



The Solicitors Regulation Authority's Regulatory Standards report 2015/16

May 2016

Background

Who we are and what we do

1. The Legal Services Board (LSB) is responsible for overseeing legal services regulators in England and Wales. We are independent of Government and of the legal profession. We hold to account regulators for the different branches of the legal profession. We drive change in pursuit of a modern and effective legal services market: one that better meets the needs of consumers, citizens and practitioners.

Regulatory standards

2. We have a process in place to hold the regulators to account for their performance. We consider the legal services regulators' performance against five regulatory standards: outcomes-focused regulation, risk assessment, supervision, enforcement and capability and capacity.
3. Effective delivery of the regulatory standards should lead to higher standards of professional conduct and competence amongst lawyers. It should help to create a legal services market with increased consumer choice and consumer confidence. It should encourage innovative practitioners who, if posing fewer risks, are not subject to intrusive or inflexible regulation. It will introduce a level of consistency in the approach to the regulation of legal services.
4. This is our second full assessment of the Solicitors Regulation Authority's (SRA) performance against the regulatory standards. To undertake this assessment we asked the SRA to complete a self-assessment against the five regulatory standards. We also considered other evidence such as the results of a questionnaire aimed at understanding the experiences of individual users of the SRA, the outcomes of in-depth interviews with, and written responses from, key stakeholder organisations and information gained in other areas of our work, such as statutory decisions and thematic reviews.
5. This report sets out our view on the performance of the SRA against each regulatory standard as well as the grades we allocated to it. It should be read in conjunction with our thematic report on the performance of all of the regulators against the regulatory standards.¹ At Annex A we have provided some facts and figures about the SRA.
6. Individual reports have been produced for each of the eight regulators. Care should be taken, if reading the other reports, to ensure misleading comparisons are not made, particularly in relation to the grades given. There are differences in: the size of the regulators, in terms of staff numbers, budget, and the regulated communities; the risk profiles; who they regulate

¹ The thematic report can be found here: http://www.legalservicesboard.org.uk/Projects/developing_regulatory_standards/index.htm

(individuals, entities and alternative business structures (ABS)); and the types of consumers their regulated communities engage with. We have taken the context of the SRA into account when considering its performance against the regulatory standards. The grades available are listed below.

- Good – all indicators embedded appropriately in the organisation and inform day to day working practices.
- Satisfactory – significant progress is being made to embed indicators and use them in day to day working practices.
- Undertaking improvement and work is well underway – indicators have been introduced but are not yet embedded appropriately in the organisation and do not yet inform day to day working practices.
- Needs improvement and work has started recently.
- Recognise this needs to be done but work has not yet started.

The next steps

7. The report indicates the areas where we think that there is scope for improvement. We will agree with the SRA a specific action plan as the basis for our future monitoring of performance. We aim to publish the action plan by the end of June 2016.
8. We would like to thank all those who contributed time, energy and insights to this regulatory standards review.

Overall assessment

9. We are satisfied that the SRA has made progress against our regulatory standards since our 2012/13 Regulatory Standards report and our 2015 Update Report.² It has undergone extensive changes in its leadership since that time, which have brought about resulting changes in its regulatory approach. We are now also seeing clear outcomes from some of the systems and processes that it had been putting in place in 2012/13. For example it has been able to demonstrate a mature and embedded approach to risk management, leading us to grade the SRA higher in this area than it has done itself.
10. There have also been significant changes to the structure of the SRA's operational functions, particularly to its supervision team. The SRA has focused on improving its operational performance and this has led to improvements in performance for authorisations and well as some improvements over 2015 in its supervision and enforcement key performance indicators (KPIs). However, a long awaited IT solution for managing the operational functions of the organisation has still not been forthcoming.
11. The SRA is in the midst of an extensive programme of reform across all areas of its business. Underpinning this are plans for a fundamental review of its Handbook during 2016 and 2017. We welcome the ambitions of the SRA's reform programme. It is also important however that the SRA maintains its focus on continuing to improve the performance of its core operational functions.

² This is a reference to the following reports: *Developing Regulatory Standards: an assessment of the Solicitors Regulation Authority* report (February 2013) and our *Regulatory Standards 2014/15: an update report on the performance of the legal services regulators* (February 2015). Hereafter referred to as 2012/13 Regulatory Standards report and the 2015 Update Report. These reports can be found here: http://www.legalservicesboard.org.uk/Projects/developing_regulatory_standards/index.htm

Grades

12. We set out below the grades that the SRA and LSB awarded in 2012/13 and 2015/16. These show that the SRA has made progress against the risk assessment, enforcement and capability and capacity standards in particular. While the grades for outcomes-focused regulation and supervision remain the same, we consider that there has also been progress in these areas. The SRA's programme of reform across all of its activities has been extensive and the changes are continuing. The grades reflect this.

Grade Standard	Recognise this needs to be done but work has not yet started	Needs improvement and work has recently started	Undertaking improvement and work is well underway	Satisfactory	Good
Outcomes- focused regulation	LSB 2015/16				
	SRA 2015/16				
	LSB 2012/13				
	SRA 2012/13				
Risk assessment	LSB 2015/16				
	SRA 2015/16				
	LSB 2012/13				
	SRA 2012/13				
Supervision	LSB 2015/16				
	SRA 2015/16				
	LSB 2012/13				
	SRA 2012/13				
Enforcement	LSB 2015/16				
	SRA 2015/16				
	LSB 2012/13				
	SRA 2012/13				
Capability and capacity	LSB 2015/16				
	SRA 2015/16				
	LSB 2012/13				
	SRA 2012/13				

Assessment against the regulatory standards

Outcomes-focused regulation

To deliver this regulatory standard, we consider that regulators must:

- have high quality, up-to-date and reliable evidence on what legal services consumers need and how they use the services
- have effective engagement with consumers
- demonstrate that outcomes are being achieved
- review and update their arrangements based on the evidence they gather.

13. When we undertook our first assessment of the SRA's performance in 2012/13, the SRA was lacking both evidence about consumer needs and a focus on consumers in its activities. We also considered that many rules were very detailed and in particular, we highlighted our concerns about the SRA's separate business rule.

14. Having completed the majority of actions we set out in our 2012/13 Regulatory standards report, our 2015 Update report commented favourably on:

- developments in the SRA's approach to consumer engagement
- research which had been undertaken by the SRA
- positive revisions to the SRA's Handbook.

15. We were however of the view that progress in building evidence about consumer needs and consumer focus in activities had not been as rapid. Since our 2015 Update report, we consider that the SRA has gone some way to address this concern, particularly demonstrated by its "Question of Trust" work. It has also continued to develop its evidence base and take a more outcomes-focused approach to its regulatory arrangements. It is currently in the midst of an extensive programme of reform, the culmination of which will be the publication of a revised Handbook in 2017. We do however consider that it still has work to do in this area. In particular we would expect the SRA to be able to demonstrate that outcomes are being achieved.

16. In terms of addressing a priority area from our 2015 Update report about having high quality, up-to-date and reliable evidence about what legal services consumers need and how they use the services, the SRA has undertaken two consumer focused pieces of research during 2015. One about lawyer client relationships in large firms and the other focused on the quality of legal services for asylum seekers. It also commissioned a poll of the views of consumers about the independent regulation of solicitors. These are good examples of the type of evidence that can be collected. We are therefore encouraged that the SRA plan to build on this work (as set out in its research programme) and expand its evidence base to include a broader range of consumers.

17. A notable area of progress since our 2012/13 Regulatory Standards report has been the SRA's efforts to engage effectively with consumers. We note some key examples below.

- The "Question of Trust" programme of work. This will support the development of a professional standards framework that will set out the SRA's thresholds for how seriously it will take different issues as a regulator. The activities to inform this work have involved a significant amount of engagement with a wide range of groups, including consumer events and efforts to engage groups that can usually be hard to reach, such as the traveller community. The SRA also held sessions with stakeholders representing consumers' interests, such as Citizens Advice.
- The "Tone of Voice" work has seen the SRA review all of its corporate communications to ensure that the tone of how it communicates is appropriate.
- The SRA has worked with the other legal services regulators on joint consumer focused initiatives, for example, it runs the Legal Choices website, which is aimed at consumers, on behalf of all of the regulators.
- In our 2015 Update report, we commented on improvements which the SRA has made to how it communicates with consumers who report misconduct.

18. The collection of evidence to understand the impact of rules imposed and whether those rules are delivering the outcomes consumers expect was a priority area in our 2015 Update report. This helps to instil confidence in regulation. This is particularly important for the SRA, given that it is the biggest regulator of legal services and is undertaking an extensive programme of regulatory reform. We note that the SRA has undertaken a programme of engagement with those it regulates and feedback we have had from stakeholders suggests that the SRA's efforts have largely been positively received. We also note that the SRA has designed and undertaken its first stakeholder tracking survey during 2015. The results of the survey have not yet been published. When they are available they should provide an indication of whether outcomes are being achieved and help the SRA to improve its performance in this area.

19. A further aspect of outcomes-focused regulation is that regulators review and update their arrangements based on the evidence they gather. The SRA has made numerous and wide-ranging changes to its Handbook and rules over the past couple of years. Many of these changes have been aimed at reducing regulation and regulating in a more proportionate and outcomes-focused way. Examples of this are listed below.

- It has removed the most restrictive elements of its separate business rule, following a comprehensive review and consultation. This saw the removal of prohibitions on authorised bodies and individuals having links with separate businesses that carry on non-reserved legal activities.

- It has introduced a competence statement for those it regulates. This is a positive and outcomes-focused document which supports the SRA's move to a more outcomes-focused approach to continuing professional development and is in line with the expectations of LSB's Education and Training Statutory Guidance.³
- It has ceased regulating solicitors that are also insolvency practitioners for their insolvency work, recognising that this is an area where it does not have expertise, and that there is a suitable alternative regulator for this activity.

20. While we commend the SRA for its attempts to remove unnecessary restrictions, we have expressed concern about the need for supporting evidence and analysis to justify a change in approach, in some of the SRA's applications to us to alter its regulatory arrangements. For example, the proposed changes to rules for professional indemnity insurance towards the end of 2014. We therefore welcome the SRA's efforts to gather proportionate evidence to inform its approach, its "Question of Trust" work being a key example.

21. A further way for the SRA to better demonstrate that it is drawing on appropriate evidence and analysis would be to consider further improvements to how it approaches its consultation process. We note that the SRA's published approach to consultations follows Cabinet Office best practice. However, a common theme to emerge from the feedback that we received was that the number of consultations undertaken by the SRA risked 'consultation fatigue'. In addition there were concerns about the quality of consultation papers and the timing, for example publication of consultations over the summer. Stakeholders also considered that the outcomes of consultations could lead the profession to question whether their views were adequately taken into account. We consider that this concern is amplified by the fact that the SRA does not currently publish consultation responses. We understand that it intends to start doing this from June 2016 and welcome its efforts to address this concern.

22. The SRA intends to undertake a two-stage review of its Handbook during 2016 and 2017. We agree that a comprehensive review of the Handbook, which has been in operation since 2011, is now timely. As the SRA has recognised in its November 2015 "Looking to the Future" paper, the Handbook "is too large, complex and detailed and needs regular amendment just to stand still". This is evidenced by the fact that the SRA's regulated community is now operating under version 16 of a Handbook that has been in force for a little over four years. As well as basing the review on high quality, up-to-date, reliable evidence, we would expect the SRA to build into its development work how it will measure whether its intended outcomes for the Handbook review are being met. This will be especially important given that its review will be starting from a 'first principles' look at how it regulates individuals and organisations. We would also urge the

³ The LSB's Guidance on regulatory arrangements for education and training issued under section 162 of the Legal Services Act 2007 is available at: http://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/20140304_LSB_Education_And_Training_Guidance.pdf

SRA to work to ensure that the supporting guidance for the Handbook is proportionate and appropriate.

23. There was some suggestion in the feedback we received that the direction of the SRA's travel can be unclear to those regulated by the SRA. The SRA is taking steps to address this point as evidenced by the recent update to its policy statement and the "Looking to the Future" paper. However, this highlights a risk that a wholesale review of the Handbook may be too much for firms (and the organisation) to cope with. The SRA will need to consider carefully how it manages this risk.

Risk assessment

To deliver this regulatory standard, we consider the legal services regulator must:

- have formal, structured, transparent, evidence-based approaches to the collection, identification and mitigation of current and future risks which inform all regulatory processes
- focus their risk analysis on vulnerable consumers and consumer detriment
- have processes in place which are understood by the Board and staff
- demonstrate that outcomes are being achieved.

24. In our 2012/13 Regulatory Standards report, we considered that while the SRA had made progress towards putting structures in place for the effective management of risk, there was still a large amount of work to do. Our 2015 Update report noted the SRA's progress in this area and highlighted the Risk Outlook in particular as demonstration of this progress. The 2015 Update report also expressed concern about the continued lack of an IT solution. The IT remains a concern and we explore this further in the capability and capacity section of the report.
25. Despite the SRA's continued IT problems, we consider that there have been improvements in the SRA's performance against this standard. In particular, the SRA has continued to develop its Risk Outlook and supporting resources. It has developed its evidence base to support its risk work, including a specific piece of work on vulnerable consumers and we have seen evidence that outcomes in this area are being achieved. The SRA's ambitions and standards for its performance in risk management have increased and so it has graded itself the same as it did in 2015 (undertaking improvement and work is well underway). However, we would grade the SRA higher and consider its approach to risk management satisfactory.
26. We have seen evidence that the SRA's approach to risk management is embedded across its regulatory processes. It has had a clear risk assessment framework in place for a number of years. This is available on its website and supported by a published underpinning regulatory risk index. Risk is considered in the SRA's operational work and the SRA has a KPI in place to risk assess all 'contacts' made with it. This data and information feeds into the SRA's regulatory approach. For example, an analysis of the SRA's data helped to inform its programme of work to support small firms.
27. The SRA's communications about risk are good and it is clearly seeking to engage with both those it regulates and its staff in terms of risk across its activities. For example, the Risk Outlook clearly sets out the SRA's priority risks, why those risks matter, risk controls and supporting case studies. The Risk Outlook is a live document which is kept updated as the SRA identifies new risks through its work, most recently in spring 2016 to reflect the SRA's latest research

and information. The SRA has also published several topic papers to support its risk work. These have covered areas such as vulnerable clients and issues specific to small firms.

28. Feedback we received demonstrates that the SRA is achieving outcomes through its communications about risk. Stakeholders told us that they thought the SRA has a strong understanding of the risks faced by the profession and that this had largely been demonstrated by the Risk Outlook. We also note the SRA's own data which shows that 60% of firms who took part in its cost of regulation survey had used the topic papers to help them to manage risk.
29. We have also seen the SRA seeking to focus its risk analysis on vulnerable consumers and consumer detriment, and building its evidence base to identify the risks faced by consumers that use regulated legal services (a priority area from our 2015 Update report). The SRA's 2015 Risk Outlook highlighted the risk of poor standards in the quality of legal services to vulnerable consumers. In response, the SRA published a report in March 2016 to bring together a range of resources, information and case studies to assist solicitors and law firms who provide services to vulnerable clients. It has also recently published research on consumers of asylum legal services. This work is welcome and we expect the SRA to identify ways to build upon and measure the success of its work in this area.
30. The SRA has shown that the risk processes in place are understood by the Board and staff in ways which include:
 - key committees of the Board (the Finance and Audit Committee and the Policy Committee) have specific responsibilities related to risk
 - its internal risk guides (see below)
 - the development of operational targets to monitor the speed at which contacts are risk assessed – 100% of new events are assessed within five days.
31. A priority area from our 2015 Update report was that we expected to see the development of learning programmes and tools to ensure that a consistent evidence-based assessment of risk informs all regulatory processes. As part of our assessment we reviewed extracts from the SRA's internal risk guides, which are available to all SRA employees, and used by authorisation and supervision teams to assist their understanding of regulatory risk and encourage consistent decision-making. The guides are updated frequently. These guides provided us with evidence that the SRA is seeking to ensure that staff learning about risk is ongoing.

Supervision

To deliver this regulatory standard, we consider the legal services regulator must:

- have a supervision policy that is carried out with reference to identified risks, all available information and is underpinned by an evidence-based understanding of the different market segments
- have access to a range of supervisory tools and willingness and capacity to use them
- have processes in place to enable learning to be shared and performance to be monitored.

32. In 2012/13, we noted that work to develop the SRA's supervision function was well underway but we considered that the SRA still had a substantial amount of work to do. Our view in our 2015 Update report remained that that the challenges for the SRA in this area were significant. The SRA has sought to make improvements to its supervisory function during 2015, through structural changes. However we consider that there is still some way to go for the SRA and therefore it remains in the category of undertaking improvement in this area. In particular, we would suggest that enhancements could be made to the transparency of the SRA's supervisory approach.
33. The SRA does not have a specific supervision policy document available on its website. This is disappointing as a priority area for all regulators which we highlighted in our 2015 Update report was to publish proactive supervision policies informed by evidence and risk. We do however note that the SRA provides extensive information on its website about how to report concerns to it, how it handles those reports and the process it follows in undertaking its supervisory activity. As part of its assessment of all of the reports it receives, the SRA states that it considers the risk of doing nothing against the cost of acting. The SRA also has strong information gathering arrangements to assist in its supervisory activity, these include on-site investigations and powers under section 44B of the Solicitors Act 1974, which require the production of documents for investigatory purposes.
34. A further priority area for all regulators from our 2015 Update report was monitoring and reporting on the effectiveness, proportionality and value for money of supervision approaches. We saw limited evidence of this from the SRA. Feedback we received from stakeholders suggested that the SRA supervisory activity could be perceived as inconsistent in its approach and outcomes, and that it could be quite heavy-handed and focused on investigation. We note that the SRA has established a team to specifically advise small firms with compliance issues and this may help to address some of the concerns raised with us. A published supervision policy and reporting on its effectiveness in terms of proportionality may further assist to address the concerns raised with us.

35. The SRA is beginning to underpin its supervisory activity with an understanding of the different market segments. It has established a dedicated thematic team to respond to potential risks that it identifies in the legal market and is developing its thematic supervisory activity. Examples of its work are listed below.

- Its thematic work on Personal Injury (PI) has led to further work to better understand the impact of PI activity on consumers.
- It has also conducted a review of the Financial Stability Programme, the outputs of which have been overseen by a committee of the Board.
- It has undertaken a review of anti-money laundering activity and it has issued guidance about a number of 'high risk' areas, such as management of client accounts.

36. The SRA has undertaken a number of activities to share learning about supervisory activity internally including:

- introducing case review and case direction meetings, which include senior representatives from across its functions
- revising its operating manual with a view to improving consistency in approach
- changing its approach to induction to provide more intensive training and support to new starters.

37. In terms of the SRA sharing learning and information externally, the feedback we received suggested that information flows to the SRA more than it flows out of it. It was said that the SRA could improve how it shares intelligence with other regulators and stakeholders. The SRA recognised this in its own assessment. It stated that it needs to work more closely with other regulators, given that it is increasingly seeing individuals it authorises working in entities under other regulators. It is also seeing more individuals regulated by other regulators working in firms authorised by the SRA. This was reflected in the limited evidence available about how the SRA gains and uses information from other organisations to inform its activity. We consider that better information sharing will assist the SRA with its risk assessment, supervisory activity and help it to identify poor performance.

38. To monitor its supervisory performance, the SRA has several KPIs in place. Operational performance is reported to the Board via the Chief Executive's report and reported publicly. This is in line with an expectation in our 2015 Update report for SRA Board to maintain its work to hold the executive to account for regulatory performance. Supervision KPIs include measures to conclude event files within 12 months, to conclude high risk matters within six months and to conclude low risk matters within nine months.

39. The SRA also monitors the number of open matters. This has decreased during 2015 from a high of 3,400 in February 2014 to 1,998 in February 2016. We noted that the SRA's self-assessment showed that 281 supervision cases had been open for over 12 months. This was down from a figure of 694 in February 2014. The figure had further reduced to 270 by February 2016, suggesting that performance continues to head in the right direction.

Enforcement

To deliver this regulatory standard, we consider the legal services regulator must:

- have a range of effective and proportionate enforcement tools
- have published policies and guidance that enables others to understand the regulator's criteria for deciding to take action
- operate the enforcement function in a timely, evidence-based, fair and proportionate manner
- have appeal processes that are independent from the body or persons who made the original decision
- have processes in place to ensure that learning is shared and performance is monitored.

40. In our 2012/13 Regulatory Standards report, we were critical of the SRA's performance against this standard, in particular the number of open cases at any one time and the length of time it took for the SRA to issue a case to the Solicitors Disciplinary Tribunal (SDT). In our 2015 Update report, we recognised that there had been improvements against the standard and continued to encourage the SRA and SDT to work together to better align KPIs.
41. The SRA is in the process of making a number of changes to the structure of its enforcement team as well as its enforcement policies and processes. While some progress has been made against this regulatory standard, most notably some improvements in performance against KPIs, the SRA still has some work to do before it can be considered 'satisfactory' in this area. This includes working towards introducing the civil standard of proof for all appeal processes and making improvements to the quality of its enforcement work.
42. We expect regulators to have a range of effective and proportionate tools at their disposal. The SRA's enforcement arrangements allow it to act in a number of ways if it wishes to take action against a regulated individual or firm. These are set out on the SRA's website and include:
- issuing a written rebuke
 - issuing a fine
 - reaching a 'regulatory agreement' with the individual or firm. These allow the SRA to settle one part of a specific investigation or an investigation in full
 - withdrawal, suspension, or revocation of status as a regulated firm or individual
 - prosecution before the SDT
 - closure (intervention) or control of a practice.
43. In terms of publishing policies and guidance to enable understanding of the regulator's criteria for taking action, the SRA provides extensive information on its website about what its enforcement tools are and how it uses them. This

information also refers to the relevant rules in the SRA's Handbook. The 'consumer' section of the SRA's website includes information about how to check a solicitor's record. It also provides clear information about the process for notifying the SRA about potential misconduct, as well as how that process works alongside the Legal Ombudsman complaints scheme, which addresses a priority area for all regulators from our 2015 Update report. The SRA is likely to further increase consumer understanding about its approach to enforcement with its "Question of Trust" work (see the outcomes-focused regulation section of this report); an aspect of this work has been to seek to understand how consumers assess the seriousness of various 'misconduct' scenarios.

44. An aspect of one of the priority areas from our 2015 Update report was about improving the transparency of enforcement processes. Generally, the SRA is transparent in its regulatory action. Most, but not all regulatory decisions are published on the SRA's website. The SRA's publication policy sets out when it does and does not publish a decision. For example, if it considers that it is not in the public interest to do so. We were satisfied in our [*Regulatory sanctions and appeals processes report – an assessment of the current arrangements \(March 2014\)*](#)⁴ that the SRA's approach in this respect is in line with best practice.
45. We did however receive feedback suggesting that the SRA could be more proportionate and transparent in its intervention activity. We note that the initial findings of research into the SRA's interventions activity (which was highlighted by the SRA in its 2015 update to us but is not published), suggested that further work could be done on the dissemination of information following intervention. The SRA may wish to consider how it can make improvements to transparency in this area. This is likely to help it to address concerns raised about the proportionality of its approach as the SRA can be clearer about why it has acted.
46. The SRA has a published enforcement strategy in place. Following a partial review of the strategy in 2015, the SRA has plans to include the enforcement strategy in a fuller review of all decision-making guidance. We are pleased that this project involves reviewing the guidance available to support staff exercising discretionary powers across the SRA's key regulatory functions. This addresses a particular concern that we highlighted in our 2012/13 Regulatory Standards report.
47. We would expect the review of decision-making guidance to consider the quality of decision-making and of the case files brought before the SDT. There has been some recent criticism about the quality of the SRA's approach to decision-making and pleadings in cases which have been brought before the SDT and the High Court. For example, in the case of *SRA v Chan & Others*. It is not clear from the evidence that we have seen how the SRA has reflected on the recent criticism,

⁴ LSB report Regulatory sanctions and appeals processes report- an assessment of the current arrangements (March 2014)
http://www.legalservicesboard.org.uk/projects/thematic_review/pdf/20140306_LSB_Assessment_Of_Current_Arrangements_For_Sanctions_And_Appeals.pdf

although we note that it has recently established a quality assurance team and is seeking to better align the work of its supervision and legal and enforcement teams.

48. The SRA's enforcement processes provide for appeals to be heard by the statutorily independent SDT, and in certain cases the High Court. We considered the SRA's appeal processes in our 2014 *'Regulatory sanctions and appeals processes'* report. We noted that the SRA's sanctions and appeal arrangements for ABS and those working for ABS are different to those for traditional firms and those that work in them, and individual solicitors.
49. Our report found that this results in two anomalies that we consider work against the consumer interest: it is more difficult to make a finding of a Handbook breach against a non-ABS firm; and for the same Handbook breach, different standards of proof are used, depending on the ownership structure of the firm. We concluded in our report that we did not consider that it is acceptable for there to be different standards of proof used by the same regulator for different types of firm. We remain of the view that the civil standard of proof should be used at each stage of the enforcement process. We note the SRA's recent public recognition (in January 2016) that the SDT should adopt the civil standard of proof. We expect that this issue will be considered by the SRA when it carries out some joint work with the BSB on both of their enforcement processes.
50. An aspect of a priority area for all regulators from our 2015 Update report was that regulators should improve the timeliness of enforcement processes. The SRA's KPIs include a target to close 90% of matters within 12 months of initial assessment; and the time taken from initial assessment to issuing proceedings to the SDT. Since late 2014, the SRA has usually reported on its performance against these KPIs at its public Board meetings. The performance of the legal and enforcement team has also been scrutinised by a committee of the Board.
51. Performance against the SRA's target to conclude 90% of matters within 12 months has improved. The SRA achieved 91% in February 2016, up from 77% in February 2014. The average number of days taken from initial assessment to issuing proceedings to the SDT was reported to the Board in January 2016 as being 591 days. This figure was slightly down from 598 in January 2015, however we consider that this is still high. In February 2016, 89% of cases were issued to the SDT within SRA's internal target.

Capability and capacity

To deliver this regulatory standard, we consider the legal services regulator must:

- have clear and consistent leadership that ensures the whole organisation has a strong consumer focus
- have regulatory budgets and staffing set at appropriate levels for the risks associated with the market
- have a culture of transparency and improvement
- have management and governance processes in place which are capable of scrutinising the performance of the regulator.

52. In our 2012/13 Regulatory Standards report, we expressed concern about the lack of evidence the SRA had provided about its performance in this area. In particular, about whether the Board was holding the executive to account effectively. In our 2015 Update report, we observed improvements in the SRA's performance in this area, underpinned by initiatives to improve both operational and Board capability and capacity. We also commented favourably on improvements in performance for firm based authorisations. The SRA's performance for its authorisations work continues to be strong. In addition, the SRA's leadership's efforts to improve engagement have been well received by stakeholders. However, we consider that the SRA could further improve its transparency in publicly reporting its performance.

53. The SRA's performance for authorising new firms is one area where we have seen significant improvements since our 2012/13 Regulatory Standards report. Then our concerns led to us to use our powers under the Act to require the SRA to regularly report to us about its performance for its authorisations activity. We are now satisfied that the SRA's performance authorising new firms has improved substantially. As a result we ended our formal reporting requirements in April 2015. As of October 2015, the average time to make an authorisation decision about a firm was less than three months and the SRA had significantly reduced 'work in progress' levels to 186 (from a comparative September 2014 figure of 346). We also note that the SRA has acted on feedback it received and revised its application forms. Noticeable improvements in authorisation processes were reflected in feedback we received from stakeholders.

54. Leadership of the SRA has changed significantly since our first review of its performance in 2012/13. Most notably, a new Chief Executive was appointed in 2014 and a new Chair in 2015. There has also recently been a significant change to the membership of the Board, which saw five members change at the start of 2016. Changes in leadership can risk uncertainty about direction amongst the regulated community and staff. We are therefore pleased to see the senior team undertaking an extensive programme of engagement with the profession, local

law societies and the SRA staff. Many of those we spoke to commented positively on the SRA's efforts to engage with the profession. There was however some suggestion from stakeholders that there was a misalignment between what senior executives say should happen and what happens at the operational staff level on a day-to-day basis (largely based on experience of the SRA Helpline). The SRA may wish to consider how it addresses this perception.

55. Evidence we have seen of the SRA developing the consumer focus of the organisation has included:

- its 'Tone of Voice' work (noted in the outcomes-focused regulation section of this report)
- the establishment a quality assurance team with a focus on timeliness, quality and customer service.

56. A key priority area for the SRA in our 2015 Update report was for it to report on the implementation of a new IT system. A new IT system to support the SRA operational functions had been in development for some time. However, following a recent review of the project, as part of a wider review of the corporate services shared by the SRA and The Law Society, the SRA has concluded that it would be more cost effective to stop the development of the new IT system and start again. We understand that an external consultancy firm will assist the SRA to map out what IT is in place, what activities are undertaken and what IT is needed to carry out these activities effectively and efficiently. In the meantime, the SRA is making small improvements to the current IT system where it can. We continue to view the development of an effective IT solution for the SRA's operational work as a priority for the SRA. We are aware that the SRA recognises this too.

57. The SRA is continuing with its plans for organisational development, which we reported on in 2015. For example, it has developed and launched a knowledge management repository and introduced a new self-assessment tool for staff. We note that the Board has maintained oversight of the organisational development through a 'Cultural Change Dashboard', which covers a range of areas such as performance KPIs, financial information, staff turnover and measures of internal engagement. This is good evidence that the Board is delivering its oversight function.

58. During 2015, the SRA has undertaken a review of its corporate governance arrangements. The review was focused on clarifying the roles and responsibilities of the SRA's committees and the scope of their decision-making powers. The SRA anticipates that any required changes to its committees will be fully implemented by summer 2016. We welcome the SRA's efforts to clarify and refine the focus of its committees, which we anticipate will assist in the Board's scrutiny of the SRA's performance.

59. A further priority area we identified for the SRA in our 2015 Update report was for it to increase the transparency of its performance and the accessibility of

information on the activity of the SRA Board (including a reduction of Board papers being discussed in private). While we welcome the transparency shown by the SRA in its public Board discussions about many of its regulatory reform proposals, we consider that the SRA could improve transparency of its discussions about performance. There is some high-level public reporting of performance against KPIs in the Chief Executive's report. However, the KPI dashboard reviewed by the Board at each meeting is not published. In our discussions with the SRA, it said that there was no cultural resistance to publishing more information and to being more transparent about costs, budgets and KPIs but that this was not a priority at the moment. Transparency about performance is vital to demonstrating that management and governance processes are working effectively. We therefore urge the SRA to address our concerns in this area.

Annex A

What is the Solicitors Regulation Authority (SRA)?

Key facts

- In December 2015, a total of 132,245 solicitors with practising certificates were regulated by the SRA (up from 129,246 in December 2014).⁵
 - In January 2016, the SRA regulated 10,294 entities made up of sole practitioners, partnerships, incorporated companies, limited liability partnerships and other bodies (10,312 in January 2015).⁶
 - The SRA gained licensing authority status in January 2012 and in February 2016 listed approximately 450 ABS on their ABS register.
 - The SRA's budget for the practicing year 2015/16 was £54.1 million (up 2% from £52.9 million in 2014/15).⁷
 - At 31 March 2015 the SRA employed a total of 558 full time equivalent members of staff.
1. The SRA is the independent regulatory arm of The Law Society, which is an approved regulator under the Legal Services Act 2007.
 2. The SRA regulates solicitors and law firms in England and Wales. It also regulates non-lawyers, who can either be a manager or employee of a law firm they regulate and other types of lawyers such as Registered Foreign Lawyers and Registered European Lawyers.
 3. The SRA's key responsibilities include:
 - setting principles and a code of conduct that those regulated by the SRA must abide by in order to provide legal services
 - supervising firms and individuals who are regulated by the SRA and may take enforcement action against those caught in breach of the SRA's leading principles
 - making sure those they regulate are qualified and insured to provide legal services by:
 - monitoring the performance of organisations providing training courses for people wishing to become solicitors
 - setting standards that people need to meet in order to qualify to provide legal services in England and Wales
 - assessing the suitability of people who need to be regulated by the SRA

⁵Information obtained from the SRA's website: http://www.sra.org.uk/sra/how-we-work/reports/data/population_solicitors.page

⁶Information obtained from the SRA's website: http://www.sra.org.uk/sra/how-we-work/reports/data/population_solicitors.page

⁷Information obtained from the SRA's application for practicing fees 2015
http://www.legalservicesboard.org.uk/Projects/independent_regulation/PDF/2015/20150723_SRA_TLS_To_LSB_Section_51_Application.pdf

- making sure that overseas lawyers meet the SRA's standards of training and suitability before they can practise as solicitors in England and Wales.
4. The SRA's work is overseen by a governing board, consisting of 15 members, seven solicitors and eight lay people (one of whom chairs the Board).
 5. The SRA has recently made changes to its governance structure. The changes included going from five to four committees. To assist the Board with its work, the SRA now has the following committees: Policy Committee, Finance and Audit Committee, Equality, Diversity and Inclusion Committee and People Strategy Committee.