

Proposed Internal Governance Rules

Enhancing regulatory independence

Supplementary consultation on amendments to proposed Rules 4, 8 and 10.

This consultation will close **at 5pm on 12 June 2019**

This Consultation Paper will be of interest to:

Approved Regulators

Providers of Legal Services

Legal Representative Bodies

Legal Advisory Organisations

Other Third Sector Organisations

NDPBs

Consumer Groups

Law Schools/Universities

Legal Academics

Members of the Legal Profession

Accountancy Bodies

Potential new entrants to the ABS market

Think Tanks

Political Parties

Government Departments

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Executive summary

1. This is a supplementary consultation on parts of the proposed new draft Internal Governance Rules (IGR) and supporting guidance. A consultation on the proposed IGR was first launched in November 2018, this supplementary consultation seeks views on altering elements of the specific sub-rules which are part of Rules 4 (Regulatory Autonomy), 8 (Appointments and Terminations) and 10 (Regulatory Body Budget) in the proposed IGR.
2. The reason for this further consultation is that, having listened to stakeholders, the LSB considers that it may be appropriate to replace the term *influence* with *prejudice* in Rule 1. This more closely reflects the terminology of Section 30 of the Act. As a result, consequential amendments would be required to Rules 4, 8 and 10 and this consultation also covers the amended guidance on these three Rules.
3. These consequential amendments would be required because the versions of Rules 4, 8 and 10 on which the LSB consulted in November 2018 contain sub-rules with references to influence which would no longer be consistent with the revised text of Rule 1. This consultation therefore proposes alternative wording which has not previously been subject to consultation for the relevant sub-rules in Rules 4, 8 and 10, as explained more fully in paragraph 14.
4. We want the new IGR to enhance regulatory independence within the framework provided by the Legal Services Act 2007 (“the Act”). Consumers and the public must have confidence in legal services if regulation is, and is seen to be, independent. Regulatory independence also gives the providers of legal services the certainty they need to grow and innovate.
5. In creating the new IGR, the LSB must meet its obligations set out in Section 3 of the Act; to act in a way that is compatible with the regulatory objectives, and to have regard to the better regulation principles. It is acknowledged that every approved regulator and regulatory body is unique and it is important to receive feedback at this stage about any unforeseen and unintended consequences of amending the proposed rules.
6. The decision document which we published in July 2018 set out our commitment to:
 - enhance the separation and independence of regulatory functions within the current legislative framework;
 - provide clarity for every approved regulator and its regulatory body to decrease the number of independence-related disputes between them and referrals of such matters to the LSB for clarification or resolution; and

- be readily enforceable for speedier resolution of issues referred to the LSB. This should ultimately benefit consumers as approved regulators and regulatory bodies can focus on their respective roles rather than being diverted by disagreements about compliance with the IGR.

7. The consultation will close at 5pm on **Wednesday 12 June 2019**.

Introduction

Internal Governance Rules

1. Section 30 of the Act obliges the LSB to make internal governance rules which set out requirements for each approved regulator to ensure the separation of regulatory and representative functions (amongst other obligations). These requirements must ensure that:
 - the exercise of regulatory functions by an approved regulator is not prejudiced by its representative functions or interests; and
 - decisions relating to the exercise of regulatory functions by an approved regulator are, so far as reasonably practicable, taken independently from decisions relating to the exercise of any representative functions or interests.
2. In November 2017 the LSB published a consultation which explored potential changes to the IGR to enhance the independence of regulatory functions. Decisions following this consultation on the approach the LSB would take to amending the IGR were published in July 2018. In the July 2018 decision document, we committed to developing new IGR which are principled and outcome-focused (supplemented, where necessary by more specific requirements). Additionally, we explained that we wanted the new IGR to be enforceable, clear and supported by statutory guidance. A consultation on new IGR and guidance was published in November 2018 and closed in January 2019. The November 2018 consultation can be found [here](#) which has the complete proposed IGR and guidance.

Consideration following November 2018 consultation

3. The LSB has considered feedback to the November 2018 consultation. A significant proportion of respondents argued that the prohibition on approved regulators' *influence* in Rule 1 (and the associated prohibition on influence in Rules 4 (Regulatory Autonomy), 8 (Regulatory Board Appointments and Terminations) and 10 (Regulatory Body Budget)) goes beyond Section 30 of the Act – which uses the word *prejudice*. It was argued that seeking to influence the regulatory body is a legitimate exercise of representative functions, and the LSB is prohibited from interfering with representative functions by Section 29 of the Act. Respondents said that the approved regulators should not be left in a worse position than third party stakeholders in terms of their ability to influence the regulatory body.
4. We recognise that, where an approved regulator has both representative and regulatory functions, the approved regulator may have a legitimate role in influencing the regulatory body. In this situation, as the representative body for the regulated profession, the approved regulator may hold key practical experience of how a policy would affect its members or have relevant data or information that

should be considered as part of the decision making of the regulatory body. However, we remain of the view that the IGRs should ensure that the approved regulator does not use its approved regulator delegation and assurance relationship (which gives it, amongst other things, a number of contact points and communications channels with the regulatory body which are not available to other stakeholders) to prejudice the independent judgement of its regulatory body.

5. In the light of this we are considering replacing the term *influence* with *prejudice* in Rule 1 and proposing consequential amendments to the relevant sub-rules of Rules 4, 8 and 10. The LSB has deferred making its decision on the final version of the IGR until the close of this consultation when stakeholder feedback from both consultations will be considered together.

Purpose of this consultation

6. The purpose of this consultation is to seek feedback on new wording for Rules 4, 8, and 10 of the proposed IGR and accompanying statutory guidance.
7. This consultation only covers matters related to Section 30 of the Act (*Approved regulators duty to promote regulatory objectives etc.*) and Section 28 of the Act (*Rules relating to the exercise of regulatory functions*). Areas outside of these two sections of the Act which also affect the relationship between the approved regulator and its regulatory body are beyond the scope of this consultation.

New IGR and guidance

The proposed changes to the IGR

8. As noted in paragraph 3, we are considering changing the language used in Rule 1 to more closely reflect that of the Act by replacing *influence* with *prejudice*. As a result, we have reconsidered the use of the word 'influence' in sub-rule (3) of Rule 4, and sub-rule (2) of Rules 8 and 10.
9. For context and as noted in paragraph 3, we are considering redrafting Rule 1 as follows (tracked to illustrate the changes):

1. THE OVERARCHING DUTY

- (1) Each approved regulator has an overarching duty to ensure that ~~decisions relating to the exercise of its regulatory functions are~~ is not influenced ~~prejudiced~~ by any representative functions or interests it may have.
- (2) In particular, each approved regulator must have arrangements in place to:

- a. separate its regulatory functions from any representative functions ~~or interests~~ it may have; and
- b. maintain the independence of its regulatory functions.

as effectively as is reasonably practicable and consistent with Section 28 of the Act.

- (3) Each approved regulator must periodically review and, if reasonably practicable, improve its arrangements under sub-~~rule~~section (1).

10. In consideration of this potential change, we would also need to make consequential amendments to Rules 4, 8 and 10 as the versions of these rules on which we consulted would no longer be consistent with the revised text of Rule 1. While we want to ensure that approved regulators with a residual role are in no worse a position, equally we want to ensure that approved regulators with a residual role are not able to exert any additional influence by virtue of that position, so that the decision of the regulatory body is truly independent.

11. The sub-rules in question in Rules 4, 8 and 10 are (as consulted on):

Rules 4 and 10: The approved regulator with a residual role must not influence these determinations [Rule 4] / decisions [Rule 10] except if the regulatory body conducts a consultation, then its views may be taken into account.

Rule 8: The approved regulator with a residual role must not be involved in or otherwise influence these determinations or procedures.

12. We considered removing these clauses from Rules 4, 8 and 10 altogether. However, we considered that this would remove the clarity on the boundary of the ability of an approved regulator with a residual role to influence decisions made by its regulatory body in regard to independent decision making, board appointments and regulatory budgets. Evidence and past experience indicates that clear separation of the residual role from the approved regulator's representative functions would help address the cause of many previous disputes.

13. We are therefore proposing an alternative sub-rule in Rules 4, 8 and 10 as follows:

The approved regulator with a residual role:

- a. may only seek to influence these determinations in the exercise of its representative functions; and
- b. must not prejudice, or seek to prejudice, the independent judgement of the regulatory body.

14. There are two main changes to this sub-rule from the version on which we consulted previously: (i) to set out more clearly the boundary around an approved regulator's use of its influence when acting as a representative body; and (ii) to remove the limitation that the approved regulator's views can only be taken into account if the regulatory body conducts a consultation.

Question 1: Do you agree that the amendment to Rules 4, 8 and 10 as set out in this document should be adopted into the new IGR? Please provide your reasons.

The associated changes to the guidance

15. If we change the wording for Rule 1 as explored above the associated guidance for Rule 1 would also need to be amended, partly to ensure that it reflects the changes. The revised version of the guidance for Rule 1 is at Annex A, in order to provide context for this consultation. The proposed guidance for Rules 4, 8 and 10 at Annex A includes the revised guidance to reflect the proposed amended sub-rules (in highlighted text) and also some changes to these rules for clarity and brevity.

Question 2: Does the proposed revised guidance on Rules 4, 8 and 10 at Annex A provide sufficient detail to help you to interpret and comply with the proposed revised versions of Rules 4, 8 and 10? Please provide specific comments on any areas of the proposed guidance for Rules 4, 8 and 10 where further information would improve clarity.

Equality Act assessment

16. The LSB has given due consideration to its obligations under the Equality Act 2010¹. We do not consider that this consultation raises any issues in light of the public sector equality duty, as the LSB is proposing consequential amendments to a small number of rules that apply to approved regulators and regulatory bodies and not directly to authorised persons or members of the public. However, we would welcome any comments respondents may have on any equality issues they believe arise as a result of the proposals in this consultation.

Responding to the consultation

17. The questions posed in this consultation are listed below for reference:

¹ [Public Sector Equality Duty](#): public authorities have to consider all individuals when carrying out their day-to-day work – in shaping policy, in delivering services and in relation to their own employees. It also requires that public authorities have due regard to the need to: eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities. The LSB is a public authority listed in [Schedule 19](#) of the Equality Act 2010.

Question 1: Do you agree that the amendment to Rules 4, 8 and 10 as set out in this document should be adopted into the new IGR? Please provide your reasons.

Question 2: Does the proposed revised guidance on Rules 4, 8 and 10 at Annex A provide sufficient detail to help you to interpret and comply with the proposed revised versions of Rules 4, 8 and 10? Please provide specific comments on any areas of the guidance for Rules 4, 8 and 10 where further information would improve clarity.

18. Any representations should be made to the Board by 5pm on **Wednesday 12 June 2019**. Please ensure that responses reach us by the closing date as we cannot guarantee that responses received after this date will be considered.

19. We would prefer to receive responses electronically (in MS Word format) but hard copy responses by post are also welcome.

20. Responses should be sent to:

- Email: consultations@legalservicesboard.org.uk
- Post: Legal Services Board, One Kemble Street, London, WC2B 4AN

21. We intend to publish all responses on our website unless a respondent explicitly requests that a response (or a specific part of it) should be kept confidential. We will record the identity of the respondent and the fact that they have submitted a confidential response in our summary of responses.

22. If you wish to discuss any aspect of this paper, or need advice on how to respond to the consultation, please contact the LSB by one of the methods described above or by telephone (020 7271 0050).

23. Any complaints or queries about this process should be directed to the Consultation Co-ordinator, Jenny Prior, at the following address:

Consultation Co-ordinator, Legal Services Board, One Kemble Street, London WC2B 4AN

Email: consultations@legalservicesboard.org.uk

Glossary of terms

The Act	Legal Services Act 2007
Approved regulator	A body which is designated as an approved regulator by Parts 1 or 2 of schedule 4, and whose regulatory arrangements are approved for the purposes of the Legal Services Act 2007 and which may authorise persons to carry on any activity which is a reserved legal activity in respect of which it is a relevant AR
Consultation	The process of collecting feedback and opinions on a policy proposal
Better Regulation Principles	The principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed (see Section 3(3)(a) and Section 28(3)(a) of the Act)
Impact Assessment	An assessment of the likely impact of a policy on cost, benefits, risks and the likely or actual effect on people in respect to diversity
IGR or the Rules	The Internal Governance Rules, as created by the LSB under Section 30 of the Act.
Lay Person	As defined in Schedule 1, paragraph 2(4) of the Act
LSB or the Board	Legal Services Board – as defined in Section 2 of the Act
OLC	As defined in Section 114 of the Act
Regulatory Arrangements	As defined in Section 21 of the Act, except for the arrangements for delegation of regulatory functions to a regulatory body and assurance of compliance with Section 28 of the Act, in accordance with Rule 2 of the IGR.
Regulatory Functions	As defined in Section 27(1) of the Act, except functions relating to arrangements for delegation of regulatory functions to a regulatory body and assurance of compliance with Section 28 of the Act, in accordance with Rule 2 of the IGR.
Regulatory Objectives	As defined in Section 1 of the Act
Representative Functions	As defined in Section 27(2) of the Act
Residual Role	As defined in Rule 2 of the IGR
Services	Information technology, equipment, administration, human resources, finance and corporate services, office space and facilities.

Annex A: Relevant Rules and Guidance

RULE 1 - THE OVERARCHING DUTY

1. THE OVERARCHING DUTY

- (1) Each approved regulator has an overarching duty to ensure that ~~decisions relating to the exercise of~~ its regulatory functions ~~are~~ is not influenced prejudiced by any representative functions ~~or interests~~ it may have.
- (2) In particular, each approved regulator must have arrangements in place to:
 - a. separate its regulatory functions from any representative functions ~~or interests~~ it may have; and
 - b. maintain the independence of its regulatory functions.as effectively as is reasonably practicable and consistent with Section 28 of the Act.
- (3) Each approved regulator must periodically review and, if reasonably practicable, improve its arrangements under sub-~~rule~~section (1).

GUIDANCE ON RULE 1

Each AR must determine and implement arrangements which are as effective as reasonably practicable for separation of its regulatory functions and which are consistent with Section 28 of the Act.

Application

This rule applies to every AR.

Relationship with other IGR

This rule is pre-eminent; it runs through every other rule and the relationship between the regulatory and representative functions and interests of an AR. Each AR is obliged to adhere to this duty when interpreting and complying with the IGR and managing the relationship between its regulatory functions and any representative functions it may have.

The IGR apply to each AR, which includes its 'regulatory body'². In order to comply with the overarching duty, the regulatory body should have responsibility for any of the other rules or parts of the rules where this facilitates effective separation of regulatory functions³.

² Please refer to Legal Context and Rule 2: Duty to Delegate from November 2018 [consultation](#)

³ Please refer to Legal Context paragraph 10 from November 2018 [consultation](#)

Compliance

This rule applies to all regulatory functions⁴ which must be separated from representative functions.

Arrangements for Separation & Independence

The AR must put in place arrangements to separate its regulatory and representative functions which are as effective as is:

- i) reasonably practicable; and
- ii) consistent with Section 28 of the Act.

In order to comply with this rule, each AR should consider the areas in which there is potential for its regulatory functions to interact with its representative functions and identify the reasonably practicable options for separating regulatory functions from the AR's representative functions in these areas. The duty recognises that different ARs have different structures, it is for each AR to identify which methods of separation are practicable in its particular circumstances.

Where there are a number of alternatives, the AR is obliged to implement the arrangement which separates its regulatory functions from its representative functions most effectively. In doing so the AR may not disregard its duty under the Act to promote the regulatory objectives and have regard to the better regulation principles.

If, for example, there were two alternative arrangements available to an AR, the first of which was slightly more effective for achieving separation but disproportionately more expensive, the AR would not be obliged to implement the first arrangement as it may not be consistent with its duty under Section 28 to promote the regulatory principle of 'protecting and promoting the interests of consumers' (onto whom the cost would be passed) and to have regard to the better regulation principle of proportionality.

The Act does not require full legal and structural separation, however an AR with both representative and regulatory functions should consider whether it may be practicable for its regulatory body to have the ability to enter into contracts (such as employment contracts or contracts for goods and services) without the AR's participation. This would strongly support the separation of the regulatory functions from representative functions. If this was practicable, the AR would be obliged to take this approach (or another practicable approach which was equally or more effective in achieving separation) unless it was inconsistent with its duty under Section 28 of the Act.

⁴ Subject to the exception of delegation and the residual assurance role which are not included in "regulatory functions" within the Rules. Please refer to the interpretation section from November 2018 [consultation](#).

Periodic Review & Improvement

By sub-rule (3), each AR must periodically review and, if reasonably practicable, improve its arrangements for separation of its regulatory functions. Arrangements for the separation of regulatory functions would include arrangements which are required by other relevant rules.

It is a matter for each AR to determine the frequency of reviews, but the requirement that the reviews be “periodic” means that each AR must review its arrangements regularly and consistently. Where an AR and/or regulatory body identify that there is an issue in any particular arrangement, i.e. that it is not fit for purpose, the review should take place as soon as possible after the issue is first identified.

The obligation to improve the arrangements if “reasonably practicable” recognises that the degree of separation which is achievable may increase over time as circumstances develop and change.

Changes made from November 2018 consultation version

The guidance on Rule 1 has been revised to:

- take account of the proposed terminology change from influence to prejudice
- delete reference to interests
- emphasise that periodic reviews should be carried out and are required in Rule 3 and Rule 6.

RULE 4 - REGULATORY AUTONOMY

4. REGULATORY AUTONOMY

- (1) The regulatory body must independently determine the most appropriate and effective way of discharging its functions to meet the regulatory objectives in accordance with the better regulation principles.
- (2) In particular, the regulatory body must determine:
 - a. its own governance, structure, priorities and strategy; and
 - b. whether any amendment to the regulatory arrangements is necessary and, if so, what form that amendment should take.
- ~~(3) The approved regulator with a residual role must not influence these determinations except if the regulatory body conducts a consultation, then its views may be taken into account.~~
- (3) The approved regulator with a residual role:
 - a. may only seek to influence these determinations in the exercise of its representative functions; and
 - b. must not prejudice, or seek to prejudice, the independent judgement of the regulatory body.

GUIDANCE ON RULE 4

The regulatory body shall decide how to regulate free from inappropriate influence by the AR.

Application

This rule applies only to ARs who have delegated their regulatory functions to a regulatory body in accordance with Rule 2.

Relationship with other IGR

This Rule follows on from Rule 2: Duty to Delegate. After delegation, the regulatory body assumes responsibility for compliance with Section 28 of the Act for those regulatory functions delegated to it. This includes making assessments; i.e. of how to meet the regulatory objectives and have regard to the better regulation principles. Sub-rule (1) of this rule makes clear that those assessments now fall to the regulatory body.

Compliance

The regulatory body must independently:

1. assess *how to* comply with Section 28 of the Act for those regulatory functions delegated to it, and
2. determine its structure, strategy and any amendments to the regulatory arrangements.

(1) Assessing how to Comply with Section 28 of the Act

Section 28 is an outcome-focused, qualitative duty. It essentially requires that the exercise of regulatory functions follows the regulatory objectives and is conducted in a manner which is transparent, proportionate, accountable, consistent and targeted only at cases in which action is needed⁵.

(2) Determining Governance & Structure, Priorities & Strategy and Amendments to Regulatory Arrangements

In order for the regulatory body to execute its assessment of how regulatory functions should be discharged to comply with Section 28, it must have autonomy over all of the constituent parts. This section of the Rule defines those parts as:

1. Governance and Structure
2. Priorities and Strategy

⁵ The better regulation principles.

3. Amendments to Regulatory Arrangements

Governance & Structure

Determining its own governance and structure, essentially requires that the regulatory body has control over its constitution including:

- its hierarchy;
- its decision-making processes;
- the make-up of its board(s) and committee(s);
- election of members;
- the division of power between those bodies and its executive;
- its conduct rules; and
- terms of reference for its bodies.

In order to comply with this section, each AR must carefully consider its own arrangements and the extent to which these include or dictate any of the above. Where they do, changes must be made so that control is passed to the regulatory body.

For example, if an AR has provisions in its constitution about the election of members of the regulatory board or recruitment to senior positions in the regulatory body, this must be removed or amended so that sole control lies with the regulatory body itself.

It is expected that once the AR has implemented the necessary changes (if any) it will have no ongoing role in those matters. It will then be for the regulatory body to periodically review and improve its own arrangements in accordance with Rule 1(3).

Priorities & Strategy

Independently determining its priorities and strategy requires that the regulatory body decides its own strategy and business plan. It is for the regulatory body to determine what it should prioritise at any given time and how best to operate to meet those priorities.

Amendments to Regulatory Arrangements

The regulatory body should have sole control over regulatory arrangements (as defined in the IGR) including deciding to make applications to the LSB for any revisions or amendments. It follows from the regulatory body's independence in determining its priorities and strategy under sub-rule (2)(a), that it must also have the power to make (or apply to the LSB for) any changes necessary to execute that strategy.

In particular, it should be the regulatory body (not the AR) who drafts the application notice to the LSB for a Rule Change, setting out the context and policy rationale for the amendment as well as the justification for the change. It should be the regulatory body that submits the application and the LSB will recognise that it acts with the delegated authority of the AR.

(3) AR Influence on Regulatory Body Decisions under sub-rule (3)

In seeking to influence the regulatory body the role of the AR is strictly limited to when it is acting in its representative capacity. The AR must only use its residual role when carrying out its assurance functions and a clear separation must be made, including (but not limited to) in discussions and correspondence.

Changes made from November 2018 consultation version

The guidance on Rule 4 has been revised to:

- remove unnecessary references to influence from the AR
- take account of the proposed change to sub-rule (3) (highlighted text)
- remove references to regulatory body consultation
- remove examples of regulatory policy

RULE 8 - THE REGULATORY BOARD: APPOINTMENTS & TERMINATIONS

8. THE REGULATORY BOARD: APPOINTMENTS & TERMINATIONS

(1) The regulatory body must independently determine and carry out its procedures for appointing, re-appointing and terminating members of its board or equivalent decision-making body including the chair, assessing their remuneration and carrying out appraisals.

~~(2) The approved regulator with a residual role must not be involved in or otherwise influence these determinations or procedures.~~

(2) The approved regulator with a residual role:

- may only seek to influence these determinations in the exercise of its representative functions; and
- must not prejudice, or seek to prejudice, the independent judgement of the regulatory body.

GUIDANCE ON RULE 8

The regulatory body shall independently appoint, appraise, remunerate and terminate the members of its board.

Application

This rule applies only to ARs who have delegated their regulatory functions to a regulatory body in accordance with Rule 2.

Relationship with other IGR

This rule stands alone, but (as with all other rules) the Saving Provisions apply.

Compliance

The regulatory body may choose to involve the AR, as long as this is done in a way which does not undermine, or reasonably appear to undermine, the independence of the regulatory body's judgment on these matters.

(2) AR Influence on Regulatory Body Decisions under sub-rule (2)

In order to comply with this rule, each AR should be cautious about making any comment on a member of the regulatory board unless it is wholly related to its representative functions. As explained in Rule 3(3), an AR must not use assurance information for representative purposes (until received for that purpose or it is published). This is particularly important when the regulatory body is about to begin an appointment or re-appointment procedure or when any of these procedures are underway.

In seeking to influence the regulatory body the role of the AR is strictly limited to when it is acting in its representative capacity. The AR must only use its residual role when carrying out its assurance functions and a clear separation must be made, including (but not limited to) in discussions and correspondence.

Changes made from November 2018 consultation version

The guidance on Rule 8 has been revised to:

- remove unnecessary references to influence from the AR
- take account of the proposed change to sub-rule (2) (highlighted text)

RULE 10 - REGULATORY BODY BUDGET

10. REGULATORY BODY BUDGET

(1) The regulatory body shall independently:

- a. formulate its own budget in accordance with its priorities and strategy under Rule 4; and
- b. determine the allocation of its resources.

~~(2) The approved regulator with a residual role must not influence these decisions except if the regulatory body conducts a consultation, then its views may be taken into account.~~

(2) The approved regulator with a residual role:

- a. may only seek to influence these determinations in the exercise of its representative functions; and
- b. must not prejudice, or seek to prejudice, the independent judgement of the regulatory body.

GUIDANCE ON RULE 10

It is for the regulatory body to determine and allocate the resources required for regulatory functions.

Application

This rule applies only to ARs who have delegated their regulatory functions to a regulatory body in accordance with Rule 2.

Relationship with other IGR

This rule expands upon Rule 9: Regulatory Resources but applies only to ARs with both regulatory and representative functions, who have delegated their regulatory functions to a separate body.

Whilst Rule 9 obliges each AR to allocate sufficient resources to regulatory functions, this rule gives the regulatory body decision-making power over the budget (i.e. the “sufficient resources”) and the allocation of funds.

It should also be noted that this rule may affect Practising Certificate Fee applications, reference should be made to Section 51 of the Act and the separate LSB Rules and Guidance on this.

Compliance

To comply with this rule, the regulatory body should independently carry out its own budget process in accordance with its priorities and strategy.

Once the budget has been determined by the regulatory body, it will then form part of the PCF application. It should be noted that, by Rule 10(2), **in seeking to influence the regulatory body the role of the AR is strictly limited to when it is acting in its representative capacity. The AR must only use its residual role when carrying out its assurance functions and a clear separation must be made including (but not limited to) in discussions and correspondence.** The AR cannot approve or reject the proposed budget from the regulatory body, though it may seek further information under Rule 3(2)(a) where it has reasonable grounds to do so.

When the PCF has been approved by the LSB, it will be for the regulatory body to independently determine how to allocate the resources it receives from this, and any other source.

Changes made from November 2018 consultation version

The guidance on Rule 10 has been revised to:

- **remove unnecessary references to influence from the AR**
- **take account of the proposed change to sub-rule (2) (highlighted text)**
- **remove references to regulatory body consultation**