

Cost Lawyers and the New Regulatory Framework

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Agenda

- The pre-reform structure
- The new regulatory landscape
- Rationale for change
- Vision
- Cost Lawyers and the reforms
- Next steps

The pre-2007 Act structure

- Self-regulation of lawyers – public interest concerns
- Complaints handled through the LCS – performance concerns
- Ownership of law firms restricted - competition concerns

The new regulatory landscape

Legal Services Board:

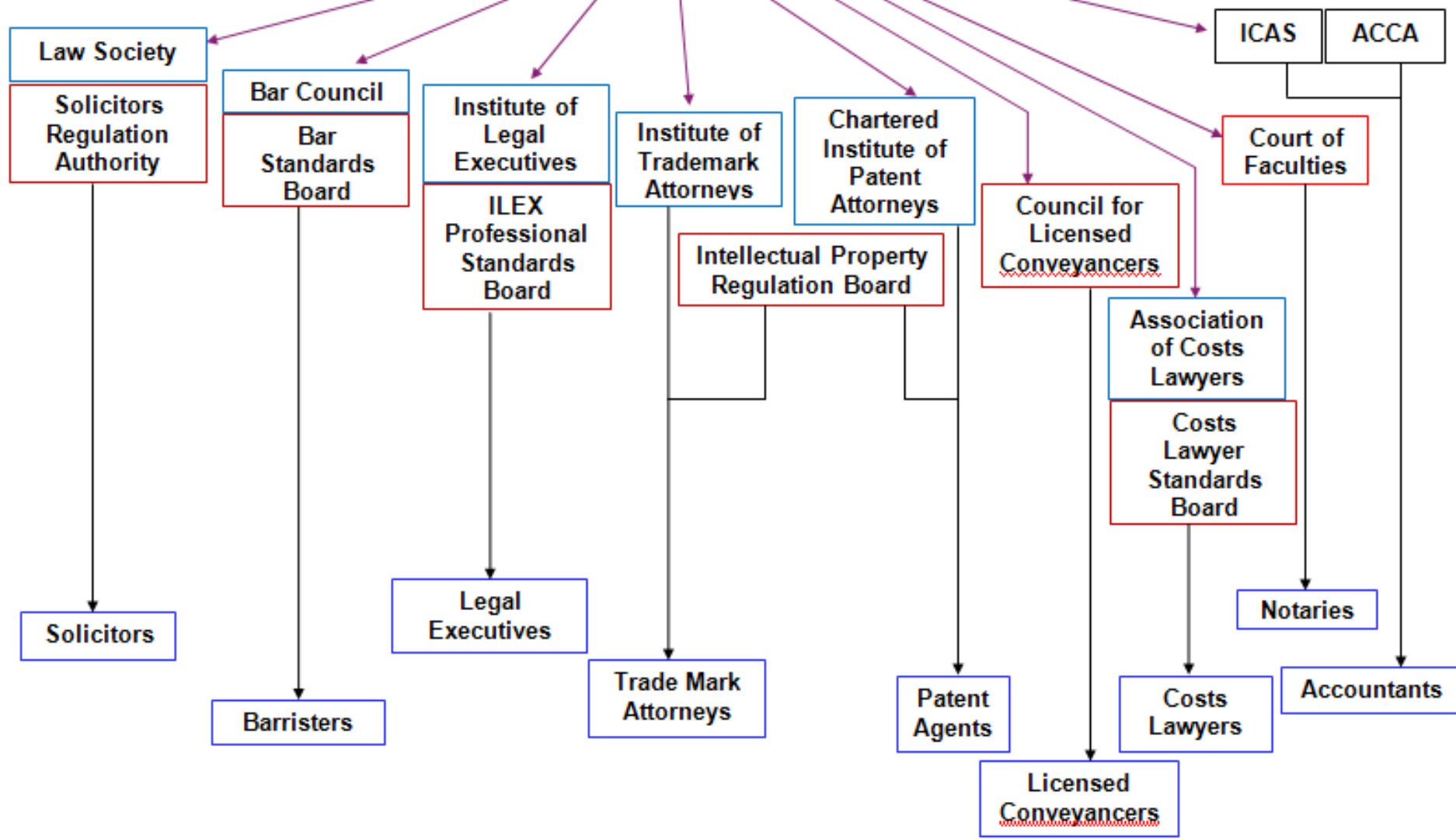
- Oversight regulator for the sector
- Independent of both the profession and government
- Sponsored by the Ministry of Justice - Memorandum of Understanding
- Paid for by levy on lawyers
- Duties and enforcement powers

Organisation:

- Operating budget of under £5m
- 33 employees
- 9 Board members

Timeline for reforms

- **May 2008** LSB Chair David Edmonds appointed
- **July 2008** LSB members in place
- **December 2008** Appointment of Elizabeth France, OLC Chair
- **January 2009** Board “goes live” with power to make rules
- **September 2009** Consumer Panel appointed
- **November 2009** ABS: Approaches to Licensing
- **January 2010** Board goes “fully live” with enforcement powers
- **March 2010** Board announces start date for ABS
- **April 2010** Full staffing, second year Business Plan published
- **October 2010** Legal Ombudsman opens for business
- **November 2010** Frontline regulators’ compliance with governance rules certified
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- **April 2011** Third business plan to be published
- **October 2011** First ABS opens for business



The new regulatory landscape

Strand of profession	Number of Authorised Persons
Solicitors	113,767
Barristers	15,104
Legal Executives	7,409
Patent Agents	1,856
Licensed Conveyancers	1,073
Notaries	883
Trade Mark Attorneys	783
Cost Lawyers	267

The new regulatory landscape

Regulatory Objectives

- Protecting and promoting the public interest;
- Supporting the constitutional principle of the rule of law;
- Improving access to justice;
- Protecting and promoting the interests of consumers;
- Promoting competition in the provision of services;
- Encouraging an independent, strong, diverse and effective legal profession;
- Increasing public understanding of the citizen's legal rights and duties;
- Promoting and maintaining adherence to the professional principles.

Rationale for change

- **Public interest** in the independence of regulation
- **Changing consumer needs** – cash-strapped, time-poor
- **Changing technology**
- **Changing political environment** – particularly through a focus on public policy approach to access to justice and the need for better and swifter redress
- **Changing economic climate** – both for individuals consumers' needs and for the growth environment for businesses as consumers

Vision

- **Greater competition** - development of new and innovative ways of meeting demand
- A market that allows **access to justice for all consumers**, helping those whose incomes exceed legal aid thresholds but who need support
- **Better empowered consumers**, receiving the right quality of service at the right price
- An improved customer experience with **effective redress if things go wrong**
- Greater **innovation and partnership** between lawyers and other professionals

Early priorities

- Better and more independent regulation [ACL and CLSB]
- Opening up the market and increasing competition
- Better consumer redress when things go wrong

Early priorities

Good regulation

- Outcomes-focused based on what consumers expect
- Understanding risk to consumer from regulated community
- Supervision of firms and lawyers based on risk
- Compliance and enforcement that deters wrongdoing and punishes transgression

Cost Lawyers and the reforms

- Cost Lawyers have rights of audience and rights to conduct litigation
- CLSB must act in accordance with shared Regulatory Objectives
- LSB approach to smaller ARs
 - Regulatory Objectives apply equally
 - One size does not fit all
 - Proportionality
- Independent Smedley review

Cost Lawyers and the reforms

- CLSB must assess risks of consumer detriment
 - Ongoing monitoring
 - Devise interventions

- The role of the representative arm
 - Freed to be powerful advocate
 - ACL role in maintaining ethics and driving innovation

Next steps

- 2011/12 Business plan – transition year
- Completion of three-year planning cycle
 - Institutional change
 - Market entry
 - Move towards outcomes-focused approach
- Next step priorities:
 - Workforce development
 - Quality
 - Scope of regulation