

To:	Legal Services Board	
Date of Meeting:	10 July 2013	Item: Paper (13) 47

Title:	Regulation of special bodies/non-commercial bodies	
Workstream(s):	Widening access to the legal services market	
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Status:	Unclassified	

Summary:

Some organisations, such as not for profit agencies (for example Law Centres and Citizens Advice Bureaux) and Community Interest Companies are given protection for a transitional period from the need to have an ABS licence. This means that they can currently provide reserved legal activities without a licence. Only the Legal Services Board (LSB) can make a recommendation to the Lord Chancellor that he should end the transitional protection. The LSB published a public consultation in April 2012 setting out the main issues that it needed to consider in deciding whether to recommend ending the transitional period and when. We received a good level of responses from a wide range of organisations. Our response to the points made in the consultation and our then emerging policy position on each of them was published in December 2012.

In May the Board considered a draft document setting out our guidance for licensing authorities (LAs) wishing to regulate special bodies after the transitional period ends. The covering paper noted that there are currently no regulators with regulatory arrangements that would be consistent with the guidance. Given the likely timescales for (a) LAs to introduce appropriate regulatory arrangements, (b) special bodies to introduce the necessary changes to structures and processes and (c) MoJ to implement the required legislative changes to end the transitional protection, the Board noted that it may be appropriate to stop work on this particular issue given the significant other issues we are currently dealing with.

Since the Board meeting, on 5 June MoJ issued a call for evidence for a review of the legal services regulatory framework. A copy of the letter is attached at **Annex A**. The letter contemplates proposals for changes to the wider statutory framework (subject to subsequent wider consultation) as well as simplification of specific provisions within the current framework. Our work is well underway to respond by the deadline of 2 September.

Our approach to the regulation of special bodies has always acknowledged that the underlying legislation is complex and prescriptive – and that it is almost certain that this would introduce some additional costs for special bodies, even though our guidance contemplated significant de-regulation compared to the way in which traditional law firms are regulated.

The opportunity presented by the MoJ review – to significantly reduce the cost and complexity of regulation and ensure it is targeted and proportionate to the risks to consumers – means that it not appropriate to continue to pursue the regulation of special bodies under the current framework. We can consider whether it is appropriate to re-visit the regulation of special bodies once we know the outcome of the MoJ review – a report to Ministers in the Autumn proposing next steps.

We therefore propose to issue a statement to stakeholders confirming the change of approach. The draft version is attached for your information at **Annex B**. We have kept this deliberate short and to the point, to avoid it turning into a full policy document by default.

In the intervening period, if a special body wishes to become an ABS it can apply to a LA, but will be subject to the same requirements (subject to any waivers) as a commercial ABS.

Recommendation(s):

The Board is invited:

- (1) To discuss and agree the approach set out above and
- (2) to delegate final sign off of the statement to the Chairman and Chief Executive

Risks and mitigations

Financial: None

Legal: None

Reputational: There is considerable political interest in the role of not for profit organisations and any perceived or actual increase in regulation of them is likely to come under scrutiny.

Special bodies have emphasised the importance of certainty about when the transitional period will end so that they can make any necessary changes to their governance structures. Our change of approach may lead to criticism of the LSB.

Resource: None

Consultation	Yes	No	Who / why?
Board Members:		X	No significant new policy issues

Consumer Panel:		X	N/A
Others:			

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
Annex B	Section 22 - Information intended for future publication	

Annex A – MoJ call for evidence



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REVIEW OF THE LEGAL SERVICES REGULATORY FRAMEWORK CALL FOR EVIDENCE

The complexities of the current legal services regulatory landscape have been raised with Ministers by a number of different stakeholders and through the Red Tape Challenge, and Ministers have asked officials to undertake a review, looking at what could be done to simplify the regulatory framework, and reduce unnecessary burdens on the legal sector, whilst retaining appropriate regulatory oversight. This review will encompass the full breadth of the legislative framework, covering at least 10 pieces of primary legislation and over 30 statutory instruments. We are also open to comments on the interaction between the legislative framework and the detailed rules and regulations of the approved regulators, licensing authorities and of the Legal Services Board and Office for Legal Complaints, although we recognise that these are not owned by MOJ.

We will now be taking this work forward, starting with this initial 'call for evidence' from stakeholders, which we will use to identify ways in which the framework might be simplified. The outcome of this stage in the review will be a report for Ministers in the Autumn, proposing next steps. While the details will depend on the analysis of the evidence provided, this report may include proposals for changes to the wider statutory framework, including to primary legislation, on which we may seek to consult more generally and which would take time to implement. In addition, it will consider where it might be possible to make changes more rapidly, within the existing statutory framework.

We are seeking views from a range of stakeholders across the legal services sector including, the representative and regulatory arms of each of the approved regulators and licensing authorities, and those applying to be approved regulators/licensing authorities, the Legal Services Board, Office for Legal Complaints, Legal Services Consumer Panel, Office of Fair Trading, consumer bodies, legal academics and the judiciary. We will also be seeking views from persons providing legal services, through the Ministry of Justice and Red Tape Challenge websites, in addition to the contributions from representative bodies.

We would be interested in hearing from the listed stakeholders about concerns with and ideas for reducing regulatory burdens and simplifying the legal services regulatory framework. We would be interested in ideas covering the overall legislative framework, and any specific provisions or aspects within it, whilst retaining appropriate regulatory oversight. I would ask that you respond by **2 September 2013**, to the email or postal address above.

In addition, we would be happy to meet with stakeholders, to discuss the review and views and ideas for reducing the burden. If you are interested in meeting with us, please contact me on 0203 334 4568, or at jenny.pickrell@justice.gsi.gov.uk, to arrange a suitable time.

Jenny Pickrell
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