

Regulation and innovation in legal services in England and Wales

OECD

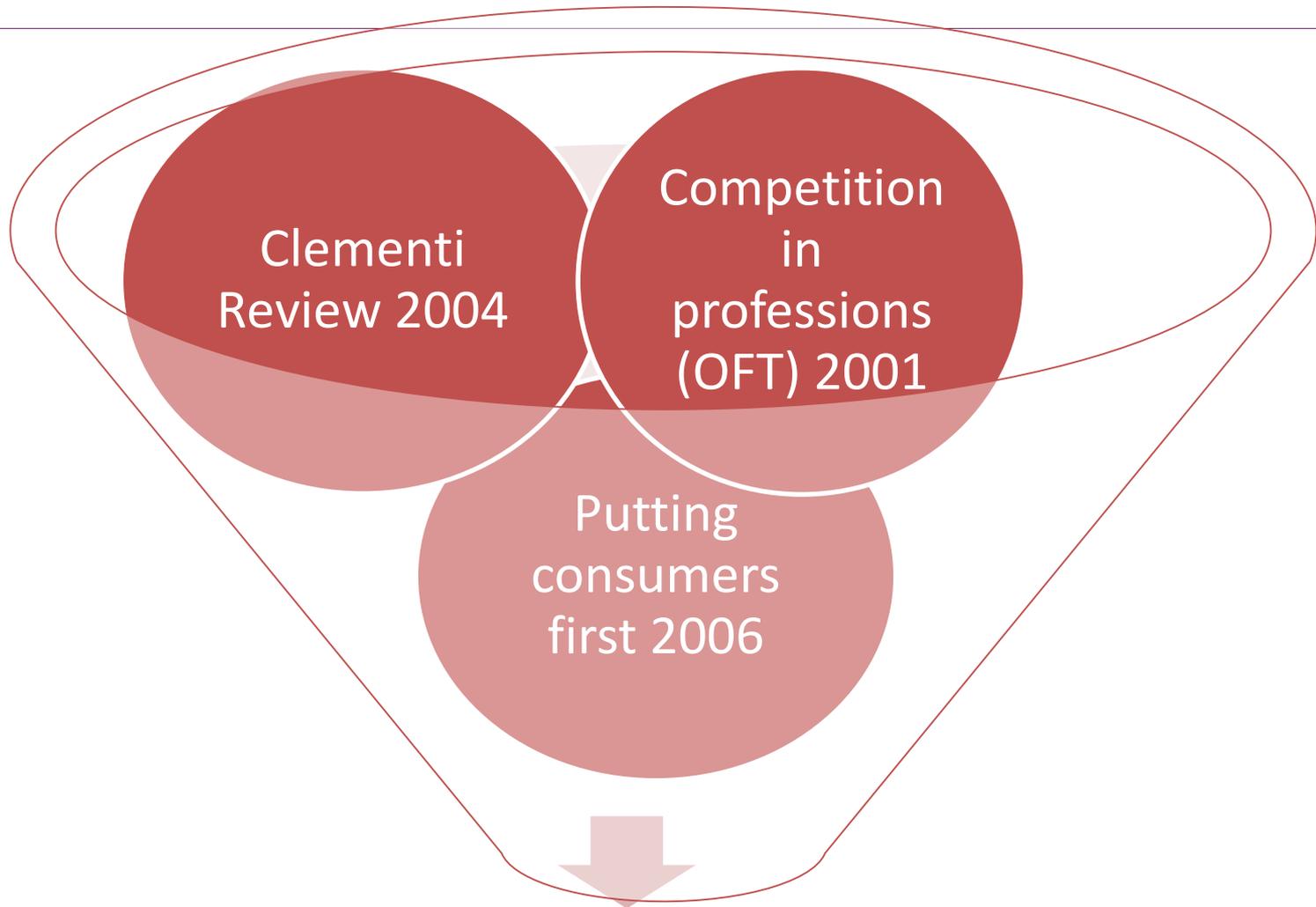
13 June 2016

Caroline Wallace, Strategy Director

What I will cover today

- A little history
- The current regulatory framework
- Innovation
- Further reform needed

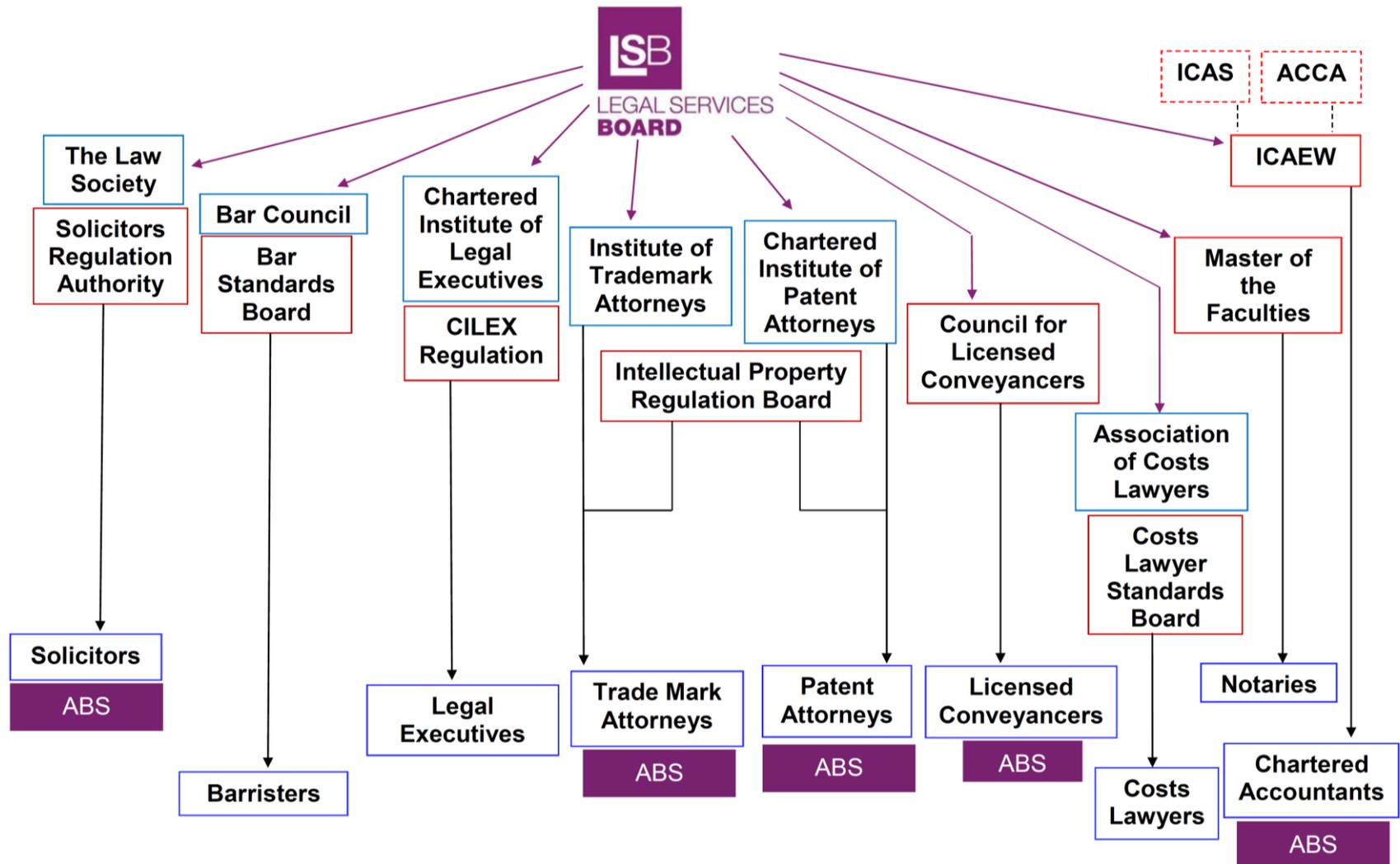
How the Legal Services Act came about



The reserved activities

Reserved activity	Monopoly	Scope
Rights of audience	1836	Appear before and address a court
Conduct of litigation	1729	Issuing, commencement, prosecution and defence of proceedings, and performance of any related ancillary functions
Reserved instrument activities	1804	Preparing instrument of transfer or charge under Land Registration Act; preparing other instruments relating to real or personal estate
Probate activities	1813	Preparing any probate papers (to found or oppose a grant of probate or of letters of administration)
Notarial activities	1801	Activities customarily done by notaries
Administration of oaths	1853	Exercise of powers conferred on a commissioner of oaths by various Acts

The regulatory architecture



The 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 market (1)

- Strong growth – nearly doubling in value since 1997
- Growth in exports particularly strong
- For example, for firms regulated by the SRA
 - around 10,000 traditional firms (relatively static)
 - over 500 ABS
 - ABS are 3% of all firms and 11% of turnover (Oct 2015)
- Paid-for unregulated services for individual consumers are a small part of the market (~5%)

The market (2): ripe for disruption?

- 18% of **individuals** with legal issues do nothing
 - Most commonly because they feel nothing can be done
 - But also because of assumptions about/fear of cost
 - 46% of issues were handled alone or with family/friends
- 87% of **SMEs** don't think lawyers offer value for money
 - But 54% of those SMEs see law as very important for doing business
 - Potential value of SME unmet need in excess of £9bn – 30% of current market.

ABS research findings

- **Consumer protection maintained** (even improved?)
 - ABS better at first tier complaint handling
 - **NOT** associated with poorer quality or lower standards
- **Scope for competition to increase**
 - ABS (and LDPs) more productive
 - Wide variety of ABS business models

ABS and innovation

- ABS 13-15% more likely to introduce new legal services than other types of regulated solicitors' firms.
- But unregulated firms more innovative than any other type of firm.
- Legislative change and regulatory change are the two most commonly cited drivers of innovation AND biggest barriers to innovation

We need further reform.... (1)

- Key findings of forthcoming LSB market evaluation report:
 - **Competition:** positive developments but improved outcomes for consumers (prices, extent of shopping around) slow to emerge
 - **Access to services:** same proportion of people taking action, but more consumers are handling alone rather than seeking advice
 - **Quality:** improvement in most areas, despite significant upheavals and change in the sector.

We need further reform....(2)

- **Insufficient independence** between some lawyers and their regulators
 - We are waiting for a government consultation on this
- **Fixed list of reserved activities and blanket regulation by title**
 - Leads to both under- and over-regulation.
 - Consumers use unregulated services under false assumption that they are regulated.
 - Uneven playing field for regulated and unregulated providers offering identical services.
- **Government review soon?**

www.legalservicesboard.org.uk

<https://research.legalservicesboard.org.uk/>

Legal Services Board

One Kemble Street

London

WC2B 4AN

Tel: 020 7271 0050

contactus@legalservicesboard.org.uk



Follow us @ LSB_EngandWal