

# The Recognition of Professional Qualifications and Regulation of Professions

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The Legal Services Board's submission to the Department for Business, Energy & Industrial Strategy's call for evidence

23 October 2020

## Introduction

**Q1. Please tell us in which nation(s) you are a regulator of a profession.**

**Q2. Please state the sector(s) you regulate in.**

**Q3. Please state the profession(s) you regulate.**

1. The Legal Services Board (LSB) is the independent body created by the [Legal Services Act 2007](#) (the Act) to oversee the regulation of legal services in England and Wales. We are responsible for the regulation of lawyers who carry out the following legal activities:
  - a. the exercise of a right of audience;
  - b. the conduct of litigation;
  - c. reserved instrument activities;
  - d. probate activities;
  - e. notarial activities;
  - f. the administration of oaths.
2. The regulation of legal professionals is carried out by 15 approved regulators and regulatory bodies and the LSB holds these bodies to account in meeting their obligations under the Act. A full list of the regulatory bodies and professions regulated is set out in the Annex.
3. Some legal professionals (such as immigration advisers and claims management companies) are regulated under different legislative regimes. There are also some unregulated professionals (such as will-writers) who are not covered by the Act or any specific legislative regime, besides general consumer law.

**Q4. Please outline the rationale for regulation within your sector.**

**Q5. Please outline any evidence you have on the consumer protection impacts provided by your regulations.**

4. Our focus is to ensure that consumers have regulated legal services that they can access and trust. We deliver this by:
  - a. Promoting the public interest, by supporting the rule of law and the effective administration of justice;
  - b. Enabling innovation and pursuing greater transparency;

- c. Protecting consumers from harm and making sure redress is available, by holding the regulatory bodies and the Office of Legal Complaints (OLC – the Board of the Legal Ombudsman) to account.
5. In our role as the oversight regulator, we scrutinise the regulatory arrangements and enforcement and disciplinary procedures of the regulatory bodies to ensure that these operate in ways that protect consumers and promote the public interest.
6. We have several current projects centred on ensuring appropriate consumer protections. We are reviewing how legal regulators ensure that legal professionals remain competent throughout their careers, in part to assess whether the current approaches are protecting consumers from harm. We have also monitored the responses from the sector and the regulatory bodies to Covid-19, to ensure that necessary action is being taken to provide adequate consumer protection.
7. The Act sets the framework for the regulation of legal services. Under the provisions of the Act, regulatory bodies are primarily responsible for developing and implementing effective regulation that guarantees public trust and confidence in the legal profession in England and Wales. The LSB's role is to ensure that they achieve this and, in doing so, promote the regulatory objectives set out in the Act.
8. The regulatory bodies have their own arrangements for their regulated community, including frameworks for education and training, and enforcement and disciplinary activities. We have statutory responsibilities to approve and recognise changes to such arrangements, among other duties.
9. The regulators covered by the Act are also responsible for other areas relevant to this consultation, such as international recognition, professional standards and regulation, continuous professional development, and diversity and inclusion.

## Regulatory reform

### **Q28. Please detail any other information or evidence that you think we should take into consideration during this Call for Evidence.**

10. Legal services will be crucial to the UK following its departure from the European Union, as they underpin a well-functioning economy and the rule of law. In turn, effective regulation will support the sector to better meet society's needs.
11. In considering whether and how to reform the structures of professional regulation in the UK, the LSB is well-positioned to inform such considerations given our role and experience.

12. The LSB has proven experience and expertise in establishing new regulatory frameworks, having overseen the implementation of the Act and further developments since. In our oversight role, we have a unique insight into the benefits and drawbacks of interlocking regulatory structures, and how these can be reformed in the interests of consumers.
13. There is already ongoing work assessing potential regulatory reform of the legal services sector. We are considering the findings of the Mayson Independent review of legal services regulation.<sup>1</sup> We are also working closely with the Competition and Markets Authority as it undertakes its review of the 2016 market study of the sector which may lead to further market reforms.<sup>2</sup>
14. In 2016, we set out our vision for reform of the regulatory framework in legal services.<sup>3</sup> We continue to believe that such reform would best address the current challenges in the sector, and provide for a sector that better meets the needs of consumers and practitioners.
15. We consider that the regulatory framework should be targeted at certain areas of risk, rather than the current reserved legal activities.
16. It remains our ambition that there should be a single regulator in the legal services sector. Such a model would be suitable in a sector that is seeing increasing innovation and striving to remove artificial barriers between different types of practitioners. Consumers and providers would have increased transparency and clarity on legal services regulation. It should also be less expensive by removing duplication, reducing the regulatory burden.
17. In the shorter term, it might be useful to establish a network for regulators of professional services, along similar terms to the UK Regulators Network for the economic regulators.
18. We already engage with other regulators of professional services, such as the General Medical Council and the General Dental Council, on an ad hoc basis through our policy work. A distinct network though would be beneficial, offering opportunities for the regulators to share intelligence and identify cases for shared policy development.
19. Later this year, we will be publishing a report assessing the impact of developments in the legal services sector over the last decade. This will inform a

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<sup>1</sup> <https://www.ucl.ac.uk/ethics-law/publications/2018/sep/independent-review-legal-services-regulation>.

<sup>2</sup> <https://www.gov.uk/cma-cases/review-of-the-legal-services-market-study-in-england-and-wales>.

<sup>3</sup>

[https://www.legalservicesboard.org.uk/news\\_publications/LSB\\_news/PDF/2016/20160909LSB\\_Vision\\_For\\_Legislative\\_Reform.pdf](https://www.legalservicesboard.org.uk/news_publications/LSB_news/PDF/2016/20160909LSB_Vision_For_Legislative_Reform.pdf).

draft strategy to be published shortly after that will identify how regulation can better support the sector to meet its present challenges.

## The legal services sector

20. The legal services sector is of vital importance to the UK society and economy, with all other industries making use of legal services in conducting business. The well-functioning operation of the sector is integral to the rule of law and the administration of justice.
21. Since the Act came into force in 2007, progress has been made in strengthening the flexibility of the legal services sector. Regulatory reforms allowing legal professionals to set up in business and practise in more areas of law have provided wider choice for consumers and fostered greater innovation.
22. There are more than 1,400 Alternative Business Structures (ABS), trebling in the last five years and now constituting around one in ten regulated legal firms in England and Wales. The ABS structure allows non-lawyers to manage or have an interest in a company which provides legal services (this was prohibited prior to the Legal Services Act). The ABS structure has resulted in considerable reforms, with all the 'big four' accountancy firms and public sector organisations, including county councils and universities setting up ABS.
23. There has recently been significant government support for the development of lawtech. The benefits of technological advances are now beginning to be felt beyond the corporate sector, feeding through to individuals and small businesses.
24. The industry has seen significant economic growth in the last decade. As of March 2020, prior to the outbreak of the pandemic, overall turnover had increased by 22% and employment by 24% since 2010/11. Analysis by KMPG commissioned by the Law Society suggests that legal services were worth nearly £60bn GVA to the UK economy in 2018 and accounted for 1.7% of the total UK labour force. This growth has been powered by the corporate sector.
25. The Act's liberalising reforms have enabled England and Wales to retain a strong international reputation as a progressive legislative jurisdiction. The UK is a world-leader in legal services regulation and other jurisdictions are increasingly introducing similar deregulatory reforms, and encouraging the use of ABS.
26. The success of the sector is demonstrated by the growth in net exports which have almost doubled since 2009, from £3.4bn to £6.6bn in 2018. Legal services represented 16% of exports across professional services in the UK in 2018. England and Wales has maintained its position as a dispute resolution centre of choice and the UK is rapidly becoming a lawtech hub.

27. The UK naturally benefits from the role of English common law as the governing law for over a quarter of the world's jurisdictions. The strong international reputation of England and Wales has firm foundations in the quality of the work of and independence of its judiciary.

## **Conclusion**

28. We would welcome further discussions on how the LSB can best offer our expertise and insight in reform of the regulatory landscape.

## Annex

This table sets out the legal services regulators, both the approved regulators set out in the Act which have representative functions, and the independent regulatory bodies.

<b>Approved regulator</b>	<b>Regulatory body</b>	<b>Regulated profession</b>
Law Society	Solicitors Regulation Authority	Solicitors
Bar Council	Bar Standards Board	Barristers
Chartered Institute of Legal Executives	CILEx Regulation	Chartered Legal Executives
Chartered Institute of Trade Mark Attorneys	Intellectual Property Regulation Board	Trade Mark Attorneys
Chartered Institute of Patent Attorneys		Patent Attorneys
-	Council for Licensed Conveyancers	Licensed Conveyancers
Association of Costs Lawyers	Costs Lawyer Standards Board	Costs Lawyers
-	Master of the Faculties	Notaries
Association of Chartered Certified Accountants		Chartered Accountants (for practice of probate activities)
Institute of Chartered Accountants in England and Wales		