

**THE SOUTH EASTERN CIRCUIT’S RESPONSE TO THE BAR  
STANDARDS BOARD’S STRATEGY**

1. The Terms of Reference of the Bar Standards Board are very wide as responsible for all regulatory functions of the Bar Council. The Draft Strategic Plan and Objectives are in the main an exercise in giving flesh to the bones of the duties that were set at “devolution”.
2. The following are a list of queries and concerns for clarification from the information set out in the documents “Draft Strategic Plan 2007” and “Strategic Objectives”.

**DRAFT STRATEGIC PLAN**

3. “Introduction” – one of the purposes of the Board is to protect the public interest not to protect the public per se.
4. “The Board’s Mission”- Access to Justice – it should be possible for consumers to have a choice of barristers. However the words “it should not be difficult” within the Board’s objectives takes the remit further than the Board has power to control.
5. Quality and Value for Money – maintaining and encouraging high quality advocacy and advice must be one of the Board’s aims. However, again, it seems that provision of these resources at “a reasonable price” is beyond the remit of the Board. Payment of publicly funded work is subject to a separate regulatory framework and the control over privately funded work is subject to other criteria unless any Rule of Conduct is breached.
6. “The Board’s Principles” – at no.2 the “evidence-based” requirement is very broad. It is expected that the sub-committees of the Board will be able to provide the information required in conjunction with consultation. To extend any “evidence-gathering” beyond the systems already available would not be

supported by the Circuit. The Board's activities are funded by each Barrister and there is a serious concern that the cost of broader evidence-gathering would far outweigh any benefit to the Board's decision-making process.

7. At no.3 – it is not clear who other “stakeholders” might be. It is not known what type of work is envisaged and the extent of the cost that would be entailed.

### **STRATEGIC OBJECTIVES**

8. “PROTECTING CONSUMERS” – “benchmarking research”, and “other evidence”, “continuously seek information from users about their satisfaction” are all very broad in terms. The task that the Board is set does not extend to extensive consumer research, the cost of which will be prohibitive. This would detract from time and funds required in other areas. The role of the numerous sub-committees is to provide reliable and thorough reports on their work. Clear complaint procedures are available to the public to assist and are currently available to all “users”. Systems are already in place to provide the necessary evidence and research to enable the Board to carry out its functions.
9. “ACCESS TO JUSTICE” – “benchmarking research about the perceptions of barristers and their clients”. This is a monumental task which could only be carried out at huge cost. There is no reasoning as to why this would be necessary or provide any more useful information than could be gathered through existing channels.
10. “INDEPENDENT REGULATION” – there is acknowledgement that a programme of work is required to carry forward this strategy to be managed within “resources available”. It is of concern that the other strategies set out in the document do not have the same limitations applied in relation to resources, in fact no mention is made of resources at all.

11. The concern in relation to resources is extended to the strategy for “EXCELLENCE AND QUALITY”. “Carry out research” and “consult consumers” are terms that have already been used in the document and are subject to the same concerns and criticisms as have already been set out.
  
12. The Objectives and Strategies as set out in the consultation documents are accepted as the necessary outline for the work that will be undertaken by the Board save for those as set out above. However if there is no constraint upon the “research” and “evidence-gathering”, it seems that the Board would be extending their remit to market research funded by individual members of the Bar. This is not a task which the members of the South-Eastern Circuit nor the wider Bar would be happy to instruct the Board and certainly not to pay for the high price of such work which would be costly and unnecessary.

### **Conclusion**

13. The South Eastern Circuit has a real concern that the Board may wish to use significant resources in carrying out “research” of consumers and others. A regulatory and disciplinary body will ultimately be judged to be protecting the public interest by the quality of its decisions. If the Board makes high quality, well reasoned decisions, speedily and fairly, the public will have confidence in it. This must be the focus of the Board’s activities. Using the Board’s i.e. the Bar Council’s resources to engage in consumer or other forms of survey is unlikely to be helpful, will deplete resources and risk diluting the quality of the Board’s procedures and decisions. The Circuit therefore asks that the Board concentrates with vigour on high quality decision making. If in the fullness of time any of the Board’s decisions are criticised the question as to whether research needs to be undertaken can be looked at.