

News from the Board

Reflections on our October Board meeting - Anna Bradley

25 October 2023

The focus of this month's board meeting was in-depth, informal workshops to explore longer term issues for regulation of the legal sector.

Artificial intelligence

We had a good discussion on the potential impacts of Artificial Intelligence (AI). There are many areas where AI has the potential to be of significant benefit in the delivery of legal services – increasing speed and reducing costs for customers. For instance, through automating admin tasks or client onboarding. It could free-up lawyers' time so they can focus on where their expertise can add the most value, such as identifying client's problems and making complex judgments on the best approach to address them.

Yet there are also significant risks. In addition to the danger of AI 'hallucinating' facts (literally adding two and two to make five), there is also a risk that it can exacerbate biases by building-in what happens at present. Of course, there are also well rehearsed concerns about data and privacy.

We will shortly be publishing a Risk Outlook to help firms, particularly smaller ones, understand how AI could help them, and the risks they will need to consider. Success will look like the sector is risk aware but not risk averse, because taking managed risks will deliver real benefit.

We have more work to do in this area – including how we use AI ourselves – but our primary focus will be looking at how we can make sure consumers are protected while helping the sector to make the most of the opportunities that could benefit everyone.

Consumer protection

We also had a rigorous workshop discussion around the issue of consumer protection and specifically the role of the Compensation Fund. A discretionary fund of last resort – paid for by the whole profession – it provides a vital safety net for clients where a solicitor has stolen or not accounted for client money, and is not covered by a firm's professional indemnity insurance.

We have seen a significant shift in pressure on this fund, because we have seen a big increase in the number of interventions – this is when we have to close down a firm to protect their clients. In the last year, the number of interventions has more than doubled, and we also have had to intervene into far larger firms than has ever been the case before.

This raises a range of questions. First we need to manage the immediate issues. This means thinking about the best way to compensate current claims while also ensuring the fund remains financially viable. It is likely that we will need to increase the levies on the profession after years of keeping them stable. But we will need to think carefully around the best approach to doing that – for instance, we usually collect a levy annually, but we may need to consider an interim collection. We recognise that would have a big impact on firms, particularly smaller, high-street solicitors.

With this changing landscape, there are also longer term, more fundamental questions about how we make sure the public interest is served and consumers continue to get the right level of protection. The arrangements to date have been crucial in maintaining public confidence and trust in regulated legal services. The sector cannot afford to lose this trust and confidence over the long term, but this must be balanced against the financial impact on the sector.

We also need to learn from the recent failures of larger firms, so we discussed what we know about why this happened. We are reviewing what actions we could take to reduce the probability of similar failures in the future. We take a risk-based approach to regulation, so we would need to make sure that any changes in our approach are well targeted and do not result in unjustified burdens on the sector.

These aren't simple questions and resolving them will need careful thought and engagement with the sector. It will be an absolute priority for our Board in the coming months. The public and the profession will have strong views on the approach we take, so we will make sure we engage with you all as we take the work forward.