

Business Plan and budget 2023-24: Consultation responses

October 2023

Consultation responses

These respondents asked us to publish their responses.

- Legal Services Consumer Panel
- The Law Society
- Liverpool Law Society

Legal Services Consumer Panel



Sent by email only to consultations@businessplan@sra.org.uk

21 June 2023

Solicitor Regulation Authority's Business Plan and Budget 2023/24

Dear Sir/Madam,

The Legal Services Consumer Panel (the Panel) welcomes the opportunity to respond to the Solicitors Regulation Authority's Business Plan and Budget for 2023/24.

Reflections on the consultation questions

Do you have any views on our proposed work commitments for 2023-24 under our first strategic priority?

The Panel broadly supports the proposed commitments under the SRA's priority one. We note that this is an extensive list of varying strands, some of which the SRA has a good track record on. However, some need more concerted effort and attention.

We welcome the progress that has been made on transparency requirements but remain disappointed with the slow pace towards establishing quality indicators as recommended by the Competition and Markets Authority (CMA). This is where we would like to see the SRA devote more effort in 2023/24. The Panel is also of the strong opinion that transparency measures should now be extended to other pressing and important areas of law, areas of law where we know consumers are struggling eg family and employment law and which would benefit from transparency measures.

In the Panel's own work-programme of 2022-23¹, we said we would write to the CMA in December 2023 noting the slow progress on quality indicators seven years after the CMA's first report and three years since the CMA's last assessment.

¹ <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2023/05/LSCP-Work-Programme-2023-24.pdf>

In addition to the progress that must be made on quality indicators and extending transparency to other areas, we would like to see more done to ensure that existing transparency measures deliver good consumer outcomes. In October 2022, the Panel published a paper on the importance of standardising consumer information in certain circumstances, including for the purpose of effective comparison. Consumers' ability to shop around and make informed decisions will continue to be hampered unless standardization for the purposes of comparison is introduced by regulators and then monitored and evaluated effectively. And effective comparison can only be achieved if regulators work together to agree a format or template for pricing common services. If building public and consumer confidence is a legitimate aim of the SRA, as set out in this consultation, then it is imperative that the SRA begins to consider the wider regulatory framework, and work with others to deliver not just the letter of the CMA recommendation, but the spirit of it too. It is also important to stress that even amongst providers regulated by the same regulator, it is still difficult to compare prices in some circumstances.

The Panel supports the independent evaluation study of the Solicitors Qualifying Examination (SQE). Monitoring the impact of this seismic shift in education and training will continue to be important for some years to come.

Finally, on diversity and inclusion, we remain frustrated with the lack of a clear vision, strategy and deliverables. The Panel is struggling to understand the extent to which progress has been made by the SRA on its diversity journey. Every year since 2017, the SRA has proposed to gather more evidence and monitor more closely. We have tracked back our responses to every business plan since 2017 and we have repeated the same concerns. There is a distinct lack of strategy, leadership, guidance and interventions to improve diversity issues.

In 2020, the SRA said it plans to monitor diversity data, commission research and establish an advisory group of experts to help with complex issues, yet we have not seen tangible outcomes from this work. We accept that this may be a communication issue, but in our view, this current business plan does not sufficiently build on previous work. There appears to be few solutions and regulatory interventions to address long-standing issues. The business plan must include concrete commitments and targets to deliver tangible improvements to diversity and inclusion.

Do you have any views on our proposed work commitments for 2023-24 under our second strategic priority?

The Panel believes that the strands of work under priority two have the potential to strengthen the SRA's role. We are particularly keen to see the SRA focus on monitoring and evaluation as a means of identifying risks, mitigating them and improving the policy cycle. In the Panel's view, there is a real opportunity to improve current learnings and insight from monitoring and evaluation. These learnings will loop back into the policy cycle and lead to better regulation.

In 2022, the Panel published a report² on monitoring and evaluation which set out best practice and case studies from the legal sector. The paper described seven

² <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2022/06/22.06.30-Monitoring-and-Evaluation-in-Legal-Services.pdf>

necessary stages for an effective monitoring and evaluation plan and made recommendations to all the regulators. We urge the SRA to consider these recommendations.

We support the SRA's proposal to expand its thematic activity. We have consistently said that the SRA can do more in this area. That said, we believe that the focus of thematic reviews needs to go beyond reviewing emerging risks. Thematic reviews are an important tool for disseminating good practice, raising standards and in some circumstances they can be used as a deterrent tool e.g. naming and shaming.

Do you have any views on our proposed work commitments for 2023-24 under our third strategic priority?

The Panel welcomes the SRA's focus on innovation and technology and we agree with the strands of work it has outlined in the consultation document, including the rationale for this focus.

While we support the idea of a sandbox, the challenge lies in ensuring consistency and avoiding duplication of effort with other legal services regulators. We have previously said that regulators in this space should explore the viability of pooling their resources where there is common interest. This will maximise the effectiveness of such initiatives and avoid confusion on the side of applicants. It is also important that consumer protection is at the heart of this initiative. Sandboxes offer regulators the unique opportunity to quickly draw lessons from the consumer testing stage and update their regulatory framework accordingly.

We note that the delivery of Lawtech services to consumers is less mature than the technology for delivering services between businesses. Nevertheless, the consumer market has considerable potential for growth. What we would like to see from regulators is a concerted effort and focus on Lawtech that mitigates the access to justice gap and improves consumers' experience.

Finally, we are fully supportive of the SRA's plan to work with small law firms and tech providers to map areas where resources and support are most needed, including delivering pilots focused on technologies and themes. This targeted approach, informed by need, is important and what we expect of all regulators.

Do you have any views on our proposed work commitments for 2023-24 under our fourth strategic priority?

The Panel supports the work outlined under the SRA's fourth priority. We welcome the strands of work that will improve and build public and consumer confidence in legal services. We share this aim with the SRA, which is why we commissioned London Economics to draw together research and best practice from different sectors on how regulators in the legal services sector can become more consumer centric.

Our published report³ shows that there is a need to invest in more consumer research to shape and influence regulators' strategies and thereby governance and board decisions.

The report also highlights the need to pool resources in some areas for effective and efficient outcomes, for example, we have mentioned collaboration on a Lawtech sandbox. We also believe that the SRA's proactiveness around Lawtech needs to be bolstered by a common approach across the sector to minimise the risk of duplication and promote knowledge sharing. We acknowledge that smaller regulators do not always have the resources or requisite capability to collaborate. The SRA has an opportunity to offer leadership as the largest and most resourced regulator. Building consumer confidence will be particularly important for emerging threats and opportunities e.g. Artificial Intelligence.

We urge the SRA to consider our report and focus on drawing from the best practice outlined in the paper. For example, our report suggests that regulators should periodically consider commissioning a review of their board and specifically how consumer focused they are.

Question 5,6,7

1. Do you have any views about our budget for 2023-24?
2. Do you agree that the SRA proportion of the practising certificate fee is reasonable and appropriate?
3. Do you agree with the Compensation Fund contribution for individuals for 2023-24?

The Panel is not best placed to comment on how the SRA has allocated its budget across the objectives.

The SRA has noted that the Compensation Fund contribution for individuals will remain at £30 in 2023/24. But the contribution for SRA-regulated law firms will drop to £660, from £690 in 2022/23.

In 2022/23, we said we were concerned about the proposal to reduce the Compensation Fund contribution from £40 to £30 and from £760 to £690 for individuals and firms respectively. This year the SRA proposes to reduce firm contribution even further. There is an unacceptable lack of transparency around how the SRA can justifiably afford to offer this saving to firms. It is still unclear to us whether the SRA is expecting a significant reduction in claims, based on projections, or whether there are other drivers behind a lower projection. The Compensation Fund exists to offer protection to those who have suffered financial loss as a result of a solicitor's dishonesty or fraud. This is a narrow scope, compounded by the fact that it is a discretionary fund. For several years, the Panel has called for data on claims paid and transparency on how the fund is managed and administered. We will continue to ask for this. We would like to see the rationale and evidence for making this reduction.

³ <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2023/06/Consumer-focused-regulation-report-FINAL.pdf>

Should you have any questions pertaining to this response, please contact Lola Bello, Consumer Panel Manager (lola.bello@legalservicesconsumerpanel.org.uk)

Yours sincerely,



Sarah Chambers
Chair
Legal Services Consumer Panel.



SRA Consultation: Business Plan 2023-24 and Budget Consultation

**Law Society Response
21 June 2023**

SRA consultation on its business Plan 2023-24 and Budget– Law Society response

1. The Law Society is responding to the consultation in its representative capacity as the independent professional body for solicitors in England and Wales. Our role is to be the voice of solicitors, to drive excellence in the profession and to safeguard the rule of law. On behalf of the profession, we influence the legislative and regulatory environment in the public interest. At home we promote the profession, and the vital role legal services play in our economy. Around the world we promote England and Wales as a global legal centre, open new markets for our members and defend human rights.
2. We welcome the Solicitors Regulation Authority's (SRA) consultation on the Business Plan and Budget for 2023/24 and are pleased to see a continuation of work on the Solicitors Qualifying Examination (SQE), Anti-Money Laundering (AML), equality, diversity and inclusion (EDI) and technology and innovation, policy areas which also align with the Law Society's own priorities.
3. We are keen to continue to work closely with the SRA in these areas and we would encourage the SRA to ensure that our efforts are appropriately coordinated, particularly in the areas of equality and diversity, and technology and innovation work, in order to maximise efforts and avoid duplication.
4. We are pleased to see evidence focused approaches to the issues of EDI and the SQE. The publication of this data will enable employers, legal education providers, and the sector to understand whether diversity and inclusion objectives are being met, and how to make the necessary improvements.
5. In principle, the Society supports initiatives aimed at empowering consumers of legal services in selecting a legal service provider. However, we would expect any further initiatives to recognise the regulatory and financial pressures already on

members of the profession. We hope that any consultation on this will lay out any proposed changes clearly so we can engage with it thoroughly.

Question 1: Do you have any views on our proposed work commitments for 2023-24 under our first strategic priority?

Solicitors Qualifying Examination

6. We welcome the continued prioritisation of the SQE within the SRA's work for 2023/24. The success of the implementation of the SQE relies on the SRA making the most of the opportunities the SQE provides, through proper and prompt review, continued stakeholder engagement and provision of good information and guidance. Several issues, particularly around the SQE assessments have been raised with the Law Society, and subsequently with the SRA. We also welcome the SRA's move to conduct an independent evaluation study, which should be able to join up and address these issues and look forward to engaging with the SRA on this to represent those within the profession and those seeking to enter it who have raised concerns.
7. The publication of information and data which will enable students, providers of legal education and employers to engage with the SQE actively and positively, will be a key factor in ensuring that those engaging with the SQE have good information on which to base their decisions. The publication of data will also be important to determine whether the SRA meets the diversity and inclusion expectations set out by the LSB. We would be very keen to continue engagement with the SRA on this area as the approach is finalised and hope there will be no further delays in publication.

Continuing competence

8. The maintenance of high professional standards is key to the reputation of the profession. The LSB's policy statement on ongoing competence had the potential to have a significant impact on solicitors and it is good to see the SRA's proportional approach to engaging with this work and looking at ways it can maintain high standards and better support the profession, without adding unnecessary additional burdens on it. We remain mindful of the existing pressures on the profession, both regulatory and financial. We note that the SRA is seeking to make better use of the data they gather to demonstrate the competence of the profession and to identify and address any risks, and welcome the move to publish the first annual report on competence, which will give greater confidence to consumers of legal services in choosing solicitors.
9. We would be keen to explore with the SRA potential areas where more training could be considered to ensure that solicitors have sufficient skills to be able to deliver legal services more effectively and to high standards, including for example around technology and anti-money laundering. Furthermore, we would support training that enables professionals to maintain their knowledge and skills in areas, such as equality, diversity and inclusion, professional ethics, and training in management and leadership skills for those who have such responsibilities. There should be due consideration as to whether the above training should be mandatory.

Transparency requirements

10. Empowering consumers to engage more effectively with the legal market can help play a role in alleviating some of the underlying obstacles to obtaining professional legal advice. For this reason, we remain committed to ensuring that clients have sufficient information before engaging a solicitor. Solicitors have of course put significant effort into providing more information to clients on prices and services since the transparency rules were first introduced, and we will continue to support their efforts to do so as the rules are developed and refined, for example by revising our offering for members.
11. We will need to consider the details of any consultation before providing more specific comments, particularly in relation to any proposals to extend the practice areas that fall within the rules. We are mindful of the complexities surrounding this area, and the fact that many areas of law will not be suitable to be incorporated.

Economic Crime and Corporate Transparency Bill

12. We continue to be committed to a proportionate and risk-based AML regime and to making the UK a hostile environment for illicit finance. We welcome the opportunity to work with the SRA in ensuring a risk-based and effective approach to the AML regime, and in implementing the new regulatory objective relating to economic crime so that it is proportionate.
13. In tackling non-compliance with anti-money laundering requirements and financial sanctions, it is important for the SRA to adopt a transparent risk-based approach in terms of how it will supervise, monitor, and enforce firms' compliance.
14. In fulfilling our role as statutory supervisor with a responsibility to provide guidance and education to the profession, it would also be helpful to see a commitment by the SRA towards continued collaborative working on SRA guidance prior to issue. This is more critical than ever given the significant ongoing change to legislation and the rapidly evolving and ever-expanding regulatory requirements.

Diversity data

15. We welcome the planned focus on continuing to improve diversity data collection in the profession for individuals and firms, and hope to continue to be engaged and improve collaboration on how this data is shared and analysed.
16. On the proposed programme of work to encourage large firms to tackle retention and progression in particular for women and people from Black, Asian and minority and ethnic origin backgrounds, we would appreciate the opportunity to hear more detail about what the plans are likely to entail as this may overlap with planned or routine activities the Law Society undertakes to support and encourage best practice on D&I with large law firms. It is important that we do not duplicate activities and work together to maximise the impact that we can have.

Equality, diversity & inclusion

17. In addition to our responses above regarding the proposed EDI work programme we welcome the SRA's equality impact assessment of practising certificate fees. That said, it is not clear whether any impacts from an increased PC fee, adverse or not, were identified for disabled solicitors, so we would recommend further assessment for this group. The SRA could also consider exploring whether those

on long-term sick leave as well as those on statutory maternity, adoption or parental leave could also benefit from fee reductions.

Question 2: Do you have any views on our proposed work commitments for 2023-24 under our second strategic priority?

18. We are encouraged by the SRA's plans for a data strategy and this should seek to improve regulatory decision making with a data driven approach. Wherever possible we would also encourage the data strategy to improve the quality of data held on solicitors to facilitate better communications that the SRA and Law Society will both benefit from, given data sharing arrangements that remain in place.
19. By focusing on improved regulatory decision making and communication the data strategy will complement the Law Society's analytics knowledge and expertise that underpin our acting as the authoritative source on data for the profession – notably through our Annual Statistics Report publication. We will continue to expand the sophistication of our analytics capability to inform the Law Society's decision making and member-centric operations with a data driven approach – and welcome knowledge sharing with the SRA's data experts for the benefit of both organisations.

Question 3: Do you have any views on our proposed work commitments for 2023-24 under our third strategic priority?

Innovation and Technology

20. We fully endorse the development of a sandbox as a vital catalyst for technological innovation in our field. The sandbox offers an exciting opportunity for innovators to test new technology solutions within a secure, regulatory-compliant environment, potentially driving significant transformation in the legal sector. However, we wish to emphasise the necessity for regular, clear communication of lessons and findings from the sandbox to the profession. Additionally, there should be a wide range of disciplines and users (including consumers) to reflect cross-cutting regulatory issues and societal values in the projects considered in the sandbox.
21. We support the SRA's plan to collaborate with small law firms and tech providers. A thorough analysis of where resources and support are most needed can improve service delivery and help bridge the digital divide within our industry. We recognise the pressing need for procurement standards for firms of all sizes. Technology procurement practices must incorporate clear, plain English communication about each technology's functionality, limitations, risks, and benefits. Transparency regarding success metrics and their rationale, range of success rates with explanatory notes, ongoing support provisions, and accessibility features should all be considered in developing a minimum standard for procurement. This would benefit the entire legal services sector.
22. As technological evolution accelerates, regulators and membership bodies must possess the expertise to examine technological landscapes and use cases effectively. To carry out their roles effectively, we all must gain a comprehensive understanding of technology's complexities, potential harms, and operational contexts. Keeping up with change requires substantial investment in upskilling and equipping regulators appropriately while fostering connections that enable us to understand how the regulated community is utilising these tools.

23. Given the ongoing discussions around the regulation of AI in the context of the Government's recent white paper, and the potential role the SRA may have in the legal sector, we advocate research into the current and future risk landscape within the legal profession. In particular, we would recommend research that is focussed on the following: the contexts that may be high-risk (independent of the technology that is deployed); the role of AI in regulated legal activities; and instances where AI could be used in the provision of unauthorised legal practice, which is a significant risk, alongside the SRA's role in such cases.

Question 4: Do you have any views on our proposed work commitments for 2023-24 under our fourth strategic priority?

24. We suggest the perceptions survey be designed to reflect the channels through which SRA meets the needs of the public, ideally based on a logic model approach. The survey can then help evaluate a set of documented outcomes the SRA is seeking with the public, and actions taken to generate them. We would be happy to share expertise in evaluation and incorporating the voice of the public which, in the Law Society context, feeds policy development and influencing. A key example is the Legal Needs Survey on which we are collaborating with Legal Services Board to report by the end of 2023. This is a large-scale quantitative study evidencing how individuals navigate legal problems using a range of approaches and the satisfaction levels that result.

Environmental Social and Governance

25. The Law Society commends the commitment to "Publish policy statements setting out our position on access to justice, and on matters relating to Environmental Social and Governance (ESG). This includes our view of the key regulatory issues and obligations for those that we regulate."

26. In 2023, the Law Society published its guidance for solicitors and law firms on climate change which references the SRA Code of Conduct in the context of climate change (and, in section 3.6 of the SRA Principles), and was supported by the SRA. The guidance has been very well received by the membership and is influencing best practice within the sector.

27. We wish to continue our collaboration with the SRA on this matter and look forward to being consulted on next steps as regulatory positions are developed between November 2023 and October 2024.

28. In addition to a specific regulatory position from the SRA on climate change, we would consider a regulatory position on the relevance of human rights to the profession that takes account of the UN Guiding Principles on Business and Human Rights to be beneficial to the profession (noting the IBA's consultation on their Updated Guidance Note on Business and Human Rights: the role of lawyers in the changing landscape).

29. In relation to climate change specifically, we note that, while the Law Society was able to provide helpful guidance to the profession regarding the interpretation of the SRA Principles in the context of climate change, there was a natural limit to this borne out of the respective roles and duties of the Law Society and the SRA (as regulator). We consider that further guidance from the SRA in this area (modelled on the SRA guidance already available in relation to Principles) could provide helpful clarity to the profession.

30. Lastly, we note that the term 'ESG' is extremely broad and already covers several areas in which the SRA has adopted a regulatory position (for example, [the SRA's approach to equality, diversity and inclusion](#)). We therefore would welcome further detail as to:

- what the SRA intends to cover under the umbrella of 'ESG', for example pro bono;
- whether climate change will be covered separately or within the umbrella of 'ESG';
- how climate change (and the SRA's position on EDI) complement the SRA's approach to ESG; and
- generally, why 'ESG' was chosen as the framework for this work.

Question 5: Do you have any views about our budget for 2023-24?

Question 6: Do you agree that the SRA proportion of the practising certificate fee is reasonable and appropriate?

31. We have taken these two questions together. We note the SRA's proposed budget increase of 12%, which is significantly greater than the Law Society's proposed increase of 7% in our share of the Practising Fee Certificate (PFC).

32. Given the challenges many firms face with inflationary pressures, it will be vitally important to ensure there is a strong focus on efficiency savings and that costs are controlled to avoid unnecessary pressure on the PCF. Furthermore, we would welcome greater detail with regards to the efficiency savings noted in the plan.

Question 7: Do you agree with the Compensation Fund contribution for individuals for 2023-24?

33. We agree with the contribution outlined in the business plan.

Question 8: Do you have any comments on the equality impact assessment of our proposed fees for 2023-24 or EDI-related work commitments in our proposed draft Business Plan for 2023-24?

34. The Law Society welcomes the continued focus on EDI work. Particularly the research in the two areas of:

- Attainment gap for candidates from Black, Asian and minority and ethnic backgrounds in professional assessments, and
- Overrepresentation of solicitors from those backgrounds in reports made to the SRA and the subsequent enforcement process.

35. This work marks a positive development in trying to understand the attainment gap for candidates from Black, Asian and minority and ethnic backgrounds in professional assessments and the disproportionate over regulation of ethnic minority solicitors in regulatory interventions.

Liverpool Law Society

Question one: Do you have any views on our proposed work commitments for 2023-24 under our first strategic priority?

Priority one is delivering high professional standards explained as: setting, upholding and promoting high professional standards for those who we regulate, in a way that is fair, proportionate and robust. One of the key deliverables is the maintenance of the quality and timeliness of the SRA's investigation and enforcement work. The experience of the members of the Regulatory Committee of the LLS is that, save for the most straightforward investigation, the time from commencement to completion of an investigation is too long. Our committee members cited examples of investigations spanning for circa two and a half years. Proactive regulation requires proactive policing and the time the SRA takes to conclude more involved investigation, if our members' experience is typical, is excessive. We are aware of the statistics published by the SRA which demonstrate that a significant percentage of investigations are concluded within a reasonable period of time. However, the statistics are misleading. If there is little or nothing to investigate it is not taxing to providing a prompt response. More work is needed to conclude more complex investigations within a reasonable time frame.

Question two: Do you have any views on our proposed work commitments for 2023-24 under our second strategic priority?

It would have been helpful to have more information about the key deliverables. What, for instance, is meant by data collection, storage and analysis strategy. What data is the SRA intending to collate, how does it propose to go about it and how will the data be used?

Question three: Do you have any views on our proposed work commitments for 2023-24 under our third strategic priority?

The pace at which technology is changing the way the profession delivers services means understanding and regulating innovation and technology ought to be a top priority for the SRA. Our members were concerned that the focus of the consultation appears to favour individuals and small business when the consensus view is that the major changes will be introduced by large firms who have the resource to road test new ideas, at least in the first instance. We agree that resource needs to be dedicated to small business, some of whom have only a very basic command of the technology available. However, there is a need for resource to be invested at the other end. Here again, the key deliverables lack detail. What is meant by a safe

testing environment? What exactly is it that are law firms and technology providers are being offered? Surely it is not the SRA's intentions to grant exemptions from fundamental legal principles such as confidentiality and data protection? In short, we would not disagree with the framework of the key deliverables but more information is required to understand the perceived benefits and that resource is being properly directed.

Question four: Do you have any views on our proposed work commitments for 2023-24 under our fourth strategic priority?

We agree with the fourth strategic priority and the key deliverables. In our members' experience the SRA do some things very well but other things poorly and in the latter case fall short of being an effective regulator.

Question five: Do you have any views about our budget for 2023-24?

Our member had the following comments: 1) A review of the income and budget for 22/23 reveals that the SRA received interest income of £555,000 for the year and expects that figure to remain static in 23/24. The question was asked why those interest earning funds were not being used instead of increasing practising fees. 2) The SRA expects to use technology to keep costs down but is behind the curve when it comes to technology and although it has got better, still has a long way to go. 3) Firms are unable to secure rises in their charging rates at the level of inflation yet the SRA is looking to increasing practising fees by inflation plus 2%. Firms are not immune from pressures on staff and non-staff costs.

Question six: Do you agree that the SRA proportion of the practising certificate fee is reasonable and appropriate?

See comments in response to Q5 above.

Question seven: Do you agree with the Compensation Fund contribution for individuals for 2023-24?

The Compensation Fund expenditure is what it is and is difficult to contest.

Question eight: Do you have any comments on the equality impact assessment of our proposed fees for 2023-24 or EDI-related work commitments in our proposed draft Business Plan for 2023-24?

No.