

# The New Regulatory Framework in England and Wales

Chris Kenny, Chief Executive

## Agenda

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- The pre-reform structure
- Timeline for reforms
- The new regulatory landscape
- Specific duties and powers
- Rationale for change
- Vision
- Early priorities
- Next steps
- Our approach
- So does it work?

## The pre-2007 Act structure

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

## Timeline for reforms

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- *March 2001:* “[Competition in Professions](#)”: Office of Fair Trading: open competition
- *July 2002:* “**In the Public Interest?**”: Lord Chancellor's Dept.: competition to give best consumer service
- *July 2003:* **Conclusions on “In the Public Interest?”**
- *December 2004:* “[Clementi](#)” (Report of the Review of the Regulatory Framework for Legal Services in England and Wales)
- *October 2005:* “[Putting Consumers First](#)” (Dept for Constitutional Affairs)
- *May 2006:* [Draft Legal Services Bill](#)
- *July 2006:* [Joint Report](#) (both Houses of Parliament) on the draft Bill
- *October 2006:* **Full Bill published**
- *October 2007:* **Royal Assent**
- *January 2009:* [Legal Services Board formally created](#)
- *January 2010:* Activation of new regime and start of **full powers** for the LSB

## Timeline for reforms

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- **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

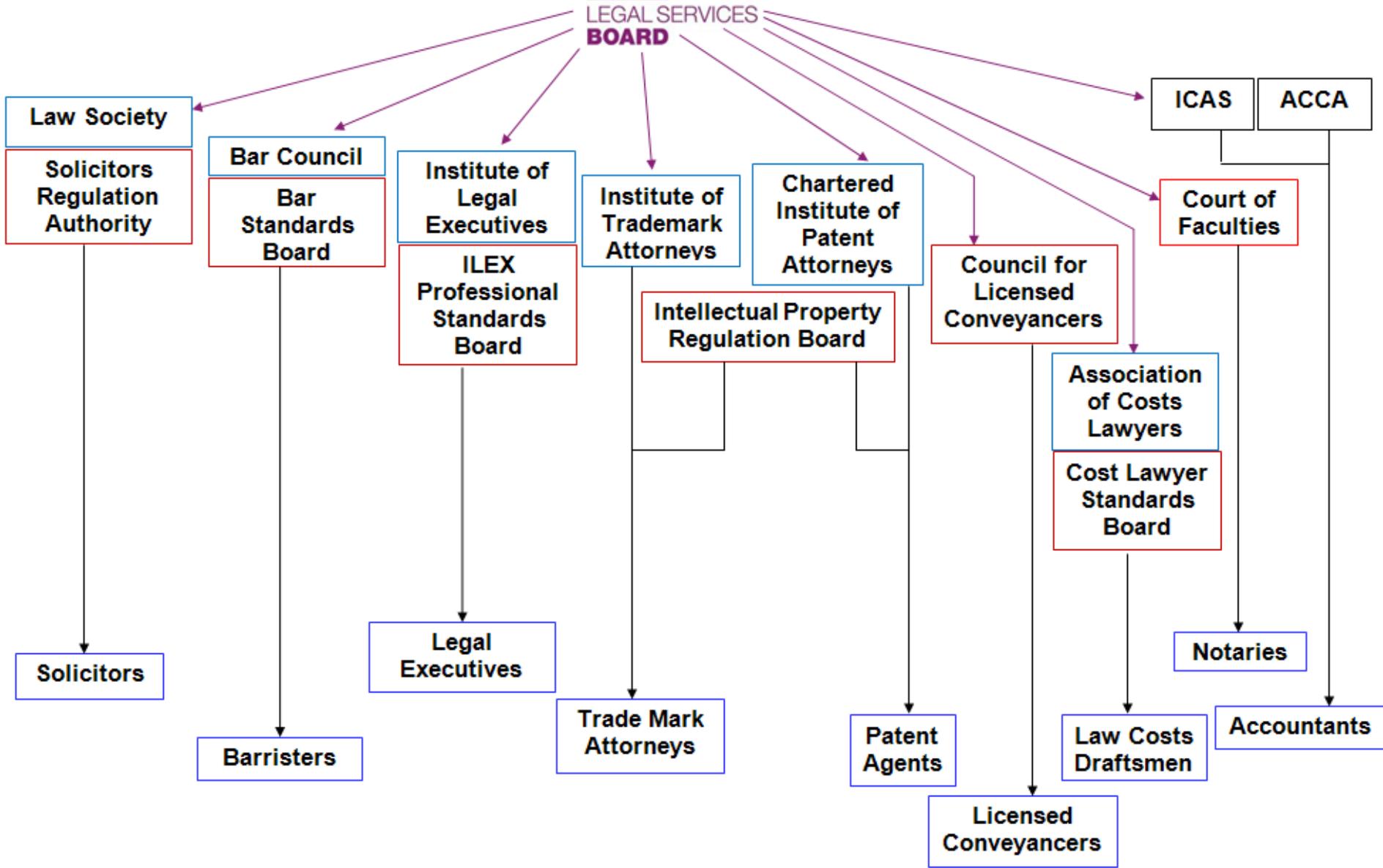
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### **Legal Services Board:**

- 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 Approved Regulators

### **Organisation:**

- Operating budget of under £5m
- 33 employees
- 9 Board members – lay Chair and CEO, 4 lay and 3 professional members



## The new regulatory landscape

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| 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                          |
| Law Costs Draftsmen   | 267                          |

## The new regulatory landscape

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### 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.

## The new regulatory landscape

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### Professional principles

- that authorised persons should act with independence and integrity,
- that authorised persons should maintain proper standards of work,
- that authorised persons should act in the best interests of their clients,
- that persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice, and
- that the affairs of clients should be kept confidential.

## The new regulatory landscape

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### Better regulation principles

The principles state that regulation should be:

- transparent
- accountable
- proportionate
- consistent
- targeted only at cases where action is needed

## Specific duties and powers

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- Recommend approval of
  - New regulators and Licensing Authorities
  - The creation of new reserved activities
- Agree changes to regulatory arrangements
- Specific sanctions
  - powers of direction
  - Fines
  - censure
  - recommend derecognition
- Specific duty to assist in maintenance and development of standards of
  - Regulation
  - Education and training

## Rationale for change

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- **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 individual consumers' needs and for the growth environment for small and medium-sized businesses as consumers

## Vision

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- **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 find services expensive
- **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 others

## Early priorities

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- Better and more independent regulation – Internal Governance Rules
- Opening up the market and increasing competition – Alternative Business Structures
- Better consumer redress when things go wrong – The Legal Ombudsman

## Next steps

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- 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/ education and training/ diversity
  - Quality
  - Scope of regulation

## Our approach

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- Research and evidence –led
- Setting parameters for debate
- Cross-sector
- Partnership and challenge

## So does it work?

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Too soon to tell, but progress on:

- Pace of change
- Consumers getting better deal
- Avoidance of mission creep
- Compliance without enforcement
- Independence from Government and profession

**So can it travel?**