

## Annex B

### Exclusive: LSB chief executive cools talk of move to single regulator

By Neil Rose

18 June 2015

The prospect of a single regulator for the legal market has dimmed after the new chief executive of the Legal Services Board (LSB) distanced himself from the idea.

In his first interview since taking over from Chris Kenny in February, [Richard Moriarty](#) also told *Legal Futures* that though the LSB was told last year by then Lord Chancellor Chris Grayling to work towards its own abolition, “I don’t think we are close to that point yet”.

Under the chairmanship of David Edmonds – whose term ended just over a year ago – the LSB was pushing the idea of a single regulator, and it remains one of the options under consideration by the frontline regulators as part of work on [ways to reform the regulatory regime](#) being co-ordinated by the LSB and run for it by Professor Stephen Mayson.

Mr Moriarty said: “To anyone coming fresh to this they probably look at the sector and think you have got a high number of legal services regulators – is that optimal? And I know that there has been long debates about whether there should be consolidation of regulations of a single regulator.

“I actually think the answer is ‘not necessarily’... The public doesn’t care about whether there is one, two or 11 regulators. They want regulation done well and the profession wants it done in a value for money and a proportionate way. The actual architecture behind it I think people are less focused on. It is more of a question for the regulatory village.

“I have worked in sectors where regulators have merged in energy, in housing. But equally if you look at other complex professions like healthcare and accountancy, they do have oversight regimes. And they have frontline regulators.

“For me the priority, if people are looking at this, ought to be less on the organisational form and more on what is the ‘it’ that deserves to be regulated? What is the public interest that should be regulated? And then work out the organisational form after you have answered those questions.”

Putting the principle of ‘function before form’ to the fore of his philosophy, Mr Moriarty took a similar approach to whether the frontline regulators currently tied to representative bodies – such as the Solicitors Regulation Authority and Bar Standards Board – should have structural independence they want on top of the operational independence they now enjoy as a result of the LSB’s internal governance rules.

He said: “The public expects some independence, but the public also expects, and the profession rightly expects, regulation to be informed by the profession. What we have got in the 2007 [Legal Services] Act is something that addresses both those issues.”

While it is for the LSB to ensure that the internal governance rules are being observed, “I think again the public will not really be that concerned over the particular regulatory model, providing it works. It is important to have independence, and it is important that the regulators act independently. But the actual degree of that separation, whether it is full legal separation or what we have got at the moment, I think it is an open question.

“If what we have got at the moment works, is seen to work, and is effective and commands the confidence of the public and the profession, then you may find that actually this regime is a bit more enduring than most people perhaps thought. If that doesn’t happen and the profession lose confidence, or the public lose confidence, then there will be undoubtedly greater demands for a different model.”

Of course, there are more than a few people who would like to go the other way from a single regulator and instead simply have the frontline regulators with no LSB looking over their shoulders. [Speaking a year ago](#), Mr Grayling said there were too many “layers” of the regulators.

He said: “I have said to Sir Michael Pitt [the then new chairman of the LSB] that during his time at the LSB, success means creating an environment where that organisation is not necessary in the long term. This won’t happen overnight but I am clear that this should be the direction of travel.”

Mr Moriarty said that nobody at the LSB thought it had “a God-given right to exist”. He explained: “Regulators exist to serve a purpose and when that purpose is served or when costs exceed benefits, they should really think about whether they are needed. I certainly don’t come into this job thinking it is a job for life.

“And I am quite attracted to the dual purpose of the LSB, which is to provide that public trust and confidence in the frontline regulators, but also to act as a bit of an agent for change, particularly around economic growth and deregulation and innovation.

“I can certainly imagine a set of circumstances where the need for oversight regulation would be less needed than perhaps hitherto. But I don’t think we are close to that point yet.”

*The second part of this interview will be published tomorrow*

## Annex C

### LSB chief tells regulators: You have to justify continuing existence of rules

By Neil Rose

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Legal regulators need to justify the continuing existence of their rules, and not wait for others to argue that they are not needed, the chief executive of the Legal Services Board (LSB) has said.

In his exclusive first interview since taking up the post, the first part of which was [published yesterday](#), Richard Moriarty also urged the legal profession to “redouble” its efforts to innovate in a difficult fiscal environment where there is also substantial unmet legal need.

The LSB is currently conducting an investigation into the cost of regulation, but Mr Moriarty said it would need to have “a pretty ruthless push on the frontline regulators to have a really sophisticated view on the costs that they are imposing”.

He said the practice in other sectors is to start with the presumption for the regulator to justify the existence of the rule and it is an ongoing requirement – not that others should justify a change from the status quo.

“We are not quite there in legal services. Too often we start from the presumption of it is for people to justify a move away [from the status quo], rather than for people to justify the existence of rules.

“I’m really keen that the LSB and the frontline regulators grip this issue. Because in the next three to five years, deregulation, and reducing the cost of regulation, is really important if we are going to create a better climate for innovation and growth.”

This is particularly given the high levels of unmet legal need – among both individuals and SMEs, as evidenced by LSB research – which Mr Moriarty said he had found “surprising”.

Putting this into the wider context of the public spending outlook for the next few years, he said: “I think it is in everybody’s interests – and I appreciate it is going to be easier in some areas than others – for us to redouble our efforts to think about how do we innovate and do things differently whilst making sure the rule of law is respected and standards are respected.

“But the need to innovate, the need to look at different types of models, will be even more important to the sector over the next five years than it has been in the last five years.”

Alternative business structures (ABSs) have a role to play in that and recently the LSB decided [to stop requiring monthly updates](#) from the Solicitors Regulation Authority over how it was handling ABS applications. This had been going on since January 2013 because of concerns that it was taking too long.

Mr Moriarty stressed that the LSB had not just worked from SRA figures in making the decision. “The numbers were getting much better – the turnaround times were really improving. That was not the only thing that we did in order to assure ourselves that they were in a much better place on ABS applications. We obviously get intel from folk going through the process. We have had much less, much less, complaint about their process now than a couple of years back...

“The other thing we did was have a number of high level meetings with them to make sure right at the top of the organisation they were committed to making this process as slick and as painless as possible.

I was assured that they hadn't just gripped this issue to get off [report] but actually because they felt that as a modern regulator that is absolutely what they should have done.”

Mr Moriarty said that while there continues to be debate over the future shape of what is a complex system, “compared to some regulatory regimes the fact that people start from a common starting point about what is in the public interest, is actually quite good.

“And actually more unites people in this sector than divides them. Some people forget that sometimes, I think.”