

# Alternative business structures: appeals against decisions of licensing authorities

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Supplementary guidance to licensing authorities on the content of licensing rules

## Guidance on Licensing Rules

1. This guidance is issued by the Legal Services Board under s.162 of the Legal Services Act 2007 (“the Act”). It is supplementary to the guidance issued by the Board in March 2010 entitled *Alternative business structures: approaches to licensing. Guidance to licensing authorities on the content of licensing rules*<sup>1</sup>.
2. We expect licensing rules to make appropriate provision for appeals to the relevant appellate body against decisions made by licensing authorities.
3. There are statutory rights of appeal provided under s.96 and Schedule 13 of the Act. In addition, we expect licensing rules to provide a right of appeal against decisions of licensing authorities which may amount to the determination of a person’s civil rights for the purposes of Article 6(1) of the European Convention on Human Rights. A person’s “civil rights” in this context includes the right to practice one’s profession<sup>2</sup>.
4. We expect the following decisions of licensing authorities to be appealable as they could affect a person’s civil rights (the relevant sections of the Act are shown in brackets):
  - Refusal of application for a licence (s.84)
  - Imposition of conditions on a licence (s.85)
  - Modification of licence (s.86)
  - Refusal to designate as Head of Legal Practice, or withdrawal of approval (Schedule 11, paragraph 12)
  - Refusal to designate as Head of Finance and Administration, or withdrawal of approval (Schedule 11, paragraph 14)
  - Disqualification from some or all roles within a licensed body (s.99)
  - Suspension and revocation of licence (s.101)
  - Power to modify application of licensing rules etc to special bodies (ss.106 and 107)
5. Licensing rules should require appellants to seek an internal review of such decisions before they may appeal to the relevant appellate body. Guidance on the nature of an internal review mechanism has already been provided.

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<sup>1</sup> Available at:

[http://www.legalservicesboard.org.uk/what\\_we\\_do/consultations/closed/pdf/abs\\_guidance\\_on\\_licensing\\_rules\\_guidance.pdf](http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/abs_guidance_on_licensing_rules_guidance.pdf)

<sup>2</sup> See for example *Bakker v Austria* (2004) 39 EHRR 548

6. The licensing rules will also need to make clear who can appeal. This should be limited to those who are the subject of the decision – for example the licensed body, licensable body, special body or individual (as appropriate).
7. In addition, we expect licensing authorities to consider whether any other provisions of their proposed licensing rules involve the determination of a person's civil rights, and if so provide a right of appeal to the relevant appellate body.

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