May 2022

Practising Fee Rules and Guidance

Summary evaluation report

1. This report provides a summary evaluation of the first year of the implementation of the new Practising Fee Rules (“Rules) and Practising Fee Guidance (“Guidance”).

2. The overall summary of evaluation findings is that the Rules and Guidance have had an immediate and tangible impact on Practising Fee applications in the 2021 cycle and have made progress towards several outcomes that the LSB set out to achieve[1].

3. In 2021, all applications provided a greater focus on transparency around programmes of activity and funding as well as demonstrating financial resilience, thereby improving accountability of ARs/RBs to their respective regulated communities.

4. ARs/RBs were largely able to demonstrate active engagement with their regulated community. Moreover, the evaluation has demonstrated that the Rules have enhanced the LSB’s joined up approach to regulation; of the RBs that had been rated as having not met the annual regulatory performance standards in the previous year (2020), all but one of the applications for 2021 demonstrated a positive link between Practising Fee income and annual performance, and all applications demonstrated a positive link between the programme of activity (for regulatory functions) to the regulatory objectives. The full extent of the impact on regulatory objectives will continue to be monitored in future evaluations.

5. The new Rules and Guidance provide for decisions on applications to typically be issued in a period of 35 calendar days. This period should only be extended in exceptional circumstances. The mean number of days taken to issue a decision in the 2021 cycle was 32 days. This represented an increase from 30 days in 2020 but a decrease from 33 days in 2019.

6. The summary tables below, set out our evaluation against the evaluation metrics designed for each of the four outcomes listed.

[1] These outcomes were set out in the consultation of the new rules and guidance and decision document.

Outcome 1

To increase transparency around approved regulators' and regulatory bodies' programmes of activity and how these will be funded, allowing those that pay the practising fee to drive accountability for its expenditure.

Metric 1

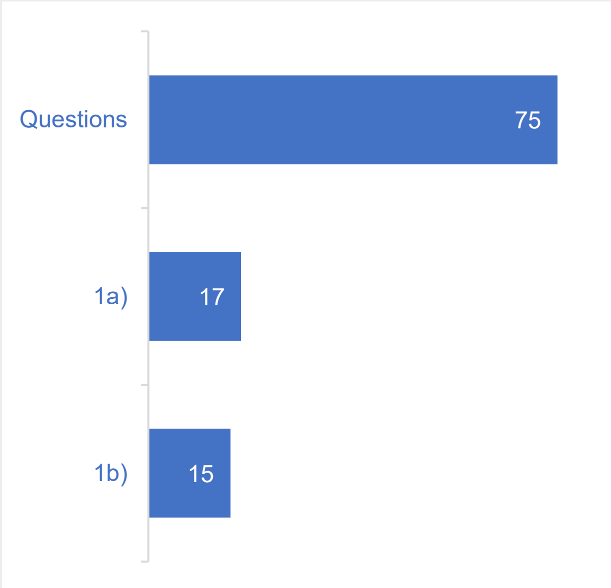
1. Number of information requests made because of:

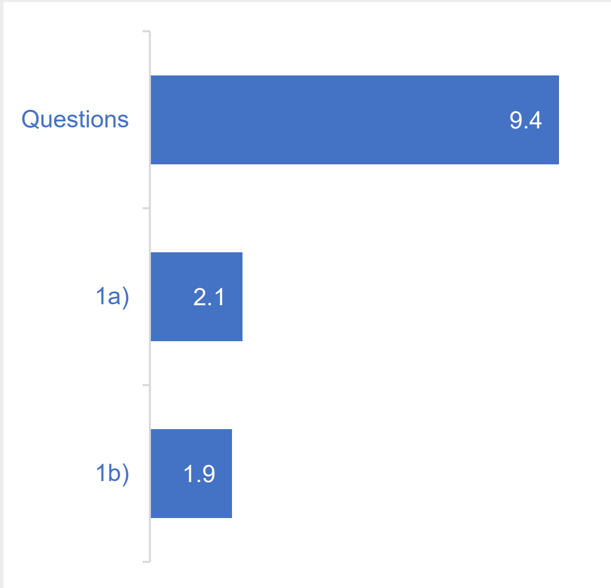
a) ambiguity/insufficient information around AR/RBs programmes of activity and whether they constitute permitted/non-permitted activities

b) ambiguity around source/s of funding for these activities and whether that funding is adequate

Target: Decreasing trend

Note: This metric was not tracked as part of the 2020 applications. Therefore, 2021 will serve as the baseline for establishing the decreasing trend.





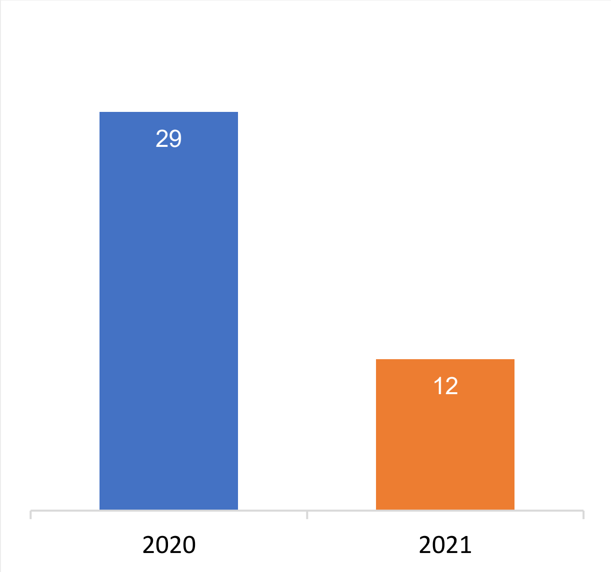
There has been greater information around the programmes of activities and adequacy of funding (and fewer questions raised by the LSB in this regard) and how these activities relate to the regulatory objectives. As some ARs/RBs acclimatise to the Rules and the scrutiny that accompanies this, we would expect the number of information requests and questions to decrease over time overall, but particularly those raised relating to programme of activity and or source and adequacy of funding.

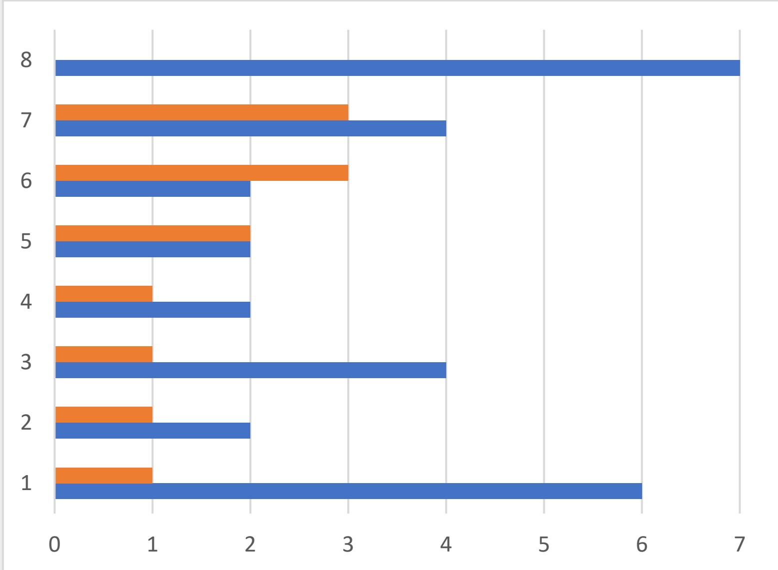
This has, in some instances, been reflected by the decreasing trend in the need for the LSB to set expectations within the DNs in 2021 (see below).

2. Number of recommendations made in the 2021 Decision Notices for areas of improvement in contrast to 2020.

Target: Decreasing trend

Breakdown for each AR/RB





The Rules have initiated a decreasing trend in the need for the LSB to set several recommendations within each Decision Notice for the ARs/RBs.

Outcome 2

To support more meaningful discussion and debate across the sector on the purpose, benefits, costs, and value of regulation, which ought to result in improved standards and promote the regulatory objectives.

Metric 1

1. Engagement:

a) Number of persons reached by AR/RBs.

b) Number of consultation responses received by ARs/RBs*

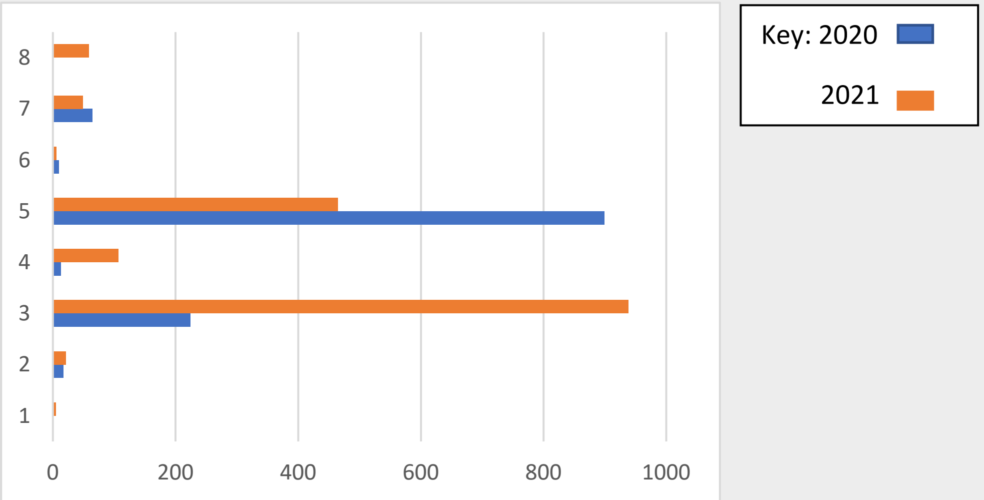
c) Percentage of ARs that have demonstrated active engagement (active engagement to be measured according to steps taken beyond publication of consultation and mail shots)

Target: Increasing trend

**Note: In 2021, some AR/RBs held roundtable events where responses were provided but are not captured in this table*

1a. Half of all ARs/RBs reached their entire regulated community/members, the other half reached a very significant number.

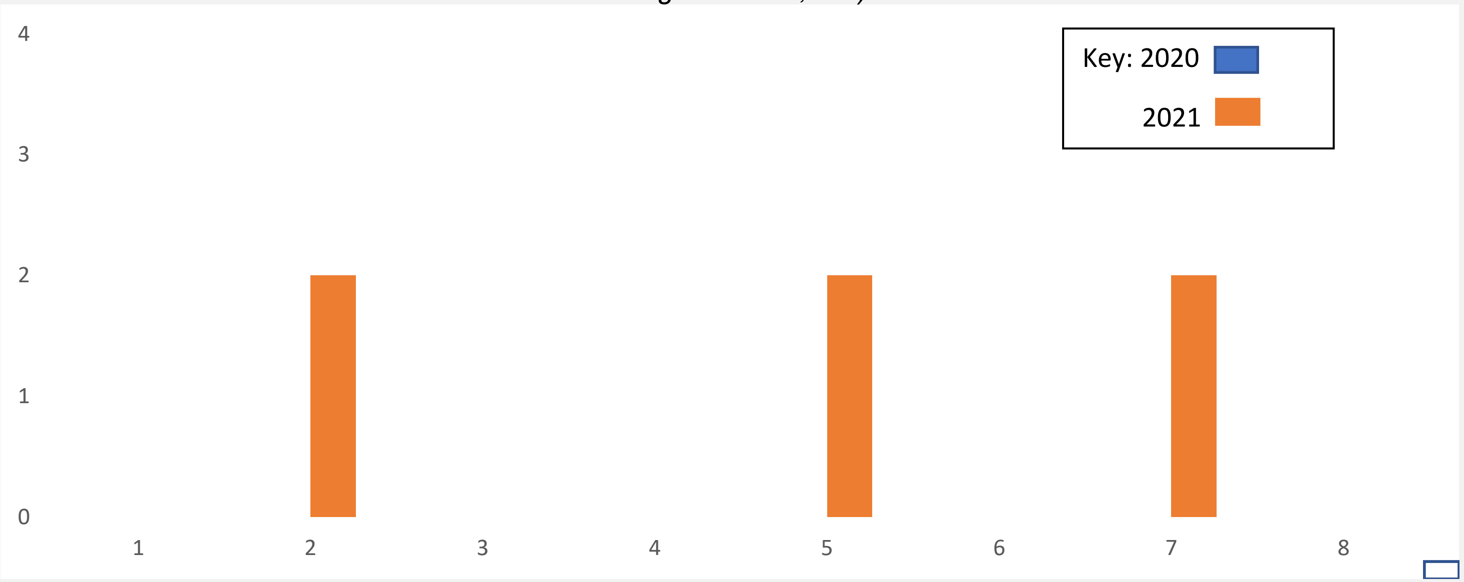
1b. Breakdown of number of consultation responses received for each AR/RB in ***2020*** *and* ***2021***



1c. Active engagement by 50% of ARs/RBs in ***2021***

There has been a step change in meaningful consultation and engagement by most of the ARs/RBs evidenced by a significant increase in consultation responses received, save for three RBs who received less responses than in 2020.

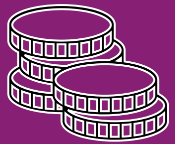
Metric 2 2. Evidence of link between expenditure of Practising Fee income and improved regulatory objectives (Qualitative assessment with scoring 1-3, weak to strong).	
Metric 3	

3. Equality Impact Assessment (EIA) Evidence that initial and full equality impacts have been conducted (using credible EDI data) and taken into consideration in the final decision (with mitigations if appropriate) on the level of Practising Fee. Target: Increasing trend	*Number of applications that included evidence of equality impact assessment in **2021** compared to **2020** (weak to strong evidence, 1-3)*  *Number of applications* Evidence of increasing trend. Five out of eight applications provided strong evidence of having conducted an EIA, whilst the remaining 3 demonstrated at least some evidence of having conducted an EIA. This is a significant step-change under the new Rules. As can be seen from the chart above, there was only one application last year that provided strong evidence of having completed an EIA.

Outcome 3

To allow approved regulators, and their regulatory bodies if they have one, to demonstrate that they have sufficient funds and financial resilience to regulate and operate efficiently and cost effectively

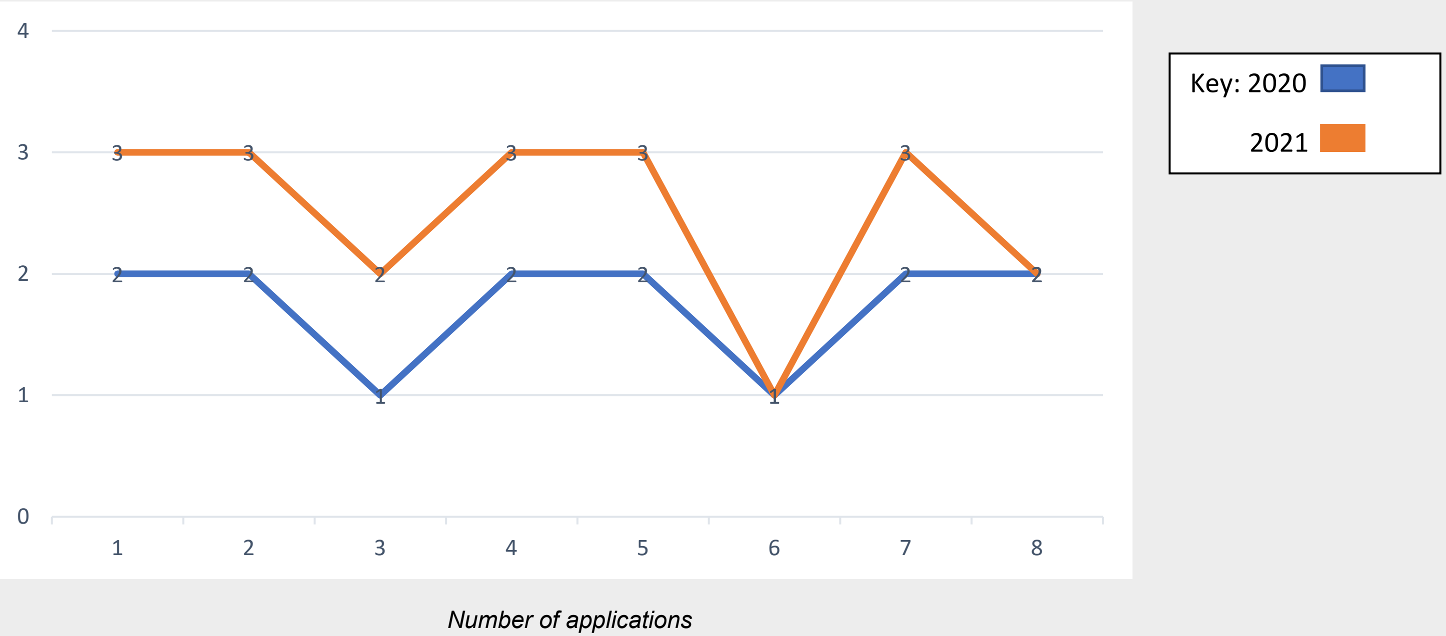
Metric 1



1. Reserves
   Evidence of that the AR/RB has clearly set out all its strategic risks, its reserve policies and how targets are set, the AR/RB has provided assurance to the LSB that it is financially resilient.

   Target: Increasing trend

*Evidence of applications which demonstrated financial resilience (weak to strong, 1-3) in **2020** and **2021**.*



Evidence of increasing trend as
- 5 applicants were able to demonstrate strong evidence of financial resilience
- 2 demonstrated some evidence.
- Only 1 scored weak evidence of financial resilience.

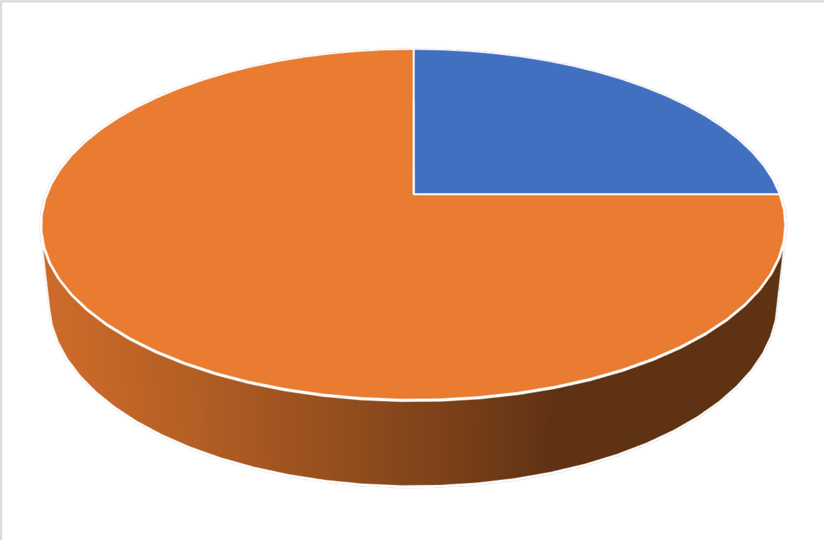
We would expect all ARs/RBs to demonstrates strong evidence of financial resilience in the next PCF cycle

Metric 2

2. Evidence that the AR/RB **does not** operate efficiently and cost-effectively

Target: Decreasing trend.

Proportion of applications where there was evidence of inefficient and /non-cost effective operation in 2021.



We identified two applicants who had some evidence that indicated they might not operate cost efficiently and effectively. This enabled us to set clear expectations for future applications to obtain greater evidence of efficiency and effectiveness.

Outcome 4

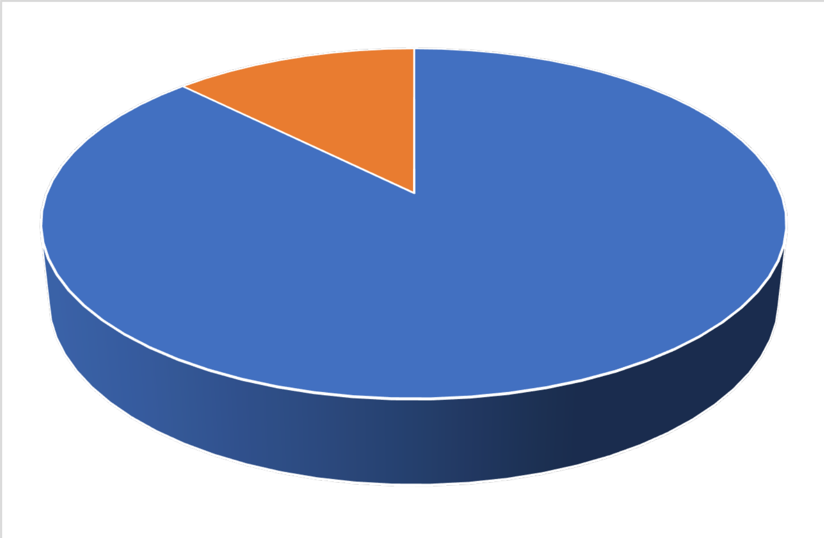
To inform the LSB’s wider oversight responsibilities.

Metric 1

1. Percentage of applications that demonstrate positive link between Practising Fee income and our annual performance assessments, where relevant.

Target: 100%

Proportion of applications which demonstrated a positive link in 2021



All but one of the ARs/RBs demonstrated a positive link to the regulatory performance outcomes (where relevant); for the one AR/RB, as it was not clear how the budget would support the delivery of all the RBs’ regulatory (two had no regulatory performance commitments).

This is an improvement from previous applications as this link was unclear in the 2020 applications. We took steps during our assessment to secure assurance, however, the target of 100% was not reached in applications and therefore careful monitoring will be required in future.

Expected, longer-term outcomes and impacts

7. In the longer term, the LSB will evaluate:
    - whether it has all the necessary information it needs to promote consistently high standards of applications
    - the data available to compare results from previous application cycles. This will enable the LSB to spot thematic trends of improvement (or otherwise) of the ARs consistency in meeting key indicators
    - whether there is a sustained commitment towards EDI (Equality, diversity and Inclusion). The LSB will monitor Equality Impact Assessments to ensure they continue to form an integral part of applications.
    - whether AR/RBs continue to demonstrate financial resilience, agility and integrity
    - if ARs/RBs have confidence in a fair, transparent and robust assessment of applications with tailored/bespoke feedback being provided to each AR through their Relationship Manager at the end of each application cycle
    - improved regulatory performance through adequate targeted funding with a focus on the regulatory objectives and AR/RBs commitments under the Regulatory Performance Framework.

Conclusion

8. This evaluation provides confidence that the Rules and Guidance introduced in 2021 have had a positive impact in progressing the outcomes the LSB set out to achieve. Applications are clearer and there is greater transparency around programmes of activity and funding. This serves to improve the AR/RBs' accountability of funding to the regulated community and AR/RBs were able to demonstrate a step change in active engagement with their regulated community/members which drive improvements in standards. Further, all ARs/RBs had conducted an equality impact assessment with five of the eight applications providing strong evidence in support of their EIA, whilst the remaining three demonstrated at least some evidence in support of their EIA.

9. While we can observe that all AR/RBs have demonstrated how their programme of activities relate to the regulatory objectives, it is too early to demonstrate the extent of the impact of these, but this is something which future regulatory performance reviews should capture, as ARs/RBs will be required provide an annual assessment of the benefits of their programme of activities in future cycles.

10. The evaluation also showed that five of the eight ARs/RBs were to demonstrate strong evidence of financial resilience, with two demonstrating some evidence and one providing weak evidence. We would expect all ARs/RBs to demonstrate strong evidence of financial resilience in the next cycle. Of the eight ARs/RBs, only two demonstrated some evidence that they do not operate cost efficiently and effectively, while the others provided weak evidence in this respect.

11. The Rules have also served to inform the LSB's wider oversight responsibilities and promote a more joined up approach to regulation, as all but one of the ARs/RBs demonstrated a positive link to the regulatory performance outcomes (where relevant). Although this is an improvement from previous applications, in future we will expect all applications to clearly demonstrate this.