

Objective 3: Anticipating and responding to change

24. It is not clear what tangible outcomes the SRA intends to achieve from this objective. As mentioned earlier, given the scale of recent regulatory changes, it is important that

⁵ International Bar Association consultation on unregulated providers of legal services, 2019.

the SRA should focus on its core regulatory function of ensuring high, professional standards of competence, including high standards for assuring continuing professional competence, rather than diverting resource to this strand of work. This will help ensure stability and certainty for the profession.

25. With more certainty now over the date when the UK will leave the European Union and pending further clarity on the future relationship between the UK and the EU, the SRA should ensure adequate resources are in place to review and, if appropriate, adapt its regulatory arrangements. The Law Society has been actively engaged in seeking to maintain the international competitiveness of the English and Welsh jurisdiction as well as seeking opportunities in trade in legal services with the EU and the rest of the world, and we would welcome the opportunity to work closely with the SRA on this issue.
26. Regarding the proposed work on *'keeping abreast of developments in regulation across the legal and other sectors'*⁶, resource will have to be carefully balanced with the need to monitor and evaluate outcomes of recent reforms, especially the cumulative impact of regulatory changes on practitioners and their clients. In addition, we recommend the SRA conducts horizon scanning of problems faced by the profession, including the inability for many to exit the profession and wider issues affecting the profession (e.g. cuts to legal aid), to better inform its future focus and any regulatory interventions.
27. Whilst we broadly agree **with the SRA's proposal** of deepening its understanding of consumer concerns and requirements, it is important that the definition of consumer should also encompass law firms, alternative legal services providers (ALSPs) and LawTech. The Law Society, in partnership with the LSB, will be publishing the Legal Needs survey in January, which will provide a rich source of data on **clients'** behaviour and experiences with the legal market. The survey should help the SRA gain a better understanding of barriers preventing people from accessing justice; for example, the level of consumer awareness of the legal nature of their problem, consumer preference in relation to handling strategies, or accessibility of advice routes. As such, the survey can support the SRA and other policy makers to develop more targeted regulatory interventions better tailored to specific consumer needs.
28. We **support the SRA's** workplans on raising public awareness of legal services and how they can be used. The Legal Needs survey we carried out with the LSB shows that there are many people who do not understand how and when they should take legal advice from a qualified solicitor or other regulated professional. Making people aware of how to recognise legal issues and from whom to seek help, could help people to address this. This could **in turn increase people's access to justice and reduce unmet** demand.

⁶ The SRA Corporate Strategy Consultation 2020 - 2023, p. 17;
<https://www.sra.org.uk/sra/consultations/consultation-listing/corporate-strategy-2020-2023/?s=0>

Corporate Strategy 2020-2023

Response ID:91 Data

2. About you

1.

First name(s)

David William Martin

2.

Last name

Barraclough

3.

Please enter your SRA ID (if applicable)

98248

6.

I am responding..

on behalf of an organisation

7.

On behalf of what type of organisation?

Law society

8.

Please enter the name of the society

Yorkshire Union of Law Societies

9.

How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions

10.

1. Do you have any comments on the key factors in the legal services market and wider environment that we have identified in the Corporate Strategy? Are there any additional factors we should consider?

The Yorkshire Union of Law Societies ("YU") has set out its comments on the three priority areas identified in the Corporate Strategy in Section 3 below. The key to achieving those objectives must be for the SRA to work closely with the profession and allow the profession to fully collaborate in the formulation of the strategies to achieve those objectives. The future consultations referred to by Anne Bradley, SRA Chair, must be genuine consultations. There is a widely held view in the profession that the SRA has an agenda from which it will not deviate and that consultations with the profession simply pay lip service to the consultation process. That view can only be dispelled by the SRA demonstrating in the clearest possible

manner that the SRA is listening to the views of the profession and giving fair and proper weight to the views of the profession.

11.

2. Do you agree with our proposed new strategic objectives? If not, what should our key priorities be over the next three years?

The YU agrees broadly with Objectives 1 and Objective 2 but has concerns that in some respects Objective 3 will divert the SRA from its core role as the regulator of the profession.

12.

3. Do you have any comments on our proposed way of achieving each objective (as set out under each objective in “How we will achieve our aims”)?

Objective 1: Setting and maintaining high standards for the profession and the SRA.

The YU is broadly supportive of this objective but would add the following comments:-

1. The YU assumes that in referring to high standards the SRA is referring to standards that are as high or higher than existing standards. The YU has been assured by the SRA that there is no intention whatsoever that any reforms proposed by the SRA could lead to any diminution in the maintenance of existing standards. The maintenance of high standards must underpin every reform and be the yardstick against which all proposed reforms are measured.

2. The SRA needs to engage with the profession more closely and demonstrate to the profession that it is actively listening to the views of the profession. If the SRA does genuinely wish to work with the profession to achieve each objective the SRA must work harder to build greater trust within the profession to facilitate the achievement of each objective through mutual cooperation.

3. The YU is a firm believer in using innovation to improve the deliver of legal services but cautions against innovation unless it can be clearly demonstrated that any innovations proposed will not lead to any diminution in the maintenance of high standards.

4. The SRA must ensure that it provides the profession with support and guidance to manage the numerous regulatory changes in a constructive and collaborative manner. A profession that is used to working with a framework of detailed regulation will require examples of what is required to meet the highest standards if those standards are not prescribed.

5. The SRA should demonstrate in a transparent manner the extent to which the SRA's strategy will meet the Regulatory Objectives of the Legal Services Act 2007.

6. The YU applauds the goal of increasing diversity in the profession but again the SRA must ensure that any increase in the diversity of the profession is not achieved by means which will compromise the objective of the maintenance of the high standards. The SRA should be transparent as to how it intends to measure diversity.

7. The SRA should state now how it intends to measure the effectiveness of its strategic objectives. One of those measures should be the level of satisfaction within the profession.

Objective 2: Technology and innovation.

The YU is broadly supportive of this objective but would add the following comments:-

1. The profession will inevitably use technology to develop the provision of high quality legal services in a profitable manner and competition within the profession will ensure that the increase in the use of technology is rapid. As regulator, is the role of the SRA to regulate and support the manner in which technology is used within the profession rather than take a lead role in the introduction of the use of technology.

2. The SRA should raise the profile of the SRA Innovate programme to benefit small to medium size firms within the profession who may not have the resources to develop technological innovation without outside assistance.

3. The development of legal technology will be international and the SRA should work worldwide with other jurisdictions to try and agree internationally recognised standards in relation to the use of technology.

Objective 3. Anticipating and responding to change.

The YU is concerned that the objective of becoming an authoritative commentator on and a valued voice in policy debates on access to legal services and the wider consumer protection landscape in addition to policy debates around regulation is straying from the SRA's core function of regulating the profession to ensure the maintenance of high standards within the profession. The YU is fully aware of the dynamic tension with the profession between the aim of providing regulatory compliant legal services of the highest quality to consumers in a profitable manner and the desirability of providing access to justice for all. The YU would like the SRA to do some horizon scanning of the problems within the profession for example the "legal aid deserts". In large areas of England and Wales, people cannot access legal aid advice for housing or community care due to reductions in legal aid funding. We would like the SRA to not only deepen its understanding of consumer concerns and requirements but also its understanding of the professions concerns and requirements.

13.

4. What specific areas of focus would you like to see us develop under each objective?

As stated in Section 1 above the focus in respect of each objective must be to fully consult and listen the views of the profession . If the profession feels that it is a valued contributor to the consultation process and the outcomes of the consultations properly reflect the contribution of the profession there is a greater likelihood of reforms working in practice.

14.

5. Have we missed anything significant or included anything that we shouldn't be focusing on?

The YU is not aware of anything significant that has been missed but would repeat the reservations set out in Section 3 in relation to Objective 3.

Corporate Strategy 2020-2023

Response ID:74 Data

2. About you

1.
First name(s)

Nigel

2.
Last name

Jacklin

3.
Please enter your SRA ID (if applicable)

6.
I am responding..

in a personal capacity

7.
In what personal capacity?

Other

9.
How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions

10.
1. Do you have any comments on the key factors in the legal services market and wider environment that we have identified in the Corporate Strategy? Are there any additional factors we should consider?

I am uncomfortable with laws which rely on terms such as 'alarm and distress' as these may be too open to interpretation. I am also wary of an over-reliance on surveillance.

11.
2. Do you agree with our proposed new strategic objectives? If not, what should our key priorities be over the next three years?

Yes.

12.
3. Do you have any comments on our proposed way of achieving each objective (as set out under each objective in "How we will achieve our aims")?

No.

13.

4. What specific areas of focus would you like to see us develop under each objective?

It should be easier for those accused of committing crimes to understand the legal process and to access advice.

Where technology is employed it should not be too complex.

If algorithms are used there needs to be oversight, observance and testing of them by humans.

14.

5. Have we missed anything significant or included anything that we shouldn't be focusing on?

Not as far as I can see.

Thank you for inviting me to the Roundtable meeting on Thursday 16th Jan. And for taking the time to speak with me afterwards.

I am emailing you my response to the consultation to support keeping your third priority - might be about responding to and anticipating change -beyond this consultation. I understood this to mean you would be more proactive than you currently are.

The main point that I wanted to leave you with on Thursday, ten days ago, was about not turning a blind-eye to systematic injustices being perpetuated caused by the financial incentives of solicitors. I also responded within your survey about this.

And for a more academic analysis of this in my area, contentious legal problems, please refer to the writings of Oxford professor Adrian Zuckerman, especially:

<https://www.jstor.org/stable/1097446>

I would be happy to send you a copy if you would like one?

Further evidence for why your third category is needed included the principle behind WhatsApp comments made at the roundtable meeting. Sitting on the fence on practical issues.

And my Comments about falling between the cracks on solicitors prolonging Court process for financial gain rather than their clients best interests. So the SRA do recognise the Court can determine rights and the SRA also performs its role to protect standards. I have had one occasion to prompt the SRA investigate solicitors for not upholding high standards. The Court involvement was relied upon to delay, and later excuse looking at the evidence and making any finding.

Someone from the investigating team got in touch to confirm this was happening a second time. I don't want any external influence upon the ongoing report to the SRA. What I will suggest is that - as my call with Chris Boyce omar around 10am on Friday, 24th Jan 2020 was recorded -please could a copy of this email and a recording of Friday's call be treated as my response to the Consultation? That call typifies the SRA not taking positions on areas that it regulates upon (solicitor undertakings) so matters fall between the cracks.

Please could I also have some help to find - regarding abusing process to adopt the route of greatest financial gain for their firms - which principles, outcomes and indicative behaviours respond. I was very reassured by Ben's acknowledgment the SRA does respond. Could I please make an FOI request or otherwise be provided with examples of solicitors being caught delaying justice to earn more fees? Or if this does not yet fit within the regulatory role (your continuing and first bread-and-butter function), then I hope your third function - to respond or proactively improve standards in the profession- helps bring some change for users of contentious legal services. I am awaiting Warren's response to help solicitor users with their bill and professional negligence disputes

Thanks

Qasim

Corporate Strategy 2020-2023

Response ID:53 Data

2. About you

9.

How should we publish your response?

Please select an option below.

Publish the response anonymously

3. Consultation questions

10.

1. Do you have any comments on the key factors in the legal services market and wider environment that we have identified in the Corporate Strategy? Are there any additional factors we should consider?

11.

2. Do you agree with our proposed new strategic objectives? If not, what should our key priorities be over the next three years?

12.

3. Do you have any comments on our proposed way of achieving each objective (as set out under each objective in “How we will achieve our aims”)?

13.

4. What specific areas of focus would you like to see us develop under each objective?

14.

5. Have we missed anything significant or included anything that we shouldn't be focusing on?

It is my belief that sustainability of the environment in which we operate, more so the environment as a whole rather than the legal environment, is the single most important issue we face currently - nothing is more important. The SRA not only have the opportunities to ensure that solicitors and law firms are operating in a sustainable way, they have the greatest power to do so as the leading regulator of the legal market. I failed to see any specific agenda around sustainability of the environment in the consultation and believe that this should be a major focus of the corporate strategy.

Corporate Strategy 2020-2023

Response ID:76 Data

2. About you

10.

How should we publish your response?

Please select an option below.

Publish the response anonymously

3. Consultation questions

11.

1. Do you have any comments on the key factors in the legal services market and wider environment that we have identified in the Corporate Strategy? Are there any additional factors we should consider?

Comparison between regulation of solicitors and those who carried out legal tasks but who are not solicitors to ensure that they are held to the same high standards.

Investigate firms of "lawyers" who are holding themselves out as solicitors or giving the impression that legal work will be carried out by solicitors and carrying out services such as will writing. Their activities damage the reputation of and trust in the profession.

12.

2. Do you agree with our proposed new strategic objectives? If not, what should our key priorities be over the next three years?

Help restore the reputation of the profession.

Work with the profession to ensure compliance whilst supporting the profession especially newer members and trainees and providing greater guidance on issues such as practical ways to deal with money laundering risk assessments and prevention of fraud.

Stop giving the public the impression that solicitors cannot be trusted with client money by suggesting that we should no longer hold client accounts.

Work with high street banks to develop service standards that we can expect from them when dealing with secured lending, to force them to limit their instructions to the CML Handbook requirements and to agree a standard form Legal Charge.

13.

3. Do you have any comments on our proposed way of achieving each objective (as set out under each objective in "How we will achieve our aims")?

You should work more closely with the profession and ensure that a majority of your staff are legally qualified or have experience of working in law firms.

14.

4. What specific areas of focus would you like to see us develop under each objective?

As above.

15.

5. Have we missed anything significant or included anything that we shouldn't be focusing on?

As above.

Corporate Strategy 2020-2023

Response ID:90 Data

2. About you

10.

How should we publish your response?

Please select an option below.

Publish the response anonymously

3. Consultation questions

11.

1. Do you have any comments on the key factors in the legal services market and wider environment that we have identified in the Corporate Strategy? Are there any additional factors we should consider?

In considering the training of new entrants to the profession I recommend that the SRA also investigates the increasing practise of law firms offering paralegal roles instead of training contracts. Prospective Trainees are told they need 'experience' before they will be given a training contract, with the 'carrot' of a training contract being offered in the future, which often does not then transpire. In my view this practise undermines the training route through to qualification.

12.

2. Do you agree with our proposed new strategic objectives? If not, what should our key priorities be over the next three years?

Yes

13.

3. Do you have any comments on our proposed way of achieving each objective (as set out under each objective in “How we will achieve our aims”)?

Objective 1 - I suggest that the SRA also considers how to do more to combat bullying in the workplace within the profession.

How solicitors treat their own employees is a key aspect of professional integrity.

Objective 2 - I agree that technology may be a key way to increase access to justice to those in need of legal advice who can not afford a solicitor. It would be helpful if that advice came from a central official source rather than consumers having to rely on many differing and sometimes confusing sources of information which becomes 'Googlelaw'.

Objective 3- I agree that the SRA has a role to play in being an authoritative commentator on issues beyond its remit -eg cuts to legal aid and access to justice.

14.

4. What specific areas of focus would you like to see us develop under each objective?

As above

15.

5. Have we missed anything significant or included anything that we shouldn't be focusing on?

As above- I believe the SRA should also investigate behaviour within solicitors firms towards their own employees - particularly the most junior members of he profession within firms-perhaps an anonymous survey of trainees to find out how many paralegal roles they had before they found a training contract, how they are treated by their supervisors, whether they feel well supported?

Corporate Strategy 2020-2023

Response ID:94 Data

2. About you

10.

How should we publish your response?

Please select an option below.

Publish the response anonymously

3. Consultation questions

11.

1. Do you have any comments on the key factors in the legal services market and wider environment that we have identified in the Corporate Strategy? Are there any additional factors we should consider?

I think the factors identified in the Corporate Strategy are appropriate.

12.

2. Do you agree with our proposed new strategic objectives? If not, what should our key priorities be over the next three years?

I agree with the choice of strategic objectives.

13.

3. Do you have any comments on our proposed way of achieving each objective (as set out under each objective in “How we will achieve our aims”)?

I would submit that the goals for each objective could be more ambitious, and could be more closely aligned with technology.

In particular:

Objective 1 (High Standards): I propose the SRA engage in much more rigorous monitoring, not only of diversity data but conduct of complaints by or involving individual solicitors (and firms) from a wider array of data sources. A proposal for how it might do so is set out below.

Objective 2 (Technology): In addition to SRA Innovate, I would propose the SRA also target expanding its role as host and repository of much greater amounts of data.

Objective 3 (Anticipating change): I propose the SRA actively plan for significant disruption in the legal sector which could dramatically alter its role, particularly the further adoption of machine learning and artificial intelligence (AI).

14.

4. What specific areas of focus would you like to see us develop under each objective?

The following suggestions have arisen mostly from my research into distributed ledger technology, which I think offers great promise for regulators in the professional services sector:

Objective 1 (High Standards - Monitoring firm/solicitor conduct and client service): Using a distributed database architecture (or ledger), the SRA could operate a distributed database from which it could observe feedback (from clients and solicitors) being submitted to member firms (knowing the nature of the claim but not all details) and observe the manner which firms dealt with complaints in real time - giving it scope to oversee firm processes and challenge firms during/immediately after complaints procedures occurred. Clients and solicitors would use cryptographic signatures to maintain anonymity for longer.

Such system could also be used to collect more granular data on levels of service of clients (while retaining anonymity and minimising collection of personal data).

I would also argue the SRA is particularly well placed to develop such system, as firms individually will not have a strong incentive to solely develop such platform and therefore be unlikely to develop a similar platform.

Objective 2 (Technology): Using self-sovereign identity, the SRA can reinvent the Practising Certificate from a relatively static certificate and professional register to a more dynamic system of credential issuance, in which solicitors have greater control over records, there is greater accessibility with wider data sets which can contribute to the Practising record and the SRA can operate as a credentials issuance platform (in addition to its enhanced regulatory function).

The SRA may be able to occupy a position as a global leader in adopting such system.

Objective 3 (Anticipating change): Focussing on Artificial Intelligence, there is already significant adoption of such technologies in the commercial sector and on the side of companies facing consumers, including in the Banking Sector. In future it is likely that AI applications will be used in consumer facing processes, such that the function of giving legal advice may be curtailed further than currently.

The digital financial commentator David Birch has written the future may involve a consumer deploying an AI application to negotiate - and which will negotiate with the AI application(s) of service providers (such as banks or insurers). I would submit an example is the DoNotPay app, which uses AI to assist consumers populating legal documents, such as challenges to parking tickets, filing litigation and accessing complaints procedures at certain companies.

This may well improve access to justice (as consumers may enter into legal relationships with much less or no advice - relying wholly on an app to guide them) but may also limit the role of client advisor for some types of advice (or such advice may effectively disappear).

I would submit the SRA corporate strategy give active consideration to how the role of legal counsel (and the SRA's regulation of the sector) may change in such circumstances. For example, will the SRA need to consider regulatory guidance or oversight for AI or machine learning applications? Would there be an advantage in doing so?

15.

5. Have we missed anything significant or included anything that we shouldn't be focusing on?

As mentioned above.

2. About you

10.

How should we publish your response?

Please select an option below.

Publish the response anonymously

3. Consultation questions

11.

1. Do you have any comments on the key factors in the legal services market and wider environment that we have identified in the Corporate Strategy? Are there any additional factors we should consider?

We concur that the interlinked factors identified as drivers for your Corporate Strategy are likely to influence the legal services market over the next several years and so are appropriate areas on which to focus your resources.

Given the period of uncertainty facing the country, there will be a greater need for the consumers of legal services to trust in the application of the law and providers of legal services. We concur that establishing and maintaining high professional standards for new and existing members of the profession is key to achieving this aim and welcome your continued guidance on the introduction of the SQE as well as the embedment of your new regulatory regime.

We view technology and innovation as helpful tools with which the providers of legal services can evolve and adapt to change but consider these must be introduced with caution to minimise any potential risks to the users of legal services and firms.

12.

2. Do you agree with our proposed new strategic objectives? If not, what should our key priorities be over the next three years?

Yes. We feel that your proposed objectives take into account the changing landscape of the provision of legal services and will serve to encourage enhanced public trust as well as increased support for firms that you regulate.

13.

3. Do you have any comments on our proposed way of achieving each objective (as set out under each objective in “How we will achieve our aims”)?

We concur with your high-level summary setting out how you will achieve your proposed objectives. Further detail regarding the steps you intend to take or initiatives you would like to roll out to fulfil your aims would be helpful to support firms with their continued compliance and engagement.

14.

4. What specific areas of focus would you like to see us develop under each objective?

Objective 1: In the process of achieving your aims set out in objective one, we would like to see a focus on:

- Support for vulnerable users of legal services

We would like to see continued focus on the provision of clear, accessible information for those who may find it more challenging to access legal services.

- The provision of guidance to firms

A continued focus on transparency and the provision of guidance to firms would be welcomed to continue to foster a collaborative approach to regulation and enhancement of public trust placed in our profession.

We would welcome the continued provision of detailed guidance for firms and solicitors around any key changes you elect to make when developing your regulation of money laundering and financial crime, monitoring diversity data and the continued embedment of your Standards and Regulations.

Whilst we anticipate it will already be part of your plans when introducing the SQE, however, it would be helpful for you to provide guidance for firms planning to take on prospective new entrants to the profession so that they are best equipped to support lawyers of the future with their training and initial years in practice.

Objective 2: We recognise that the way consumers and businesses interact and perform key tasks has changed dramatically in recent years. We would welcome particular focus on supporting firms to navigate the new waters opened up by the enhancements in technology for the legal sector to ensure that innovation is delivered responsibly, providing the maximum benefit to consumers and firms alike.

When developing new legal technology, we would view engagement with charities supporting vulnerable users of legal services as a key step to ensuring new technological advancements are geared towards making legal services accessible for all.

Objective 3: In particular we would like to see a focus on:

- Translation of your horizon scanning into support for providers of legal services

We are hopeful that your focus on actively horizon scanning to enhance your understanding of potential challenges facing the providers of legal services arising out of changing social, political, economic and environmental factors will give rise to practical guidance for firms to help them adapt their ways of working to adapt to external changes.

- Adding your voice to the debate

We would welcome the addition of your voice to debates concerning changes to the way that the public can access legal services and legislative changes with the potential to impact the legal sector and its consumers as a champion for access to justice for all.

15.

5. Have we missed anything significant or included anything that we shouldn't be focusing on?
