



**LEGAL SERVICES  
BOARD**

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5 June 2014

Dear Sir/Madam,

**Final response to BIS on consultation Data sharing for non-economic regulators**

Thank you for the opportunity to respond to this consultation.

The Legal Services Board (LSB) is the independent body responsible for overseeing the regulation of legal services in England and Wales. We have a very simple goal – to reform and modernise the legal services marketplace in the interests of consumers, enhancing quality, ensuring value for money and improving access to justice across England and Wales. We are funded by, but wholly independent of, the legal profession.

There are currently 8 front line regulators overseen by the LSB. All of these regulators and the LSB are bounded by regulatory objectives set out in section 1 of the Legal Services Act 2007 (LSA). We must all also have regard to the better regulation principles and any other best regulatory practice. Further details about the role of the LSB and the regulators are in Annex 1.

**The legal services market and regulation**

The legal services market in England and Wales is estimated to be worth £25bn. The market was liberalised in 2011. New entrants and increased competition will help to increase the size of the market and also provide better services to consumers, especially SMEs where we have evidence that there is significant unmet legal need.

We therefore welcome the Government's intention to include all legal regulators in the duty to promote growth, as excessive regulation in this sector can hinder the growth not just of legal businesses but can also have an adverse impact on the wider economy. We have also urged the Government to make clear that the growth duty should carry equal weight to the regulatory objectives set out in section 1 of the LSA. We also welcome the introduction of the Regulators' Code and have urged the Government to extend it to include all legal regulators to ensure that its aims can be achieved in a way that makes sense. For example, as it stands, one obligation that causes the LSB a potential difficulty

is that “regulators should carry out their activities in a way that supports those they regulate to [...] grow”. Clearly it is not the Government’s intention that the bodies that the LSB regulates (ie the legal regulators) should grow; the LSB’s view is that such growth would not be in the interests of consumers or in the public interest, nor would it be compatible with the regulatory objectives.

A key part of the LSB’s work is to identify and seek to remove unnecessary regulatory burdens whilst ensuring proportionate levels of consumer protection. We have identified significant unnecessary cost and complexity in the statutory and regulatory framework for legal services; our “Blueprint for Change” was published in 2013 and our Business Plan for 2014-15<sup>1</sup> explains where we are progressing that agenda in advance of more fundamental change in primary legislation.

### LSB comments on the BIS consultation

We can see benefits in many of the proposals that the government is making in its consultation on data sharing. However, as we have said in response to other BIS/BRDO consultations, if the Government wishes to achieve its wider deregulatory policy aims in the legal services sector, it has to make the front line legal regulators directly subject to these initiatives, not just the LSB. It is those regulators that engage with more than 11,000 regulated businesses and collect significant amounts of data from them.

The eligibility for inclusion in any data sharing duty should therefore be regulators who will be subject to the growth duty. If BIS retains the current focus on regulators that are subject to the Regulators’ Code then, as we have said before, it is essential that the front line legal regulators are made subject to that Code as soon as possible.

In the absence of such a change, the specific proposals run the risk of proving to be a dead letter in the legal services sector.

I am copying this letter to Elizabeth Gibby at MoJ.

Yours faithfully



**Chris Kenny**  
Chief Executive

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[http://www.legalservicesboard.org.uk/what we do/responses to consultations/pdf/a blueprint for reforming legal services regulation lsb 09092013.pdf](http://www.legalservicesboard.org.uk/what_we_do/responses_to_consultations/pdf/a_blueprint_for_reforming_legal_services_regulation_lsb_09092013.pdf)

[http://www.legalservicesboard.org.uk/news\\_publications/publications/pdf/20140408\\_LSB\\_2014\\_15\\_Business Plan.pdf](http://www.legalservicesboard.org.uk/news_publications/publications/pdf/20140408_LSB_2014_15_Business_Plan.pdf)

## Annex 1

### What does the LSB do?

The LSB is responsible for overseeing eight approved regulators (two of which are also licensing authorities for Alternative Business Structures), which between them regulate directly approximately 156,000 individual lawyers and at least 11,000 law firms operating throughout England and Wales.

The approved regulators are:

- The Law Society which, through the Solicitors Regulation Authority, regulates around 127,500 practising solicitors and 10,500 firms
- The General Council of the Bar which, through the Bar Standards Board, regulates around 15,300 practising barristers
- The Chartered Institute of Legal Executives which, through ILEX Professional Standards Limited, regulates around 7,900 practising fellows
- The Council for Licensed Conveyancers, the regulator of around 1,170 practising licensed conveyancers
- The Chartered Institute of Patent Attorneys which, through the Intellectual Property Regulation Board, regulates around 1,980 practising chartered patent attorneys
- The Institute of Trade Mark Attorneys which, through the Intellectual Property Regulation Board, regulates around 820 practising trade mark attorneys
- The Association of Costs Lawyers which, through the Costs Lawyer Standards Board, regulates over 560 practising costs lawyers
- The Master of the Faculties who regulates over 800 notaries.

In addition, subject to Parliamentary approval, the Institute of Chartered Accountants in England and Wales will soon be designated as an approved regulator and licensing authority.

It should be emphasised that the LSB does not have the power to impose rules, obligations or reporting requirements on firms or individual lawyers directly. Our statutory powers over front line regulators do enable us to prevent the imposition of new regulatory burdens, but our founding statute significantly constrains our ability to compel, as oppose to encourage, the removal of regulatory burdens.

