

Regulatory performance: Transitional assessment review

A report on the transitional assessment of each legal services regulatory body against the LSB's regulatory performance standards

January 2019

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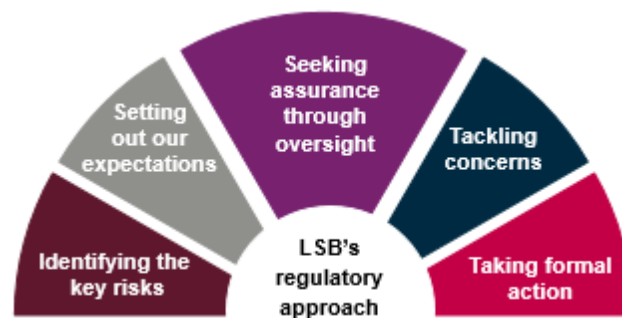
Executive Summary

1. The LSB introduced a new approach to assessing the regulatory performance of legal services regulatory bodies in December 2017. This report details our transitional assessment of each regulatory body against the 5 standards and 26 underpinning outcomes of the regulatory performance framework set out at Annex A. We have expanded our previous framework introduced in 2011 and moved away from self-assessment by regulatory bodies to LSB assessment. For this first assessment we have based the review on each regulatory body meeting minimum standards. We consider this to be a proportionate approach as both the LSB and regulatory bodies start to apply this new framework.
2. Following this transitional review we consider that we have sufficient assurance that the regulatory bodies have met the minimum required level of performance against the majority of the outcomes. For outcomes that have been assessed as *Not met – action being taken*, we have identified relevant actions and delivery timescales. The action plan for each regulatory body is set out in this report and an overview of the transitional assessments can be found at Annex B. We will monitor progress against the outcomes through regular contact with each regulatory body under our relationship management approach.
3. In addition to monitoring action plans, there are two notable outcomes where a considerable number of regulatory bodies have not yet met the minimum standards required. We consider that the prevalence of the unmet scores on these particular outcomes requires further LSB attention. The outcomes are: Authorisation (A5) which specifies that regulators' lists of those they regulate include information on the disciplinary records of those regulated; and Well-Led (WL3) where regulators should be transparent about their decision-making and their own performance.
4. As an initial step we will discuss these issues and how they relate to each regulatory body both at a senior level (Chair and CEO meetings) and at the relationship management meetings. We expect this to be a less onerous process for both the LSB and regulatory bodies than carrying out a more structured thematic review. We expect each regulatory body to fully meet each outcome within a reasonable timeframe and if we do not achieve the progress we will consider whether we need to carry out full thematic reviews.
5. In the future, regulatory performance will be the main way that the LSB monitors the implementation of new policies, streamlining contact with each regulatory body and co-ordinating the requests made of them. New policies already planned into the framework for the coming year are Internal Governance Rules (IGR) assurance, Competition and Markets Authority (CMA) transparency and Diversity work.

6. We have made one small change to the terminology of one of the standards in our framework. To improve clarity we have changed the title of our fifth standard to 'Well-led' and removed the previous reference to Governance and Leadership. The outcomes within this standard remain unchanged.

Regulatory performance framework background

7. The LSB is the independent body that oversees the regulation of legal services in England and Wales. The LSB was created by the Legal Services Act 2007 (the Act) to hold approved regulators for the different branches of the legal services profession to account.
8. The LSB's regulatory approach is set out below and assessment of the regulators' performance is core to our role as an oversight regulator.



9. The new approach to assessing the regulatory performance of regulatory bodies was introduced in December 2017. This framework is not brand new as it builds on the standards framework previously used to assess regulatory performance and introduced in 2011. The revised framework introduces a more proportionate, risk-based and targeted approach to monitoring regulatory performance. We will assess the regulators' performance against five function-based standards. These are:

- | | | |
|-----------------------|-----------------|---------------|
| 1 Regulatory approach | 2 Authorisation | 3 Supervision |
| 4 Enforcement | 5 Well-Led | |

10. The first four standards cover the core regulatory functions carried out by the regulators. The fifth standard, Well-Led assesses the regulator's ability to carry out its functions effectively. Under each standard are between four and six outcomes we expect the regulators to achieve. The standards and outcomes can be found in Annex A and the full details of the Regulatory performance framework can be found on our website.¹

¹ Regulatory performance assessment process
https://www.legalservicesboard.org.uk/Projects/developing_regulatory_standards/Regulatory_Standards_Action_Plans_2015_16.htm

11. This new approach involves the LSB building a deeper understanding of the performance of each of the regulatory bodies. To do so we gather evidence from a number of sources: from the information we hold; directly from the regulatory bodies on the performance outcomes; and publicly available information. The new framework includes the creation of a new dataset on each regulatory body and data will be collected at regular intervals. This dataset will contain performance information which most regulatory bodies already hold and use for their own internal governance purposes.

Relationship management

12. The performance framework will include a new relationship management approach. We carried out a pilot in 2017/18 with three regulatory bodies which proved successful. More regular working-level contact with the regulatory bodies allows us to monitor progress against our regulatory performance framework. The relationship managers will be crucial to developing and maintaining an in-depth knowledge and understanding of each regulatory body which will inform our wider work. Relationship managers will principally be responsible for carrying out the day to day monitoring of performance against the standards and outcomes and will also act as a point of contact for general dealings between the regulatory body and the LSB.

13. Each regulatory body has been allocated two LSB relationship managers. Initially, relationship managers will hold bi-monthly meetings and also maintain contact outside of these meetings. This will not replace any existing relationships with LSB policy leads. Information sharing between the LSB and regulatory bodies is an important element of relationship management which will facilitate more practical and timely engagement on performance management, other LSB policies and regulatory body activities. We will keep under review the frequency of the meetings and adapt our contact to suit the live actions and issues being considered.

14. In the future, regulatory performance will be the main way that we monitor the implementation of new or revised LSB policies. Already planned into the framework are: IGR assurance; CMA transparency; and Diversity. It will also be the way that we monitor conditions placed on the regulatory bodies from statutory decisions. We do not expect to make any further changes to our published framework at this time but we may need to adapt the wording of the outcomes to fully incorporate any policies which will form part of the performance assessment. We will keep this under review.

Transitional assessments

15. Our first step in adopting this new framework has been to carry out a transitional assessment exercise. The aim of this initial assessment was to establish a baseline of the extent to which each regulatory body is meeting the standards and outcomes. We considered each regulatory body based on a minimum required level of assurance on each outcome. We took the decision to use a minimum-met requirement to reflect the new expanded framework and our move away from self-assessment to LSB assessment. We consider this to be a proportionate approach.
16. In order to minimise the resource required and to reflect the fact that the LSB had access to existing information, the transitional assessment was carried out in stages:

Stage one: Gap analysis (January to March 2018)
Desk based analysis of information on regulatory body performance against the revised Regulatory Performance standards, which is either information held by the LSB, or publicly available. No direct input from the regulatory bodies.
Stage two: Targeted information requests (April to September 2018)
Where we were unable to obtain sufficient assurance about a regulatory body's performance through desk-based analysis, a targeted information request was made to the regulatory body.
Stage three: Assessments and setting actions (September to December 2018)
A full review of the information provided to inform the assessments, identification of actions for <i>Not met</i> outcomes and agreement to actions and timescales with regulatory bodies.

17. Consistency and quality checks have been completed on each assessment. A review of rule change applications over the last two years and consultation with colleagues handling statutory decisions has also been carried out. Any ongoing actions required and included in decision notices, or concerns which have come to light through statutory decision work, are reflected in our assessments.

Findings

18. Following our review we consider that we have sufficient assurance that the regulatory bodies have met the minimum required level of performance against the majority of expected outcomes.
19. For the outcomes that have been assessed as *Not met – action being taken*, we have identified relevant actions and timescales to address the issues. Although we have not assessed any outcome as “Not met – action required”, it has been made clear to regulatory bodies that insufficient progress in the timescale expected may result in our assessment changing. The performance framework will be dynamic and performance will be kept under review through our ongoing relationship management. The action plan for each regulatory body for ‘Not met’ outcome(s) is set out below and a table presenting an overview of the findings of the transitional assessments can be found at Annex B.
20. For this initial assessment, the ACCA was not included as it has only recently begun regulating legal services but we will undertake a transitional assessment in 2019 and will follow the same approach used for this exercise. Following that, the ACCA will be fully included in future performance framework assessments.

Bar Standards Board

Outcome	A4: The authorisation process, including the management of appeals, is fair, based on the regulator’s standards, efficient and transparent.
LSB Assessment	Further clarification is required to explain how BSB compliance with the current IGR delegation arrangements in relation to the authorisation of barristers is being progressed. Currently the barrister authorisation to practise process sits within the Bar Council and not within BSB’s direct control, which is not in compliance with the current IGR as authorisation to practise is a regulatory arrangement. Given the current open consultation on new IGR, it may be more practical that BSB takes action to address this issue through compliance with the new IGR when they come into force.
Action	BSB to take the necessary actions to enable compliance with the current and new IGR.
Timing	To be completed by the end of the six month transition period which will commence following publication of the new IGR.

Outcome	S3: The regulated community are monitored to provide assurance that standards are met. If they are not, steps are taken to remedy this.
LSB Assessment	While generally BSB meets this outcome, we cannot consider it fully met at this stage. We require further details on how the planned approaches that the BSB outlined in the application to remove QASA from the BSB Handbook, will be implemented to address the advocacy quality risks that QASA was designed to address.
Action	BSB to explain its programme of work in respect of assuring ongoing competence, which must address the advocacy quality risks identified through its development of QASA (and referenced in its application to remove QASA from the BSB Handbook).
Timing	BSB to provide details of its programme of work on assuring competence by 31 January. LSB to review progress against this programme in May 2019.

CILEx Regulation

Outcome	S3: The regulated community are monitored to provide assurance that standards are met. If they are not, steps are taken to remedy this.
LSB Assessment	We cannot consider this outcome fully met until approaches addressing advocacy quality risks have been implemented. For example, monitoring plans and standards for CILEx advocates. We understand these will be incorporated into changes resulting from the CR's current education and training review.
Action	CR to implement changes identified in its education and training review to address advocacy quality risks.
Timing	CR to implement changes identified in its advocacy review programme by 31 May 2019 when the LSB to review progress.

Costs Lawyer Standards Board

Preliminary action	The CLSB to submit an overall action plan to the LSB by 31 January 2019. This plan should set out in more detail how CLSB will address the assessment feedback and how each action set out below will be taken forward. All actions should be completed by 31 May 2019.
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Outcome	RA1: Regulatory arrangements and supporting guidance documentation are: <ul style="list-style-type: none"> • outcomes-focused • written in plain English • maintain professional principles with detailed rules limited to where evidence and analysis justifies them
LSB Assessment	The CLSB considered a revised approach to CPD in 2016 but delayed implementation due to other priorities. The return submitted on 19 July notes that new CPD rules came into force in June 2017 however the Guidance notes section of the website has a version dated 28 August 2012. We also remain of the view that the CLSB is not aligned with LSB education and training guidance.
Action	The CLSB to consider implementation of a revised approach to CPD and to provide the LSB with an update on its proposed action along with reasons.
Outcome	RA3: The regulator has a robust evidence base from a range of sources on: (a) consumers' needs and use of legal services (b) new and emerging policy developments (c) the regulated community and (d) the market(s) regulated by it which informs its regulatory arrangements and approach.
LSB Assessment LSB Assessment	The information provided in the 19 July response addresses a narrow point about evidence. This reinforces our concern that the CLSB evidence base is currently very limited. The CLSB has not clearly identified how findings from regulatory returns or analysis of data collected from client surveys has been used in how it carries out its regulatory arrangements. For example, on policy development no information has been provided on any action taken as a result of best practice identified.
Action	(1) The CLSB to actively engage with the SRA, as a regulator of entities where a significant number of costs lawyers are employed, to identify what elements of the SRA evidence base can be used by the CLSB to inform its policy development. The CLSB should also consider and engage with other regulatory bodies whose evidence bases will also be useful. (2) The CLSB to demonstrate through examples how learning from its evidence base has informed its regulatory approach.
Outcome	RA4: Regulatory arrangements and associated guidance documentation are informed by learning gathered from all of the regulators work including its risk assessment and enforcement work.
LSB Assessment	It is unclear how learning gathered from the CLSB's work has been used to inform its regulatory arrangements and guidance. The 19 July return provides no concrete additional information on how the CLSB is meeting this outcome.
Action	The CLSB to provide information on how its evidence base, including learning gained from its regulatory returns and client surveys, as well as risk assessment and enforcement work, has been used to influence the Board and Executive's thinking and the development/revision of regulatory arrangements and associated guidance.

Outcome	E2: The regulator ensures that all complaints are reviewed on receipt and serious cases are prioritised and, where appropriate, referred to an interim orders panel.
LSB Assessment	The CLSB does not have the power to issue interim orders which is not consistent with the practice of other regulators which have an interim orders panel in place or are considering expanding the scope of existing interim orders.
Action	The CLSB to review whether, in the absence of interim orders powers, it is able to ensure consumers and others are protected should immediate suspension of a costs lawyer's authorisation be needed.
Outcome	E3: The enforcement process and any associated appeals process is: consistent; independent; risk-based; evidence-based; documented; transparent; proportionate; focused on consumer protection, maintaining professional principles and protecting the public interest.
LSB Assessment	We have found no evidence of the CLSB's consideration of its enforcement or decision making process. The Disciplinary Rules and Procedures guidance has not been updated since April 2013.
Action	The CLSB to undertake a review of its enforcement process against this standard and produce a report setting out its findings.
Outcome	WL2: The regulator understands the resources (financial, human and technical) and organisational structure it needs to carry out its regulatory functions (including authorisation, supervision and enforcement) effectively and efficiently and these are implemented.
LSB Assessment	Insufficient information is available on how the CLSB will continue to ensure it has the right resources and structures. In particular: the Business Plan is not clear what the CLSB priorities or actions are with many activities classified passively as 'monitoring'; the risk register is incomplete and does not reflect the impact of the current and future changes to 3 of the 5 Board members; the risk register does not fully address the ongoing risks associated with the reliance on a single member of staff. There are concerns over CLSB's understanding of the risks it faces and whether appropriate contingency planning is in place.
Action	(1) CLSB to review its risk register and to consider the inclusion of risks such as board member recruitment. (2) CLSB to consider and to provide the LSB with an updated contingency plan explaining the ongoing risks and mitigations associated with a single member of staff support and the provider of contingency support if needed (we note the BSB has offered to provide interim support but it is not clear why this is considered to be the most appropriate regulator to step-in).
Outcome	WL3: The regulator is transparent about its own: decision-making; regulatory approach; the risks it and its regulated community faces and how these are being mitigated; performance; regulated community and related markets; financial costs.
LSB Assessment	(1) While the CLSB does publish Board minutes which provide some evidence for decisions made by its Board or Executive which impact on its regulated community, we consider that the CLSB is not sufficiently transparent in this regard, and that it could publish more

	<p>information and do so more promptly. We therefore cannot consider this outcome to be met until the actions below are completed.</p> <p>(2) While the CLSB does publish the minutes of Board meetings, it does not publish performance information on how its Board holds the executive to account, we consider that the CLSB is not sufficiently transparent in this regard, and that it must publish more information and do so promptly. We therefore cannot consider this outcome to be met until the actions below are completed.</p>
Action	<p>(1) The CLSB to review current publication policy and ensure that the supporting evidence for decisions taken by the Board or Executive which impact on the regulated community is published as soon as possible after decisions are taken. This should include Board papers which should only be withheld or with content removed in limited circumstances.</p> <p>(2) The CLSB to review the transparency of its performance information (e.g. KPIs and performance reports, complaints about the regulator etc.) and that this information should be published as soon as possible after the Board consideration.</p>
Outcome	WL4: The regulator learns from its own work, stakeholders, the legal sector and other sectors and uses that learning to improve its work.
LSB Assessment	There is no evidence of significant learning from engagement with the regulated community or consumers.
Action	The CLSB to improve the transparency of how its evidence base is regularly shared with the Board and utilised to drive change/developments, for example risk management, guidance and revised policy.

Council for Licensed Conveyancers

Outcome	A5: The regulator's list of those they regulate is accessible, accurate and provides information on the disciplinary records of those regulated.
LSB Assessment	The CLC has made progress in redeveloping the online register. It has confirmed that disciplinary records will be included in the register in the future and that it is redesigning the online register to include more details and linking these to its databases. This work is scheduled to be completed in Q4 2019. This is a key requirement to meet this outcome, so until disciplinary records are included we cannot consider this outcome as met.
Action	The CLC to ensure that the register of those regulated is easily accessible and contains information on all disciplinary action taken against individuals or entities.
Timing	CLC to complete this work by 30 November 2019. LSB to review progress in May 2019.
Outcome	E6: The regulator clearly explains the reasons for its decisions to take or not to take things forward at each stage of the process.

LSB Assessment	We understand the CLC is reviewing its approach to keeping complainants informed of enforcement decisions. We cannot consider this outcome fully met until this has been completed.
Action	The CLC to share with the LSB the outcome of its current review on how much complainants should be involved in enforcement processes and how much information should be published on the CLC website
Timing	CLC to complete this work by 31 May 2019 when the LSB will review progress.
Outcome	WL3: The regulator is transparent about its own: decision-making; regulatory approach; the risks it and its regulated community faces and how these are being mitigated; performance; regulated community and related markets; financial costs.
LSB Assessment	<p>(1) While the CLC does publish some details about supporting evidence for decisions made by its Council or Executive which impact on its regulated community, we consider that it is not sufficiently transparent in this regard. For example, in respect of consultation responses and how it has addressed them it could publish more information and do so more promptly. We therefore cannot consider this outcome to be met until the actions below are completed.</p> <p>(2) While the CLC does currently publish some performance information on how its Board holds the executive to account, we consider that it is not sufficiently transparent in this regard, and that it could publish more information and do so more promptly. In particular, while we noted that the CLC has published its Council minutes and accompanying papers up to April 2018, these are often significantly redacted.</p>
Action Action	<p>(1) CLC to review current publication policy and ensure that the supporting evidence for decisions taken by its Council or Executive which impact on the regulated community are published as soon as possible after decisions are taken. This should include Council papers which should only be withheld or have content removed in limited circumstances.</p> <p>The CLC to review its consultation processes as noted in paragraph 15 of the LSB's 30 August 2018 Decision Notice on the CLC's application for approval of amendments to its regulatory arrangements aiming to improve cost and service transparency. It should seek to identify where parties are likely to be affected, ensure that consultations are brought to their attention and that they have sufficient time to respond. It should publish non-confidential versions of responses to consultations on its website. CLC decisions should clearly and fully address points raised in responses to consultations and demonstrate how they had been taken into account in its decision making.</p> <p>(2) CLC to review transparency of performance information (e.g. KPIs and performance reports, complaints about the regulator etc.) and that this information should be published as soon as possible after Council consideration.</p>
Timing	Work to be completed by 31 May 2019 when the LSB will review progress.

Institute of Chartered Accountants in England and Wales

Outcome	A5: The Regulator's list of those they regulate is accessible, accurate and provides information on the disciplinary records of those regulated.
LSB Assessment	<p>We note that there are currently two tables in a standalone PDF document; one table lists firms registered for probate with ICAEW and the other table lists firms no longer registered for probate with ICAEW.</p> <p>The probate register does not provide a satisfactory amount of information and is not in an accessible format. There is no disciplinary information on the register or indication that there has been no disciplinary findings against a firm. Therefore, this standard is not met.</p>
Action	ICAEW to improve the accessibility of the probate register and include disciplinary information in it,
Timing	ICAEW has confirmed date of completion as July 2019. LSB will review ICAEW's progress in respect of register's accessibility and inclusion of disciplinary records in May 2019.
Outcome	WL1: The Board/Council holds the executive to account for the regulator's performance to ensure that it operates effectively and efficiently and in a way which is compatible with the regulatory objectives.
LSB Assessment	We note that plans are in place for the ICAEW Regulatory Board to oversee the operation of legal services' work and the operation of the Probate Committee in 2019. However, this action remains outstanding and therefore this outcome is not yet met.
Action	<p>ICAEW to update the LSB on the detailed timing of the planned probate review and complete implementation of it.</p> <p>In due course, ICAEW to provide assurance to the LSB about the efficiency and effectiveness of governance arrangements.</p>
Timing	ICAEW to confirm timetable for the review and agree timetable for all the other actions by May 2019.
Outcome	WL3: The regulator is transparent about its own decision-making; regulatory approach; the risks it and its regulated community faces and how these are mitigated; performance; regulated community and related markets; financial costs.
LSB Assessment	<p>(1) While the ICAEW does publish some details about supporting evidence for decisions made by its Board or Executive which impact on its regulated community, we consider that the ICAEW is not sufficiently transparent in this regard, and that information could be more accessible. We therefore cannot consider this outcome to be met until the actions below are completed.</p> <p>(2) While the ICAEW does currently publish some performance information on how its Board holds the executive to account, we consider that the ICAEW is not sufficiently transparent in this regard, and that it could publish more information and do so more promptly. We therefore cannot consider this outcome to be met until the actions below are completed.</p>

Action	(1) ICAEW to review current publication policy and ensure that the supporting evidence for decisions taken by the Board or Executive which impact on the regulated community are published as soon as possible after decisions are taken. This should include Board papers, which should only be withheld or with content removed in limited circumstances. (2) ICAEW to review the transparency of its performance information (e.g. KPIs and performance reports, complaints about the regulator etc.) and that this information should be published as soon as possible after Board consideration.
Timing	Work to be completed by May 2019 when the LSB will review progress.

Intellectual Property Regulation Board

Outcome	A5: The regulator's list of those they regulate is accessible, accurate and provides information on the disciplinary records of those regulated.
LSB Assessment	The register does not include disciplinary information. We understand reserves are in place for a new register database and a new database and register will be commissioned in 2019.
Action	IPReg to ensure that the register of those they regulate is easily accessible and contains information on all disciplinary action taken against the individual or entity. This will be achieved through implementation of a new register by September 2019.
Timing	IPReg complete implementation of new register by September 2019. LSB review progress in May 2019.
Outcome	WL3: The regulator is transparent about its own: decision-making; regulatory approach; the risks it and its regulated community faces and how these are being mitigated; performance; regulated community and related markets; financial costs.
LSB Assessment	IPReg does not publish board papers or operational performance information.
Action	(3) IPReg to review current publication policy and ensure that the supporting evidence for decisions taken by the Board or Executive which impact on the regulated community are published as soon as possible after decisions are taken. This should include Board papers which should only be withheld or with content removed in limited circumstances. (4) IPReg to review the transparency of its performance information (e.g. KPIs and performance reports, complaints about the regulator etc.) and that this information should be published as soon as possible after the Board consideration.
Timing	Work to be completed by May 2019 when the LSB will review progress.
Outcome	WL5: The Board considers its own effectiveness in ensuring the regulator is a well-led, independent, transparent and consumer focused organisation, which acts in a way that is compatible with the regulatory objectives.

LSB Assessment	A review of IPReg's current processes to review and appraise the board's governance approach is being completed.
Action	IPReg to complete the above review and confirm the revised appraisal process for its Board by May 2019.
Timing	LSB will review progress in May 2019.

Master of the Faculties

Outcome	RA4: Regulatory arrangements and associated guidance documentation are informed by learning gathered from all of the regulators work including its risk assessment and enforcement work.
LSB Assessment	It is unclear how learning gathered from the Faculty Office's work has been used to inform its regulatory arrangements and guidance.
Action	The Faculty Office to provide information on how its evidence base, including learning gained from its risk assessment and enforcement work, has been used to influence the Faculty Office's thinking and the development/revision of regulatory arrangements and associated guidance.
Timing	Information provided to the LSB in May 2019 when progress will be reviewed.
Outcome	A5: The regulator's list of those they regulate is accessible, accurate and provides information on the disciplinary records of those regulated.
LSB Assessment	The register does not include disciplinary information, it is also not clear how it is reviewed for accuracy.
Action	The Faculty Office to ensure that the register of those they regulate is easily accessible and contains disciplinary information.
Timing	This is to be achieved through the Faculty Office's planned IT project by November 2019. LSB will review Faculty Office's progress in respect of register's accessibility and inclusion of disciplinary records in May 2019.
Outcome	WL3: The regulator is transparent about its own: decision-making; regulatory approach; the risks it and its regulated community faces and how these are being mitigated; performance; regulated community and related markets; financial costs.
LSB Assessment	The Faculty Office does not publish board papers, it does not publish all consultations online and the website is difficult to navigate.
Action	(1) The Faculty Office to review current publication policy and ensure that the supporting evidence for decisions taken by the Master, Qualification and Advisory Boards or Executive which impact on the regulated community are published as soon as possible after decisions are taken. This should include Board papers which should only be withheld or with content removed in limited circumstances. The Faculty Office to review its consultation processes. It should publish non-confidential versions of responses to consultations on its

	<p>website. Faculty Office decisions should clearly and fully address points raised in responses to consultations and demonstrate how they had been taken into account in its decision making.</p> <p>(2) The Faculty Office to review the transparency of its performance information (e.g. KPIs and performance reports, complaints about the regulator etc.) and that this information should be published as soon as possible after internal consideration.</p>
Timing	Work completed by May 2019 when LSB will review progress.
Outcome	WL4: The regulator learns from its own work, stakeholders, the legal sector and other sectors and uses that learning to improve its work.
LSB Assessment	Whilst the Faculty Office does have officers and staff attend a range of regulatory and other forums there is no clear evidence of significant learning from engagement with the regulated community or consumers.
Action	By May 2019 the Faculty Office to improve the transparency of how its evidence base is regularly shared with the Master (along with the Master's Qualification Board and Advisory Board where relevant) and utilised to drive change/developments, for example risk management, guidance and revised policy.
Timing	LSB will review Faculty Office's progress in May 2019.

Solicitors Regulation Authority

Outcome	A5: The regulator's list of those they regulate is accessible, accurate and provides information on the disciplinary records of those regulated.
LSB Assessment	The SRA has provided some helpful additional information in its response to our information request. However, to meet this outcome work is required on the accessibility of the register and inclusion of disciplinary records.
Action	<p>SRA to ensure that the register of those they regulate is easily accessible and contains information on all disciplinary action taken against individuals or entities.</p> <p>SRA to complete the development of its new digital register to including, improvement of its accessibility and inclusion of solicitors' disciplinary records.</p>
Timing	SRA to complete this work by the end of 2019. LSB will review SRA's progress in respect of register's accessibility and inclusion of disciplinary records in May 2019.
Outcome	S3: The regulated community are monitored to provide assurance that standards are met. If they are not, steps are taken to remedy this.
LSB Assessment	While the SRA has provided helpful additional information that moves the SRA towards meeting this outcome, we cannot consider this outcome met until the SRA's work programme to develop a new approach to assuring continuing competence of solicitor advocates, has been completed.

Action	SRA to implement changes identified in its advocacy review programme to address advocacy quality risks.
Timing	SRA currently considering how to implement changes identified in its advocacy review programme. LSB will review SRA's progress in May 2019.
Outcome	WL3: The regulator is transparent about its own: decision-making; regulatory approach; the risks it and its regulated community face and how these are being mitigated; performance; regulated community and related markets; financial costs.
LSB Assessment	(1) While the SRA does publish some details about supporting evidence for decisions made by its Board or Executive which impact on its regulated community, we consider that the SRA is not sufficiently transparent in this regard, and that it could publish more information and do so more promptly. We therefore cannot consider this outcome to be met until the actions below are completed. (2) While the SRA does currently publish some performance information on how its Board holds the executive to account, we consider that the SRA is not sufficiently transparent in this regard, and that it could publish more information and do so more promptly. We therefore cannot consider this outcome to be met until the actions below are completed.
Action	(1) SRA to review current publication policy and ensure that supporting evidence for decisions taken by the Board or Executive which impact on the regulated community is published as soon as possible after decisions are taken. This should include Board papers which should only be withheld or have content removed in limited circumstances. (2) SRA to review the transparency of its performance information (e.g. KPIs and performance reports, complaints about the regulator etc.) and that this information should be published as soon as possible after Board consideration.
Timing	LSB will review SRA's progress in meeting this objective in May 2019.

Focused reviews

21. In addition to monitoring the actions against the outcomes, there are two notable outcomes where a considerable number of regulatory bodies have not yet met the minimum standards required. These are:

- Authorisation (A5): The regulator's list of those they regulate is accessible, accurate and provides information on the disciplinary records of those regulated.
- Well-Led (WL3): The regulator is transparent about its own: decision-making; regulatory approach; the risks it and its regulated community faces and how these are being mitigated; performance; regulated community and related markets; financial costs.

22. While each regulatory body that has not fully met these outcomes will have specific actions set out in the tables above, we consider that the prevalence of the unmet assessments requires further LSB attention. As an initial step we will discuss these issues and how they relate to each regulatory body at the relationship management meetings. From there we will agree what steps will be taken to address the gaps as regulatory bodies may have different ways to fully meet our expectations. We expect this to be a less onerous process than carrying out a more structured thematic review. Nevertheless we expect each regulatory body to fully meet each outcome within a reasonable timeframe. However, if we do not achieve the progress we expect we may consider carrying out a full thematic review.

Next Steps

23. The first relationship management meetings will begin in late January or early February.

24. The additional policy areas which will be monitored under this framework over the coming year are:

- CMA Transparency actions plans: The assessments and action plans have been published and discussions will take place at the appropriate times.²
- Diversity: We will shortly publish a report of our first full assessment of the LSB Diversity framework, published in February 2017. The report will explain our future plans to monitor progress against the outcomes in the framework.
- Internal Governance Rules: Following the close of the consultation we will set out our plans to monitor IGR compliance in more detail in our consultation decision document.

25. Through our ongoing relationships with the regulatory bodies we will focus on continuous performance improvement against the outcomes.

² Increasing market transparency for consumers: regulator action plans
https://www.legalservicesboard.org.uk/Projects/Increasing_Market_Transparency_For_Consumers.htm

Annex A: Regulatory performance assessment standards and outcomes

Regulatory Approach	<p>RA1: Regulatory arrangements and supporting guidance documentation are:</p> <ul style="list-style-type: none"> • outcomes-focused • written in plain English • maintain professional principles <p>with detailed rules limited to where evidence and analysis justifies them.</p>
	<p>RA2: So they are effective and operate as intended, regulatory arrangements and supporting guidance documentation are regularly reviewed and, where necessary, updated based on a robust evidence-base.</p>
	<p>RA3: The regulator has a robust evidence base from a range of sources on: (a) consumers' needs and use of legal services (b) new and emerging policy developments (c) the regulated community and (d) the market(s) regulated by it which informs its regulatory arrangements and approach.</p>
	<p>RA4: Regulatory arrangements and associated guidance documentation are informed by learning gathered from all of the regulators work including its risk assessment and enforcement work.</p>
	<p>RA5: The regulator understands the impact of its regulatory arrangements and guidance on consumers, the regulated community, the market and the regulatory objectives.</p>
Authorisation	<p>A1: Only those who meet the regulator's standards are authorised to provide education and training.</p>
	<p>A2: The regulator's standards of education and training set the competencies required for authorisation for entry to the profession.</p>
	<p>A3: Only those who meet the regulator's standards are authorised to practise.</p>
	<p>A4: The authorisation process, including the management of appeals, is fair, based on the regulator's standards, efficient and transparent.</p>
	<p>A5: The regulator's list of those they regulate is accessible, accurate and provides information on the disciplinary records of those regulated.</p>
Supervision	<p>S1: The regulator has an: outcomes-focused, evidence-based, transparent, risk-based and consumer-focused approach to supervisory activity. Supervisory activity is both proactive and reactive and uses a range of tools.</p>
	<p>S2: Education and training providers are monitored to provide assurance that standards are met. If they are not, steps are taken to remedy this.</p>
	<p>S3: The regulated community are monitored to provide assurance that standards are met. If they are not, steps are taken to remedy this.</p>
	<p>S4: Those under review and the wider regulatory community have the opportunity to benefit from the learning and good practice identified from the supervisory activity.</p>

Enforcement	<p>E1: The regulator has an accessible and clear process so that concerns can be raised about an authorised person which sets out who a person can complain to, the process that will be used and the possible outcomes.</p>
	<p>E2: The regulator ensures that all complaints are reviewed on receipt and serious cases are prioritised and, where appropriate, referred to an interim orders panel.</p>
	<p>E3: The enforcement process and any associated appeals process is: consistent; independent; risk-based; evidence-based; documented; transparent; proportionate; focused on consumer protection, maintaining professional principles and protecting the public interest.</p>
	<p>E4: The enforcement and any associated appeals process is timely taking into account the complexity and type of case, and the conduct of both sides.</p>
	<p>E5: During the process, and at each key decision stage, the regulator keeps those involved and any others affected by the case (for example in cases of dual regulation, the regulator, the provider of information and those under investigation) informed of progress, unless it is not appropriate to do so.</p>
	<p>E6: The regulator clearly explains the reasons for its decisions to take or not to take things forward at each stage of the process.</p>
Well-led:	<p>WL1: The Board/Council holds the executive to account for the regulator's performance to ensure that it operates effectively and efficiently and in a way which is compatible with the regulatory objectives.</p>
	<p>WL2: The regulator understands the resources (financial, human and technical) and organisational structure it needs to carry out its regulatory functions (including authorisation, supervision and enforcement) effectively and efficiently and these are implemented.</p>
	<p>WL3: The regulator is transparent about its own: decision-making; regulatory approach; the risks it and its regulated community faces and how these are being mitigated; performance; regulated community and related markets; financial costs.</p>
	<p>WL4: The regulator learns from its own work, stakeholders, the legal sector and other sectors and uses that learning to improve its work.</p>
	<p>WL5: The Board considers its own effectiveness in ensuring the regulator is a well-led, independent, transparent, and consumer-focused organisation, which acts in a way that is compatible with the regulatory objectives</p>
	<p>WL6: The regulator communicates with a diverse range of stakeholders, for example its regulated community, the approved regulator, its representative body(ies), students, consumers, government, etc. to account for its plans, progress and performance and ensure appropriate and accurate information is effectively taken into account in its work.</p>

Annex B: Regulatory performance assessment table

REG	REGULATORY APPROACH					AUTHORISATION					SUPERVISION				ENFORCEMENT						WELL-LED					
	1	2	3	4	5	1	2	3	4	5	1	2	3	4	1	2	3	4	5	6	1	2	3	4	5	6
BSB	Met	Met	Met	Met	Met	Met	Met	Met	Not met – action required	Met	Met	Met	Not met – action required	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met
CLC	Met	Met	Met	Met	Met	Met	Met	Met	Met	Not met – action being taken	Met	Met	Met	Met	Met	Met	Met	Met	Met	Not met – action being taken	Met	Met	Not met – action required	Met	Met	Met
CLSB	Not met – action required	Met	Not met – action required	Not met – action required	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Not met – action required	Not met – action required	Met	Met	Met	Met	Not met – action required	Not met – action required	Not met – action required	Met	Met
CR	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Not met – action required	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met
ICAEW	Met	Met	Met	Met	Met	Met	Met	Met	Met	Not met – action required	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Not met – action required	Met	Not met – action required	Met	Met	Met
IPREG	Met	Met	Met	Met	Met	Met	Met	Met	Met	Not met – action required	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Not met – action required	Met	Not met – action required	Met
MOF	Met	Met	Met	Not met – action being taken	Met	Met	Met	Met	Met	Not met – action being taken	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Not met – action required	Not met – action required	Met	Met
SRA	Met	Met	Met	Met	Met	Met	Met	Met	Met	Not met – action required	Met	Met	Not met – action required	Met	Met	Met	Met	Met	Met	Met	Met	Met	Not met – action required	Met	Met	Met

Met	Not met – action being taken	Not met – action required	
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