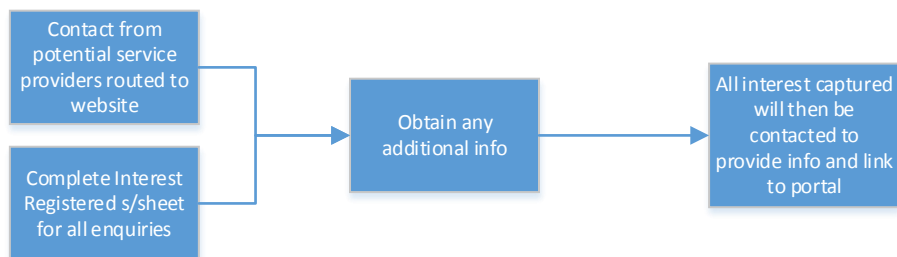
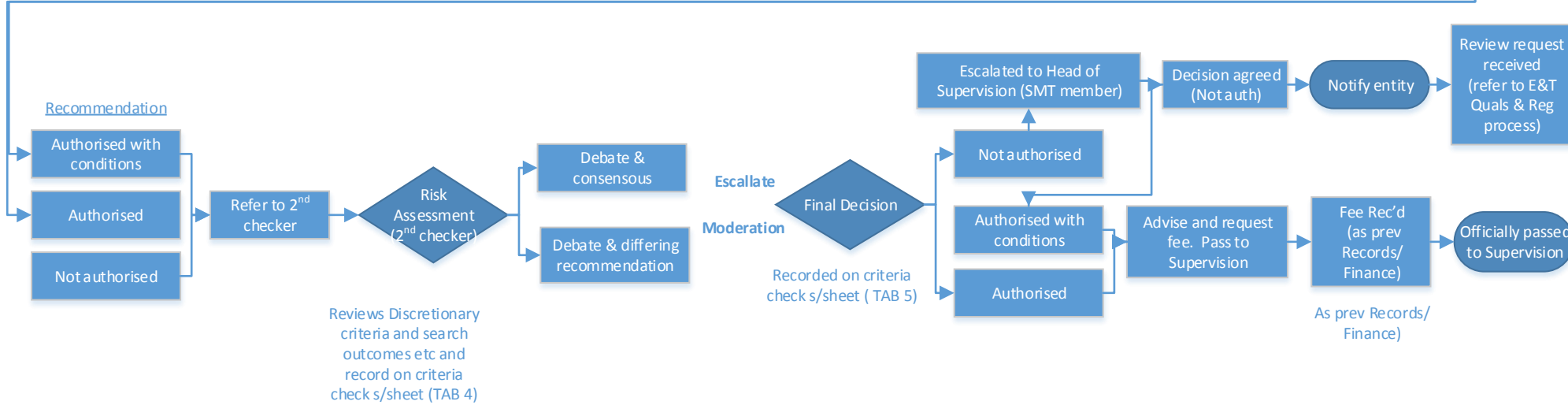
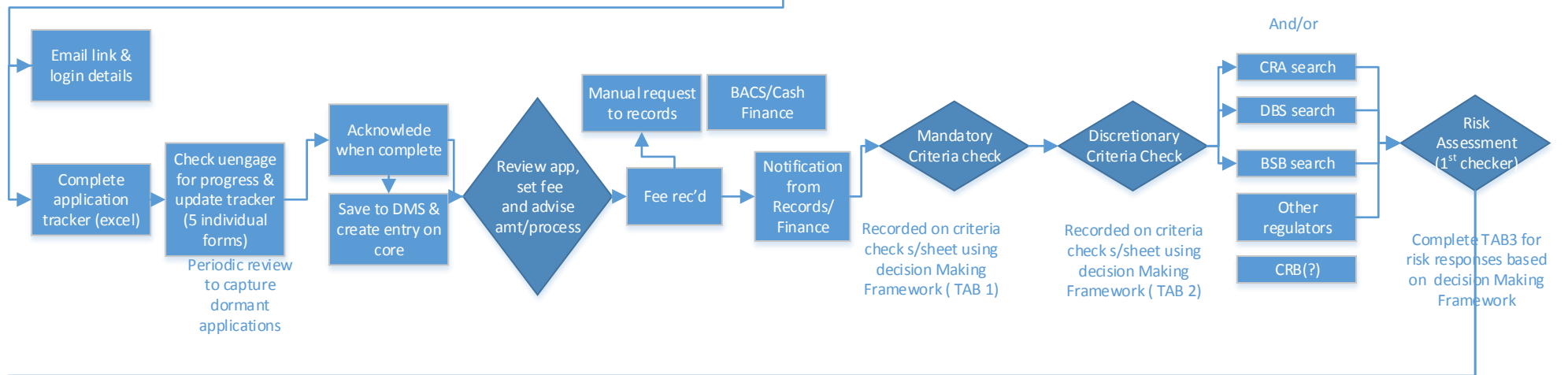


Pre-launch Jan 2015



Post-launch 5 Jan 2015



Mandatory Criteria

Question Number	Question Description	High Risk	Medium Risk	Low Risk	Comments	Risk Score	Risk Tally
FORM A							
A3. (M)	If the applicant is an LLP, is it incorporated and registered in England and Wales, Scotland or Northern Ireland under LLP Act 2000?	• No.	• Incorporation in progress.	• Yes. • Not applicable	*Has Companies House been checked?*	-	1
A3. (M)	If the applicant is a Company, is it: i. incorporated in England and Wales, Scotland or Northern Ireland under Parts 1 and 2 of the Companies Act 2006; or ii. incorporated in an Establishment Directive state and registered as an overseas company under part 34 of the Companies Act 2006; or iii. incorporated and registered in an Establishment Directive state as a societ�s Europea)?	• No.	• Incorporation in progress.	• Yes. • Not applicable	*Has Companies House been checked?*	-	1
A3. (M)	If the applicant is a Company, is it registered in England or Wales?	• No.		• Yes. • Not applicable.	*Has Companies House been checked?*	-	1
A3. (M)	Will the applicant have a practising address in England or Wales at all times?	• No.		• Yes.	*Check whether practising address is different/the same to correspondence address*	-	1
A5. (M)	Does the applicant propose having any beneficial owners, non-authorized owners or managers' parent companies?	• Yes		• No		-	1
A6. (M)	Are all the owners of the applicant authorised persons?	• No		• Yes	*Have relevant practising certificates been checked? (Year of call, areas of practice, currently valid, Rights of Audience etc.)* *Consider responses under each of the following headings - 1. Administration of Oaths; 2. Conduct of Litigation; 3. Exercise Rights of Audience; 4. Probate Activities; 5. Reserved Instrument Activities*	-	1
A12 & A13. (M)	Has the applicant provided the name and address of at least one manager or employee who is an authorised individual in respect of each reserved legal activity it wishes to provide?	• No. The applicant does not have an authorised individual to undertake each reserved legal activity.		• Yes. The applicant does have an authorised individual to undertake each reserved legal activity.	*Have relevant practising certificates been checked? (Year of call, areas of practice, currently valid, Rights of Audience etc.)* *Have you cross-checked with Business Plan and CV to ensure there is an authorised individual to do each activity?*	-	1
A17. (M)	Will all owners and managers be authorised individuals?	• No.		• Yes.		-	1
A22. (M)	Has the applicant confirmed that it will always have in place individuals appointed to act as a HOLF (who must also be a manager) and a HOFA or take immediate steps to replace the HOLF or HOFA as required by the Handbook?	• No.		• Yes.		-	1
A23. (M)	Has the applicant confirmed that it will not directly or indirectly hold client money in accordance with rule C73 of the BSB Handbook or have someone else hold client money on behalf of the entity other than in those circumstances permitted by rule C74 of the Handbook?	• No.		• Yes.		-	1
A25. (M)	Will the applicant entity have appropriate professional indemnity insurance in place?	• No.		• Yes.	*Has applicant - (a) been advised to approach an insurer; or (b) indicated that approaches have been made to an insurer?* *Capture details of which insurer has been approached if applicable* *EVIDENCE MUST BE PROVIDED WITHIN 21 DAYS OF AUTHORISATION*	-	1

Key
High Risk
Low Risk

FORM C							
	Has the applicant HOLF been disqualified from acting as a HOLF or a HOFA or from being a manager of or						

C15. (M)	employed by a licensed or authorised body by the BSB or another approved regulator pursuant to s99 of the LSA or otherwise as a result of its regulatory arrangements?		<ul style="list-style-type: none"> • Proceedings are pending. 	<ul style="list-style-type: none"> • No. 	<p style="text-align: center;">Areas to Consider: Dates, facts, current status, decision and outcome</p>	-	1
C34. (M)	Has the applicant HOFA ever been disqualified from acting as a HOLP or a HOFA or from being a manager of or employed by a licensed or authorised body by the BSB or another approved regulator pursuant to s99 of the LSA or otherwise as a result of its regulatory arrangements?offence or any offence under the Financial Services and Markets Act 2000, the Immigration and Asylum Act 1999 or the Compensation Act 2006?		<ul style="list-style-type: none"> • Proceedings are pending. 	<ul style="list-style-type: none"> • No. 	<p style="text-align: center;">Areas to Consider: Dates, facts, current status, decision and outcome</p>	-	1

Interventions Policy

Introduction

1. The purpose of this note is to set out the principles behind the BSB's approach to interventions and to outline the process that would be followed should an intervention be necessary. In addition to this note, detailed process maps will be developed as well as a more comprehensive skills analysis.
2. In broad terms, intervention is the process by which the regulator is able to take control of a practice in the public interest when something has gone seriously wrong. In situations where an entity is failing, entering administration or insolvency, is unable or unwilling to co-operate with its regulator or has been abandoned by its owners and managers, the regulator needs to be able to move in and take charge of affairs so as to protect the interests of clients, to obtain alternative representation for them and to secure files or other assets which may belong to them. Schedule 14 to the Legal Services Act 2007 (LSA) provides a statutory power of intervention in relation to licensed bodies (ABS entities), which the BSB will acquire if it becomes a licensing authority for ABS entities. The BSB also has a non-statutory, contractual approach to interventions in relation to non-ABS entities.
3. The BSB has concluded that in the longer term it would be desirable to have the statutory power of intervention over all entities. The BSB will therefore seek the LSB's recommendation that the Lord Chancellor grant an order under section 69 of the LSA to grant the Bar Council (via the BSB) a statutory power of intervention. This would place the BSB's power of intervention in relation to all of its regulatory platforms on the same statutory footing.

How an intervention arises

4. The need for an intervention arises in a range of circumstances, including:
 - a. Information received which requires immediate regulatory intervention, e.g. evidence of fraud, disbandment of practice;
 - b. Information arising from the supervision of that entity;
 - c. A failure by supervision to effect an orderly wind up of a failing entity; and
 - d. Information arising from enforcement action being taken against the entity or an individual owner, manager or employee of the entity.
5. An intervention is distinct from the removal of the authorisation of an entity. The eventual result of an intervention is likely to be removal of authorisation, but the intervention is required because circumstances have arisen which require immediate regulatory action to address issues of concern.

6. In order therefore to effect an intervention there have to be clear grounds. The statutory grounds are set out in Schedule 14 to the LSA, and can be broadly summarised as:
 - a. Failure to comply with one or more terms of the licence;
 - b. The appointment of a receiver or another defined insolvency event;
 - c. Suspected dishonesty by a manager or employee;
 - d. Undue delay in dealing with a matter;
 - e. It is necessary to exercise the power for the benefit of clients.
7. In relation to non-ABS entities, where the BSB is operating a non-statutory, contractual regime and currently has no statutory basis for bringing about interventions, the grounds in the LSA do not have any formal status. However, as above the BSB will be seeking the statutory power of intervention over all entities in the longer term. Furthermore, the circumstances in which the BSB would seek to intervene – as set out in Rule S113.5 of the BSB Handbook – will apply to both ABS entities (as they are based on the corresponding provisions of the intervention powers in the LSA) and non-ABS entities. While the BSB awaits a statutory basis for bringing about interventions in relation to non-ABS entities, this will help to ensure consistency of approach to intervening in ABS entities and non-ABS entities.
8. The circumstances in which the BSB would seek to exercise intervention powers, as set out in Rule S113.5 of the BSB Handbook, are:
 - a. One or more of the terms of the entity's authorisation have not been complied with;
 - b. A person has been appointed receiver or manager of property of the entity;
 - c. A relevant insolvency event has occurred in relation to the entity;
 - d. The BSB has reason to suspect dishonesty on the part of any manager or employee of the entity in connection with: (i) that entity's business; or (ii) the business of another entity in which the manager or employee is or was a manager or employee, or the practice (or former practice) of the manager or employee.

The process for deciding to intervene

9. The assessment as to whether an intervention is necessary will be carried out within the Supervision Department of the BSB, with input from other parts of the organisation depending on the circumstances and the nature of the information provided.
10. If the BSB considers that one or more of the conditions above are satisfied, it will then consider whether in all the known circumstances it is in the public interest to act. Such an assessment will take into account not only the need to protect the public and safeguard public confidence in the profession of

regulated legal services, but also the inevitably serious consequences of the regulatory action for the authorised body. In addition to the above, there would be a standard condition placed on any entity's authorisation that would enable the BSB to modify or revoke the authorisation, or take any other necessary action (including potentially recovering the costs of such action from the entity), if these conditions are met.

11. However, if the Supervision Department make a recommendation of intervention to the Senior Management Team of the BSB and this is supported, the Director of Supervision will seek formal approval to intervene from an independent adjudicator.

What happens once a decision to intervene has been taken?

12. Following a decision to intervene, the BSB will seek the necessary court orders to grant it the legal powers to effect the intervention. This could include the right to freeze the entity's accounts (escrow and management accounts), the right to enter the premises and right to take possession of live and dead files.
13. Where a decision has been made to intervene in a non-ABS entity, on the basis that it will be contractually bound to comply with the BSB's regulatory regime, the BSB will be able to make use of the remedies available to enforce a contract. The BSB's cause of action would arise following an actual or threatened breach of contract by the entity, in the form of a regulatory breach. There are a range of remedies for breach of a contract; however, the most relevant in these circumstances are specific performance and injunctions. In seeking specific performance or an injunction, the BSB will be seeking the court's support to grant a discretionary remedy in the public interest. An alternative route would be the court's power to appoint a receiver who could take control of documents and, if necessary, manage the affairs of the entity including its assets (for instance, in circumstances where the practice had been abandoned). The High Court has a jurisdiction to appoint a receiver by an interim or final order in all cases in which it appears to the court to be just and convenient to do so (s. 37(1) Senior Courts Act 1981). The objective of a court-appointed receiver would be to preserve or safeguard property from any danger with which it is threatened. The appointment of a receiver by the court to preserve property may be made when litigation is pending to decide the rights of the parties, or where misconduct or maladministration is alleged against persons who are in a fiduciary capacity.
14. Where a decision has been made to intervene in an ABS entity, the BSB will be able to make use the statutory power of intervention provided by Schedule 14 to the LSA. The BSB will be able to apply to the High Court for orders:
 - Requiring a person to provide information about any money held by the person on behalf of the ABS entity;

- Preventing a person holding money on behalf of the ABS entity from making any payment of the money, except with the leave of the court;
- Requiring the ABS to produce or deliver all documents in its possession or under its control in connection with its activities, of which possession can then be taken;
- Authorising an intervention agent to enter premises to search for and take possession of documents;
- Redirecting postal, electronic and telephone communications to an intervention agent; and
- Recovering the costs of the intervention from the ABS entity.

15. An intervention agent will be appointed from an approved list of agents. The agent will take responsibility on behalf of the BSB, for managing the intervention process. This will include taking on the management of the live files, informing clients of the entity of the intervention and advising them of their options, and bringing the entity to an orderly dissolution.

16. The BSB will need to put in place arrangements for disposing of and storing dead files. The BSB will also need to develop protocols for working with appointed insolvency practitioners (where appropriate) so that there is clarity over the relationship and the regulatory expectations.

Capacity and capabilities required

17. Interventions are a new activity for the BSB and the capacity and capability to manage them therefore needs to be assessed and developed. The assessment is that the skills and experience required (or for the BSB to have access to) to manage interventions are likely to include:

- Legal skills (to apply for court orders etc.);
- Investigative skills (and in particular financial analysis) to identify the need for an intervention;
- External agency management;
- An understanding of insolvency and banking (particularly the use and management of escrow accounts);
- Management of the administration of Chambers/entities; and
- Enforcement action against entities and their owners, managers and employees.

18. The BSB will need to undertake a skills audit to establish where the gaps are and to consider how any gaps could be filled. One option would be to retain the services of a consultant with intervention experience to train staff and to be available to provide advice as required. An alternative would be to seek to recruit someone with specific experience of managing interventions. Given the anticipated infrequency of interventions by the BSB, should the latter option be adopted the retained member of staff would integrate within the Supervision Department and undertake broad supervision and authorisation tasks, as well

Annex L

as acting as the intervention specialist. They would also be required to train other members of staff to build greater capacity and capability across the BSB.