

SRA response

"Compliance and Enforcement – Statement of Policy in relation to cancellation of designation as a Licensing Authority", Legal Services Board consultation

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1. Introduction

1.1

The Solicitors Regulation Authority (SRA) is the independent regulatory arm of the Law Society for England and Wales . We regulate individual solicitors, certain other lawyers and non lawyers with whom they practise, solicitors' firms and their staff.

1.2

We welcome the opportunity to take part in this Legal Services Board (LSB) consultation, and have set out some comments below.

2. SRA comments

Q1. What are your views on the LSB's aims for cancelling the designation of a Licensing Authority? Are there other circumstances when you consider that the exercise of this power might be appropriate?

2.1

We agree that the Legal Services Board (LSB) is right to base its aims around the understanding that cancelling designation of a Licensing Authority (LA) is an option of last resort – or as the consultation paper puts it *"...it will only be used in exceptional circumstances when the LSB is satisfied that the matter cannot be adequately addressed by the LSB using other powers that are available to it "* (page 7 of the consultation paper). Unless the cancellation has been applied for by the LA itself, it must only become a viable tool for the LSB when a matter is so serious it cannot be addressed using other powers or sanctions, and where all other attempts at resolution have failed. We agree also that the LSB's focus at this stage must be on assuring regulatory continuity and protecting consumers.



Q2. Bearing in mind the Regulatory Objectives and the Better Regulation Principles, do you agree with the Board's approach to its requirements for the content of Applications?

2.2

The suggested content for applications seems appropriate in light of the Regulatory Objectives and the Better Regulation Principles. In practice we would expect that, by the time an LA had reached the point of applying to cancel its designation, the LSB would have already been made aware in some capacity that the LA was potentially intending to take that course of action.

Q3. If you do not agree with the Board's approach to its requirements for the content of Applications, what alternative approaches would you suggest and why?

2.3

We have no further comments.

Q4. What do you think the appropriate level of, and method of calculation of the Prescribed Fee should be?

2.4

We support the flexibility of approach that underpins the overall fee policy whereby additional costs that incurred by the LSB may also be charged to the applicant. However such costs, and justification for why external advice and support was required, must be communicated clearly and transparently to the applicant.

Q5. Do you agree with the Board's approach for making nominations for the purposes of Sections 48(3) and 79(3)?

2.5

The approach set out seems reasonable and is wide enough to support the LSB in identifying an appropriate nominee.

Q6. If you do not agree with the Board's approach, what alternative approach would you

suggest?

2.6

We have no additional comments.

Q7. The rules on oral and written representations are the same as those published in the LSB's Statement of Policy on Enforcement (with the necessary changes). Is it appropriate to apply the rules to a Representing Person in accordance with a cancellation of designation as a Licensing Authority procedure?

2.7

We see no reason why the rules for representations, as set down in the LSB's Statement of Policy on Enforcement, could not also be used to cover representations relating to cancellation of designation as a Licensing Authority.