

# Regulatory performance: Performance assessment November 2020

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A report on progress of each legal services regulatory body and approved regulator against the LSB regulatory performance standards

21 December 2020

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## Executive summary

1. The Legal Services Board's (LSB) vision is legal services that everyone can access and trust. A key component of this is ensuring that consumers can rely on good quality regulation by good quality regulators.
2. In January 2018, the LSB introduced the regulatory performance framework to assess the performance of regulatory bodies across a common set of standards and outcomes. Each body regulates a different set of regulated practitioners, has different numbers of practitioners, and carries out its responsibilities in different ways. Nevertheless, each one carries out the same role under the Legal Services Act 2007 ("the Act") and that is the focus for the LSB.
3. The LSB subsequently carried out assessments of regulatory bodies' performance in November 2018 and in June and November 2019. During 2020 we received information from the BSB, CLC, CLSB, ICAEW and SRA which has enabled us to reassess our assessments of their respective performance against one or more outcomes.
4. In July 2020 we also introduced a new outcome, WL7, which assesses regulatory independence and, unlike the other outcomes, covers both regulatory bodies and approved regulators.
5. This report sets out the LSB's latest annual assessment of regulatory bodies' and, in the case of outcome WL7, approved regulators' progress in meeting the standards and outcomes set by the LSB's regulatory performance framework.
6. The approved regulators and their respective regulatory bodies are as follows:

Approved regulators	Regulatory bodies
Association of Costs Lawyers (ACL)	Costs Lawyer Standards Board (CLSB)
The Bar Council (BC)	The Bar Standards Board (BSB)
The Chartered Institute of Legal Executives (CILEx)	CILEx Regulation (CILEx Reg)
Chartered Institute of Patent Attorneys (CIPA) Chartered Institute of Trade Mark Attorneys (CITMA)	Intellectual Property Regulation Board (IPReg)
Council of Licensed Conveyancers (CLC)	
The Faculty Office (FO)	
Institute of Chartered Accountants in England & Wales (ICAEW AR)	Institute of Chartered Accountants in England & Wales (ICAEW)
The Law Society (TLS)	Solicitors Regulation Authority (SRA)

## Summary of assessments

7. Five of the seven regulatory bodies have made progress on the actions agreed in the November 2019 assessments. The highlights are:
  - Two regulatory bodies have been rated as having *met* all the outcomes required across all standards: CLC and SRA.

- Actions in relation to ten previously *not met* outcomes have been completed and performance has been reassessed as *met*. BSB (1), CLC (1), CLSB (5), ICAEW (1), SRA (2).

*Not met – action being taken*

- Thirteen outcomes have been assessed as *not met – action being taken*:
  - Eight outcomes remain unchanged as *not met – action being taken*: BSB (1), CILEx Reg (1), CLSB (4), ICAEW (1).
  - Four outcomes have been reassessed as *not met – action being taken*: CILEx Reg (1), FO (1), IPReg (2).
  - One outcome has been re-assessed from *not met – action required* to *not met – action being taken*: ICAEW (1).

*Not met – action required*

- Five outcomes have been assessed as *not met – action required*:
  - Four outcomes remain unchanged as *not met – action required*: BSB (1), FO (2), ICAEW (1).
  - One outcome has been reassessed as *not met – action required*: IPReg (1).

8. The table below sets out the current ratings for all regulatory bodies.

REG BODIES	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	7		
BSB	Met	Not met - action being taken	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	
CILEx Reg	Met	Not met - action being taken	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Not met - action being taken	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	
CLSB	Met	Met	Not met - action being taken	Not met - action being taken	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Not met - action being taken	Met	Not met - action being taken	Met	Met	Met	
CLC	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	
FO	Met	Not met - action being taken	Met	Met	Not met - action being taken	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Not met - action required	Not met - action required	Met	Met	
ICAEW	Met	Not met - action being taken	Met	Met	Met	Met	Met	Met	Met	Not met - action being taken	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Not met - action required	Met	Met	Met	
IPReg	Met	Not met - action being taken	Not met - action required	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Not met - action being taken	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	
SRA	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	

  

Met	Not met - action being taken	Not met - action required
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9. In 2020 we have seen an improvement in some regulatory bodies' performance. However, this has not been reflected across all the regulatory standards. While regulatory bodies are generally performing well against the authorisation, supervision and enforcement standards, there is a lower level of achievement in meeting the standard required for outcomes under the regulatory approach and well-led standards.

10. As noted in paragraph 5, the LSB has also assessed the performance of both regulatory bodies and approved regulators against the new outcome, WL7, and considers that all have *met* the standard required.
11. In last year's report, we highlighted our concern that some regulatory bodies had not fully embedded the regulatory performance framework into their governance arrangements and noted that we would consider either targeted or thematic reviews to address this issue. Subsequently, we launched targeted reviews of two regulatory bodies (BSB and FO) on performance against the well-led standard. These reviews formally began in September and are scheduled to conclude in early 2021. We delayed commencing the reviews to allow the BSB and FO to deal with the immediate actions required due to the Covid-19 pandemic. As these reviews are ongoing, we have not updated our assessments of the BSB and FO's performance against these outcomes in this report.
12. As there are still several *not met* outcomes under the regulatory approach standard, we will consider undertaking a thematic review in the coming year, depending on regulatory bodies' progress in meeting the standard required. A number of the *not met* ratings are associated with the quality of applications for statutory approval of changes to regulatory arrangements. While some regulators appear to be experiencing little difficulty in meeting these standards, we are nonetheless reviewing our rules and guidance in this area with a view to further improving clarity of expectation.
13. We are also currently considering whether to conduct a review of our overall regulatory performance framework during 2021.

## Introduction

14. The LSB introduced the current framework to assess the regulatory performance of legal service regulatory bodies in January 2018 and conducted performance assessments in January, June and November 2019. This report covers the progress made by regulatory bodies since publication of the LSB's December 2019 assessment report. The regulatory performance framework is set out at Annex A.
15. In our November 2019 assessment, we explained that we had not assessed the performance of the Association of Chartered Certified Accountants (ACCA) as it had only recently begun licensing probate activities. Subsequently, ACCA notified us of its intention to leave the legal services regulation market, so we do not include an assessment in this report.
16. Since the LSB's last assessment in November 2019 we have monitored regulatory bodies' performance against the framework through regular contact with chairs, chief executives and relationship managers.
17. In our November 2019 assessment, we also requested further information from the BSB, FO, ICAEW and SRA as to how they would meet their remaining *not met* outcomes. Following receipt and our review of this information we decided (1) to launch our targeted reviews of the BSB and FO (see paragraph 11) and (2) to continue to monitor ICAEW and the SRA's progress in meeting their respective outstanding outcomes.

## New well-led 7 outcome

18. In July 2020, the LSB introduced a new outcome, WL7, to the framework following the full implementation of the new Internal Governance Rules (IGR) in July 2020.
19. The Act does not create a framework in which a regulatory body is structurally separate from its representative body. Rather, it creates approved regulators which may have both representative and regulatory functions. The Act then gives the LSB responsibility for their oversight, but only in relation to regulatory functions and, in particular, the separation of those functions from any representative functions which the approved regulator may have.
20. Section 30 of the Act obliges the LSB to make internal governance rules which set out requirements for each approved regulator to ensure the separation of regulatory and representative functions (amongst other obligations). These requirements must ensure that:
  - a) the exercise of regulatory functions by an approved regulator is not prejudiced by its representative functions or interests; and
  - b) decisions relating to the exercise of regulatory functions by an approved regulator are, so far as reasonably practicable, taken independently from decisions relating to the exercise of any representative functions.
21. As required under the Act, the LSB introduced the first set of IGR in 2009, subsequently amended in 2014. In 2017 the LSB launched [a full review of the IGR](#) as there was evidence that they were not as effective as they could be in securing regulatory independence. This review concluded in July 2019, with the issue of [revised IGR](#) and [statutory guidance](#). Both approved regulators and regulatory bodies then had until 23 July 2020 to confirm their arrangements for ensuring regulatory independence by submitting a certificate of compliance with the new IGR, which they all did.
22. To enable the LSB to ensure that the new IGR are working effectively and to provide assurance that both approved regulators and regulatory bodies ensure regulatory independence, the LSB following a consultation in Spring 2020, added the following outcome to its regulatory performance framework in July 2020.

### **WL7: The approved regulator/regulatory body meets the outcome to ensure regulatory independence:**

- **The approved regulator has the necessary delegation arrangements in place and gains assurance that its regulatory functions are effectively carried out in line with the Internal Governance Rules (IGR).**
  - **The regulatory body carries out its regulatory functions in line with the IGR and provides assurance to its approved regulator as required by Section 28 of the Legal Services Act 2007.**
23. Unlike the regulatory performance framework's other outcomes, which only place requirements on regulatory bodies, this new outcome places complementary requirements on both regulatory bodies and approved regulators, and we include our assessment of both the approved regulators' and the regulatory bodies' performance against this outcome in this report.

## November 2020 assessments

### Regulatory bodies

24. We present a summary of the key points from our assessments of the regulatory bodies' performance below. Our full assessment for each regulatory body is set out in Annex B.

#### Outcomes: reassessed as *met*

25. Five of the seven regulatory bodies have had outcomes reassessed as *met* based on their progress on actions agreed in the November 2019 assessments. We have also assessed all seven regulatory bodies as having *met* the new outcome WL7. However, as this outcome was only introduced in July 2020, we do not include it in our year-on-year comparisons of regulatory bodies' performance, so for the 26 outcomes we assessed against in November 2019 the figures are set out below.

26. There have been ten outcomes re-assessed as *met* this year - BSB (1); CLC (1); CLSB (5) ICAEW (1), SRA (2).

- The BSB has *met* one outcome (**A4**) by bringing the process for authorising barristers to practice under its control, as opposed to the Bar Council's, in line with the IGR.
- The CLC has *met* its outstanding outcome (**WL3**) by publishing KPI data about its regulatory activities, complaints handling and compensation fund claims.
- The CLSB has *met* five of nine outstanding outcomes (RA1, RA2, E2, E3, WL3) by:
  - **RA1**: Reviewing and implementing changes to its CPD and practising rules and its disciplinary rules and procedures.
  - **RA2**: Improving the substance and presentation of its rule change applications.
  - **E2**: Amending its disciplinary rules and procedures to include interim suspension orders to enhance its ability to protect consumers and others.
  - **E3**: Amending its disciplinary rules and procedures and publishing more information about them.
  - **WL3**: Creating a publication policy and drafting and publishing Board papers in line with it.
- ICAEW has *met* one outcome (**WL1**) by making changes to its governance in line with the IGR.
- The SRA has *met* its two outstanding outcomes (**S3** and **WL3**) by:
  - **S3**: Following a consultation and analysis process, deciding on and providing a detailed plan for the implementation of changes to its advocacy standards and regulations.
  - **WL3**: (1) Providing more transparency about its decision-making processes via the publication of a range of policy documents and by publishing more Board papers with fewer redactions, and (2) providing further information about how its Board monitors

the SRA's performance including developing and publishing a set of KPIs and other information.

*Outcomes: not met - action being taken*

27. We have assessed 13 outcomes as *not met - action being taken* - BSB (1), CILEx Reg (2); CLSB (4), FO (2), ICAEW (2), IPReg (2). Of these, eight received the same assessment last year, four have been re-assessed from "met" and one has been re-assessed from "not met – action required".
28. The eight unchanged outcomes are: BSB (RA2), CILEX Reg (S3), CLSB (RA3, RA4, WL2 and WL4), FO.
- The CLSB has made progress during the past year towards meeting its four outstanding outcomes (RA3, RA4, WL2 and WL4) and will provide the LSB with further progress updates on all of them by 31 March 2021. Over the next year, we hope to see the CLSB maintain the momentum it has demonstrated during 2020 by meeting five outcomes.
  - The unchanged outcome for the BSB, FO and ICAEW is RA2, which requires that regulatory arrangements and supporting guidance are regularly reviewed and updated based on evidence. In the case of the BSB and FO, while they have both taken steps to improve the quality of their rule change applications, they have not had opportunities to submit full applications during the past year and so have not been able to provide evidence of the efficacy of these changes. ICAEW needs to demonstrate consistency in providing adequate evidence in support of its applications and by undertaking meaningful engagement or consultation.
  - To meet outcome S3, CILEx Reg will need to ensure that the changes it has proposed to its education and training framework include adequate procedures to deal with advocacy quality risks.
29. Four outcomes have been re-assessed from *met* to *not met - action being taken* – CILEx Reg (1), FO (1) and IPReg (2)
- Both CILEx Reg and IPReg have been re-assessed against RA2. In CILEx Reg's case, several of its applications for changes to regulatory arrangements have not provided sufficient information about how they will benefit the regulatory objectives, how CILEx Reg has assessed the risk or potential negative impacts of its proposals and how, once implemented, it will monitor and evaluate the impact of its proposed changes. IPReg needs to progress its review of regulatory arrangements, which has been pushed back.
  - IPReg has also been re-assessed against E2 as it has not conducted the review of its position on interim orders that it informed us of in 2018 and was rated as *met* on that basis. IPReg therefore needs to conduct this review and, should it conclude that introducing interim orders panels is unnecessary, provide its reasons for doing so and explain how it will address the potential public protection risks identified.
  - The FO has been re-assessed against RA5 as it currently is not able to demonstrate that it understands the impact of its regulatory arrangements on consumers and others. The FO



will need to provide the LSB with a plan for how it will meet this outcome, which is likely to include following through on its plans to recruit additional lay members with a consumer background.

30. One outcome has been re-assessed from *not met – action required* to *not met – action being taken* – ICAEW (1)

- ICAEW has been re-assessed against A5 as it has included disciplinary information about firms on its probate register, has published a separate list of probate firms with disciplinary findings and made probate a searchable activity on the FACA register. However, we do not consider that ICAEW meets this outcome as disciplinary information is not available on the FACA register for consumers to easily access, which we understand it plans to do in Q2 2021.

### Outcomes: *not met - action required*

31. We have assessed five outcomes as *not met – action required*. Of these, four received the same assessment last year, and one has been re-assessed from *met* this year.

- The four unchanged outcomes all relate to the well-led standard – BSB (WL5), FO (WL3, WL4) and ICAEW (WL3).
- Following our November 2019 assessment, neither the BSB nor the FO provided us with sufficient assurance in respect of our concerns on these outcomes. To better understand the position, we began targeted reviews of their performance against the wider well-led standard. These reviews are scheduled to conclude in early 2021. As they are ongoing, we have not reviewed the BSB's and FO's performance against these outcomes in this assessment.
- ICAEW continues to be assessed as *not met – action required* against WL3 as while it has begun publishing an annual report for its Regulatory Board and more information about regulation on its website, it still has no plans to publish papers or minutes of its Board meetings. Until ICAEW establishes a way of publishing relevant information about its decision making on legal regulatory matters, it will not meet the standard required of outcome.
- We have re-assessed IPReg from *met* to *not met – action required* on outcome RA3 as IPReg has not systematically collected diversity data about its profession for several years and has not conducted any consumer research or other thematic or benchmarking reviews in the last two years. We are therefore concerned that IPReg does not have sufficient information about new and emerging policy issues that may impact its regulated community, consumers and others. We understand that IPReg will launch a survey on the diversity of its profession in January 2021. Following the survey's completion, we expect IPReg to use that information to assess its performance against the LSB's diversity guidance and assist in demonstrating that it has evidence about its regulated community, consumers' needs, and policy developments. We also expect IPReg to draw up a plan for how it can develop its evidence base and understanding of its regulatory community and the consumers of these services.

## Overall assessment

32. In 2020 we have seen an improvement in some regulatory bodies' performance, with two regulatory bodies, the CLC and SRA, now meeting all outcomes. We have also seen significant improvements from CLSB, and we look forward to it making further progress during the next year. However, as a result of this exercise, some regulatory bodies are now assessed as not meeting more outcomes than in December 2019. We hope that the regulatory bodies to which this applies will endeavour to undertake the necessary actions and regain *met* assessments for these outcomes as soon as possible.
33. While regulatory bodies are generally performing well against the authorisation, supervision and enforcement standards, the picture is more mixed for the regulatory approach and well-led outcomes.
34. Several regulatory bodies are not meeting all outcomes within the regulatory approach standard, with RA2 proving particularly challenging. We are keen to see improvements from these regulatory bodies as we consider it vital that regulatory bodies' make decisions based on evidence and that they have the capacity to obtain and analyse the information they need to understand how their decisions will affect consumers, their regulated community, the market and the regulatory objectives.
35. For the BSB and FO, there has been a limited assessment of the outcomes under the well-led standard, as we began targeted reviews of the BSB's and FO's performance under this standard, which are due to finish in early 2021. Our report will set out what actions will be required by the BSB and FO to meet the standard required.
36. We are also concerned about ICAEW's lack of progress in meeting outcome WL3 and improving the transparency of its decision-making processes, especially given that most other regulatory bodies, and the LSB itself, have made significant improvements in the level of transparency they provide to the public and the regulated profession about how regulatory decisions are taken.

## Approved regulators

37. As noted in paragraph 21, in July 2020 we introduced a new outcome, WL7, to check that both regulatory bodies and approved regulators ensure regulatory independence. Under this outcome, approved regulators must demonstrate that they have the necessary delegation arrangements in place with their respective regulatory bodies and can gain assurance that their regulatory functions are effectively carried out by their regulatory bodies in line with the IGR. We currently consider that all the regulatory bodies and approved regulators have *met* this outcome. A summary of our assessments against this outcome for the approved regulators is set out in the table below. Our assessments for the regulatory bodies against WL7 are set out in Annex B alongside our assessments of their performance against the other outcomes.

Approved regulator	Assessment against WL7
Association of Costs Lawyers (ACL)	The LSB accepted the Association of Costs Lawyers' certificate of compliance with the IGR in July 2020. Since then further steps have been taken in respect of delegation arrangements and monitoring, and there is no indication that any issues relating to compliance with the

Approved regulator	Assessment against WL7
	IGR have arisen since 23 July 2020. We therefore consider that the ACL meets this outcome.
The Bar Council (BC)	The LSB accepted the Bar Council's certificate of compliance with the IGR in July 2020. The Bar Council has been making good progress in meeting its IGR duties. Since the submission of its certificate of compliance it has taken a number of steps, including: continuing its training programme on the working protocols; on its committees, it has dissolved the emoluments committee and introduced a new finance committee with equal members from the Bar Council and BSB; and it has a new shared services forum. The Bar Council is content with assurance from the BSB in carrying out its regulatory function and has reported no breaches of the IGR. We therefore consider that the Bar Council meets this outcome.
The Chartered Institute of Legal Executives (CILEx)	The LSB accepted the Chartered Institute of Legal Executives' (CILEx) certificate of compliance with the IGR in July 2020. Since then, we have seen evidence that both the delegation and monitoring arrangements are being carried out effectively, and that there is no indication that any issues relating to compliance with the IGR have arisen since 23 July 2020. We therefore consider that CILEx meets this outcome.
Chartered Institute of Patent Attorneys (CIPA)	The LSB accepted the Chartered Institute of Patent Attorneys' (CIPA) certificate of compliance with the IGR in July 2020. We have evidence that the delegation and monitoring arrangements are operating, and there is no indication that any issues relating to compliance with the IGR have arisen since 23 July 2020. CIPA has also provided the LSB with further assurance that the LSB's authorisation for non-compliance with Rule 5 of the IGR will not need to be extended beyond 31 December 2020. We therefore consider that CIPA meets this outcome.
Chartered Institute of Trade Mark Attorneys (CITMA)	The LSB accepted the Chartered Institute of Trade Mark Attorneys (CITMA) certificate of compliance with the IGR in July 2020. We have evidence that the monitoring arrangements are functioning as intended under the delegation agreement, and there is no indication that any issues relating to compliance with the IGR have arisen since 23 July 2020. We therefore consider that CITMA meets this outcome.
Institute of Chartered Accountants in England and Wales (ICAEW AR)	The LSB accepted the Institute of Chartered Accountants in England and Wales's (ICAEW AR) certificate of compliance with the IGR in July 2020. ICAEW provided assurance that it was taking steps in respect of delegation and monitoring. We therefore consider that ICAEW AR meets this outcome.

Approved regulator	Assessment against WL7
The Law Society (TLS)	<p>The LSB accepted the Law Society's (TLS) certificate of compliance with the IGR in July 2020. Since 23 July 2020, the main development for TLS has been in carrying out its stated aim to disestablish the SRA Board as a Board of the Law Society and delegate regulatory functions to the SRA as a private company limited by guarantee. TLS and SRA are now seeking to achieve this aim through establishing the SRA as a charity. The SRA is leading the work in pursuing charitable status and this process is continuing.</p> <p>The LSB has been involved in discussions on the charitable status proposal. We will continue to monitor this situation. There are no active concerns about TLS' compliance with WL7. We therefore consider that TLS meets this outcome.</p>

## Our focus in 2021

38. We consider that it is vital that all regulatory bodies ultimately meet all 27 of the regulatory outcomes in the framework so that they can demonstrate that they are meeting the regulatory objectives, which they and the LSB share. This will ensure that they are regulating in a way that benefits consumers, their respective professions and the overall legal services market. In 2021 we will continue to work with the regulatory bodies to help them achieve any remaining *not met* outcomes, and for those who already do, to ensure they continue to do so.
39. That said, we recognise that the regulatory bodies vary both in the size of the professions they regulate and their own size and capacity. While these differences do not absolve them from their obligation to meet all the regulatory performance outcomes, we do recognise that they may need to take different approaches to do so. Some smaller regulatory bodies may not currently have sufficient capacity to achieve all the objectives themselves, and we will encourage them to explore how they can cooperate with other regulatory bodies, whether smaller or larger, to combine their expertise and capacity to achieve any remaining *not met* outcomes.
40. We are already undertaking two targeted reviews of the BSB's and FO's performance against the well-led standard. Once these are complete, we will consider whether there are any other aspects of the framework which would benefit from an in-depth review.
41. In our 2019 report, we noted that our focus for regulatory assessment would shift from ensuring that regulatory bodies were meeting minimum requirements to looking for evidence that they were reflecting on their own performance on a yearly basis and looking at how they could improve it further.
42. Based on our assessments and our interaction with regulatory bodies over the past year, we have identified some general issues on the broad theme of transparency that we intend to focus on in 2021

- regulatory bodies should not only actively take account of the regulatory objectives in the Act in carrying out their work and in their decision-making and performance monitoring processes; they should also actively explain and demonstrate how this occurs.
- regulatory bodies should ensure that information published on their websites is up to date, whether it concerns their policies and guidance or disciplinary actions.
- regulatory bodies must demonstrate a commitment to public accountability and transparency in respect of their decision-making and how their Boards hold their Executives to account.

43. Of course, we also want to get better at overseeing the legal services market. In our 2019 report, we noted that we expected to review the effectiveness of the regulatory framework every three years. We currently intend to carry out this review in the latter part of 2021, and in doing so will consider developments and innovations in the legal services market as well as the CMA's review of the legal services market, the findings of our recently published State of the Legal Services Market Report, and the forthcoming Strategy for the Legal Services Sector, which we are currently consulting on.

## Annex A: Regulatory performance framework

<b>Regulatory Approach</b>	<p><b>RA1:</b> Regulatory arrangements and supporting guidance documentation are:</p> <ul style="list-style-type: none"> <li>• outcomes-focused</li> <li>• written in plain English</li> <li>• maintain professional principles</li> </ul> <p>with detailed rules limited to where evidence and analysis justifies them.</p>
	<p><b>RA2:</b> 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><b>RA3:</b> 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><b>RA4:</b> 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><b>RA5:</b> The regulator understands the impact of its regulatory arrangements and guidance on consumers, the regulated community, the market and the regulatory objectives.</p>
<b>Authorisation</b>	<p><b>A1:</b> Only those who meet the regulator's standards are authorised to provide education and training.</p>
	<p><b>A2:</b> The regulator's standards of education and training set the competencies required for authorisation for entry to the profession.</p>
	<p><b>A3:</b> Only those who meet the regulator's standards are authorised to practise.</p>
	<p><b>A4:</b> The authorisation process, including the management of appeals, is fair, based on the regulator's standards, efficient and transparent.</p>
	<p><b>A5:</b> The regulator's list of those they regulate is accessible, accurate and provides information on the disciplinary records of those regulated.</p>
<b>Supervision</b>	<p><b>S1:</b> 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><b>S2:</b> 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><b>S3:</b> The regulated community are monitored to provide assurance that standards are met. If they are not, steps are taken to remedy this.</p>
	<p><b>S4:</b> 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>
<b>Enforcement</b>	<p><b>E1:</b> 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>

<b>Enforcement</b>	<p><b>E2:</b> 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><b>E3:</b> 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><b>E4:</b> 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><b>E5:</b> 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><b>E6:</b> The regulator clearly explains the reasons for its decisions to take or not to take things forward at each stage of the process.</p>
	<b>Well-led:</b>
<p><b>WL2:</b> 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><b>WL3:</b> 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><b>WL4:</b> The regulator learns from its own work, stakeholders, the legal sector and other sectors and uses that learning to improve its work.</p>	
<p><b>WL5:</b> 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><b>WL6:</b> 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>	
<p><b>WL7:</b> The Approved Regulator/Regulatory Body meets the outcome to ensure regulatory independence:</p> <ul style="list-style-type: none"> <li>• The Approved Regulator has the necessary delegation arrangements in place and gains assurance that its regulatory functions are effectively carried out in line with the IGR.</li> <li>• The Regulatory Body carries out its regulatory functions in line with the IGR and provides assurance to its Approved Regulator as required by Section 28 of the Legal Services Act 2007:</li> </ul>	

## Annex B: Assessments of regulatory bodies' performance November 2020

Below are the LSB's assessments of each regulatory body under the framework based on the progress reports submitted in November 2020, together with information and intelligence gathered through our regular contacts with them.

### Bar Standards Board (BSB)

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	7	

Met		Not met - action being taken		Not met - action required	
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### Overview

In November 2020 we sought to assess the BSB's performance on outcomes RA2, RA4, RA5, A4, S1 and WL7, following a targeted information request. We focused on these outcomes based on an initial desk review of BSB's published material and our ongoing relationship management work through the year.

We concluded that it was not possible to substantively re-assess BSB's performance on RA2, which was previously rated as *not met – action being taken* because, in the period since our last assessment, the BSB has not had sufficient opportunity to demonstrate a consistent improvement on the quality of its applications for changes to regulatory arrangements. Whilst the BSB has submitted some good quality minor applications (for approval by exemption) and has set out some additional quality assurance measures, it has not made any full applications during 2020. The BSB's progress so far is encouraging and we will keep our assessment under review as further evidence of sustained improvement becomes available over the coming months.

For all other outcomes that we assessed, we were satisfied from the assurance provided that the BSB has met these outcomes. Of note, the BSB has now *met* outcome A4 for the first time, as it took the necessary actions in relation to its authorisation function, to enable compliance with the LSB's Internal Governance Rules (IGR).

With the exception of the new WL7, we did not assess the BSB's progress against the well-led standard, including the outstanding actions on WL5. This is due to our ongoing review of the BSB's performance under the well-led standard, which is scheduled to report in March 2021.

## Met

Outcome		A4: The authorisation process, including the management of appeals, is fair, based on the regulator's standards, efficient and transparent
November 2020	LSB assessment	<p>In the November 2019 assessment, we set out that the BSB was required to take the necessary actions, in relation to its authorisation function, to enable compliance with the IGR.</p> <p>At that time the barrister authorisation to practise process sat within the Bar Council and not within BSB's direct control, which was not in compliance with the current IGR as authorisation to practise is a regulatory arrangement. We determined in January 2019 that as there was an open consultation on new IGR, it would be more practical that BSB takes action to address this issue through compliance with the new IGR when they come into force.</p> <p>The LSB published the new IGR in July 2019. The BSB took the necessary actions, in relation to its authorisation function, to enable compliance with the IGR and submitted a certificate of compliance under IGR transition procedures at the end of the IGR transition period, which expired on 23 July 2020.</p>
	Action needed	None.
	Timing	N/A



<b>Outcome</b>		<p><b>WL7: The approved regulator/regulatory body meets the outcome to ensure regulatory independence:</b></p> <ul style="list-style-type: none"> <li>• <b>The approved regulator has the necessary delegation arrangements in place and gains assurance that its regulatory functions are effectively carried out in line with the Internal Governance Rules (IGR).</b></li> <li>• <b>The regulatory body carries out its regulatory functions in line with the IGR and provides assurance to its approved regulator as required by Section 28 of the Legal Services Act 2007.</b></li> </ul>
<b>November 2020</b>	<b>LSB assessment</b>	<p>This outcome, under which regulatory bodies' independence under the IGR is monitored, was introduced in July 2020 at the end of the IGR implementation transition period.</p> <p>The LSB accepted the BSB's certificate of compliance with the IGR in July 2020. We have no indication that any issues relating to the BSB's compliance with the IGR have arisen since 23 July 2020. We therefore consider that the BSB continues to meet this outcome.</p>
	<b>Action needed</b>	None.
	<b>Timing</b>	Ongoing monitoring.

## Not met – action being taken

Outcome		RA2: Regulatory arrangements and supporting guidance documentation are regularly reviewed and, where necessary, updated based on a robust evidence-base.
November 2020	LSB assessment	<p>A key component for meeting this outcome is effective engagement with the LSB’s process for approval of changes to regulatory arrangements. This process provides an opportunity for regulatory bodies to:</p> <ul style="list-style-type: none"> <li>• clearly and transparently explain the changes that they are seeking to make and how these will benefit the regulatory objectives</li> <li>• explain what consultation and engagement they have undertaken to understand the negative impacts or risks that changes might present</li> <li>• set out how they will monitor and evaluate the impact of the changes, if approved.</li> </ul> <p>In our November 2019 assessment, we assessed this outcome as <i>not met – action being taken</i>, in respect of concerns around some rule change applications that the BSB submitted in 2019, which resulted in challenges for the BSB in the approval process. Issues ranged from:</p> <ul style="list-style-type: none"> <li>▪ lack of clarity about the rules in respect of which the BSB was seeking approval</li> <li>▪ incomplete applications (e.g. consequential amendments omitted)</li> <li>▪ errors in the proposed rules submitted for approval (some of which were discovered by the BSB after the LSB has approved the rules)</li> <li>▪ poor presentation of applications which made the changes difficult to engage with and the impact hard to understand or assess.</li> </ul> <p>The BSB informed us in November 2019 that it had a new Head of Legal Support in place who would review all applications before they are submitted to the LSB. It was also considering developing a template for all rule change applications to ensure quality issues were addressed.</p> <p>The action for the BSB was to review its current procedures and take the necessary steps to ensure that future rule change applications were complete and that all quality issues had been addressed before applications are submitted for approval.</p> <p>The BSB has advised the LSB of steps that it will undertake to quality assure future rule change applications. It has also submitted some applications for exemption that demonstrated improved clarity and overall quality. These are encouraging and welcome improvements.</p>

<b>Outcome</b>		<b>RA2: Regulatory arrangements and supporting guidance documentation are regularly reviewed and, where necessary, updated based on a robust evidence-base.</b>
		However, to meet this outcome, the BSB will need to demonstrate consistently effective engagement with statutory processes, in the main by making clear and complete cases for changes to its regulatory arrangements. As the BSB has not made any full applications for changes to regulatory arrangements during 2020, we have not had sufficient evidence of improvement to meaningfully re-assess its performance against this outcome. We have therefore retained the pre-existing assessment of <i>not met – action being taken</i> for now. We will keep this under review as further evidence becomes available during 2021.
	<b>Action needed</b>	The BSB to ensure that future rule change applications are complete and that all quality issues have been addressed before applications are submitted for approval.
	<b>Timing</b>	We will keep our assessment under review throughout 2021. The next review point will be end of March 2021.

## Not met – action required

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.
<b>November 2020</b>	<b>LSB assessment</b>	<p>An update on some key activity in relation to this outcome is set out below. However, performance against this outcome was not assessed in November 2020 due to the LSB’s ongoing review of the BSB under the well-led standard.</p> <p>In our <a href="#">November 2019 assessment</a>, we assessed that the BSB’s decision to withdraw funding from Legal Choices without a clear commitment to investing in alternatives is a diminution of the BSB’s commitment to this objective and therefore its performance in respect of this outcome.</p> <p>In February 2020, in line with the action that the LSB set in November 2019, the BSB provided further information in relation to this outcome. In this submission the BSB set out the detail of its planned and current Public Legal Education strategy, the redesign of its website and records of Board -level discussions regarding its decision to withdraw from Legal Choices.</p> <p>Our review of the material received in February 2020 did not provide assurance that the BSB was pursuing an adequate alternative to Legal Choices, that would address the recommendation raised by the CMA concerning whole of market information for consumers. It also raised concerns about the leadership and governance within the BSB in making sound decisions and acting in a way that is compatible with the regulatory objectives and particularly in the ways set out in the WL5 outcome of our performance framework. This informed our decision to conduct a full review of the BSB practices and procedures against the broader well-led standard, which started in September 2020 and is scheduled to report in March 2021.</p>
	<b>Action needed</b>	We will discuss and agree specific actions with the BSB subject to the conclusions of the current review of its performance under the well-led standard.
	<b>Timing</b>	To be agreed subject to the conclusion of the ongoing review of performance under the well-led standard.

## CILEx Regulation (CILEx 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	7	

Met		Not met - action being taken		Not met - action required	
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## Overview

In November 2020 we assessed CILEx Regulation's performance on outcomes RA2, RA3, S3 and WL7, following a targeted information request. We focused on these outcomes based on an initial desk review of CILEx Regulation's published material and our ongoing relationship management work through the year.

Overall, CILEx Regulation continues to perform strongly against the outcomes. However, there are two outcomes that we have assessed as *not met – action being taken*:

- We have changed our assessment on RA2 to reflect concerns about the clarity and overall quality of recent applications that CILEx Regulation has made to the LSB for changes to its regulatory arrangements.
- S3 remains assessed as *not met – action being taken*, partly as a result of concerns in relation to RA2, which have meant that CILEx Regulation has been unable to obtain approval for a new education and training framework that would address the outstanding concerns on S3.

We are satisfied with the assurance provided in relation to RA3 and WL7 and consider that CILEx Regulation meets these outcomes.

**Met**

<b>Outcome</b>		<b>WL7: The approved regulator/regulatory body meets the outcome to ensure regulatory independence:</b> <ul style="list-style-type: none"> <li>▪ <b>The approved regulator has the necessary delegation arrangements in place and gains assurance that its regulatory functions are effectively carried out in line with the IGR.</b></li> <li>▪ <b>The regulatory body carries out its regulatory functions in line with the IGR and provides assurance to its approved regulator as required by Section 28 of the Legal Services Act 2007</b></li> </ul>
<b>November 2020</b>	<b>LSB assessment</b>	CILEx Regulation has complied with the IGR since the end of the transition period in July 2020 and provided the necessary evidence of assurance.
	<b>Action needed</b>	No action required.
	<b>Timing</b>	Ongoing monitoring.

## Not met – action being taken

Outcome		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
November 2020	LSB assessment	<p>A key component for meeting this outcome is effective engagement with the LSB's process for approval of changes to regulatory arrangements. This process provides an opportunity for regulatory bodies to:</p> <ul style="list-style-type: none"> <li>• explain clearly and transparently the changes that they are seeking to make and how these will benefit the regulatory objectives;</li> <li>• explain what consultation and engagement they have undertaken to understand the negative impacts or risks that changes might present; and</li> <li>• set out how they will monitor and evaluate the impact of the changes, if approved.</li> </ul> <p>Since our last performance assessment, the LSB has received several applications for changes to regulatory arrangements from CILEx Regulation that have not demonstrated these characteristics.</p> <p>In particular, we have received applications that have not provided a clear articulation of the changes being made, the overarching rationale for these changes and how they are expected to impact on the regulatory objectives.</p> <p>This has resulted in CILEx Regulation experiencing challenges in the approval process, including withdrawing applications, which have impacted on its ability to progress with updating its regulatory arrangements. As a result, we have concluded that CILEx Regulation does not currently meet this outcome.</p>
	Action needed	In order to improve its performance in this area, we invite CILEx Regulation to review its internal processes to ensure that future rule change applications are complete and that all quality issues have been addressed before applications are submitted for approval.
	Timing	We will keep our assessment under review during 2021. The next scheduled review point will be the end of June 2021.

Outcome		S3: The regulated community are monitored to provide assurance that standards are met. If they are not, steps are taken to remedy this
November 2020	LSB assessment	<p>To meet this outcome, CILEx Regulation is expected to implement changes identified in its education and training review to address advocacy quality risks.</p> <p>CILEx Regulation has been developing a new application to make changes to its regulatory arrangements on education standards this year which is intended to take account of these changes. No mitigating actions have been taken in the meantime.</p> <p>Pending implementation of the proposed changes we consider this outcome must remain as <i>not met – action being taken</i>.</p>
	Action needed	To address this issue, CILEx Regulation will want to ensure that adequate procedures are in place to deal with advocacy quality risks in the planned education and training application for changes to regulatory arrangements.
	Timing	Timing is largely a matter for CILEx Regulation, although we know it will wish to make progress against this standard as soon as possible.



## Costs Lawyer Standards Board (CLSB)

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	7	

Met		Not met - action being taken		Not met - action required	
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### Overview

The last regulatory performance assessment of the CLSB was published in August 2020 and reflected the continued progress since its previous assessment in November 2019. As a result of that progress, we have assessed CLSB as now meeting five of the nine outcomes previously assessed as *not met – action being taken* (RA1, RA2, E2, E3 and WL3). We commend CLSB for its efforts.

Further updates on the four remaining not met outcomes are expected in March 2021 and we expect CLSB will wish to focus on demonstrating its delivery against each of these. We will want to see the CLSB provide ongoing evidence that it can meet the not met outcomes and sustain its improvements across all the *met* outcomes. We recognise that as a regulator with a smaller regulatory community (and therefore fewer feepayers among which to distribute the associated costs), CLSB may face particular challenges in continuing its progress. It may wish to consider forming collaborations to share fixed costs and in so doing unlock capability that may not currently be available.

For the avoidance of doubt, the assessments listed below are as updated in July 2020. However, for the purpose of this update we have added an assessment against outcome WL7, which relates to regulatory independence. The CLSB meets this outcome.

## Met

<b>Outcome</b>		<b>WL7: The approved regulator/regulatory body meets the outcome to ensure regulatory independence:</b> <ul style="list-style-type: none"> <li>▪ <b>The approved regulator has the necessary delegation arrangements in place and gains assurance that its regulatory functions are effectively carried out in line with the IGR.</b></li> <li>▪ <b>The regulatory body carries out its regulatory functions in line with the IGR and provides assurance to its approved regulator as required by Section 28 of the Legal Services Act 2007</b></li> </ul>
<b>November 2020</b>	<b>LSB assessment</b>	<p>CLSB was asked to provide an update on any relevant actions or developments following the submission of its Certificate of Compliance with the new IGR and the end of the transition period on 23 July 2020.</p> <p>CLSB has confirmed that it has now <a href="#">published</a> the updated memorandum of understanding and operational protocol with ACL. It has confirmed there have been no instances of non-compliance, it has been disseminating its IGR Quick Guide to new contractors and will be providing information to ACL at the end of the year.</p>
	<b>Action needed</b>	N/A
	<b>Timing</b>	Ongoing monitoring.

## Not met: action being taken

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.
July 2020	LSB assessment	<p>The action for CLSB was to evidence its learning from engagement, the work it has done in relation to consumers and other policy developments. We highlighted that evidence would come from rule changes, board decision notes and actions flowing from its interim report on costs lawyers and consumers.</p> <p>CLSB has made progress with this action, particularly in relation to rule change applications with three approved by the LSB so far in 2020. However, it needs to continue to build its evidence base and demonstrate making use of it. To date it has produced two board decision notes and while it has now developed a Consumer Engagement Strategy it will need to provide evidence of progress against its priority activities that inform its regulatory approach.</p> <p>It is also notable that CLSB is among the regulators that have had challenges in building a reliable understanding of the diversity profile of their regulated community. We will expect CLSB to evidence progress in obtaining diversity data that will help inform its regulatory approach.</p>
	Action needed	<p>CLSB to provide ongoing evidence of building its evidence base and use of that evidence base to inform its regulatory approach.</p> <p>CLSB to demonstrate progress by obtaining a clear and thorough understanding of the diversity profile of its regulated community that will inform its regulatory approach.</p> <p>In particularly we would expect to receive:</p> <ul style="list-style-type: none"> <li>• substantive feedback on the work undertaken so far in the first year of its Consumer Engagement Strategy</li> <li>• an update on its review of its diversity and inclusion initiatives against the three characteristics of a well-performing regulator</li> <li>• relevant progress against its proposed Business Plan priorities, specifically improving its regulatory arrangements and protecting the interests of consumers and promoting professional standards.</li> </ul>
	Timing	CLSB to provide a progress update by 31 March 2021

Outcome		RA4: Regulatory arrangements and associated guidance documentation are informed by learning gathered from all of the regulator's work including its risk assessment and enforcement work.
July 2020	LSB assessment	<p>We set an action for CLSB to complete the work it had done in developing new CPD arrangements and new Disciplinary Rules and Procedures. Our expectation was for the CLSB to consult and then apply to the LSB for any alterations as needed. We also stated that CLSB must continue to demonstrate the impact of its learning on its regulatory arrangements and guidance. This will be demonstrated as it takes forward its proposals on both CPD and its Disciplinary Rules as well as in how it makes use of the consumer engagement strategy that is being developed.</p> <p>CLSB has made significant progress against this outcome by reaching a point where we have approved rule change applications and the new rules are now in place or due to come into force shortly. To meet this outcome CLSB will need to show sustained learning from all of its work.</p>
	Action needed	CLSB must demonstrate active use of its consumer engagement strategy and continue to regularly evidence the application of learning from its own work. In particular, its planned 2021 annual priorities for improving its regulatory arrangements.
	Timing	CLSB to provide a progress update by 31 March 2021

Outcome		<b>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.</b>
July 2020	LSB assessment	<p>In our previous assessment we concluded that the level of CLSB’s internal fixed resources continued to be a concern. We explained that we would maintain close contact with CLSB on their interim resourcing solutions to ensure they are sufficient.</p> <p>CLSB has since provided an updated Business Continuity Policy setting out how it would ensure continuity of regulation in a range of scenarios including the sudden unavailability of the CEO. In addition, CLSB has provided the LSB with a detailed resourcing plan setting out its proposed actions and steps for the 2020 PCF cycle.</p> <p>The plan has been developed considering the impact of Covid-19 and CLSB contends that it will allow it to continue with a progressive programme of work. CLSB has also implemented a new format for a quarterly financial report to its board to ensure the board are better sighted on expenditure against budget. CLSB’s proposed budget planning does not provide for an increased budget but, in practice does increase its resourcing and resilience to some extent as compared to previous years.</p> <p>However, the LSB continues to be concerned about whether the CLSB has sufficient resources and scale in the longer-term to be able to demonstrate that it can meet the outcomes and standards that we expect of well performing regulators. For example, to continue to operate effectively it is crucial that CLSB can quickly demonstrate a better understanding of the risk profile of its regulatory community, and to gather and use meaningful diversity data to inform its policies. We know that it has plans to address these areas but are concerned that the planned resourcing may be insufficient to do so appropriately and in a timely way with such a small resource base, alongside the wider policy development, supervision and enforcement work that also requires ongoing attention.</p> <p>We also see significant risks associated with its current operating model, in that there is little resilience or scope for further scaling back. This is brought into the light in particular by events such as the COVID-19 pandemic.</p> <p>Given our ongoing concerns in this area, we will maintain a strong focus on this through the annual PCF approval process. We will also require ongoing updates from CLSB around its income and resources.</p> <p>In the event that a lack of resources or capacity impact on the CLSB’s ability to continue to progress towards achieving an adequate level of performance across the performance standards, we will be extremely concerned if we are not presented with evidence of the CLSB Board having given this adequate consideration and having put in place appropriate plans and mitigations.</p>

<b>Outcome</b>		<b>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.</b>
	<b>Action needed</b>	<p>CLSB to keep the LSB informed of significant developments in relation to its resourcing, in particular increased risks to its ability to deliver the improvements required.</p> <p>In the event that resources or capacity impact on the CLSB's longer-term performance outlook, LSB to be provided with evidence of CLSB Board discussion and agreed plans and mitigations.</p> <p>We expect the next update from CLSB to include details of any progress made against its proposed 2021 Business Plan priority for Modernising the CLSB. In particular, its intention to revisit the effectiveness of its new operating structure.</p>
	<b>Timing</b>	CLSB to submit an update on progress by 31 March 2021 to coincide with its Q1 report to its Board.

Outcome		WL4: The regulator learns from its own work, stakeholders, the legal sector and other sectors and uses that learning to improve its work.
July 2020	LSB assessment	<p>We set an expectation that CLSB's progress against other outcomes should allow CLSB to meet this outcome over time. We explained that it would need to continue to make use of its developing evidence base and that board decision notes and publication of board papers would further assist.</p> <p>We additionally explained that CLSB needed to take action to progress its work to better understand consumers of costs lawyer services.</p> <p>It is clear CLSB has made progress here but we will need to continue to demonstrate its learning from across the sector and beyond.</p>
	Action needed	<p>CLSB must demonstrate its use of its consumer engagement strategy and continue to regularly evidence the application of learning from its own work and others. We expect this to be clear as it builds a greater catalogue of published board papers and board decision notes.</p> <p>We would also expect to receive:</p> <ul style="list-style-type: none"> <li>• substantive feedback on the work undertaken so far in the first year of its Consumer Engagement Strategy</li> <li>• an update on its review of its diversity and inclusion initiatives against the three characteristics of a well-performing regulator</li> <li>• relevant progress against its proposed Business Plan priorities, specifically improving its regulatory arrangements and protecting the interests of consumers and promoting professional standards.</li> </ul>
	Timing	CLSB to provide a progress update by 31 March 2021

## Council for Licensed Conveyancers (CLC)

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	7	

Met		Not met - action being taken		Not met - action required	
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## Overview

In November 2020 we sought to assess the CLC’s performance on outcomes RA2, RA5, E3, S1, W3 and WL7, following a targeted information request. We focused on these outcomes based on an initial desk review of CLC’s published material and our ongoing relationship management work through the year.

CLC is to be commended for meeting all of the performance outcomes in this assessment. This represents progress since our last annual assessment. In particular, CLC demonstrated in May 2020 that it had taken action to address the one unmet outcome that it had, on 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”). The key factor in meeting this standard is the introduction transparent performance data (KPI). CLC is committed to reviewing the KPI data to ensure it remains effective.

In addition, we assessed CLC’s performance against the new outcome WL7 which has been introduced into the regulatory performance framework to monitor compliance with our new Internal Governance Rules (IGR). CLC made one change to its regulatory arrangements to comply with these rules and, as required, submitted to the LSB a certificate certifying that it complies with the rules. For WL7 the CLC is therefore assessed as *met*.

During 2021 the LSB will seek ongoing assurance that the CLC continues to meet all outcomes in the performance framework. In particular, we will be working with the CLC on linking disciplinary data and transparency around agreed settlements, such as fines or rebukes, to its live register.



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.
November 2020	LSB assessment	<p>The key outstanding action was how the CLC will provide performance information (e.g. KPIs and performance reports and complaints about the regulator) in a transparent manner as soon as possible after Council consideration. The CLC had committed to the following specific actions in this regard:</p> <ul style="list-style-type: none"> <li>▪ Jan 2020: Council to agree KPIs.</li> <li>▪ Apr 2020: Council to review performance against first set of KPIs.</li> <li>▪ May 2020: CLC to start publishing KPIs and CLC performance against those KPIs.</li> </ul> <p>The CLC has delivered these actions and now publishes KPI data as part of its board paper publication schedule. These KPIs cover the following areas:</p> <ul style="list-style-type: none"> <li>• Regulatory activity in relation to Practices: <ul style="list-style-type: none"> <li>○ New practice application processing.</li> <li>○ Existing practice application processing.</li> </ul> </li> <li>• Regulatory activity in relation to individuals: <ul style="list-style-type: none"> <li>○ Individual application processing time (completed).</li> </ul> </li> <li>• Regulator information: <ul style="list-style-type: none"> <li>○ Completed complaints (time taken).</li> <li>○ Compensation fund claims (ageing of claims).</li> </ul> </li> </ul> <p>We note that these initial KPIs do not cover some of the CLC's regulatory activity, such as supervision work. We are confident that CLC will want to keep these KPIs under review and is likely to build on them in the coming years as appropriate.</p>
	Action needed	Action complete
	Timing	Not applicable

<b>Outcome</b>		<b>WL7: The approved regulator/regulatory body meets the outcome to ensure regulatory independence:</b> <ul style="list-style-type: none"> <li>▪ <b>The approved regulator has the necessary delegation arrangements in place and gains assurance that its regulatory functions are effectively carried out in line with the IGR.</b></li> <li>▪ <b>The regulatory body carries out its regulatory functions in line with the IGR and provides assurance to its approved regulator as required by Section 28 of the Legal Services Act 2007</b></li> </ul>
<b>November 2020</b>	<b>LSB assessment</b>	<p>The CLC is an approved regulator with no representative functions and took steps to comply with the IGR. As an approved regulator with no representative functions a reduced number of provisions of the IGR apply to the CLC.</p> <p>The CLC was asked to provide an update on any relevant actions or developments following the submission of its Certificate of Compliance with the new IGR and the end of the transition period on 23 July 2020.</p> <p>Since then the CLC has made arrangements to review its compliance with the IGR in 2021.</p>
	<b>Action needed</b>	Action complete
	<b>Timing</b>	Ongoing Monitoring

## Faculty Office (FO)

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	7
Green	Yellow	Green	Green	Yellow	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Red	Red	Green	Green	Green

Met	Green	Not met - action being taken	Yellow	Not met - action required	Red
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## Overview

In November 2020 we sought to assess the Faculty Office's (FO) performance on outcomes RA2, RA5, E3 and WL7, following a targeted information request. We focused on these outcomes based on an initial desk review of FO's published material and our ongoing relationship management work through the year.

Overall, FO continues to meet most of the standards.

We are satisfied with the assurance provided in relation to E3 and WL7 and consider that FO meets these outcomes.

We concluded that it was not possible to re-assess the FO's performance on RA2, which was previously rated as *not met – action being taken* because, in the period since our last assessment, the FO has not submitted any applications for changes to its regulatory arrangements. We will keep our assessment under review as evidence of improvement becomes available over the coming months.

In relation to outcome RA5, we have not seen sufficient evidence from the FO that it has built into its decision making a sound understanding of the impact of its regulatory arrangements, particularly on consumers. While we take some comfort from the FO's plans in this area, including recruiting lay members with a consumer focus to the Master's Advisory Panel, we know it will be mindful of the need to pursue further measures to advance its understanding of the impact of its rules and guidance on consumers. We have therefore assessed this outcome as *not met – action being taken*.

With the exception of the new WL7, we did not assess the FO's progress against the well-led standard, including the outstanding actions on WL3 and WL4. This is due to our ongoing review of the FO's performance under the well-led standard, which is scheduled to report in March 2021.

## Met

<b>Outcome</b>		<p><b>WL7: The approved regulator/regulatory body meets the outcome to ensure regulatory independence:</b></p> <ul style="list-style-type: none"> <li>▪ <b>The approved regulator has the necessary delegation arrangements in place and gains assurance that its regulatory functions are effectively carried out in line with the IGR.</b></li> <li>▪ <b>The regulatory body carries out its regulatory functions in line with the IGR and provides assurance to its approved regulator as required by Section 28 of the Legal Services Act 2007</b></li> </ul>
<b>November 2020</b>	<b>LSB assessment</b>	<p>The FO was asked to provide an update on any relevant actions or developments following the submission of its Certificate of Compliance with the new IGR and the end of the transition period on 23 July 2020.</p> <p>The FO took steps to comply with the IGR. Since then, its new arrangements to support a lay majority on the Master's Qualification Board are operating as intended.</p>
	<b>Action needed</b>	N/A
	<b>Timing</b>	Ongoing monitoring

## Not met: action being taken

Outcome		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.
November 2020	LSB assessment	<p>A key component for meeting this outcome is effective engagement with the LSB's process for approval of changes to regulatory arrangements. This process provides an opportunity for regulatory bodies to:</p> <ul style="list-style-type: none"> <li>• explain clearly and transparently the changes that they are seeking to make and how these will benefit the regulatory objectives</li> <li>• explain what consultation and engagement they have undertaken to understand the negative impacts or risks that changes might present</li> <li>• set out how they will monitor and evaluate the impact of the changes, if approved.</li> </ul> <p>In our <a href="#">November 2019 assessment</a>, we assessed this outcome as not met, which reflected issues with the quality of the rule change applications submitted by the FO to introduce new transparency requirements and changes to its supervision and training rules. Our primary concern was with transparency and clarity, as some significant information was not provided by the FO.</p> <p>Our action for the FO was to review its current procedures and take the necessary steps to ensure that future applications were complete and that all quality issues had been addressed before applications are submitted for approval.</p> <p>The FO advised the LSB that it had taken account of our comments and it is confident that these will be addressed in future applications.</p> <p>In order to meet this outcome, FO will need to demonstrate consistently effective engagement with statutory processes, in the main by making clear and complete cases for changes to its regulatory arrangements, that meet the expectations set out in our rules and guidance.</p> <p>As the FO has not made any full applications for changes to regulatory arrangements during 2020, we have not had evidence of improvement to meaningfully re-assess performance against this outcome. We have therefore retained the pre-existing assessment of <i>not met – action being taken</i> for now. We will keep this under review as further evidence becomes available during 2021.</p>
	Action needed	The FO to ensure that future applications for changes to regulatory arrangements are complete and that all quality issues have been addressed before applications are submitted for approval.
	Timing	We will keep our assessment under review during 2021. The next scheduled review point will be the end of June 2021.

<b>Outcome</b>		<b>RA5: The regulator understands the impact of its regulatory arrangements and guidance on consumers, the regulated community, the market and the regulatory objectives</b>
<b>November 2020</b>	<b>LSB assessment</b>	<p>FO was asked to provide evidence of how it assesses the impact of its work on consumers, the regulated community, the wider market and the regulatory objectives.</p> <p>This information was requested because the FO had previously advised the LSB of its plans to recruit a consumer champion to the Master’s Advisory Board and to consider working with other regulators to understand the impact of its regulatory arrangements and guidance on consumers.</p> <p>The FO advised that it is seeking to appoint additional lay members to the Master’s Advisory Board and intends to advertise for independent members. The FO has also begun sharing consultations more widely, had notaries included in the Legal Services Consumer Panel Tracker Survey and completed a spot check of notaries’ compliance with its transparency Rules.</p> <p>This progress is welcomed, but there is more work for the FO to do to be able to demonstrate that it has a meaningful understanding of the impact of its regulatory arrangements, particularly on consumers.</p> <p>We appreciate that as a regulator with a smaller regulated community over which to spread its costs, FO may face particular difficulties in developing a capability on identifying and understanding impact, or in conducting research to inform this. It may wish to consider forming collaborations with other regulators, or other bodies, to enable access to evidential capability in a cost-effective way.</p> <p>This area is of central importance to FO’s ability to effectively promote the regulatory objectives.</p>
	<b>Action needed</b>	<p>To address this performance concern, FO will want to commit to additional work to understand the impact of its work on consumers. In particular, we expect the FO to:</p> <ul style="list-style-type: none"> <li>• recruit additional lay members with a consumer background/focus to strengthen consumer engagement, as planned</li> <li>• provide a plan to the LSB with proposals for how it can meet this outcome. This could include, for example, committing to carrying out consumer research, plans to work with other regulators to evaluate the impacts of legal services regulation on consumers or evaluating the impact of rules (e.g. transparency) on consumers.</li> </ul>
	<b>Timing</b>	The FO to provide a plan and written progress update by 31 March 2021.

## Not met: action required

Outcome		<b>WL3: The regulator is transparent about its own:</b> <ul style="list-style-type: none"> <li>• decision-making</li> <li>• regulatory approach</li> <li>• the risks it and its regulated community faces and how these are being mitigated</li> <li>• performance</li> <li>• regulated community and related markets</li> <li>• financial costs.</li> </ul>
November 2020	LSB assessment	<p>An update on some key activity in relation to this outcome is set out below. However, performance against this outcome was not assessed in November 2020 due to the LSB's ongoing review of the FO under the well-led standard.</p> <p>In our <a href="#">November 2019 assessment</a>, we assessed that the FO had not made sufficient progress towards meeting WL3 and that urgent assurance was required. We requested that, by 31 January 2020, the FO provide a detailed plan explaining what steps it would take, including a timetable, to meet the following actions:</p> <p><i>'(1) FO to ensure it publishes the supporting evidence for regulatory decisions as soon as possible after they are taken. This should include the following: evidence considered by the Master when making regulatory decisions; the advice offered by the Advisory board and the rationale behind it; analysis of information on the notarial profession and market that is gathered through work such as the practising certificate renewal process.</i></p> <p><i>(2) FO to continue to develop the publication of its performance information. This needs to include information on the timeliness of its regulatory processes and performance against key performance indicators.'</i></p> <p>In response, the FO advised us of its commitment to publishing relevant material on its website within three weeks of meetings where possible from January 2020. It also committed to publishing performance data on its website before the end of March 2020.</p> <p>While this was welcomed, there remained scope for improving access to board agendas, papers and minutes through the website. We also became aware from the published minutes that the FO's risk register had not been reviewed for 12 months, which is somewhat unusual practice about which we would expect the FO itself to be concerned.</p> <p>These concerns, coupled with the FO's lack of progress against the actions set for WL4, raised wider issues about the FO's governance and decision-making processes. Accordingly, we took the decision to conduct a full review of the FO practices and procedures against the broader well-led standard, which is scheduled to report in March 2021.</p>

<b>Outcome</b>		<b>WL3: The regulator is transparent about its own:</b> <ul style="list-style-type: none"> <li>• decision-making</li> <li>• regulatory approach</li> <li>• the risks it and its regulated community faces and how these are being mitigated</li> <li>• performance</li> <li>• regulated community and related markets</li> <li>• financial costs.</li> </ul>
	<b>Action needed</b>	We will discuss and agree specific actions with the FO as part of the current review of its performance under the well-led standard.
	<b>Timing</b>	To be agreed subject to the conclusion of the ongoing review of performance under the well-led standard.

<b>Outcome</b>		<b>WL4: The regulator learns from its own work, stakeholders, the legal sector and other sectors and uses that learning to improve its work.</b>
<b>November 2020</b>	<b>LSB assessment</b>	<p>An update on some key activity in relation to this outcome is set out below. However, performance against this outcome was not assessed in November 2020 due to the LSB's ongoing review of the FO under the well-led standard.</p> <p>In our <a href="#">November 2019 assessment</a>, we assessed that the FO had not made sufficient progress towards meeting WL4 and that urgent assurance was required. We requested that, by 31 January 2020, the FO submit a report to:</p> <p><i>'...explain how the evidence it collects from its "Outreach events", as well as any other engagement it has with its regulated community, consumers, or other stakeholders, has been used to improve its work. Evidence should also be provided on how the examination and qualification regime review, or similar reviews of its work, have improved the Faculty Office's work.'</i></p> <p>In response, the FO said it would update its outreach schedule to include 'lessons learned' and publish this on its website. It also said it would publish the report from the Working Party on the review of the qualification and continuing professional education regime, together with a note of the discussions held at both the Advisory Board and Qualifications Board and the advice given to the Master.</p> <p>While we considered this to be a positive step, to make further progress FO will wish to demonstrate how the information gathered from these interactions informs the FO's policies and decisions.</p>



<b>Outcome</b>		<b>WL4: The regulator learns from its own work, stakeholders, the legal sector and other sectors and uses that learning to improve its work.</b>
		This concern, coupled with the FO's lack of progress against the actions set for WL3, raised wider issues about the FO's governance and decision-making processes. Accordingly, we took the decision to conduct a full review of the FO practices and procedures against the broader well-led standard, which is scheduled to report in March 2021.
	<b>Action needed</b>	We will discuss and agree specific actions with the FO as part of the current review of its performance under the well-led standard.
	<b>Timing</b>	To be agreed subject to the conclusion of the ongoing review of performance under the well-led standard.

## Institute of Chartered Accountants in England & Wales (ICAEW)

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	7

Met		Not met - action being taken		Not met - action required	
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### Overview

ICAEW continues to meet the majority of the outcomes in the performance framework. However, there remain some areas of concern which we expect ICAEW will want to focus on addressing over the coming months to meet the relevant standards.

Through our assessment this year, we have made a number of changes to our scoring of ICAEW's performance, recognising both progress made and areas where progress has been slower than anticipated. Specifically:

- We have re-assessed outcome WL1 from *not met – action being taken* to *met*. This reflects positive governance changes made in the summer, in order to comply with our new Internal Governance Rules (IGR).
- We have re-assessed outcome A5 from *not met – action required* to *not met- action being taken*. This recognises progress made on publishing disciplinary information. However, ICAEW has an action to make disciplinary information more accessible.

We have maintained our assessment of *not met - action being taken* in relation to outcome RA2. This relates to ongoing concerns about the quality of applications from ICAEW about changes to its regulatory arrangements and applications for approval of its Practising Fees. These concerns relate primarily to issues of clarity and transparency and opportunities to improve consultation and engagement on proposals prior to finalisation of its position. We would note that ICAEW's proposals to achieve compliance with the internal governance rules did in fact meet the standard, which gives it a helpful internal model for future applications. The challenge now for ICAEW is to achieve consistency in this area.

We continue to have concerns in relation to outcome WL3, which remains rated as *not met – action required*. In particular, we see significant opportunities for ICAEW to improve the transparency of its decision making. Transparency is an important tool for building public confidence in regulation, in the public interest. We therefore consider it crucial that ICAEW's Regulatory Board reconsiders its position on this and establishes a means to publish relevant information related to legal services regulatory decision-making.

## Met

Outcome		<b>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.</b>
November 2020	LSB assessment	The action for ICAEW was to take the necessary actions in relation to its governance arrangements to enable compliance with the IGR. The ICAEW to submit certificate of compliance under IGR transition procedures.  ICAEW has submitted its certificate of compliance with the IGR. We have reassessed our assessment of outcome WL1 from <i>not met – action being taken</i> to <i>met</i> . This reflects positive governance changes made in the summer, in order to comply with our new Internal Governance Rules (IGR).
	Action needed	Action complete
	Timing	N/A

Outcome		<b>WL7: The approved regulator/regulatory body meets the outcome to ensure regulatory independence:</b>
		<ul style="list-style-type: none"> <li>▪ The approved regulator has the necessary delegation arrangements in place and gains assurance that its regulatory functions are effectively carried out in line with the IGR.</li> <li>▪ The regulatory body carries out its regulatory functions in line with the IGR and provides assurance to its approved regulator as required by Section 28 of the Legal Services Act 2007</li> </ul>
November 2020	LSB assessment	ICAEW changed its governance arrangements in July 2020 to bring itself into compliance with the IGR. ICAEW has told us about further steps it has taken since then to ensure the separation of regulatory and representative functions. We consider this action to be met.  ICAEW continue to meet the actions, such as record keeping, set out in the IGR guidance to ensure continued compliance with the IGR.
	Action needed	N/A
	Timing	Ongoing monitoring

## Not met – action being taken

Outcome		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.
November 2020	LSB assessment	<p>A key component of meeting this outcome is effective engagement with the LSB’s process for approval of changes to regulatory arrangements. This process provides an opportunity for regulatory bodies to:</p> <ul style="list-style-type: none"> <li>• explain clearly and transparently the changes that it is seeking to make and how these will benefit the regulatory objectives.</li> <li>• explain what consultation and engagement it has undertaken to understand the negative impacts or risks that changes might present.</li> <li>• set out how it will monitor and evaluate the impact of the changes, if approved.</li> </ul> <p>In our November 2019 assessment, we assessed this outcome as <i>not met – action being taken</i>, in respect of concerns around some applications for regulatory changes that ICAEW submitted in 2019.</p> <p>The action for ICAEW was to provide further details on the steps that it has taken to review its current procedures to ensure acceptable standards were met for any rule change applications submitted to the LSB.</p> <p>Whilst ICAEW submitted a high-quality application in relation to changes to implement the new Internal Governance Rules, during 2020 we have encountered concerns with the probate fee application for 2021 and a suite of proposed exemption directions.</p> <p>There are two particular areas for improvement that ICAEW will want to address in order to improve its performance in this regard:</p> <ul style="list-style-type: none"> <li>• Ensuring adequate evidence is provided to support any applications.</li> <li>• Undertaking meaningful stakeholder engagement or consultation. This is important to demonstrate that ICAEW has given proper consideration to the potential impact of its proposals, as well as being important for overall transparency and openness.</li> </ul>

<b>Outcome</b>		<b>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.</b>
	<b>Action needed</b>	In order to improve its performance in this area, we invite ICAEW to review its approach to consultation and engagement and to review its internal procedures to ensure that all future applications provide adequate evidence to support the proposed changes.
	<b>Timing</b>	We will keep our assessment under review during 2021. The next scheduled review point will be the end of June 2021.

<b>Outcome</b>		<b>A5: The regulator's list of those they regulate is accessible, accurate and provides information on the disciplinary records of those regulated</b>
<b>November 2020</b>	<b>LSB assessment</b>	<p>The action for ICAEW was to provide a detailed plan and timetable for further changes to the probate register, including adding disciplinary information, on the Find A Chartered Accountant (FACA) register by 31 January 2020.</p> <p>We welcome the action ICAEW has taken to include on its probate register information on disciplinary findings against firms. We also note that ICAEW has published a separate list of probate firms with disciplinary findings. Furthermore, we note that ICAEW has added probate as a search function to the FACA register.</p> <p>However, ICAEW's planned work to add details of disciplinary information to the FACA register is not expected to be complete until next year. When it is complete, consumers should easily be able to access all relevant information about probate firms in one place, rather than having to cross refer to a different document. Until that point is reached we cannot consider this outcome to be <i>met</i>.</p>
	<b>Action needed</b>	The ICAEW to add disciplinary information for probate to the FACA register. ICAEW to inform the LSB in a timely manner about any delays to implementation.
	<b>Timing</b>	The ICAEW to add disciplinary information to the FACA register, as planned, in Q2 of 2021.

## Not met – action required

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
November 2020	LSB assessment	<p>The original actions from January 2019 required ICAEW to:</p> <ol style="list-style-type: none"> <li>1) review current publication policy to 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; and</li> <li>2) 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.</li> </ol> <p>In November 2019 we agreed an action for the ICAEW to provide a detailed plan and timetable, by 31 January 2020, for how it would meet this outcome.</p> <p>Since then, ICAEW has made some progress towards meeting this outcome by publishing an annual report for the Regulatory Board, including some limited information about probate. It has also improved access to information about regulation on its website.</p> <p>However, ICAEW continues to have no plans to publish minutes or papers from Board meetings, citing commercial sensitivity and confidential information as reasons.</p> <p>We recognise that ICAEW falls under several regulatory regimes and regulates other areas alongside legal services. However, this does not lessen the importance of transparency, which is an important tool for building public confidence in regulation, in the public interest. Whilst ICAEW has taken some steps to improve transparency about its decision making, its current position means its levels of transparency are lower than those of other legal services regulators, all of which have made significant progress in this area and addressed issues of confidentiality along the way.</p> <p>It will not be possible for ICAEW to meet this standard while it maintains its current position.</p>
	Action needed	We expect ICAEW to establish a means of publishing relevant information related to legal services regulatory decision-making.
	Timing	This issue was first raised in January 2019. Given the significant time that has elapsed since then, we invite ICAEW to provide a plan for improving the transparency of its regulatory decision making by June 2021, to provide assurance that meaningful progress will be made on this issue during 2021.

## Intellectual Property Regulation Board (IPReg)

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	7	

Met		Not met - action being taken		Not met - action required	
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### Overview

We assessed IPReg’s performance on outcomes RA2, RA3, E2 and WL7 in November 2020, following a targeted information request. We focused on these outcomes based on an initial desk review of IPReg’s published material and our ongoing relationship management meetings through the year.

IPReg continues to meet most of the standards, including the new standard WL7, which relates to compliance with the new Internal Governance Rules. This is worthy of particular credit because of the complexity of IPReg’s relationships with two distinct representative bodies.

However, IPReg will no doubt wish to take effective action in relation to standards RA2, RA3 and E2 to restore its status to *met* at the earliest opportunity.

In particular, in reflecting on this assessment, we hope that the Board of IPReg will share our concern about the very limited access it has to a robust evidence base to inform its decision making. IPReg’s ability to understand the diversity of its regulated community and barriers to recruitment, retention and progress is a particular concern, and contrasts markedly with the focus being given to this issue across most of the rest of the regulatory bodies. The current state of IPReg’s data on diversity makes it an outlier and we know it will wish to remedy this deficiency as a matter of priority. We recognise the diversity survey IPReg has planned in January 2021 as potential progress towards meeting outcome RA3 and look forward to IPReg sharing the results.

IPReg’s performance rating has also been affected by its decision to delay its planned review of regulatory arrangements, which had been provided as assurance in previous assessments. While we recognise the importance of individual regulators being able to manage their operations independently, we would strongly encourage regulators’ boards to ensure that they are taking into account the potential impact on performance of the decisions they take, and to engage effectively with the LSB where issues are likely to arise.

## Met

<b>Outcome</b>		<p><b>WL7: The approved regulator/regulatory body meets the outcome under the IGR to separate and maintain the independence of regulatory functions:</b></p> <ul style="list-style-type: none"> <li>• The approved regulator has the necessary delegation arrangements in place and gains assurance that its regulatory functions are effectively carried out in line with the IGR.</li> <li>• The regulatory body carries out its regulatory functions in line with the IGR and provides assurance to its approved regulator as required by Section 28 of the Legal Services Act 2007.</li> </ul>
<b>November 2020</b>	<b>LSB assessment</b>	<p>IPReg was asked to provide an update on any relevant actions or developments following the submission of its Certificate of Compliance with the new IGR and the end of the transition period on 23 July 2020.</p> <p>IPReg confirmed that delegation agreements are in place with CIPA and CITMA. Information is exchanged under the information sharing protocol. The regulatory forum met for the first time in September 2020 and will meet again in December 2020.</p>
	<b>Action needed</b>	<p>N/A.</p>
	<b>Timing</b>	<p>Ongoing monitoring.</p>



## Not met: action being taken

Outcome		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.
November 2020	LSB assessment	<p>We asked IPReg to provide information about its planned review of regulatory arrangements, including overall delays of the timetable into 2022 and inclusion in its scope a range of additional work that had been planned to progress in 2020. We wanted to understand better the rationale for these changes, because we had previously relied on the review as part of our assurance of IPReg's performance in previous assessments.</p> <p>In response, IPReg advised us that its Board had made independent decisions to delay the review and change its scope. It cited a range of reasons for those decisions, including the impact of the Covid-19 pandemic, and its focus on implementing the new IGR. We understand those reasons, and we also recognise and support the primacy of independent boards of regulators in making strategic and operational decisions.</p> <p>However, it is a consequence of the decisions taken that the assurances previously accepted are not currently available, and our assessment of performance has changed accordingly.</p> <p>We also note that activities that have been delayed constituted clear commitments in previous business plans, as well as practising certificate fee consultations and applications to the LSB for approval. While these decisions are clearly a matter for the IPReg Board, we consider it important to the credibility of regulation in the legal services sector that where commitments are not met – which may be for a range of good reasons – that there is proactive, clear communication with stakeholders, particularly those who fund the work through their fees.</p> <p>Finally, there may have been an opportunity to mitigate this outcome with earlier and clearer communication to the LSB of the changes, preferably with an offer of alternative assurance that recognised any impact of the changes on stakeholders.</p>
	Action needed	<p>We expect IPReg to progress its review of regulatory arrangements in accordance with its public commitments in 2021/22. If there are additional delays or changes to the scope of the review, we expect IPReg to communicate this to stakeholders, including the LSB, and explain how any impacts of this on the regulated community and its consumers have been assessed and, if negative, been mitigated.</p>
	Timing	<p>Matters relating to timing and scope of the review are primarily for the Board of IPReg. However, the LSB does not currently have assurance in relation to this outcome and it is unlikely, therefore, to be capable of being <i>met</i> until the review is</p>

<b>Outcome</b>		<b>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.</b>
		complete (or alternative assurance is provided). We would be grateful for periodic updates, with the next one no later than 31 March 2021.

<b>Outcome</b>		<b>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.</b>
<b>November 2020</b>	<b>LSB assessment</b>	<p>IPReg was asked to provide evidence that it meets outcome E2 in the absence of a mechanism for referring cases to an interim orders panel.</p> <p>This information was requested because, as set out in outcome E2, the LSB expects regulators to have an interim orders panel to which they can refer cases where appropriate. All other regulatory bodies have introduced some type of interim orders panel.</p> <p>IPReg said that the LSB has not previously stated that an interim orders panel is required (although it should be noted that standard E2, which refers to interim orders panels, has not changed in this respect since it was introduced in 2018). IPReg also said that we had previously assessed this outcome as <i>met</i> on the basis it has limited powers of suspension as part of the annual return process and to prevent voluntary removal from the register to avoid disciplinary action.</p> <p>We previously assessed this outcome when we completed transitional assessments under the regulatory performance assessment framework in 2018. At that time, IPReg provided assurance that it would review its position on interim orders as part of the review of regulatory arrangements. As noted above, that review has been subject to delays, meaning IPReg is now considerably out of step with practice across the sector in not having the option of interim orders. We also note that IPReg's disciplinary case numbers have increased and the median time to progress cases from initial complaint to final decision is 560 days, during which time no protection is available to consumers or other regulated professionals even in serious cases. Adopting appropriate interim orders arrangements could address this gap in protection.</p> <p>IPReg has noted that it has not had any recent cases that have raised the need for interim orders. The LSB accepts that these are powers that would always be used sparingly and, for a regulator with a small number of disciplinary cases such as</p>

Outcome		<b>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.</b>
		IPReg, are likely to be used infrequently. However, we do not consider this to negate the need to have suitable public protection arrangements in place for high-risk cases, even if in practice such cases were relatively rare.
	<b>Action needed</b>	We expect IPReg to conduct a review of its current position on interim orders panels and note that IPReg has restated its plan to consider its current position as part of its planned review of regulatory arrangements.  Following the review, if IPReg does not consider it is necessary to introduce interim orders panels, we would expect IPReg to make clear its reasons for not doing so and how it will address the potential public protection risks identified.
	<b>Timing</b>	We would be grateful for an update no later than 31 March 2021.

### Not met: action required

Outcome		<b>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.</b>
<b>November 2020</b>	<b>LSB assessment</b>	<p>IPReg was asked to provide information about its evidence base and how this is used to inform regulatory work.</p> <p>Our attention has focused in particular on the quality of diversity data, which IPReg acknowledges is out of date and unreliable. We understand that no data has been collected for a number of years and the dataset is incomplete. We know IPReg will share our concern that it is not in a position to understand diversity issues that may be present in its regulated community, much less take action to address them, and that it will wish to correct this position as soon as possible. We note in this respect that IPReg has undertaken to collect diversity data from registrants in January 2021, which is welcomed as potential progress towards meeting this standard in future.</p> <p>In respect of its wider evidence base, IPReg informed us that it collects information through its annual return and that it meets with stakeholders regularly. It also conducts regular reviews of information provided by bodies such as the LSCP and LSB to draw out relevant themes for the IP sector, although it considers these reviews to have been of limited use. IPReg identified action that it has taken in response to reviewing PII data and a student survey.</p>

<b>Outcome</b>		<b>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.</b>
		<p>However, we note that IPReg has not conducted any thematic or benchmarking reviews, or consumer research, in the past two years. This raises concerns about the wider evidence base that IPReg relies upon and whether it is well placed to understand new and emerging policy issues that may impact the regulated community, the wider market or consumers.</p> <p>We appreciate that as a regulator with a smaller regulated community over which to spread its costs, IPReg may face particular difficulties in developing a capability of this nature. It may wish to consider forming collaborations with other regulators, or other bodies, to enable access to evidential capability in a cost-effective way. We welcome IPReg's interest in collaboration on research into small businesses to build its understanding of issues affecting consumers in its sector.</p>
	<b>Action needed</b>	<p>We expect IPReg to provide evidence that it has a robust evidence base to inform its regulatory approach. We acknowledge that it is already taking steps to ensure this by undertaking a diversity survey of registrants in January 2021. In particular, we expect IPReg to:</p> <ul style="list-style-type: none"> <li>• launch the diversity survey, as planned, in January 2021;</li> <li>• assess its progress against the four outcomes in the LSB's 2017 diversity guidance after it has completed the survey and is in possession of the data; and</li> </ul> <p>In order to address our wider concerns about its evidence base, we invite IPReg to provide a plan to the LSB with proposals for how it can develop its evidence base and understanding of its regulatory community and the consumers of these services. This could include, for example, carrying out research or working in collaboration with other regulators to better understand the wider market or consumers' needs.</p> <p>We know that IPReg will wish to address the issues in relation to diversity data as a matter of priority and given previous delays to data collection, we see it as important that its plans for a January 2021 launch are met. Beyond this, timing will primarily be a matter for IPReg's board. However, this outcome is unlikely to be considered <i>met</i> until significant progress has been made in this area, including on the broader issues of access to and use of an evidence base.</p>
	<b>Timing</b>	We would be grateful for periodic updates, with the next one no later than 31 March 2021.

## Solicitors Regulation Authority (SRA)

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	7	

Met		Not met - action being taken		Not met - action required	
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## Overview

We assessed the SRA's performance on outcomes A5, S3, WL3 and WL7 in November 2020, following a targeted information request. We chose to focus on these outcomes based on our engagement with the SRA during 2020 and because two, S3 and WL3, were assessed as *not met*.

Having reviewed the SRA's regulatory performance, we consider that the two previously *not met* outcomes, S3 and WL3, should now be assessed as *met*. On S3, the SRA has, following consultation, decided on the changes it intends to make to its advocacy standards and regulations. On WL3, the SRA now provides sufficient transparency as to how its Board both makes decisions and how it holds the SRA's executive to account.

We were also satisfied with the assurance received in relation to outcome A5 and outcome WL7, which was introduced into the regulatory performance framework in July 2020 following the end of the IGR transition period.

This means that the SRA now has *met* ratings for all 27 outcomes, for which it is to be commended. There remain a range of areas within these *met* outcomes that we will continue to monitor over the coming months, including the SRA's progress against commitments made in recent applications for changes to its regulatory arrangements, which also covers the introduction of the Solicitors Qualifying Exam.

## Met

Outcome		S3: The regulated community are monitored to provide assurance that standards are met. If they are not, steps are taken to remedy this.
November 2020	LSB assessment	<p>In our November 2019 assessment, we assessed the SRA's performance against this outcome as <i>not met – action being taken</i> as although the SRA had provided us with a timetable for its consultation and implementation of possible changes to its advocacy standards and regulations, it had not yet (1) assessed the results of its consultation and (2) developed plans for the implementation of any changes to its advocacy standards.</p> <p>The action needed we identified in our 2019 assessment against this outcome was as follows:</p> <p>The SRA should provide details of its implementation plans following the close of the consultation, to include changes made.</p> <p>Since our last assessment the SRA has published its analysis of the consultation responses it received (March 2020), its consultation response, including its decisions on what changes it intends to make to its advocacy standards and regulations (July 2020), and has provided us with a detailed plan and timetable for doing so (October 2020).</p> <p>We therefore consider that the SRA has fulfilled the requirements we set out in our November 2019 assessment and therefore now consider that the SRA has met this outcome. We will continue to monitor the SRA's progress in implementing these changes to its advocacy standards.</p>
	Action needed	None.
	Timing	N/A

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.
November 2020	LSB assessment	<p>In November 2019, we assessed this outcome as <i>not met – action required</i> as the SRA had not provided sufficient transparency as to (1) how its Board makes decisions and (2) monitors the SRA’s performance and holds its executive to account.</p> <p>In March 2020 we were able to reassess this outcome as <i>not met – action being taken</i>, as the SRA had demonstrated that it was now providing greater transparency of its Board’s decision-making processes through increased publication of Board papers with fewer redactions, and the publication of its summary of Board responsibilities, accountability statement, transparency statement, delegation framework and decision-making framework, on its revised website.</p> <p>As of November 2020, the SRA has maintained its approach to publication and transparency and continues to meet this aspect of outcome WL3.</p> <p>The SRA has also provided us with further information about how its Board holds its executive to account including information about the KPIs it uses, its reasons for selecting them, their development including details of its Board’s involvement, how targets are set, when these will be reviewed, and a list of all the measures and materials which its Board uses to assess the SRA’s performance. Its Board also provided a statement confirming it was content that it receives the information it needs to effectively monitor the SRA’s performance and hold its executive to account.</p> <p>We therefore consider that the SRA has fulfilled the requirements we set out in our November 2019 assessment and that the SRA now meets this outcome. We will continue to monitor the SRA’s compliance with it.</p>
	Action needed	None.
	Timing	N/A

<b>Outcome</b>		<b>WL7: The approved regulator/regulatory body meets the outcome to ensure regulatory independence:</b> <ul style="list-style-type: none"> <li>▪ <b>The approved regulator has the necessary delegation arrangements in place and gains assurance that its regulatory functions are effectively carried out in line with the IGR.</b></li> <li>▪ <b>The regulatory body carries out its regulatory functions in line with the IGR and provides assurance to its approved regulator as required by Section 28 of the Legal Services Act 2007</b></li> </ul>
<b>November 2020</b>	<b>LSB assessment</b>	<p>This outcome, under which regulatory bodies' independence under the IGR is monitored, was introduced in July 2020 at the end of the IGR implementation transition period.</p> <p>The LSB accepted the SRA's certificate of compliance with the IGR in July 2020. We have no indication that any issues relating to the SRA's compliance with the IGR have arisen since 23 July 2020. We therefore consider that the SRA continues to meet this outcome.</p>
	<b>Action needed</b>	None.
	<b>Timing</b>	Ongoing monitoring.