

Looking to the future: phase two of our Handbook reforms

Impact assessment

September 2017

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Introduction

1. This impact assessment sets out the problems we aim to address through the reforms proposed in our consultation [Looking to the future: phase two of our Handbook reforms](#). It also outlines potential benefits, risks and mitigations. The consultation paper and this impact assessment should be read in conjunction.
2. In June 2017 we published the Centre for Strategy and Evaluation Services' (CSES) [evaluation framework](#). This suggested an approach to assessing the impacts of our Looking to the Future reforms, and other initiatives. This impact assessment should also be read alongside that framework.
3. This impact assessment covers proposed reforms in the following areas:
 - our requirement to have a practising address in England or Wales
 - formation and management of authorised bodies
 - Rule 12: Qualified to supervise
 - claims management and immigration advice
 - individual self-employed solicitors
 - assessing character and suitability
 - training
 - approving managers and owners
 - how we regulate overseas practice
 - selling property
 - financial services
 - our Notice, Application, Review and Appeal Rules
 - our Regulatory and Disciplinary Procedure Rules.

Issues, impacts, risks and mitigations

Table 1 - What issues will our proposed reforms address?

Area	Issue	What we expect our reforms to achieve
Generic	<ul style="list-style-type: none"> our rules are prescriptive, repeat obligations found elsewhere and need frequent updates to keep up with changes in the market. The rules are also <ul style="list-style-type: none"> too long too detailed hard to navigate 	<ul style="list-style-type: none"> easier to navigate increased flexibility through less prescriptive rules better understanding among firms and individuals reduction in overall cost of regulatory compliance more proportionate and targeted regulatory approach
Restricting services to a base in England or Wales	<ul style="list-style-type: none"> our rule prevents firms from providing reserved services if they are in Scotland or Northern Ireland our rule is out of step with how consumers can purchase other goods/services 	<ul style="list-style-type: none"> more choice for consumers and the associated benefits that brings¹ more competition increased diversity of the profession minimal difficulty enforcing against Scottish or Northern Irish firms
Forming and managing authorised bodies	<ul style="list-style-type: none"> our rule goes beyond statutory requirements which creates an unnecessary burden 	<ul style="list-style-type: none"> removes artificial barrier to authorisation allows firms/individuals to structure themselves in most efficient way
Qualified to supervise	<ul style="list-style-type: none"> rule is confusing rule does not guarantee competence training requirement is out of step with approach to continuing competence three year time period is arbitrary barrier to entry and restriction on practice 	<ul style="list-style-type: none"> removes confusion enables competent individuals to become sole practitioners removes barrier to entry consumer protection maintained through other more effective controls in our Handbook
Immigration and claims management advice	<ul style="list-style-type: none"> allowing solicitors to practise in non-LSA regulated entities extends rights to deliver certain services beyond the public policy intention of separate regulatory regimes 	<ul style="list-style-type: none"> practise rights will be aligned to public policy work on immigration and claims management restricted to a regulated entities
Individual self-employed solicitors	<ul style="list-style-type: none"> our rules already allow solicitors to provide reserved legal activity outside of entity regulation, although this is through a complicated set of exemptions 	<ul style="list-style-type: none"> the new rules simplify the position through our general approach to drafting, and in line with our 2015 policy statement
Assessing character and suitability	<ul style="list-style-type: none"> prescriptive rules one-size-fits-all approach lacks flexibility trainees treated differently to apprentices does not align with the revised Enforcement Strategy 	<ul style="list-style-type: none"> more proportionate, targeted, transparent and nuanced decisions fact specific, case by base approach simpler process consistent treatment of trainees and apprentices later assessment at point of admission gives more opportunity for candidates to demonstrate rehabilitation same approach for all applicants underpins our Enforcement Strategy
Transitional arrangements for the Solicitors Qualifying	<ul style="list-style-type: none"> existing training regulations need to be in force until their requirements are phased out with introduction of the SQE 	<ul style="list-style-type: none"> allow a period of time to choose between original pathway to qualification or SQE.

¹ [Ministry of Justice is analysing responses to its consultation on removing these statutory requirements for Alternative Business Structures](#)

Area	Issue	What we expect our reforms to achieve
Examination ('SQE')	<ul style="list-style-type: none"> when the SQE is introduced people will already be on existing qualifications' pathways 	
Approving managers and owners	<ul style="list-style-type: none"> burdensome to require multiple approvals duplicates regulation from other regulators slows innovation (eg firms converting to ABS) 	<ul style="list-style-type: none"> reduces occasions on which individuals have to seek approval as role holders more proportionate and targeted regulation simplification of rules reduced costs for applicants and us barrier to innovation removed
How we regulate overseas practice	<ul style="list-style-type: none"> duplicates regulation elsewhere 	<ul style="list-style-type: none"> more proportionate and targeted deletion of rules duplicated elsewhere reduces potential for updates to the Handbook being needed
Selling property	<ul style="list-style-type: none"> duplication of legislation 	<ul style="list-style-type: none"> more proportionate and targeted deletion of rules duplicated elsewhere reduces potential for updates to the Handbook being needed
Financial services	<ul style="list-style-type: none"> lack of clarity and accessibility duplication of legislation 	<ul style="list-style-type: none"> shorter and more simple rules
Notice, Application, Review and Appeal Rules	<ul style="list-style-type: none"> relevant provisions in a number of different places in current Handbook lack of consistency of terminology 	<ul style="list-style-type: none"> clearer drafting more consistent approach
Enforcement Strategy	<ul style="list-style-type: none"> scope to improve consistency, fairness and transparency prescriptive compliance model 	<ul style="list-style-type: none"> flexibility to interpret, apply and meet our standards in a range of ways and business models clarity and transparency on what we consider to be the most serious issues more proportionate and targeted approach
Disciplinary procedure rules/ Cost of Investigation Regulations ²	<ul style="list-style-type: none"> drafting can be simplified rules do not cover entire scope of regulatory toolkit³ 	<ul style="list-style-type: none"> easier to understand clarifies our approach to all allegations of regulatory breach or misconduct

When would our proposed reforms come into effect?

4. We plan to introduce all our Looking to the future proposals no earlier than late 2018. This will include changes to the Principles, Codes of Conduct, the rest of the rules in the Handbook and revised Enforcement Strategy. Annex one to our consultation 'Looking to the future: phase two of our Handbook reforms' outlines:
- what has happened to the rules in our existing Handbook
 - proposed sets of rules in our new Handbook.

² we will consult on the Cost of Investigation Regulations in 2018.

³ they currently only cover a decision to fine, rebuke, disqualify, and make a referral to the Solicitors Disciplinary Tribunal (SDT)

Table 2 - Summary of potential impacts of our reforms

Proposed change	Market	Firms	Intending solicitors/solicitors	Consumers
Simplification of rules	<ul style="list-style-type: none"> ↑ opportunities for innovation created by increased flexibility 	<ul style="list-style-type: none"> ↑ easier to navigate ↑ lower compliance costs ↑ increased flexibility of less prescriptive rules ↑ improved understanding ↑ less frequent Handbook updates needed ↑ less need to apply for waivers ↑ shorter and more focused ↑ more proportionate and targeted regulation ↓ transitional ('familiarisation') cost ↓ burden on small firms that may prefer prescription ↓ potential uncertainty about what constitutes compliance 	<ul style="list-style-type: none"> ↑ easier to navigate ↑ lower compliance costs ↑ increased flexibility of less prescriptive rules ↑ improved understanding ↑ reduction in frequency of updates to the handbook ↑ less need to apply for waivers ↑ shorter and more focussed ↑ more proportionate and targeted regulation ↓ transitional ('familiarisation') cost ↓ potential uncertainty about what constitutes compliance 	<ul style="list-style-type: none"> ↑ potential for lower compliance costs to be passed on in cheaper prices
<p>Amended practising address requirements</p> <p>Authorising recognised bodies and recognised sole practitioners with a practising address anywhere in the United Kingdom</p>	<ul style="list-style-type: none"> ↑ increased competition and choice ↑ greater number of firms regulated by us spreads cost of regulation more thinly ↓ enforcement could be more complicated and/or expensive for those outside current jurisdiction 	<ul style="list-style-type: none"> ↑ relaxation of rules for prospective firms ↑ increased diversity of profession ↑ increased diversity of business models ↑ increased diversity of supply mechanisms ↓ more competition for incumbent firms 	<ul style="list-style-type: none"> ↑ increased diversity of profession 	<ul style="list-style-type: none"> ↑ consumers have more choice ↑ competition could drive down price, increase accessibility to the legal service market and reduce unmet demand
Forming and managing authorised bodies	<ul style="list-style-type: none"> ↑ removes artificial barriers to authorisation 	<ul style="list-style-type: none"> ↑ allows firms to structure themselves in most efficient way 	<ul style="list-style-type: none"> ↑ allows solicitors to structure firms in most efficient way for them 	

Proposed change	Market	Firms	Intending solicitors/solicitors	Consumers
Allowing more corporate managers of authorised bodies	↑ focus on those who really control the firm			
Qualified to supervise Removing current requirement for entities to have an individual who is 'qualified to supervise' within their management structure	↑ removes barrier to entry/ restriction on practise	↑ removes confusion about rule	↑ removes confusion about rule ↑ enables competent individuals to set up businesses when they qualify	↑ appropriate protections provided through our other regulations
Claims management and Immigration advice Restricted to regulated entities (SRA, LSA or sector specific regulators)			↑ able to provide non-reserved legal services outside of LSA-regulated firms ↑ retention of solicitor title	↑ confidence that advice is from a regulated entity ↑ greater clarity about regulatory protection
Individual self-employed solicitors Able to provide reserved legal activity outside entity regulation	↑ removes restriction on practise	↑ removes confusion about rule	↑ more flexible ways of providing services and sharing costs ↑ potential risk of artificial arrangements being made to avoid entity regulation	↑ consumers have more choice
Assessing character and suitability More flexible approach	↑ more proportionate, transparent, and nuanced decisions ↑ potential for reduced challenge ↑ simpler, one stage test for all applicants ↑ single application at point of admission for solicitors ↓ potential transfer of risk to trainees	↑ reduction in number of character and suitability assessments required ↑ deemed suitability for authorised persons ↓ potential transfer of risk to firms	↑ fact specific, case by case approach ↑ removes duplication of test at beginning of recognised training and on admission to the roll ↑ later assessment at point of admission gives applicants longer to demonstrate rehabilitation ↑ more discretion in decision making	↑ consumers can have confidence in our character and suitability assessment

			<ul style="list-style-type: none"> ↑ risks are mitigated effectively by increased use of conditions at admission ↑ same test applies to solicitors, registered European lawyers ('REs') and registered foreign lawyers (RFLs) ↑ clearer rules ↓ potential uncertainty about what constitutes compliance ↓ longer process in some cases 	
<p>Training regulations</p> <p>Removal of equivalent means when SQE is introduced and transitional arrangements</p>	<ul style="list-style-type: none"> ↑ period of time to allow individuals qualify under the current system ↑ SQE provides mechanism for candidates to qualify through alternative pathways ↑ rationale for equivalent means falls away on introduction of SQE ↑ encourages a move to SQE system sooner rather than later 	<ul style="list-style-type: none"> ↑ firms able to plan for introduction of the SQE and how it might impact their current and future trainees 	<ul style="list-style-type: none"> ↑ period of time to allow individuals that have started to qualify under the current system to complete SQE provides mechanism for candidates to qualify through alternative pathways ↑ sufficient notice given to enable those who have started on equivalent means route to complete before introduction of SQE 	
<p>Approving managers and owners</p> <p>Simplifying process for approving owners and managers</p>	<ul style="list-style-type: none"> ↑ removal of duplication between regulators ↑ reduction in number of waivers ↑ lower volume of cases for us to assess means lower costs 	<ul style="list-style-type: none"> ↑ more streamlined process ↑ less bureaucratic ↑ less costly ↑ no duplication of regulation 	<ul style="list-style-type: none"> ↑ more streamlined process ↑ less bureaucratic ↑ less costly ↑ no duplication of regulation 	
<p>How we regulate overseas practice</p>		<ul style="list-style-type: none"> ↑ removal of duplication of rules elsewhere 	<ul style="list-style-type: none"> ↑ removal of duplication of rules elsewhere 	

Integrating European Cross-border Practice Rules		1. more effort involved in complying	↓ more effort involved in complying	
Property Selling Rules Remove rules but retain two provisions as guidance		↑ removal of duplication of rules elsewhere	↑ removal of duplication of rules elsewhere	
Financial Services Rules Simplification		↑ shorter and more focussed ↑ lower compliance costs ↓ more effort involved in complying	↑ shorter and more focussed ↑ lower compliance costs ↓ more effort involved in complying	
Notification, Application and Review Rules 2018 New rules to bring provisions about reviewing our decisions into one place		↑ more consistent and clearer drafting approach	↑ more consistent and clearer drafting approach	
Enforcement Strategy Clear framework and clarity about how, and when, we will enforce	↑ improved consistency of internal decision making	↑ flexibility to interpret, apply and meet our standards in a number of ways and in different business models ↑ increased clarity and transparency on what we consider serious issues and when we will take action	↑ flexibility to interpret, apply and meet our standards in a number of ways and in different business models ↑ increased clarity and transparency on what we consider serious issues and when we will take action	↑ public confidence that solicitors held to account for serious breaches
Disciplinary Procedure Rules Simplification of drafting and broadening to cover all regulatory breaches or misconduct		↑ clarity on our approach to all allegations of regulatory breach or misconduct ↑ greater clarity, transparency and consistency of approach to regulatory investigations and decision making	↑ clarity on our approach to all allegations of regulatory breach or misconduct ↑ greater clarity, transparency and consistency of approach to regulatory investigations and decision making	

Table 3 - Potential risks and mitigations

Proposed change	Risk	Mitigation
<p>Amended practising address requirements</p> <p>Authorising recognised bodies and recognised sole practitioners with a practising address anywhere in the United Kingdom</p>	<ul style="list-style-type: none"> • enforcement more complicated/expensive against firms we regulate outside the current jurisdiction • reputational risk if we find it difficult to address emerging issues • inconsistency of requirements for RBs/RSPs and ABSs 	<ul style="list-style-type: none"> • already regulate branch offices of UK firms operating overseas (and individual solicitors working overseas) through the domestic office where there are close ties to the UK • difficulties of verification and enforcement do not arise in the same way as they would outside the United Kingdom. • if and when Parliament removes the statutory requirements for ABSs we will widen our rules in the same way for those firms.
<p>Forming and managing authorised bodies</p> <p>Enabling licensed bodies to be managed by a corporate body</p>	<ul style="list-style-type: none"> • may allow opaque structures where it is unclear which individuals are responsible 	<ul style="list-style-type: none"> • authorisation processes that take into account ultimate control before granting approval
<p>Qualified to supervise</p> <p>Removing current requirement for entities to have an individual who is 'qualified to supervise' within their management structure</p>	<ul style="list-style-type: none"> • newly qualified solicitors setting up firms before they are competent to practise or to run a business • potential consumer detriment 	<ul style="list-style-type: none"> • power to refuse authorisation if we have cause to consider that the entity will not meet necessary standards comply with regulation • SRA Professional Ethics team provides support for all solicitors (including sole practitioners) • consumers will be able to find out when a solicitor was admitted, and their experience, through our proposal to create a more accessible digital register • our new Code of Conduct for solicitors, RELs and RFLs requires a competent service to clients and a maintained level of competence to practise • our new Code of Conduct for firms requires entities we regulate to have effective business controls in place, eg systems for supervising client matters; making sure staff are competent; staff's professional knowledge and skills kept up to date • In future, the SQE will mean that all qualified solicitors have had

Proposed change	Risk	Mitigation
		their technical competence rigorously assessed
Individual self-employed solicitors	<ul style="list-style-type: none"> potential risk of artificial arrangements being made by some practitioners to avoid entity regulation 	<ul style="list-style-type: none"> the requirement to contract personally for services and to have appropriate Professional Indemnity Insurance (PII)/client money restrictions will make such arrangements unlikely however, we will issue guidance on the issue, and take regulatory action where appropriate
<p>Assessing character and suitability</p> <p>More flexible approach</p>	<ul style="list-style-type: none"> potential uncertainty about what constitutes compliance transfer of risk to trainees/intending solicitors Equality and diversity risk that intending solicitors with possible issue do not bother attempting to qualify 	<ul style="list-style-type: none"> information on character and suitability requirements will be provided to students through learning providers and the SQE programme longer period to demonstrate rehabilitation; avoids early definitive refusal because there has been no time to demonstrate rehabilitation provision of early advice from Ethics guidance⁴
<p>Claims management and Immigration advice</p> <p>Restricted to regulated entities (SRA, LSA or sector-specific regulators)</p>	<ul style="list-style-type: none"> risk of regulatory confusion/overlap where solicitors work in a body overseen by the sector-specific regulator 	<ul style="list-style-type: none"> we are working with the sector-specific regulators (OISC, CMR) on potential overlap
<p>Training regulations</p> <p>Removal of equivalent means when SQE is introduced and transitional arrangements</p>	<ul style="list-style-type: none"> candidates could have started their route into the profession based on the current system some candidates may be unable to qualify under the existing system because they have to take time out for reasons such as illness or caring responsibilities 	<ul style="list-style-type: none"> introduce transitional arrangements that provide a reasonable opportunity for individuals who have invested time and money on the existing qualification framework when the SQE comes into force to have a period of time in which to complete in the existing system give reasonable notice of transitional arrangements
Approving managers and owners	<ul style="list-style-type: none"> we may not be aware of events that could occur in relation to those individuals approved by other regulators 	<ul style="list-style-type: none"> requiring good standing confirmation from other regulators on first approval requirement to indicate whether anything has happened that

⁴ this will not be a decision and will not have a legal basis

Simplifying process for approving owners and managers		impacts on their fitness specifically as a role holder
How we regulate overseas practice Integrating European Cross-border Practice Rules	<ul style="list-style-type: none"> more effort for to comply - have to reference both SRA rules and Code of the Council of Bars and Law Societies of Europe (CCBE) 	<ul style="list-style-type: none"> requirement in Handbook for those operating in European jurisdictions or cross border to comply with CCBE Code
Property Selling Rules Remove rules but retain two provisions in guidance	<ul style="list-style-type: none"> consumers might not understand situations in which they are liable to pay a fee consumers might receive less information using a solicitor than they would from an estate agent 	<ul style="list-style-type: none"> retain as guidance some of the requirements setting out the specific charging structures used in estate agency expectation that solicitors will provide information on the terms 'sole agency' and 'sole selling rights'
Financial Services Rules Simplification	<ul style="list-style-type: none"> difficult for firms to stay up to date due to much of regulation being in legislation 	<ul style="list-style-type: none"> will take this into account when we design support package for firms
Notification, Application and Review Rules 2018 New rules to bring provisions about reviewing our decisions into one place	<ul style="list-style-type: none"> none identified - simplification of rules only 	
Enforcement Strategy Clear framework and clarity about how, and when, we will enforce	<ul style="list-style-type: none"> lack of clarity on what we regard as breaches of regulatory arrangements 	<ul style="list-style-type: none"> we will provide examples of 'grey areas' alongside the final strategy
Disciplinary Procedure Rules Simplification of drafting and broadening to cover all regulatory breaches or misconduct	<ul style="list-style-type: none"> none identified - simplification and broadening only (consultation on Cost of Investigation Regulations planned for 2018) 	

5. We believe that on balance our proposals will:

- increase opportunities for innovation
- enhance competition
- improve standards
- reduce unnecessary bureaucracy.

Measuring the impacts of our reforms

6. We recognise that it will be some time before the impacts of our reforms become apparent. We plan to evaluate those impacts using CSES' evaluation framework in a post-implementation review. This will consider consumer, economic, market, equality and diversity impacts.
7. We intend to publish a post-implementation update after three years. The exact nature of the assessment will be partly informed by how the market is developing in response to our reforms.

Our proposals

Proposal 1: simplify rules

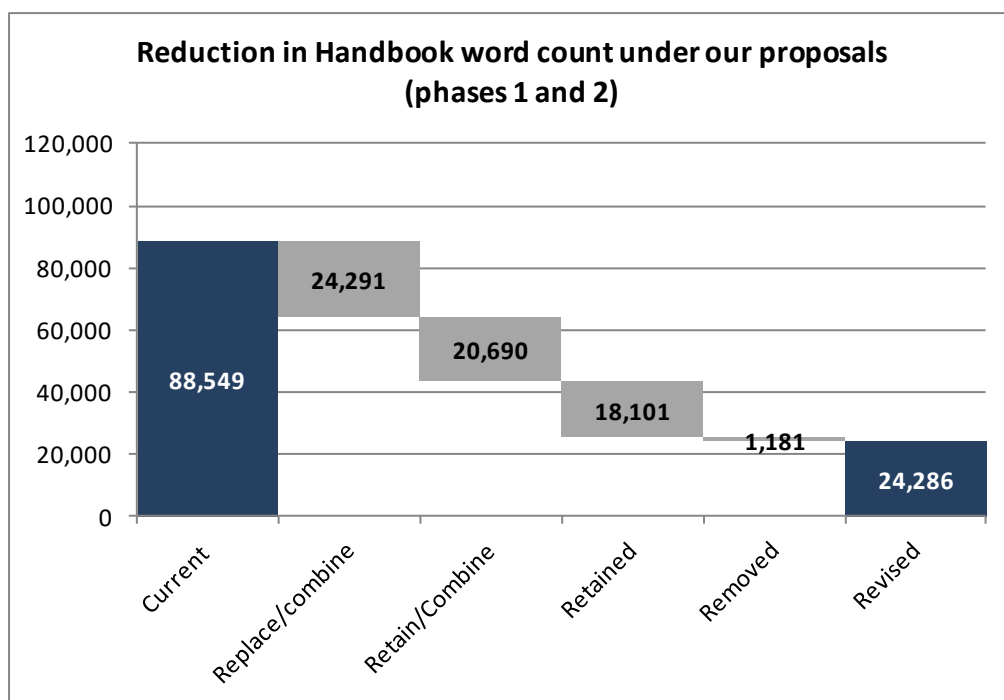
Simplify rules
<ul style="list-style-type: none">• shorter and simpler• remove unnecessary duplication of rules elsewhere• clearer language consistent with our approach to the principles and codes in Looking to the future phase one

8. In our phase one [consultation](#) and [impact assessment](#) we set out views on our Handbook from those we regulate. They included that the current Handbook is too long, duplicates other legislative and regulatory obligations, is too prescriptive and needs changing too often to keep up with changes to the market and so is often out of date. We note that firms think too much time is spent trying to keep up and comply with technical detail. This is seen by the sector as one of the highest costs of regulation.

Impact of simplifying our rules

9. We consider that the proposed simplification will give firms more flexibility both in how to run their businesses and how to meet our standards. This will also encourage businesses to own and internalise our standards instead of just implementing prescriptive requirements without reflecting on why or how they are appropriate.
10. By stripping out unnecessary regulation and using higher level rules our new Handbook should better stand the test of time. As of 1 November 2016, the current Handbook is on version 18 since its publication in 2011. Its detailed and prescriptive rules need constant updating. Our proposals are consistent with the better regulation principles of making sure our rules are transparent, proportionate and targeted.
11. Figure 1 shows the significant reduction this work will have on the word count of our Handbook. Our proposals mean nearly a 75 percent reduction in the length of the Handbook in those areas within scope of phases one and two. Since we introduced the October 2011 version of the Handbook we have already reduced the number of pages from more than 600 to around 400. Our proposals will also improve the readability of the Handbook.

Figure 1 - reduction in word count under our proposals



12. In research by CSES on the impact of changes to the Handbook one firm (a London-based LLP with 30 members of staff) commented that each time the Handbook is reformed:

- the Compliance Officer for Legal Practice (COLP) updates their office manual as each mandatory outcome in the Handbook is mirrored in the firm's processes and procedures
- staff are trained
- the COLP follows a series of monthly routines to ensure that the firm complies with all the requirements of the Handbook and specifically the Code of Conduct
- staff are monitored to ensure their compliance with all the requirements of the Handbook.

13. This is a significant commitment in terms of time and resource. The same firm expected that the current reforms will require two half-day training sessions for staff to familiarise themselves with the revised Handbook.

14. While there will be one off familiarisation costs we believe that ongoing costs will be lower because we will not need to update the Handbook so frequently.

15. In our phase one impact assessment we identified that a move away from prescriptive rules could result in a disproportionate or particularly high burden on small firms. This could translate to impacts on black, Asian and minority ethnic (BAME) and older

solicitors because they are disproportionately represented in small firms and sole practices.

16. We noted that, overall, individuals who are compliant with our current principles and codes, and who do not want to change arrangements, will not need to do so. We also noted that we would provide support for firms in the transitional period through, for example, publication of our toolkits.

Proposal 2: loosen restrictions on practising addresses

Requirement for a practising address in the United Kingdom
<ul style="list-style-type: none"> widening our rule so that we can authorise recognised bodies and recognised sole practitioners that have a practising address anywhere in the United Kingdom (this is currently restricted to England and Wales)

17. Our rules go further than legislation by requiring all firms we regulate to provide services from a physical base in England or Wales. Our current requirement for a domestic practising address would mean that we could not authorise an entity based outside this jurisdiction looking to provide online services to consumers in England and Wales. Consequently, they would be restricted to providing non-reserved services only. For alternative business structures (ABSs) this is a statutory requirement set out in [schedule 11](#) to the Legal Services Act 2007, save for companies and LLPs with a registered office in England or Wales.

18. We propose widening our rule to enable us to authorise entities based in Scotland and Northern Ireland to provide reserved legal services in England and Wales (subject to any restrictions in legislation).

19. The Ministry of Justice (MoJ) has [consulted](#) on removing the statutory requirement for ABSs and is currently analysing the responses it received. We agreed with the MoJ's position that a consistent approach should be taken and that there is no reason why there should be statutory restrictions for ABSs when they do not exist for other types of legal services firms. If and when Parliament removes the statutory requirements for ABSs we will widen our rules in the same way for those firms.

20. Currently of the firms we regulate around 96 percent have head offices in England and 4 percent in Wales. There are around a dozen firms - accounting for only 0.12 percent - of the total that have head offices outside England and Wales.

Table 4 - Number of firms we regulate with head offices outside England & Wales

Country of head office	Number of firms
Scotland	8
Northern Ireland	2
Republic of Ireland	1
United States of America	1

21. Table 5 shows where the head offices for those that we regulate are located by firm type. In total, companies limited by shares and sole partnerships account for around two thirds of the total.

Table 5 - Proportion of firms by type and head office location

Firm type	ENGLAND	WALES	SCOTLAND	NORTHERN IRELAND	REPUBLIC OF IRELAND	UNITED STATES OF AMERICA	Grand Total
Company Limited by Shares	38.62%	1.62%	0.02%	0.01%	0.00%	0.00%	40.27%
Sole Practice	24.29%	0.90%	0.01%	0.00%	0.00%	0.00%	25.20%
Partnership	17.64%	1.30%	0.01%	0.00%	0.01%	0.01%	18.97%
Limited Liability Partnership	14.50%	0.36%	0.04%	0.01%	0.00%	0.00%	14.92%
Unlimited Company	0.32%	0.04%	0.00%	0.00%	0.00%	0.00%	0.36%
Law Practice	0.19%	0.00%	0.00%	0.00%	0.00%	0.00%	0.19%
Company Limited by Guarantee	0.03%	0.01%	0.00%	0.00%	0.00%	0.00%	0.04%
Non-trading recognised body	0.04%	0.00%	0.00%	0.00%	0.00%	0.00%	0.04%
Overseas Company registered in E&W	0.01%	0.00%	0.00%	0.00%	0.00%	0.00%	0.01%
Grand Total	95.65%	4.24%	0.08%	0.02%	0.01%	0.01%	100.00%

Potential impacts

22. Firms based in Scotland and Northern Ireland will be able to offer reserved legal services to consumers in England and Wales. We expect this to lead to more consumer choice and scope for greater diversity in both delivery models and the solicitor profession. We will monitor the impacts of the proposed reform on the diversity in the profession.

Proposal 3: forming and managing authorised bodies

Forming and managing authorised bodies
<ul style="list-style-type: none"> • enable licensed bodies to be managed by a corporate entity • we will no longer seek to formally approve individual managers within corporate managers as part of the authorisation rules

23. Our current rules go beyond statutory requirements in restricting who can be managers of businesses we authorise. For example, Practice Framework Rule 14.2 requires licensed bodies to be managed by individuals rather than a corporate entity. This creates an unnecessary burden. We propose to remove these unnecessary restrictions.

Potential impacts

24. Our proposal will mean that we do not artificially restrict the structures that firms consider best for their purposes. We will no longer seek to formally approve individual managers within corporate managers as part of the authorisation rules. Instead we will look up the

chain as appropriate on a pragmatic basis to see whose involvement to take into account in approving the corporate manager itself.

Proposal 4: remove the 'qualified to supervise' rule

Qualified to supervise
<ul style="list-style-type: none">• to remove the current requirement for entities to have an individual who is 'qualified to supervise' within their management structure

25. Our current rules require the firms we regulate to have an individual who is 'qualified to supervise' within their management structure. In order to be qualified to supervise a person must have:

- undertaken training as specified by the SRA (currently 12 hours on management skills) and
- been entitled to practise as a lawyer for at least 36 months within the past 10 years.

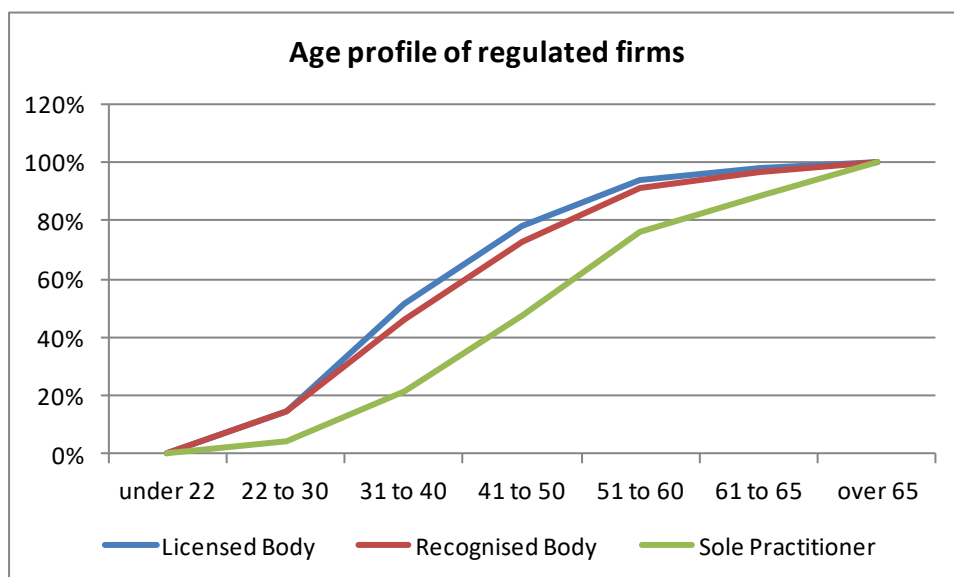
26. The rule was introduced as a way to ensure that an individual has developed the technical and business competences to run a business.

27. This rule has caused some confusion. For example, we have heard the mistaken views that solicitors must themselves be supervised for at least three years post-admission, or that a solicitor must have three years' experience before they can set up as a sole practitioner. The rule has also created a barrier to market entry, by preventing solicitors establishing their own firms as soon as they qualify.

Potential impacts

28. Our proposals will remove unnecessary barriers to entry in the market and would lift a major restriction on practice. It will enable competent individuals to set up businesses and as sole practitioners when they qualify. This could change the age profile of the businesses we regulate. For instance, our data shows that the age profile of regulated individuals in sole practices are different to licensed and recognised bodies. As figure 2 shows around a fifth of individuals in sole practices are aged 40 and under relative to around half in recognised and licensed bodies.

Figure 2 - Age profile of regulated firms



29. Our proposals will not compromise existing safeguards that newly qualified solicitors should not set up firms on their own without experience. We believe that other provisions in the new Handbook tackle this issue in a more targeted and proportionate way while providing appropriate consumer protections. Our consultation paper sets these out in more detail.

Proposal 5: claims management and immigration advice

Provision of immigration and claims management advice
<ul style="list-style-type: none"> • Solicitors, RELs and RFLs should not be able to provide: <ul style="list-style-type: none"> ○ immigration services outside of LSA or OISC authorised firms ○ claims management services outside of LSA or CMR (or equivalent) authorised firms

30. Both immigration and claims management services are subject to separate regulatory regimes for those that practise outside of LSA regulated firms, via the Office of the Immigration Services Commissioner (OISC) and the Claims Management Regulator (CMR) respectively.

31. At the time these regimes were introduced it was not conceived that solicitors might offer these services to the public outside of a regulated law firm or special body. Our other reforms could therefore extend rights to deliver certain legal services beyond what we think is the proper public policy intention of the regimes, which is that work in immigration and claims management should only take place within a regulated entity.

32. We therefore propose that solicitors, RELs and RFLs will only be able to:

- practise immigration in a firm authorised under the LSA or by the OISC and
- provide claims management services in a firm authorised under the LSA or by the CMR.

Potential impacts

33. Our proposals will mean that both claims management and immigration advice have to be provided from a regulated entity. This will provide regulatory protections to consumers (such as access to the Legal Ombudsman) that would not exist if these services were provided from non-regulated entities.
34. We are working with the OISC and CMR to understand any implications for their regulatory regimes for instance potential regulatory overlap.

Proposal 6 – individual self-employed solicitors

Individual self-employed solicitors
<ul style="list-style-type: none"> • We propose to allow individual self-employed solicitors to provide reserved legal services to the public, subject to a number of safeguards including: <ul style="list-style-type: none"> ○ adequate and appropriate PII ○ access to the Compensation Fund ○ restrictions on holding client money.

Potential impacts

35. Solicitors have always been able to work on their own as a sole practitioner. This proposal would remove an unnecessary burden of forcing a solicitor working wholly alone to be regulated as an entity as well as individual. We consider this a false situation as the individual solicitor is not an entity. The current rules acknowledge this. They contain a complicated set of exemptions to the general prohibition.⁵
36. Our new rules aim to simplify these provisions in line with our general drafting principles and the policy statement of 2015. This would mean that an individual sole practitioner or freelancing solicitor would not need to artificially create an entity around them. However, if they choose to do so, the entity must be regulated. Such freelancing solicitors will not be employing individuals – as that would lead them to be a body needing authorisation.

Support tools

37. We are aware of the risk that some practitioners may seek to avoid the need for firm authorisation by artificial arrangements whereby the solicitors concerned all seek to be classified as individual self-employed solicitors. We consider that the requirements to contract personally for services and to have appropriate PII, and the client money

⁵ These cover work colleagues, related bodies, pro bono, associations, certain insurance services, commercial telephone advice services, certain local government solicitor’s activity, law centre on an individual solicitor providing reserved activities without being authorised as an entity.

restrictions, will make such arrangements unlikely, but we will issue guidance on the issue and take regulatory action where appropriate.

Proposal 7: assessing character and suitability

Assessing character and suitability
<ul style="list-style-type: none">• assessment at point of admission or restoration to the profession, or when applying for an authorised role holder position• discontinued when applying for period of recognised training• extend the test to apply to RELs and RFLs for the first time

38. We explained in our phase one response [document](#) that our current Suitability Test is rigid and very black and white in its approach. We are not convinced that a one-size-fits-all test works for admissions, qualified lawyer transfers, restoration to the roll, and approval of managers or owners as authorised role-holders.

39. While our approach to assessing character and suitability will be compatible with our revised Enforcement Strategy, it will not replicate it. We do not want to fully align our approach to entry to the profession with our enforcement activity and actions against someone who is already a solicitor. It is right that a different test should be applied depending on whether we are considering access to rights (admission to the profession), or retaining rights (removing an individual's right to practise).

40. We propose replacing the current Suitability Test with a clear one-stage assessment that applies to everyone. We would discontinue the approach of assessing character and suitability when an individual applied for a period of recognised training. In 2016 we assessed 156 individuals for character and suitability requirements in view of their self-declarations, of which 74 were early assessments (before they started a period of recognised training). On the basis of our proposals each of these 156 individuals would only be assessed at the point of admission.

Potential impacts

41. One potential impact is transferring risk to students. Under the current arrangements there is, arguably, an additional safeguard to prevent students spending money on training but being denied admission to the profession.
42. However, just because someone passes the Suitability Test when applying for a period of recognised training does not mean that there will not be events before admission that could impact on their eligibility. Equally, just because someone would not pass the Suitability Test when applying for a period of recognised training does not mean that they would not be eligible at some future point. Under the current system, candidates may be disadvantaged by applying early, before they have an opportunity to evidence rehabilitation.

Support tools

43. To mitigate these risks, we propose to offer advice to students at any time before applying for admission through our Professional Ethics team. This advice would be non-binding.
44. In addition, we will provide early information to students on the requirements relating to character and suitability through learning providers and the SQE programme.
45. We will streamline our processes but the onus will remain on individuals to provide evidence to support their application for assessment of their character and suitability. That will be the case for admission, approval as a role-holder, or restoration to the roll.

Proposal 8: transitional arrangements for the SQE

Transitional arrangements
<ul style="list-style-type: none">• remove the option to meet our requirements by equivalent means when the SQE is introduced• introduce transitional arrangements for anyone who has started on the existing qualification when the SQE comes into force

46. In April 2017, our Board took the decision to introduce the SQE. Our target date is September 2020.

47. We are proposing that anyone who has started on the current pathways to admissions as a solicitor (ie has started a degree or graduate diploma in law) before the SQE comes into force will be able to continue on that pathway. However, this will be subject to a cut-off date. Alternatively, they will also be able to choose to qualify under the SQE.

48. The cut-off date we propose is the end of the calendar year five years after the SQE is introduced. So, for example, if the SQE is introduced in September 2020, the cut-off date will be 31 December 2025.

49. Our Authorisation of Individuals Regulations will include these transitional arrangements.

Potential impacts

50. With the introduction of SQE we are proposing to remove the ability of individuals to meet our requirements for qualification by equivalent means. This arrangement currently enables individuals who have substantial experience of working in legal services but have not secured a formal period of recognised training to qualify through an alternative route. We do not need to retain this option because people will instead have the opportunity to qualify by taking the SQE.

51. As shown in Table 6, in 2016 we processed over 200 equivalent-means applications for which we recovered around £80,000 in fees. Assessing equivalent-means applications is resource intensive. Our proposals will reduce these costs.

Table 6 - Number of applications for equivalent means 2016 and associated fee income

Short title	Title of the process	Number of applications	Current fee (£)	Revenue (£)
EQ Non-grad	Exemption from the completion of the common professional exam for non-grads	26	35	910
EQ PRT	Exemption from completion of a period of recognised training	115	600	69,000
EQ PSC	Exemption from one or more of the core elements of the Professional Skills Course	4	210	840
EQ LPC	Exemption from completion of the Legal Practice Course	9	600	5,400
EQ Morgenbesser	Equivalent experience gained in EU/EAA member state assessed in accordance with Day 1 learning outcomes	0	600	0
EQ CPE	Exemption from the completion of the common professional exam	58	55	3,190
TOTAL		212		79,340

52. Under this proposal a further impact is that for a period of five years individuals will be able to satisfy our training regulations through two routes - the current pathways or the SQE. For this period we will operate two processes to assess an individual's admission to the profession.

Support tools

53. We will provide support, including case studies and guidance, for candidates and employers on:

- the different ways to meet the requirements of the period of qualifying work experience

- our policy for recognising qualified lawyers.

Proposal 9: approving managers and owners

Approving managers and owners
<ul style="list-style-type: none"> • all solicitors, RELs and RFLs should be deemed suitable to be managers and owners of authorised bodies on admission or registration • other LSA-authorized persons should be deemed to be suitable as owners or managers of authorised bodies following an initial approval process

54. Under our current Authorisation Rules, authorised persons need our approval every time they:

- become managers or owners of a new body or
- their existing body changes constitution eg moving from partnership to a limited company.

55. Although we currently reduce the impact of this on solicitors, RFLs and RELs through a process of deeming, other authorised persons such as barristers and licensed conveyancers have to go through an approval process each time. We propose to replace this with a system where. Solicitors, RELs and RFLs will be deemed suitable to be managers or owners of any SRA authorised body on first admission/registration and will not have to seek individual approval for any such roles they take up. The only requirement will be for them to update mySRA.

56. In addition, other LSA-regulated persons such as barristers will have to seek approval (and be required to satisfy character and suitability requirements) when they take up their first role as manager or owner in an SRA authorised body. However, as with solicitors, this approval will be general and will not need repeating for roles in new firms. As with solicitors, they will be required to update mySRA.

Potential impacts

57. Between April 2016 and April 2017 we approved 266 LSA-authorized persons as manager/owners. Our proposals would mean that each of these 266 individuals would not need to be re-approved to fill these roles in new firms or if their existing firm changed constitution.

58. In addition to reducing unnecessary cost and bureaucracy we think this should lead to more effective co-operation between regulators without materially increasing risk or compromising our [regulatory objectives](#). We will be imposing similar requirements on these individuals as we do on solicitors in terms of notifying us of events that could affect that approval.

Proposal 10: how we regulate overseas practice

Regulation of overseas practice
<ul style="list-style-type: none">• streamlining the Overseas Rules and European Cross-border Practice Rules• stripping out prescriptive drafting that originates in the CCBE's code• requirement for those operating in European jurisdictions or cross border to have regard to the CCBE Code

59. The European Cross Border Practice Rules largely duplicate parts of the CCBE's Code of Conduct. We do not consider it necessary to continue this duplication.

Potential impacts

60. Solicitors may find it more difficult to ensure they are compliant as they would need to separately refer to the CCBE's Code.
61. The CCBE's Code is liable to change, which we would then have to mirror in our Handbook. If we simply refer users of our Handbook to the provisions of the CCBE Code in relevant situations it would help to ensure that our Handbook remains valid into the future, without needing constant updating.

Proposal 11: remove our Property Selling Rules

Property Selling Rules
<ul style="list-style-type: none">• remove property-selling rules from Handbook• retain two provisions in guidance

62. These rules mirror provisions in the Estate Agents Act 1979, including references to some sections which have never been enacted. Our approach to the new Handbook is to remove provisions that duplicate legislation as it is an unnecessary repetition of requirements set out elsewhere.

Potential impacts

63. We have identified two potential risks with this approach:
- consumers might not understand when they are liable to pay a fee
 - consumers might receive less information using a solicitor than they would through an estate agent.

64. To mitigate these risks we propose that businesses provide information on the meaning of the terms 'sole agency' and 'sole selling rights' if they are using one of these charging structures. We will also have a requirement in the new Code of Conduct for solicitors to

make sure that clients receive the best possible information about how their matter will be priced.

Proposal 12: simplify our Financial Services Rules

Financial Services Rules
<ul style="list-style-type: none">• simplify rules• remove duplication

65. We have amended the Financial Services (Scope) Rules eight times since we introduced our current Handbook. However, over this period the rules have not been substantially reviewed. As a result they are not clear or accessible and a great deal of legislation is duplicated. We are therefore proposing to substantially simplify and reduce their length. Our proposed changes will reduce the word count of the specialist services section of the Handbook by about one third.

Potential impacts

66. The duplicated legislation that we propose to remove is secondary legislation and may not be easily accessible. Firms may therefore struggle to stay up to date with the rules. To mitigate this risk we are considering how to design our support package for firms.

Proposal 13: widen our Disciplinary Procedure Rules

Disciplinary Procedure Rules
<ul style="list-style-type: none">• expanded rules to cover our approach to assessment and investigation of all allegations of regulatory breach or misconduct• follow a more logical and chronological pathway through our decision making process

67. We are consulting on revised Disciplinary Procedure Rules which have been broadened to cover our approach to assessment and investigation of all allegations of regulatory breach or misconduct.

Potential impacts

68. The new rules address the full range of powers available to the SRA, including orders made under section 43 of the Solicitors Act 1974, and decisions to attach conditions to practising certificates in order to mitigate and control identified risks. This will make sure greater clarity, transparency and consistency of approach to regulatory investigations and decision-making.

69. We are undertaking a wider piece of work on the scope and purpose of the related Cost of Investigation Regulations. We intend to consult on this in early 2018. These set out

the basis of the charges we can impose when investigating certain matters (for example, disciplinary investigations).

Proposal 14: revised Enforcement Strategy

Enforcement Strategy
<ul style="list-style-type: none">• clear framework that solicitors and firms should find much easier to understand• provides guide to the expected behaviours that underpin our standards• clarity about how, and when, we will and will not enforce

70. The starting place for our review of the Enforcement Strategy was the wide engagement that we carried out as part of the Question of Trust campaign in 2015. That work engaged the legal profession and the public to help us to develop our approach to the factors we should take into account when considering seriousness, and what action to take in respect of breaches of our rules

71. Our revised Enforcement Strategy underpins the Principles and Codes of Conduct that we have already consulted on. Our aim is for it to be clear and transparent to both our staff and the profession. The strategy moves away from a prescriptive compliance model towards a flexible and transparent framework that can be clearly understood by those we regulate.

72. Our approach requires firms and individuals to exercise their judgment in applying our standards to their situation and deciding the appropriate course of action. If our standards are not met, we will assess the risks posed by the firm's actions to both the public and to our regulatory objectives as set out in the LSA. We then take appropriate action.

Potential impacts

73. When viewed together with the new codes, we are confident that our revised Enforcement Strategy will allow solicitors an appropriate level of flexibility to interpret, apply and meet our standards in a number of ways and in different business models. We are clear that we will not, on the one hand, say we will allow solicitors to make decisions about how they can meet our standards, and then on the other hand take action against them when they do not meet those standards in a certain way.

74. We believe that our revised Enforcement Strategy and the case studies we will develop will provide more clarity on the factors we may take into account to determine what is, and is not, serious. The benefits this will provide are:

- more consistency in internal decision making
- transparency of approach
- fairness for those that we regulate.

75. As part of the first phase of our Looking to the future work, we commissioned an evaluation framework from the CSES, and published that. We will use this framework to inform our ongoing assessment of the impacts of our revised approach to enforcement, as well as other reform initiatives.

76. We recognise that it will be some time before the impacts of our revised approach to enforcement become apparent. We plan to evaluate the impact of our reforms in a post-implementation review which will consider consumer, economic, market, equality and diversity impacts.

77. We intend to publish an update on our reforms after three years. We are considering what data we will collect internally, and what external sources we will need to employ. The exact nature of the assessment will be partly informed by initial intelligence about how the market is developing in response to our reforms.

Proposal 15: new Notice, Application, Review and Appeal Rules 2018

Notice, Application, Review and Appeal Rules
<ul style="list-style-type: none">• to bring provisions relating to reviews of SRA decisions into one place• to adopt a more consistent and clearer drafting approach

78. Provisions relating to reviews of our decisions are contained in a number of places in our current Handbook and lack consistency in terminology. We propose to bring these requirements together.

Potential impacts of Notice, Application and Review Rules

79. We expect our proposal to bring provisions relating to reviews of SRA decisions into a single rule to make things easier for the profession. This is in terms of being able to understand our approach, how to make an application to us and how we notify our decisions. We have also clarified that there is a 28 day time limit to lodge all requests for internal review.

Equality, Diversity and Inclusion (EDI)

80. We recognise that the new Handbook will represent a significant change for the profession. In phase one of Looking to the Future we identified that a move away from prescriptive rules could result in a disproportionate or particularly high burden on small firms. This leads to a high burden on some black, Asian and Minority Ethnic (BAME) and older solicitors because they are disproportionately represented in small firms and sole practices.

81. The data we presented in the impact assessment for phase 1 showed that:

- 35 percent of individuals in sole practices whose ethnicity is known are BAME compared to only 10 percent in limited liability partnerships
- Over half of individuals in sole practices are over 51 years old (next highest firm-type is partnerships at 37 percent)
- Nearly a quarter of individuals in sole practices are over 61 years old (next highest firm-type is partnerships at 14 percent)
- Over one tenth of individuals in sole practices are over 65 years old (next highest firm-type is partnerships at six percent).

82. [Annex eight](#) to the consultation on phase one of our Handbook review outlined our strategy to help people affected understand the changes proposed, and to support them as any changes are implemented. We are continuing with this work throughout phase two. Any areas where responses indicate that extra support or guidance is needed will be part of our overall support package.

83. We anticipate that there could be EDI benefits from our proposals including:

- authorising businesses with a practising address anywhere in the United Kingdom could potentially increase diversity in the profession if new entrants have different characteristics to incumbent firms
- transitional arrangements for SQE will allow individuals who have started on the existing qualification framework a period of time to qualify
- our proposed approach to character and suitability will allow individuals a longer period to demonstrate rehabilitation where potential issues exist that may have caused early, definite refusal under our current approach
- removing the 'qualified to supervise' requirement would allow competent individuals to set up businesses and sole practices when they qualify. This could impact on the age profile of individuals in sole practices.

84. We will evaluate the impacts of our reforms using CSES' evaluation framework. This framework explicitly includes EDI impacts.

Annex 1 - Consistency of our proposals with our regulatory objectives and the better regulation principles

LSA objectives	Our proposals
protect and promote the public interest	<ul style="list-style-type: none"> • provide clear universal standards for solicitors • solicitors will be held to the same standards wherever and however they practice • remove unnecessary regulatory costs and burdens • remove unnecessary regulatory barriers and restrictions • increase opportunities for competition, innovation and growth, which in turn should better serve consumers of legal services • improved consistency in enforcement with a focus on serious breaches
support the constitutional principle of the rule of law	Nothing in our proposals conflicts with this regulatory objective
improve access to justice	<ul style="list-style-type: none"> • increase opportunities for competition, innovation and growth. This should permit better provision of services that meet the needs of consumers, including access to justice • allow firms greater flexibility in how they develop services to meet the needs of consumers and potential consumers. This in time may result in new services and greater choice that may help access to justice. • should result in services, including new services, that better meet the needs of consumers - improving access to justice and market growth
protect and promote the interests of consumers	<ul style="list-style-type: none"> • solicitors will be held to the same standards wherever and however they practice • consumer choice will be increased • allow cost-effective delivery of legal services • improved consistency in enforcement with a focus on serious breaches
promote competition in the provision of services	<ul style="list-style-type: none"> • allow solicitors to provide services in a cost-effective way in a greater diversity of business models
encourage an independent, strong, diverse and effective legal profession; and	<ul style="list-style-type: none"> • make profession more effective in providing legal services • allowing wider business models throughout the UK may increase diversity in the profession
increase public understanding of the citizens' legal rights and duties	<ul style="list-style-type: none"> • simplification of our rules should make them easier for the public to understand

LSA objectives	Our proposals
promoting and maintaining adherence to the professional principles	<ul style="list-style-type: none"> • simplification of our rules should make them easier for the profession to comply
Better regulation principles	Handbook changes
Transparent	<ul style="list-style-type: none"> • changes provide increased clarity and simplification across the Handbook and Enforcement Strategy
Accountable	<ul style="list-style-type: none"> • changes ensure that those that we regulate are fully accountable for compliance with our regulatory requirements and understand consequences of non-compliance • simpler and easier to understand standards will make individuals and firms more accountable
Proportionate	<ul style="list-style-type: none"> • changes remove disproportionate restrictions eg assessing character and suitability, deeming provisions for managers/owners
Consistent	<ul style="list-style-type: none"> • solicitors will be held to the same standards wherever and however they practise • more consistent approach to enforcement • more consistent approaches to assessment of character and suitability
targeted at cases where action is needed	<ul style="list-style-type: none"> • our Enforcement Strategy focuses on those issues that are most serious