



Reserved and unreserved lawyers' activities

Alex Roy, Research Manager, LSB

An overview

- **What is the role of the LSB?**
- **What does Reservation mean?**
- **How will the LSB make decisions?**

Role of LSB

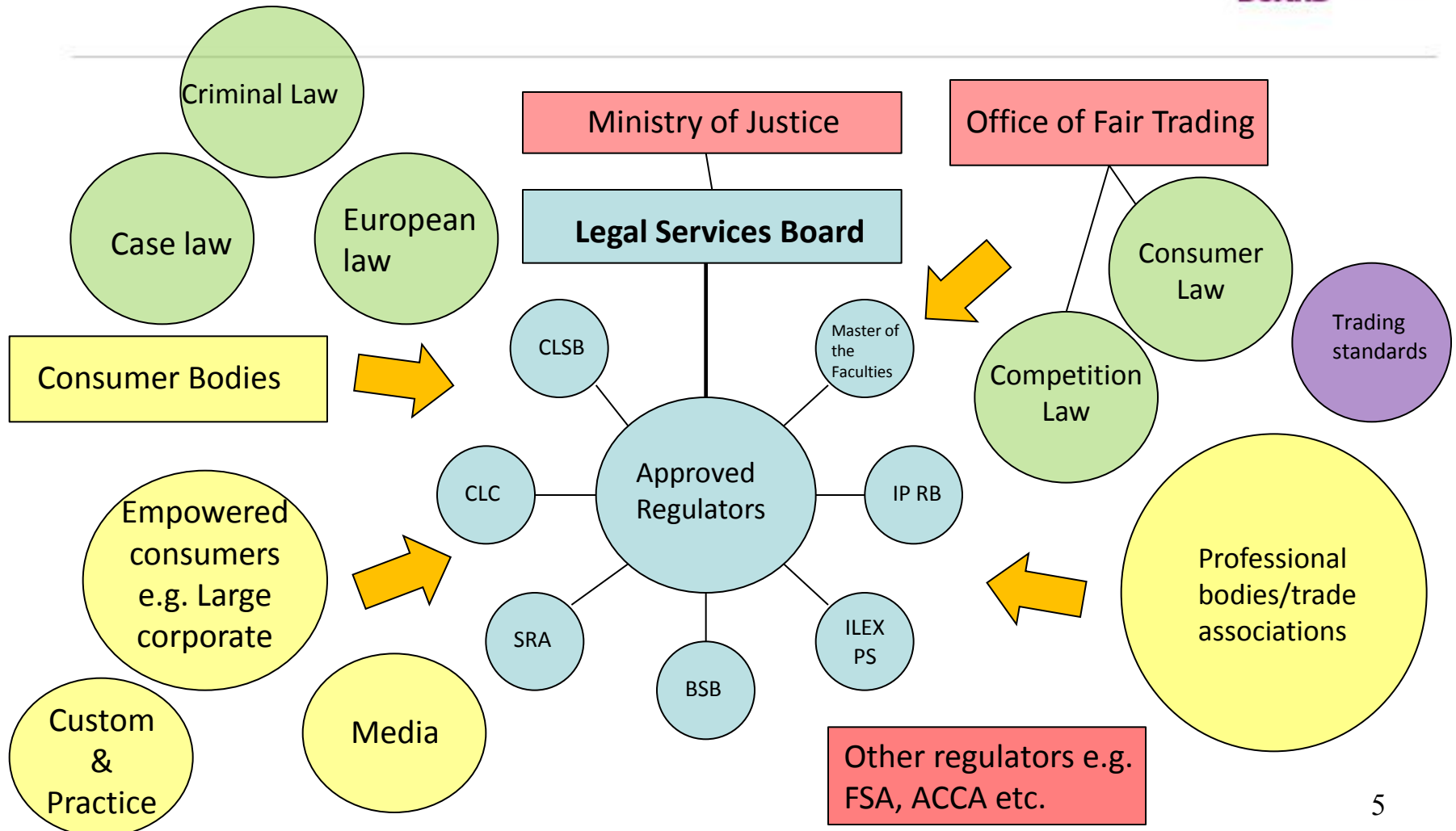
- **Parts 1-4 of LSA 2007 set out the underpinning basis of legal services regulation for both the LSB and Approved Regulators**
- **Eight Regulatory objectives** - 1. protecting and promoting the public interest 2. supporting the constitutional principles of the rule of law 3. Improving access to justice 4. protecting and promoting the interest of consumers 5. promoting competition in the provision of services 6. encouraging an independent, strong, diverse and effective legal profession 7. increasing public understanding of the citizen's legal rights and duties 8. promoting and maintaining adherence (by authorised persons) to the professional principles

Principles of good regulation

Any regulation should be:

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

Regulation of legal services



Designed rather than Darwin

“...a future framework would have to be sufficiently flexible to be able to both bring in new services and to deregulate where necessary...”

Clementi, D; Review of the regulatory framework for legal services in England and Wales, p93, December 2004

Changing the reserved activities

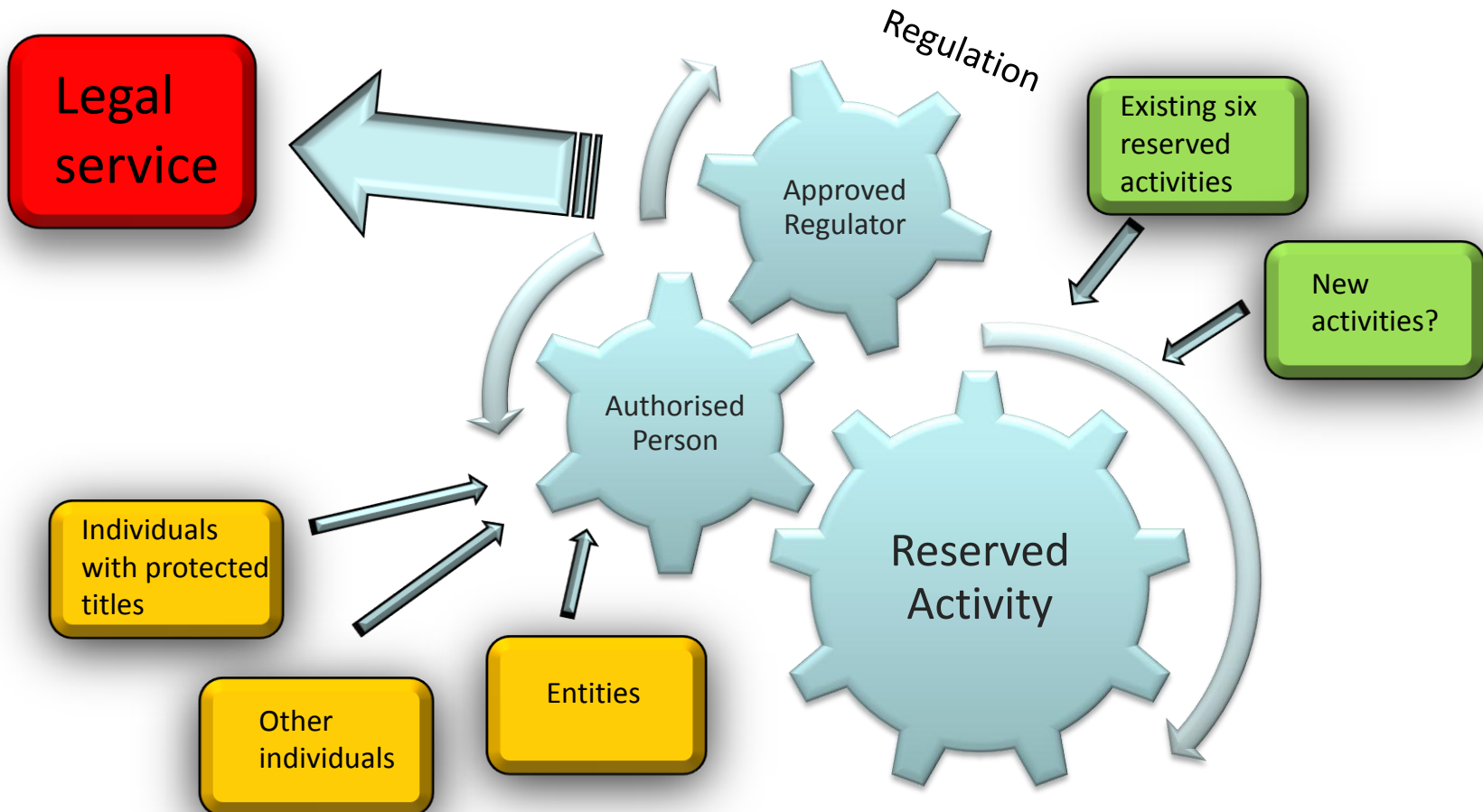
Extension of reserved legal activities (s24/ 6 LSA 2007)

- Lord Chancellor may extend (or reduce) list of reserved activities
- Only upon recommendation of LSB

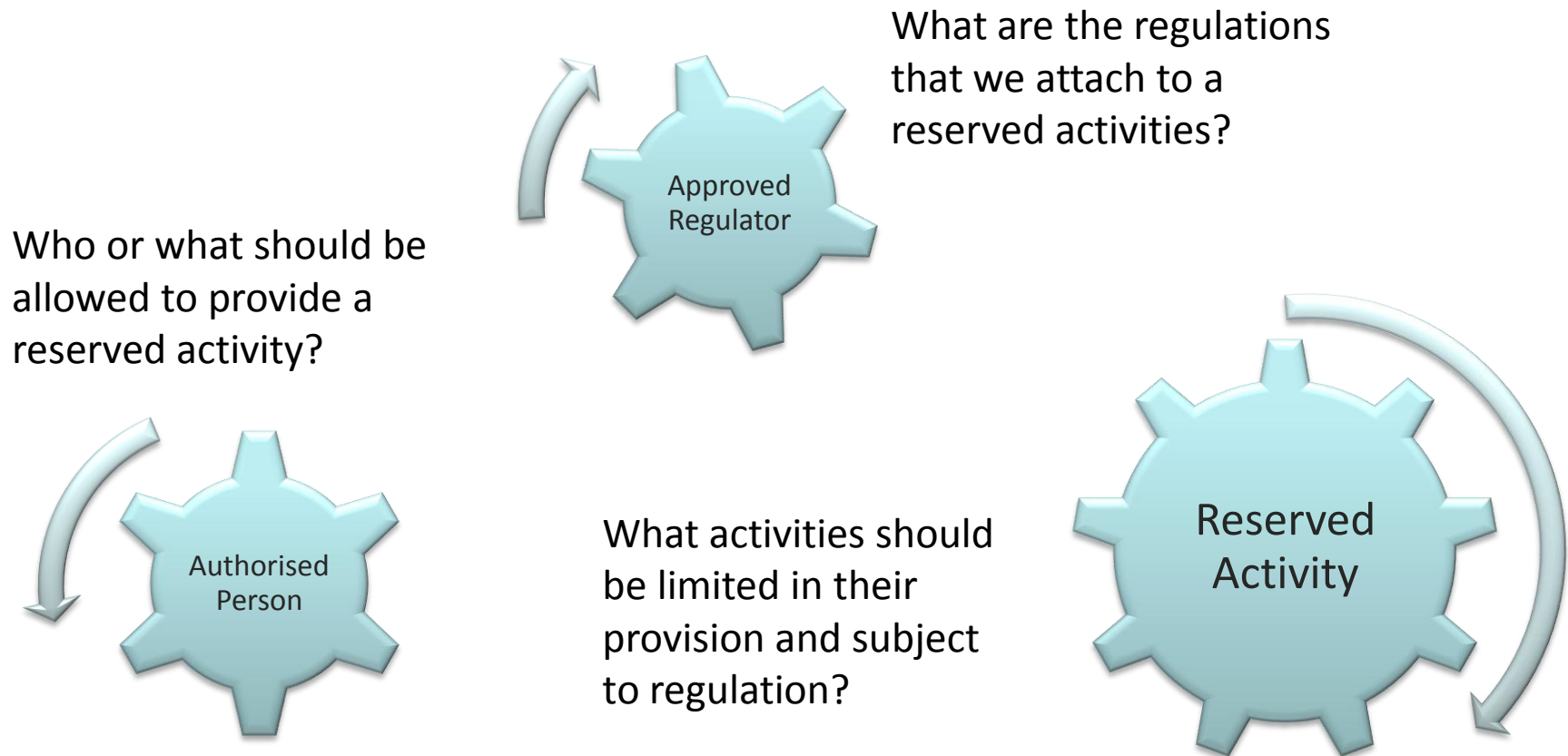
Formal process set out in LSA 2007 Schedule 6

- LSB has powers to investigate whether to recommend list of reserved activities should be changed
- Consultation and advice are built into process

Traditional legal regulation



Focused legal regulation?



How will the LSB make decisions?

What should be prioritised for assessment?

What is the problem?

Identification

Quantitative assessment

What are the regulatory tools?

Variety of interventions

Cost Benefit Analysis

Minimum standards for reserved activities

Reservation as a hook for regulation

Adding/deleting reserved activities

Prioritisation

1. Statutory duty to investigate (Schedule 6 LSA 2007)
 - Lord Chancellor
 - OFT
 - Consumer Panel
 - Lord Chief Justice

2. Requests

3. LSB review
 - Analysis of existing evidence
 - Intelligence from ARs/Professional bodies

What is the problem? (examples)

Issue

Referral Fees

Will writing

Probate

Problem

Increased cost/reduced quality

Poor sales practices leading to unnecessary sales. Poor quality product.

Unclear regulatory protections for consumers. High cost of services

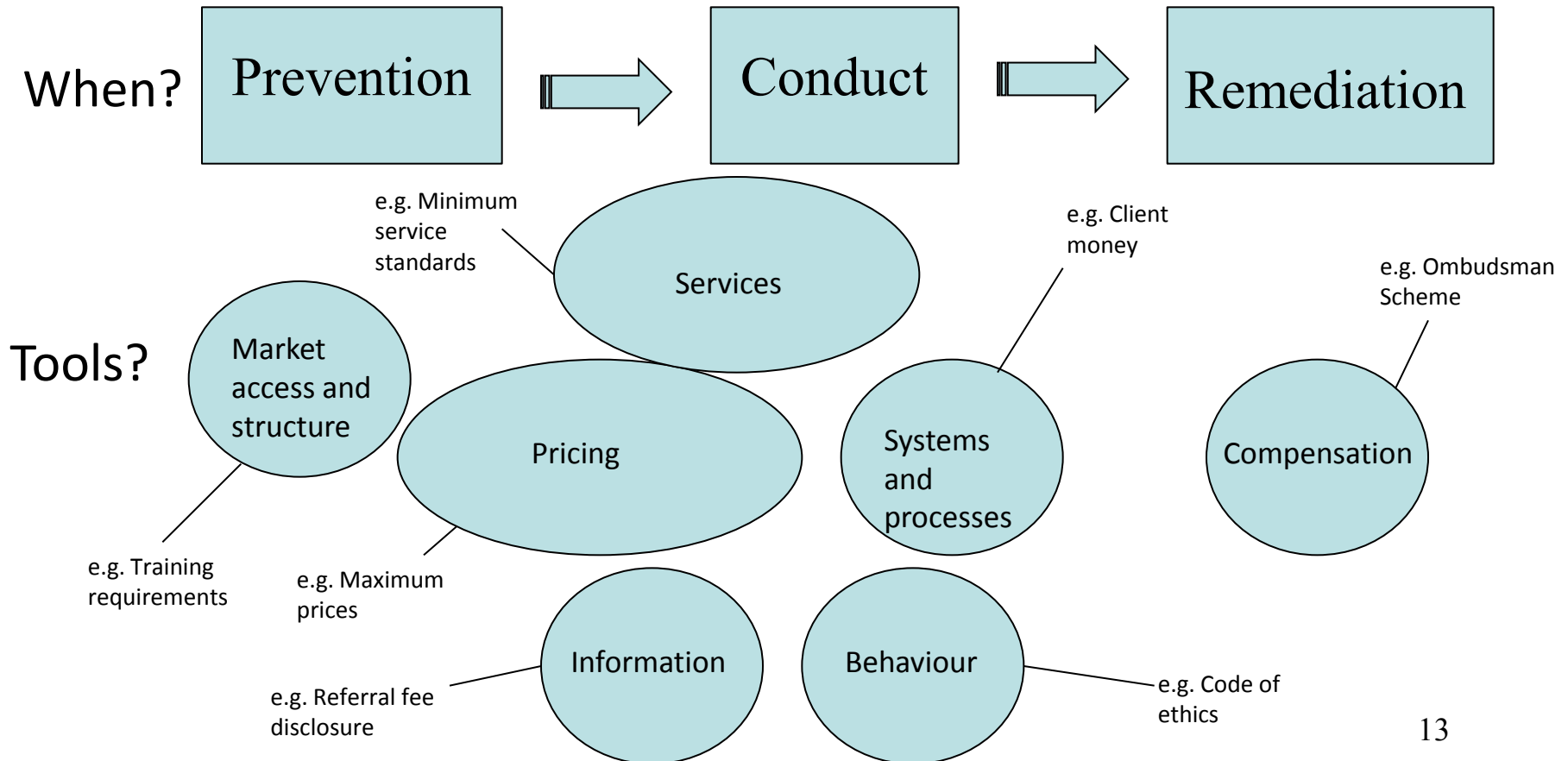
Evidence

Studies showed no evidence of increased cost/reduced quality

Call for evidence from sector. Shadow shopping. Consumer Surveys. Exp. July 2011

Potential for future study?

What are the possible regulatory tools?



Minimum standards of regulation?

“...one possible solution requires the setting of a minimum consistent standard [of regulation] across the service type. However front-line regulatory bodies would be free to impose additional standards if they wished.”

Clementi, D; Review of the regulatory framework for legal services in England and Wales, p99, December 2004

Of course this would be subject to the Regulatory Objectives and Principles of Better Regulation tests

Conclusions

- LSB work necessitates decisions whether to change reserved activities
- The prioritisation of our analysis will develop over time depending on the available evidence
- Regulatory tools will be set independently of the choice to reserve
- Cost Benefit analysis will be used to determine appropriate minimum regulatory standards
- Tests against the Regulatory Objectives and Better Regulation Principles will be applied

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