Enforcement process flowcharts

Note: Appeals processes shown are those set out in the Act

Performance targets and monitoring (Section 31)

Approved regulator ("AR") commits an act or omission that has had, or is likely to have an adverse impact on one or more of the regulatory objectives and it is appropriate for the LSB to take action in all the circumstances LSB must give notice to AR: describing the action it proposes to take; specifying the acts or omission to which the proposed action relates; specifying the time (not being earlier than the end of the period of 28 days beginning with the day on which the notice is given) before which representations can be made LSB must consider any representations made by AR LSB can: set one or more performance targets; direct the AR to set one or more performance targets LSB must publish any target set or direction given.

AR must publish any target set by it pursuant

to a direction from the LSB

Directions (Section 32)

LSB is satisfied:

- that an act or omission of an authorised regulator ("AR"), has had, or is likely to have, an adverse impact on one or more of the regulatory objectives;
- that an AR has failed to comply with any requirement imposed on it by or under the Act or any other enactment;
- that an AR: (i) has failed to ensure that the exercise of its regulatory functions is not prejudiced by any of its representative functions; or (ii) has failed to ensure that decisions relating to the exercise of its regulatory functions are, so far as reasonably practicable, taken independently from decisions relating to the exercise of its representative functions.

Or, the LSB is satisfied that the Solicitors Disciplinary Tribunal ("**Tribunal**") "fails to perform any of its functions to an adequate standard (or at all)".

LSB gives the AR (or the Tribunal) a notice ("warning notice") accompanied by a copy of the proposed direction. The "warning notice" must specify a period of not less than **14 days** within which the AR can make written representations.

LSB must give copies of the "warning notice", any written representations (and any report of oral representations) to:

- the Lord Chancellor ("LC");
- Office of Fair Trading ("OFT");
- the Consumer Panel;
- the Lord Chief Justice ("LCJ"); and
- any such other person as the Board considers it reasonable to consult (a "Consultee")

The Board must also give these bodies (other than the LCJ) a notice specifying a period in which they must give their advice.

The LC, OFT, Consumer Panel and Consultee (if any) provide advice to LSB.

LSB provides advice given by the LC, OFT, Consumer Panel and Consultee (if any) to the LCJ. The Board must also give the LCJ a notice specifying a period in which they must give their advice.

The LCJ provides advice to LSB.

LSB provides copies of advice received to AR (or the Tribunal) who then has **28 days** to make written representations about advice.

LSB must publish any advice and any written representations from the AR (or the Tribunal) (and also the report of oral representations (if any)).

LSB considers advice and written and oral (if any) representations and decides whether to give the direction.

The Board has the discretion to also allow oral representations. Where oral representations are allowed, the Board must prepare a report of those representations. The AR (or the Tribunal) must have opportunity to comment on a draft of such report.

LSB must give notice of its decision to the AR (or the Tribunal). Where the LSB decides to give the direction, the notice must:

- contain the direction;
- state the time at which the direction is to take effect; and
- specify the LSB's reasons for giving the direction

LSB must publish the notice.

The Board has the discretion to also allow oral representations. Where oral representations are allowed, the Board must prepare a report of those representations. The AR (or the Tribunal) must have opportunity to comment on a draft of such report.

Public censure (Section 35)

Approved regulator ("AR") commits an act or omission that has had, or is likely to have an adverse impact on one or more of the regulatory objectives and it is appropriate for the LSB to take action in all the circumstances of the case.

LSB must give notice to AR:

- stating that the LSB proposes to publish a statement and setting out its proposed terms;
- specifying the acts or omission to which the proposed statement relates;
- specifying the time (not being earlier than the end of the period of 28 days beginning with the day on which the notice is given) before which representations can be made.

LSB must consider any representations made by AR.

LSB may publish statement.

If the Board wishes to vary the proposed statement set out in the notice, it must give notice to the AR:

- setting out the variation and the reason for it;
- specifying the time (not being earlier than the end of the period of 28 days beginning with the day on which the notice is given) before which representations can be made

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Financial penalties (Section 37)

Approved regulator ("AR") fails to comply with: (i) rules under Section 30 (internal governance rules); (ii) direction under Section 32 (Board directions); or (iii) Section 51 (control of practising fees charged by approved regulator) and it is appropriate for the LSB to take action in all the circumstances of the case.

LSB must give notice to AR:

- stating that the LSB proposes to impose a penalty and the amount of the penalty proposed;
- specifying the failure to which the proposed penalty relates;
- specifying the other facts which, in the LSB's opinion, justify the imposition of a penalty and the amount of the penalty;
- specifying the time (not being earlier than the end of the period of 21 days
 beginning with the day on which the notice is given) before which representations
 can be made.

LSB must consider any representations made by AR.

LSB imposes penalty and as soon as practicable gives notice ("**Decision Notice**") to the AR:

- stating that it has imposed a penalty on the AR and its amount;
- specifying the failure to which the penalty relates;
- specifying the other facts which, in the LSB's opinion, justify the imposition of the penalty and its amount; and
- specifying a time (not being earlier than the end of the period of 3 months
 beginning with the day on which the notice is given) before which the penalty is
 required to be paid.

AR pays penalty.

AR may within 21 days of Decision Notice make an application to the LSB for it to specify different times by which different portions of penalty paid.

AR may within 3 months of the Decision Notice (or within 3 months of any decision made relation to payments at different times and different portions) appeal decision to impose penalty.

If the Board wishes to vary the amount of the proposed penalty set out in the notice, it must give notice to the AR:

- setting out the variation and the reason for it;
- specifying the time (not being earlier than the end of the period of 21 days beginning with the day on which the notice is given) before which representations can be made.

Intervention directions (Section 41)

The LSB may only give an intervention direction if it is satisfied that the matter cannot be adequately addressed bv exercising the LSB's powers to impose performance targets and monitoring, public directions, censure financial penalties.

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Approved regulator ("AR") commits an act or omission that has had, or is likely to have an adverse impact on one or more of the regulatory objectives and it is appropriate for the LSB to take action in all the circumstances of the case.

LSB gives the AR a notice ("warning notice") accompanied by a draft of the proposed intervention direction. The "warning notice" must specify a period of not less than 28 days within which the AR can make written representations.

LSB must give copies of the "warning notice", any written representations (and any report of oral representations) to:

- the Lord Chancellor ("LC");
- Office of Fair Trading ("OFT");
- the Consumer Panel;
- the Lord Chief Justice ("LCJ"); and
- any such other person as the Board considers it reasonable to consult (a "Consultee")

The Board must also give these bodies (other than the LCJ) a notice specifying a period in which they must give their advice.

The LC, OFT, Consumer Panel and Consultee (if any) provide advice to LSB.

LSB provides advice given by the LC, OFT, Consumer Panel and Consultee (if any) to the LCJ. The Board must also give the LCJ a notice specifying a period in which they must give their advice.

The LCJ provides advice to LSB.

LSB:

- provides copies of advice to AR; and
- publishes advice and any written representations from the AR (and also the report of oral representations (if any)).

AR (and any body representing persons authorised by the AR) has **28 days** in which to make written representations.

LSB must publish any written representations (and also the report of oral representations (if any)).

LSB considers advice and written and oral (if any) representations and decides whether to give the direction.

discretion to also allow oral representations. Where oral representations are allowed, the Board must prepare a report of those representations. The must AR have opportunity to comment on a draft of such report.

The Board has the

LSB must give notice of its decision to the AR. Where the LSB decides to give the intervention direction, the notice must:

- contain the intervention direction:
- state the time at which the intervention direction is to take effect; and
- specify the LSB's reasons for giving the intervention direction

LSB must publish the notice.

The Board has the discretion to also oral representations. Where representations are allowed, the Board must prepare a report of those representations. The person who made oral representations must have opportunity tο comment on a draft of such report.

Cancellation of designation as approved regulator (Section 45)

The LSB may only give a recommendation if it is satisfied that the matter cannot be adequately addressed by exercising the LSB's powers to impose performance targets and monitoring, directions, public censure, financial penalties and intervention directions.

Approved regulator ("AR") commits an act or omission that has had, or is likely to have, an adverse impact on one or more of the regulatory objectives and it is appropriate for the LSB to take action in all the circumstances of the case.

LSB gives the AR a notice ("warning notice") accompanied by a draft of the proposed recommendation. The "warning notice" must specify a period of not less than 28 days within which the AR can make written representations.

LSB must give copies of the "warning notice", any written representations (and any report of oral representations) to:

- Office of Fair Trading ("OFT");
- the Consumer Panel;
- the Lord Chief Justice ("LCJ"); and
- any such other person as the Board considers it reasonable to consult (a "Consultee").

The Board must also give these bodies (other than the LCJ) a notice specifying a period in which they must give their advice.

The OFT, Consumer Panel and Consultee (if any) provide advice to LSB.

LSB provides advice given by the OFT, Consumer Panel and Consultee (if any) to the LCJ. The Board must also give the LCJ a notice specifying a period in which they must give their advice.

The LCJ provides advice to LSB.

LSB:

- provides copies of advice to AR; and
- publishes advice and any written representations from the AR (and also the report of oral representations (if any)).

AR (and any body representing persons authorised by the AR) has **28 days** in which to make written representations.

LSB must publish any written representations (and also the report of oral representations (if any)).

LSB considers advice and written and oral (if any) representations and decides whether to give the recommendation.

The Board has the discretion to also allow oral representations. Where oral representations are allowed, the Board must prepare a report of those representations. The AR must have opportunity to comment on a draft of such report.

Lord Chancellor makes an order to cancel designation.

LSB must give notice of its decision to the Lord Chancellor and the AR. Where the LSB decides to make the proposed recommendation, the notice must:

- contain the recommendation; and
- specify the LSB's reasons for giving the recommendation

LSB must publish the notice.

The Board has the discretion to also allow oral representations. Where oral representations are allowed, the Board must prepare a report of those representations. The person who made oral representations must have opportunity to comment on a draft of such report.

Cancellation of designation as a Licensing Authority (Section 76)

The LSB may only give a recommendation if it is satisfied that the matter cannot be adequately addressed by exercising the LSB's powers to performance impose targets and monitoring, directions. public censure, financial penalties and intervention directions

Licensing Authority ("LA") commits an act or omission that has had, or is likely to adverse have, an impact on one or more the regulatory objectives and that act omission was unreasonable and it is appropriate for the LSB to take action in all the circumstances of the case

LSB gives the LA a notice ("warning notice") accompanied by a draft of the proposed recommendation. The "warning notice" must specify a period of not less than 28 days within which the LA can make written representations

LSB must give copies of the "warning notice", any written representations (and any report of oral representations) to:

- Office of Fair Trading ("OFT");
- the Consumer Panel;
- the Lord Chief Justice ("LCJ"); and
- any such other person as the Board considers it reasonable to consult (a "Consultee").

The Board must also give these bodies (other than the LCJ) a notice specifying a period in which they must give their advice

The OFT, Consumer Panel and Consultee (if any) provide advice to LSB

LSB provides advice given by the OFT, Consumer Panel and Consultee (if any) to the LCJ. The Board must also give the LCJ a notice specifying a period in which they must give their advice

The LCJ provides advice to LSB

LSB:

- provides copies of advice to LA; and
- publishes advice and any written representations from the LA (and also the report of oral representations (if any))

LA (and any body representing licensed bodies authorised by the LA) has **28 days** in which to make written representations

LSB must publish any written representations (and also the report of oral representations (if any))

LSB considers advice and written and oral (if any) representations and decides whether to give the recommendation

The Board has the discretion to also allow oral representations. Where representations are allowed, the Board must prepare a report representations. The AR must have opportunity to comment on a draft of such report

The Board has the discretion to also allow oral representations. Where oral representations are allowed, the Board must prepare a report of those representations. The person who made oral representations must have opportunity to comment on a draft of such report

Lord Chancellor considers the recommendation and makes an Order to cancel designation

LSB must give notice of its decision to the Lord Chancellor and the LA. Where the LSB decides to make the proposed recommendation, the notice must:

- contain the recommendation; and
- specify the LSB's reasons for giving the recommendation