

Solicitors Regulation Authority

Consultation on regulatory decision-making and adjudication

Propositions for regulatory decision-making

Approved by the Law Society Regulation Board on 24 October 2006

1. Decisions should be based on the application of guidelines or criteria, which should be (a) written, (b) accessible to all staff, and (c) published.¹
2. Formal delegations of decisions from the board should be made to generic categories of staff, not to individuals or specific posts.²
3. There should be a presumption in favour of decisions being made at the lowest level in the organisation at which fitness-for-purpose can be assured.³
4. Decisions of similar complexity and impact should be made at similar levels throughout the organisation.
5. There should be a single system for formal adjudications for the whole organisation. Departures from this structure need strong justification.⁴
6. All final decisions should be subject to some form of appeals procedure.⁵ There should be only one level of appeal.⁶
7. Decisions by panels, rather than individuals, should only occur where required by (a) the impact of the decision, or (b) the desirability of having wider (including non-lawyer) input into the decision.⁷
8. Final outcomes of final decisions which determine rights should be recorded and accessible to all staff.

¹ This proposition is subject to the principle of proportionality. It does not apply to trivial decisions or to decisions of an internal managerial or administrative nature. The criteria may be set out in statute; or in a board or committee policy statement, or in unit procedures.

² This proposition is subject to the statutory requirements of s79 Solicitors Act.

³ It is the responsibility of the unit manager to confirm that staff have the skills and knowledge to fit them to make delegated decisions, and to ensure that they receive the training and support necessary to maintain this.

⁴ The board has agreed in principle to a single Panel of Adjudicators replacing the in-house adjudicators, the Adjudication Panel and the Professional Standards Appeals Panel. Other adjudication functions are not currently within scope.

⁵ Final decisions which determine rights or professional standing should attract a formal right of appeal. Other final decisions in casework matters should at least be capable of being reviewed within the unit if there is an allegation of error, unfairness, etc.

⁶ If a final decision is made within the unit, appeal will be either to a single adjudicator, or to a panel. If the final decision is made by a single adjudicator, the appeal will be to a panel.

⁷ The board has decided that panels of two members are acceptable.

9. There must be sufficient flexibility to allow matters to be taken straight to the point of decision, omitting intermediate decision-making stages which add no value.
10. Decisions must be subject to monitoring and audit processes to promote quality and consistency.⁸

⁸ Responsibility for ensuring quality and consistency of decisions lies with unit managers. Monitoring quality only after the event is not sufficient.