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LSB CONSULTS ON ENFORCEMENT PROCEDURE

LEGAL SERVICES BOARD OPENS CONSULTATION ON ENFORCEMENT POWERS AS IT MOVES TOWARDS DELIVERY OF THE REFORMS SET OUT BY THE LEGAL SERVICES ACT

The Legal Services Board (LSB) today publishes a consultation document outlining proposals on how it could deploy its enforcement powers.

The consultation has been launched as a step towards establishing the processes that will be used by the LSB after it assumes its full range of powers and becomes fully operational on 2 January 2010. The consultation also provides an initial impact assessment on how the powers are likely to affect different groups.

It is launched as the LSB looks towards implementation, alongside the Approved Regulators, of the regulatory reforms envisaged by the Legal Services Act. A major part of the Act was to establish a set of shared Regulatory Objectives between the LSB and the Approved Regulators, and to promote best regulatory practice.

As the oversight regulator in the sector, the LSB will have the overall role in ensuring delivery of these Objectives, with its enforcement powers being an important part of that process.

One of the main elements of the enforcement procedure outlined in the document involves the ability to impose a financial penalty on an Approved Regulator for non-compliance, with the maximum level for this being a major part of the proposals under consultation.

Chairman of the Legal Services Board, David Edmonds said:

'The LSB has a clear mandate through the Legal Services Act to put the consumer at the heart of the delivery of legal services. In meeting this challenge, it is crucial that regulation is delivered in pursuit of the public interest at all times. I am very clear that by working jointly with all Approved Regulators we can achieve better regulation underpinning that goal. But enforcement powers and how they might be used are a key part of the new statutory regime. This paper sets out our first thoughts and we look forward to working with Approved Regulators and others with an interest both inside and outside the sector to shape the right processes.'

The consultation exercise will run from 3 August to 26 October 2009. Following a period of reflection on submissions, a Statement of Policy will be published on how the LSB proposes to use these powers.

- Ends -

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Notes to Editors

1. The consultation paper can be accessed online at:
http://www.legalservicesboard/what_we_do/consultations/index.htm
2. The Legal Services Act 2007 provides for the creation of the Legal Services Board as the oversight regulator for legal services in England and Wales.
3. Figures from 2006 showed that the legal profession consisted, at that point, of some 15,000 barristers, 108,000 solicitors and 14,000 individuals operating in other aspects of the legal profession such as conveyancing. The sector is currently valued at £23.34 billion per annum.
4. The LSB oversees eight “Approved Regulators”, which in turn regulate individual lawyers and organisations. These, designated under Part 1 of Schedule 4 of the 2007 Act, are the Law Society, the Bar Council, the Master of the Faculties, the Institute of Legal Executives, the Council for Licenced Conveyancers, the Chartered Institute of Patent Agents, the Institute of Trade Mark Attorneys and the Association of Law Costs Draftsmen.
5. Section 49 of the Legal Services Act requires that ‘*The Board must prepare and issue a statement of policy with respect to the exercise of its functions under [a range of sections]*’. Each of these sections provides for different enforcement measures that the LSB is entitled to use.
6. Paragraph 3.11 on page 12 of the consultation document provides that the LSB will ‘*take account of the desirability of resolving matters informally. However, informal resolution may not be appropriate in all cases, for example if the impact of the issue is serious and widespread or in other circumstances that the LSB considers are not suitable for informal resolution*’. A range of options for enforcement measures are set out for use in any such eventuality.
7. The proposals on the maximum financial penalty are set out on Page 19 of the document, at paragraph 3.42. The maximum proposed, at this stage, by LSB is the greatest of:
 - an amount equal to £250 per individual that the Approved Regulator regulates;
 - an amount equal to £5,000 per entity that the Approved Regulator regulates; or
 - £10 million.
8. For further information, please contact Craig Jones on
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