

## Regulation of legal services: principles

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### INTRODUCTION

1. The Law Society of England and Wales ("The Society") is the professional body for the solicitors' profession in England and Wales, representing over 160,000 registered legal practitioners. The Society represents the profession to parliament, government and regulatory bodies and has a public interest in the reform of the law.
2. The Society welcomes the opportunity to respond to the Commission's consultation on the regulation of professions: proportionality and Member States' National Action Plans and has submitted an on-line consultation response.

### REGULATION OF LEGAL SERVICES: PRINCIPLES

3. The purpose of this briefing note is to provide a summary of the Law Society's key positions on the regulation of the legal services. The note is to supplement the Law Society's response to the Commission's public consultation on the regulation of professions and reflects submissions made to the Competition and Markets Authority and the Ministry of Justice<sup>1</sup>:
  - The Society supports regulation that is simpler, better and applies fairly to all legal services providers across the whole market for legal services.
  - We think it is vital that legal regulation strikes the right balance between the need to ensure fair competition and protecting the consumer and the public interest.
  - A well-functioning and properly regulated legal services sector generates significant consequential value including security of transactions (contract and property); supporting lending, investment and innovation; reducing risk; social benefits (for example housing security); and supporting good government. It is, therefore, vital that it is well-regulated.
  - Stability and certainty of the legal system is vital to the economy and the legal services market. The legal services market contributes £25.7 billion to the UK economy and for every 1% growth in the legal services market, 8,000 jobs are created and £379 million is added to the economy.
  - The impact of regulation on costs for consumers is recognised and the Government's Principles of Regulation<sup>2</sup> emphasise that it will regulate only where, among other criteria, analysis of the costs and benefits demonstrates that the regulatory approach is superior by a clear margin to alternative self-regulatory or non-regulatory approaches, and that there is a general presumption that regulation should not impose costs and obligations on business, social enterprises, individuals and community groups unless a robust and compelling case has been made.

<sup>1</sup> See: [Law Society response to the Competition and Markets Authority invitation to comment on the notice on the market study into the supply of legal services in England and Wales](#) (February 2016) and [Law Society response to the Government consultation on alternative business structures](#) (August 2016)

<sup>2</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/468831/bis-13-1038-Better-regulation-framework-manual.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/468831/bis-13-1038-Better-regulation-framework-manual.pdf)

- The Society believes that costs should be proportionate and should not be inflated by unnecessary regulation. Consumers should be able to access a variety of good quality legal services at a reasonable price.
- Some segments of the legal services sector are crucial for ensuring the effective operation of the courts and the lawful settlement of disputes (such as litigation and advocacy services). These are the foundation of the rule of law in England and Wales. The Society and the solicitors' profession are committed to supporting the rule of law and maintaining values in the public interest. There are occasions where the objective of regulation is not just to protect consumers but to protect this wider public interest.
- Any changes to regulation of the legal profession should be considered in the broader context, taking into account their economic effects, impact on consumers and their contribution to advancing the public interest. The factors to be taken into account when assessing the need for regulation tend to vary significantly and therefore often a case-by-case analysis would be necessary. Changes must ensure the legal profession stays independent, vibrant; at the heart of business and commerce and enabling ordinary people get access to justice.

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