

January 2018

Regulatory regime for the legal profession in England & Wales

Introduction

Regulation of the legal profession in England and Wales is independent of the government and the profession. Lawyers conducting reserved activities such as rights of audience, the conduct of litigation, reserved instrument activities, probate activities, notarial activities and the administration of oaths, are overseen by independent regulators. This model of regulation safeguards the rule of law, independence of the profession, fairness, and ensures an appropriate balance between the interest of the public, consumers and the profession. It does not impinge upon the ability of lawyers to challenge the state and hold it to account. However, it does mean that lawyers do not self-regulate.

Separation of regulation from representation function

The Legal Services Act (the 'Act') 2007 requires regulation to be separate from representation, and takes away the main regulatory functions of professional bodies such as the Law Society, the Bar Council and others, which are delegated to independent regulatory arms which act as the frontline legal regulators. The Act also created an independent body to deal with consumer complaints, the Legal Ombudsman, and established the Legal Services Board to oversee all of the legal regulators.

Independent regulators

The Legal Services Board is the independent body responsible for overseeing legal regulators in England and Wales. It is independent of government and the legal profession and is the oversight regulator for the eight independent regulatory bodies. Though representative bodies remain 'approved regulators', the Act required them to separate their representative functions from their regulatory functions, by delegating the latter to independent regulatory bodies. Hence the LSB oversees the work of these independent regulatory bodies and decides whether to approve any policy changes they wish to introduce. The list of both approved regulators and parallel independent regulatory bodies (which operate the majority of regulatory function for the specific professions) is given below:



The Law Society
of England and Wales

Profession	Approved regulators (representative body)	Independent Regulatory Body
Solicitors	Law Society	Solicitors Regulation Authority
Barristers	Bar Council	Bar Standards Board
Chartered Legal Executives	Chartered Institute of Legal Executives	CILEx Regulation
Licensed Conveyancers	No representative body	Council for Licensed Conveyancers
Patent Attorneys	Chartered Institute of Patent Attorneys (CIPA)	Intellectual Property Regulation Board
Trade Mark Attorneys	Chartered Institute of Trade Mark Attorneys (CITMA)	Intellectual Property Regulation Board
Costs Lawyers	Association of Costs Lawyers	Costs Lawyer Standards Board
Notaries	No representative body	Master of the Faculties
Chartered Accountants	Institute of Chartered Accountants in England and Wales	
	There is no separate regulatory body. All decisions relating to legal activities are delegated to the independently chaired Probate Committee	

The LSB's overriding mandate is to ensure that regulation in the legal services sector is carried out in the public interest, and that the interests of consumers are placed at the heart of the system.

The LSB and the eight independent regulatory bodies it oversees are required to follow the regulatory objectives set out in the Act, which are:

- protecting and promoting the public interest
- supporting the constitutional principle of the rule of law
- improving access to justice
- protecting and promoting the interests of consumers
- promoting competition in the provision of legal services
- encouraging an independent, strong, diverse and effective legal profession
- increasing public understanding of the citizen's legal rights and duties
- promoting and maintaining adherence to the professional principles.

The independent regulatory bodies are also required to ensure that professional persons they authorise act with the principles set out in the Act such as:

- act with independence and integrity
- maintain proper standards of work
- act in the best interests of clients
- comply with practitioners' duty to the Court to act with independence in the interests of justice
- keep clients' affairs confidential.



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The Legal Ombudsman

Set up by the Office for Legal Complaints under the Act, the Legal Ombudsman has been operating since 6 October 2010 and has formal powers to resolve complaints about lawyers. It is open to all members of the public, very small businesses, charities, clubs and trusts. It is independent of government and resolves legal complaints in a fair and independent way.