



## Ongoing competence in legal services: Frequently Asked Questions

### **Reminder:** Why is the Legal Services Board looking at ongoing competence in legal services?

The Legal Services Board (LSB) was established, by the Government, as an oversight body to bring consistency and clarity to the regulation of lawyers, and a sharper focus on the interests of consumers<sup>1</sup>.

The LSB is concerned that, while legal regulators have comprehensive measures to make sure that legal professionals are competent when entering the legal profession, there are **fewer formal or consistent checks in place to ensure ongoing professional competence**.

Research shows that **most consumers mistakenly assume that lawyers are subject to regular formal checks**. There is general agreement that lawyers' ongoing competence is vital to ensuring consumers' trust and confidence in the sector. It would also help consumers avoid harm from poor quality legal services.

To read more about the work that the LSB is doing to look at ongoing competence, [click here for its press release](#) from 10<sup>th</sup> February.

### What powers does the Legal Services Board have to change the rules regulating legal professionals?

The LSB has powers under the Legal Services Act 2007 to **bring in new rules and regulations for the regulators that it oversees**. This could include requiring the legal regulators to introduce competence checks for lawyers.

The LSB could not establish a single regulator for legal services as the law would need to be changed in Parliament to do this. While it is the LSB's view that ultimately moving to a single regulator would have significant benefits for consumers, for now it promotes achieving benefits for consumers in other ways, such as cross-sector collaboration between the regulators.

The LSB also reviews the performance of all the regulators using a consistent performance framework. If a regulator is not meeting the expected standards, the LSB will work with them to address this. The LSB can direct a regulator to take certain action, and in serious cases can fine the regulator or remove it from the list of regulatory bodies (that is, they remove their powers to regulate).

You can read more about the LSB's powers by [clicking here](#).

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<sup>1</sup> It has a duty, which is shared with the regulatory bodies, to promote eight regulatory objectives. The objectives cover things such as protecting and promoting the public interest and the interests of consumers; encouraging an effective legal profession; and promoting and maintaining lawyers' adherence to the professional principles.

## What powers do legal services regulators have when lawyers haven't followed the rules (e.g. by acting negligently, dishonestly, or wrongfully)?

If a legal services regulator becomes aware of an issue with a lawyer, there are several steps they can take:

- They may decide the issue does not warrant further investigation or action;
- They may decide to carry out a formal investigation into the matter if there are grounds for investigation or the safety of the public is at stake;
- They may require the lawyer to attend a formal hearing and face questions on their behaviour.

If the lawyer is found to have broken the rules the regulator may take formal enforcement action. In serious cases, this can include:

- Controlling the lawyer's practice (e.g. setting limits on what they can do, or requiring them to work under supervision);
- Disciplining them;
- Suspending them; or
- Removing them from practice if they represent a serious risk (otherwise known as being 'struck off', so they can no longer work as a lawyer).

It's worth noting that only a very small number of lawyers go through this process compared to the number of lawyers overall.

**Remember:** introducing 'ongoing competence' focuses on lawyers who are not fully competent, rather than those who are acting negligently, unlawfully or dishonestly.

## What is the annual re-certification process, and how does it relate to competence checks?

To work as a lawyer, in a law firm or freelance, you must have a licence to practise (called a practising certificate). The practising certificate must be renewed every year. To renew you must pay a fee and a regulator may require you to do other things such as have personal indemnity insurance (in case you are successfully sued) and/or have undertaken some form of CPD. However, there are no competency checks or tests.

## Isn't 'competence' just about expertise, up-to-date legal knowledge, and technical skills (like drafting legal documents)?

Competence is **wider than just knowledge and application of law**. It covers everything a lawyer needs to 'do a good job' for their clients. Research shows that many people prioritise finding a lawyer who will **understand** their needs, is **good to work with**, can **explain things** in a way that they can understand, and will **respond quickly** to their needs. All of these things also make up 'competence', not just sound knowledge and good technical skills. The [SRA's competence statement](#) includes a section on working with other people and managing themselves and their own work, for example. It's worth remembering these things when we think about how we check lawyers' competence.

