



**Home Office**

**Regulation to Implement the Private Security Industry  
Act 2001 in respect of the Private Investigation and  
Precognition Agents**

**Response to Consultation  
May 2008**

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**Regulation to Implement the Private Security Industry  
Act 2001 in respect of the Private Investigation and  
Precognition Agents**

**Response to consultation carried out by the Security Industry Team,  
part of the Home Office.**

**This information is also available on the Home Office website at  
<http://www.homeoffice.gov.uk/about-us/haveyoursay/closed-consultations> and the SIA website at <http://www.the-sia.org.uk>**

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## **Introduction**

This document is the post-consultation report for the consultation paper, Regulation to Implement the Private Security Industry Act 2001 in respect of the Private Investigation and Precognition Agents.

It covers:

- The background to the report;
- A summary of the responses to the report;
- A detailed response to the specific questions raised in the report; and
- The next steps following this consultation.

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[http://www.the-sia.org.uk/home/about\\_sia/publications/publications\\_ria.htm](http://www.the-sia.org.uk/home/about_sia/publications/publications_ria.htm)

## **Background**

The Consultation paper “Regulation to Implement the Private Security Industry Act 2001 in respect of the private investigation and precognition agents” was published on 1 August 2007. It invited comments on four options for the regulation of private investigation and precognition agents:

1. Do Nothing
2. Alternative to Regulation
3. Licensing with no competency criteria
4. Licensing with competency criteria

The paper made it clear that option 4 (licensing with competency requirement and regulation by the SIA) was the preferred option. We set out the case for the preferred option, invited comments on all other options and set questions to explore the evidence.

The consultation period was due to close on 24 October 2007 but the industrial action by the Royal Mail in October delayed receipt of some responses. After discussions with our key stakeholders, we decided to extend the consultation by considering postal correspondence that had been posted on or before 24 October but delivered after the end of the consultation period.

This report summarises the responses and sets out the next steps.

A list of respondents is at Annex A.

## Summary of responses

1. A total of 163 responses to the consultation paper were received. 33 responses received were duplicates or holding responses and therefore were not included in this analysis.

Of the remaining 130:

- 68 responded by email and 62 by letter.
- 68 used the questionnaire to respond as directed by the consultation paper to the consultation.

During the consultation period we received a number of complaints about the difficulty in downloading the questionnaire. The Working Group on Private Investigation and Precognition Agents, which was set up to oversee the consultation therefore decided that those individuals and companies who did not respond using the questionnaire should not be excluded.

A total of 75 responded on the four options put forward in the consultation paper. The breakdown of the 75 respondents is as follows:

- 6 Individuals
- 3 Local Authorities or Government Departments
- The Serious Organised Crime Agency (SOCA)
- 37 Private Investigation and Precognition Agents (individuals and firms)
- 3 Creditor Groups
- 13 Trade Association or Trade Groups
- 9 Professional Associations
- 2 Professional Organisations
- 2 Anonymous respondents

2. All the responses received were analysed for evidence of potential harms, justifications for regulation, and the benefits and costs associated with each option.
3. The responses were also analysed to consider the potential impact of licensing on the private investigation and precognition agents markets.
4. Our conclusion from the responses received is that there is overwhelming support from respondents for licensing of private investigators and precognition agents.

A small majority of respondents favoured Option 3 (licensing by the SIA with no competency criteria) rather than Option 4 (licensing by the SIA with competency criteria) as an initial position. Of those favouring Option 3 initially however, a sizeable majority also favoured a subsequent move to Option 4, licensing with competency criteria after

2 – 4 years to give the industry time to adapt to the more extensive changes which Option 4 would require.

5. The Serious Organised Crime Agency (SOCA) has also provided evidence of a level of risk which supports the need for licensing and proposals to reduce the harms inflicted on the UK by private investigators trading in unlawfully acquired data.

**Please Note** that the information supplied by SOCA is exempt from disclosure under the Freedom of Information Act 2000.

6. The Government proposes proceeding with the preferred option, Option 4, which is licensing by the SIA with competency criteria.

## **Responses to Specific Questions**

### **Section 1: About you**

**Question 1 Please indicate whether you (tick as many responses as apply):**

**Carry out private investigation activities as referred to this document and you are a:**

- **Sole practitioner; or**
- **Work for a company providing services**

**Carry out precognition agent activities as referred to in this document, and you are a:**

- **Sole practitioner; or**
- **Work for a company providing services**

**Manage or direct private investigation services as referred to in this document;**

- **If you manage or direct private investigation services, how many individuals conducting licensable private investigation activity are employed in your company?: (please provide number)**

**Manage or direct precognition agent services as referred to in this document;**

- **If you manage or direct precognition agent services, how many individuals conducting licensable precognition agent activity are employed in your company?: (please provide number)**

**Contract or intend to contract for private investigation services as referred to in this document;**

**Contract or intend to contract for precognition agent services as referred to in this document;**

**Represent a public body (please provide details such as name, size, location):**

**Represent a private body (please provide details such as name, size, location):**

**You do not fall within the above categories (please provide the reason of your interest in this consultation)**

There were few responses to this section.

Of 130 respondents, 67 made no comment or left this part of the questionnaire unanswered.

24 respondents carried on private investigation activities as sole practitioners.

20 respondents carried on private investigation work for a company providing these services.

6 respondents carried on both private investigation and precognition agent activities.

3 respondents managed or directed private investigation services.

4 respondents represented a public body.

4 respondents represented a private body.

2 respondents identified a mix of activities which included the following: represented a public body; a private body; managed or directed private investigation services; contracted or intended to contract for private investigation or precognition agents services.

## **Question 2**

**Please indicate where you work geographically (for majority of the time).  
England, Wales, Scotland, Northern Ireland, Europe and  
International/Overseas**

Of 130 respondents, 34 made no comment or left this part of the questionnaire unanswered.

Of the remaining 96:

- 53 were based in one location, with 39 in England.
- 23 were based in two locations: 11 working in England & Wales; 9 working in England and International/Overseas.
- 7 were based in three locations: 6 working in England, Wales & Scotland; 1 working in England, Europe & International/Overseas
- 3 were based in four locations: England, Wales, Scotland and Northern Ireland.
- 4 were based in five locations.
- 6 were based in all six locations.

## Questions 3 and 4

**How many individuals in total, do you perceive will require licences under the scope of private investigations as set out within this partial RIA.**

**How many individuals in total, do you perceive will require licences under the scope of precognition agents as set out within this partial RIA.**

## Question 5

**How many individuals in total do you perceive will require licences in both private investigation and as precognition agents under the scope as set out within this partial RIA.**

There appeared to be some confusion about these 3 questions, with some replying with information about numbers employed in their own company and others estimating the total size of the sector. Answers ranged from zero to over 100,000. In the absence of more accurate data, our previous estimate of the total size of the sector remains at 10,000.

Our conclusions from the results from Section 1:

- The majority of the respondents were private investigators.(Research conducted by the SIA indicated that there are only 20 precognition agents in Scotland);
- The majority of private investigators and precognition agents are located in England with the larger companies operating internationally i.e. in all 6 locations;
- It is difficult to give an estimate on the actual size of the private investigation and precognition agents sector on the basis of the responses to the consultation exercise.

## Section 2:

### Question 6

**Please indicate which activities your responses to the consultation will refer to: (a) Private Investigation (b) Precognition Agent (c) Both.**

Of 130 respondents, 44 made no comment or left this part of the question unanswered.

Out of the 86 that did respond:

- 68 stated that they were private investigators.
- 1 stated that they were a precognition agent.
- 17 stated that they were both private investigators and precognition agents.

## Question 7

**Do you believe that the activities of private investigators/precognition agents/both present a risk in terms of the harms identified in Tables 1 and 2 (please provide any evidence to support your claims)?.**

Of 130 responses, 71 made no comment or provided no answer.

Out of the remaining 59 responses:

31 respondents felt that there was no risk, or if there was a risk, it was one that could not be mitigated by regulation or that the numbers of private investigators who had been convicted for any of the identified harms were so small that there was no recognisable problem for the industry. Also there was a view that existing regulations on data protection and money laundering have further reduced the numbers of rogue elements. Respondents qualified their responses with the following comments:

- “Criminal types do exist but are few and far between”. (Eurotec)
- “The risk is grossly exaggerated and that there is little evidence to show otherwise”. (Hogan)
- “I have found great competency, efficiency and professional standards of the highest order”. (Guardian Services)
- “Bad practice or criminal behaviour will always be outed by a very vigilant intelligent service buyer which most members of the public are”. (Anon )
- “Risks are not easily quantifiable”. (Securway NI Limited)
- “We do not accept that our sector through normal lawful activities poses any potential harm to the public. The small percentage of convictions of private investigators hardly support this concept”. (Priority)
- “The benefits of private investigators outweigh the harm”. ( High Court Enforcement Officers Association)
- “There is no licensing or competency testing in the world that has prevented people from highly regulated walks of life from committing the widest possible range of offences, from murder to shoplifting”. (Bishop International)
- “Over the past decades the industry as a whole has moved greatly forward against a backdrop of major legislative and regulatory developments in the areas of data protection, anti money laundering and anti-corruption initiatives and corporate governance codes of conduct. These developments have framed the nature of work requested of leading companies in the corporate investigations arena and have lessened the opportunities for poor behaviour by the small minority of operators”. (Control Risks Group Limited)
- “We do not accept the concept that our sector through normal activities pose any potential harm to the public. The small percentage of convictions of private investigators hardly supports this concept”. (World Association of Professional Investigators WAPI)

13 respondents acknowledged that there was a slight risk. A few commented that if the “fit and proper person” approach was adopted this would weed out the few unscrupulous individuals/companies. Comments included:

- “The only harm factors I see as relevant are that of fit and proper person and free criminal record. Others are, if not covered by Acts of Parliament or government regulations are covered by good business practice if the person wishes to succeed, and provide a good service to customers”. (West of England Detective Agency)
- “I do believe Tables 1 & 2 do present risks and harms potentially by other rogue traders whom may not wish to operate in an ethical way; but I have no experience of this as an actual problem in itself”. (Andy Stephenson)
- “There are smaller or even individual purchasers of PI services who may need protecting from unscrupulous individuals/companies and therefore regulation will help to promote and professionalize the image and approach of Private Investigators”. (Avertis)

15 respondents stated that there was a risk in terms of the harms identified:

- “The ABI accepts the harms as outlined (Association of British Investigators”. (ABI )
- “Over the years I have operated, I have met clients who have paid investigators to do work on their behalf and when I have read their reports I have been disgusted that they had the cheek to pretend to be an investigator”. (Anon)
- “We see that the individuals in such profession as those that deal in processing confidential information and personal data (e.g. industries that have come to rely on call centre arrangements [e.g. banks, insurance companies etc] are more susceptible to the types of risks identified in Tables 1 & 2”. (Alecto Limited)
- “In my special report to Parliament in May 2006 titled “What price privacy?” I highlighted an illegal trade in confidential personal information and the harm it causes. The middlemen at the centre of the market for illegal information are often private investigators (Information Commissioner’s Office”. ICO)
- “Clearly there are risks given the very nature of the tasks undertaken”. (Civil Court Users Association)
- “The rogue element regularly breach the requirements of the Data Protection Act and are currently able to retain the monies they make from illegal activity. Many private investigators are ex-law enforcement or ex-military personnel. Many of the rogue element have left the service of their previous employers as a result of professional standards issues which would not come to light as a result of routine criminal record checks”. (SOCA)

In addition, we have sought the views of our stakeholders especially those working in law enforcement and the security industry and their unanimous view is that certain private investigators are committing criminal offences in relation to the acquisition and misuse of lawfully acquired personal data and are supported in their activities by key enablers.

Our stakeholders believe that the ability of the investigators to engage in such criminality is made easier by the absence of regulation in the industry. They favour the creation of the following offences: obtaining data through deception; commissioning the services of unlicensed private investigators; commissioning the acquisition of unlawfully acquired data; unlawfully acquiring data; being concerned in the unlawful acquisition of data; being reckless or careless as to the provenance of data.

There is consensus amongst the law enforcement agencies that better regulation of the private investigation industry could only be achieved through licensing on core competency skills as defined by National Occupational Standards (Skills for Security).

Further they believe that private investigation and precognition agents should have to meet mandatory requirements to increase accountability and exclude corrupt / unethical operators from the industry. These stakeholders suggest that they be required to register on the Public Register of Data Controllers; that it should be possible to serve notice of application on law enforcement organisations so that misconduct and discipline findings of guilt can be considered in assessing fit and proper status; and notice published of application in an approved publication to allow representations from the public in assessing fit and proper status.

They also propose a slight modification to the “fit and proper person” criteria as set out by the SIA. They propose the establishment of a framework for verifying fit and proper status including appropriate background checks; knowledge and competency checks; financial probity; personal interview; associates/family background checks; and referees.

In addition, in order to increase the accountability of licensed investigators, the law enforcement stakeholders recommend that private investigators and precognition agents should be members of an approved associated or professional body; a requirement to show provenance of source of data; and that there should be a ban on “pretexting” or “blagging”<sup>1</sup>. Licensees should also be required to post financial bond or proof of liability insurance.

As well as the individual, they believe that companies also have some responsibility. Data controllers and directors of organisations should be vicariously liable for ensuring staff are properly trained in data protection law; fully aware of their responsibilities and subject to quality assurance checks.

Our conclusion is that there is clearly a risk from the harms identified even though some may choose to ignore it or have downplayed the roles and effects of rogue and unscrupulous agents. Many are critical about the illegal trade in confidential information and the harm that it causes.

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<sup>1</sup> Pretexting or blagging consists of private investigators calling a company purporting to be someone else to access information

Those key players who have agreed and identified that there is risk, would like the “weeding out” of the rogue and unscrupulous members at the point of licensing, and that once a licence is granted regulation would then allow the monitoring, and continued policing of those who are licensed.

### **Question 8**

**How much do you believe each harm identified in tables 1 & 2 cost per annum (e.g. terms of damage or loss) and who does this cost impact upon (e.g. suppliers, purchasers, public, other)?**

There were relatively few responses to this question with no respondents being able to put a figure on the cost per annum for each of the harms identified in Tables 1 & 2.

Out of 130 responses, 93 did not provide an answer or comment.

Out of the remaining 37:

- 2 respondents agreed that that each harm does have a cost.
- 4 respondents agreed that there were limited costs.
- 19 respondents could not give an assessment of the cost of the harms.
- 8 respondents stated that the costs were unquantifiable.
- 4 respondents stated that there were no costs.

Very few respondents addressed the cost implication of the harms.

- “It impacts on both the purchasers and the individual conducting the investigation”. (Carratu)

Two respondents challenged the view that harm should even be seen in monetary terms (Impact) (Regional Corporate Solutions)

### **Question 9**

**Which of the proposed 4 options do you feel would be the most appropriate way for the Security Industry Authority to fulfil its responsibilities under the Private Security Industry Act 2001 in relation to the specified activities?**

### **Question 10**

**Please provide the reasons for your choice, or provide the details of any other option you may have that is not listed in this document?**

44 respondents did not express an opinion on the options. 74 out of the 130 respondents answered both these questions, selected one of the four proposed options, and in some cases gave reasons for their choice.

### **Option 1 - “Do Nothing”.**

3 preferred this option. One respondent stated that things should be allowed to continue as they are unless “there are to be strict background enquiries, competency examinations (including knowledge of criminal and civil law and their procedures) and an intense inspectorate able to discipline and withdraw licences from defaulters.” (Moorland Services)

### **Option 2 - “Alternatives to Regulation”.**

4 preferred this option and the reasons given were:

- Licensing proposals were too rigid.
- Licensing would not resolve the issue of unscrupulous private investigators and precognition agents.
- “Private investigators and precognition agents should be part of a recognised trade body, who could ensure that members work within all current legislation, regulation and guidelines”. (Credit Services Association)
- “Self-regulation and consumer awareness would be the least costly method of implementation. Adequate legislation exists to deal with the Data Protection Act and other legislative violations through the police and courts”. (CapQuest and London House (Services) Ltd)

### **Option 3 – SIA licensing with no competency criteria.**

40 preferred this option.

- “Embraced the benefits of voluntary qualifications schemes and makes most sense”. (Bishop International)
- “Would have “a positive benefit in reducing the harms caused by unethical operations, while supporting the development of ethical investigation” and that the issue of “competency is better left to market mechanisms”. (The Institute of Chartered Accountants in England and Wales - ICAEW)

#### **Option 4 – SIA licensing with competency criteria.**

28 preferred this option.

- “Licensing of private investigators is essential, not only to raising standards but to give the public ongoing protection from those involved in the illegal trade in personal information”. “The introduction of core competency criteria would help to raise standards in this area”. (ICO)
- “Some form of competency criteria would raise the standards in the industry and give insurers more confidence when contracting with investigation services”. (ABI)
- “This should be based on a combination of proven experience and qualifications”. (WAPI)

However, of the 40 respondents that favoured Option 3, 26 chose Option 3 outright whilst 14 preferred Option 3 leading to Option 4 in 2 to 4 years:

- “this would encourage people to come forward so that the sector population could be identified. It would give the awarding bodies and training providers time to provide the resources needed”. “There needs to be a long lead time to compulsory requirement”. (ABI)

Some key figures in the industry indicated why they did not choose Option 4. Some held the view that prior specialist learning should be accepted rather than requiring training and examination which, it was argued, would add little, would be an unnecessary cost, and would not ensure the integrity of investigators.

- “the huge diverse nature of the industry in 2007 suggests that such training cannot be prescribed in a meaningful manner. The associated costs to the industry cannot be justified”. (Control Risks)
- “the vast majority of people who enter the investigative trade come from related areas of work (police, customs, intelligence and security services, military security or intelligence, journalism, the law etc.), it seems more than overkill to have people who have spent years in such endeavours to be “taught” those skills by people who, in all probability have no more - and possibly less - experience than they have. It is even more galling that they may have to pay handsomely for such instruction and assessment”. (Bishop International)
- “People with criminal intentions do not generally object to paying for a course if it gives them legitimacy to carry on illegal practices”. (Bishop International)

- “Competency bears no relation whatever, in any field of work, to honesty, legality or ethical behaviour”. (Bishop International )

The consultation paper also allowed respondents to provide details of other options not listed in the paper:

7 respondents provided details of other options made up from a combination of the 4 proposed options.

3 respondents suggested options not listed in the paper:

- “Licensing following rigorous examination, through any information source, of an individual’s historically identified honesty, integrity, existing competence, skills and practical experience. This would negate the need for any assessment based on a low level academic education course of instruction. They also suggested the “introduction of a voluntary education training programme which could be accessed by those who wish to develop their knowledge but is not designated as mandatory for purposes of any assessment, licence grant or employment conditions”. (Alecto Limited)
- “The IKD Common Minimum Standard recommendations which consists of : option 1 personal requirements; option 2 probity (fit and proper); option 3 competence; option 4 professional indemnity; option 5 code of ethics; option 6 exemptions to options 1 to 5 and option 7 validity”. (International Kommission der Detektiv-Verbande (IKD)
- “Self-regulation by a combination of (1) the ABI (2) IPI and (3) WAPI”. (Account Collection)

Our conclusion is that there is significant agreement that there should be licensing for private investigators and precognition agents. However support for option 3 outright was less than for option 3 leading to option 4 in 2 - 4 years or option 4 outright.

SOCA was also in favour of better regulation of the industry through licensing based on core competency defined by National Occupational Standards (through Skills for Security). It was of the opinion that it was necessary to weed out the unscrupulous from this sector

Many of the respondents were in favour of the recognition of existing skills and experiences. Some were critical of the option for training as they felt that the training costs would be too high especially for sole practitioners; that skills could be learnt on the job and therefore there was no need for formal training.

We are encouraged that the general consensus is in favour of licensing and would recommend the option of licensing with competency criteria and regulation by the SIA. We recognise, however, that the SIA's role must be carefully defined so that it adds value, in terms of its role in helping safeguard the private security industry from criminality and raising standards generally. It is however not the SIA's job to ensure an individual's fitness for business needs.

### Section 3

#### **Question 11. Do you agree with the current criminality approach set out at Annex C?**

Annex C proposed that the fit and proper person criteria for private investigators and precognition agents should be the same as that adopted for other licensable sectors but that there should be a review of the list of offences to reflect the specific risks and activities of the private investigation and precognition agents sector.

Of 130 respondents, 57 did not provide an answer or comments

56 respondents supported the agreed SIA criminality approach:

- "Yes. To put it mildly, this is only "common sense". (Findlay Investigation and Claims)
- "No problem with this". (Guardian Services)
- "This approach is well-structured and workable". (Tessera)

While supporting the agreed approach, some of the respondents suggested modifications:

- "We agree with the criminality approach that licences will not be granted to individuals unless they have been free of the sentence restrictions for a conviction, caution or warning, for at least two years or at least five years for serious offences". (NHS Fraud Counter);
- "We recommend that the 'fit and proper person' approach is extended to include checks on current and previous addresses, employment history, qualifications, references, potential conflicts of interest, and credit history". (NHS Fraud Counter);
- "The SIA should also take into account misconduct which does not amount to criminality. For example, civil or disciplinary action taken by a professional body or regulator or by the Information Commissioner, should also be taken into account in assessing whether a potential or existing licence holder is fit and proper". (ICAEW)
- "Support the criteria in respect of proof of ID and probity". (Nationwide Investigations Group)

- “The criminality approach as set out in Annex C would be appropriate and could be undertaken by the relevant trade body”. (CSA)

17 respondents disagreed with the current criminality approach. One of those respondents put forward another option instead of the Annex C.

- IKD Common Minimum standard (IKD) – (Blazye Limited)

Our conclusion is that the private investigation and precognition agents industry is in support of the current criminality approach but that the SIA should consider the modifications suggested by key stakeholders.

### **Question 12: Do you agree with the current licence conditions approach set out in Annex D?**

Annex D set out the SIA’s intention to enforce the powers under section 9(1) and (2)<sup>2</sup> of the Private Security Industry Act, and 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, private investigators and precognition agents would still need to carry the licence on their person and be able to produce it on request.

Of 130 respondents, 48 did not comment on this question.

49 respondents agreed with the approach set out in Annex D.

- “This approach seems to be well structured and workable”. (Tessera-CSA)
- “We are very much in favour of proposals to license agents who are self employed and not currently subject to regulatory oversight”. (Lowell Group)

33 disagreed with the approach set out in Annex D.

- “We do not believe that there should be a public register of licensed investigators”. (Bishop International)
- “Nor as the PRIA [Partial Regulatory Impact Assessment] suggests, should there be a requirement for the licence to be carried and produced on request”. (Bishop International)
- “Many of our people do work that is not captured by the definitions of the Partial Regulatory Impact Assessment and the Security Industry

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<sup>2</sup> Sections 9(1) and (2) of the Act gives the Secretary of State the power to prescribe conditions on which a licence must be granted. In addition, the SIA has the power to prescribe and impose additional conditions. It is a criminal offence (s9 Private Security Industry Act) to break licence conditions. A licence may also be revoked if the conditions are breached.

Act itself, because many are already regulated by other professional bodies and because most work exclusively on projects outside the UK we expect that implementing any individual licensing will be difficult, cumbersome and disproportionately costly for our business". (Kroll)

- "Substantial cost impact on a business, and clients". (Westcot CSA)
- "We feel there will be conflict between the conditions and current legislation and regulation set by the various legislators and regulators". (CSA)
- "Licences are not necessary at this time". (CapQuest)
- "The activities of debt recovery and therefore trace and collect as an incidental activity are covered by the OFT under CCA licensing and there is now a complaints process which can lead to licence suspension or withdrawal. Additional licensing not needed".. (Robinson Way)
- "Dispute that tracing companies should be included and licensed". (UK Search Ltd & CSA)
- "Proposed licence condition appear to be aimed primarily at security guards and vehicle immobilisers than private investigators. Important point – presumably they mean that PIPAs are a completely different type of body and not suited to the SIA system". (ICAEW)
- "Support the availability to the SIA of a range of disciplinary action, such as fining or public censure, to enable proportionate enforcement action to be taken". (ICAEW)

Some of the respondents disagreed on grounds of confidentiality and personal safety. Although the approach clearly states that the licence is to be carried on the person and should be produced when requested, some respondents thought that they would be required to wear their badges.

- "Investigators are unlikely to succeed in their work wearing badges identifying them as such. Furthermore, a certain proportion of the work undertaken is hazardous to participants, for example where organised crime is targeted". (Bishop International)
- "If, in those circumstances, someone was found to be carrying such identification they could be in danger of losing life and limb. The suggestion illustrates a gross ignorance of the nature of investigative work". (Bishop International )
- "The requirement for Investigators to "wear some ID" is totally unacceptable and would defeat the objectives of an investigation". (WAPI)
- "There will inevitably be a conflict between the requirement where a licence can be clearly seen with the current OFT Guidance on Debt Collection in which it is prohibited to disclose to a third party the nature of your enquiries. It would clearly be a breach of confidentiality making enquiries with a third party and displaying who you were. This would not respect the privacy of the main data subject". (London House Services)
- "The consultation paper mentions the wearing of the licence when undertaking investigative work. This legislation was obviously meant to

reflect face to face investigations and not remote tracing activities”. (Robinson Way)

- “Where investigators are conducting enquiries into assets which have been stolen especially where organised crime might be involved, public knowledge of their identity could not only inhibit their effectiveness of their enquiries but also bring them into actual physical danger (thus increasing the likelihood of violent crime)”. (ICAEW)
- “The accessibility of an individual’s personal details and the expectation of immediate identification if requested is fraught with difficulties for the corporate investigator. An individual placed within the client’s organisation for an investigative reason could well be placed at risk under such circumstances”. (Control Risks)

Some respondents also opposed having “individual” licensing and preferred “corporate licensing”.

- “We have long argued that the only workable form of licensing for businesses in our sector is corporate licensing, where the corporate entity are licensed and have responsibility for ensuring certain types of behaviour of the company and its staff”. (Kroll)
- “The regulation will require all employees and all subcontractors of regulated entities to be individually licensed. For Kroll to require all of its UK subcontractors to be licensed presents severe practical and commercial problems. What we cannot see in the current proposals is any convincing reason why individual licensing would be more likely than corporate licensing to bring about the desired objectives of regulation”. (Kroll)(support by Lowell)
- “Strongly urge that the SIA allows and promotes the use of trade names for registration purposes and accommodation addresses especially for sole practitioners and other persons operating out of residential premises”. (ICAEW)

2 respondents put forward other options than those in Annex D. IKD put forward the IKD Common Minimum standard and the ICAEW was in favour of the production of an appropriate Code of Conduct by the industry, in consultation with the SIA and others.

### **Question 13: Do you agree with the proposed competency set out in Annex E?**

Annex E explained that the SIA would, if Option 4 is implemented for both private investigations and precognition agents sectors, require that they meet the required standards of competency in relevant core areas. The core competency areas are: conduct investigations; conduct interview; search for information and preserve evidence; conduct surveillance, and understanding of and working to relevant laws and standards.

Of 130 respondents, 45 did not comment or provide an answer.

35 respondents agreed with the competency approach set out in Annex E.

- “The introduction of core competency criteria for private investigators will help to raise standards in the area”. (ICO)
- “If Option 4 is chosen, we would have to agree that the proposed competencies set out in Annex E should form the basis of a licence-linked qualification”. (Tessera)
- “All private investigators should, as a minimum standard, meet the five core competencies outlined. However, we would also encourage continued professional development beyond the core competencies to raise standards and expertise amongst private investigators”. (NHS Fraud Counter)

46 respondents disagreed with the competency approach set out in Annex E

- “The specific requirements as defined in the SIA’s October 2006 documents “Private Investigator Best Practice” are so rudimentary and wide-ranging as to be practically meaningless. It is a list of many administrative tasks, general observations about the need to understand relevant law, advice on how to interview people and gather evidence, how to carry out surveillance and suggested standards of behaviour”. (Bishop International )
- “The training and checks seem to be wholly disproportionate to the type of work carried out by tracing companies. The staff are not highly paid and are in some cases, not in the business as a long term career”. (Westcot )
- “The CSA asks who has the necessary experience, knowledge and skill to determine competency and who decides whether that person is competent to carry out those competency checks!” (CSA)
- “The current proposals are not detailed enough with how training and competency checks will be introduced”. (London House Services)
- “The core competencies identified in Annex E are necessary for some types of investigation, they are not necessary for them all”. (ICAEW)
- “The availability of appropriate investigators should not be limited by the imposition of unnecessary and restrictive barriers to entry”. (ICAEW)
- “The ‘one size fits all’ suggested approach to competencies training, by its inevitable lowest common denominator approach, will add nothing except expenses to the training regime already in place in the company”. (Control Risks)

Some respondents raised concerns about the proposed core competency requirements and that the competency training or qualifications would be offered by training bodies not familiar with investigative work

- “Internal training is effective in making sure that our staff understand the various disciplines that their jobs require and the legal framework in which each does that work. We do not believe that any external training by government bodies – at least as it is currently imagined – will enable us to train our people more effectively”. (Kroll)

- “We have concerns about Skills for Security, the body that is responsible for developing National Occupational Standards. (Kroll)
- NOS and NVQ programmes for the industry would be too broad and over-involving for simple office conducted trace work”. (UK Search Limited)
- “We do not think that the SIA should be limiting the availability of licences to the holders of a short and selective list of qualifications, but should leave it to those using the services of private investigators to choose the competencies required”. (ICAEW)

Some respondents stated that training should only be required for people who are new to the industry.

- “Competency requirements would make sense for new entrants to the investigation trade who have no relevant experience. However competency requirements and licensing are no guarantees of work”. (Bishop International )
- “Corporations should be required to have formal training and compliance regime, subject to independent review by the SIA, to ensure that all employees are fully aware of the legal and ethical standards that the profession requires. External training would be imposed only on individuals and employees that do not have adequate training and compliance systems”. (Kroll)

Some respondents put forward other options than those in Annex E.

- IKD Common Minimum standard. (IKD)
- “A ‘Principles of Good Practice ‘course. The course focuses on six principles of good practice; professionalism, objectivity, propriety, expertise, vision and fairness. These skills could also be applied across the wider private investigation sector”. ( NHS Counter Fraud)

All groups were united in their view that existing skills and experience should be recognised or taken into account.

- “WAPI supports competency criteria but believes that this should be based on a combination of proven experience and qualifications”. (WAPI)
- “More recognition needs to be given to existing skills. Transitional arrangements need to be worked out with industry”. (Association of British Insurers)
- “Control Risks is surprised to see that no provision is made for credit to be given for prior relevant experience. We believe that this is unrealistic and an unnecessary failure to take into account the wealth of prior experience available in the sector”. (Control Risks)

## **Section 4**

**Question 14: What financial and commercial impacts do you think that the licensing of private investigation and/or precognition agents may have on suppliers of these services? Please provide details (e.g. costs)**

**Question 15: What financial and commercial impacts do you think that the licensing of private investigation and/or precognition agents may have on purchasers of these services/ Please provide details (e.g. costs)**

These 2 questions were largely left unanswered with a large majority of respondents not commenting or filling in any details.

**Question 16: Do you agree with the small firms' impact assessment (see Section 7); if not, what else should be considered.**

80 out of 130 respondents did not comment on the small firms' impact assessment. Out of the remaining 50 respondents:

31 responses agreed with the small firms' impact assessment.

- "The cost of investigatory services to small businesses and private individuals will be slightly higher than at present depending on the ability of the investigator concerned to 'spread the load' of the increased costs amongst a number of clients". (International Institute of Security)
- "We agree that the costs of regulation and licensing are likely to have a greater impact on small businesses. However as is stated in paragraph 7.4, responses from small firms indicate support for licensing proposals". (NHS Fraud Counter)
- "We agree that the most difficult aspect of the proposals for small businesses would be the imposition of mandatory, structured and onerous competency requirements". (ICAEW)
- "It appears perverse that while it is acknowledged in the RIA that the sole operator and small business are assessed to form an estimated 95% of the private investigation industry that plans to reform the industry appear to create the greatest financial and time abstraction burden for those businesses". (Alecto Limited)

12 responses were not in favour of the small firms' impact assessment.

- "I deal with many investigators on a daily basis and I doubt any of them earn £40k a year. The small firm impact assessment is then in my humble view so far off the mark it may well have been no more than a shot in the dark, which I suspect is about the size of it". (LTS Group)
- "I think the impact of the additional cost and time spent to gain a licence on small firms will be painful". (JVS Investigations)
- "If training is mandatory, many will close down as there are many people working in them over 55-60 years old". (J Derwanz)

- “I do not believe that there has been consultation with sole practitioners and small or micro businesses involved in private investigation. Therefore, I consider the Partial Regulatory Impact Assessment to be at best misleading and at worst, false”. (MC Eden Associates)

7 respondents felt that there would no impact

- “Many large (large turnover) private investigation companies actually use self-employed agents or sub-contracts and have very few employees, possibly just a couple of Directors. The regulation would have little impact on them financially”. (Equity Investigations)
- “It is envisaged that many sole practitioners will continue without recourse to licensing in the same way as they have not notified the Information Commissioner or the Office of Fair Trading of their present status”. (ABI)

Other considerations.

- “Great care should be taken when consulting with bodies or firms where training will create income and growth for these organisations”. (Hogan & Co)
- “The impact on training and licensing on a small firm which may only have a turnover of 25k will be immense and damaging”. (Anon)

Our conclusion is that the industry agreed with the findings of the small business impact assessment, that small firms were likely to be most affected by the proposals.

### **Q17: What impact on equality and diversity do you think the introduction of licensing may have?**

80 out of 130 respondents did not comment on equality and diversity. Of the remaining 50 respondents:

10 responses stated that the impact on equality and diversity would be positive:

- “The regulatory approach will actually promote the profession by offering a clear path. We suspect that regulations will increase equality and diversity of individuals wishing to pursue such a career”. (Avertis)
- “Massive impact, please consider trade professional associations to self-regulate”. (Account Collection)
- “The only impact will be centred on the ability of those whose second language is English”. (International Institute of Security)

10 responses stated that the impact on equality and diversity would be negative:

- “Licensing will have a negative effect on the industry as a result of honest, ethical individuals leaving due to financial constraints forced on them by regulation”. (Tessera)

- “The number of private investigators in the UK will be reduced overnight. The majority are ex-police officers who work part-time. They are not going to obtain a licence for a number of reasons”. (Peter Heims)
- “If applied inflexibly and inappropriately, the licensing requirements could reduce diversity in the sector, by reducing opportunities for those returning to the job market after a break, or those undertaking a second career. Such people tend to be biased towards women and older people”. (ICAEW)

30 responded that there would be no impact:

- “Licensing as outlined in Option 3 should have no impact”. (Outforce Corporate Investigations Limited)

Our conclusion is that there would be no adverse impact on equality and diversity.

### **Question 18: What impact would licensing have on the supply of investigations services across Europe?**

77 of the 130 respondents did not comment on the small firms” impact assessment. Of the remaining 53 respondents:

25 responses were positive.

- “With much of Europe already regulated this would bring the UK in line”. (Avertis)

3 were negative.

25 responded that there would be no impact.

One respondent made additional comments :

- “Licensing could have a positive and negative impact on the supply of investigation services, depending on the conditions, skill and sensitivity with which the licensing conditions are applied”. (ICAEW)

## **Conclusion and Next Steps**

- 1.** There was strong agreement across the sectors that there was still a need to introduce licensing. Regulation by the SIA received more support across the sectors than the options of either doing nothing or an alternative to regulation. A sizeable majority that favoured licensing with competency criteria included those who favoured Option 3 as an initial step with a subsequent move to Option 4 in 2 -4 years. 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 the preferred option which is licensing by the SIA with competency criteria.
- 2.** The detail of the issues raised by respondents will be included in the Full Impact Assessment to be published later this year.
- 3.** There is still a lot of preparatory work to be done on the detail and with private investigation and precognition agents stakeholder groups, law enforcement agencies and professional associations.

## **Annex A – List of Respondents**

3 respondents indicated that they wished to remain anonymous.

### **Private Investigation and Precognition Agents (Sole Trader/Companies/ Trade Associations)**

Account Collection  
Alecto Limited  
Amsel & Co  
Antek Security  
Association of British Investigators  
Avertis Risk Solutions  
Blayze Limited  
Bishop International  
Brian Goulding Associate  
Carratu International Plc  
CCPI  
Control Risks Group  
Coppice Green Limited  
Cotswold Group  
Crimeproofing Limited  
Dukeries ASI Group  
Ely Consultants  
Equity Investigations Ltd  
ESS Consulting Ltd  
Euro-Tec  
Excalibur Investigations  
First Audit Partners  
Frank Hull Investigations  
GPW Ltd  
Gregson Investigations  
Guardian Services  
Hawkins  
Hogan & Co  
Impact Investigations  
Institute of Professional Investigators  
Internationale Kommission der Detektiv-Verbande  
Investigations & Security Consultancy  
Jigsaw Services  
John Hawk  
J Norman Investigations  
JVS Investigations  
Key Investigations  
Kroll  
Legal & Commercial Services  
Legal Service Limited  
Lewis Group Ltd  
Lodge Service  
LTS group

MC Eden Associates  
Moorland Services  
Morris Chase International Ltd  
Nationwide Investigations Group  
Navigant Consulting  
Nor-West Caledonian Legal Agency  
Nottingham Investigations  
Outforce Corporate Investigations Ltd  
Oxford Detective Bureau  
Priority Investigations  
Procter & Collins Investigations  
Protiviti  
Ravenstone -UK  
RJ Investigations Services Ltd  
Regional Corporate Solutions Ltd  
Retail Crime Operation (Birmingham) Limited  
Risk Advisory Group  
Salgado Investigations  
Sapphire Investigations  
Security International Ltd  
Securway (NI) Ltd  
West England Detective Agency  
Whittaker Business Assistance Limited  
World Association of Professional Investigators (WAPI)

**Training Providers/Bodies**

International Institute of Security  
ISS Training Ltd

**Stakeholder Group**

Civil Court Users Association  
Counter Fraud Professional Accreditation Board  
Fraud Advisory Panel  
High Court Enforcement Officers" Association  
Institute of Counter Fraud Specialists  
Insurance Fraud Bureau  
Metropolitan Police  
Serious Organised Crime Agency

**Local Authorities and Government Departments (including Statutory Bodies**

Fraud Investigations Group, Manchester City Council  
Jobcentre Plus (JCP) Fraud Investigations Services, Department for Works and Pensions  
NHS Fraud Counter and Security Management Service

### **Professional Bodies/Organisations**

Association of British Insurers  
Axa Insurance  
Chartered Institute of Loss Adjusters  
Chartered Institute of Patent Attorneys (CIPA)  
CIFAS  
Ernst & Young LLP  
Information Commissioner's Office (ICO)  
Institute of Chartered Accountants in England and Wales (ICAEW)  
Institute of Trade Mark Attorneys  
The Law Society

### **Creditor Groups**

AIS  
Cap Quest  
Credit Services Association  
London House Services  
Lowell Group  
Robinson Way & Company Ltd  
Student Loans Company  
Tessera Group Plc  
UK Search Limited  
Westcot Credit Services Ltd

### **Individuals**

Richard Berry  
Rob Bloxham  
Michael Clarke  
J Derwanz  
Iain Findlay  
S Fisher  
Peter J Harris  
Peter Heims  
Licia Innis  
Fabian Lord  
Nick McCarthy  
Andy Mitchell  
Dr ACM Moncrieff  
Gary Murray  
RJ Newman  
David C Palmer  
Michael Ralph  
Andy Stephenson  
John Toms  
Brian Walker  
Ian Withers