



LEGAL SERVICES
BOARD

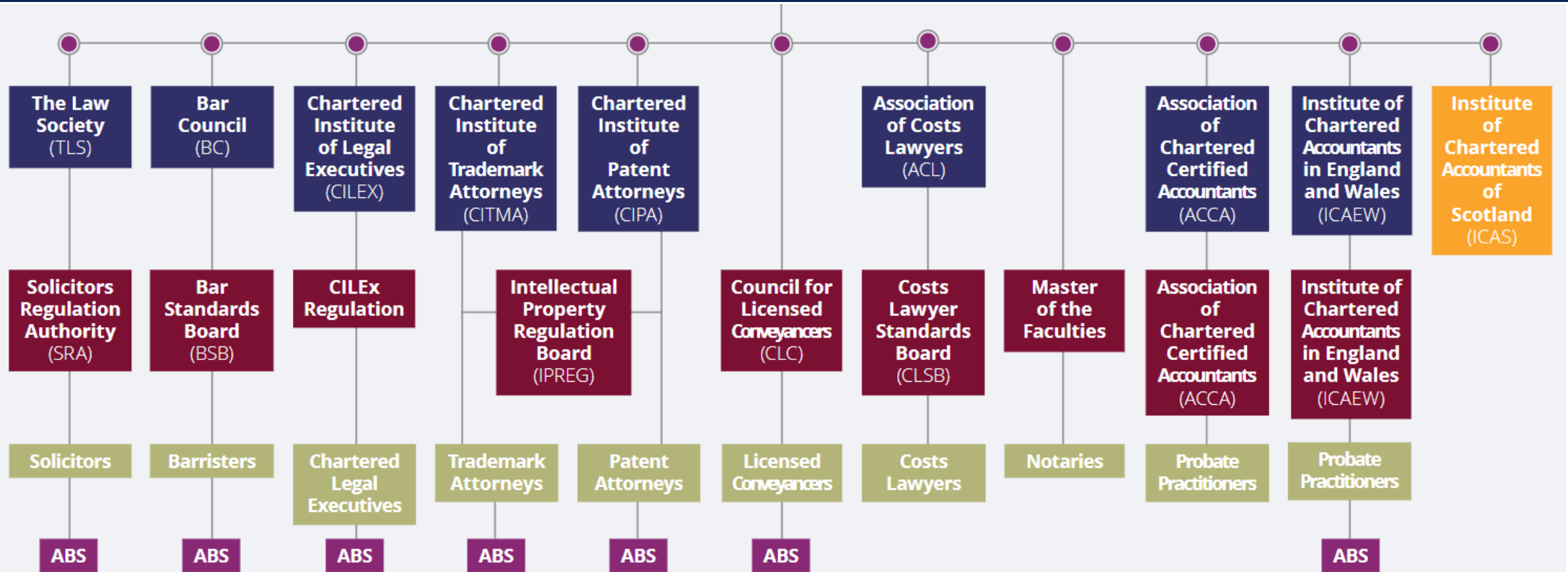
Ongoing competence in the legal profession

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Who are we



Who we regulate



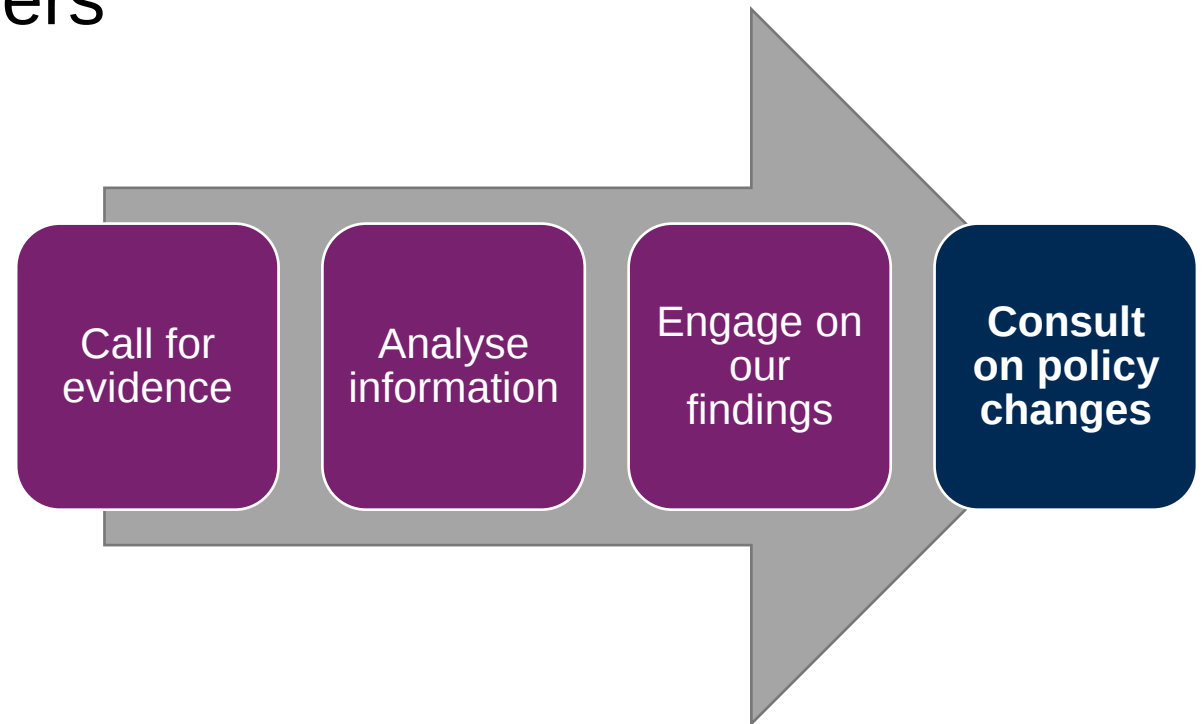
KEY

■ Representative body ■ Regulatory body ■ Regulatory body (not active) ■ Profession ■ Alternative Business Structures

Ongoing competence project

Aim: to explore whether legal regulators have the right frameworks in place to ensure that the professionals they regulate remain competent throughout their careers

- Why this work
- Our evidence base
- Consultation out now



Call for evidence – key findings

- Consumers *assume* that legal professionals are competent and that there are robust checks in place to ensure this.

But, in practice...

- Legal services regulators tend to rely on self-assessed CPD.
- Other assurance methods have been adopted and often with positive outcomes, but these have limited coverage, are often informal and are not necessarily targeted to risks.
- In other sectors, including healthcare, aviation and teaching, more robust tools to assess and assure ongoing competence have been adopted.

Call for evidence – key findings

But is there a problem?

- While little objective data on the quality of legal services is collected or published, this does not indicate that there is no problem, as a lack of assurance is a problem in and of itself.
- Quality concerns in some practice areas were identified, including immigration and asylum, criminal advocacy and conveyancing. There should be protection from harm or risk of harm for vulnerable consumers.



- The public thinks there are too many gaps in the existing system and regulators should have more evidence to be assured that those they regulate remain competent.



- 79% of participants in our survey thought that there should be more specific rules for checking legal professionals' competence throughout their careers.



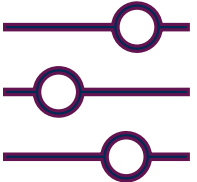
- 95% said that legal professionals should have to *demonstrate* that they remain competent.



- Typically, ongoing competence has not been prioritised or linked to a wider understanding of professional competence.



- Some jurisdictions are now introducing competence frameworks, assessments, peer reviews and remedial approaches to addressing competence concerns.



- This includes Canada, Australia, the United States and the Netherlands.

Rationale for change

- **Consumers expect that we do more.** Ensuring lawyers' competence is key to protecting the interests of consumers and driving greater trust in the legal system.
- **It is in regulators' remit** to ensure the ongoing competence of the legal professionals they regulate.
- **Other regulators take a more robust approach** that we can learn from (other professions, jurisdictions).

Set the standards of competence that those they regulate should meet at the point of authorisation and throughout their careers.

- What competencies should be included?
- Should each regulator have a competence framework of their own, or should there be a shared one for all legal professionals?
- How can competence frameworks be embedded in practice?

Regularly assess and understand the levels of competence within the profession(s) they regulate, and identify areas where competence may need to be improved.

- What types of information should regulators routinely collect and how should they use this data?
 - ☐ Feedback
 - ☐ Data from supervisory activities
 - ☐ Information from government agencies
 - ☐ Other sources?

Make appropriate interventions to ensure standards of competence are maintained across the profession(s) they regulate.

- What types of measures should regulators implement?
 - ☐ More reflective practice and use of feedback
 - ☐ Mandatory training requirements
 - ☐ Competence assessments
 - ☐ Periodic reaccreditation
 - ☐ Other tools?

Take suitable remedial action when standards of competence are not met by individual authorised persons.

- What remedial responses should regulators consider?
- What factors should regulators take into account when designing their remedial approach?

Draft statement of policy

- Statement of policy offers a high-level flexible framework.
- We expect regulators to evaluate their current approaches and seek to meet the expectations within 18 months.
- Our consultation is open until **7 March** – please tell us what you think.

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Thank you

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