



**AMENDMENT TO THE INTERNAL GOVERNANCE
RULES TO REQUIRE THAT THE CHAIRS OF THE
BOARDS OF THE REGULATORY ARMS OF EACH
APPLICABLE APPROVED REGULATOR BE A LAY
PERSON**

A RESPONSE BY

**THE CHARTERED INSTITUTE OF LEGAL
EXECUTIVES**

AND

ILEX PROFESSIONAL STANDARDS LIMITED

29 OCTOBER 2013

Introduction

- 1.** This response represents the joint views of The Chartered Institute of Legal Executives (CILEx), an Approved Regulator under the Legal Services Act 2007 (the 2007 Act), and ILEX Professional Standards Limited (IPS), the regulatory body for 22,000 members of CILEx. The consultation was separately considered by CILEx and IPS. The outcomes of those respective considerations were exchanged and with no significant difference of opinion between the two organisations, a joint response is tendered. For the purposes of this response, 'we' is used to mean both CILEx and IPS unless the context suggests otherwise.
- 2.** CILEx and IPS promote proper standards of conduct and behaviour among Chartered Legal Executives and other members of CILEx. We aim to ensure CILEx members are competent and trusted legal practitioners and are fully aware of their obligations to clients, colleagues, the courts and the public. We aim to help good practitioners stay good and improve throughout their careers and to ensure the public know the quality of work Chartered Legal Executives can provide.
- 3.** We welcome the opportunity to comment on the consultation put forward by the Legal Services Board (LSB) on lay chairs.

Do you agree with the proposed change to the IGRs in order to deliver lay chairs?

- 4.** CILEx and IPS strongly believe that the role of the chair is about providing effective leadership to the Board. Since the inception of IPS in 2008, it has been headed by a lay chair and with a lay majority on the Board.
- 5.** The most important role of the Board is to act independently of the professional body they are regulating. The issue of the chair being lay or not, should not come into question, if independence is successfully maintained through a lay majority on the Board.
- 6.** The appointment of the Chair should be based on their suitability for the role and ability to provide effective leadership to the Board. This leads to the best candidate, demonstrably the most able among a number of candidates, being appointed. The talent field would be narrowed if it precluded a candidate from the post because they qualified as a lawyer a long time ago and possibly then only to spend years in a different career. However, CILEx and IPS do recognise that a non-lay Chair may have conflicts of interest, as their professional role may overlap with their regulatory one, or there may be a public perception of conflict if the Board did not have a lay majority.
- 7.** Equally the Board does require some professional input. In appointing all Board members, including the chair, IPS considers the specific skills Board members

are required to bring to their role and match appointees to the portfolio most suited to their experience. This allows members to then in turn lead on their portfolio area at Board meetings.

Do you think the proposed change should take immediate effect or only be applicable to future appointments?

8. IPS' current Chair is a lay member, therefore if the proposed change took immediate effect, this would have minimal impact on IPS. However, it is recognised that for other regulators an immediate change may be problematic. If immediate change is deemed necessary, then existing appointments will need to be terminated, which may be difficult, impacting upon continuity and strategic leadership of a regulator. This may lead to disruption to the respective Boards and impact upon the ability of regulators to carry out their regulatory functions while change is embedded.
9. If the proposal for a lay Chair is implemented the reasonable solution must be to allow independent regulators some lead time to make the changes effectively, to make preparation for the changes and for the existing chair to come to the end of their term of office.

Do you agree that the requirement for lay chairs to apply only to the AARs?

10. The requirement if deemed necessary, should apply to all regulatory bodies, not just AAR. Where there is no professional body it could be argued that there is greater need to ensure that the regulatory body is not looking after professional interests, in the absence of a body to which matters of professional interest can be referred.

Do you agree with the proposed exclusion of the Master of Faculties from the proposed change?

11. The Master of Faculties is a member of the judiciary. CILEx and IPS leave it to the LSB to understand the position of the Master of Faculties and the level of risk posed by the professional position he holds. The issue of importance is that all regulators should deliver independence.