Summary: Intervention & Options

Department /Agency:	Title:
Home Office / Security Industry Authority	Impact Assessment of Regulations to Implement the PSI Act 2001 in respect of Private Investigators and Precognition Agents

Stage: Interim	Version: 1.0	Date: 25 July 2008

Related Publications: Partial Regulatory Impact Assessment, 1 August, 2007: Regulations to Implement the PSI Act 2001 in respect of Private Investigators and Precognition Agents

Available to view or download at:

http://www.the-sia.org.uk/home/licensing/private_investigation/

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What is the problem under consideration? Why is government intervention necessary?

Currently, anyone can undertake investigative activity regardless of skills, experience or criminality and there is evidence of harm to buyers of services and to the subjects of investigations and precognitions from rogue activity and lack of competence. There is no direct regulation of PIs or PAs and there is strong support for competency based licensing among practitioners. The Private Security Industry Act 2001 (Schedule 2 (4) and (4A)) allows the Home Office to consider the licensing of private investigation and precognition agents.

What are the policy objectives and the intended effects?

This regulation aims: to deter criminal activity and unlawful methods of taking precognition; raise standards of professionalism and competence; and increase public confidence in the PI and PA sectors. The regulatory approach would require all individuals engaged in specified activity to hold a licence acquired from the SIA through a process designed to reduce risks and minimise harms to individuals and wider society. Issuing a licence would depend on checks that an individual is 'fit and proper' as well as competent to conduct specific activities.

What policy options have been considered? Please justify any preferred option.

Four policy options were considered: 1. do nothing; 2. alternatives to imposed regulation (e.g. self-regulation); 3. licensing with no competence criteria; and 4. licensing with a competence criteria. Option 4 was preferred by the highest proportion of consultation respondents. The competency based licence would improve levels of compliance, discourage unlawful or unethical practices and include testing to diminish this risk further. Licence holders would be 'fit and proper', as well as demonstrably competent.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Should licensing be introduced in either the PI or PA sectors, the SIA (following consultation with both sectors) would aim to review and assess the impact one year after the offence date.

Ministerial Sign-off (For final proposal/implementation stage Assessments):

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy and (b) that the benefits justify the costs.

Signed by the responsible Minister:

..... Date:

Summary: Analysis & Evidence

Policy Option: 4	Description: The SIA would commence licensing of the private investigation and precognition agent sectors with core competence criteria.

COSTS

ANNUAL COSTS	
One-off (Transition)	**Yrs**
£ 3.5 million	3
Average Annual Cost (excluding one-off)	
£ 2.3 million	

Description and scale of **key monetised costs** by 'main affected groups' Private Investigators and Precognition agents

Transition costs include the initial (three year) licence fee (£2.3m) and full training (£8.3m). **Average annual costs** consist of a licence renewal fee (£2.3m) and refresher training (£4.6m). Not all renewals will require full training. These costs cover a three year period. PV of cost is calculated over 6 years – one full licence and renewal cycle.

Total Cost (PV) **£ 16.7 million**

Other **key non-monetised costs** by 'main affected groups'

BENEFITS

ANNUAL BENEFITS	
One-off	**Yrs**
£ 0	
Average Annual Benefit (excluding one-off)	
£ 0	

Description and scale of **key monetised benefits** by 'main affected groups' Benefits are unable to be quantified.

Total Benefit (PV) **£ 0**

Other **key non-monetised benefits** by 'main affected groups' The key benefits are deterring criminality and improving consumer protection for users of PI services and the subject of investigations. Licensing will increase the cost to investigators of operating unlawfully. Customers will benefit through the reduced risk of financial loss and lower risk of receiving inappropriate, misleading or unlawfully obtained material. The subjects of investigations will gain enhanced protection from unlawful access to personal data, physical harm or loss of business or personal reputation. Licensing will benefit legitimate investigative businesses and promote industry growth.

Key Assumptions/Sensitivities/Risks

Licensing will start in 2009/10 with a compliance rate of 90% by the end of the first year. Licence fee will be £245.Size of industry - assumed to be 10,000 PI and 250 PA individuals and assumed to be static. Training - all applicants will take initial 3 day training at cost of £920, 30% of renewal applicants will need 1 day refresher training (£320).

Price Base Year 2008	Time Period Years 6	**Net Benefit Range** (NPV) **£ -16.7 million**	**NET BENEFIT** (NPV Best estimate) **£ -16.7 million**

What is the geographic coverage of the policy/option?				UK wide
On what date will the policy be implemented?				April 2009
Which organisation(s) will enforce the policy?				SIA and partners
What is the total annual cost of enforcement for these organisations?				£ 115,000
Does enforcement comply with Hampton principles?				Yes
Will implementation go beyond minimum EU requirements?				No
What is the value of the proposed offsetting measure per year?				£ N/A
What is the value of changes in greenhouse gas emissions?				£ N/A
Will the proposal have a significant impact on competition?				No
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ 53,100 Decrease of £ 0 **Net Impact** £ 53,100

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Evidence Base (for summary sheets)

Contents

STRATEGIC OVERVIEW

Background

1. The Private Security Industry Act 2001[1] (the Act), created the Security Industry Authority (SIA) as a Non-Departmental Public Body (NDPB), with the responsibility to licence individuals to work within designated sectors of the private security industry and to approve suppliers of such services. The Act requires the licensing of individuals engaged in any "licensable" security activity as provided in the Act. It provides for the licensing of private investigation and precognition agents (PIPAs) but this provision has not yet been implemented. Those activities for which the Act's provisions have been implemented are at present Manned Guarding (Cash and Valuables in Transit, Close Protection, Door Supervision, Public Space Surveillance [CCTV], and Security Guard); Immobilisation, restriction and removal of vehicles, and Key Holding.

2. Under Section 3, and Schedule 2 (4) and (4A) of the Act we are required to consider the implementation of licensing of PIPAs. This was the subject of public consultation ("Partial Regulatory Impact Assessment (RIA) on the extension of regulation under the Private Security Industry Act 2001 (PSIA) to Private Investigators and Precognition Agents"), published on 1 August 2007"[2]. The

[1] As amended by the Serious Organised Crime and Police Act (SOCPA) 2005 which widened the scope of the SIA to include licensing the private security industry in Scotland.

[2] The consultation paper is available on both the Home Office and the Security Industry Authority (SIA) website: Regulation to Implement the Private Security Industry Act 2001 in respect of the Private Investigation and

consultation lasted for 12 weeks and ended formally on 24 October 2007. The draft RIA contained 4 options: full details can be found at http://www.homeoffice.gov.uk/documents/cons-2007-regulations-security/Regulation_of_Security_Indu1.pdf?view=Binary. A total of 163 responses to the consultation paper were received. 33 responses received were duplicates or holding responses.

3. The detailed analysis of the comments made in the responses received was published on 7 May 2008[3], and can be found at http://www.homeoffice.gov.uk/documents/cons-2007-regulations-security/cons-2008-private-sec-responses?view=Binary[4]. The analysis of responses gave an overview of the conclusions of the consultation exercise and made clear that the Government's intention was to pursue Option 4. .

Issue – potential for harm

4. Currently, anyone can undertake investigative activity regardless of skills, experience or criminality. There is evidence of harm to buyers of services, and to the subjects of investigations and precognitions, from rogue activity and lack of competence. Apart from laws affecting their actions, there is no regulation of the industry other than what it, through its professional bodies and individual practitioners, chooses to impose on itself. The deterrent of investigation by the police or the Information Commissioner's Office (ICO) operates only after an offence has been committed.

The following potential harms have been identified

- Accessing data through unlawful means, e.g. by "blagging" - claiming to be someone else in order to gain information;
- Unlawful surveillance;
- Use of intimidating, threatening or unlawful behaviour as part of investigation/ surveillance/ precognition;
- Lack of sensitivity towards vulnerable witnesses or victims by precognition agents
- Private investigator/ precognition agent not competent to conduct investigation/ surveillance/ precognition (no knowledge of law or core skills required);
- Clients instruct private investigators for unlawful or immoral reasons. Subjects, or their personal information/data which are under investigation/ surveillance are then, potentially, put at risk;
- Cash is paid up front, no service is then delivered and the supplier is untraceable.

5. The full scale of harm is difficult to quantify. As an indication of its scale, however, we understand that, on average, offences in this area represent a quarter of the total criminal cases being managed by the ICO. They take up a disproportionate amount of the ICO's investigative time, as they tend to be complex and involve multiple offences. The ICO supports the licensing of Private Investigators.

6. The Serious Organised Crime Agency (SOCA) also provided evidence of a level of risk associated with criminal activity which supports the need for licensing and proposals to reduce the harms inflicted on the UK by private investigators trading in unlawfully acquired data. (The information supplied by SOCA is exempt from disclosure under the Freedom of Information Act 2000).

7. Little evidence is available on harms caused to interviewees by precognition agents (there are only about 200 practitioners). However, this should be considered against the overall potential for harm given the possible circumstances of the subject of the precognition. There is scope for an individual with a

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Precognition Agents http://www.homeoffice.gov.uk/documents/cons-2007-regulations-security/Regulation_of_Security_Indu1.pdf?view=Binary

[3] The Government response was published in May and is available on the Home Office website at: http://www.homeoffice.gov.uk/documents/cons-2007-regulations-security/cons-2008-private-sec-responses?view=Binary

[4] The Government response was published in May and is available on the Home Office website at: http://www.homeoffice.gov.uk/documents/cons-2007-regulations-security/cons-2008-private-sec-responses?view=Binary

relevant criminal record, or who is not competent to interview children, vulnerable adults or individuals who may be under stress either as a victim or following the witnessing of the incident, to cause harm

Benefits of licensing the private investigation and precognition sectors

8. The benefits of licensing the private investigation and precognition sectors are:

- Excluding/removing from the industry criminal elements and those who seek to use their position to pursue criminal activities;
- Reducing the risk of unlawful or unethical behaviour occurring in the course of (licensable) PIPA activity;
- Raising standards of competence and professionalism in the industry;
- Increasing public confidence in the private investigation and precognition sector; and
- Through the voluntary Approved Contractor Scheme (ACS), giving recognition to companies who do operate to high standards and who have invested in training and selective recruitment.

CONSULTATION AND CHOICE OF OPTION

9. The consultation document included four options, as set out below. There was strong agreement that licensing was needed and that this should be introduced, through regulation, by the SIA. The results of the consultation, and a summary of the main rationale for rejecting the options 1-3, are also set out in the following paragraphs.

Option 1. Do Nothing: Neither sector would be subject to regulation under the Act and the industry would continue to self regulate without SIA regulation.

3 in favour

Costs of option 1: nil

Reasons for rejecting option 1: Data will continue to be accessed unlawfully. Investigation, surveillance and precognition will be undertaken unlawfully and/or incompetently. Services will be purchased for unlawful purposes. Purchasers will not be adequately protected from rogue suppliers who require prepayment, fail to deliver and become untraceable.

Option 2. Alternative to Regulation: the SIA would support the development of measures to substitute for the regulation of either sector. Both sectors, and the public, would benefit from more information on how to minimise any potential for harm.

4 in favour

Costs of option 2: not quantified

Reasons for rejecting option 2: It is difficult to see how persons who want to avoid controls could be policed without an enforcing body with the necessary powers. Effective policing of the industry would have to be undertaken by a suitable body – a role for which the SIA is already well-suited. While there is a considerable amount of internal organisation and self-regulation in much of the industry, through the large number of trade associations etc, we believe a prevention- based approach designed to weed out rogue practitioners cannot address the potential harms caused by the few.

Option 3. Licensing with no competency criteria: The SIA would commence licensing of the private investigation and precognition agent sectors without a core competence criteria.

26 were in favour of option 3. A further 14 favoured commencing with option 3 then moving to option 4 (competency based licensing) within 2 – 4 years.

Costs of option 3:

Transition costs include the initial (three year) licence fee (£2.3m). Average annual costs consist of a licence renewal fee (£2.3m) over a three year period. PV of cost is calculated over 6 years – one full licence and renewal cycle.

Average annual cost	£767,000
Total cost	£4.3 million

Reasons for rejecting option 3: While option 3 would offer a measure of prevention and protection through licensing, involving CRB checks, it would not provide any assurance that individuals had achieved a minimum standard of training and qualification or any leverage to raise standards where needed. Consequently, the SIA would not be in a position to set out or enforce minimum standards (when carrying out licensable activities). The consensus among law enforcement agencies was that some form of competency level was needed to help weed out rogue or incompetent practitioners.

Option 4. Licensing with competency criteria: The SIA would commence licensing of the private investigation and precognition agent sectors with a core competence criteria.

28 were in favour of option 4 immediately.
As noted under option 3, a further 14 favoured commencing with option 3 and then moving to option 4.

Costs of option 4:

See page 2 for full details

Average annual cost	£2.3 million
Total cost	£16.7 million

10. Overall, option 4 was preferred by a significant proportion of consultation respondents and was also supported by a substantial proportion of those who supported Option 3, as the conclusive regulatory arrangement. Licence holders would have a demonstrable level of competence and knowledge of appropriate procedures as well as being 'fit and proper' persons. As a result, competency based licensing would help to improve levels of compliance, discourage unlawful or unethical practices and include testing to further diminish this risk. This is in line with SIA licensing of other sectors.

11. Also, with the evidence of risk that has been provided by SOCA, other law enforcement agencies and professional associations, and in the absence of any viable alternative, we propose to proceed with this as the preferred option - licensing by the SIA with competency criteria.

12. In response to the suggestion of a transitional period of non-competency based licensing (option 3), the SIA and the Home Office consider that the lead-in time to the introduction of a new licensing requirement makes this unnecessary.

How would option 4 address the harms identified?

13. Option 4 would address the harms through a range of measures and approaches.

- Through the CRB check on application, and at three-yearly renewals thereafter, the SIA could establish that private investigators and precognition agents both met relevant fit and proper person criteria prior to operating within either sector, and continued to meet them while within the sector.
- The SIA would also consider offences committed during the three year licence cycle, and could suspend or revoke a current licence.
- This would include any offences relating to accessing data or information, and when investigating or taking a precognition.
- Applicants would need to show evidence that they had attained the required qualifications (which would demonstrate core competencies aimed at ensuring minimum standards of probity and necessary knowledge).
- The scope exists for competency renewal requirements for future renewal applications.

- The SIA would have a regulatory remit to ensure that customers/ subject(s) were adequately informed about licensing and the SIA's regulatory functions.
- The SIA could promote the need for individuals operating within both sectors to operate in an ethical manner when conducting their activity (assisted by the basis of minimum standards which would be part of the required qualifications).
- This twin pronged approach of regulation and competency would help to increase professionalism and drive out unwanted elements.
- This approach would follow that in place for other licensable sectors.
- This approach would increase public confidence in the sector
- From the point of view of the industry, there are opportunities in terms of the uniformity in the required competency standards and a career starting point for new entrants.

Competency

14. The competency element of competency based licensing exists to ensure that the skills and expertise of practitioners who hold a licence remain current. This is particularly important in the context of ever-changing statutory requirements and technological developments relating to data protection, privacy, accessibility of information and consumer and public protection. The existing provision of training and qualifications is likely to be substantially developed with the introduction of competency based licensing.

Risks associated with Competency Based Licensing

15. Some of the industry respondents to the consultation identified risks which concerned them with regard to the preferred regulatory approach. These risks will be kept under review during the policy development. They included:

Risk raised in Consultation Responses	Proposed management and mitigation
Uncertain size of sector, would impact on logistics of regulation, including training and qualifications infrastructure.	Estimates from the consultation responses regarding the population of licensable individuals working in the private investigation sector vary enormously from 1,000 to in excess of 100,000. However, in the absence of more accurate data, the previous estimate which was identified by the SIA of the total size of the sector remains at 10,000 and this figure will be the basis of further policy development. Nevertheless, if robust evidence emerges that updates this estimate, it will be taken into account.
Unlawful or unethical activity would not be eliminated, generally and by competency based licensing in particular. Training and licensing might provide or be perceived to provide "paper" legitimacy to practitioners who can still undertake illegal activity.	Competency based licensing cannot eliminate unlawful or unethical activity completely. It can provide a deterrent for some who will want to obtain / retain a licence to avoid the loss of business which would result from having their licence refused or revoked. As well as increasing the cost to the practitioner of undertaking illegal or unethical activity by potentially removing the permission to practice, competency based licensing will reduce the likelihood of practitioners breaking the law or undertaking poor practice inadvertently through ignorance or lack of experience.

Training may not cover the diverse skills required to be a PI	The competency requirements for obtaining a private investigator licence have been developed with the industry, are kept under review, and are aimed at providing appropriate and diverse skills to a high minimum standard to which all practitioners must adhere. The accrual of experience and the effect of competition are expected to build on this high minimum standard through the dissemination of best practice.
Some of the licence conditions (e.g. carrying a licence, public register of licence holders) common to other sectors (e.g. man guarding) may not be practicable for private investigation	Currently, the intention is that private investigators and precognition agents would not need to wear their licence where they could demonstrate that the nature of their conduct on particular occasions required them not to be immediately identifiable as someone engaging in private investigation or precognition activity. However, in other circumstances, private investigators and precognition agents would need to carry the licence on their person and be able to produce it on request. In view of the strength of some of the arguments put forward in the consultation responses, the licence conditions may be reviewed.

THE WAY FORWARD

Proposed scope of licensing

16. Regulation of PIPAs would require all individuals engaged in PIPA licensable activity to hold a licence issued by the SIA. The issuing of this licence would depend on key licensing criteria. As a minimum, this would involve payment of a fee and checks to determine whether an individual was 'fit and proper' to conduct this activity.

17. A licence would cover the individual to practice in England, Wales, Scotland and Northern Ireland. Precognition agents (although only acting in relation to Scottish proceedings) could undertake the precognition anywhere in the United Kingdom

Likely areas of competency and training

18. The SIA has identified 5 areas where competency would need to be shown by the private investigators and precognition agents before a licence could be granted on this basis. The SIA will have an exemptions policy which will allow investigators to produce evidence of other qualifications that they already hold as proof of the competency requirement.

The competency specification requires each practitioner to have the skills and knowledge to:

- conduct investigations.
- conduct interviews
- search for information and preserve evidence
- conduct surveillance
- understand, and work to, relevant Laws and Standards.

19. The rationale for focusing on these competencies is that their absence would present most harm to the public. The training would be set at NVQ level 3. The specification does not represent all the training that would be required to produce a job-ready Investigator, but it does cover the knowledge necessary to prevent harm to the public.

Compliance

20. The SIA expects to achieve 90% compliance in both sectors at the end of the first full year of licensing. This is based on actual compliance rates for existing licensable sectors of the private security industry, established in the course of SIA's enforcement activities. The SIA regularly conducts random checks on security officers across the country to see if they are licensed and wearing their SIA badges. The average level of compliance found in these visits averages at just over 90%.

Resource Implications

21. The SIA has confirmed that they have already budgeted for the costs of extending licensing to private investigation and precognition agents from within their existing resources. There are no additional costs to the Home Office.

Overall Financial Impact on Home Office Budget				
£m	**2007-08**	**2008-09**	**2009-2010**	**2010-11**
Resource DEL	0	0	0	0
o/w - Near-Cash	0	0	0	0
- Administration	0	0	0	0
Capital DEL	0	0	0	0

Costs are met through the licence fee for initial and renewal licence applications. The licence fee is set at a cost recovery level.

Home Office

July 2008

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	No	Yes
Small Firms Impact Test	No	Yes
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	No
Rural Proofing	No	No

Annexes

Annex A: **Small Firms Impact Test**

Consultation with small businesses

The private investigation and precognition agent sectors are predominantly made up of sole practitioners and small or micro businesses. Consultation with the sectors has been undertaken as set out under section 4 of the Consultation analysis document (see page 24 of http://www.homeoffice.gov.uk/documents/cons-2007-regulations-security/cons-2008-private-sec-responses?view=Binary). Under the categorisations recommended by the European Commission[5], the majority attending or contributing to these soundings and questionnaires[6] were small or micro businesses. There are some medium to large companies operating in the private investigation sector and representatives from these organisations were involved in the consultation during 2005 – 2006. Of 130 respondents to the 2007 Consultation, 80 had no comments. Of the remaining 50 respondents: 31 agreed with the small impact assessment; 12 were not in favour; 7 stated that there was no impact.)

Small business purchasers

It has not been possible to identify small businesses or individual purchasers of private investigation services and consult with them on the potential impact of licensing. The types of investigation services employed by individuals or small businesses are likely to be more discreet than those utilised by corporate purchasers. The SIA would be particularly interested in comments from this type of purchaser, on the impact of the options set out. This is less relevant to precognition agents as they are purchased by legal service providers or are employed on behalf of the crown.

Impact of regulation on sole practitioners and small businesses

Regulation will have a significant impact on sole practitioners or small businesses as the majority of practitioners operating in either sector are micro or small businesses. In this way, there will be no differential impact on small businesses in terms of any licensing costs introduced as they form the majority of each sector.

Responses from those sole practitioners and small businesses consulted to date suggest support for licensing as it will raise levels of probity and minimise levels of bad practice; ensuring that available work goes to good practitioners. Their main concerns relate to how the licensing scheme is introduced. The majority of private investigators or precognition agents enter these sectors as a second career and are concerned about the extent to which training and assessment would be required in order to continue to operate. There may also be concerns that inclusion of a competence component would discourage new entrants from this career path. However, on this latter point, it is equally likely that licensing will help establish a defined career entry route, as one does not currently exist for either sector.

Impact on private investigators – sole practitioners and small businesses

There are some medium to large businesses delivering investigation services and for these businesses payment of the licence fee[7] is likely to have less impact overall than on sole practitioners or small businesses. Inclusion of a competence component in the licensing criteria is also likely to have a bigger impact on sole practitioners or small businesses in this sector, as training and qualification costs will have to be met by the individual or small business rather than being absorbed by a medium to large business who may choose to purchase training for a number of investigator staff[8].

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[5]Micro businesses – fewer than 10 FTE, Small businesses – fewer than 50 FTE, Medium businesses – fewer than 250 FTE, Large businesses – 250 FTE or more.

[6]125 practitioners responded to the online questionnaires on the potential competency criteria for the licensing scheme (December 2005), 95% of these responses were from micro and small businesses.

[7]Currently set at £245 per licence for all sectors, to cover administration costs of managing the licensing scheme.

[8]For example some medium to large companies who employ full time investigator staff (working in insurance fraud or financial investigations, under contract) would cover the cost of any training and licensing for this staff. Contract investigators, who they employ on a case-by-case basis, would cover their own licensing and training costs.

Impact on precognition agents – sole practitioners and small businesses

Precognition agents are almost exclusively sole practitioners or small businesses, and there are no known medium to large businesses operating in this sector (except where precognition services are offered as part of a package of wider private investigation services[9]). In this way, precognition agents are likely to be impacted upon significantly through the introduction of licensing. However, the precognition agent sector itself is small[10]. Taking precognitions, once a key method for the defence or Crown to access information from witnesses in relation to Scottish proceedings prior to going to trial, is now reducing as a profession. Changes in the law mean that interview statements made by police witnesses are now available to the defence and the precognition process is no longer routine in relation to criminal proceedings.

Options for licensing

The options put forward in this document cater for a range of approaches and we have aimed to address some of the concerns expressed by consultees to date. Through Options 1 and 2, in relation to both the private investigation and precognition agent sectors, there would be no cost or regulatory impact. However, this would not effectively address the risk posed to the public, or the needs of the sector, set out in para. 3.22 – 3.31 of the Consultation document (see http://www.homeoffice.gov.uk/documents/cons-2007-regulations-security/Regulation_of_Security_Indu1.pdf?view=Binary). Option 3 proposes licensing but, without any competence component and this would have the least regulatory impact on sole practitioners and small businesses. Option 4 proposes licensing and inclusion of a competence component in the licensing criteria. This would have the biggest regulatory impact on sole practitioners and small businesses. However, as set out in the harm and benefits assessment for Option 4, there is a risk that licensing without a competency element implies that all 'licensed' private investigators or precognition agents are competent.

The SIA continues to liaise with representatives from both sectors and invites further comments from sole practitioners, small businesses and representative organisations if they think they are likely to be adversely affected by any of the options set out.

Impact of Approved Contractor Scheme (ACS) on sole practitioners and small businesses

The ACS is a voluntary accreditation scheme; no businesses employing licensable staff are obliged to join or to incur the costs of joining. There is a structure in place which ensures that the ACS fees are tailored to the size of the business, and the ACS standard was developed for all sizes of business (please refer to the SIA website for more information - www.the-sia.org.uk/home/acs). Notably, some sole practitioners (within the close protection and security guarding sectors) have now achieved the ACS standard (due to their desire to differentiate their businesses as being amongst the best providers of private security services in England, Wales and Scotland). The SIA is working to develop guidance to support more sole practitioners and small businesses in achieving this standard. We welcome comments on the type of guidance or support that it would be helpful to provide to support sole practitioners, micro or small businesses in the achievement of the standard, as part of this RIA.

[9] For example, this company (based in Scotland) offer precognition services as part of a range of investigation services www.pegasus-investigations.co.uk/statements_and_precognitions.html.

[10] Estimated 200 precognition agents currently in operation, although this is a rapidly decreasing number (refer to para 1.2.).

Annex B: **Competition Assessment**

Market structure

This section considers whether regulation will have a significant impact upon the market structure of private investigation services, or precognition agents. This does not consider the impact of recent changes in the law which has reduced the volume of precognition agents operating within the sector. This section should be considered in conjunction with the economic impact assessment set out in section 6 of the Consultation paper (see http://www.homeoffice.gov.uk/documents/cons-2007-regulations-security/Regulation_of_Security_Indu1.pdf?view=Binary). The workshops held to date illustrate that the nature of the work undertaken by individuals operating within the private investigation sector differs depending on the size of the company. Sole practitioners and small businesses are more likely to be involved in litigation support and tracing services, while medium to large businesses focus on large scale fraud and forgery investigations. Equally, medium to large companies are more likely to contract in investigation services on a case-by-case basis rather than undertake that work themselves. There is unlikely to be competition between sole practitioners and medium or large businesses for the same client[11].

Will the proposal limit the number or range of suppliers?

The introduction of regulation into both sectors may limit the number of suppliers. However, it is unlikely that this would impact upon the range of services on offer, which would probably be adequately met through any reduced supply. Regulation may result in some private investigators or precognition agents (companies or sole practitioners) leaving the sector as they will not be able to meet the licensing requirements. Under Option 3, anyone unable to meet the probity (i.e. criminality, mental health etc.) requirements for licensing will be prohibited from operating within either sector. Under Option 4, there is a risk that some private investigators or precognition agents leave or are deterred from joining[12] the sectors as they may feel financially unable to meet the training requirements. However, the benefit of regulation, as a minimum, is to remove or prevent any criminal element from operating within either sector. Further, competency requirements would have the added benefit of mitigating against the risk of criminal behaviour in the future, though compulsory assessment on knowledge of relevant laws and standards and ensuring that those individuals offering these services are competent to do so.

Businesses and sole practitioners may be able to pass the costs of regulation onto customers through increased rates. Additionally, across other licensable sectors, 7,448 licences have been refused as of 27 June 2007; the majority of refusals are on the grounds of criminality. In this way, there is potential for the amount of work available to increase due to individuals and businesses leaving the sector where they are unable to meet the requirements for licensing.

Will the proposal indirectly limit the number or range of suppliers?

If regulation of either sector is introduced, there would be licensing *and* qualification costs. In this way regulation will result in an increase to the costs of operating within either sector. However, there will be no indirect limitation on the number or range of suppliers operating in either the private investigation or precognition agent sectors as a result of regulation. All individuals who are operating within these sectors, either those entering the sectors or existing suppliers, will have to meet any licensing requirements as defined following this RIA, equally. As discussed in the small firms impact assessment, sole practitioners and small businesses within the private investigation sector may be impacted upon more so than medium to large companies[13]. However, the type of business undertaken by sole practitioners and small businesses differs to that undertaken by medium to large businesses. Consequently, there is unlikely to be much direct competition for providing similar services to the same clients. In this way, the market will continue to sustain different sizes of business.

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[11] Discussions with ABI (Investigators) and IPI confirmed this was likely to be the case in the majority of circumstances, March 2007.

[12] Refer to para. 7.5 – 7.6.

[13] There will be no perceived differential impact on businesses operating within the precognition agent sector as they are almost exclusively sole practitioners or small businesses (unless the precognition service is offered as part of a wider private investigation service).

Will the proposal limit the ability of suppliers to compete?

It is not believed that regulation will significantly limit the ability of suppliers to compete. Regulation of both sectors would result in associated licensing and *potentially* qualification costs. However, these costs will apply equally across all individuals. There may be some impact on the prices charged by sole practitioners and small businesses operating within the private investigation sector as opposed to medium to large businesses; the latter being potentially better placed to absorb any licensing costs or pass these costs onto purchasers. However, as set out in para 8.1 and 8.4 of the Consultation Paper (see http://www.homeoffice.gov.uk/documents/cons-2007-regulations-security/Regulation_of_Security_Indu1.pdf?view=Binary). Feedback from the private investigation sector indicates that different size companies are likely to service and compete for different business.

Will the proposal reduce the supplier's incentive to compete vigorously?

There is no evidence to suggest that the proposal would impact upon a supplier's incentive to compete vigorously.