

**UCL CENTRE FOR ETHICS AND LAW  
UCL FACULTY OF LAWS**



**UCL**

**INDEPENDENT REVIEW OF  
LEGAL SERVICES REGULATION**

**Professor Stephen Mayson**



# Welcome

- Second public meeting of the Review
- Working papers and interim report now published
- The purpose is to:
  - summarise the story so far and next steps
  - summarise the interim report and issues raised
  - hear your views

# The mission

- No timing for reform in mind
- Simply assuming that the time will come ...
- ... and what then might be a better approach?
- No axe to grind
- A genuinely open mind
- Not a quest to 'prove' a pre-conceived outcome
- Therefore, still listening, exploring and testing

# The story so far

- July 2018: Terms of reference published
- Phase 1 – October 2018-February 2019:
  - Advisory Panel formed
  - First three Working Papers published: assessment; rationale; scope
  - Meetings with interested parties (80+) and submissions received
- Phase 2 – March-June 2019:
  - Updates to first three Working Papers
  - Final two Working Papers published: focus and form; structure
  - First public event at UCL: 12 March
  - More meetings (another 120+); further submissions received
  - Further work carried out: comparative approaches (sectors; jurisdictions); in-house lawyers, not-for-profit/pro bono

# Where next?

- Phase 3 – September-December 2019:
  - Interim report: findings, propositions and consultation
  - Feedback and debate
  - Second public event at UCL: 9 October
  - Final versions of Working Papers
- February 2020:
  - Final report: conclusions and recommendations to MoJ
  - Final report published

# Findings and conclusion

“The current regulatory structure provides an incomplete and limited framework for legal services regulation that will struggle in the near-term and beyond to meet the demands and expectations placed on it.”

# From this ...

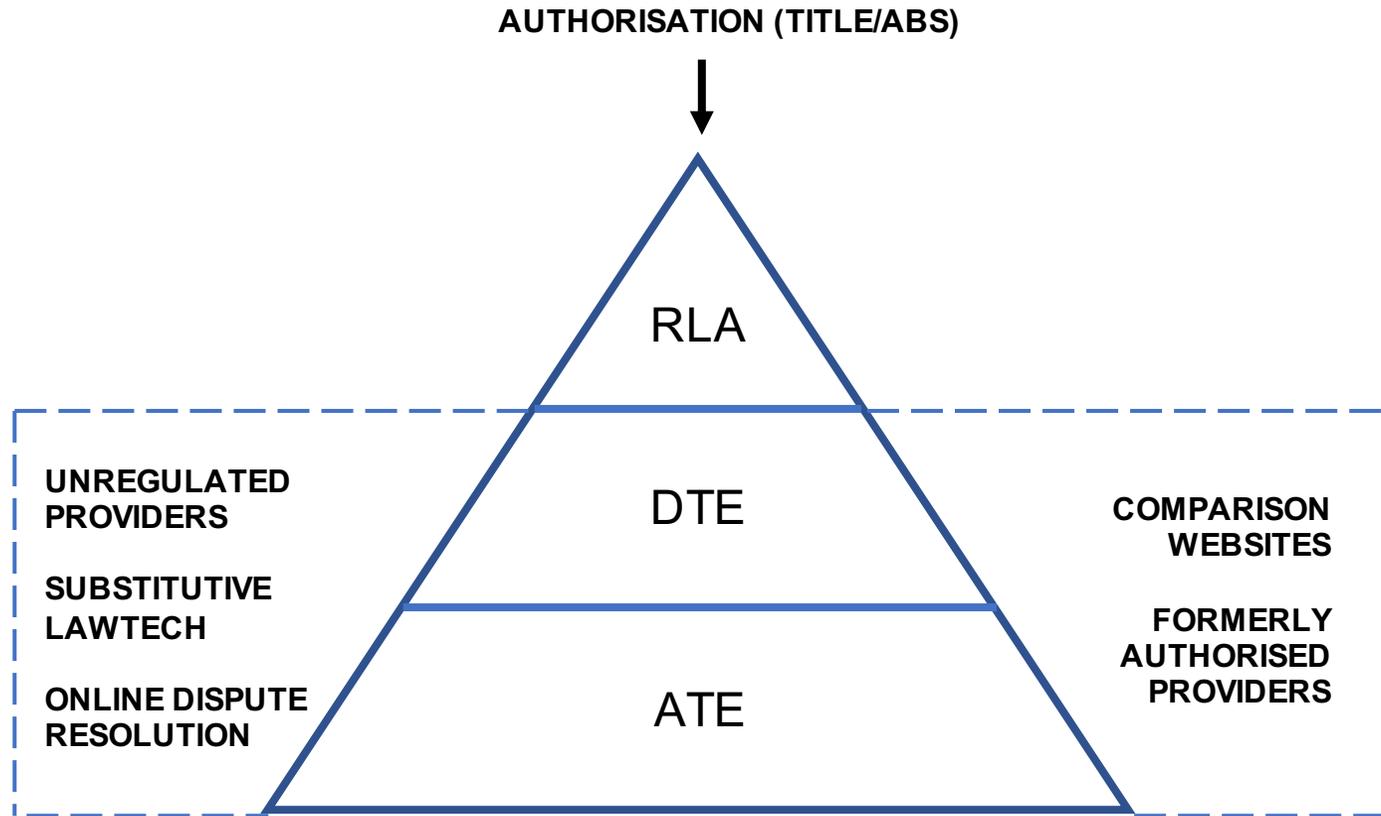


Figure 3.3: Representation of current regulatory framework

# ... to this?

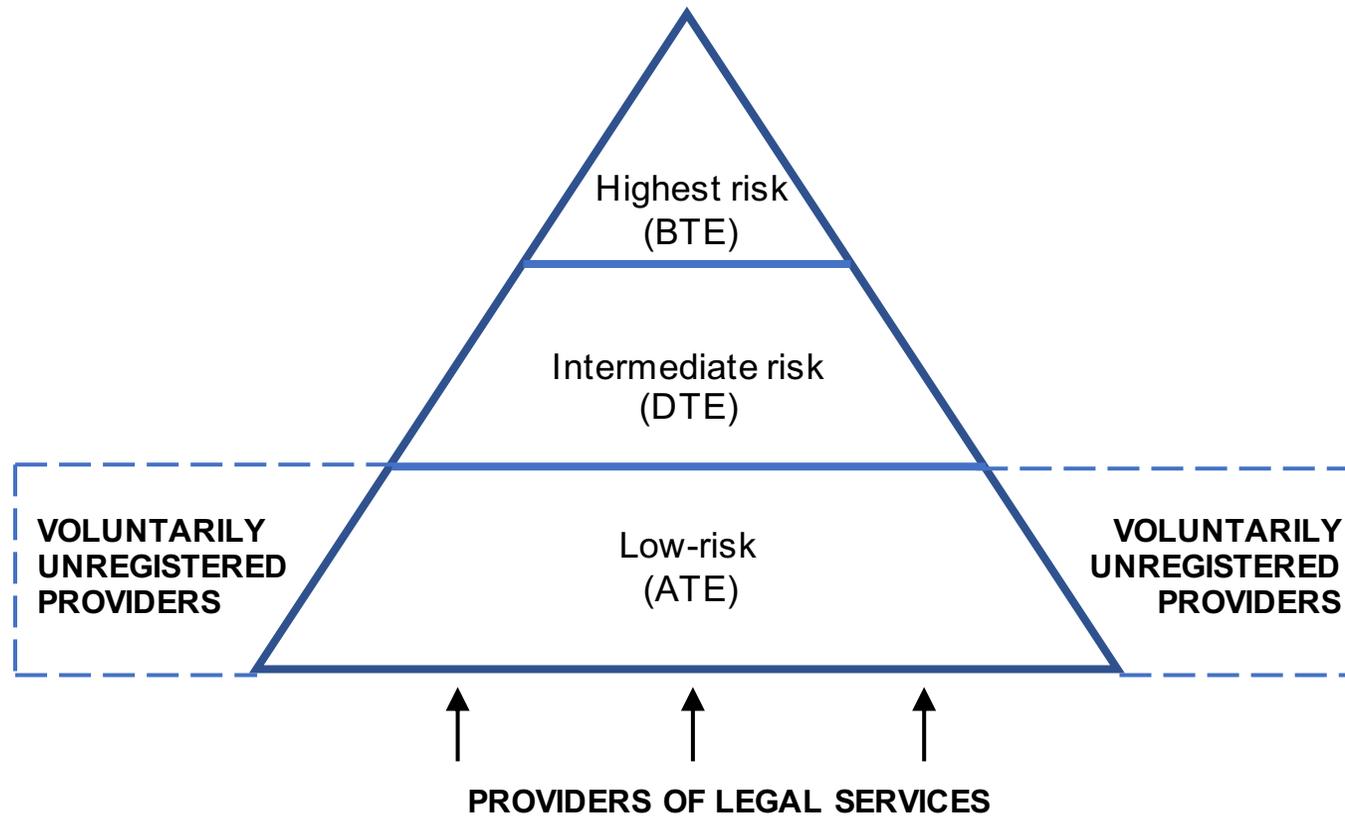


Figure 4.11: Representation of an alternative regulatory framework

# The propositions

**Proposition 1:** Promoting and protecting *the public interest* should be the primary objective for the regulation of legal services.

**Proposition 2:** Consumer expectations and regulatory reality should be *aligned* by at least allowing access to the Legal Ombudsman for all consumers of legal services offered to the public.

**Proposition 3:** *All legal services* should be capable of falling within the regulatory framework, irrespective of who provides them.

**Proposition 4:** There should be an *alternative or additional* form of entry into regulation for those who do not hold a legal professional title.

**Proposition 5:** A future regulatory framework should allow the *differential application* of before-, during- and after-the-event regulation to reflect the importance or risk of any particular activity or circumstance.

# The propositions

**Proposition 6:** *Professional title should no longer be the only route to personal authorisation, even in respect of those important or highest-risk activities for which before-the-event authorisation would continue to be required.*

**Proposition 7:** The appropriate regulator should determine what qualification or assurance of (continuing) *competence, experience and integrity* would need to be demonstrated by any provider for particular legal services on a before-the-event basis, and the *additional requirements* that would be applied on a during-the-event or after-the-event basis to the relevant providers.

**Proposition 8:** The application of regulatory requirements could be supported by the existence of a *public register* of who is regulated and for what. Accordingly, *voluntary registration* and after-the-event regulation should be available to all providers of low-risk legal services; and before-the-event and during-the-event regulation and *mandatory registration* should apply to providers of higher-risk legal services.

# The propositions

**Proposition 9:** The current list of *reserved activities* should be reviewed. This process should identify clearly the public interest basis of the need for before-the-event authorisation. This need should be established by reference to *public good or consumer protection* and should be explicitly articulated, to confirm that the current reservation can continue to be justified. Other activities should also be reviewed against these same criteria to see whether prior authorisation should in the future be extended to them.

**Proposition 10:** The future primary focus of regulation should be the ‘*provider*’ of legal services, whether an individual, entity, title-holder, or technology.

**Proposition 11:** For the purposes of a future single register of providers of legal services, the registration should be in the name of the entity, partnership or individual subject to regulatory requirements or with which a client has terms of engagement; but before-the-event authorisation should only be granted to individuals.

# The consequential issues

- The future role of professional titles
- Regulatory independence
  - Option 1 – regulator responsibility for title (single regulator)
  - Option 1A – regulatory bodies legally separate, reporting to overarching regulator
  - Option 2 – professional body responsibility for title
  - Option 3 – co-regulation of title by single regulator and professional bodies
- Regulatory overlap (e.g. chartered accountants)
- Co-existing regulation: claims management, insolvency, immigration, money-laundering

# The consequential issues (*continued*)

- The challenge of LawTech
- Regulation of law centres, law clinics and pro bono provision
- Regulation of in-house lawyers
- Who should make the decisions about regulatory scope or conditions?
  - Parliament
  - Government
  - Regulator(s)
- An expanded role for the Legal Ombudsman?

# Questions, comments and discussion

**Closing date for consultation responses: 29 November 2019**

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