

Table of mandatory consultees advice and IPS representations

Mandatory Consultee	Advice	IPS Representation
OFT	<p>OFT’s default position is that unless there is compelling evidence to show a significant detriment to competition, the OFT is unlikely to raise any substantive concerns.</p> <p>The OFT found no evidence or theory to suggest that the IPS becoming an AR for probate and reserved instrument activities would (or would be likely to) prevent, restrict or distort competition within the market to any significant extent.</p>	Pleased to note no concerns.
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Legal Services Consumer Panel (LSCP)	<p>Pleased that throughout the application there is evidence of CILEx/IPS acting on suggestions made in respect of previous consultations.</p> <p>The panel is not in a position to assess the capacity and competence of IPS; this is a important assessment for the LSB</p>	<p>IPS recognises the valuable feedback that has been received during the development of the applications. In particular it has helped in the development of the consumer engagement programme (including consumer feedback and other intelligence)</p> <p>IPs has carefully planned its resources to enable it to regulate entities, building on its experience of authorising individuals. It has undertaken market reserch to develop its understanding of entities and the risks associated with the regulation of them. It has recruited additional experienced staff and has a project plan for implementation.</p> <p>(For LSB assessment see</p>

		paragraph 12 to 16)
LSCP	<p><i>Overall regulatory approach:</i> No major policy concerns identified.</p> <p>LSCP strongly supports the regulation of the full range of work undertaken in the areas of probate and reserved instrument activities as there is a high risk of consumer detriment.</p> <p>LSCP strongly support the authorisation by competence model</p>	<p>IPS regards regulation of all activities as essential in protecting and promoting the interests of consumers and the public.</p> <p>The authorisation by competence model builds on IPS experience in this area. The competence framework cover knowledge, skills and experience</p>
LSCP	<p>Customer engagement: although innovative, LSCP has doubts about the level of participation in Customer feedback website, and given SRAs 'Legal Voices' (now Legal Choices) website is open to all ARs questions why IPS chose to pursue its own solution.</p>	<p>IPS started development of its Specialist Lawyers website before SRA proposal was made. IPS have considered the SRA proposal would not deliver full functionality required of the IPS site but will consider is its site can feed into a central portal.</p> <p>All regulated firms will now be required to participate in the website (previously optional).</p>
LSCP	<p>Consumer vulnerability: Whilst the code of practice has been strengthened, LSCP' is not satisfied that its current treatment of vulnerability satisfies best practice as set out in relevant British Standard (BS18477).</p>	<p>IPS has not adopted the British Standard but has been strongly influenced by it. Work it undertook in this area led IPS to opt for a broad principle (Principle 6) in its Code of Conduct support by its own definition, encapsulating key but broad elements of consumer vulnerability.</p> <p><i>IPS defines vulnerable as follows</i></p> <p><i>A consumer or client is to be regarded as vulnerable if, in obtaining or seeking to obtain legal services, they are at risk of encountering difficulties arising from any specific or general limitations as their physical</i></p>

		<i>abilities, sensory abilities, cognitive abilities, linguistic abilities, geographical location, economic resources or any combination of these”</i>
LSCP	<i>Code of Conduct:</i> The revised Code has taken the consumer outcomes identified in LSB’s research as a starting point and developed these into broad principles, resulting in a quite specific list of service features. Could a single overarching principle have been used?	IPS’ view is that Principles 5 and 6 deliver broad statements.
LSCP	<i>Financial protection:</i> Compensation grant limit of £500,000 per claim is too low given losses from conveyancing transactions may involve higher values. The Solicitors Regulation Authority’s grant limit is £2 million.	In setting this level IPS carried out a review compensation payments made to consumers by other regulators in 2012. The average SRA payment was £14,000; the Bar Mutual Fund made 32 payments over £50,000 and 7 payments over £250,000; CLC payments ranged between £30,000 and £40,000. The CLC primarily regulates entities undertaking high risk conveyancing, did not make any payment higher than £40,000 in 2012.  This supports IPS’ view that a client will not have lost the full equity of a property therefore the cap will be sufficient. IPS thinks it has struck the right balance between its having appropriate arrangements in place and maintaining the fund at a proportionate and affordable level.
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Lord Chief Justice (LCJ)	The LCJ notes his broad concern that regulatory competition will have an impact on standards. The LCJ suggests that there should be a comparison with the standards of the SRA and the	A single regulator does not guarantee high standards. The premise of the Act is that competition drives up standards and that there can be more than one

	BSB	<p>regulator, provided they can operate to standards required by the Act.</p> <p><i>Note: much of the IPS regulatory arrangements is built on (and in some places mirrors) the SRA approach.</i></p>
LCJ	<p>Contentious probate - Unclear whether it relates to the preparation of probate papers in non-contentious probate only or also extends to contentious probate.</p>	<p>The probate application is intended to cover non-contentious probate;</p> <p><i>IPS have adopted the definition in the Act where the activity is the “preparing of papers”. If the matter is not concluded from this, IPS view is that it becomes litigation and the adviser would need to be a litigation practitioner or refer the case to someone authorised for the conduct of litigation.</i></p>
LCJ	<p>Competency requirements are relevant to the activity to be regulated.</p> <p>If the application only relates to non-contentious probate only, consideration needs to be made of the repercussions in terms of cost and delay of what appears to be a non-contentious case but later is disputed.</p>	<p>IPS agrees that the exercise of probate rights requires utmost professional skill and care.</p> <p>The proposals lead to the development of practitioners who are competent to practise at the point of authorisation rather than only at the point of qualification.</p> <p>Applicants will be required to demonstrate that they have significant experience of the work and knowledge of the subject area before being able to practise.</p>