



Legal Services Board  
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21 February 2011

## **Further rules relating to the regulation of licensed bodies**

### **ILEX Professional Standards**

This response represents the views of ILEX Professional Standards (IPS), the regulatory body for Legal Executives. Legal Executives are members of the Institute of Legal Executives (ILEX). ILEX is the professional body representing 22,000 qualified and trainee Legal Executives and is an Approved Regulator under the Legal Services Act 2007 (LSA 07).

ILEX and IPS are committed to regulating Legal Executive businesses and businesses in which Legal Executives are partners and managers by 2012. IPS will establish regulatory arrangements that not only comply with the requirements of the LSA 07 and with any regulations made by the Legal Services Board (LSB) under the Act but that also provide public protection.

IPS does not propose to respond in detail to all of the questions posed. Answers are set out below to the questions in the consultations, where IPS is able to offer a view.

### **1. What do you think of the proposed information to be held on the register?**

The proposed information to be held on the register is reasonable. The majority of the information listed in paragraph 11 of the consultation is information that the Licensing Authority would hold on its own records. The consultation identifies that the information must be sufficient to enable the licensed body to be identified and to aid public confidence. That is an important consideration when identifying what information to hold on the published register.

In the consultation the LSB proposes that Licensing Authorities (LA) will hold information of previous licenses held by the licensing body. It is unclear from the consultation whether the LSB is proposing that LAs hold information of previous licenses granted by other LAs. If so, it is unclear what purpose would be served by LAs holding such information.

It should also be noted that not all organisations will have company registration numbers. Charities are one such example.

If ILEX was to become a LA, IPS would need to consider whether the licence number of the licensing body would be published. Currently ILEX does not publish the membership number of its members because the number is personal to the member. ILEX would have to change its approach to licensing numbers given that they are given to an entity and not an individual.

The LSB also proposes that LAs hold and publish the ultimate beneficial owner of licensing bodies. If the ultimate beneficial owner is the shareholders of the licensing body, the list could become unwieldy for a large company.

## **2. Do you think any other information should be held?**

Other information that is more regulatory in nature could also be held on the register. As highlighted in the consultation information such as the managers of the licensed body, the names of those with a material interest, the names of employees who are authorised persons and any conditions placed on licensing authorities could be published.

IPS would argue that the names of employees who are authorised persons should be held on the register but should not be publishable. Publishing the information does not appear to serve the public interest and in some cases that information could be used by the public in order to generate multiple complaints to relevant Approved Regulators about employees in a licensed body.

It will be important for the purposes of ensuring full and appropriate information is provided to the public that details of any conditions imposed on a licence are published. Consumers need to be aware of any limitations on what activity a licensed body can undertake.

## **3. Do you think that the registers should be publicly available on the LA's websites?**

IPS agrees that the register should be publicly available on LA's websites.

## **4. Do you think that information on the register should be updated in the times suggested?**

IPS agrees that information on the register should be updated in the times suggested.

**5. Do you have any views on the rules as they are drafted?**

IPS has no comments on the drafted rules.

**6. What do you think about the requirement on LAs to notify the LSB of disqualification determinations within 7 days?**

IPS would have difficulty in meeting a 7 day timeline for notifying the LSB of disqualification determinations. Under the IPS disciplinary rules a person or entity will have a period of 15 days to make an appeal. IPS' approach has been to publish decisions and notify bodies of a decision only after the conclusion of the period for making an appeal or, where an appeal is made, after the hearing has taken place. It will have to take a similar approach in respect of notification of a disqualification determination.

The Legal Services Act 2007 does not specify an appeal period for disqualification but does specify that such decisions should be reviewed. Furthermore, in accordance with the Legal Services Act 2007 and the LSB's recent consultation on appeal arrangements, a decision to disqualify a person from involvement in an ABS must be subject both to a review and an appeal. Therefore, there will be instances where both stages will need to have concluded before the LSB could be notified of a decision.

**7. What do you think of the proposed details to be held on the list of disqualified persons?**

The LSB has proposed the information that should be contained in the list. The list will also contain the type of disqualification (as a manager, HoLP, or HoFA), details of the review date, review results, name of the licensed body in which the individual was employed, licensing authority and details of the misconduct.

The LSB will need to consider whether publishing the date of birth of an individual is necessary and whether it has any data protection implications. Consideration also needs to be given to whether publishing such information, if it is not necessary, could lead to risks of identity theft. In determining whether it is necessary the LSB should consider whether the other information that must be published is sufficient to identify the individual.

The LSB has proposed that the list should provide details of the review date and the result of the review. The LSB may want to consider also listing the appeal date and result of the appeal.

IPS currently publishes disciplinary records of ILEX members on its website. If IPS becomes an LA it would consider following the same format as its existing website

to publish details of disqualified persons and include the additional detail set out in the consultation paper.

**8. Is it a proportionate amount of information to provide?**

IPS is of the opinion that the proposed information to be listed is proportionate, subject to its comments above. The register will be helpful to licensed bodies, licensing authorities and to the public to establish whether a person is disqualified.

At the same time it must be appreciated that publication of such details is a form of punishment for the disqualified person, and may tarnish the reputation of the licensing body involved.

**9. What do you think of our publication proposals?**

IPS agrees with the LSB's publication proposals. The right approach has been taken to publicise the most severe sanction available to a LA.

**10. What is your view on our approach to the list held under schedule 13 paragraph 51?**

IPS has no comments to make on the LSB's approach to the list held under schedule 13 paragraph 51

**11. What do you think about our approach to specifying the periods in schedule 13 and the draft order? If you wish to provide an alternative approach or specific periods, please provide supporting evidence to justify this.**

IPS has no comments to make on the LSB's approach to specifying the periods in schedule 13 and the draft order.

**12. What do you think of the proposed 7 calendar day's period for notification of changes that occur prior to issuing of licences?**

IPS agrees with the proposed 7 calendar day's period for notification of changes that occur prior to issuing of licences.

**13. What do you think of the proposed 7 calendar day period for notification where an interest changes?**

IPS agrees with the proposed 7 calendar days period for notification where an interest changes.

**14. What do you think of the 28 calendar day period for notification if a share or voting limit has been exceeded?**

The LSB should reconsider whether a 28 day period for a licensed body to provide notification of the acquisition of an interest that exceeds the share/voting limit is proportionate. 28 days may be considered to be too long, due to the fact that a breach would be allowed to carry on for that period or even longer, while action is taken to remedy it.

**15. What are your views on the time periods that we have proposed?**

IPS agrees with the time periods proposed throughout the consultation except the proposed 28 calendar day period for notification if a share or voting limit has been exceeded as discussed above.