

## CLLS – PROFESSIONAL RULES AND REGULATION COMMITTEE - RESPONSE TO MOJ CALL FOR EVIDENCE

1. This is the response of the City of London Law Society (“**CLLS**”) to call for evidence issued as part of the Ministry of Justice’s Public Bodies Review of the Legal Services Board (“**LSB**”). The call for evidence asks various questions related LSB’s statutory remit, its strategic clarity, governance and accountability arrangements, and its ability to deliver its remit. We are grateful for the additional time permitted to provide this response.
2. The CLLS represents City lawyers through individual and corporate membership, including some of the largest international law firms in the world. The CLLS represents over 21,000 solicitors who are members of the profession in the City of London. They represent 12% of all practising solicitors. The CLLS responds to a variety of consultations on issues of importance to its members through its specialist committees. This response has been prepared by the CLLS Professional Rules and Regulation Committee. In the present context all of CLLS’ corporate members are regulated by the Solicitors Regulation Authority (“**SRA**”) and as such our detailed experience is in relation to SRA regulation.
3. In her written statement, the Minister of State for Justice highlighted that the last review of the LSB was in 2017:

*“since then, there have been significant developments in the legal services sector. These include the introduction of a new regulatory objective, concerns around professional ethics within the sector, as well as market developments - most notably, the rapid increase in the use of lawtech. Given*

*these changes, it is timely and appropriate to review how the work of the LSB is delivered.”*

4. CLLS agrees with this rationale and that it is appropriate time for the review for the reasons expressed, as well as the significant change of approach by the LSB over the past decade. We have considered the published responses of Approved Regulators<sup>1</sup> including that submitted by the [Intellectual Property Regulation Board](#) (“IPReg”).
5. In circumstances where we broadly agree with the submissions of IPReg, we are making a more limited submission as set out below. In particular, we would like to (i) highlight the rationale and debate at the time of the establishment of the LSB to ensure the review has regard to the background context and (ii) develop some of the submissions of IPReg around how the LSB uses its powers.

#### **The rationale for and establishment of the LSB**

6. When reviewing the LSB, it is important to start from first principles and refer back to the rationale for the existence of the LSB when it was initially proposed. The LSA’s explanatory notes state as follows:

*the Act establishes the Legal Services Board which acts as an independent oversight regulator. It sits at the head of the new regulatory framework. The Board oversees the new approved regulators, and seeks to ensure that they carry out their regulatory functions to the required standards. Both the Board and the approved regulators must have regard to the regulatory objectives when exercising their functions.*

7. In Sir David Clementi’s 2004 independent review of legal services, he recommended the creation of the LSB. The formal proposals for the LSB were set out in the Department for Constitutional Affairs White Paper, *The Future of Legal Services: Putting Consumers First* published in 2005. In that it stated that the LSB would:

- *provide independent oversight. It will be made up of a majority of non-lawyers*
- *authorise Front Line Regulators to carry out day to day regulation if they meet its standards*

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<sup>1</sup> In this response we refer to the approved regulators which will include the bodies to which the regulatory functions are delegated as appropriate.

- *have powers to act if Front Line Regulators fail*
- *enable consumers to have the confidence that regulation is working in their interests because Front Line Regulators will be required to separate their regulatory and representative functions*
- *set up and maintain a Consumer Panel to ensure that the voices of consumers are heard and inform its decisions*
- *be independent of Government.*

8. When introducing the Legal Services Bill, Lord Falconer (then Secretary of State for Constitutional Affairs and Lord Chancellor) stated that:

*the Bill makes provision for the new oversight regulator, the Legal Services Board, to provide independent oversight of legal regulatory bodies. While day-to-day regulation should remain with the professions, the LSB will have a range of powers available to oversee approved regulators.*

9. These references are made primarily to highlight what was understood to be the role of the LSB when the LSA came into force. Our view is that whilst the LSB performs its statutory oversight roles well, (such as the approval of regulatory arrangements), it has since become active in areas which go beyond oversight with the effect of duplicating efforts of the frontline regulators (in doing so, increasing the cost of regulation). Conversely the LSB has not for the most part sought to lead a debate on the need to evolve the statutory framework of regulation which is an area where its activities would be of assistance.

### **LSB's direct involvement in the role of frontline regulators**

10. As highlighted in IPReg's response (see in particular its response to the question, "To what extent do you agree with this statement 'the LSB is sufficiently focussed on its statutory obligations as set out under the LSA 2007'"), in recent years the LSB has made use of its powers in the LSA to make Statements of Policy under Section 49 of the LSA and Statutory Guidance under Section 162 of the LSA. Section 49(3) makes clear that in exercising its discretion to issue a Policy Statement: "the Board must have regard to the principle that its principal role is the oversight of approved regulators." This requirement is in addition to have regard to the better regulation principles under Section 3 of the LSA.

11. It is now clear to us as to how the LSB applied Section 49(3), and in any event their approach seems to be inconsistent with the regulatory settlement reached by the LSA. The various professions are subject to specialist regulation by approved regulators with an understanding of the relevant professions they regulate. Those approved regulators will be responsible for day-to-day regulation and ensuring they adopt best practice and a risk-based approach.
12. In our view the LSB appears to be making use of its statutory powers to tell the approved regulators *how* to regulate and so standardise the approach of the approved regulators, notwithstanding the very different spheres in which they operate. This is at odds with what we consider was the purpose of those powers and the purpose of the LSB.
13. The approach also leads to concerns around the LSB intervening too frequently in the roles of the approved regulators. This was a concern in Parliament during debate around the Legal Services Bill. For example, Lord Thomas of Gresford stated that:

*It would be extremely unfortunate if a Legal Services Board decided to interfere directly and to constantly make directions and orders and so on to the Law Society, the Bar Council and any other regulatory bodies in such a way as to take over their functions.*

14. Lord Hunt of Wirral stated:

*The [LSB] should not interfere in a micro-management sense and certainly should not intervene unless there is clear evidence that the approved regulators are failing. In addition, not only should there be clear evidence that they are failing but their failures should have been brought to their notice and directions should have been issued with which they neglected to comply*

15. This concern also formed part of the Joint Committee's report, with the Government of the time responding to say that:

*"the intention of the LSB should be to work in partnership with the authorised regulators, leaving them with the responsibility for day to day regulation. The LSB should exercise its powers only where approved regulators are clearly failing".*

## **LSB's impact on the resources of approved regulators and the negative impact on the aim of encouraging innovation and growth**

16. As highlighted by IPReg, the activity of the LSB has an impact on the resources of the approved regulators, which in turn increases the cost of regulation which is passed on to consumers. This is not only seen in having to respond to the LSB's changes in policy as highlighted above.
17. More recently, the LSB decided to undertake a review of the historic advice and guidance provided to the professions by approved regulators and regulatory bodies in relation to the conduct of litigation following the decision in *Mazur v Charles Russell Speechlys* [2025] EWHC 2341 (KB). This seemed disproportionate in the circumstances. It is difficult to see the benefit of such an exercise which in any event relates to a period where the LSB was the oversight regulator. It may be simply that this was a response to initial criticisms. However, that needs to be measured against the regulatory principles. A better focus of the LSB should have been on bringing the approved regulators together to ensure all future guidance was clear and in accordance with the regulatory objectives. As it has turned out, that case has been appealed and judgment of the Court of Appeal is awaited.

## **Overarching tension with the government's growth mission**

18. As referenced in the Minister's written statement, the Government is committed to reducing regulatory burdens that may stifle innovation and growth across various sectors, including the legal sector. The UK Government has stressed the role that regulators and regulation should play in the "government's growth mission", by "ensuring that it enables growth and does not unduly hold back investment"<sup>2</sup>. This has been recognised in the LSB's more recently published 2025/26 Business Plan<sup>3</sup>:

*The legal sector is a cornerstone of the UK economy, directly contributing billions to GDP and more broadly facilitating business transactions, resolving commercial disputes, and providing the certainty that investors and businesses need. Public trust and confidence in legal services – underpinned and enabled by effective regulation – are therefore essential to economic growth and the UK's position as a global legal hub.*

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<sup>2</sup> [New approach to ensure regulators and regulation support growth \(HTML\) - GOV.UK](#)

<sup>3</sup> [Business Plan 2025/26 - The Legal Services Board](#)

And later, when considering the contribution and growth of the legal sector:

*This growth has been enabled, in part, by a permissive regulatory regime brought about by the Legal Services Act 2007, which introduced greater flexibility and innovation, opening the market to new business models and increasing competition, while putting the interests of consumers and the public interest at the heart of legal services regulation.*

19. Whilst we agree with this sentiment, we question whether the approach of the LSB is in line with this aim given its frequent duplication of work by the frontline regulators

CLLS would welcome the opportunity to discuss this review directly with the Ministry of Justice. In the meantime, please contact us if there are any queries in respect of this submission.

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