



The Bar Council

Bar Council response to the Legal Services Board's (LSB's) Regulatory Performance and proposed regulatory independence monitoring consultation

1. This is the response of the General Council of the Bar of England and Wales (the Bar Council) to the Legal Services Board's Regulatory Performance and proposed regulatory independence monitoring consultation.¹
2. The Bar Council represents approximately 17,000 barristers in England and Wales. It promotes the Bar's high quality specialist advocacy and advisory services; fair access to justice for all; the highest standards of ethics, equality and diversity across the profession; and the development of business opportunities for barristers at home and abroad.
3. A strong and independent Bar exists to serve the public and is crucial to the administration of justice. As specialist, independent advocates, barristers enable people to uphold their legal rights and duties, often acting on behalf of the most vulnerable members of society. The Bar makes a vital contribution to the efficient operation of criminal and civil courts. It provides a pool of talented men and women from increasingly diverse backgrounds from which a significant proportion of the judiciary is drawn, on whose independence the Rule of Law and our democratic way of life depend. The Bar Council is the Approved Regulator for the Bar of England and Wales. It discharges its regulatory functions through the independent Bar Standards Board (BSB).

Question: Is it clear how the LSB will monitor how Approved Regulators and Regulatory Bodies ensure regulatory independence? If not, then we welcome your views on alternative approaches.

¹ Available here: <https://www.legalservicesboard.org.uk/wp-content/uploads/2020/02/Regulatory-Performance-and-regulatory-independence-consultation-February-2020.pdf>

4. We understand the purpose of the new monitoring system that will be applied to the Bar Council as an Approved Regulator (AR) and broadly, the system that will be used.
5. In paragraph 11 of the consultation document, mention is made of the ARs making submissions as part of the performance review process. It would be helpful if the LSB could be more specific as to what is required. For example, will there be a structure to submissions, such as that used in the initial certificate of compliance that is due this July, and how often will they be expected to be made? What exactly is the information being sought? Greater clarity would allow us to plan accordingly and provide relevant information in a timely manner.
6. It would be helpful to better understand the purpose of the meetings with the relationship manager and to be alerted to any specific questions or agenda items the LSB might have in advance of these meetings.
7. Whilst the relationship manager will usefully provide one point of contact for the Bar Council on Internal Governance Rules (IGR) compliance matters, we are mindful of the fact that the LSB is funded by all the professions it has oversight regulation for. Consequently, we question whether it is necessary for the LSB to recruit two new members of staff, as we believe they are doing, to do this task and whether instead, the function could be fulfilled using existing resources. This is particularly pertinent considering the pressure that barristers are currently experiencing on their earning capacity as a result of restrictions on their work caused by coronavirus.
8. We would be interested to understand why the formal enforcement powers would be used in the event of a breach by an AR of the IGRs and not the regulatory performance framework that is applied to other breaches of regulatory performance. We would always favour the opportunity to informally and speedily resolve any issues by working with the LSB and BSB.

Bar Council
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