

## Application by the Bar Standards Board seeking a recommendation to the Lord Chancellor for designation as a licensing authority



**May 2015**

### *Background*

The Bar Council is an approved regulator and Bar Standards Board (BSB) is the regulatory arm to which The Bar Council has delegated its regulatory functions. The BSB is entitled to authorise, in accordance with section 12 of the Legal Services Act 2007 [the Act], the following reserved legal activities:

- The exercise of a right of audience
- The conduct of litigation
- Reserved instrument activities
- Probate activities
- The administration of oaths

The BSB can also authorise the provision of immigration advice and services in its capacity as a Qualified Regulator under Schedule 18 of the Act.

The BSB is making an application to the Legal Services Board (LSB) under Schedule 10 of the Act to become a licensing authority for the same reserved legal activities. If designated as a licensing authority the BSB will be able to licence licensable bodies<sup>1</sup>, otherwise known as alternative business structures.

The BSB's regulated community consists of approximately 12,700 self-employed barristers and 2,800 practising employed barristers.

The BSB's application to become a licensing authority is part of a wider programme of reform including a major revision of the Handbook, moving to a more outcomes focussed approach to regulation and the introduction of (non-ABS) entity regulation. This has been supported by the introduction of a new supervisory regime.

### *Structure of the application*

The main part of the application consists of:

- **Section 1 Executive Summary** – Introduction, structure of application and scope of regulation sought
- **Section 2 Background** – status of application, responsibilities of the BSB and its approach to regulation

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<sup>1</sup> A licensed body is defined under section 71 of Part 5 – Alternative business structures, of the Act as meaning “a body which holds a licence in force under this Part [Part 5]”

- **Section 3 Licensed body framework** – sets out the licensing parameters by which the BSB will authorise ABS, including qualification (eligibility) requirements, conduct, discipline and practice rules, compensation arrangements, sanctions, revocation and disqualification and Schedule 13 requirements
- **Section 4 Explanatory material** – covers capacity and capabilities, implementation plan, BSB’s approach to risk and supervision
- **Section 5 Governance arrangements** – explanation of the separation of the BSB and Bar Council regulatory and representative functions
- **Section 6 Equalities considerations** – Highlights the equality impact assessment undertaken by BSB and attached as an annex
- **Section 7 Consultation** - Lists and provides links to the various consultations on the BSB Handbook (including the its Code of Conduct) and summarises consultation responses that BSB has undertaken since 2007 through to 2014, including more recent consultations on entity regulation, as well as outlining other stakeholder activity such as survey findings, road shows and consumer input
- **Section 8 Declaration of truth and accuracy**

The application is supported by the following **annexes**:

- A. BSB Strategic Plan 2013-2016**
- B. Business Plan 2015-16**
- C. Policy statement**
- D. BSB Handbook**
- E. Regulatory risk framework**
- F. Entity regulation policy statement**
- G. Supervision strategy**
- H. Enforcement strategy**
- I. Compensation arrangements note**
- J. Process map outlining authorisation process**
- K. Authorisation spreadsheet**
- L. Interventions policy**
- M. Supervision department resources**
- N. BSB Constitution**
- O. Joint protocol for ensuring regulatory independence**
- P. Equality impact assessment**

### *Timetable*

Under the Act the Legal Services Board (LSB) has 12 months in which to make decision on a licensing authority designation application (with the possibility of extending this to a maximum of 16 months). This application was received on 29

April 2015 and therefore we will make a decision by 28 April 2016 (or no later than 28 August 2016 if an extension notice is issued).

The LSB has an internal target of making a decision on whether to make a recommendation to the Lord Chancellor within 6 months of the application being deemed to be complete. This is of course dependent on what emerges from the detailed consideration of the application.