

# Reviewing the Internal Governance Rules

**Enhancing regulatory independence within the current legal framework**

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**Analysis of submissions received**

**The LSB's response and decision on its approach**

**24 July 2018**

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## Executive summary

1. This document sets out the results of the LSB's consultation on whether changes are needed to its internal governance rules (IGR) to enhance regulatory independence. It contains an analysis of responses to the consultation and the LSB's decision on the approach it will take to new IGR and guidance. Consumers and the public as a whole are more likely to have confidence in legal services if regulation is, and is seen to be, independent. Regulatory independence also gives providers the certainty they need to grow and innovate.
2. The LSB's consultation explored four options for the IGR, which represented a spectrum of change, from continuing with or amending the existing IGR, through to introducing an entirely new structure and approach to the IGR. It also considered how the LSB should gain assurance of compliance with the IGR.
3. We also undertook supplementary activities aimed at exploring the views of stakeholders, in order to inform the consultation. These activities included individual stakeholder meetings and a stakeholder event, following the launch of the consultation.
4. We received 15 responses to the consultation. These were largely, but not exclusively, from bodies that are approved regulators (ARs) under the Legal Services Act 2007 (the Act) and (where different) the bodies to which the ARs have delegated their regulatory functions. One response in full was provided on a confidential basis, as was a supplement to a response that was provided publicly. We are grateful to all of the organisations who took the time to engage with us and respond. A list of the individual respondents is at Annex A and copies of the responses can be found on the LSB's website.<sup>1</sup>
5. This review is wholly separate from the recent LSB investigation into The Law Society's arrangements for monitoring and oversight of the Solicitors Regulation Authority (SRA), which focused on past events and compliance with the current IGR. That investigation did, however, offer an additional source of evidence on the IGR. We therefore provided an opportunity for further comments from stakeholders on the IGR in light of the LSB investigation report, once it had been published on 31 May.<sup>2</sup> We received six responses. Those respondents are also listed in Annex A and copies of the responses are on the LSB's website.<sup>3</sup>

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<sup>1</sup> [www.legalservicesboard.org.uk/what\\_we\\_do/consultations/closed/20180724\\_Submissions\\_Received.htm](http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/20180724_Submissions_Received.htm)

<sup>2</sup> Investigation into the Law Society's oversight and monitoring arrangements for the Solicitors Regulation Authority (31 May 2018)  
[http://www.legalservicesboard.org.uk/what\\_we\\_do/pdf/2018/INVESTIGATION\\_FINAL\\_REPORT\\_31\\_May\\_2018.pdf](http://www.legalservicesboard.org.uk/what_we_do/pdf/2018/INVESTIGATION_FINAL_REPORT_31_May_2018.pdf)

<sup>3</sup> [www.legalservicesboard.org.uk/what\\_we\\_do/consultations/closed/20180724\\_Submissions\\_Received.htm](http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/20180724_Submissions_Received.htm)

6. It is our aim that, in future, there should be fewer disagreements between ARs and regulatory bodies about independence matters, and, where disagreements do arise, these can be resolved more quickly and smoothly. We are committed to adopting a new IGR framework which is proportionate and reflects best regulatory practice. We will set out in the next consultation an initial qualitative assessment and seek information from stakeholders to help us evaluate the impact of our proposals. We will seek to ensure that the cost of implementation is minimised, consistent with maintaining the effectiveness of the IGR.
7. A summary of responses to the consultation and to the investigation report, along with our consideration of them is discussed in Annex B of this document. In brief, high level points from the submissions made included:
  - a desire for greater clarity on AR and LSB oversight roles, but without the IGR becoming overly prescriptive or burdensome
  - general support for some change to the IGR, but divergence among respondents on what this should look like
  - a desire to minimise the burden imposed on ARs in providing assurance on compliance with the IGR, with some support for the LSB integrating this compliance process into the LSB's broader regulatory performance work.
8. We have taken into account evidence on the current IGR, including the evidence set out in our consultation document, the responses to that consultation, evidence from the LSB investigation report and the views expressed on it.
9. On the basis of our analysis of that evidence as set out in Annex B, we intend to develop new rules that take a more principled and outcome-focused approach and that are supported by statutory guidance. Where possible, the guidance will provide greater clarity on the residual role of ARs once regulatory functions have been delegated. While this approach was not a specific option in the consultation, the consultation paper allowed for a hybrid option combining various different elements discussed in the paper. The outcome-focused rules approach is such a hybrid model, which takes into account feedback from respondents and builds on options 2b and 2c from our consultation.
10. In relation to assurance of compliance with the IGR, we intend to introduce a principle or principles around proactive reporting of non-compliance and we will consider whether specific obligations may also be appropriate in addition to principles to reinforce the separate responsibility of both ARs and (where different) their regulatory bodies to report non-compliance. The LSB will also assure itself on compliance with the IGR in parallel with, and in due course as part of, its future regulatory performance assessments. Alongside the IGR we also intend to support ARs and regulatory bodies to move towards best practice

in relation to regulatory independence, in line with our aim of enhancing regulatory independence within the existing legislative framework.

11. The next steps for this review will be a consultation on new IGR and draft statutory guidance. We anticipate publishing the consultation document in autumn of this year, with a view to introducing new IGR in spring 2019.

## Background

12. The LSB is required under section 30 of the Act to make IGR setting out requirements to be met by ARs relating to the independence of regulatory functions.

13. In November 2017, the LSB published a consultation on whether changes are needed to its IGR to enhance regulatory independence. Annex C of that consultation outlined the background to the development of the current IGR. That consultation explored whether changes are needed to the IGR to enhance regulatory independence, given:

- the importance of regulatory independence in delivering confidence to consumers and providers of legal services, to investors in those services, and to society more broadly
- that the Act does not allow the LSB to require structural or legal separation of representative and regulatory functions
- for the time being, the low likelihood of a review by government of the legislative framework for the regulation of legal services
- evidence to date suggesting there are issues with the current IGR, including a steady stream of disagreements between ARs and their regulatory bodies about independence matters
- dissatisfaction with the exclusion of certain ARs from some of the more detailed obligations set out in the Schedule to the IGR.

14. The consultation explored two high-level options for the IGR, on which we sought evidence to inform next steps. The consultation also allowed for a hybrid of the options through combining various different elements discussed in the paper. In summary and for reference, the two high level options in the consultation were:

- option 1: no change to the current IGR, but potentially with increased assurance and LSB enforcement activity
- option 2: amending the IGR, with a number of possible sub-options that might involve incremental through to extensive amounts of change and/or prescription. Those sub-options were:
  - option 2a - incremental changes to the current IGR

- option 2b - more extensive changes, such as additional obligations and/or changes to definitions such as the definition of applicable approved regulator (AAR)<sup>4</sup>
- option 2c - a new approach to the IGR, such as prescribing specific 'gateways' for the permitted flow of information and interactions between ARs and (where separate) their regulatory bodies.

15. The consultation also set out initial thoughts on how the LSB might gain assurance on compliance by ARs with the IGR (regardless of whether they were amended as a consequence of the consultation). Options included re-starting dual self-certification (DSC) of compliance by ARs and their regulatory bodies,<sup>5</sup> third party assurance<sup>6</sup> and/or incorporating IGR compliance into LSB regulatory performance assessments.

16. Our review of the IGR is separate from the investigation into The Law Society's arrangements for monitoring and oversight of the SRA, which was focused on past events and compliance with the existing IGR. However, given the centrality of the IGR to the investigation, stakeholders were given the opportunity to provide us with additional views on the IGR in light of the investigation report.<sup>7</sup>

17. Our learning from the investigation is at paragraphs 235 to 236 in the investigation report. In summary, our learning was:

- a lack of clarity around what oversight the AAR should exercise and the practical consequences of disagreements on the regulator's resources
- the relationship between rule 6 and rule 8<sup>8</sup> could be stated more clearly

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<sup>4</sup> The current IGR set out general requirements that apply to all ARs, plus a Schedule of more detailed requirements that apply only to 'applicable approved regulators' (AARs). AARs are ARs that satisfy both of the following conditions: (i) they are responsible for the discharge of both regulatory and representative functions in relation to legal activities and (ii) they regulate persons whose primary reason to be regulated by that AR is those persons' qualifications to practise a reserved legal activity that is regulated by that AR.

<sup>5</sup> Dual self-certification was an annual statement of compliance with the IGR, co-signed by the AR and its regulatory body, which included identification of any issues in complying and how these had or would be rectified.

<sup>6</sup> Third party assurance is independent third party review and reporting, with the scope of review determined typically by the commissioning organisation(s), e.g. assessing the adequacy of processes such as risk management.

<sup>7</sup> The investigation report was published on 31 May 2018 and stakeholders were given until 18 June 2018 to submit any additional comments to the LSB.

<sup>8</sup> Rule 6 states that each AR must have arrangements that observe and respect the principle of regulatory independence, and must act in a way which is compatible with the principle, and which it considers the most appropriate for meeting the purpose of that principle. Rule 8 states that each AAR must meet the more detailed requirements set out in the Schedule to the rules, which include that an AAR's arrangements should not impair the independence or effectiveness of the performance of its regulatory functions.

- the requirements in the Schedule to the IGR could be more clearly set out so that our expectations of ARs are more clearly understood
- the definition of regulatory independence in the IGR may not best reflect the aim of ensuring regulatory independence and creates an unnecessary degree of complexity.



## Overview of responses

18. This section contains an overview of responses to the consultation and also of the further submissions we received following the publication of the LSB's report into its investigation into The Law Society's arrangements for monitoring and oversight of the SRA. Annex B contains a more detailed summary of the responses and further submissions, and the LSB's views on the issues raised.
19. Several respondents argued that the evidence set out in the consultation (which is repeated at Annex D for reference) did not support the case for changing the current IGR. In their view, the issues identified in the consultation did not apply to them and/or the evidence was no longer current.
20. The majority of stakeholders identified the following problems with the current IGR:
  - a. they are too open to different interpretation and some clauses appear to contradict each other
  - b. they lack clarity on what oversight an AR may legitimately exercise over its regulatory body once regulatory functions are delegated in accordance with the IGR
  - c. they are outdated and reflect the relative immaturity of the legal services regulatory system shortly after the creation of the LSB
  - d. they are inconsistent with current moves across the economy towards outcome-focused regulation.
21. The majority of respondents wanted new IGR to:
  - a. provide greater clarity about the respective roles of the AR, the regulatory body and the LSB
  - b. provide the ARs who are named in the Act as the responsible body for regulatory functions with a legitimate and effective mechanism for managing any risks arising from the delegation of those functions
  - c. maximise the independence of regulatory bodies
  - d. not be overly prescriptive or burdensome.
22. The respondents to the consultation were divided on how best to address the key problems they identified and deliver the desired outcomes set out above. Figure 1 on the next page provides a summary of their responses.

Figure 1

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1 -> No change to the IGR (11 respondents)



2 respondents agreed



Both respondents who wanted no changes to the IGR broadly agreed with each other



The evidence for change doesn't apply to all ARs



9 respondents disagreed



Evidence from both ARs and regulatory bodies is that the current IGR don't work

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2A -> Incremental changes to the IGR (10 respondents answered this question, 8 of whom expressed a clear preference)



3 respondents agreed



Encouraged a simplification of the schedule to the IGR



Incremental change might be a way to revise guidance on the current IGR



Incremental change or a new approach altogether could be used to improve the IGR



5 respondents disagreed



Option not ambitious enough (3 respondents agreed with this)



Opposed any change without the LSB publishing all supporting evidence

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2B -> More extensive changes (10 respondents answered this question, 9 of whom expressed a clear preference)



2 respondents agreed



That's the minimum step the LSB should take



More likely than option 1 and 2a to meet stakeholders' objective/address concerns about regulatory independence



7 respondents disagreed



The existing IGR framework is not fit for purpose



Didn't support more extensive changes to the IGR without legislative reform



A new approach or significant reform is required as more extensive changes, as with incremental changes, would not work (3 respondents agreed)

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2C -> A new approach "gateways" (10 respondents answered this question, 9 of whom expressed a clear preference)



5 respondents agreed



It could help clarify the role of and relationship between AR, the regulatory body and the LSB. However, how the respondents envisaged this option working in practice differed a lot. (5 respondents agreed with this)



Gateways could assist with transparency



It could be useful to ensure more information sharing



4 respondents disagreed



This option was a step too far



Questioned the legality of such an approach

23. Several respondents favoured elements of several different options and some respondents did not directly comment on any of the options. Where there was support for an option, this was often for a number of conflicting reasons. Little quantitative evidence was provided over and above the evidence set out in our November 2017 consultation document (repeated at Annex D). However, what is clear from the views expressed in the submissions made to us is that there is very limited support for the 'no change' option (option 1). Several respondents noted that any benefits from changing the rules would need to outweigh the costs of adapting to the amended rules.
24. Views on how the LSB could assure itself on compliance with the IGR were mixed. One general view expressed was that assurance is a core LSB function, which should be prioritised above other more discretionary work and so should not require any additional funding. Key points made about the options for assurance set out in the November 2017 consultation document included:
- a. A lack of support for DSC, because it is labour intensive, does not encourage collaboration or problem solving, and may duplicate reporting required for LSB regulatory performance assessments.
  - b. Some support for incorporating IGR compliance into the LSB's regulatory performance assessment process, as this was seen as a proportionate approach. However, a concern among those who did not support this option was that the focus of the regulatory performance framework is regulatory bodies, whereas IGR compliance must also cover the AR.
  - c. Limited support for the existing option for pro-active reporting of non-compliance with the IGR. Some respondents did however see this as a useful mechanism to ensure that any issues can be addressed in a timely, proportionate and targeted manner.
  - d. All respondents except one were against the use of third party assurance, because it was seen as too costly, ineffective and bureaucratic, and was felt to present challenges in securing the cooperation of both the AR and regulatory body.
25. Further submissions were made to us by six respondents following publication of the LSB's investigation report in May 2018. These submissions reiterated many of the points made in response to the consultation, as discussed above. No significantly different or new points were raised. A number of the supplementary responses said that the investigation report substantiated their position, albeit that those positions differed.
26. All of the respondents agreed that some change to the IGR could be helpful, but views varied on how much is needed. There was common agreement on there being scope to introduce greater clarity, for example, in relation to definitions, terminology and the presentation of the IGR. A few specific suggestions were

also given for the content of any new rules and guidance, along with how the LSB should manage compliance with the IGR.

## The LSB's decision

27. As explained in our November 2017 consultation document, our aim is to enhance regulatory independence within the current legislative framework. We are ambitious to achieve as much regulatory independence as possible, consistent with the Act. In addition, we want it to be straightforward for ARs and regulatory bodies to understand and comply with the IGR, and for the LSB to take decisions, where necessary, on potential compliance failures. The right IGR will mean there will be fewer disagreements between ARs and regulatory bodies about independence matters. Given that the Act does not create a framework in which all regulatory bodies are structurally separate from representative bodies, there may still be some disagreements. However, where disagreements do arise, we expect that in future it will be possible to resolve them more quickly and smoothly. We are committed to adopting a new IGR framework which is proportionate and reflects best regulatory practice. We will set out in the next consultation an initial qualitative assessment and seek information from stakeholders to help us evaluate the impact of our proposals. We will seek to ensure that the cost of implementation is minimised, consistent with maintaining the effectiveness of the IGR.

28. This section sets out our intended approach to the IGR, and how the LSB will gain assurance on compliance by the ARs with them. We have decided to take this approach in light of:

- evidence and experience of issues with the IGR to date as set out in our November 2017 consultation document and repeated at Annex D for reference
- the legal framework and its limitations, as explained in our November 2017 consultation document and summarised at Annex C
- the submissions made to us in response to our November 2017 consultation document (see paragraphs 16 to 22)
- the views expressed by stakeholders on the functioning of the current IGR in light of the LSB's report of its investigation into The Law Society's arrangements for monitoring and oversight of the SRA (see paragraphs 23 to 24)
- our analysis of those submissions and views (see Annex B) alongside our experience of carrying out the investigation into The Law Society's arrangements for monitoring and oversight of the SRA (see paragraph 15).

## New IGR and statutory guidance

29. The LSB intends to rewrite the IGR and produce statutory guidance<sup>9</sup> to accompany the IGR such that:

- a. the IGR will be outcome-focused<sup>10</sup> and will set out principles that ARs must follow. These may be supplemented for regulatory certainty by some more specific requirements where experience and/or other evidence indicate these are necessary
- b. there is greater clarity on the oversight role of an AR that has both regulatory and representative functions and what the LSB expects AR oversight of the regulatory body to look like.

30. Where required, rules can be reinforced (as the LSB intends to do in this case) with guidance. Statutory guidance under the Act does not contain enforceable requirements but rather it provides – among other things – non-exhaustive indicators evidencing that a desired outcome has been met. This approach takes into account feedback from respondents to our consultation and represents a hybrid of options 2b and 2c. Statutory guidance will incorporate examples of how ARs may engage with their regulatory bodies, drawing on what would have been ‘gateways’ under option 2c. In our consultation we noted that elements of the various options could be combined as required.

31. On balance, we believe that rewriting the IGR so that they set out principles and are more outcome-focused, and producing statutory guidance to accompany the IGR, provides the best opportunity within the existing legislative framework to enhance regulatory independence. This is because:

- The evidence shows that there are significant problems with the current IGR and that change is required. As noted in the November 2017 consultation document, issues exist across the sector and are not confined to a particular AR or regulatory body, nor to a limited number of ARs/regulatory bodies. This evidence includes LSB’s experience of

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<sup>9</sup> Section 162 of the Act gives the LSB the discretion to issue guidance on any matter about which it appears to be desirable. To date, the LSB has issued guidance on diversity, complaints handling (published alongside Section 112 requirements for regulators) and education and training. The LSB can have regard to the ARs’ compliance with guidance when it carries out other functions, such as rule change approval, designation decisions and thematic reviews.

<sup>10</sup> Outcome-focused regulation (OFR) sets out *what* should be achieved rather than *how* it should be achieved. OFR gives those regulated freedom to design and deliver the process or mechanism needed to best meet a given outcome according to their own circumstances. The LSB currently uses OFR in its work on diversity (Guidance for legal services regulators on encouraging a diverse workforce February 2017

([http://www.legalservicesboard.org.uk/what\\_we\\_do/regulation/pdf/2017/S162\\_Guidance\\_For\\_Regulators\\_On\\_Encouraging\\_A\\_Diverse\\_Profession.pdf](http://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/2017/S162_Guidance_For_Regulators_On_Encouraging_A_Diverse_Profession.pdf)) and regulatory performance (Regulatory Performance assessment – regulatory performance standards, December 2017 ([http://www.legalservicesboard.org.uk/what\\_we\\_do/consultations/closed/pdf/2017/08122017\\_Regulatory\\_Performance\\_Process\\_Document.pdf](http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/2017/08122017_Regulatory_Performance_Process_Document.pdf))).

dealing with multiple disagreements between ARs and their regulatory bodies about how the IGR should be interpreted and of two formal investigations into breaches of the IGR, along with the submissions made by the ARs and regulatory bodies in response to our November 2017 consultation document about the difficulties they have encountered in applying the IGR in practice.

- Our chosen approach of more outcome-focused IGR with accompanying guidance takes into account the range of different AR and regulatory body scales, scope and structures and provides flexibility to ARs to allow for their different circumstances.
- Changing the IGR will have cost implications for ARs, their regulatory bodies and the LSB. It is important to develop an approach where the benefits of changing the IGR are most likely to outweigh the costs of making those changes – while also bearing in mind that not changing the IGR also incurs costs in terms of ineffective AR-regulatory body relationships and dealing with disagreements. The views of many of the respondents and our evidence suggest that incremental changes to the existing IGR would not sufficiently enhance regulatory independence, and would not fully address the issues experienced and the concerns about the format of the IGR. In view of this, the limited benefits that might arise from incremental changes would in our view be unlikely to outweigh the costs involved of making those changes, including the cost of implementing revised AR oversight arrangements.
- IGR which sought to prescribe all the permissible channels of information flow and permissible interactions between ARs and their regulatory bodies, i.e. gateways, could not realistically anticipate all required information flows and interactions in advance. This would especially be the case given the range of different scales, varying scope and structures of ARs and regulatory bodies and the impossibility of forecasting all circumstances that might be encountered. There would be a high risk that such an approach would be less effective at enhancing regulatory independence than the option of IGR that are more outcome-focused and that are accompanied by statutory guidance. IGR that used gateways would also be likely to require more frequent updates, with associated costs.

## **Other elements of our decision**

### **Applicable Approved Regulators (AAR)**

32. The IGR set out general requirements that apply to all ARs, plus a schedule of more detailed requirements that apply only to AARs. As noted above, AARs are ARs that satisfy both of the following conditions: (i) they are responsible for the discharge of both regulatory and representative functions in relation to legal

activities and (ii) they regulate persons whose primary reason to be regulated by that AR is those persons' qualifications to practise a reserved legal activity that is regulated by that AR.<sup>11</sup> The current definition means that certain ARs with both representative and regulatory functions are excluded from the more detailed obligations set out in the Schedule. Currently:

- the AARs are the Law Society, the Bar Council, the Chartered Institute of Legal Executives, the Chartered Institute of Trademark Attorneys, the Chartered Institute of Patent Attorneys and the Association of Costs Lawyers
- the Council of Licensed Conveyancers and the Master of the Faculties are ARs but not AARs (because they only discharge regulatory functions) and the Institute of Chartered Accountants in England and Wales (ICAEW) and the Association of Chartered Certified Accountants (ACCA) are ARs but not AARs (because they regulate persons whose primary reason to be regulated by them is accountancy services)
- in addition there is one AR that is not an AAR and that is not presently active in the legal services market: the Institute of Chartered Accountants of Scotland (ICAS)

33. The LSB considers that the definition of AAR is no longer appropriate. The current drafting does not reflect the original proportionality rationale for excluding regulators which focus on other sectors from the more detailed obligations around independence. In any event, we no longer consider that the proportionality rationale alone can justify different treatment for those ARs that combine representative functions and regulatory functions only for legal services and those ARs (such as ICAEW and ACCA) that combine representative functions and regulatory functions for legal services and other professional services. This is because:

- The risk to independent regulation of legal services relates to the legal activity being undertaken (which can be the same in both cases) and the fact that (in this scenario) the AR has both representative functions and regulatory functions. The risk does not depend on whether or not other non-legal activities are also being regulated.

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<sup>11</sup> The November 2017 consultation explained (at paragraph 65) that the definition of AAR was developed over the course of our work in 2009. The 'primary reason' element in the current definition was introduced with a view to proportionality and flexibility for ARs that are principally supervised by oversight regulators in other professions. This was on the basis that new ARs are likely to fall into this category would have responsibility only for a very narrow range of reserved legal activities and very few authorised persons.



- Different treatment of ARs (in this scenario) that are regulating the same legal activity runs the risk of creating additional unjustified differences in the operating environment for legal services providers offering the same legal service.
- The case for excluding some ARs on the basis of their limited scale is now weaker, in view of the current and prospective extent of their legal services regulatory activity.<sup>12</sup>

34. As a result, we intend that all ARs that have both representative and regulatory functions will be subject to the same obligations under the new IGR. More broadly, we think that there is no longer any need for the AAR definition at all. Instead, we consider that additional obligations that only apply to ARs that combine both regulatory and representative functions (and where the risk to regulatory independence is therefore greater) can be made clear in the drafting of the IGR themselves. This approach would be risk-based and would also simplify the rules.

### **Regulatory independence**

35. There was a strong call to review the current definition of regulatory independence.<sup>13</sup> We have decided not to include a definition of regulatory independence in the new IGR. This is because the Act does not define regulatory independence and because including such a definition in the current IGR does not appear to have been much help, according to respondents to our consultation. In addition, any such definition could not require structural or legal separation because (as explained in our November consultation) the Act does not require structural or legal separation. Instead of including a definition of regulatory independence in the IGR we will explain in the IGR what their purpose is and our expectations in relation to regulatory independence.

### **The structure of the new IGR**

36. The LSB proposes that the headings in the current Schedule to the IGR might form the starting point for developing the new IGR. The headings in the current

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<sup>12</sup> This review of the IGR is forward looking. Pending the outcome of this review, the current IGR remain in place. The LSB is satisfied that the ICAEW and ACCA are not AAR for the purposes of the current IGR and are therefore not subject to the more detailed independence obligations set out in the Schedule to the current IGR.

<sup>13</sup> The current definition of regulatory independence (see IGR Rules 1 & 2) “structures or persons with representative functions must not exert, or be permitted to exert, undue influence or control over the performance of regulatory functions, or any person(s) discharging those functions.” Undue influence is in turn defined as “pressure exercised otherwise than in due proportion to the surrounding circumstances, including the relative strength and position of the parties involved, which has or is likely to have a material effect on the discharge of a regulatory function or functions.”

Schedule are: Governance, Strategy and Resources, Appointments, and Oversight.

### **The statutory guidance**

37. We anticipate developing and consulting on statutory guidance to accompany the rules.
38. Where possible, the guidance will seek to meet the desire expressed by stakeholders for greater clarity on the residual role of ARs once regulatory functions have been delegated. Amongst other things, we will develop this guidance by drawing on the experience of disagreements to date between ARs and their regulatory bodies on matters of regulatory independence. For example, guidance might identify possible routes to compliance with the IGR and (drawing on the gateways approach in option 2c) some acceptable ways in which information and interaction between ARs and (where different) their regulatory bodies might take place, while recognising that other ways of complying may exist. The guidance might also set out examples of actions or omissions which the LSB would be likely to consider to be in breach of the IGR.
39. The guidance will take into account the range of different scales, regulatory scope and structures of ARs and regulatory bodies and the impossibility of forecasting all circumstances that might be encountered. Our guidance will provide non-exhaustive indicators that would assist ARs and regulatory bodies to evidence that a desired outcome or rule has been met – other ways of demonstrating compliance will be possible.

### **Putting the rules and guidance into practice**

40. In light of the above discussion, we have considered how rules and guidance might work in relation to appointments. We have included some of our preliminary thinking in this document, but this should not be considered as draft text.
41. As an example, we have considered how the new IGR and guidance might deal with appointments to the regulatory body. The section of the IGR relating to appointments might begin with a principle such as that the public has confidence that all appointments to the regulatory body, including its most senior decision making and oversight bodies are made in the public interest.
42. Building on this principle and purely for illustrative purposes, there may in addition be a number of outcome-focused IGR that may fall under the Appointments heading. Again, for example, this could be that all regulatory body appointments, including to its chair and to its non-executive decision making group are seen to be made independently.
43. This could be accompanied by more specific rules and/or guidance, e.g. covering the composition of the Board in terms of lay and non-lay members, the scope of

the appointments decisions that the regulatory body is free to make (e.g. the need for recruitment, the selection of candidates and the terms of appointments) or similar. We will consider whether requirements in the current IGR can most helpfully be retained within the rules or be incorporated in guidance.

### **LSB assurance on AR compliance with the IGR**

44. We consider that arrangements need to be in place for assuring compliance with the IGR, given the importance of regulatory independence. We intend to:

- Introduce a principle or principles around proactive reporting of non-compliance. We will consider whether specific obligations may also be appropriate in addition to principles to reinforce the separate responsibility of both ARs and (where different) their regulatory bodies to report non-compliance. This includes, but is not limited to, situations in which discussions between the AR and the regulatory body to resolve the issue have been unsuccessful. This may be through a 'duty of candour' or something similar. This will provide a clear escalation route for issues that cannot be resolved less formally. It will also be a direct source of information for the LSB on the practical day-to-day operation of the IGR without imposing unreasonable burdens on ARs and regulatory bodies.
- Assure ourselves proactively on compliance with the IGR. It is likely that this would initially be done in parallel with our regulatory performance assessments, in terms of coordination of information requests and reporting cycles, given that this could reduce burdens on regulators and would reinforce the link between good performance as a regulator and regulatory independence. We envisage integrating our assurance work on the IGR with our regulatory performance assessments, albeit that IGR compliance (unlike regulatory performance assessments) must encompass both ARs and (where different) their regulatory bodies.

45. We do not believe that third party assurance would be effective or value-for-money, given the technical nature of the IGR and that they are unique to the legal sector.

46. Our enforcement policy<sup>14</sup> and our regulatory approach<sup>15</sup> explain how the LSB will follow up on issues that arise once our new IGR and statutory guidance are in place.

47. As well as compliance with the IGR, we also expect ARs and regulatory bodies to have regard to best practice in securing regulatory independence. Our statutory

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<sup>14</sup> Statement of policy for enforcement, (April 2018)  
[http://www.legalservicesboard.org.uk/what\\_we\\_do/regulation/pdf/New%20folder%20\(3\)/FINAL\\_State\\_of\\_Policy\\_for\\_Enforcement\\_v3.pdf](http://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/New%20folder%20(3)/FINAL_State_of_Policy_for_Enforcement_v3.pdf)

<sup>15</sup> The Legal Services Board's regulatory approach, (June 2017)  
[http://www.legalservicesboard.org.uk/what\\_we\\_do/pdf/Regulatory\\_Approach.pdf](http://www.legalservicesboard.org.uk/what_we_do/pdf/Regulatory_Approach.pdf)

guidance is likely to include some indicators of what best practice might look like in a number of different areas. We will support ARs and regulatory bodies to move towards best practice, in line with our aim of enhancing regulatory independence within the existing legislative framework.

48. As part of this we will consider if there is benefit in issuing a statement of policy which would outline how the LSB plans to exercise its role as an oversight regulator with regard to regulatory independence.<sup>16</sup> Any such statement of policy could complement statutory guidance and provide additional clarity to ARs and regulatory bodies.

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<sup>16</sup> Section 49 of the Act gives the LSB the discretion to issue a statement of policy with respect to the exercise of its functions on any matter about which it appears to be desirable. To date, the LSB has issued a statement of policy on cancellation of designation as a Licensing Authority, on our approach to compliance and enforcement, on how we would use our section 69 powers under the Act, and the principles the LSB will have regard to when considering applications proposing changes that pertain to in-house lawyers (section 15(4) of the Act).

## Conclusion/next steps

49. We will now develop new more outcome-focused IGR for consultation on the basis discussed above, alongside draft statutory guidance. We anticipate publishing a further consultation on new IGR and draft guidance in autumn this year, with a view to introducing new IGR in spring 2019.
50. We recognise that a reasonable transition period will be required to allow ARs to put in place revised arrangements following the publication of the new IGR, as was the case when they were first introduced in 2010. Then, ARs and their regulatory bodies were expected to move to compliance within four months of the IGR coming into effect. In some areas where this was impractical, the LSB required ARs to put in place an action plan that would achieve compliance in an acceptable timescale, typically within ten months of the IGR being in place. We will engage with stakeholders on the length of this transition period as part of our consultation on new IGR.

## **Annex A: List of respondents**

### **Respondents to the November 2017 consultation**

Association of Chartered Certified Accountants  
Bar Council  
Bar Standards Board  
Chartered Institute of Legal Executives  
Chartered Institute of Patent Attorneys  
Chartered Institute of Trade Mark Attorneys  
CILEx Regulation (a part of this response was confidential)  
Council for Licensed Conveyancers  
Institute of Chartered Accountants in England and Wales  
Intellectual Property Regulation Board  
Lincoln's Inn  
Solicitors Regulation Authority  
Solicitors Disciplinary Tribunal  
The Law Society  
One anonymous, confidential response

### **Submissions following publication of TLS investigation report**

Bar Council  
Chartered Institute of Legal Executives  
Cost Lawyers Standards Board  
Council for Licensed Conveyancers  
Intellectual Property Regulation Board  
Solicitors Regulation Authority

## Annex B: Analysis of responses to the consultation

1. The November 2017 consultation explored two high-level options for the IGR, on which we posed a number of questions as a means of seeking evidence to inform next steps. The consultation paper also allowed for a hybrid of the options through combining various different elements discussed in the paper. In summary, the two high level options were:
  - option 1: no change to the current IGR, but potentially with increased assurance and LSB enforcement activity
  - option 2: amend the IGR, with a number of possible sub-options that might involve incremental through to extensive amounts of change and/or prescription. Those sub-options were:
    - option 2a - incremental changes to the current IGR
    - option 2b - more extensive changes such as additional obligations and/or changes to definitions such as the definition of applicable approved regulator (AAR)<sup>17</sup>
    - option 2c - a new approach to the IGR, such as prescribing specific 'gateways' for the permitted flow of information and interactions between ARs and (where separate) their regulatory bodies.
2. There were fifteen respondents to the consultation (seven representative bodies, five regulatory bodies and three others). One response in full, plus a supplement to a public response, were provided on a confidential basis. A number of responses welcomed the consultation as an opportunity to reflect on the current IGR. An overview of responses to the consultation is in paragraphs 16 to 22 of the main body of this document.
3. Overall, a diverse range of views were expressed. There was a common view that the IGR are not working and a general preference for change. However, there was no clear preferred option from among the four that we had identified, with several respondents welcoming aspects of more than one. This reflects the point made in the consultation that the options represented a spectrum of change possible under the existing legal framework. These points are discussed below.
4. Following the publication of LSB's investigation report in May 2018, six supplementary responses (two representative bodies and four regulatory bodies) providing views on the IGR were received. An overview of these is in paragraphs

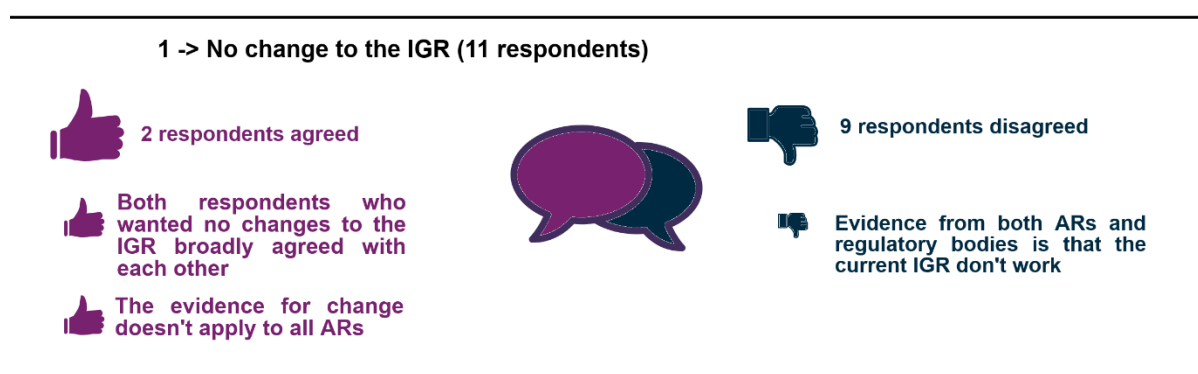
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<sup>17</sup> The current IGR set out general requirements that apply to all ARs, plus a schedule of more detailed requirements that apply only to 'applicable approved regulators' (AARs). AARs are ARs that satisfy both of the following conditions: (i) they are responsible for the discharge of both regulatory and representative functions in relation to legal activities and (ii) they regulate persons whose primary reason to be regulated by that AR is those persons' qualifications to practise a reserved legal activity that is regulated by that AR.

23 to 24 of the main body of this document. These responses did not raise significantly different or new points, but rather reiterated many of those made in response to the November 2017 consultation. The additional comments received are discussed below at paragraphs 33 to 36.

### Option 1: No change to the current IGR

Figure B1



### Operating under the current IGR

5. Points made by respondents about the current IGR included that:

- setting out parameters for governance arrangements is considered to be positive, but the IGR lack clarity on what oversight an AR may legitimately exercise over its regulatory body once regulatory functions are delegated.<sup>18</sup> Consequently, the IGR are not used and/or are ineffective, including as a means of resolving disputes
- there often have to be governance arrangements that sit below the IGR and that work in the individual circumstances of a particular AR, e.g. delegation agreements
- time and resources required from ARs and regulatory bodies to understand and apply the IGR could have been better spent on regulatory matters. Some regulatory bodies referred to duplication of effort and over-governance, along with a lack of control over shared services
- the IGR are outdated, as they reflect the relative immaturity of the regulatory system shortly after the creation of the LSB. Since then, the regulatory bodies have established a track record in delivering regulatory functions and the LSB has significantly developed its approach to oversight of their performance.

<sup>18</sup> IGR Schedule Part 1 A requires that: “Each AAR must delegate responsibility for performing all regulatory functions to a body or bodies (whether or not a separate legal entity/separate legal entities) without any representative functions (herein after ‘**the regulatory body**’ or ‘**the regulatory bodies**’).”



- they are inconsistent with the current emphasis of many UK regulators – including the LSB – on outcome-focused regulation.

### *Views on option 1*

6. Eleven respondents expressed a view on option 1 (four representative bodies, six regulatory bodies and one other). Two supported retaining the current IGR (one representative body and one other), with reasons including a perceived lack of evidence to justify change, but also that the current IGR already support healthy governance arrangements. The nine respondents that disagreed (three representative bodies and six regulatory bodies) and sought change to the IGR thought, among other things, that their scope and purpose need to be revisited. For example, they considered that the relationship between ARs, regulatory bodies and the LSB should be clarified, regulatory bodies held to account, but also the independence of those bodies maximised.
7. In terms of information required by ARs, respondents noted that this is driven by the need to oversee delegated regulatory functions, as a consequence of being designated as an AR under the Act. Furthermore, ARs with a single corporate structure are also concerned with the health of the entire group.
8. Views on the flow of information included that reporting by regulatory bodies should be to the LSB, rather than the AR, and that only limited information is necessary beyond what is provided to the LSB already. In terms of transparency, the view was expressed that this should work both ways, in that not only should the AR be informed about the activities of the regulatory body that could have an organisational impact on it, but the regulatory body should be informed similarly about the activities of the AR.
9. Respondents were split on the need for more intervention by the LSB in disputes between ARs and regulatory bodies. Views included that:
  - LSB investigations can be lengthy and costly, and increased LSB investigation activity under the current IGR is unlikely to be very helpful
  - a more proactive role earlier on, as potential disagreements emerge, e.g. as an arbiter, adjudicator, mediator or critical friend, could be helpful. Ideally, this would complement clearer IGR
  - any intervention should be prioritised as core LSB business and not require additional resources.

## **LSB response**

The views expressed in the majority of responses reflect our understanding that the IGR are not, at present, working as effectively as they could, and that change is needed to enhance regulatory independence. Of those who disagreed with change, one AR indicated that it typically relies on a separate protocol that it and its regulatory body have developed for working together that sits under the IGR. This mirrors comments by other respondents that the IGR themselves are rarely referred to.

Provided that they comply with the requirements of the Act (including section 30 and the IGR), ARs with both regulatory and representative functions are free to determine their corporate structure when delegating regulatory functions. We agree that, where possible, it is desirable that the IGR clarify the oversight role of the AR over those regulatory functions once they have been delegated.

In view of that oversight role, ARs that have delegated their regulatory functions have a legitimate need for information from their regulatory bodies. We agree that, where possible, it should be made clearer what information it may be reasonable for ARs to request and how that might be done. We will seek to provide greater clarity via statutory guidance.

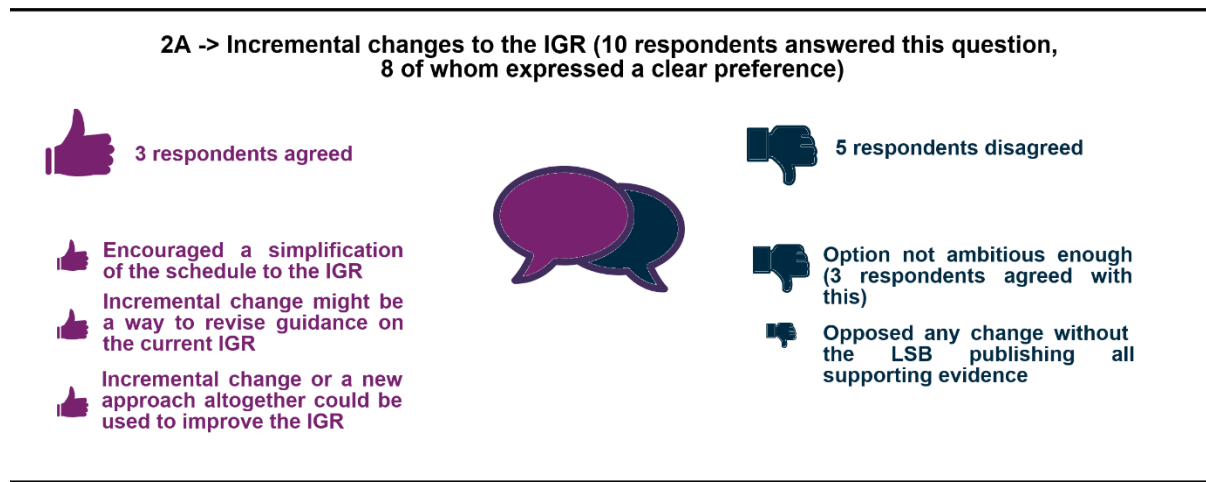
The LSB's relationship with the ARs and regulatory bodies was discussed in the November 2017 consultation at Annex B, in terms of the LSB's regulatory oversight role and how compliance by ARs with the IGR is assessed. We do not agree with the suggestion that regulatory bodies should report only to the LSB; ARs retain a residual oversight role and responsibility due to their designation as ARs under the Act, even where regulatory functions are delegated. However, we consider that an AR's requirements for information about its regulatory body should, as far as possible, build on information that is already available, including through the LSB's work on regulatory performance.

We recognise that there will be costs associated with revising the IGR, given the action that ARs and regulatory bodies (where different) may have to take to comply with any changes. However, although precise values were not given by respondents, there are also costs attached to operating under the current IGR, such as dealing with ongoing disagreements and ambiguity around responsibilities and roles. It is therefore the net costs of making changes (taking into account these ongoing costs of operating under the current IGR if nothing is done) that are relevant in considering whether there is a case for change. We are clear that the new IGR framework will be proportionate and reflect best regulatory practice, while ensuring that the cost of implementation is minimised as far as possible consistent with maintaining the effectiveness of the IGR.

The views of respondents on intervention by the LSB in disputes are helpful.

### Option 2a: Incremental changes

Figure B2



10. Ten respondents in total commented on option 2a (four representative bodies and six regulatory bodies), two of which (representative bodies) had no clear preference on option 2a. The three respondents in favour of incremental changes (one representative body and two regulatory bodies) to the IGR sought three different things:

- greater definition of the AR and LSB oversight roles, including the LSB's role in resolving IGR/regulatory matters
- simplification of the schedule to the IGR
- revised guidance (including on what information should be shared between ARs and regulatory bodies) and compliance monitoring.

11. It was suggested that simplified IGR would be more effective, would address inconsistent regulatory burden and reduce time spent interpreting the IGR. One respondent speculated that some ARs might be concerned about incremental changes that resulted in loss of control and ownership of the regulatory body, e.g. in areas such as shared services. It was suggested that better compliance monitoring mechanisms might also assure the public about the independence of regulation.

12. Views expressed by five respondents who did not support this option (one representative body and four regulatory bodies) included that it is not ambitious enough to solve underlying issues and that the opportunity cost of adapting to new rules would outweigh any benefits. The risk of inadvertently adding new obligations and complexity to the IGR was also noted.

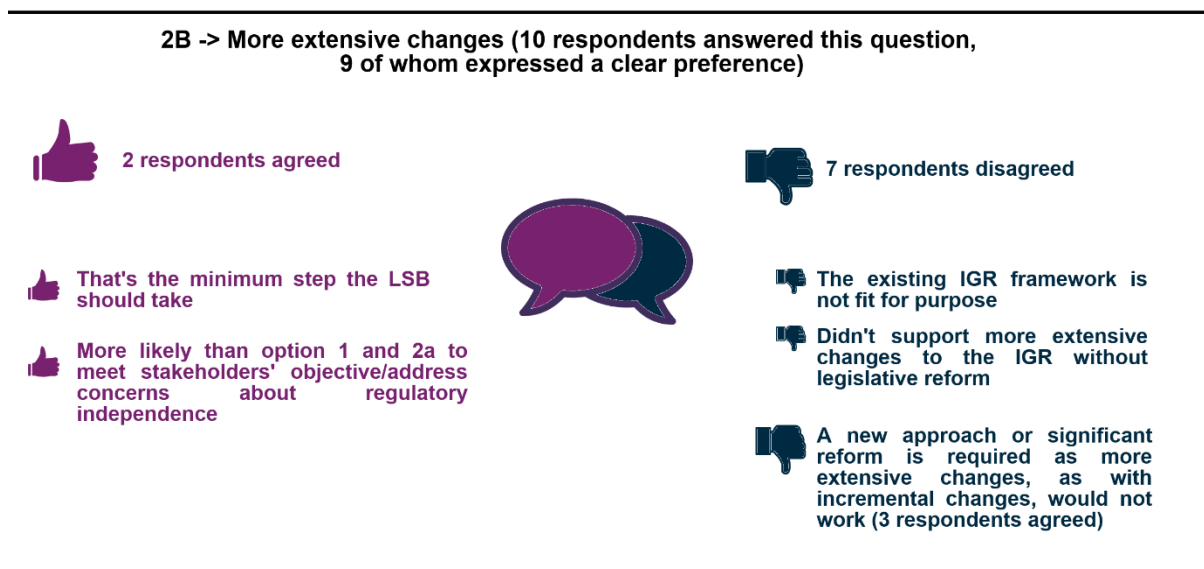
## LSB response

While this option envisaged some changes to the IGR, the views of many of the respondents and our evidence suggest it would not sufficiently enhance regulatory independence, and would not fully address the issues experienced and the concerns about the format of the IGR. In view of this, the limited benefits that might arise from incremental changes would in our view be unlikely to outweigh the costs involved of making those changes, including the cost of implementing revised AR oversight arrangements.

As discussed elsewhere in this Annex, we will address some of the points made by respondents in their comments on option 2a through wider changes to the IGR.

## Option 2b: More extensive changes

Figure B3



13. Ten respondents in total commented on the option of making more extensive changes (two representative bodies, seven regulatory bodies and one other), one of which (regulatory body) had no clear preference on option 2b. Two respondents supported this as the best or minimum step that the LSB should take (one regulatory body and one other). Seven respondents did not support this option (two representative bodies and 5 regulatory bodies), although for differing reasons. These ranged from the existing IGR framework being seen as fit for purpose, to a view that even more extensive changes within the current framework would not work and that it would be better to consider a new approach entirely.

### *Obligations proposed by respondents*

14. Three responses suggested new or revised obligations (one representative bodies and two regulatory bodies). Those proposed and the anticipated benefits that were identified are outlined in the following table:

<b>Proposed obligations</b>	<b>Anticipated benefits</b>
Regulatory bodies can determine their own level of effectiveness and operational independence, e.g. decide their own constitution	More effective regulatory and representative bodies, through greater focus on mutual accountability
Regulatory bodies have independence of decision making, funding and recruitment processes	Focus on quality and effectiveness of regulatory policy, rather than debates over the tactical application of funds
Regulatory bodies can decide how they contract for the services they need	Enables regulatory bodies to assess if shared services are value for money
Complete separation of PCF needed by the AR and regulatory body, with separate collection	Greater transparency on and accountability for representative and regulatory costs
No direct AR involvement in regulatory Board/Chair recruitment	Confidence that appointments to and the functioning of regulatory boards is not prejudiced by representative bodies
Lay majorities on regulatory boards should be increased	Increased lay perspective on boards, plus help to avoid inquorate meetings
Regulatory bodies must publish Board papers and minutes	Transparency/consistency in the operation of regulatory Boards and an opportunity to learn from best practice
ARs must designate named staff/board members with residual oversight responsibilities	Greater transparency on the capacity in which an AR is acting (i.e. oversight or as a representative body) and continuity within the AR on regulatory matters
ARs cannot attend non-public parts of board meetings unless invited	Underline that regulatory boards must operate independently
ARs must make information available on their activity and performance, so that regulatory bodies can manage associated risks	More clarity on each body's role would be likely to improve their reputation with the public and the profession
"Lay member" includes previous authorised persons who are not active in the legal profession or its member bodies	Increased quality of candidates for lay-member roles, with low risk of undue influence

### *Changes to definitions in the IGR*

15. Eight respondents expressed views on the current definition of AAR (two representative bodies, five regulatory bodies and one other), with three in favour (one representative body, one regulatory body and one other) and three against (one representative body and two regulatory bodies) revising it. Two others (both

regulatory bodies) provided more general comments. A commonly held view was that a more consistent framework should be applied to all ARs with regulatory and representative functions, as was felt to be intended by the Act. One respondent wanted the AAR definition to continue to recognise what it perceived to be fundamental differences between accountancy and legal professional bodies. The effect of this would be that accountancy bodies with representative and regulatory functions would not be required to separate them, whereas legal professional bodies would.

16. Two respondents said that the option discussed in the consultation of tailored agreements between the LSB and each AR risked increasing complexity and regulatory inconsistency (one representative body and one regulatory body), without addressing the root cause of problems.
17. Ten respondents commented on the definition of regulatory independence (two representative bodies, seven regulatory bodies and one other). One explicitly opposed revising the definition (representative body), on the basis that our focus should be on regulatory outcomes that are in the public interest, rather than on identifying any ‘undue influence’ or requiring separation of representative and regulatory bodies. Eight respondents thought that the definition should be removed or revised, for reasons that included:
  - a. it should be consistent with the Act, e.g. there is no reference in that to “undue influence or control”
  - b. independence should be defined and judged against the eight regulatory objectives,<sup>19</sup> not pursued in its own right at the expense of those objectives
  - c. the current definition is narrow, but contains terms that are vague and susceptible to different interpretations
  - d. this is an opportunity to define regulatory independence more positively, e.g. freedom to operate autonomously and without influence or control.

### **LSB response**

We agree with respondents who felt that it would be better to develop a new IGR framework, with a view to a clearer and more consistent approach that is targeted at risks to regulatory independence.

We will consider respondents’ proposals for new obligations as we progress the drafting of new IGR and guidance. For example, we will explore the proposal that ARs that have delegated their regulatory functions should identify specific (and limited) roles within their organisation that are responsible for oversight of

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<sup>19</sup> The regulatory objectives are set out in Section 1 of the Act.

regulatory functions, given the potential this has to bring more transparency and accountability to AR interactions with the regulatory body.

Our November consultation noted that regulatory bodies also have a legitimate need for information from their ARs. Again, we will consider how the IGR and supporting guidance might give greater clarity on the flow of information in both directions between the AR and (where different) its regulatory body. We will also explore the suggestion that full regulatory body control over financial resources should be enshrined in the IGR.

We are conscious that some of the suggestions for new obligations are not possible under the Act. In some cases, this was acknowledged by the respondent. For example, the LSB cannot, including through the IGR, require that regulatory bodies have full legal or structural independence. Of course, these may be options that are open to an AR to implement itself.

Issues raised that relate to other LSB rules, e.g. those relating to the LSB practising fee (PCF) rules<sup>20</sup> will be considered by the LSB separately as suitable opportunities arise.

In terms of definitions in the IGR, our view (for the reasons set out in paragraphs 29 to 31 of the main body of this document) is that there is no longer any need for the AAR definition that appears in the current IGR.

We note respondents' views that the current definition of regulatory independence has not been particularly helpful. Reflecting the legal context identified in Annex A of the November consultation, any definition of regulatory independence cannot modify or rescind the legal settlement introduced by the Act. We intend to explain our expectations of regulatory independence in the context of the Act in the drafting of the IGR and statutory guidance.

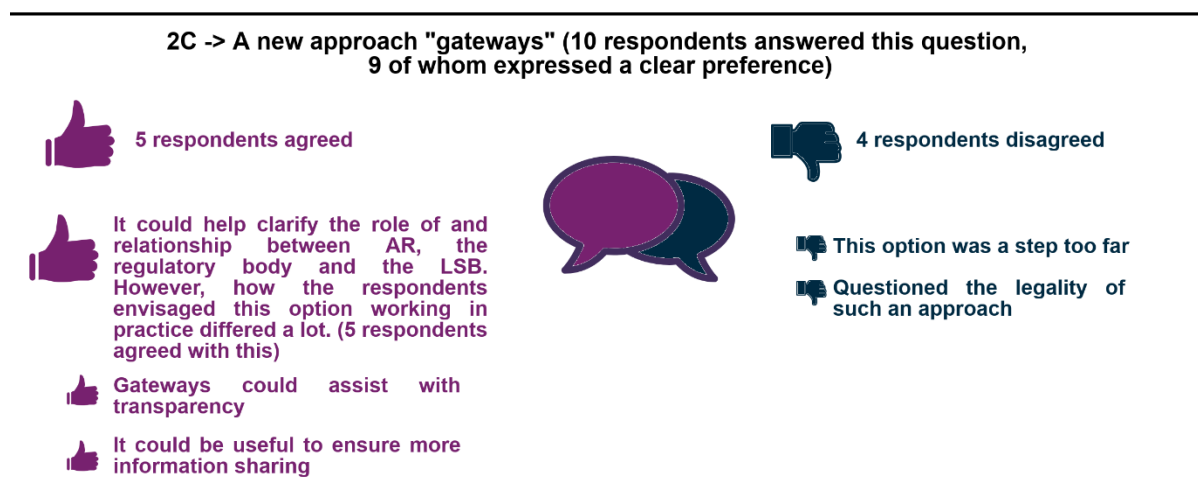
Annex C addresses the views expressed about the interaction between independence and the regulatory objectives.

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<sup>20</sup> Practising Fee Rules, (June 2016)  
2016 [http://www.legalservicesboard.org.uk/Projects/statutory\\_decision\\_making/pdf/2016/20160601\\_Practising\\_Fee\\_Rules\\_2016.PDF](http://www.legalservicesboard.org.uk/Projects/statutory_decision_making/pdf/2016/20160601_Practising_Fee_Rules_2016.PDF)

## Option 2c: A new approach

Figure B4



18. Ten respondents provided views on option 2c (three representative bodies, seven regulatory bodies). Four did not support it (one representative body and three regulatory bodies). Of these, one questioned if gateways would be consistent with the Act. It also suggested that they could hamper the AR oversight role and risk creating inflexible arrangements that prove bureaucratic, costly and time-consuming to implement. Five respondents supported the option in principle (two representative bodies and four regulatory bodies). Comments included that gateways might help to clarify the AR oversight role and provide clarity and objectivity about sharing of information. The need to take account of each AR's structure was also highlighted.
19. One suggestion for a possible gateway was standard organisational performance and risk reporting (regulatory body), typical of public bodies, at 12 month intervals. However, the view was also expressed that a regulatory body should not have to provide its risk register or other internal governance/risk documents to its AR.
20. Views were divided on the use of independent standards or benchmarks alongside gateways. One respondent stressed the need to retain relationships and dialogue between the AR and regulatory body (representative body). Points made against adopting standards or benchmarks included that this would be difficult, would introduce complexity and would be out of step with a mature regulatory system. Those in support of the idea considered that a tailored set of 'triggers' for an AR to seek additional assurance from its regulatory body may be helpful, including to the LSB when considering disputes.
21. There was general agreement that the action an AR should be entitled to take in seeking additional assurance from its regulatory body will require the AR role (when it has delegated its regulatory functions) to be clarified. Moreover, a



number of respondents noted that the assurance an AR might need would depend on the circumstances, significance and potential consequences of failure or inadequacy by the regulatory body. Two respondents gave specific proposals, including engagement with the regulatory body (e.g. an information request, representations to the board and a request to meet the Chair) and with the LSB (e.g. discussion or referral of the matter).

22. One respondent (regulatory body) said that in taking such steps an AR should:

- a. identify how/why the regulatory body's actions are incompatible with the regulatory objectives
- b. presume that, in the first instance, the regulatory body is responsible for rectifying the situation
- c. involve the LSB if the issue concerns regulatory arrangements
- d. take account of the desirability of resolving matters informally (i.e. mirroring duties imposed on the LSB by section 49(4)(a) of the Act in relation to the exercise of some of its functions).

23. In terms of the anticipated impact of option 2c, in addition to the points captured above, some risks were identified that included:

- a. failure to address underlying uncertainty about the oversight role of ARs when they have delegated their regulatory functions
- b. difficulty in ensuring that gateways are not too general or rigid in their application, so as to be of use in the various scenarios that may occur
- c. the system being open to abuse.

#### **LSB response**

We recognise the desire among some respondents for greater clarity on the role of ARs in applying oversight to their regulatory bodies once they have delegated their regulatory functions. Greater prescription could appear attractive in this regard in terms of holding out the prospect of certainty and reduced ambiguity.

While there appeared to be support from respondents for this option, there was actually no consensus as to how this gateway model would work in practice. Views differed on whether it could incorporate a form of existing risk and performance reporting while others stated it should not. Some stated that standards and benchmarks would enhance assurance while others felt it would be complex to develop a universal set applicable to all those covered by the IGR.

We consider that this option also has significant challenges associated with it, which may ultimately make it less effective at securing regulatory independence. These include that:

- gateways would be difficult to develop in a way that ensured that they remained consistent with the Act in recognising the role given to ARs
- it is difficult to anticipate in advance all the necessary information flows and interactions between ARs and their regulatory bodies, and how they may evolve over time, especially given their different structures, scales and scope of regulation
- gateways risk being inflexible and difficult to update quickly, including in view of the requirement for the LSB to consult on proposed changes.

Having taken into account the available evidence and the views expressed by respondents, we consider that new IGR which take a more outcome-focused approach offer a better way forward. As discussed above, we will aim to provide the clarity sought by respondents via the supporting statutory guidance, which we envisage featuring some aspects of gateways, i.e. illustrations of how ARs may engage with their regulatory bodies. In addition, we consider there is a strong role for transparency in meeting the needs of ARs and their regulatory bodies for information, for example, with publication of key information (in line with best practice seen elsewhere in similar bodies) by ARs and their regulatory bodies likely to be able to reduce the need for some interaction between them.

We will consider the suggested duty of candour (i.e. a requirement on regulatory bodies to report circumstances that could give rise to issues of which the AR needs to be aware to satisfy the AR's obligations under the Act and elsewhere) as drafting of new IGR progresses.

### **Alternative options**

24. Seven respondents answered this question (six regulatory bodies and one other). Most noted that the constraints of the Act meant that the scope for alternative approaches was limited. However, the following were suggested:

- a. outcome-focused IGR, supplemented by a statement of policy
- b. making each regulatory board accountable to the LSB
- c. requiring regulatory bodies to be transparent, e.g. holding board and committee meetings in public and publishing related material unless an exemption applies under the Freedom of Information Act 2000.

## **LSB response**

As set out earlier in this document, we have decided to produce new IGR that are more outcome-focused, to be accompanied by statutory guidance. The statutory guidance will help clarify the residual role of those ARs that have delegated their regulatory functions to their regulatory bodies.

As explained in our response to the comments made on option 1, we do not agree that regulatory bodies should be accountable exclusively to the LSB, given the designation of ARs as ARs under the Act. We have also explained the role that we believe transparency can play in facilitating AR-regulatory body relationships in our response to the comments made on option 2c.

## **Future assurance of AR compliance with the IGR**

### ***LSB led assurance***

25. Under this heading, the November 2017 consultation explored the possibility of reintroducing DSC<sup>21</sup> and/or the inclusion of IGR assurance as an element of the LSB's regulatory performance assessment.
26. Eight respondents commented (three representative body and five regulatory bodies) on the use by the LSB of DSC to gain assurance on AR compliance with the revised IGR. Two supported this (one representative body and one regulatory body), considering it healthy for ARs and regulatory bodies to have to regularly review their governance arrangements. Six respondents did not support DSC (four representative bodies and two regulatory bodies). Their reasons included that it is labour intensive, does not encourage collaboration and problem solving and may duplicate reporting that is required for LSB regulatory performance assessments.
27. Ten respondents expressed a view on assurance being achieved through LSB regulatory performance assessments (three representative bodies, six regulatory bodies and one other). Seven backed this approach (two representative bodies, four regulatory bodies and one other). Points made in favour were that IGR assurance is closely linked to a regulatory body's performance and an integrated process would be more proportionate. A common view was that this approach potentially offered greater consistency in the LSB's approach to gaining assurance.

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<sup>21</sup> For the years 2010 to 2013, the LSB required AARs and their regulatory bodies to submit a co-signed assessment of compliance with the IGR.

28. The three respondents who did not support the integration of IGR assurance with the LSB's work on regulatory performance (one representative body and two regulatory bodies) made points including:

- a. the focus of the regulatory performance framework is on regulatory bodies, whereas IGR compliance must also cover the AR
- b. the difficulty of drafting new regulatory performance assessment framework standards on independence that avoid being too prescriptive, or so broad that they replicate the IGR
- c. the compliance mechanism should ideally require as few resources as possible.

### ***AR and regulatory body led assurance***

29. Under this heading, the November 2017 consultation explored the possibility of proactive reporting of non-compliance with the IGR and/or the use of third party assurance.

30. Nine respondents commented on the existing option of proactive reporting of non-compliance with the IGR (three representative bodies, five regulatory bodies and one other). Five supported retaining this (two Representative bodies and three regulatory bodies), regarding it as a key mechanism to ensure that issues can be addressed in a timely, proportionate and targeted manner. One of the two respondents who disagreed (regulatory bodies), noted that in its view the distinction between compliance and non-compliance is too subjective to be very helpful.

31. Seven respondents expressed a view on third party assurance (two representative bodies and 5 regulatory bodies). One reported a positive experience of its use (regulatory body), whereas the other six were opposed to adopting it (two representative bodies and four regulatory bodies). Concerns raised related to costs, effectiveness, bureaucracy and that support from ARs or regulatory bodies for the results of third party assurance could not be certain.

#### **LSB response**

We intend to:

- Introduce a principle or principles around proactive reporting of non-compliance. We will consider whether specific obligations may also be appropriate in addition to principles [to reinforce the separate responsibility of both ARs and \(where different\) their regulatory bodies to report non-compliance](#). This includes, but is not limited to, situations in which AR-regulatory body dialogue to resolve the issue has been unsuccessful.

- Assure ourselves proactively on compliance with the IGR in conjunction with our regulatory performance work.

As the consultation highlighted, the current IGR allow for proactive joint notification by the AR and its regulatory body of non-compliance.<sup>22</sup> This provision does not appear to have been used to date. This may be because of the difficulties of gaining agreement between the AR and regulatory body that there is non-compliance and how this should be rectified. We think that an obligation on ARs and (where different) regulatory bodies to report individually is likely to be more effective. This may be through a 'duty of candour' or something similar. Such reports should give the LSB insight into practical day-to-day operation of the IGR without imposing unreasonable burdens on ARs and regulatory bodies. In addition, if a regulatory body has this mechanism available to it, it may facilitate AR-regulatory body negotiations and encourage resolution without reference to the LSB.

It is also important that the LSB is proactive in seeking and obtaining assurance, in order not to miss issues due to lack of reporting from ARs and regulatory bodies. We intend to link our IGR assurance work with our regulatory performance work. There was support for this among some respondents, which in part reflects a desire to streamline LSB reporting processes, thereby avoiding placing an additional burden on ARs and regulatory bodies. However, the LSB is aware that the different type of reporting sought for IGR assurance and for regulatory performance may mean it will take some time to incorporate this fully into LSB regulatory performance assessments. Initially, we will coordinate the timing of the IGR assurance process with the regulatory performance process, with a view to minimising its impact and assisting ARs and regulatory bodies to recognise that an aspect of their performance is how well they maintain independent regulatory functions.

In the LSB's view, third party assurance may be less suitable for assuring compliance with the IGR as the issues raised can be technical and depend on a close understanding of the IGR, as well as being unique to the legal sector regulatory framework.

### ***Alternative approaches***

32. Five respondents suggested alternative approaches as to how the LSB might gain assurance on compliance with the IGR (four regulatory bodies and one other), which included the LSB:

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<sup>22</sup> Rule 9.

- a. sitting occasionally on recruitment panels and in meetings to monitor how ARs exercise oversight, and to understand how regulatory independence issues are addressed
- b. using as an ultimate sanction its power to recommend the cancellation of designation as an AR, where the AR has inappropriately interfered in its regulatory body (thereby supporting that body being established as a separate legal entity).

### **LSB response**

The LSB has carefully considered the suggestion that the LSB sit in occasionally on recruitment processes and meetings. We consider that this would be unlikely materially to assist with assurance of compliance with the IGR. There would be a high chance that behaviours under such observation would not be representative of typical behaviours. In addition, this would also be resource intensive for the LSB, given the number of ARs and the number of meetings and processes the LSB would need to observe to be able to draw any valid conclusions, even if behaviour did not change under observation.

In relation to the possibility of the LSB recommending the cancellation of designation as an AR, this is a severe sanction. The statutory process for invoking this sanction is lengthy and is not entirely in the gift of the LSB, as it requires the Lord Chancellor to make an order cancelling a body's designation in response to a recommendation by the LSB. In addition, the cancellation of an AR's designation does not automatically result in the AR's regulatory body becoming an AR in its place – a further statutory process must be followed and the Lord Chancellor would be required to make another order. In our view, for these reasons and in light of the legal issues with this approach set out in Annex C, this would not be a practical, effective or proportionate mechanism for assuring on-going compliance with the IGR.

### **Considerations for the IGR review arising from the Law Society investigation**

33. Six supplementary responses on the IGR were received following publication of the LSB's investigation report (two representative bodies and four regulatory bodies). These responses reiterated some specific views on the most appropriate way forward for the IGR and, in a number of cases, argued that the investigation report substantiated their views:

- one respondent considered that the investigation demonstrated that the current IGR work, in that the investigation did not show that there were limitations or aspects of the IGR that made it inevitable that they will be breached, or regulatory independence compromised

- on the other hand, others considered that the investigation showed that significant reform of the current IGR is needed, given that lack of clarity in the IGR contributed to the problems identified in the investigation.

34. There was common acceptance that there is scope to introduce changes to the IGR to improve clarity, although views differed on the extent of the changes that should be made. Suggestions included revisiting definitions, such as the definition of regulatory independence, and amending terminology and the presentation of the rules and guidance. Some additional suggestions were made for rules and guidance, including with a view to recognising the legitimate needs of ARs in exercising oversight of their regulatory bodies (as discussed under option 1).
35. One respondent noted that there was scope in the current IGR for ARs to do the minimum necessary to meet the basic requirements of the IGR, rather than seeking to establish the optimum arrangements in terms of regulatory independence. This respondent suggested that, in addition to requiring optimal arrangements, the IGR could set a benchmark (in particular, delegation of all regulatory functions to a separate company with full control over its finances and its own balance sheet) against which the governance arrangements set by the ARs could be judged. While the respondent acknowledged that this would not be an absolute requirement, the respondent suggested that it would be for the AR to evidence the legal barriers which had prevented it.
36. A few specific suggestions as to how the LSB should manage compliance with the IGR were also provided, both in relation to the informal resolution of disputes and more formal assessment of AR compliance.

### **LSB response**

We appreciate respondents having taken the time to submit additional comments on the IGR.

The November 2017 consultation explored our focus in reviewing the IGR. This included addressing evidence of concerns among a range of ARs and regulatory bodies about how the IGR are working in practice, as well as enhancing regulatory independence within the current legislative framework.

In addition to the other evidence we have set out, which includes submissions from many respondents, the learning from the investigation into The Law Society's arrangements for monitoring and oversight of the SRA (at paragraph 15 of the main body of this document) shows how the current IGR are not working as effectively as they could. During the investigation, considerable resources were expended on exploring how the current IGR should be interpreted and applied. In our view, there are limitations in the current IGR that

contributed to the problems identified arising in the first place and then being able to persist for a considerable period of time.

As set out above, we have decided to produce new IGR that are more outcome-focused, supported by statutory guidance. Amongst other things, we intend to introduce greater clarity regarding the role of the AR in exercising legitimate oversight once it has delegated its regulatory functions. As part of this process, and bearing in mind the benchmark suggestion from one respondent, we will consider the balance between the IGR and the guidance. The IGR will set out requirements and the guidance will contain supporting material. The guidance can, for example, indicate ways in which ARs can comply with the IGR and the LSB can have regard to the ARs' compliance with guidance when carrying out its functions.

We welcome the suggestions for obligations to be captured in the IGR and will consider these as we develop revised drafting. We will also reflect on the suggestions for future assurance of AR compliance with the IGR, as those rules are developed.



## Annex C: Legal context

1. The November 2017 consultation discussed (at Annex A)<sup>23</sup> the legal context for regulatory independence in legal services regulation and the IGR. The content that Annex should be considered alongside this response document. However, in summary the Annex explained (amongst other things) that:
  - the LSB must make IGR setting out requirements to be met by ARs relating to the independence of regulatory functions<sup>24</sup>
  - ARs have a legitimate interest in being assured that regulation is being delivered appropriately, but the legal framework explicitly constrains the AR role concerning regulation
  - in making the IGR, the LSB must work within the settlement in the Act and cannot introduce requirements that would in effect modify or rescind it. For example, this means the LSB cannot compel full independence for regulatory bodies, nor legal separation of them from the ARs whose regulatory functions have been delegated to them
  - short of a systemic failure of an AR, which is not currently the case, a recommendation by the LSB to the Lord Chancellor to ‘de-designate’ an AR<sup>25</sup> as a consequence of the exercise of our enforcement powers would be disproportionate.
2. Responses to the consultation highlighted some additional points relating to the legal context for the IGR, which are discussed below.

### The relationship between the regulatory objectives and section 30 of the Act

3. As noted above, section 30 of the Act expects ARs to meet requirements relating to regulatory independence and that the LSB must make IGR which set out these requirements. This means that regulatory independence underpins the delivery of regulatory functions.
4. The Act sets out eight regulatory objectives. Both the LSB and the ARs “*must, so far as is reasonably practical, act in a way – which is compatible with the regulatory objectives*” and which is considered “*most appropriate for the purpose of meeting those objectives*”.<sup>26</sup> As we have explained in our publication on the regulatory objectives<sup>27</sup>, the regulatory objectives are best understood as a series

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<sup>23</sup> Annex A: Legal context, Reviewing the Internal Governance Rules: Enhancing regulatory independence within the current legislative framework, page 35  
[http://www.legalservicesboard.org.uk/what\\_we\\_do/consultations/open/pdf/2017/IGR\\_consultation\\_doc\\_-\\_final\\_version.pdf](http://www.legalservicesboard.org.uk/what_we_do/consultations/open/pdf/2017/IGR_consultation_doc_-_final_version.pdf)

<sup>24</sup> Section 30 of the Act

<sup>25</sup> Section 45 of the Act

<sup>26</sup> LSB – section 3(2), ARs – section 28(2) of the Act

<sup>27</sup> [http://www.legalservicesboard.org.uk/about\\_us/Regulatory\\_Objectives.pdf](http://www.legalservicesboard.org.uk/about_us/Regulatory_Objectives.pdf)

of considerations that we and the ARs must keep in mind when carrying out statutory functions, rather than goals that can be pursued independently of those functions. The regulatory objectives therefore relate to how the LSB and ARs carry out their statutory functions but do not take precedence over the independence related requirements in section 30 and the IGR.

## Annex D: Excerpt from the November 2017 consultation – Issues with the current IGR

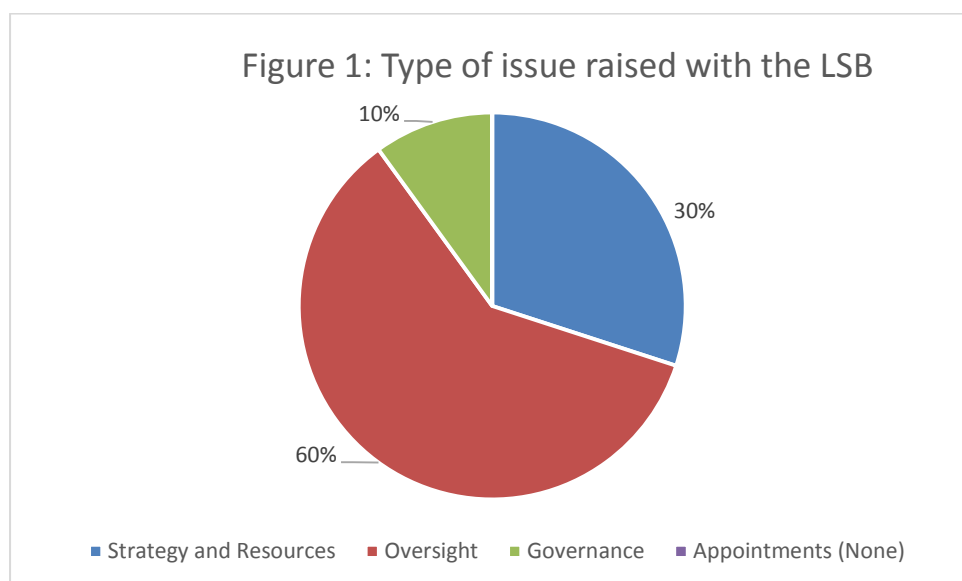
1. The November 2017 consultation explored issues with the current IGR.<sup>28</sup>

### ‘Ad-hoc’ independence issues

2. ARs have raised concerns with the LSB, including in discussions leading up to this consultation, about the IGR that span all four key areas covered in the Schedule to the IGR, namely:<sup>29</sup>

- governance
- appointments
- strategy and resources
- oversight.

3. The number and severity of ad-hoc independence issues that have been shared with the LSB has remained significant and relatively steady over time. The following chart provides a high-level breakdown of the 30 issues that ARs and regulatory bodies have raised in correspondence with us following the last time the IGR were changed in April 2014.<sup>30</sup>



<sup>28</sup> Pages 10 to 14.

<sup>29</sup> Schedule to the IGR: Principles.

<sup>30</sup> The 30 issues were identified from written correspondence to the LSB since 2015 and excludes correspondence in relation to the LSB’s two investigations:  
[http://www.legalservicesboard.org.uk/what\\_we\\_do/investigations.htm](http://www.legalservicesboard.org.uk/what_we_do/investigations.htm)

4. These issues have been raised by a range of different ARs and regulatory bodies with no one organisation (nor a particular AAR/regulatory body combination) being the primary source of independence issues.
5. We invited ARs and regulatory bodies to share informally their practical experience of the IGR as part of the initial scoping of this review. A range of views were expressed in those discussions, although some broad themes emerged, as outlined below.
6. A majority of the stakeholders raised the issue of legal structures and the formal agreements that they had in place. In summary:
  - a number of the regulatory bodies that we spoke to said there is a need for full legal separation between representative and regulatory functions (which is discussed at paragraph 8 above). Full legal separation is opposed by some ARs
  - there were calls from a number of ARs and a majority of regulatory bodies for the language in the IGR to be clearer, and for more clarity also around the residual role of the AAR once regulatory functions are delegated
  - we heard from several of the regulatory bodies that it would be useful to review the AAR definition, while some ARs believed that this was not needed.
7. The information in Figure 1 (based on analysis of ad-hoc independence issues raised with the LSB since 2014) means it is unsurprising that the ways in which assurance is sought by AARs (and the LSB) was a central theme in our recent discussions:
  - the majority of those we spoke to considered that cultural issues and personalities played a large part in the relationship between AARs and regulatory bodies
  - most of the AARs and regulatory bodies have agreements in place on how interaction will occur between representative and regulatory functions. We also heard that sometimes these agreements were not followed
  - nearly all of the AARs reported that they needed certain information from their regulatory bodies to undertake their assurance role (which was not always forthcoming), while a number of regulatory bodies considered that, at times, this was disproportionate or unduly tied up limited management resources
  - some of the regulatory bodies were of the view that their representative bodies had too much influence on board level appointments

- there was concern from quite a few of the regulatory bodies that having to seek budget approval from AARs, and the process for doing so, unduly curtailed regulatory functions
  - there was common awareness that there will continue to be issues no matter how the IGR are drafted, given the inherent tension created by the legal framework in the Act.
8. From representations made to us, and from our own experience of disputes about independence, many issues appear to stem from a lack of shared understanding about what residual functions remain with an AAR once it has delegated the discharge of its regulatory functions to another body, i.e. its regulatory body. In particular, there is disagreement about what oversight the AAR should exercise over its regulatory body.
  9. Most of the ARs and regulatory bodies have told us that the IGR are not as effective as they could be. The current drafting is indicative of what could be termed an expansive approach, i.e. an AAR can do anything so long as independence is not compromised. This approach reflected the preference at the time the IGR were first drafted for AARs and regulatory bodies to have the opportunity to secure regulatory independence constructively.
  10. Views shared with us include concerns that the language of the IGR is qualified, open to interpretation and difficult to apply in practice. Stakeholders have told us that this contributes to continuing disagreement about what is and is not permitted and have expressed a desire for greater clarity on what oversight by an AAR is legitimate.
  11. Practical consequences of disagreements on independence include AAR, regulatory body and LSB management time and resources spent dealing with tensions around independence. This detracts from matters which could allow respective parties to deliver improvements for consumers, the profession and the public. For some regulators, this is said to consume a significant portion of their available resources. We have been told by regulatory bodies that there may also be an anticipatory chilling effect on reform of regulation, where policies are diluted or not pursued, in the knowledge that these will be contentious and/or that it will be disproportionately resource-intensive to deliver change.
  12. Public discussion between AARs and their regulatory bodies about independence is occasionally robust. This is perceived by some as harmful to the reputation of the legal sector as a whole.
  13. Following the introduction of the IGR, the LSB was relatively heavily involved in mediating between AARs and their regulatory bodies, while extensive changes were made to structures and governance arrangements with the aim of securing regulatory independence. Given progress made, and in keeping with our

regulatory approach, we are not now typically involved to the same degree. This reflects our original expectation that we *'look forward to putting discussions of constitutional governance to one side so that we can all begin to focus on the hard substance of regulation against the regulatory objectives set out in the Act'*.<sup>31</sup>

14. The confidential basis on which the LSB and stakeholders have discussed regulatory independence and the IGR limits what we are able to say in this consultation.

### **The definition of AAR**

15. Some stakeholders are dissatisfied with the exclusion of certain ARs with both representative and regulatory functions from the more detailed obligations that are set out in the Schedule to the IGR. This exclusion is a consequence of the drafting of the definition of AAR in the IGR. Stakeholders have expressed concern that this results in an inconsistent regulatory burden. Since the regulatory burden is ultimately borne by regulated persons,<sup>32</sup> any inconsistencies in that burden may adversely affect competition between them.

### **Investigations of possible breaches of the IGR**

16. Since we first introduced the IGR at the beginning of 2010, the LSB has initiated two investigations into possible breaches of them. [Both of these investigations concluded that there had been a breach of the IGR.] These investigations have been resource intensive for the LSB, as well as for the AARs and regulatory bodies concerned. We recognise that some stakeholders would welcome our further intervention in ad-hoc independence issues.

### **Possible duplication of oversight**

17. AARs do not always appear to take account of the oversight role of the LSB when framing their own oversight requirements for their regulatory bodies. This includes our work on assessing practising fees, rule change applications and regulatory performance. This has the potential to lead to the duplication of work for regulatory bodies. This is because, while the AAR may need assurance on some of the same matters as the LSB and may need assurance at a different point in time from the LSB, there should be scope for the AAR to gain this assurance (at least in part) by building on the LSB's work rather than replicating it. Stakeholders have encouraged the LSB to restate the work we do in assessing and overseeing the performance of the regulatory bodies, with a view to this giving reassurance to AARs. Increased clarity - whether through the IGR or

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<sup>31</sup>[http://www.legalservicesboard.org.uk/what\\_we\\_do/consultations/closed/pdf/response\\_lsb\\_101209\\_2.pdf](http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/response_lsb_101209_2.pdf)

<sup>32</sup> Defined in section 176 of the Act.

otherwise - around the residual role of an AAR when it has delegated its regulatory functions could also help address this issue.

### **Assurance of compliance: DSC**

18. Initially the LSB had required all AARs and their regulatory bodies to undertake DSC to provide assurance of compliance with the IGR.<sup>33</sup> The number of issues brought to us has not varied much between the period when we required DSC and now.

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<sup>33</sup> The DSC process, and why the LSB has not required this since 2013, was discussed in more detail at paragraph 86 of the November 2017 consultation.

## Annex E: Glossary

<b>ABS</b>	Alternative business structures. Since October 2011 providers of reserved legal activities that are licensed by a licensing authority have been able to have non-lawyer involvement (managers and/or owners) in their business
<b>ACCA</b>	Association of Chartered Certified Accountants – AR in relation to reserved probate activities
<b>AR or approved regulator</b>	A body which is designated as an approved regulator by Parts 1 or 2 of Schedule 4, and whose regulatory arrangements are approved for the purposes of the Act and which may authorise persons to carry on any activity which is a reserved legal activity in respect of which it is a relevant AR
<b>AAR or applicable approved regulator</b>	Defined in the IGR as an AR that is responsible for the discharge of regulatory and representative functions in relation to legal activities in respect of persons whose primary reason to be regulated by that AR is those person’s qualifications to practise a reserved legal activity that is regulated by that AR
<b>Authorised Person</b>	A person authorised to carry out a reserved legal activity
<b>BSB</b>	Bar Standards Board - independent regulatory body of the Bar Council
<b>CMA</b>	Competition and Markets Authority
<b>CILEx</b>	Chartered Institute of Legal Executives – representative body for Legal Executives
<b>CILEx Regulation</b>	Chartered Institute of Legal Executives Regulation - independent regulatory body of CILEx
<b>CLC</b>	Council for Licensed Conveyancers – the regulator of Licensed Conveyancers
<b>Consultation</b>	The process of collecting feedback and opinion on a policy proposal
<b>DSC</b>	Dual-self certification – an annual statement of compliance with the IGR, co-signed by the AR and its regulatory body
<b>ICAEW</b>	Institute of Chartered Accountants of England and Wales – AR in relation to reserved probate activities
<b>ICAS</b>	Institute of Chartered Accountants of Scotland – AR in relation to reserved probate activities
<b>IGR</b>	The internal governance rules
<b>LA or Licensing Authority</b>	An AR which is designated as a licensing authority to license firms as ABS
<b>Lay Person</b>	A person that is not an expert in a specified field. In the context of the LSB, the Act specifies that the Chairman and the majority of members of the Board must be lay people
<b>LSB or the Board</b>	Legal Services Board - the independent body responsible for overseeing the regulation of lawyers in England and Wales



<b>LSA or the Act</b>	Legal Services Act 2007
<b>PCF</b>	Practising fee or practising certificate fee. A fee payable under the AR's regulatory arrangements as a condition of being authorised to carry on reserved legal activities
<b>Principles of Better Regulation</b>	The five principles of better regulation, which are that regulation should be transparent, accountable, proportionate, consistent and targeted
<b>Regulated persons</b>	Authorised bodies, and the managers and employees of authorised bodies, of an AR
<b>Regulatory arrangements</b>	AR arrangements, rules or regulations for (as applicable) authorising, licensing and regulating authorised persons, licensed bodies and regulated persons
<b>Regulatory Objectives</b>	<p>There are eight regulatory objectives that are set out in the Act:</p> <ul style="list-style-type: none"> <li>• protecting and promoting the public interest</li> <li>• supporting the constitutional principle of the rule of law</li> <li>• improving access to justice</li> <li>• protecting and promoting the interests of consumers promoting competition in the provision of services in the legal sector</li> <li>• encouraging an independent, strong, diverse and effective legal profession</li> <li>• increasing public understanding of citizens legal rights and duties</li> <li>• promoting and maintaining adherence to the professional principles of independence and integrity; proper standards of work; observing the best interests of the client and the duty to the court; and maintaining client confidentiality</li> </ul>
<b>Regulatory Rules</b>	Set out the regulatory arrangements that an AR must comply with in order to be designated as approved regulators for specific reserved activity
<b>Reserved Legal Activity</b>	As defined in section 12 of and Schedule 2 to the Act
<b>SRA</b>	Solicitors Regulation Authority - independent regulatory body of the Law Society