



**LEGAL SERVICES
BOARD**

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By email only

Dear Sir/Madam,

Final response to BIS on small business appeals champions and non-economic regulators

Thank you for the opportunity to respond to this consultation. The Legal Services Board (LSB) is the independent body responsible for overseeing the regulation of legal services in England and Wales. We have a very simple goal – to reform and modernise the legal services marketplace in the interests of consumers, enhancing quality, ensuring value for money and improving access to justice across England and Wales. We are funded by, but wholly independent of, the legal profession.

There are currently 8 front line regulators overseen by the LSB. All of these regulators and the LSB are bound by regulatory objectives set out in section 1 of the Legal Services Act 2007 (LSA). We must all also have regard to the better regulation principles and any other best regulatory practice. Further details about the role of the LSB and the regulators are in Annex 1.

The legal services market and regulation

The legal services market in England and Wales is estimated to be worth £25bn. The market was liberalised in 2011. New entrants and increased competition will help to increase the size of the market and also provide better services to consumers, especially SMEs where we have evidence that there is significant unmet legal need. We therefore welcome the Government's intention to include all legal regulators in the duty to promote growth. We also welcome the introduction of the Regulators' Code and have urged the Government to extend it to cover all legal regulators.

A key part of the LSB's work is to identify and seek to remove unnecessary regulatory burdens whilst ensuring proportionate levels of consumer protection. We have identified significant unnecessary cost and complexity in the statutory and regulatory framework for legal services; our blueprint for change was published in 2013.¹ We have also published our analysis of the current framework for sanctions and appeals,² which identified a number of areas where the statutory and regulatory framework could be improved.

1

[http://www.legalservicesboard.org.uk/what we do/responses to consultations/pdf/a blueprint for reforming legal services regulation lsb 09092013.pdf](http://www.legalservicesboard.org.uk/what_we_do/responses_to_consultations/pdf/a_blueprint_for_reforming_legal_services_regulation_lsb_09092013.pdf)

[http://www.legalservicesboard.org.uk/Projects/thematic review/pdf/20140306 LSB Assessment Of Current Arrangements For Sanctions And Appeals.pdf](http://www.legalservicesboard.org.uk/Projects/thematic_review/pdf/20140306_LSB_Assessment_Of_Current_Arrangements_For_Sanctions_And_Appeals.pdf)

LSB comments on the BIS consultation

1. We agree with the desirability of addressing shortcomings in regulators' appeals mechanisms. It is essential to ensure that those directly affected by regulators' decisions have access to comprehensive, understandable information about appeals and how to make complaints.
2. Front line legal services regulators regulate approximately 156,000 individual lawyers and in excess of 11,000 firms operating throughout England and Wales. Individual non-lawyers working in law firms may also be the subject of regulatory action. Many law firms are small; for example just under 3000 firms (28%) regulated by the SRA are run by a sole practitioner (although not all of these are small businesses). All front line regulators have the power to take enforcement action, although their individual powers and appeal mechanisms vary. The LSB cannot take action against individual lawyers or businesses. Therefore we do not consider that the Government's policy aims will be achieved if the requirement for a Champion is applied to the LSB. For appeals Champions to be effective in legal services, the obligation needs to include all the front line regulators because their actions directly affect small businesses. The eligibility for inclusion should therefore be regulators who will be subject to the growth duty. If BIS retains the current focus on regulators that are subject to the Regulators' Code, then it is essential that the front line legal regulators are made subject to that Code as soon as possible.
3. We do not understand how the role of Champion can be both "independent of their regulator" (paragraph 35 of the consultation document) and a NED (paragraph 31). One of the key responsibilities of a NED on any Board is to be collectively responsible for the decisions made about the organisation. It seems unlikely that an individual NED would be able to exercise sufficient independence from that role to also carry out the functions of a Champion. We therefore suggest that BIS may want to reconsider this issue to ensure that the Champion is of sufficient seniority and able to carry out their role independently.
4. Given the wide remit of non-economic regulators and the relative complexity of the proposed requirements on both regulators and Champions, has BIS considered testing the whole concept as a pilot in a few different regulators? This may help to identify any practical problems with the concept of Champions and highlight good practice if the scheme is to be extended (and become a statutory requirement) after the pilot.
5. The consultation proposes that a Champion's key duty will be to produce an annual report to the relevant Secretary of State and to the regulator. However it is not clear from the consultation whether the obligation to provide a public explanation in the event that a Champion's recommendations are not accepted would apply to both the Secretary of State and the regulator. We consider that it should apply to both.

Annex 1

What does the LSB do?

The LSB is responsible for overseeing eight approved regulators (two of which are also licensing authorities), which between them regulate directly approximately 156,000 individual lawyers and at least 11,000 law firms operating throughout England and Wales. The approved regulators are:

- The Law Society which, through the Solicitors Regulation Authority, regulates around 127,500 practising solicitors and 10,500 firms
- The General Council of the Bar which, through the Bar Standards Board, regulates around 15,300 practising barristers
- The Chartered Institute of Legal Executives which, through ILEX Professional Standards Limited, regulates around 7,900 practising fellows
- The Council for Licensed Conveyancers, the regulator of around 1,170 practising licensed conveyancers
- The Chartered Institute of Patent Attorneys which, through the Intellectual Property Regulation Board, regulates around 1,980 practising chartered patent attorneys
- The Institute of Trade Mark Attorneys which, through the Intellectual Property Regulation Board, regulates around 820 practising trade mark attorneys
- The Association of Costs Lawyers which, through the Costs Lawyer Standards Board, regulates over 560 practising costs lawyers
- The Master of the Faculties who regulates over 800 notaries.

In addition, subject to Parliamentary approval, the Institute of Chartered Accountants in England and Wales will soon be designated as an approved regulator and licensing authority.

Yours faithfully



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