

Paper (12) 28 Annex B - Summary of approach to LSB section 162 guidance on diversity data collection and transparency

	Summary of approach	Mandated?	Model questionnaire?	Frequency?	Publication?	Wider workforce?	Timetable	Overall assessment/departure from the guidance
SRA	<p>SRA will require firms to collect and submit data in 2012 through a standalone exercise. From 2013, data requirements will be brought within standard firm level reporting processes and firms will also be required to publish at entity level.</p> <p>SRA will also conduct a further thematic supervision pilot in 2012 looking at the level of compliance at entity level and why some firms are not collecting diversity data.</p>	<p>Requirements will hang on existing outcomes/indicative behaviours in Principle 9 of CoC</p> <p>For 2013 - supervision and enforcement will be similar to approach taken for all other information provision requirements</p>	Yes	Standalone exercise in 2012 then annually through regular reporting requirements	Firms will be required to publish from 2013	All employees included	<ul style="list-style-type: none"> Firms required to collect and submit data to SRA Q3/Q4 2012 Aggregated data to be published Q1 2013 Individuals will continue to provide information through the personal profile system on My SRA – SRA will capture information on sole practitioners through this route Thematic Pilot of 100 firms in 2012 to look at compliance with diversity requirement (June to August 2012) 	<p>The SRA's approach will deliver the data collection objective set out in the guidance as firms will be required to collect and report data on the whole workforce. The SRA will publish aggregated data on an annual basis, broken down by job role/seniority.</p> <p>The SRA has decided to require firm level publication from 2013 in order to deliver the transparency objective. Although this represents a divergence from the timetable set out in the guidance, we understand the SRA's reasons for doing so and expect that significant effort is made to encourage firm level publication before this point. In particular, we note that the SRA will be conducting a further thematic pilot with 100 firms in 2012 and that this provides an opportunity for firms to take a proactive approach to publication.</p> <p>We also encourage the SRA to ensure that its approach enables as many firms as possible to publish and that unnecessary restrictions are not put in place for smaller firms. We will continue to encourage the SRA to place responsibility for delivery of the publication requirement with firms, particularly given the additional time available.</p>
BSB	<p>Chambers will be required to appoint a Diversity Data Officer to conduct the monitoring exercise and publish entity data (or make available to public where chambers do not have websites). <i>Entity level data will not be provided to the BSB</i></p> <p>Individual barristers will also be required to report directly to the BSB through the authorisation to practise process to enable publication of aggregated data</p>	Introducing a new rule requiring Chambers to gather data submitted to LSB along with other changes to Equality & Diversity rules in April 2012	Yes	3 yearly for entity level requirement and annually for individual reporting to BSB	Requirement placed on chambers but exemptions will be granted to smaller chambers (with less than 10 staff) and chambers will not have to publish any characteristic where less than 10 people have identified	<p>Entity collection/publication requirements to include barristers, clerks, pupils and those employed directly by chambers (incl. people that aren't legally qualified).</p> <p>Individual reporting and publication of aggregated data will be for the profession only</p>	<ul style="list-style-type: none"> Rules planned to come into effect Sept 2012 Chambers to collect and publish by Dec 2012 Individual data collected each January through the renewals process 	<p>We are concerned that the BSB's proposed approach will fail to deliver the objectives in the guidance. On the first objective, data will be collected by the BSB and published at aggregate level but this will not include data on the composition of the whole workforce as chambers are not required to provide this information to the BSB.</p> <p>The BSB proposes to deliver the second objective through a new code requirement placed on chambers requiring the appointment of a diversity data officer with responsibility for ensuring that data is collected and published every three years. We welcome the BSB's decision to place an explicit responsibility for entity level collection and publication on chambers. However, we consider that the impact of the accompanying guidance, specifically the proposed exemption from publication of any category where there is less than 10 individuals within it, will undermine the publication requirement and threatens delivery of the transparency objective. The BSB has also provided a similar exemption for chambers employing less than 10 staff overall, which we understand may affect up to almost a quarter of chambers.</p> <p>We are aware that there are already chambers publishing data where there are less than 10 individuals in each category and we</p>

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	on the profession							anticipate that these chambers most likely have already made an assessment of the legality of doing so. In light of our recommendation for data collection and publication, there is, in our view, a potential danger that the detailed prescription within the BSB's proposed guidance could prevent chambers from making their own decisions about delivering the outcomes the BSB seeks. Accordingly, in considering the BSB's application for approval of changes to regulatory arrangements, we will want to thoroughly consider the wording of the proposed guidance.
	Summary of approach	Mandated?	Model questionnaire?	Frequency?	Publication?	Wider workforce?	Timetable	Overall assessment/departure from the guidance
CLC	Individuals will be required to provide diversity data to the CLC through online version of the model questionnaire. CLC will then produce individual summaries for firm publication (to be given back to approx 250 firms regulated by CLC) and publish aggregated data itself	Firms mandated to publish but no rule change required as covered by existing outcome in Code of Conduct. Firms will be required to confirm compliance with publication requirement in their annual return (Nov 12)	Yes but amendments have been made to give guidance on DPA issues and clarify role of CLC as data controller. <i>Nb. We are awaiting a revised version of the model questionnaire after raising concerns that wording may have wrongly deterred people from providing information</i>	Triennial (unless poor uptake or significant increase in regulated community) <i>Nb: The CLC plans to remove the existing requirement on ABS applicants to provide diversity data as it will duplicate the profession wide exercise</i>	Yes – CLC will supply data to entities for publication and publish aggregated data itself CLC is taking this approach to maximise compliance but will review whether firms should be collecting data themselves in the future	All employees to be included in the survey – incl. support staff and broken down by seniority	<ul style="list-style-type: none"> Start profiling June 2012 CLC will publish summary of whole regulated community fully broken by strand and seniority October 2012 Provide firm summaries for publication November 2012 Review in December to determine when next cycle should take place 	<p>We consider the CLC's proposed approach will deliver the first objective on gathering an evidence base as the CLC will collect and publish aggregated data using an online version of the model questionnaire.</p> <p>In regard to the transparency objective, the CLC will collate the information into firm level summaries where applicable and provide them back to CLC regulated entities for publication.</p> <p>We understand that the CLC has decided to take the approach of collating the data and providing summaries to firms to maximise compliance and enable resource to be focused on enforcing entity publication. Given the relatively small number of entities regulated by the CLC, we understand the reasons for deciding that this approach is the best way to ensure the outcome of promoting transparency at an entity level is delivered.</p> <p>However we would encourage the CLC in the next cycle to push greater responsibility on to firms by requiring them to collect and publish their own data. As with any regulatory requirement, it is a matter for firms to determine how it applies to them given their particular circumstances.</p>
CILEX/ IPS	Omnibus survey conducted for all members every two years. Where IPS regulates immigration practices and businesses offering unreserved services, they will be required to collate and publish data. Nb. IPS will also	No – survey to individual members which cannot be mandatory	Yes plus additional social mobility questions (from Social Mobility Toolkit)	Omnibus every two years but new members will be required to provide data as part of registration process	IPS to publish aggregated data ILEX members will also be covered by SRA firm data (as majority are employed in sols firms)	N/a as IPS does not currently regulate entities	<ul style="list-style-type: none"> Omnibus survey emailed to all members in February 2012 Survey results published by the end of Spring 2012 Members can also provide diversity data through the online membership information system and this will be updated to include the additional fields in 2013 	<p>As we set out in our response to consultation, regulators that do not currently regulate entities should not be expected to impose a requirement for publication at entity level, although they should still take steps to gather and publish data about their regulated community. This is reflected in the first of the two objectives at paragraph 11 of the guidance on gathering an evidence base. We welcome the commitment from IPS to include action plans on entity collection and publication in any future designation applications.</p> <p>We therefore consider the decision to include the model questionnaire within the CILEX members omnibus survey and to publish aggregated data should meet the data collection objective. We understand that this exercise will be completed every 2 years but that information on new members will be acquired through the registration process. We suggest that IPS considers how these</p>

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	include entity publication proposals in future application to regulate entities							two processes can work together to understand trends in the data. Depending on uptake in the exercise, we would encourage IPS to consider other methods of collecting data such as through the renewals process. Given that many members work within SRA regulated firms, we would also encourage IPS to continue discussions with the SRA as it develops its approach to ensure that the aggregated data set can provide the necessary information on CILEX members.
	Summary of approach	Mandated?	Model questionnaire?	Frequency?	Publication?	Wider workforce?	Timetable	Overall assessment/departure from the guidance
CLSB	Anonymous questionnaire has been circulated to all of regulated community	No voluntary as CLSB does not regulate entities and individual completion of questionnaire cannot be mandated	Yes	Annually	As part of CLSB impact assessment by end of 2012	ACL will also collect data on trainees	<ul style="list-style-type: none"> Questionnaire distributed February 2012 CLSB has reported (in March 2012) a 26% response rate from cost lawyers and 19% from trainee cost lawyers CLSB to analyse data April/May and publish an impact assessment 	<p>As we set out in our response to consultation, regulators that do not currently regulate entities should not be expected to impose a requirement for publication at entity level, although they should still take steps to gather and publish data about their regulated community (as far as is possible given that completion of the surveys by individuals must be voluntary). This is reflected in the first of the two objectives at paragraph 11 of the guidance.</p> <p>We therefore consider the decision to conduct an annual membership survey and publish aggregated results through an impact assessment should meet this objective.</p> <p>We recognise the limitations of a voluntary survey as highlighted by the CLSB and encourage CLSB to continue to review the uptake of the exercise in subsequent cycles.</p>
Faculty Office	Voluntary questionnaire sent as part of PCF renewal process	No voluntary as FO does not regulate entities and individual completion of questionnaire cannot be mandated	Yes	3 year cycle	On FO website	N/a – FCO only regulate individual notaries	<ul style="list-style-type: none"> Exercise completed in Autumn 2011 as part of practising certificate renewal FO reported a 47% response rate from notaries Summary of aggregated data to be published in April 2012 	<p>As we set out in our response to consultation, regulators that do not currently regulate entities should not be expected to impose a requirement for publication at entity level, although they should still take steps to gather and publish data about their regulated community (as far as is possible given that completion of the surveys by individuals must be voluntary). This is reflected in the first of the two objectives at paragraph 11 of the guidance.</p> <p>We note that the Faculty Office has already completed its diversity monitoring exercise and reported a 47% return rate. Aggregated data will be made available on the Faculty Office website.</p> <p>We understand the decision to repeat the exercise on a 3 yearly cycle but have suggested that new entrants are given the opportunity to provide information as part of the registration process.</p>
IPREG	Will require registered bodies to conduct a diversity monitoring exercise – starting with	TBC – says they will require but not clear how	Yes	Professionally qualified staff every 3 years and wider workforce every 5 years`	IPREG does not support compulsory publication but larger firms will	Proposing staged approach: Stage One (2012): entities required to	Further detail TBC	IPREG's proposals require firms to collect and provide data on the professionally qualified workforce in 2012. Information on the wider workforce (i.e. those that aren't professionally qualified) will not be available until 2014

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	<p>professionally qualified staff only (in 2012) and broadened out to wider workforce (2014).</p> <p>IPREG will not require publication (due to size of firms and concerns about data security and potential for breaches of confidentiality) but will encourage publication of data particularly by larger employers</p>				<p>be “encouraged” to publish data in a way that is DPA compliant</p> <p>(NB: largest IPREG firm employees 100, next largest 50)</p> <p>IPREG will collect and publish aggregated data on basis of “London” and “outside London” - broken down by seniority</p>	<p>conduct monitoring exercise in relation to registered attorneys, other professionally qualified staff and all employees training to require a professional qualification</p> <p>Stage Two (2014): Extends to all members of staff, particularly “paralegals” providing legal services to the public (directly or through an AP) and employees providing IP registration or renewal services (or similar)</p>		<p>We understand IPREG’s decision to divert from our suggested timetable and take a staged approach to data collection. However, we strongly encourage that the two sets of workforce data are brought together at some point in the future so that aggregated data can be published as a single set for each cycle.</p> <p>As IPREG does not support compulsory publication of data by regulated entities, the extent to which the second objective of promoting transparency at an entity level is delivered therefore depends on its ability to encourage firms to publish and the willingness of individuals to provide their data for this purpose.</p> <p>While we do not expect IPREG to introduce a rule making publication compulsory across the board, we do not share IPREG’s view that publication is only possible for larger entities (i.e. those with over 100 staff). We are therefore concerned that any guidance provided to firms may discourage the smaller ones from publishing; this could then have a negative impact on the delivery of the transparency objective. Furthermore, we are of the view that the potential risks around data security and potential breaches of confidentiality could be mitigated by the firms themselves and we remain of the view that completion of the questionnaire provides explicit consent for the data to be used as set out. We therefore encourage IPREG to avoid taking an overly prescriptive approach on these issues and to place more responsibility with firms in terms of addressing any potential data protection concerns they have.</p>
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