

ANNEX D

ANALYSIS AGAINST LEGAL SERVICES BOARD SIGNIFICANCE, IMPACT AND RISK (SIR) FRAMEWORK

Significance

<p>1. Would the change require approval under the previous Ministry of Justice / Legal Service Consultative Panel system?</p> <p>This includes “changes relating to qualification regulations and rules of conduct relating to the rights of audience and rights to conduct litigation”. Potential impacts on rights of audience and fit with court rules has been a primary concern when considering any change in the past.</p>	<p>The Society does not consider that the changes would require this approval.</p>
<p>2. Is there a direct impact on or synergy with the Regulatory Objectives as detailed in Part 1 of the Act?</p> <p>All of the Regulatory Objectives are equally important but areas that we will particularly be considering when determining significance include:</p>	<p>Yes, in so far as the changes are designed to bring the Society’s governance arrangements into compliance with the IGRs.</p> <p>The LSB’s stated intention for the IGRs is to enhance regulatory independence as far as reasonably practicable, to create and maintain clear divisions which prevent representative functions prejudicing regulatory functions, to promote the regulatory objectives and to uphold the better regulation principles (IGRs, preamble). The LSB has also stated that the IGRs aim to balance (a) the interests of the approved regulator in ensuring that its regulatory body is accountable; and (b) the public interest in fair and proper regulation which is not, and is not seen to be, undermined or prejudiced by representative interests.</p> <p>The Society considers that its proposed changes give effect to the IGRs in the manner outlined above and that the changes promote and are consistent with the regulatory objectives.</p>
<p>a. Impacts on competition in the provision of services, either increasing or restricting.</p>	<p>The Society does not consider the proposed changes will have a direct impact on competition.</p>

<p>b. Protecting and promoting the interests of consumers. As two of the areas highlighted as being of key concern to consumers we are likely to consider as being of particular significance:</p>	<p>The Society does not consider the proposed changes will have a direct impact on consumer protection. The Society believes the changes will have the benefit of creating more transparency for the profession and the public about the Society and the SRA's distinctive roles and responsibilities.</p>
<p>i. alterations to how complaints are dealt with; and</p>	<p>See comment above.</p>
<p>ii. arrangements relating to financial protection including the handling of client money (account rules), indemnification and compensation.</p>	<p>See comment above.</p>
<p>c. Encouraging an independent, strong, diverse and effective legal profession. Changes likely to impact on equalities and diversity will be of particular interest. Changes to core training and qualification and training requirements will also be deemed significant.</p>	<p>The Society does not consider the proposed changes will have a direct impact on regulated persons, core training or qualification requirements. As above, the Society believes the changes will create more transparency for the profession and the public about the Society and the SRA's distinctive roles and responsibilities.</p>
<p>3. Is the change consistent with the Better Regulation Principles? Has consideration been given to the need to move to outcome and principle based regulation?</p>	<p>Yes. The changes to the Society's delegation and residual assurance functions, as set out in the General Regulations and Assurance Protocol, are transparent, proportionate and consistent in line with the IGRs. The performance of the assurance function also ensures that the Society and the SRA remain accountable to each other and to the LSB in their respective roles as regulatory body and approved regulator in respect of the performance of the regulatory functions for which they are responsible.</p>
<p>4. Will the change require a statutory instrument and / or parliamentary time in order to be completed?</p>	<p>No.</p>
<p>5. Has there been activity in relation to changing the regulatory arrangement in the past two years, for example an application made under the previous system, change considered by internal Board, consultation with regulated community or others? If so did the advice</p>	<p>Not in the past 2 years. However, in October 2017 the Society's Council adopted significant changes to the Society's oversight and governance arrangements with the SRA, in collaboration with the SRA, through amendments made to the Society's General Regulations which were notified to the LSB. The effect was to streamline and reduce the</p>

received, responses to consultation, or decision made raise any issues, either positive or otherwise indicate significance?	extent of the Society's former oversight of the SRA. The changes now introduced are to give effect to the new IGRs.
6. How much interest in the alteration is there within the Justice system and therefore how much is the confidence of those with an interest in the Justice system likely to be impacted by the alteration?	The intention to establish the SRA as a wholly owned subsidiary of the Society has been announced in the legal press and the Society is not aware of any concern or adverse response. In view of their scope, purpose and objective as explained above, it is anticipated that the amended arrangements will increase the confidence of those with an interest in the Justice system.

Impact

7. The number and proportion of people (consumers, procurers, regulated community) that will be affected by the alteration?	The Society and the SRA consider the changes will create more transparency for the profession and the public about the Society and the SRA's distinctive roles and responsibilities. However, it is not expected that the changes will have a specific direct impact on any of these groups.
8. Is there an anticipated impact on the ability of members to practise, operate effectively, make a profit, and earn a livelihood?	No direct impact.
9. Will the change affect the ability of or requirements for prospective members to enter and/or operate effectively within the regulated community?	No direct impact.
10. Is there any crossover and / or conflict with other bodies regulating the same area or person? Are there differences in standards (standards must be comparable not necessarily the same)?	There is no direct impact on the standards applying to regulated persons, or any conflict with other approved regulators, who are also required to certify compliance with the IGRs.
11. The number of alterations included within the application.	The alterations fall into two groups as set out in the Society's application: changes to the Society's delegation arrangements with the SRA, and changes to the provision of assurance.

<p>12. What are the integrated consumer protection and competition impacts? Will the proposed alteration result in the addition of regulation or the removal of regulation (as opposed to a neutral amendment to existing regulation)?</p>	<p>It is not expected that the changes will result in addition or removal to regulation.</p>
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Risk

<p>13. Previous track record of the AR in competently making changes that have been fully consulted on and the impacts fully assessed.</p>	<p>Previous changes to the Society's delegation and oversight arrangements have been made in consultation with the SRA and the LSB as required. The Society has followed the same approach for these alterations.</p>
<p>14. How transparent and robust are the internal processes that the AR will follow in making changes? In particular does the process incorporate appropriate consultation and use of impact assessments (please see paragraph 13)?</p>	<p>The proposed alterations have been developed in consultation with the SRA and have been approved by the SRA Board, the Society's Board and by the Society's Council.</p>
<p>15. Is there a high level of good quality data and evidence to support / justify the making the change? If not are there robust plans to obtain this information and for it to inform the change and enable actual impacts to be assessed.</p>	<p>The changes are being made to give effect to the IGRs as a regulatory requirement.</p>
<p>16. How many would be impacted how quickly (immediacy of impact)?</p>	<p>As stated above, the Society and the SRA consider the changes will create more transparency for the profession and the public about the Society and the SRA's distinctive roles and responsibilities. However, it is not expected that the changes will have a specific direct impact on any of these groups.</p>
<p>17. If the change did not go ahead, what would the impact be?</p>	<p>The Society considers the changes are required in order to comply with the IGRs.</p>
<p>18. How and when does the AR plan to assess the impact of the change following its introduction? What action would be taken if the</p>	<p>The Society will monitor its compliance with the IGRs on an ongoing basis, in line with the requirements in IGR 1 and IGR 13.</p>

<p>benefits were not realised? Has consideration been given to whether there is need to include a defined sunset clause?</p>	
<p>19.Has there been activity in relation to changing the regulatory arrangement in the past two years (see paragraph 5)? Has any other AR made a similar change or undertaken activity relating to a similar regulatory arrangement in the past and was there any detrimental outcome or did the change process identify the potential for a detrimental impact?</p>	<p>See paragraph 5 above.</p> <p>The Society expects that other approved regulators may also be making changes to their regulatory arrangements to conform to the IGRs.</p>
<p>20.If the change introduces regulation, does the AR have the capability of identifying breaches and providing / ensuring appropriate remedy and / or enforcement (see paragraph 12)?</p>	<p>The change does not have the effect of introducing regulation. Under the SRA's delegated authority over regulatory functions in the General Regulations, any enforcement function in respect of regulation would continue to be performed by the SRA.</p>