

## The Solicitors Regulation Authority's (SRA) regulatory standards action plan

LSB regulatory standards requirement <sup>1</sup>	SRA actions	Review date(s) <sup>2</sup>
<b>Outcomes-focused regulation</b>		
<p>SRA has high quality, up-to-date and reliable evidence on what legal services consumers need and how they use the services.</p>	<p><i>1. LSB asked all regulators to consider what activities they could undertake to contribute to this requirement.<sup>3</sup> SRA's response:</i></p> <p>As part of Our 'Looking to the Future' programme we have introduced a strategy dedicated to helping us identify and understand more clearly what consumers need, and to shape the actions that help us better meet those needs.</p> <p>Activities include:</p> <ul style="list-style-type: none"> <li>- leading stakeholder engagement work about the use of regulatory data to support consumer decision making, and how we will further improve the availability of our data to consumers</li> <li>- delivering consumer engagement activities about the possible impacts of our future changes, including roundtable meetings with not-for-profit bodies that represent consumers, focus groups with members of the public, and a dedicated consumer survey</li> <li>- working with stakeholders including the Legal Ombudsman, the Legal Services Consumer Panel, and Citizens Advice to get views about our proposals and consumer needs.</li> </ul>	
	<p><i>2. LSB asked SRA to build on work to date to develop evidence about what legal services consumers need and how they use the services, and expand its evidence base to include a broader range of consumers, in line with its planned research programme. SRA's response:</i></p> <p>In addition to our research programme and 'Looking to the Future' and 'Question of Trust' campaigns, we work day-to-day to keep our consumer evidence base fresh and credible through other engagement work and analysis.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>- attending events such as Citizens Advice's annual conference and the national Pride celebrations to meet consumers and groups that represent them, to help enhance our understanding of consumer information needs</li> <li>- working with partner regulators to expand the reach of the 'Legal Choices' website, and using the site's social media channels to reach a broader range of consumers and hear what they really think about legal situations and lawyers</li> </ul>	

<sup>1</sup> Please refer to *The Solicitors Regulation Authority's regulatory standards report 2015/16*, available at [www.legalservicesboard.org.uk](http://www.legalservicesboard.org.uk).

<sup>2</sup> We expect to agree with SRA arrangements for reviewing progress against this action plan by the end of July 2016. This section of the plan will then be updated.

<sup>3</sup> SRA has said that it will work with other regulators to address the actions we have asked all regulators to complete, where appropriate.

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	<ul style="list-style-type: none"> <li>- asking consumers through focus groups about the information they are looking for from Legal Choices and an online register</li> <li>- analysing information and trends to gain insight into consumer experiences from consumer interactions managed by our operational functions, including our Contact Centre and Client Protection teams.</li> </ul>	
<p>SRA can demonstrate that outcomes are being achieved.</p>	<p><i>3. LSB asked all regulators to consider best practice from other regulatory regimes to find a mechanism to demonstrate that regulation is delivering the outcomes consumers expect and rules are having the desired impact. SRA's response:</i></p> <p>We are working to develop a framework for evaluation that will form part of Phase 2 of our review of the Handbook. This will measure whether or not our regulatory changes are effective and provide a better environment for innovation and growth for firms and businesses, increased opportunities for solicitors and improved access to high quality, reasonably priced, legal advice for consumers.</p> <p>We will also consider whether there are any gaps in our knowledge following consultation that we are unable to fill. If so, we will give consideration at that stage to commissioning further external input to the review.</p> <p>As we work toward final impact assessments we will also consider:</p> <ul style="list-style-type: none"> <li>- any further evidence and recommendations arising from the ongoing Competition and Markets Authority (CMA) market study of the legal services market</li> <li>- any further published research, and contributions to the evidence base, during the consultation and implementation period.</li> </ul> <p>In due course, if we introduce the Solicitors Qualifying Examination (SQE) and Quality Assurance Scheme for Advocates (QASA), they would both provide us with data to help evaluate whether they are effective in meeting the desired outcomes.</p> <p>We will undertake a further stakeholder survey in 2018, which will help us to understand better the way our reforms and work has impacted on the public and others.</p>	
<p>SRA reviews and updates arrangements based on the evidence gathered.</p>	<p><i>4. LSB suggested that as part of its review of the Handbook, SRA should:</i></p> <ul style="list-style-type: none"> <li>- ensure that it takes a 'first principles' approach (where appropriate)</li> <li>- take account of a robust evidence base to support any changes or decisions not to change aspects of their Handbooks or regulatory arrangements</li> <li>- ensure that there is an adequate consumer focus in the review.</li> </ul>	

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	<p><i>SRA's response:</i></p> <p>In developing our approach to reviewing our Handbook we have taken the regulatory objectives and the professional principles in the Legal Services Act as our starting point. We will continue to use these as the baseline for work on the next phase of the review.</p> <p>We have already undertaken widespread engagement in advance of the first consultation and commissioned an external economist's report on the likely impact of our proposed changes. We have a comprehensive programme of engagement for the first consultation period which includes focus groups, consultation events, engagement through social media and ongoing engagement through our handbook virtual reference group and small firms reference group.</p> <p>We also have a consumer engagement strategy, working with consumer bodies, and directly with consumers during the course of the review, to ensure that our final proposals are robust and fit for purpose (see above).</p> <p>We will develop a framework for evaluating the effectiveness and effect of our reforms over the medium term. If there are any evidence gaps we are unable to fill through consultation, we will give consideration to commissioning further external input into the review (see above).</p>	
	<p><i>5. LSB asked SRA to ensure that the supporting guidance for the Handbook is proportionate and appropriate. SRA's response:</i></p> <p>Our support strategy for the new Handbook will include the provision of example guidance and case studies alongside the first consultation. This will help us to develop a toolkit of support for Handbook users to accompany implementation. We also intend to work with stakeholders including representative bodies to support them in developing their own, bespoke, guidance and toolkits where that would be helpful/appropriate.</p>	
	<p><i>6. LSB asked SRA to consider the results of its stakeholder survey to assist with making improvements to performance. SRA's response:</i></p> <p>We will consider the responses to all of our research and survey work as part of our ongoing continuous improvement work, which has a clear focus on improving performance.</p>	

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	<p><i>7. LSB asked SRA to consider the points we made in our report in relation to consultations. SRA's response:</i></p> <p>The SRA Board will consider a paper on our consultation strategy on 13 July 2016.</p> <p>The SRA follows Cabinet Office guidelines in relation to consultation processes. These represent best practice. We will continue to consider each consultation on its own merits taking into account the scope, significance and impact of the proposed changes in determining our approach to consultation. For example, the first consultation on the Handbook changes will run for a 16 week period in recognition of the significance of the proposals and to give stakeholders adequate time to digest the changes and respond. We will continue with our strategy of extensive pre consultation engagement, consumer engagement and the use of digital communications, polling and webinars, plus specialist techniques such as Delphi groups, to support our consultations.</p> <p>We are growing our Virtual Reference Groups and are increasingly using the VRGs to review and comment on emerging policy and operational development. That helps us to improve the quality of any formal consultations.</p> <p>We also plan to publish all consultation responses received on our website. This arrangement will be in place by the time the responses to the first Handbook consultation are received.</p>	
	<p><i>8. LSB asked SRA to consider how to manage the risk that a wholesale review of the Handbook may be too much for firms (and the organisation) to cope with. SRA's response:</i></p> <p>We are consulting on the Handbook in two phases to give firms (and the organisation) the opportunity to digest and comment on the proposed changes in a manageable way. We have a comprehensive stakeholder engagement strategy (see above) to ensure ongoing engagement throughout the reform process by everyone affected (including our own teams). We also have a cross SRA project team taking forward the reforms. This includes workstreams responsible for the operational implementation of the changes and the digital support package.</p> <p>We are consulting in two phases but intend to implement all changes on a single implementation date to minimise uncertainty and any ambiguity. We do not propose to introduce the complete new Handbook until the end of 2017 at the earliest to give everyone a chance to adapt to the changes. We will work with firms and representative bodies in advance of implementation, to ensure that stakeholders are well informed, and well positioned to implement the new regulatory arrangements.</p>	

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	<p>In terms of organisational capacity, we have strong project planning and governance in place, underpinned by organisation wide communication and support for our proposals. This is a major and lengthy project and we have the resources in place to move this through development to implementation.</p>	
<b>Risk</b>		
<p>SRA can demonstrate that outcomes for risk are being achieved.</p>	<p><i>9. LSB asked all regulators to develop a way to monitor and assess whether risk-based approach is working in practice and achieving the expected outcomes. For SRA, this meant considering how it can build on its good work in this area to date. SRA's response:</i></p> <p>The Risk Outlook is one of our core mechanisms for measuring whether our risk-based approach is achieving expected outcomes. We gather a range of evidence from both data held internally and from external sources such as LeO to set our risk priorities for the year ahead.</p> <p>To compliment this work we have recently launched our Regulatory Environment Dashboard (RED). RED will be an internal quarterly report featuring the top risks and issues affecting the legal services market – all staff will be able to contribute. Its aim is to ensure our policy and operations are geared for any changes in the market. RED will also involve identifying efficient, proportionate responses that do not go beyond what is necessary and avoid duplication of effort across the organisation.</p> <p>Where we feel there are knowledge gaps or that further evidence is required to fully understand an issue, we commission research and analysis. A recent example of this is the research we conducted into the quality of advice to asylum seekers, which led us to commission a full thematic review of work in this area.</p> <p>The Regulatory Management (Thematic) team identify risks in the market and develop proportionate responses. Through desk-based research and engagement including visits with firms, they are able to monitor risks and issues in specific areas of concern in the market.</p> <p>In respect of future assessment of our regulatory model, our stakeholder engagement and responses to our consultation will inform our final proposals. We will commission and draw on further research including:</p> <ul style="list-style-type: none"> <li>a. the development of a framework against which we can measure and evaluate the impact of our eventual changes going forward</li> <li>b. further evidence and recommendations arising from the ongoing CMA study of the legal services market</li> <li>c. any further relevant published research for example the Legal Service Board's report about the alternative legal services market.</li> </ul> <p>We will also consider the benefit of further Equality, Diversity and Inclusion (EDI) impact assessment work once we have seen the responses to our proposals and the draft initial impact assessment.</p>	

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<b>Supervision</b>		
<p>SRA has a supervision policy that is carried out with reference to identified risks and is underpinned by an evidence base.</p>	<p><i>10. LSB asked SRA to publish a proactive supervision policy informed by evidence and risk to supplement the extensive information on its website about its supervisory activity. SRA's response:</i></p> <p>We publish the aims and objectives of our Supervision approach on our website and have extensive information on how to raise a concern, and how we deal with different types of concerns. We are in the process of updating our Enforcement Strategy, which incorporates details of our Supervision approach. This will be published on our website, along with key decision-making guidance, in 2017.</p>	
	<p><i>11. LSB asked SRA to improve its information sharing with other regulators to assist it with its risk assessment, supervisory activity and help it to identify poor performance. SRA's response is:</i></p> <p>We have introduced a process for systematic development and review of our Memoranda of Understanding (MOUs) with other agencies, including regulators. As part of that, we have fully reviewed the overarching legal regulators framework MOU and anticipate sign off in Autumn. We are also progressing our suite of bilateral MOUs with the other legal regulators.</p>	
<b>Enforcement</b>		
<p>The operation of the enforcement function is timely, evidence-based, proportionate and fair.</p>	<p><i>12. LSB asked that SRA considers the issue of the civil standard of proof when carrying out joint work with the BSB on enforcement processes. SRA's response:</i></p> <p>A joint Disciplinary Tribunal Working Group, involving representatives from SRA, CILEx Regulation and the Bar Standards Board (BSB), has met on several occasions since late 2015. This Working Group has identified a number of workstreams with the aim of maximising our ability to provide an overarching regulatory framework which:</p> <ul style="list-style-type: none"> <li>- is best suited to protect the public interest</li> <li>- is accessible and transparent for those we regulate and the wider public</li> <li>- so far as possible provides consistency, and avoids duplication, of regulatory approach and outcomes</li> <li>- is efficient and cost effective, delivering value for money.</li> </ul> <p>We have also agreed that a separate issue that will be taken forward by us and the BSB, in tandem with the joint Working Group, is considering the potential for a joint approach to the question of the standard of proof to be applied at disciplinary hearings. We apply the civil standard of proof to all disciplinary and regulatory findings made internally, however the Solicitors Disciplinary Tribunal (SDT) continues to apply the criminal standard to matters determined before them (so this applies, for example, to all decisions to strike a solicitor off the roll). This is not something that is</p>	

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	<p>within our gift to change, but we have been clear in public and the press about our support for the approach. For example, we have set this in our response to the HMT consultation on Anti-Money Laundering supervision.</p>	
<p>SRA has published policies and guidance that enable others to understand the regulator’s criteria for taking or not taking actions.</p>	<p><i>13. LSB suggested that SRA use the “Question of Trust” work to further increase consumer understanding about approach to enforcement. SRA’s response:</i></p> <p>Through our Question of Trust (QoT) campaign, we got thousands of members of the public thinking about the regulation of legal services, and what they expect both from a solicitor and from us. This work enabled us to develop our use of different media for engaging with consumers. For example, over 1,600 people gave us their views on action they thought we should take via Twitter. We will continue to develop our use of social media and other platforms to increase our reach among consumers and the general public.</p> <p>We have engaged with a wide range of consumer groups, advice providers and other bodies through this work, which will feed into our new enforcement policy. As this policy develops we will be able to disseminate information about it back out through this network.</p> <p>All of our findings from QoT, including analysis and raw data, will be published and made available to the public, as will our future enforcement policy and any accompanying guidance. We will make clear where QoT has informed our enforcement policy, and ensure that we explain our reasons for taking or not taking action in any given circumstances.</p> <p>The output of the QoT campaign is also feeding into our Looking to the Future work, where it will inform the public facing guidance on consumer protections, including enforcement.</p>	
	<p><i>14. LSB asked SRA to consider how it can make improvements to transparency about its approach to enforcement. SRA’s response:</i></p> <p>Our publication policy confirms the wide range of decisions that we publish. We generally publish decisions, including those reached by agreement (Regulatory Settlement Agreements) unless there is a good reason in the public interest not to do so.</p> <p>This is because we believe there is a public interest in being transparent about the decisions we make and why we have made them, in order to:</p>	

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	<p>(a) raise awareness amongst those we regulate about the action we have taken to improve understanding of our expectations, and deter them from action which would fall below standards or breach our requirements</p> <p>(b) ensure consumers and others, including prospective employers are able to access appropriate information</p> <ul style="list-style-type: none"> <li>○ to inform them about the closure of law firm as a result of an intervention</li> <li>○ to enable them to make informed choices about whom to instruct or to employ</li> <li>○ to decide whether behaviour of concern should be reported to us for action</li> </ul> <p>(c) ensure we are properly accountable to the public for the decisions we make and demonstrate that we are acting proportionately and consistently</p> <p>(d) maintain public confidence by demonstrating appropriate action is taken when things go wrong.</p> <p>One of the actions being taken forward by the joint Disciplinary Tribunals working group (see above) is to scope the existing publication powers/policies for each regulator in relation to disciplinary investigations/findings, with a view to achieving greater consistency where appropriate.</p> <p>As paragraph 44 of the Report rightly recognises, SRA enforcement is generally very transparent. We successfully challenged the SDT's regressive move towards secrecy in SRA v Spector and we publish many decisions despite representations to the contrary.</p> <p>Intervention decisions are generally published and are in effect public when the firm is still operating (as opposed to interventions to secure client confidentiality following closure of a firm) since clients and others have to be and are notified of the intervention. Given the nature of an intervention and the potential for disruption, they are in practice operated well and transparently. There is always scope for improvement but a badly executed intervention would generate multiple and justified concern and complaint, which is not a current issue. We cannot comment in detail on the reasons for intervention because the solicitors will usually be facing SDT proceedings or in some cases potential criminal prosecution.</p>	
	<p><i>15. LSB asked SRA to implement plans to review the guidance available to support staff exercising discretionary powers across the SRA's key regulatory functions as part of review of decision-making guidance. SRA's response:</i></p> <p>The Decision-making project has involved reviewing existing guidance and criteria governing the way in which we exercise our discretionary powers, and developing a new suite of clear, accessible and up to date guidance. 29 workshops have been held to date since autumn last year, involving staff across the organisation. The final draft documents will be complete by the end of June, by which time key messages will have been rolled out across the entire staff group. Detailed role specific training will take place from July onwards and all guidance will all be available on a new look section of our website shortly after this has been completed.</p>	



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<p>SRA has processes in place to ensure that learning is shared and performance is monitored.</p>	<p><i>16. LSB suggested that SRA should include in its review of decision-making guidance consideration of the quality of decision-making and handling of the case files brought before the SDT. SRA's response:</i></p> <p>We took careful note of the comments of the High Court in our successful appeal in SRA v Ali and Chan which overturned the decision of the SDT to impose fines of £15,000 and led to eventual sanctions of 3 year suspensions. We reported in a public paper to the Regulatory Risk Committee on 8 December 2015 that we had carried out work on the issue and concluded "The judgment was handed down on 28 September 2015 and since then workshops have been held internally and with the SRA's panel solicitors to establish and agree on best practice when drafting allegations. A further report is being made in the confidential session of this Committee meeting."</p> <p>Our new Legal Case Direction function reviews cases proceeding to the SDT at various stages and because the same function operates across the SRA on a matrix basis, the cases are often already well known to that function. Cases are also being reviewed by our new quality audit function.</p> <p><i>17. LSB asked SRA to continue to monitor the performance of enforcement function. SRA's response:</i></p> <p>We will continue to monitor the performance of the Enforcement function through the KPIs that we have in place and through detailed operational reporting that takes place on an ongoing basis within the operation itself. These will be reviewed as part of our wider commitment to review KPIs during 2016.</p> <p>We have also undertaken a review of the function and have identified a series of measures to improve operational performance. These will be implemented over the next five months and are part of a wider programme of work that is underway across the operation. Key changes include restructure within the directorate, a focus on reducing delay and a retendering exercise for external panel firms.</p>	
<b>Capability and capacity</b>		
<p>SRA has a culture of transparency and improvement.</p>	<p><i>18. LSB asked SRA to maintain focus on continuing to improve the performance of SRA core operational functions. SRA's response:</i></p> <p>We have an ongoing programme of operational improvement across our core operational functions. In 2016/17 this will include a focus on process improvement through the roll-out of a Lean business improvement programme and a technical training programme. A review of KPIs and the continued focus on performance management will also deliver improvements in overall performance and value for money more generally. The planned roll-out of new IT during 2016/17 will also be a key priority, with the operational functions firmly supporting a successful delivery.</p>	

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	<p><i>19. LSB asked SRA to publish more information and be more transparent about costs, budgets and performance against key performance indicators. SRA's response:</i></p> <p>We keep our publications under continual review and are recruiting an editorial manager to ensure we publish meaningful information in an accessible way. We have commissioned further governance consultancy support to assist us to develop open and transparent ways of sharing how we work. We already put key operational KPIs into the public domain via our CEO report to Board and are reviewing our KPIs through a Board working group with a view to routine publishing of more of our KPIs.</p>	
<p>SRA has management and governance processes which are capable of scrutinising the performance of the regulator.</p>	<p><i>20. LSB asked SRA to develop an effective IT solution for the SRA's operational work. SRA's response:</i></p> <p>The development of a new IT Roadmap is well underway and has been discussed at our Finance and Audit Committee and our Board. It will be discussed at the Business and Oversight Board on 16 June and a proposal to secure funding for this will go to the Law Society Council for a decision in July.</p>	