

**RECOMMENDATION TO THE LORD CHANCELLOR UNDER SCHEDULE 4,
PART 2 OF THE LEGAL SERVICES ACT 2007 (“the Act”)**

1. On 27 July 2010, the Legal Services Board (the Board) received an application from the Institute of Legal Executives Limited (ILEX) for a recommendation from the Board to the Lord Chancellor that ILEX be designated as an approved regulator for the conduct of litigation. ILEX also sought the Board’s approval of the associated regulatory arrangements.
2. This application was needed because section 7A(8) of the Prosecution of Offences Act 1985 (POA1985) requires that from 1 May 2011, an Associate Prosecutor of the Crown Prosecution Service must, in addition to being designated by the Director of Public Prosecutions, also be authorised by an approved regulator under the Act for the right to conduct litigation and rights of audience (the latter not being part of this recommendation)
3. At its meeting on 27 January 2011, the Legal Services Board resolved to grant the application to make a recommendation to the Lord Chancellor and to approve the regulatory arrangements. Under the regulatory arrangements that have been approved, ILEX will be restricted to granting the right to conduct litigation to Associate Prosecutors of the Crown Prosecution Service. The part approval of the regulatory arrangements limits the range of activities to those currently undertaken by Associate Prosecutors rather than, as proposed by ILEX, the full range of activities allowed for in the POA1985 (as amended by the Criminal Justice and Immigration Act 2008) but not yet in force.
4. In making its decision the Board considered the criteria in Schedule 4, paras 13(2) and 13(3) of the Act and were satisfied that the proposed regulatory arrangements (once amended) were appropriate for this specific category of membership of ILEX. The Board will require, under s55 of the Act, ILEX to produce a report by 30 June 2012 on how they have satisfied themselves that Associate Prosecutor members have met the requirements of the regulatory arrangements. The notice requesting that report, which will be issued to ILEX at a later date, will specify the matters to be covered which are likely to include (but may not be limited to) commentary on the information on which ILEX has based its conclusions, an assessment of the risks and issues that have been identified and how these have been addressed.
5. Therefore, in accordance with Schedule 4, para 16(2) of the Act, the Board recommends to the Lord Chancellor that ILEX be designated as an approved regulator for the reserved legal activity of the conduct of litigation. A copy of this recommendation has been published on the Legal Services Board’s website (Schedule 4, para 16(3)).
6. In making this recommendation, we would like to draw your attention to the date by which this designation must be granted (see paragraph 2).

David Edmonds
Chairman, Legal Services Board
1 February 2011