

Progress on deregulation and market liberalisation in legal services

June 2015

A report for Ministers on deregulation from the legal services regulators of England and Wales:

- Bar Standards Board
- CILEx Regulation
- Costs Lawyer Standards Board
- Council for Licensed Conveyancers
- Institute of Chartered Accountants in England and Wales
- Intellectual Property Regulation Board
- Legal Services Board
- The Master of the Faculties
- Solicitors Regulation Authority

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Foreword

Regulatory reform since the Legal Services Act 2007 has been wide ranging. Regulators¹ have increasingly simplified and focused their processes and removed barriers to market entry, enabling innovation among new and existing providers, improving consumer choice and competition.

The structure of the legal services market has changed as a consequence. Deregulation has introduced reforms that allow a wider range of business models. Restrictions on business ownership have been removed, making non-lawyer ownership of and investment in a wider range of legal services businesses possible while maintaining emphasis on the interests of the public and consumers. Existing providers have also benefitted, as regulators remove unnecessary rules and target their efforts on areas of greater risk.

The legal services market remains economically significant and is growing. In 2014, the total turnover of the legal sector was £30.2 billion, up 18% in five years. We estimate that regulated legal service providers account for about 70–80% of this turnover, and unregulated providers account for the remainder. Over the period 2009–2013, net exports of legal services grew by 10%.

As at 1 April 2015, the legal profession in England and Wales comprised 142,109 solicitors, 15,237 barristers, 7,848 chartered legal executives and 5,678 individuals operating in other areas of the legal profession such as conveyancing.

Together, these regulatory improvements support growth and innovation in legal services, allowing the professionalism of individual lawyers to thrive and new businesses to grow, within a framework focused on protections that are essential to consumers and the public. This can be seen in:

- More opportunities for new businesses and investors to enter the market, with over 400 non-traditional firms (alternative business structures, ABS) being set up or evolving out of traditional law firms, promoting competition and choice for all consumers
- The growth in fixed fee legal services, so consumers know the full cost of the service before work commences
- Greater innovation in legal services and business models, widening access by reducing and removing regulatory barriers and supporting growth in online services such as divorce and wills

¹ Bar Standards Board, CILEx Regulation, Costs Lawyer Standards Board, Council for Licensed Conveyancers, Institute of Chartered Accountants in England and Wales, Intellectual Property Regulation Board, Legal Services Board, The Master of the Faculties, Solicitors Regulation Authority

- Elimination of unnecessary rules alongside improvements to regulatory practices and risk-based regulation across education and training, authorisation, compliance, supervision and enforcement. Since the introduction of the Act, the LSB has approved 76 applications to change regulatory arrangements and issued 89 exemption directions²
- Indications of new firms performing better on complaints handling: evidence suggests that ABS firms resolve more complaints at the first stage than traditional firms (11 resolved for every one referred to the Legal Ombudsman versus four resolved for every one referred to the Legal Ombudsman from traditional law firms)
- Legal Ombudsman scheme providing swift redress for dissatisfied consumers
- Evidence gathered in 2014 indicating consumers are happier than they were in 2011 with the choice of service available to them, with more shopping around and increased satisfaction with value for money.

Legal services today benefit from more proportionate and targeted regulation that underpins the critical importance of law as a profession and enables better outcomes for individual and small business consumers. Reform remains a work in progress. The essential changes to out-dated, inflexible and over-complex regulation must be sustained for the benefit for providers, consumers and the wider economy alike. The deregulatory steps that have already been taken will continue to have an impact, and we anticipate reforms planned for the future will also yield benefits. But the limits of the current legislative framework are being reached for some and further progress for those regulators may require more fundamental revision.

² Up to 30 April 2015

Regulatory reform in legal services

Legal services regulation has seen unparalleled reforms and modernisation since the Legal Services Act 2007 (the Act). There have been reforms to:

- remove barriers to market access
- reduce regulatory burdens
- promote consumers' interests.

The incremental impact of deregulatory initiatives represents a huge shift away from old ways of working towards a better regulated system that is focused on managing risks and delivering better outcomes for all consumers.

Fundamentally there is no benefit in inefficient and outmoded regulatory practice, but in a sector with nine professional groups,³ eight frontline regulatory bodies and six reserved activities,⁴ there is not a single swift 'big bang' solution. Instead simplification and the removal of unnecessary regulation demands a balance between attending to specific but essential changes, keeping focused on delivering according to established principles of best regulatory practice, while also supporting and building on the professionalism of individual lawyers. The nature of this balancing act can be seen in the changes that regulators have made so far – described in this report – and in their plans for the future.

Reforms to remove barriers to market access

The Act allowed regulators to take steps to open up the market, providing opportunities for the development of new ways of delivering legal services. There are currently four authorities with power to license ABS – which are business models that permit non-lawyer investment in and ownership and management of law firms for the first time – and more are anticipated in the future (see note A). This is stimulating growth and allowing both existing and new legal service providers to innovate, offering consumers greater choice and wider access.

The legal services market has also been deregulated in other ways, for example:

- Removal of regulatory restrictions on firms who want to deliver legal services alongside other professional services such as accountancy and planning advice (multi-disciplinary practices) (see note B).
- Introduction of reforms that allow individual lawyers to band together to establish businesses and for a broader range of lawyers to qualify to work in different areas of law or develop niche services (see note C).

³ Barrister, conveyancer, costs lawyer, Chartered legal executive, notary, patent attorney, probate practitioner, solicitor, trade mark attorney.

⁴ The Act limits the carrying on of six reserved legal activities: exercise of right of audience; conduct of litigation; reserved instrument activities; probate activities; notarial activities; administration of oaths.

- Relaxing barriers to consumers' access to legal services, for example in widening public access to barristers and allowing certain in-house solicitors to charge for some services provided to external bodies (see note D).
- For those wishing to join the legal professions, more routes to qualification are opening up, and the bureaucracy associated with training programmes has been reduced (see note E).

Reforms to reduce regulatory burdens

Before the Act, the regulatory regime for lawyers and law firms emphasised adherence to specific rules and processes. Since 2010, the position has changed to one increasingly focused on outcomes and targeting key risks. This is allowing regulators to take a more flexible and proportionate approach when they regulate and to focus their finite resources on where they will have the biggest impact. For example:

- Revising codes of conduct and handbooks to highlight the outcomes that should be achieved rather than requiring prescriptive processes to be followed (see note F).
- New regulators establishing their arrangements for the first time without historical baggage and legacy systems to overhaul have seized the opportunity to embed new principles-based codes from scratch that work with and build on lawyers' professionalism (see note G).
- Streamlining regulatory handbooks by separating guidance into separate publications, allowing individual lawyers and firms to decide for themselves how to meet the standards expected of them (see note H).
- Guidance from LSB is supporting regulators as they increasingly adopt an outcomes-focused approach to continuing professional development, removing the duty to meet arbitrary annual hourly quotas and adopting a more flexible approach to fulfilling the common expectation to stay up to date and competent (see note I).
- Reducing duplication and bureaucracy by abolishing unnecessary and redundant rules and reforming others to make them more targeted and proportionate to risk (see note J).
- Revising and simplifying of the regulators' operations, including reducing the information demands placed on lawyers and firms (see note K).
- Supervision of lawyers and firms is increasingly risk-based. This means moving away from a "one size fits all" approach to one that is targeted and proportionate, allowing high-performing firms greater freedom to focus on providing services that meet consumers' needs (see note L).

Reforms to promote consumers' interests

Alongside the achievements of the Legal Services Consumer Panel and the Legal Ombudsman scheme, regulatory reforms are contributing to improving outcomes for consumers through:

- Greater use of evidence around risk to inform authorisation and supervision of lawyers and firms (see note L).
- Ground-breaking research, led by LSB, into the legal needs of small businesses, which led directly to a number of firms advertising new services for small and medium sized businesses, such as retainer contracts.
- Simplifying compensation fund claims applications, including prioritising those from consumers in need of greater protection (see note M).
- Increased emphasis on better and more consistent handling of consumers' complaints by lawyers and firms (see note N).
- Supporting consumer choice with more widespread provision of key regulatory data to third parties to allow the development of comparison websites and other tools (see note O).

Closing comments

Any plan for regulatory reform is an important first step, but it will only yield benefits for consumers and legal service providers when implemented. The wide range of new initiatives and ways of working has seen the legal services regulators make a strong and active contribution to **lightening regulatory burdens on the market**. Legal services regulation has become increasingly targeted and proportionate to risks, and consequently more supportive of growth and innovation in services.

The consequence of these reforms is an increasingly open market for legal services, with regulation focused where it is most needed – **to protect consumers and the public interest**. Deregulatory actions build on the professionalism of individual lawyers which is at the heart of legal services. Less regulation gives lawyers and businesses broader scope to provide services that meet consumers' needs, by removing burdens and incentivising better performance.

Much has been achieved since the Act, and more is in the pipeline drawing on it. Reform of regulation and lightening of regulatory burdens is expected to continue, alongside ongoing efforts to understand consumers' needs and regulate according to principles of better regulation. But the potential the Act presented for regulatory reform did not fall equally across the regulators. As a consequence, some regulators have been able to take greater advantage than others of the opportunities to improve, liberalise and better target their regulatory activity. For some, achieving regulatory reform demanded great tenacity and creativity, seizing opportunities beyond the legal services legislative framework to secure important reforms (see note C). For others the current legislation limits or slows down reform in certain circumstances. Revision of the statutory framework may in due course be desirable.

Notes: examples of regulatory reform in legal services

This section provides details of some examples of deregulatory actions by legal services regulators since the Legal Services Act 2007 (the Act). Please note: as there was no common starting point for all regulators when the Act was introduced, each regulator has had different opportunities and scope to make changes.

Glossary of acronyms:

ABS:	alternative business structure
BSB:	Bar Standards Board
CLC:	Council for Licensed Conveyancers
CLSB:	Costs Lawyer Standards Board
ICAEW:	Institute of Chartered Accountants in England and Wales
IPReg:	Intellectual Property Regulation Board
LSB:	Legal Services Board
SRA:	Solicitors Regulation Authority

A: New licensing authorities for alternative business structures

- CLC now licensing ABS for exercise of reserved instrument activities, probate activities, and administration of oaths
- ICAEW now licensing ABS for probate activities
- IPReg now licensing ABS for exercise of right of audience, conduct of litigation, reserved instrument activities, and administration of oaths
- SRA now licensing ABS for exercise of right of audience, conduct of litigation, reserved instrument activities, probate activities, and administration of oaths

In May 2015 the BSB applied to the LSB to become a licensing authority for the exercise of a right of audience, the conduct of litigation, reserved instrument activities, probate activities and the administration of oaths.

ICAEW is the first new approved regulator under the Act. It was designated as an approved regulator and a licensing authority for probate in 2014. This means ICAEW regulated individuals and firms could apply to provide this reserved legal activity to consumers. This development has the potential to increase choice, reduce costs and to enable firms to offer a more integrated service to consumers who, in non-contentious cases, will be able to use a single adviser.

B: Proportionate approach to multidisciplinary practices

SRA: permitting development of multidisciplinary practices – SRA changed their rules to avoid unnecessary and disproportionate regulation that threatened to stifle the development of ABS working as multidisciplinary practices (MDPs). The issue arose where non-reserved legal activity (such as tax advice by a chartered accountant or planning advice by a chartered surveyor) was provided as part of the exercise of a non-legal profession that is already regulated elsewhere. Now, when licensing an MDP, SRA's approach to regulation will be a flexible one, driven by the risks posed by the particular circumstances.

The SRA has consulted on significant and liberalising reform of ownership and management of separate unregulated business.

C: More options for individual lawyers

Since the Act, two regulators have started to authorise new businesses owned and managed by authorised lawyers:

- BSB
- CILEx Regulation

BSB: liberalising rules on sharing premises and rules on associations – Outdated rules on sharing premises and associations with others were removed, moving instead to an outcomes-based

approach where barristers can work with others to deliver services in innovative ways (including via outsourcing arrangements) as long as clients' interests are protected. The previous rules on associations were prescriptive but complex and their interpretation and application had generated uncertainty and unintended impacts. There was no evidence of associations having been a source of complaints. Whilst BSB recognised that liberalisation of the rules might change that, after working through the potential problems that might arise, it was satisfied that they could each be addressed under other rules. It replaced prescriptive rules with guidance which reminds barristers which other rules they must bear in mind when working in an association and a requirement to notify the BSB of certain associations. The BSB's new approach to supervision will enable it to monitor any increased risk to clients resulting from associations that have been notified to the BSB.

BSB: wider authorisation of barristers to conduct litigation – Until January 2014 authorisation to conduct litigation had been limited to employed barristers. The BSB introduced safeguards to manage anticipated risks from this new area of work, making the necessary changes to its own systems and practices to regulate this area effectively allowing all barristers to apply to the BSB for an extension to their practising certificate authorising them to conduct litigation (barristers are not automatically authorised to conduct litigation).

BSB: alternatives to handling client money – the new BSB Handbook maintained the prohibition on barristers handling client money (thereby continuing to avoid additional insurance requirements and compensation arrangements that are necessary in other regulatory regimes). However, guidance sets out the types of third party escrow-style services that barristers may use as an alternative to handling client money, where those services are themselves regulated by the Financial Conduct Authority and appropriately insured against losses. In combination with direct access and the increase in authorisations to conduct litigation, this is significantly increasing the range of services that the Bar can provide for clients.

CILEx Regulation: designated as a regulator of additional reserved legal activities – Since the Act CILEx Regulation have been designated as an approved regulator for conduct of litigation, reserved instrument and probate activities. This is in addition to powers to regulate exercise of right of audience and administration of oaths.

CLC: extending regulatory scope and issuing standalone licences – Recent amendments to the Administration of Justice Act 1985 through the Deregulation Act 2015, once commenced through secondary legislation, will allow CLC, in due course, to authorise a greater range of reserved legal activities (the conduct of litigation and the exercise of a right of audience).⁵ The amendments will also enable CLC to issue standalone licences for probate practitioners, removing the requirement currently placed upon a CLC practice wanting to provide probate only, having to first undertake the licensed conveyancer qualification. This development will offer property lawyers a choice of regulator, a new route to the profession; and help create different means of meeting consumer demand.

D: Removing barriers to consumers' access to legal services

BSB: public access – The BSB has expanded the scope of its public access scheme, which permits clients to instruct barristers directly, without using a professional client (usually a solicitor). Previously, barristers with fewer than three years practising experience were not permitted to undertake public access work. Barristers were also required to refuse public access work if the client was entitled to a contribution from public funding (even if it might have been more efficient to pay for the legal services via a public access barrister and not claim the public funding). The expansion of public access was implemented following a review of the public access training, which focused on the need for barristers to be able to identify the needs of vulnerable clients in particular. The public now has access to a wider range of public access barristers, who may be able to offer more streamlined and cheaper services than a traditional law firm.

CLC: access to lending panels – The CLC have a programme of work to ensure directors of lending institutions convey their expressed confidence in the CLC down to their frontline staff so that access to lending panels for conveyancers is not unnecessarily restrictive and does not, in effect, impose an unnecessary double-layer of regulation.

SRA: allowing charging by in-house solicitors – Local government is undergoing significant changes to how it operates. One result is that some organisations that fell under or were part of a local authority are now stand-alone

⁵ Subject to the designation processes in the Legal Services Act 2007

organisations; in some cases these organisations have set up as charities. Amending the SRA in-house rules allowed local authority solicitors to charge for and continue to provide specialist legal services to charitable organisations in certain circumstances.

E: Reforming and improving routes to the profession

Apprenticeships –

- CILEx Regulation has been running apprenticeships up to Level 4 (first year degree standard) and is involved with standard setting for the new Chartered legal executive trailblazer apprenticeship.
- CLC has facilitated the creation of employer-led conveyancing apprentice standards, approved by Department for Business, Innovation and Skills, for licensed conveyancer and conveyancing technician. It is currently taking forward an apprenticeship standard in probate. The intent of these standards is to provide firms and those who would wish to qualify with a range of access routes to do so and to promote a diverse profession which meets the diverse needs of consumers.
- SRA is taking forward an apprenticeship standard leading to qualification as a solicitor.

CILEx Regulation: outcomes focused approach to work-based learning – CILEx Regulation introduced a work-based learning scheme based on a set of eight learning outcomes which reflect the key competencies required to become a qualified Fellow. The previous approach did not objectively and independently consider the competence of an applicant. The new application process is based on transparent and agreed criteria that ensure the application process for Fellowship is more robust and objective, and therefore fairer to the applicant. The new criteria enable the “time served” element to qualify as a Chartered legal executive to be reduced from five years to three years where competence warrants it. Robust assessment of competence provides better assurance for consumers and employers of the expertise of the Chartered legal executive or authorised practitioner, as well as being fairer for applicants.

CLC: authorisation as conveyancer – Where possible, CLC enables authorised persons with appropriate experience to transfer into regulation by the CLC without the need to requalify as a licensed conveyancer. For example, solicitors

with appropriate experience are able to hold licences to practise as licensed conveyancers and Chartered legal executives are able to practise as licensed conveyancers once they have passed the CLC’s accounts examination. Authorised persons do not need to be licensed conveyancers in order to be managers of CLC practices.

LSB: guidance on regulatory arrangements in education and training – Following the report of the Legal Education and Training Review, LSB published statutory guidance to support regulators in their reform of regulatory arrangements. The guidance centred on five regulatory outcomes:

- Education and training requirements focus on what an individual must know, understand and be able to do at the point of authorisation
- Providers of education and training have the flexibility to determine how to deliver training, education and experience that meets the outcomes required
- Standards are set that find the right balance between what is required at the point of authorisation and what can be fulfilled through ongoing competency requirements
- Regulators successfully balance obligations for education and training between the individual and the entity both at the point of entry and on an ongoing basis
- Regulators place no inappropriate direct or indirect restrictions on the numbers entering the profession

SRA: Reducing burden on training establishments – SRA introduced a set of reforms relating to employment of trainee solicitors including removing the need for trainees to be employed under the terms of an SRA approved training contract, removing the need for SRA permission for trainee secondments, and removing the limit on the numbers of trainees per training principal.

F: Adopting a more outcomes-focused approach in revised rules and handbooks

BSB: New Handbook – The new BSB Handbook takes a substantially different approach to the old Code of Conduct. Introduced in January 2014, it contains ten principles-based core duties, which set the key expectations of professional practice at the Bar. It also articulates, for the first time, the outcomes that the regulator is seeking to achieve, in order to permit a purposive interpretation of the rules and to enable a more

proportionate and risk-based approach to enforcement.

Master of the Faculties: Revised practice rules – Revision of the Notaries Practice Rules included, for the first time, a set of General Principles which reflect a move to outcomes focused regulation.

SRA: New Handbook – The revised SRA Handbook gives solicitors and recognised bodies considerably more freedom about how they achieve specific outcomes. The Code of Conduct sets out the new outcomes-focused requirements in the form of Principles, Outcomes and Indicative Behaviours. The ten Principles apply to all solicitors and to all bodies regulated by the SRA and those working within them.

G: Developing outcomes-focused standards from scratch

CLSB and IPReg both established their regulatory arrangements after the Act commenced. Their codes and standards take a high-level, principles-based approach. For example, IPReg's Code of Conduct, first published in 2009, consists of 21 "statements of principle" (with guidance) captured within 15 pages of text.

H: Reducing reliance on guidance

CLC: focusing handbooks on regulatory responsibilities – Guidance provided by the CLC is now physically separate from the CLC Handbook and it has been made discretionary, providing only a possible route to the required outcomes, but giving practitioners flexibility in their practice.

I: Outcomes-focused approach to continuing professional development

CILEx Regulation: reform to continuing professional development (CPD) – The reforms to CILEx Regulation's CPD arrangements include: removal of the hours requirement, replacing this with an outputs-based scheme; replacing the requirement that at least 50% of CPD should be undertaken in the member's specialism with the requirement that all CPD should be relevant to the member's practice; requiring all members to complete at least one planned CPD activity focused on professionalism which addresses ethical issues.

SRA: reforms to continuing professional development – The SRA's reforms of CPD include removing the requirement to undertake 16 hours of CPD during each complete CPD

year, including the requirement to complete 25% of annual CPD in accredited activities, and removing the requirement on solicitors to attend, within the first three years following admission, the SRA Management Course Stage 1. Solicitors will instead be required to ensure continuing competence by complying with the principle to provide a proper standard of service. Solicitors will be permitted to adopt this approach voluntarily from 1 April 2015. Full implementation will start for the November 2016/17 CPD year.

J: Reducing bureaucracy

BSB: media comment and advertising restrictions – The old Code of Conduct prohibited barristers from commenting in the media on any case in which they were involved. It was felt that such a prohibition was no longer necessary, subject to more general requirements of the Handbook such as respecting confidentiality and acting in the client's best interests. Similarly, detailed rules on advertising that set out what barristers may and may not include in their advertising material were felt unnecessary in the light of general requirements not to mislead clients or potential clients.

SRA: approving single Compliance Officer for Legal Practice/Compliance Officer for Finance and Administration (COLP/COFA) – Where firms operate as a single entity although they comprise a number of separate authorised bodies it may be more appropriate for a single person to hold the role of COLP/COFA operating across all the related separate entities in the group to ensure good risk management and control. The amendments reduce financial and resource implications for the applicant and the SRA and enable the SRA to consider the application holistically and ensure early identification of risks within any group structure which it feels need to be addressed or provide reason for refusal of an application.

SRA: simplifying the renewal process – The SRA changed rules relating to the practising certificate and European lawyer registration process, simplifying the extra provisions that apply to certain applicants. For example, moving to online applications removed the need for a six week advance notification period. It was also more proportionate to provide a cut-off time for declarations from former managers, directors and members of a firm which becomes insolvent (in line with the approach taken by the Insolvency Service).

SRA: alterations to the keeping of the roll exercise – The SRA have stopped the process

by which solicitors on the roll that do not hold practising certificates are asked each year to confirm whether or not they wish to remain on the roll. The main aim is to remove the burden of unnecessary regulation on solicitors without practising certificates, the vast majority of whom are retired or otherwise non-practising solicitors. They will no longer need to complete an application and pay a fee every year. Now they will only need to log in to the SRA's online system if their name or address details change so that they can keep such details current. No fee will be charged.

SRA: reducing reporting obligation of compliance officers – The SRA has removed the obligation of the compliance officers of recognised bodies and recognised sole practitioners to report to it non-material breaches as part of firms' annual submission of information. The requirement to report all breaches of whatever nature, was inconsistent with an outcomes-focused approach. The onus should be on firms to develop appropriate and effective systems to achieve compliance. Compliance officers will continue to be required to record all breaches for production on request and to report material breaches to the SRA as soon as reasonably practicable. This change gives the majority of SRA-regulated firms greater control over identifying and dealing with patterns of non-material breaches themselves, and allow the SRA to concentrate on material breaches.

SRA: allowing self-certification on withdrawal of residual client balances – The SRA increased the level at which practitioners can self-certify client balances from £50 to £500 without the need to seek SRA authorisation. The previous arrangements placed unnecessary regulatory burdens on firms because they are required to make an application to the SRA to transfer residual client balances above £50. It was a disproportionate and out-dated approach. The effect of this change is that it removes the burden of firms requiring authorisation from the SRA to remove relatively low level funds from client accounts. This will account for approximately 750 applications being made to the SRA, covering 5,000 individual residual client balances per year.

SRA: approving RELs and RFLs as managers – SRA rules were amended to allow registered European lawyers (RELs) and registered foreign lawyers (RFLs) to be deemed to be approved as suitable managers or owners in the same way that solicitors are currently deemed to be approved. The change reduces administrative burdens for both the applicant and the SRA but

will place reliance on firms' due diligence and checking of applications before appointments.

SRA: reform of requirements on individuals prior to admission –

- The “shelf-life” of the academic award was removed, so that there is no time limit on the validity of an academic award for entry onto the Legal Practice Course (LPC). The time limit is not based on any specific evidence regarding decline of knowledge following degree level study. LPC providers and the would-be entrants themselves are best placed to assess the risks of investing time and resource in training some years after completing the academic stage. The requirement may also act as a barrier to those who have maintained their knowledge (e.g. through working in the legal sector) over several years since their academic award.
- The requirement for student enrolment with the SRA has been removed. The risk of unsuitable individuals qualifying as solicitors is addressed through a mechanism for voluntary self-declaration combined with checks at point of admission which include Disclosure and Barring Service checks and the enhanced Suitability Test. Students have an ongoing duty to notify the SRA of any new information which might affect their character and suitability.
- The requirement on solicitors from the Republic of Ireland and Northern Ireland to obtain a certificate of eligibility for QLTS assessments from which they are exempt was removed as they benefit from Directive 2005/36. This reform removes costs and the regulatory burden for applicants and it ensures that there are no artificial barriers to gaining admission. These applicants will still be subject to a full assessment of eligibility and suitability prior to admission.

K: Improving operational processes

CILEx Regulation: improving information sharing – CILEx Regulation has led on establishing a sector wide MoU which is in the process of being signed up to by the regulators, save for the SRA. The MoU provides for the sharing of information about complaints, disciplinary issues and risk, which is reasonably required to enable regulators to discharge their regulatory functions and responsibilities. It puts in place clear arrangements and practices to promote the effective and cooperative working relationship

between the regulators to benefit the safeguarding of consumers.

CLC: improving payment scheduling – CLC have altered their own payment arrangements for licence holders so they are more flexible. This means smaller firms are no longer obliged to provide one large sum but can make staggered payments.

CLC: reducing duplication and repurposing information – CLC repurposes information gathered from other sources, including third parties such as indemnity insurers and the Legal Ombudsman, so CLC practices do not have to supply information to CLC that it can gather from other sources.

CLC: reducing reporting obligations – CLC's Annual Regulatory Return requirements are leaner and focused upon areas of risk. Other information requests are targeted at particular market segments to encourage proportionate application of responsibilities. The annual licence renewal process has been streamlined so that it requires no submissions from the majority of practitioners who are required simply to confirm a statement that there is no obstacle to their licence being renewed. Submissions are only required if the practitioner is not able to confirm any part or parts of the statement.

CLC: working with other bodies – The CLC has Memoranda of Understanding, or other arrangements, with organisations which could have an impact, including a regulatory one, on those it regulates. For example, it is a Designated Professional Body, regulating the insurance intermediary activities of CLC licence holders, on behalf of the Financial Conduct Authority.

SRA: streamlining the qualified lawyer transfer system (QLTS) – The SRA will be removing the requirement to undergo a character and suitability and eligibility assessment before attempting the QLTS assessment. This helps ensure consistency by aligning the transfer procedures with the 'standard' domestic route to qualification where suitability is assessed at the admission stage, unless someone asks for an early voluntary assessment.

L: Targeting supervision: risk-based approaches

BSB: a targeted, risk-based approach to supervision and enforcement – A supervision strategy has been adopted which uses risk assessment to determine the supervisory response to Chambers. This replaces previous compulsory compliance checks. Key risks have

been identified against which Chambers will be measured and which will be used to inform supervisory activity. This activity will also be used to inform future iterations of the broader BSB risk assessment framework. As part of this new strategy, the BSB has information sharing protocols in place with relevant external stakeholders such as the Legal Ombudsman and the Legal Aid Agency. The BSB aims to resolve any regulatory issues through non-disciplinary measures, working with the chambers or entity in question. Only if all reasonable supervisory measures have failed or if there is a serious alleged breach of the Handbook that justifies immediate disciplinary action, will the issue be escalated to the Professional Conduct Department and Professional Conduct Committee. This risk-based approach is also taken in relation to enforcement more generally, where complaints are received about barristers. A risk assessment will determine whether enforcement action should be considered and relatively minor matters may be referred to the Supervision Department as an alternative to formal enforcement action. The BSB is also making use of administrative sanctions where a breach of the Handbook is not sufficient to justify a referral to a Disciplinary Tribunal. With this move towards proportionate regulation where there is evidence of greatest risk, the BSB is seeking to achieve more effective and efficient regulation, targeted where it is most needed.

CILEx Regulation: risk-based authorisation and monitoring processes – CILEx Regulation has adopted a risk framework to support outcomes focused regulation allowing it to regulate a range of legal service entities without prescribing how they practise law. It looks at the risks as they occur within a specific entity and the strategies the entity employs to manage and mitigate risk, which should be proportionate and appropriate to the size and structure of the entity and the areas in which they operate. A strategy of positive engagement is adopted throughout the process of authorisation and through ongoing monitoring so entities appreciate the regulator's need for information about risks. Ongoing monitoring will be shaped by the risk intelligence and continued assessment of regulated entities. Monitoring of entities will reflect the risks they pose and be proportionate to the continued assessment of the particular entity. CILEx Regulation's approach to reducing risk is reflected in entity application fees and compensation fund fees. These are lower for those entities where no client money is held or any client money is held in an escrow account

(when available). Turnover is also considered as part of the fee structure.

CLC: risk based supervision – As part of the redesign of the regulatory risk process, CLC introduced a Watch List, on which high-risk entities and specific concerns are placed. The Watch List is interrogated, reviewed and actioned on a weekly basis to ensure effective, proportionate and timely targeting of the CLC resources to the areas judged to be of highest risk.

Master of the Faculties: developing a risk-based approach to inspections – The Master of the Faculties has introduced inspection rules that will permit a more proactive approach to inspections of notary practices, carrying out inspections as a matter of routine rather than just following a complaint or allegation of impropriety. It is anticipated that as the inspection regime is implemented it will allow evidence to be gathered that will enable it to develop an enhanced risk based and proportionate approach to inspections.

M: Simplifying compensation fund claims applications

CLC: compensation fund simplification – CLC is aiming to simplify the process for determining applications for grants out of its Compensation Fund by altering its Operating Framework so that it is addressed to the applicants. This revision will avoid the need to have lengthy guidance to supplement the framework.

SRA: changes to compensation fund arrangements – Under the SRA's previous regulatory arrangements there was no restriction on who could apply for and be paid a grant out of the Compensation Fund. Anyone could make an application free of charge irrespective of the wealth and means of the applicant. Prompted by a need to focus on consumers who are not well placed to manage risk themselves, and hence requiring greater levels of regulatory protection, the SRA are introducing eligibility criteria limiting all applications to its Fund to the individuals and micro-enterprises (businesses with turnover not exceeding £2m; charities with annual income of less than £2m; trustees of a trust with a net asset value of less than £2m). The eligibility criteria also will provide the SRA with a framework to manage claims made to the Fund which in turn should inform good practice and robust decision making in the long term.

N: Better complaints handling

LSB: Guidance on first tier complaints handling – LSB published guidance to regulators with the aim of establishing a consistent approach to dealing with complaints about lawyers at the earliest, first-tier stage. This was to ensure that there is a process in place for complaints resolution, without recourse to Legal Ombudsman where possible. Instead of creating a prescriptive process for internal complaints handling arrangements, we issued Guidance to approved regulators about the outcomes they should expect from those they regulate in relation to complaints handling. We expect approved regulators to achieve the following outcomes when regulating first-tier complaints: Consumers have confidence that: complaint handling procedures provide effective safeguards for them; and complaints will be dealt with comprehensively and swiftly, with appropriate redress where necessary.

O: Transparency in regulatory data

The LSB and Legal Services Consumer Panel has consistently championed greater transparency and access to data in order to support the empowerment of consumers through the development of consumer choice tools such as comparison websites. We have been working with the legal regulators and others to open up data held in the legal sector:

- BSB publishes: barrister's name, employed/self-employed, date of call, their practising address, and whether they have disciplinary findings against them
- CILEx Regulation is working towards the publication of a basic core data set in a reusable format by July 2015
- CLC publishes: name, address, Manager or employee, sole practitioner or limited company
- CLSB publishes: name, employer, year qualified, conditions on practising certificate, mark of regulation
- ICAEW publishes: name, address, date approved, reserved activity, authorised or licensed
- IPReg publishes annually its two statutory registers as pdfs with name, litigation rights, practising address and date of admission and since last year has published the same information in CVS format for those attorneys offering services to the public

- Master of the Faculties publishes: name, address and contact details
- SRA provides a weekly update to comparison websites who sign up to the Legal Services Consumer Panel's comparison website self-assessment standards and enter into a data sharing agreement with the SRA. The update provides information on: current authorisation (eg, recognised body, licensed body etc), office type (eg, head office or branch), firm/office SRA number, constitution type (eg, LLP, Partnership etc), contact and website details
- Solicitors Disciplinary Tribunal publishes sanctions data: name, status, date of order, sanction, fine amount and costs
- Legal Ombudsman publishes the following information on ombudsman decisions: name, profession, number of decisions, remedy required, area of law, date, amount, complaint reasons and remedy

CLC: improving access to regulatory information

– CLC has increased transparency through repurposing and publishing the data it holds on disciplinary, regulatory, and other information. This information will provide added incentive for compliance whilst also enabling would-be consumers to make informed choices.