

## Appendix 8 - The changing rules of the game: regulatory change for legal advice

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Fran Gillon, Director of Regulatory Practice at the Legal Services Board led a session on the regulatory change affecting legal advice. The workshop was chaired by Noeleen Adams, Director of Development & Support at Law Centres Federation.

The Legal Services Act 2007 set up the Legal Services Board to oversee regulation of approved regulators of legal advice, e.g. the Law Society. The workshop discussed the changes and implications.

The Act also defines six reserved legal activities, establishes a consumer panel and an office for legal complaints. The latter is a new independent ombudsman service for complaints against lawyers commencing on 6 October 2010.

The Legal Services Board is independent of government and the legal profession. It has a business plan that includes separation of representative and regulatory functions of approved regulators, improving the way complaints are dealt with by lawyers and developing a regulatory framework for so called Alternative Business Structures (ABS).

ABSs remove some of the restrictions on ownership of law firms and advice centres. Lawyers can work with non-lawyers and new structures will require a license. The licensing rules will require that both a Head of Legal Practice and a Head of Financial Administration are defined. Rules will include enforcement powers and proper complaints handling. 'Fitness to own' tests will be introduced for those holding more than 10% of shares and these tests could well apply to trustees in a law centre. These tests include probity and improper influence.

There will be a move away from regulating lawyers to regulating the entity with a focus on systems and compliance.

Transitional arrangements should mean that consumer protection and redress use the same framework for those who use special bodies as other firms.

Transition is expected to be completed by April 2013. The overall scheme needs to be approved by the Ministry of Justice.

### Discussion

It was clarified that it is only if reserved legal advice is provided (essentially the conduct of litigation) that it will come under the 2007 Act.

In Australia a couple of special bodies have formed that are now publicly quoted on the Stock Exchange. Trademark attorneys may set up with marketing companies. The Co-op's Funeral Service may join with solicitors and advisers.

There was comment that the main purpose of this lengthy transition was to open up the ownership options for legal advice.

Currently solicitors are individually regulated by the Strategic Regulation Authority. This applies to almost anyone who employs a solicitor, but it may be difficult to get engagement from organisations do not see themselves as a Law Centre.

The Legal Services Board will be communicating progress through the Advice Service Alliance.