

SRA response

Extending the scope of the duty for non-economic regulators to have regard to economic growth and defining the scope of the Small Business Appeals Champions - Department for Business Innovation and Skills consultation

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Download consultation paper: [Extending the scope of the duty for non-economic regulators to have regard to economic growth and defining the scope of the Small Business Appeals Champions - Department for Business Innovation and Skills \(PDF 25 pages, 281K\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/382360/14-1258-growth-and-sbac-consultation.pdf)
[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/382360/14-1258-growth-and-sbac-consultation.pdf]

Introduction

- 1.

This response is submitted on behalf of the Solicitors Regulation Authority (SRA), the independent regulatory body of the Law Society for England and Wales. We regulate solicitors, the firms in which they operate and all those working within the firms. We regulate in the public interest.

- 2.

The SRA is committed to regulation that supports economic growth and innovation in the market, while at the same time ensuring that legal services customers are protected. In May 2014 we set out this commitment in a [policy statement](https://higher-rights.sra.org.uk/sra/policy/regulation-reform/) [https://higher-rights.sra.org.uk/sra/policy/regulation-reform/], which introduced a programme of regulatory reform that will:

- remove unnecessary regulatory barriers and restrictions to enable increased competition, innovation and growth to serve the consumers of legal services better;
- reduce unnecessary regulatory burdens and cost on regulated firms; and,
- ensure that regulation is properly targeted and proportionate for all solicitors and regulated businesses, particularly small businesses.

- 3.



We have already made progress on this reform programme, implementing a number of changes designed to reduce the burden of regulation, encourage growth in the market and ensure that regulatory action is proportionate. These include:

- undertaking a regulation [red tape challenge initiative](https://higher-rights.sra.org.uk/sra/consultations/consultation-listing/red-tape-initiative/) [https://higher-rights.sra.org.uk/sra/consultations/consultation-listing/red-tape-initiative/] to reduce bureaucracy, increase proportionality and decrease costs;
- launching our small firms initiative to ensure sole practitioners and small firms are able to comply with rules in a way that is appropriate and proportionate for their size;
- introducing a new more proportionate regime to [registered European lawyers](https://higher-rights.sra.org.uk/sra/consultations/consultation-listing/registered-european-lawyer-regime/) [https://higher-rights.sra.org.uk/sra/consultations/consultation-listing/registered-european-lawyer-regime/];
- changing our policy on the regulation of non-reserved legal activity within [Multi-Disciplinary Practices](https://higher-rights.sra.org.uk/sra/policy/policies/multi-disciplinary-practices-sept-2014/) [https://higher-rights.sra.org.uk/sra/policy/policies/multi-disciplinary-practices-sept-2014/] (MDPs), to enable competition and growth; and,
- introducing changes to Continuing Professional Development (CPD), focusing on the continuing competence of individuals, rather than prescribing their time spent in training.

Question 4: Do you consider that all the legal services regulators should be included in the duty for non-economic regulators to have regard to growth? Please provide reasons.

- 4.

The SRA welcomes and supports efforts to improve growth and believes it is important that all legal services regulators, in addition to the Legal Services Board, should be included in the scope of the proposed duty; to name some and not others would be inconsistent. However, in order to avoid confusion, we believe it should be the Independent Regulatory Bodies of the Approved Regulators that are named.

- 5.

As a result of the Legal Services Act 2007, the regulatory and representative functions of the Approved Regulators were separated with the establishment of independent regulatory bodies. This was done in order to give the public confidence that the regulatory system acted in the consumer interest, rather than those of lawyers. As it is these regulatory bodies that will be bound to



comply with the duty, we believe that they are the ones that should be listed.

- 6.

As the independent regulatory body of the Law Society, it is the Solicitors Regulation Authority, rather than the Law Society, that should therefore be included in the duty.

- 7.

Further information on the separation between representative and regulatory functions of Approved Regulators can be found on the [Legal Services Board's website \[https://legalservicesboard.org.uk/\]](https://legalservicesboard.org.uk/).

- 8.

If all legal service regulators are brought under the scope of the duty, the SRA would welcome further details on the how the monitoring of the duty will be undertaken. BIS' response to the initial consultation on the Duty for Growth notes that the monitoring mechanisms under the Regulators' Code will be used to monitor the duty. It would be helpful however to understand, in more detail, how the government propose to implement this, and which department/s will be responsible. This is important, as while the SRA continues to build quality data and research on the businesses and individuals it regulates, it is difficult to produce meaningful analysis of the impact that policies and operations have directly on economic growth.

Recommendation

- 9.

To avoid confusion, it is recommended that, in addition to the Legal Services Board, the scope be applied to the Independent Regulatory bodies of the Approved Regulators (where applicable). The list is as follows:

- Solicitors Regulation Authority
- Bar Standards Board
- ILEX Professional Standards Limited
- Intellectual Property Regulation Board
- Costs Lawyer Standards Board
- Master of the Faculties
- Institute of Chartered Accountants in England and Wales

Question 9: What are your views about the possibility of bringing the additional regulators (list at Part 2 of Annex A) into



the scope of the Champions policy in due course?

- 10.

As part of our small firms initiative, we have recently published a [discussion paper](https://higher-rights.sra.org.uk/sra/consultations/discussion-papers/small-firms/) [https://higher-rights.sra.org.uk/sra/consultations/discussion-papers/small-firms/], in which we seek views on key initiatives we are taking to improve our relationship with small firms and sole practitioners. We are also looking at ways in which we can be more proportionate in our regulation of small firms.

- 11.

We hope that this discussion paper, and the operational changes that we have made to coincide with its launch, are seen as important steps towards improving our relationship with small firms. We hope that our commitment will help drive greater efficiency, accountability and transparency in the interaction between the SRA and small firms.

- 12.

With regards to the appointment of a Small Business Appeals Champion; we agree that other regulators (all approved regulators under the Legal Services Act 2007) should be brought into the scope of the Champions policy. We consider that the role will help deliver simpler, more effective, more transparent, less costly and better understood series of processes by which firms are able to question decisions and behaviour when they believe they have reason to do so. This is consistent with our view about the application of the duty for non-economic regulators to have regard to growth, which we have set out above.

- 13.

However, we would note that it should be the Independent Regulatory bodies of those Approved Regulators that should be listed, as noted previously.

- 14.

The SRA is already exploring ways for small firms to be better able to question decisions and processes, and we are interested in the proposed Champions having a wider remit, to proactively support and challenge our small firm initiatives. We would therefore, regardless of whether we fall under the scope of the policy, welcome meeting with the department to consider how such an appointment impacts on the SRA's functions and how the role is



likely to work in practice, having regard to the SRA's reconsideration policy, the right to appeal a decision and the appeal mechanism as set out in SRA Regulations (which in certain cases will include an appeal to the Solicitors Disciplinary Tribunal) and the role of the [Independent Complaint Resolution Service \[https://higher-rights.sra.org.uk/sra/complaints-service/\]](https://higher-rights.sra.org.uk/sra/complaints-service/). Understanding this impact is important, as it will be businesses that ultimately bear the cost of such an appointment and it therefore needs to be clear what additional value a Small Business Champion will provide above existing structures.