

To:	Legal Services Board
Date of Meeting:	9 July 2014
Item:	Paper (14) 39

Title:	Technical changes to some of the Legal Services Board's Rules
Workstream(s):	Statutory Decisions
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Status:	Official

Summary:

This paper seeks the Board's agreement to the approval of the proposed changes to some of the Legal Services Board's (**LSB**) rules made under Schedule 13 to the Legal Services Act 2007 (**LSA 2007**) and to the rules made under Section 96 of the LSA 2007. The rules concern:

- the time limits for making representations to licensing authorities;
- the consideration of those representations by licensing authorities and the time limits for making appeals to the relevant appellate body or to the High Court (specifically on a point of law arising from the decision of the relevant appellate body and only with the High Court's permission); and
- the time limit to appeal against a financial penalty imposed by a licensing authority.

We have determined that changes to these rules are necessary for the following reasons:

- to ensure that the LSB's rules do not conflict with those of the General Regulatory Chamber (**GRC**) of the First Tier Tribunal (**FTT**);
- to remove a provision in the rules that is inconsistent with the consultation requirements in sections 205(2) and 205(9) of the LSA 2007;
- a general tidy up of the drafting of the rules.

We have not altered the policy intent behind the rules or the time periods within which actions must be taken.

A consultation setting out the proposed changes was published on the website for four weeks between 27 May 2014 and 24 June 2014. It invited representations and no responses were received.

The proposed changes to the LSB's rules are included in **Annex A** of this paper.

Recommendation(s):

The Board is invited to:

- note the content of the LSB's decision document at **Annex A** to this paper and to approve its publication; and
- approve the changes to the LSB's Rules set out in **Annex A, B and C** of the LSB's decision document.

Risks and mitigations

Financial: None

Legal: The current rules contain a provision that is inconsistent with sections 205(2) and 205(9) of the LSA 2007 which requires us to consult on any rule change, even if it is immaterial. In addition, some of the rules conflict with The Tribunal Procedure (First-tier Tribunal)(General Regulatory Chamber) Rules 2009¹ because they do not reflect the GRC of the FTT's discretion in terms of time to make an appeal.

Reputational: The LSB's rules should, as far as is possible, be consistent with other related rules such as The Tribunal Procedure (First-tier Tribunal)(General Regulatory Chamber) Rules 2009 to avoid the risk of ambiguity for licensing authorities and law firms.

Resource: None

Consultation	Yes	No	Who / why?
Board Members:		√	Changes consulted on were minor and technical in nature so did not require Board member input prior to presenting to the Board.
Consumer Panel:		√	No specific consumer issues identified.
Others:	N/A		

Freedom of Information Act 2000 (Fol)

Para ref	Fol exemption and summary	Expires
Annex A	Section 22 – information intended for future publication	

¹ <http://www.justice.gov.uk/downloads/tribunals/general/consolidated-TPFTT-GRC-Rules2009-6-04-12.pdf>

LEGAL SERVICES BOARD

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Technical changes to some of the Legal Services Board's (LSB) Rules

Background

1. The LSB has previously made rules under Schedule 13 to the LSA 2007 concerning the time limits for making representations to licensing authorities, the consideration of those representations by licensing authorities and the time limits for making appeals to the relevant appellate body or the High Court (specifically on a point of law arising from the decision of the relevant appellate body and only with the High Court's permission). Rules had also been made under section 96 of the LSA 2007 relating to the time limit to appeal against a financial penalty imposed by a licensing authority.
2. We have determined that changes to the rules are necessary for the following reasons:

2.1. to ensure that the LSB's rules do not conflict with those of the General Regulatory Council (GRC) of the First Tier Tribunal (FTT):

2.1.1. When considering the Intellectual Property Regulation Board (IPReg) and The Institute of Chartered Accountants in England and Wales (ICAEW) designation applications, both applications required a separate statutory order under section 80 of the LSA 2007 that would allow for the use of the GRC of the FTT as their appellate body. The GRC of the FTT reviewed the orders and identified that some of the rules previously made by the Board conflicted with the GRC of the FTT's own rules: the GRC of the FTT rules give it discretion to extend its own time limits, whereas the LSB's rules prescribe a set time period. We agreed with the GRC of the FTT that we would seek to amend our rules to resolve this conflict;

2.2. to remove a provision in the rules that is inconsistent with the consultation requirements in sections 205(2) and 205(9) of the LSA 2007:

2.2.1. The rules contain a provision that is inconsistent with the consultation requirements in sections 205(2) and 205(9) of the LSA 2007. The original rules were drafted to allow the LSB to make non-material changes to them without the need for consultation. However, the LSB's view now is that section 205(2) of the LSA 2007 requires us to consult on any modification of our rules, no matter how immaterial that change is. This is supported by s205(9) which confirms that any references to "making" rules include references to "modifying" rules;

2.3. to generally tidy up the drafting of the rules:

2.3.1. Other minor drafting amendments were required to improve the presentation of the rules.

Consultation & representations received

3. The consultation period was conducted for four weeks between 27 May 2014 and 24 June 2014. It was determined that the changes to the LSB's rules would not adversely impact any individual or group; they are also minor and technical in nature and necessary to correct inconsistencies. Therefore a decision was taken by the LSB that four weeks was a sufficient period of time in which to carry out the consultation.
4. The proposed changes to the LSB's rules were annexed to the consultation in tracked changes so it was clear to the reader what the proposed amendments were.
5. We received no responses to the consultation. However in revising the final rules to be agreed by the Board and published on the LSB website, some minor amendments have been made to the version of the rules consulted on which include:
 - 5.1. inserting 'defined' in B 2 of **Annex A** of the LSB's decision document to ensure the rule was clearly drafted;
 - 5.2. omitting the previous C 4 in **Annex C** of the LSB's decision document which amended the paragraph on consultation as this paragraph was duplicated in the new D 5 of **Annex C**; and
 - 5.3. moving the date the rules were made and version number to top of the rules to ensure it was clear when the rules were last amended.
6. These minor amendments were made for final drafting purposes only.
7. **Annex A** of this paper sets out the LSB's decision document summarising the outcome of the consultation; it also includes a final version of the rules to be approved by the Board. We intend to publish the LSB's decision document and the final rules on the LSB website, subject to Board approval.

Communication with existing and potential licensing authorities

8. At the pre-consultation stage we engaged with IPReg, ICAEW and the Council for Licensed Conveyancers (**CLC**) to notify them of the changes to the LSB's rules, as these bodies either currently use or intend to use the GRC of the FTT as their appellate body.
9. The LSB will continue this work post-consultation to establish with IPReg, ICAEW and CLC whether any minor amendments will be required to their regulatory

arrangements to ensure they are aligned with the LSB's rules and with those of the GRC of the FTT. Applications to the LSB to alter any of the approved regulators' regulatory arrangements will be considered under Part 3, Schedule 4 to the LSA 2007. Once we have received the application with proposed alterations, we will consider whether the application can be exempted from the full approval process.

10. The LSB will also conduct work with future applicants seeking designation to ensure their proposed regulatory arrangements are in line with the LSB's rules.

Recommendation to the Board

11. The Board is invited to:

- 11.1. note the content of the LSB's decision document at **Annex A** to this paper and to approve its publication; and
- 11.2. approve the changes to the LSB's Rules set out in **Annexes A, B and C** of the LSB's decision document.

27 June 2014