

**Land Registry's response to the LSB Consultation paper:
Alternative business structures: approaches to licensing.**

1. What is your view of basing the regulation of ABS on outcomes?

- a. Should all LAs have the same core outcomes?
- b. Are the proposed outcomes appropriate?
- c. Is the division between entity and individual regulation appropriate?

A number of the proposed outcomes, such as behavioural integrity are essential to ensure no loss of current professional standards given Land Registry's reliance on conveyancer's certificates as part of registration applications.

2. Do you think our approach set out to the tests for external ownership is appropriate?

- a. Should the tests be consistent across all LAs?
- b. Is our suggested approach to the fitness to own test the right one?
- c. If declarations about criminal convictions are required, should these include spent convictions?
- d. What is your view of our suggested approach for considering associates? Is there an alternative approach that would work better in practice?
- e. Should there always be a requirement to declare the ultimate beneficial owner of an ABS?
- f. Overall, are any modifications needed to ensure that our approach work in a listed company?
- g. Overall, are any modifications needed to ensure that our approach work in very small companies?
- h. Do you think that the definition of restricted interest should change?
- i. Do you think that covenants should be required from those identified as having a significant influence over an ABS?
- j. How should the LSB respond to the information it receives about information on action taken against people that falls short of disqualification?

We welcome measures to ensure accountability and quality standards. It is important to be clear who has authority to act on behalf of and bind the ABS in line with the existing principles of agency.

3. Do you have views on how indemnity and compensation may work for ABS?

- a. How should an appropriate level of PII be set for ABS that are carrying out a variety of different activities, not all of which are currently regulated by the ARs?
- b. Should there be minimum PII levels, which are the same for all LAs for different types of activity?
- c. Are Master policy arrangements appropriate for ABS?
- d. What would be appropriate arrangements for runoff and successor practices to enable sufficient commercial freedom for ABS as well as protection for consumers after practice closure?
- e. What should the requirements be for compensation funds in ABS?
- f. How could a compensation fund work in an ABS environment, in particular when the services offered by the ABS may be much wider than legal advice and where an AR may not currently have a compensation fund?

It is important that consumers are adequately protected and aware of the areas in which protection is available.

4. Do you agree with our position on reserved and non-reserved legal activities?

- a. Do you agree that ABS should be treated in a consistent way to non-ABS?
- b. Should all legal activities undertaken by an ABS be regulated or just reserved legal services?
- c. What role do you see consumer education playing?
- d. How should ABS which are part of a wider group of companies be treated?

It is essential to maintain consumer protection and ensure standards do not diminish. Consistency should provide clarity for providers and consumers.

5. Are the enforcement powers for LAs suitable?

- a. What is your view on the proposed maximum level of financial penalty that a LA can impose on an ABS?
- b. If you do not consider the proposed maximum to be appropriate what amount or formula would you propose?
- c. Will LAs have sufficient enforcement powers?
- d. Will ABS have sufficient clarity as to how the enforcement powers may be used?
- e. In what circumstances should a LA be able to modify the terms of a licence?
- f. Are there appropriate enforcement options for use against non-lawyer owners?

It is important that there are appropriate measures to ensure there is no lowering of professional standards. The paper envisages LA's obtaining information, both formal and informal from a variety of sources including from the LA's regulated community. Land Registry can see and would welcome a role in this area.

6. What do you think of our approach to access to justice?

- a. Do you think the wide definition to access to justice that we have taken is appropriate?
- b. Is asking an ABS on application how they anticipate that they will improve access to justice a suitable approach?
- c. Do you agree that restrictions on specific types of commercial activity should not be put in place unless there is clear strong evidence of that commercial practice causing significant harm?
- d. Do you agree that LAs should consider how ABS in general impact access to justice rather than trying to estimate the impact of each application singularly?
- e. Do you agree that LAs should monitor access to justice?

This is not a matter for Land Registry to comment on.

7. What is your view of our preference for a single appeals body?

- a. Should, in the future, a single body hear all legal services appeals?
- b. If you don't think there should be a single body, who should hear appeals from LSB decisions should it become a LA?
- c. Is the FTT, GRC an appropriate body to hear appeals?
- d. What other options for the location of the body?

It is important to ensure clear and transparent system, providing appropriate redress and ensuring consistency.

8. Do you agree with our approach to special bodies?

- a. Do you think that special bodies' transitional arrangements should come to an end?
- b. Do you think 12 months after the start of mainstream ABS is sufficient time for them to gain a full licence?
- c. Do you think LAs should adapt their regulation for each special body?
- d. Do you agree there are some core requirements that all special bodies should meet? If so, what do you think these are?
- e. What are your views on the suggestion that the OLC should make voluntary arrangements with special bodies?

Regulation should ensure core standards are maintained especially if the special body is moving into 'new' areas of expertise. There may be an educational role here for Land Registry for example through the Land Registry Qualification.

9. Do you think that our approach to HoLP and HoFA is suitable?

- a. Do you think that our approach on focussing on compliance systems across the organisation is suitable?
- b. Do you think that HoLP and HoFA should undergo a fit and proper test?
- c. Should there be training requirements for the HoLP and HoFA?
- d. Do you agree that the HoLP and HoFA could be the same individual (especially in small ABS)?

We welcome requirements for a fit and proper test with appropriate level of qualification and experience to ensure there is no loss of professional legal standards and to ensure general consumer protection.

10. Do you think that our approach to complaints handling is suitable?

- a. Do you think that ABS complaints should be handled in the same way as non-ABS complaints?
- b. Do you think that ABS should be allowed to adapt their complaints handling systems if they already have one for their non-legal services consumers?
- c. Do you think it is appropriate for the OLC take complaints from multi disciplinary practice consumers and refer where necessary?

We are supportive of the desired outcomes of consistent protection for consumers of ABS and non-ABS with minimal inconvenience to those consumers when complaints are considered.

11. What are your views on our proposed course of action to conduct research and, depending on the results, either compel transparency of data or encourage it?

- a. Do you agree with our position on diversity and ABS?
- b. Do you agree that the overall impact is unlikely to be adverse to the diversity of the profession?
- c. Do you agree that non-lawyer managers may open new career paths to lawyers and these may have a positive impact on career progression?
- d. Do you agree that the demand for diverse legal professionals will, largely, offset the potential impact due to the closure of small firms?
- e. Should the LSB require information about the diversity of the workforce in ABS? If so when and should this be a requirement for other legal service providers?

This is not a matter for Land Registry to comment on.

12. Do you agree with our approach to international issues?

This is a matter for the relevant professional bodies and not for Land Registry to comment on.

13. Should LDPs, Recognised Bodies and other similar firms have transitional arrangements into the wider ABS framework in the way we propose?

- a. Is 12 months after the start of mainstream ABS sufficient time to allow this to happen?

This is a matter for LDPs and similar Recognised bodies but should ensure standards are maintained.

14. Should ABS licences be issued for indefinite periods?

- a. Should the annual charging process be broadly cost reflective or a fixed fee?
- b. How should LAs ensure ABS are continuing to comply with their licence requirements?

We support need for business and commercial certainty provided adequate provision for review on changes in circumstances.

15. Do you agree with our approach to managing regulatory overlaps?

- a. Is it desirable to have a framework approach to a MoU?
- b. Do you think we have identified the right bodies to develop a MoU with?
- c. Do you think we have identified the right issues to include?

We agree a mechanism is required to resolve overlaps and conflicts between regulators that will minimise confusion and provide consumer protection and redress. We welcome the opportunity to be involved in developing the framework.