

# **Regulatory performance: Performance assessment November 2021**

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

**22 December 2021**

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## Executive summary

1. The Legal Services Board's (LSB) is the independent body that oversees the regulation of legal services in England and Wales. The LSB was created by the Legal Services Act 2007 ("the Act") to hold regulators for the different branches of the legal services profession to account. A key component of our oversight is our regulatory performance framework and each year we assess the performance of each regulatory body against the standards and outcomes in the framework.
2. We recognise that each regulatory body regulates a different set of regulated practitioners, has different numbers of practitioners, and carries out its responsibilities in different ways. Nevertheless, each one operates within the legislative framework set out in the Act, with the same regulatory objectives, and that is the LSB's focus in carrying out our oversight responsibilities
3. This report sets out the LSB's latest annual assessment of regulatory bodies following our targeted requests for information. Our information requests focused on:
  - 'not met' outcomes,
  - 'met' outcomes where we required further assurance,
  - regulatory bodies' approaches to transparency, and
  - regulatory bodies' responses to the findings of our review of the BSB's performance against the Well-led standard.
4. The approved regulators and their respective regulatory bodies are as follows:

Approved regulator	Regulatory body
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 (CRL)
Chartered Institute of Patent Attorneys (CIPA) Chartered Institute of Trade Mark Attorneys (CITMA)	Intellectual Property Regulation Board (IPReg)
Council for 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

### *Met*

5. Three regulatory bodies have been assessed as having *met* all the outcomes required across the standards: CRL, CLSB and the SRA.

6. Since November 2020, actions in relation to eight previously *not met* outcomes have been completed and performance against them has been reassessed as *met*: CRL (2), CLSB (4), and ICAEW (2).

*Not met – action being taken*

7. Sixteen outcomes have been assessed as *not met – action being taken*:

8. Since November 2020:

- Five outcomes remain unchanged as *not met – action being taken*: BSB (1), FO (2), IPReg (2).
- Eight outcomes have been reassessed from *met* to *not met – action being taken*: BSB (4), CLC (2), FO (2).
- Three outcome(s) have been re-assessed from *not met – action required* to *not met – action being taken*: BSB (1), FO (2).

*Not met – action required*

9. Three outcomes have been assessed as *not met – action required*:

10. Since November 2020:

- One outcome remains unchanged as *not met – action required*: IPReg (1).
- One outcome has been reassessed from *met* to *not met – action required*: IPReg (1).
- One outcome has been reassessed from *not met – action being taken* to *not met – action required*: ICAEW (1).

11. The table below sets out the 2021 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																											
CRL																											
CLC																											
CLSB																											
FO																											
ICAEW																											
IPReg																											
SRA																											

Met

Not Met - Action Being Taken

Not Met - Action Required

12. We have been able to assess three regulatory bodies (CRL, CLSB, and SRA) as meeting the standards in all outcomes. We note in particular the significant performance improvement from CLSB and the focused and thorough way that it has turned around its regulatory approach since 2019 when it had nine unmet outcomes.
13. As was the case last year our overall assessment of regulatory bodies' performance has identified fewer *not met* outcomes in relation to the Authorisation, Supervision and Enforcement standards than the Well-led and Regulatory Approach standards, where some regulatory bodies continue to find it difficult to meet all the outcomes. In last year's report, we noted that we had launched targeted reviews of the BSB and FO's performance against the Well-led standard.
14. During 2021, we published our reports for both reviews<sup>1</sup>, and our findings are reflected in this year's assessments for the BSB and FO. Also, as part of our information request for this year's assessment, we asked the other regulatory bodies how they had considered the findings of our review of the BSB and identified any lessons they should apply to their own work. As our report on the FO was not published until September 2021, we will ask regulatory bodies to set out how they have taken account of our findings during 2022. We also stated in last year's report that we would focus on general issues relating to all regulatory bodies' approaches to transparency. We include our overall comments on regulatory bodies' approaches to transparency in this year's report, and where relevant, have taken them into account in relation to performance against specific outcomes.
15. Some regulatory bodies are still not meeting all the outcomes under the Regulatory Approach standard, in particular RA2 (Regulatory arrangements updated based on robust evidence). In some cases regulatory bodies have failed to demonstrate that they have sufficiently engaged and consulted with stakeholders and have not demonstrated how proposed changes to their regulatory arrangements would impact the regulatory objectives. We hope that this is reflected in performance improvements during 2022.
16. During 2021, we began a review of our overall regulatory performance framework and we expect to consult on our proposals in March 2022. This review will conclude in the second part of 2022 and enable a revised regulatory performance framework to be implemented at the start of 2023.

## Introduction

17. This report covers the progress made by the regulatory bodies since publication of the LSB's November 2020 assessment report. Our regulatory performance framework is set out in **Annex A**.
18. We do not include an assessment of the Association of Chartered Certified Accountants (ACCA) as it has made an application to the LSB to withdraw from legal regulation and have its designation as a regulator of legal services cancelled.
19. Since the LSB's November 2020 assessment we have monitored regulatory bodies' performance against the framework through regular contact with chairs, chief executives and equivalent, and relationship managers. As noted above we concluded targeted reviews of the

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<sup>1</sup> BSB Well-led Standard Targeted Review Report: <https://legalservicesboard.org.uk/bsb-well-led-review-findings-report>  
FO Well-led Standard Target Review Report: <https://legalservicesboard.org.uk/faculty-office-well-led-review-report>

BSB and FO's performance against the Well-led standard. We also reviewed and reassessed CLSB's performance in June 2021.

20. For our November 2021 assessment, we requested further information from all the regulatory bodies in respect of *not met* outcomes and *met* outcomes where we required further assurance.
21. In our 2020 assessment, we noted that we would monitor regulatory bodies' performance in relation to the following general aspects of transparency:
  - 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.

Accordingly, in our 2021 information request we asked the regulatory bodies to explain how they meet these aspects of transparency.

22. During 2021, we completed our targeted reviews of the BSB and FO's performance against the Well-led standard, and we take the reviews' findings into account in our assessments of their performance.
23. As our BSB review report was published in July 2021, in our information request, we asked all the other regulatory bodies how they had taken account of the report findings, particularly in respect of governance and consumer engagement. As our report on the FO's performance was not published until September 2021, we will review how regulatory bodies have taken account of it during 2022.
24. Outcome WL7 (Ensuring regulatory independence), unlike the other outcomes, covers both regulatory bodies and approved regulators. We assessed all regulatory bodies and approved regulators in our November 2020 assessment as having met this outcome, and no concerns were raised during 2021 that required us to revisit this assessment.

## November 2021 assessments

25. 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**.
26. It is important to note that, while our focus has been on monitoring performance against any unmet outcomes, it is possible for outcomes previously assessed as met to be changed. This can be for a range of reasons including adverse events that occur during the performance period, the coming to light of new information and broader changes in the regulatory policy environment that make existing approaches outdated or otherwise insufficient.

## Bar Standards Board (BSB)

	RA1	RA2	RA3	RA4	RA5	A1	A2	A3	A4	A5	S1	S2	S3	S4	E1	E2	E3	E4	E5	E6	WL1	WL2	WL3	WL4	WL5	WL6	WL7
BSB November 2020																											
BSB November 2021																											

27. In November 2021, we assessed the BSB's performance on outcomes WL1, 2, 3, 5, 6 and RA2, following a targeted information request to the BSB. These outcomes (except for WL2) were all outcomes assessed as *not met - action being taken* in the BSB's most recent performance assessment conducted in July 2021. The July 2021 assessment was made following the findings from our targeted review of the BSB under the Well-led standard of the Regulatory Performance Assessment Framework<sup>2</sup>, (the "Well-led review") which was published on 1 July 2021.
28. The Well-led review made a number of key findings on governance, the BSB Board and the Executive. In response the BSB developed an action plan to address improved performance in relation to the Well-led outcomes WL1, 3, 5 and 6 and provided a formal progress update in October 2021 to inform our annual performance assessment in November 2021. This assessment reflects the progress against the action plan made by the BSB to date.
29. Overall, while the BSB has made progress against its action plan, many of the actions are still underway and require more time to embed and materialise given the significance of the reforms required and therefore these outcomes remain as *not met - action being taken*. We will continue to monitor the BSB's progress against the action plan milestones through our regular relationship management meetings.
30. In addition to the findings of the Well-led review, the BSB has faced a series of adverse events and challenges during the year. Taken together, it is hard to avoid the conclusion that lack of access to sufficient capability, capacity and resources has been a significant contributing factor. While the BSB has improved productivity in handling reports and authorisations its own reported significant underperformance against a number of its Key Performance Indicators (KPIs) for incoming reports, authorisations and disciplinary cases; widely-reported problems with the August 2020 Bar exams (the causes of which were helpfully clarified by the Independent Review commissioned by the BSB); and the example of the BSB's mishandling of an application from a bar student for the grant of an exemption from the vocational component of training to be a barrister, which was remitted back to the BSB by the High Court for fresh consideration. We consider that resourcing, capacity and capability are a central part of this assessment and therefore we have reflected this in our assessment of the BSB's performance against outcome WL2, which we have downgraded from *met* to *not met - action being taken*.
31. Outcome RA2 was last assessed in the [November 2020 performance assessment](#) and has not been reassessed. The BSB has not submitted a substantive application to alter regulatory arrangements since 2019, which would allow us to reassess the BSB's performance against RA2 at this time.

<sup>2</sup> The performance framework provides for a more in-depth review when our ongoing monitoring identifies that we do not have sufficient assurance about an area of a regulator's performance or identifies an area as one of concern.

## CILEx Regulation (CRL)

	RA1	RA2	RA3	RA4	RA5	A1	A2	A3	A4	A5	S1	S2	S3	S4	E1	E2	E3	E4	E5	E6	WL1	WL2	WL3	WL4	WL5	WL6	WL7
CRL 2020																											
CRL 2021																											

32. In November 2021 we assessed CILEx Regulation's performance on outcomes RA2, S3 and WL2, following a targeted information request. We focused on these outcomes based on an initial desk review of CILEx Regulation's published material, consideration of CILEx Regulation's applications to the LSB to change regulatory arrangements during the year, and our ongoing relationship management work.
33. CILEx Regulation has now met these outcomes. We have upgraded CILEx Regulation against two outcomes:
- We have changed our assessment on RA2 to reflect progress by CILEx Regulation in improvements to its quality of applications to change regulatory arrangements.
  - We now consider S3 is *met*, following CILEx Regulation's amendments to its supervision rules to remove outdated references to QASA and add further competency requirements.
34. We also consider that CILEx Regulation continues to meet outcome WL2. We see scope for improvement in its performance here though, in terms of how CILEx Regulation articulates what work it is doing and why, and how it deploys its resources to deliver against its own deadlines. We understand that CILEx Regulation is making some internal changes which will help to address these concerns. We will assess CILEx Regulation against this outcome again in June 2022.

## Council for Licensed Conveyancers (CLC)

	RA1	RA2	RA3	RA4	RA5	A1	A2	A3	A4	A5	S1	S2	S3	S4	E1	E2	E3	E4	E5	E6	WL1	WL2	WL3	WL4	WL5	WL6	WL7
CLC 2020																											
CLC 2021																											

35. We focused this assessment on outcomes RA2, E3, E4, A5 and WL3 following analysis of information in the public domain, such as CLC Council papers and minutes, CLC Consultation documents, applications for changes to regulatory arrangements, and our routine engagement with CLC through the year.
36. Our assessment of the CLC is that while it continues to improve its performance there are key areas of concern, in particular:
- Public transparency of decision making
  - Engagement with stakeholders
37. The CLC has committed to reviewing these areas of concern and we will monitor and report on its progress.
38. We have made two changes to the following outcomes:

- outcome RA2 to *not met- action being taken* as the CLC was unable to demonstrate meaningful consultation and engagement with the regulated community, consumers and stakeholders that contributes to the development of a robust evidence base
- outcome WL3 to *not met - action being taken* on the grounds the CLC is not achieving sufficient transparency in how it makes decisions or develops its regulatory approach.

39. In addition, we would like to explore with the CLC how it ensures that the public can have confidence that it will take appropriate action with firms and practitioners that fall below expected standards including, where appropriate, the deployment of disciplinary and enforcement actions as well as reflecting these actions on the CLC's register.. While we do not propose to change the relevant assessment at this time, this is an area we are likely to focus on in the coming period.

### Costs Lawyer Standards Board (CLSB)

	RA1	RA2	RA3	RA4	RA5	A1	A2	A3	A4	A5	S1	S2	S3	S4	E1	E2	E3	E4	E5	E6	WL1	WL2	WL3	WL4	WL5	WL6	WL7
CLSB 2020																											
CLSB 2021																											

40. The last regulatory performance assessment of the CLSB was published in May 2021. At that time we had received updates from CLSB on the four remaining *not met* outcomes (RA3, RA4, WL2, WL4). As a result of the progress made, we were satisfied that outcomes RA3, WL2 and WL4 were now *met*. This just left RA4 as *not met – action being taken*. Considerable progress had already been made towards meeting outcome RA4 at that time.
41. Our updated assessment confirms that CLSB has now evidenced that it currently meets outcome RA4. This is the culmination of CLSB's turnaround from a total of nine *not met* outcomes, to now meeting all the outcomes contained within the LSB's regulatory performance framework. This is a significant achievement for which the CLSB and its leadership is to be commended. The improvement in CLSB's performance is the result of substantial ongoing work. In order to maintain its current assessment, we expect CLSB to sustain its focus on regulatory performance by demonstrating further improvements against each of the outcomes over time.
42. The continued work by CLSB demonstrates its commitment to becoming an effective regulator. This is seen not only in its efforts to meet each of the outcomes but also in its innovative approaches to its work. A good example of this is its recent success in obtaining funding from the Regulators' Pioneer Fund to run a research project looking at whether Costs Lawyers could bring about downward pressure on the cost of legal services. This type of innovation has the potential to provide significant benefits for consumers and shows the work CLSB is doing in order to make positive change within the sector.
43. We expect CLSB to continue its good work in developing its evidence base and, as set out above, improving its performance against each of the outcomes with a clear focus on the regulatory objectives.

## The Faculty Office (FO)

	RA1	RA2	RA3	RA4	RA5	A1	A2	A3	A4	A5	S1	S2	S3	S4	E1	E2	E3	E4	E5	E6	WL1	WL2	WL3	WL4	WL5	WL6	WL7
FO 2020																											
FO 2021																											

44. The Faculty Office (FO) continues to meet the majority of the outcomes in the performance framework. However, there are some specific areas of concern, which we expect FO to focus on addressing over the coming months to meet the relevant standards. These include:
- On RA2, we expect the FO to demonstrate transparency on any engagements that inform its budget, transparency on planned activities, and clarity on how it will measure and evaluate its activities, including its regulatory work. The FO should also ensure that LSB rules and guidance are adhered to and that applications contain all relevant information required so that there is clarity and transparency on what is being proposed. We plan on reassessing the FO against this standard in April 2022.
  - On RA5, we expect the FO to evaluate its position after it has completed its planned activities, including its consumer survey in January 2022 and its Action Plan commitments, to assess how best to engage directly with consumers, including working with other regulators to define opportunities for doing so. We expect the FO to evaluate the extent to which these activities advance its understanding of the impact of its regulatory arrangements on consumers, and to consider what further, and ongoing, activities will be needed to meet the RA5 standard.
45. Delivering on the Action Plan that the FO prepared in response to the LSB's Well-led Review will be an important part in ensuring that the FO has the policies, processes and procedures in place to be a Well-led regulator. It will also help the FO to demonstrate it has met RA2 and RA5, and enhance its commitment to transparency.
46. Beyond the specific actions on RA2 and RA5, and the delivery of its Action Plan, it is important that the FO reflects on the overall purpose of any planned activities, and that it clearly demonstrates how such activities relate to its strategic and regulatory objectives.
47. We completed our Review of the FO's performance against the regulatory performance framework Well-led standard in September 2021. Based on the evidence gathered during this review<sup>3</sup>, we determined that the FO did not meet four outcomes under the Well-led standard: WL2, 3, 4 and 6.<sup>4</sup>
48. The FO accepted the findings in the review report and that it must do more to meet the Well-led standard. It submitted an Action Plan<sup>5</sup> designed to address the findings and to enable it to demonstrate improved performance. As such, we believe that it is too soon after the completion of the Well-led Review, and the resultant Action Plan, to make a meaningful assessment of the FO's progress in meeting the four outcomes under the Well-led standard. We will continue to monitor the FO's progress against the Action Plan milestones through our regular relationship management meetings.

<sup>3</sup> LSB, 'Well-led review of the Faculty Office: findings report' (September 2021) <https://legalservicesboard.org.uk/wp-content/uploads/2021/09/Faculty-office-Well-led-review-report.pdf>

<sup>4</sup> <https://legalservicesboard.org.uk/wp-content/uploads/2021/09/FO-Well-led-review-performance-assessment-1.pdf>

<sup>5</sup> <https://legalservicesboard.org.uk/wp-content/uploads/2021/09/FO-action-plan.pdf>

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

	RA1	RA2	RA3	RA4	RA5	A1	A2	A3	A4	A5	S1	S2	S3	S4	E1	E2	E3	E4	E5	E6	WL1	WL2	WL3	WL4	WL5	WL6	WL7
ICAEW 2020																											
ICAEW 2021																											

49. The last regulatory performance assessment of the ICAEW was published in December 2020. The ICAEW *met* all outcomes except R2, A5 and WL3. ICAEW was rated *not met – action being taken*, for R2 and A5 and *not met – action required* for WL3.
50. We received updates from the ICAEW on the three remaining *not met* outcomes (RA2, A5 and WL3) at the end of June 2021 and in November 2021. We commend the ICAEW for improvements made against unmet outcomes RA2 and WL3. We consider that:
- As a result of the progress made, we are satisfied that outcomes WL3 and RA2 are now rated *met*
  - Planned actions remain outstanding on A5 and therefore we intend to re-assess this outcome to *not met – action required* to reflect that this issue has endured since January 2019 and needs to be addressed as a priority given the direct impact on consumers. Given the length of time that ICAEW has not been in compliance with this outcome, we will now take steps to secure compliance.
51. As part of this year's information request, we also asked for evidence around how ICAEW meets outcome A1, concerning standards and authorisation for education and training providers. On the evidence that is publicly available and that was provided to the LSB, it is not clear how ICAEW ensures that providers are meeting an adequate standard or what quality assurance mechanisms it has in place. This is important because these providers play a key role in decisions on who to authorise. We consider that ICAEW meets this outcome but we intend to pursue this further over the coming year to fully understand the position and what action might be needed to provide better public confidence.
52. We will assess unmet outcomes again as part of our annual performance assessment in October 2022.

## Intellectual Property Regulation Board (IPReg)

	RA1	RA2	RA3	RA4	RA5	A1	A2	A3	A4	A5	S1	S2	S3	S4	E1	E2	E3	E4	E5	E6	WL1	WL2	WL3	WL4	WL5	WL6	WL7
IPReg 2020																											
IPReg 2021																											

53. We assessed IPReg's performance on outcomes RA2, RA3, E2, WL1 and WL3 in November 2021, following a targeted information request and review of the information we have gathered during the year. We concluded that IPReg does not meet four outcomes: RA2, RA3, E2 and WL3. We also consider WL1 to be at risk due to the lack of assurance we can take from the information available.
54. Outcomes RA2, RA3 and E2 were first assessed as unmet in November 2020 and remain unmet in this assessment. We acknowledge that for RA2 and E2, it will be difficult to reassess IPReg's progress meaningfully until its comprehensive review of regulatory arrangements is complete. This is because IPReg has offered the delivery of this work as assurance that it will meet RA2 and E2. We welcome IPReg's progress on the review and look forward to further updates.

55. On RA3, IPReg has made some positive progress since our last assessment, notably completing a diversity survey to give it access to up to date and reliable data about its registrants. We welcome IPReg's commitment to integrate consideration of EDI matters into its review of regulatory arrangements. IPReg has also completed research with a partner on patent filings with the IPO.
56. Overall, we remain concerned about the limited access IPReg has to an adequate evidence base to inform its decision-making. IPReg has identified some activities it will and/or may undertake to improve the information it has about the regulated community, consumers of IP services and issues affecting the IP market. However, there is little transparency regarding IPReg's plan to move these activities forward, which we have raised as an issue with IPReg previously. We have also been clear that an appropriate evidence base will be important to support any proposed changes to IPReg's regulatory arrangements following its review of regulatory arrangements to enable it to demonstrate their impact.
57. IPReg has said it needs to carry out significant additional data gathering e.g. from regulated firms to build a full risk model for its compensation fund. There is no transparency of the specific activities that it will undertake to access data or possible areas of research that will support this, either in IPReg's published board papers or draft business plan. We note that IPReg's funding for research has been reduced from £50k of reserves to £15k in its budget and that we have raised concerns about IPReg's funding of its performance commitments in our decision notice approving IPReg's 2022 Practising Certificate Fee. We also raised other concerns about the transparency of IPReg's application, including how it allocates its reserves and how it reached the decision to determine the PCF level.
58. We have additional concerns about the transparency of IPReg's decision-making. For example, in IPReg's public consultation to establish the compensation fund, changes limiting eligibility to individual consumers and microbusinesses were proposed, but there was no analysis or evidence to demonstrate whether these groups are regular consumers of IP services, and as a result, what consumer protection is afforded by the fund. We set out our concerns about transparency and expectation that IPReg obtains evidence of who may need to access the fund in the decision notice approving IPReg's application for changes to its regulatory arrangements.
59. The examples of when IPReg has not provided sufficient transparency, as set out in this assessment, have led us to assess that IPReg does not meet outcome WL3. IPReg must do more to provide meaningful transparency to the stakeholders to whom it is accountable of its decision-making and regulatory approach, which is essential to being a well-led regulator.
60. IPReg's response to our wider well-led queries have left us without assurance as to whether it meets WL1. The IPReg board has told us that it considers the information provided to it by the executive on which to base its decisions entirely appropriate. We have been unable so far to test this view because of the limited transparency of what is provided. Indeed, it would be hard to draw a similar conclusion to that of IPReg's board based solely on the current information available to us. We therefore consider WL1 to be at risk and further exploration of this standard is likely to be necessary.

## Solicitors Regulation Authority (SRA)

	RA1	RA2	RA3	RA4	RA5	A1	A2	A3	A4	A5	S1	S2	S3	S4	E1	E2	E3	E4	E5	E6	WL1	WL2	WL3	WL4	WL5	WL6	WL7
SRA 2020																											
SRA 2021																											

61. Last year, our assessment of the SRA concluded that it had *met* all 27 outcomes. Based on our ongoing monitoring over the year and our information request, we consider that the SRA continues to meet all 27 outcomes.
62. In our information request, we focused on outcomes A5, E1, E2 and WL6. The SRA was able to provide assurance in relation to them. We set out in detail below our findings and actions in relation to outcomes A5 and E1 and E2.
63. In relation to WL6 and how the SRA ensures it is accountable to its stakeholders, we will monitor how the SRA applies the lessons on how it handles communications and publicity that it has identified from its experiences with SQE, SIF and other issues in respect of current and upcoming matters. These matters being its consultations on its fining powers and its disciplinary publication policy as well as its engagement with issues affecting its regulated community such as PII.
64. The SRA will need to undertake the actions for the outcomes noted in this assessment to ensure they remain assessed as *met*.
65. In 2022, we will be increasing our focus on regulatory bodies' approaches to and delivery of disciplinary and enforcement activity. We expect the SRA will wish to engage proactively with this work and, indeed, ensure it is in a position to lead by example.
66. We also asked the SRA about its general approach to transparency and how it had taken account of the findings of our review of the BSB's performance against the Well-led standard.
67. Following improvements in recent years, we consider the SRA to provide a high degree of transparency in respect of its work, decision-making and accountability, but we encourage it to think how it might provide more. We also note that the SRA has drawn lessons for its own work from our review of the BSB's performance against the Well-led standard, and we will monitor how it implements them. We are especially interested in the SRA Board's engagement with the regulatory objectives when it makes decisions.

## Overall assessment themes

68. We have assessed three regulatory bodies, CLSB, CRL and the SRA as meeting all 27 outcomes in this period and we commend them on attaining, or in the SRA's case maintaining, this performance. We are especially impressed by the work that the CLSB has done since 2019 to improve its performance. CLSB has demonstrated that a positive approach and clear focus on meeting regulatory outcomes can overcome limitations imposed by scale. Our assessments are not static and so we look forward to these regulatory bodies maintaining and seeking to further improve their performance in 2022 and in our assessments, we have highlighted some areas of ongoing focus.
69. As was the case in our 2020 assessment, several regulatory bodies are still finding it challenging to meet outcomes under the Well-led standard, but we expect to see significant improvement in this respect in 2022 as the BSB and FO implement their action plans based on

the findings of our reviews. Our emphasis on transparency and how other regulatory bodies took account of the findings of our review of the BSB also brought to light concerns about some other regulatory bodies' approaches to this standard and we have set actions for them in this assessment to promptly address our concerns. During 2022, we encourage all regulatory bodies to use the lessons from both our reviews to improve their performance against the Well-led standard and others, where these lessons can be applied.

70. While some regulatory bodies have improved their performance against the Regulatory Approach standard, we have concerns about whether and how several others are gathering evidence from stakeholders, using it in their decision-making processes and demonstrating this transparently either in their Board papers or in their applications for changes to their regulatory arrangements. In our assessments we have emphasised the need for regulatory bodies to base their decisions on evidence, understand the impact of them on their stakeholders and do so transparently so that how they reach their decisions can be clearly understood, increasing accountability.
71. As was the case last year our overall assessment of regulatory bodies' performance has identified fewer *not met* outcomes in relation to the Authorisation, Supervision and Enforcement standards and in our assessments of ICAEW's and CLC's performance against A5, we have highlighted the need for regulatory bodies' registers of regulated individuals and firms to not just contain disciplinary information but to do so in a way which consumers can access straightforwardly, and we have set actions for them to address our concerns.

## Our focus in 2022

72. We continue to emphasise the need for all regulatory bodies to meet all 27 of the regulatory outcomes in the framework so that they can demonstrate that they are meeting and promoting the regulatory objectives, which they and the LSB share, and putting these at the heart of their work. This will ensure that they regulate in the public interest and in a way that benefits consumers, their respective professions and the wider legal services market. In 2022 we will continue to work with the regulatory bodies to help them achieve any *not met* outcomes, and for those who already do, to ensure they continue to do so. We also encourage all regulatory bodies to continue to adapt and improve their performance against all outcomes, whether *met* or *not met*.
73. We recognise that the regulatory bodies vary both in the size of the professions they regulate and their own size and capacity. In our report last year we noted a concern that the resources of some smaller regulatory bodies may not be sufficient to effectively meet the standards required. In addition to this performance assessment, we have scrutinised regulatory bodies' resourcing plans through assessing applications for approval of their annual Practising Certificate Fees, under our new rules and guidance. This will remain a focus during 2022, as we have highlighted ongoing concerns for a number of regulatory bodies. That said, the CLSB, which is the smallest regulatory body, has demonstrated that it is possible to perform well against our standards through innovative and collaborative approaches to securing sufficient capacity and capability. Again, we encourage regulatory bodies to combine their expertise, learn from each other and collaborate and pool their resources where possible.
74. As noted in paragraph 14 above, in 2021 we focused on transparency. In doing so, we have found good practice but also some areas of concern which we have sought to address through

our latest assessments of regulators' performance. We will continue to monitor regulatory bodies' performance against transparency and encourage them to share good practice in this regard.

75. In our draft business plan for 2022/23, which we are currently consulting on, we note that we intend to begin work in 2022 on regulatory bodies' disciplinary and enforcement processes and the principles which should underpin them, so they ensure outcomes that build public confidence, deliver fairness for professionals and uphold proper standards of conduct and competence. Naturally, the results of this work will ultimately inform our approach to our assessment of regulatory bodies' performance, particularly against the enforcement standard, and we look forward to engaging with them and other stakeholders during 2022.
76. In our 2020 report, we noted that we would begin a review of the current regulatory performance framework in 2021. We have now started our review and are currently developing proposals for how the framework could be revised. We intend to consult on these proposed changes in the first part of 2022, conclude our review in the second part of the year and introduce a revised performance framework at the start of 2023.

## Annex A: Regulatory performance framework

<b>Regulatory Approach</b>	<b>RA1:</b> Regulatory arrangements and supporting guidance documentation are: <ul style="list-style-type: none"> <li>outcomes-focused</li> <li>written in plain English</li> <li>maintain professional principles</li> </ul> with detailed rules limited to where evidence and analysis justifies them.
	<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.
	<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.
	<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.
	<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.
<b>Authorisation</b>	<b>A1:</b> Only those who meet the regulator's standards are authorised to provide education and training.
	<b>A2:</b> The regulator's standards of education and training set the competencies required for authorisation for entry to the profession.
	<b>A3:</b> Only those who meet the regulator's standards are authorised to practise.
	<b>A4:</b> The authorisation process, including the management of appeals, is fair, based on the regulator's standards, efficient and transparent.
	<b>A5:</b> The regulator's list of those they regulate is accessible, accurate and provides information on the disciplinary records of those regulated.
<b>Supervision</b>	<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.
	<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.
	<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.
	<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.
<b>Enforcement</b>	<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.

<b>Enforcement</b>	<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.
	<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.
	<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.
	<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.
	<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.
<b>Well-led:</b>	<b>WL1:</b> 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>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.
	<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.
	<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.
	<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
	<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.
	<b>WL7:</b> The Approved Regulator/Regulatory Body meets the outcome to ensure regulatory independence: <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 2021

Below are the LSB's assessments of each regulatory body under the framework based on the progress reports submitted in November 2021, the findings of our thematic reviews and information and intelligence gathered through our regular contacts with them.

### Bar Standards Board (BSB)

#### Overview

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																

In November 2021, we assessed the BSB's performance on outcomes WL1, 2, 3, 5, 6 and RA2, following a targeted information request to the BSB. These outcomes (except for WL2) were all outcomes assessed as "Not met action being taken" in the BSB's most recent performance assessment conducted in July 2021. The July 2021 assessment was made following the findings from our targeted review of the BSB under the Well-led standard of the Regulatory Performance Assessment Framework<sup>6</sup>, (the "Well-led review") which was published on 1 July 2021.

The Well-led review made a number of key findings on governance, the BSB Board and the Executive. In response the BSB developed an action plan to address improved performance in relation to the Well-led outcomes WL1,3,5 and 6 and provided a formal progress update in October 2021 to inform our annual performance assessment in November 2021. This assessment reflects the progress against the action plan made by the BSB to date.

Overall, while the BSB has made progress against its action plan, many of the actions are still underway and require more time to embed and materialise given the significance of the reforms required and therefore these outcomes remain as *not met - action being taken*. We will continue to monitor the BSB's progress against the action plan milestones through our regular relationship management meetings.

In addition to the findings of the Well-led review, the BSB has faced a series of adverse events and challenges during the year. Taken together, it is hard to avoid the conclusion that lack of access to sufficient capability, capacity and resources has been a significant contributing factor. While the BSB has improved

<sup>6</sup> The performance framework provides for a more in-depth review when our ongoing monitoring identifies that we do not have sufficient assurance about an area of a regulator's performance or identifies an area as one of concern.

productivity in handling reports and authorisations its own reported significant underperformance against a number of its Key Performance Indicators (KPIs) for incoming reports, authorisations and disciplinary cases; widely-reported problems with the August 2020 Bar exams (the causes of which were helpfully clarified by the Independent Review commissioned by the BSB); and the example of the BSB's mishandling of an application from a bar student for the grant of an exemption from the vocational component of training to be a barrister, which was remitted back to the BSB by the High Court for fresh consideration. We consider that resourcing, capacity and capability are a central part of this assessment and therefore we have reflected this in our assessment of the BSB's performance against outcome WL2, which we have downgraded from *met* to *not met - action being taken*.

Outcome RA2 was last assessed in the [November 2020 performance assessment](#) and has not been reassessed. The BSB has not submitted a substantive application to alter regulatory arrangements since 2019, which would allow us to reassess the BSB's performance against RA2 at this time. The November 2020 assessment is included here for completeness.

## Not met – action being taken

Outcome		WL1: The Board/Council holds the executive to account for the regulator's performance to ensure that it operates effectively and efficiently and in a way which is compatible with the regulatory objectives.
November 2021	LSB assessment	<p>The Well-led review report ("Well-led review") made a number of findings that concluded that the BSB did not meet outcome WL1. The BSB subsequently set out an action plan with the actions and commitments that are relevant to demonstrating improved performance in relation to this outcome. We have assessed the BSB's performance against WL1, following the BSB's progress update to the LSB of October 2021 ("progress update").</p> <p>The BSB has demonstrated that it has taken steps to enhance its Board's ownership and oversight of key governance issues and has reported against the actions in its plan. The BSB has met some specific actions, such as commissioning an independent review, and the Director General providing strategic updates to the Board (most recently the September Board) on progressing the governance plan and setting out a plan for meeting its Key Performance Indicators ("KPIs") for its core regulatory work<sup>7</sup>. However, many of the actions in the plan are still underway and require more time to embed given the significance of the reforms required.</p> <p>The BSB has also reported that issues before the Board will now generally be discussed, as a default, in the Board's public sessions, unless there are compelling reasons of sensitivity or confidentiality which require them to be discussed in private.</p>

<sup>7</sup> Considering reports, handling applications for authorisations and waivers and taking forward investigations of potential disciplinary matters. See WL2 below.

Outcome		<b>WL1:</b> 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.
		Given that many of the actions set out in the BSB's action Plan are ongoing, there remains further work to be done by the BSB to demonstrate that its action Plan has been fully implemented and that it is delivering demonstrable improvements in performance against outcome WL1.
	<b>Action needed</b>	The BSB to make progress in delivering against its action plan and demonstrate evidence of the WL1 outcome being met, through Board papers, minutes, and other published material, as well as any applications made to the LSB. This will be monitored by the LSB.
	<b>Timing</b>	We will require a further progress update from the BSB in May 2022 to inform our reassessment the BSB's progress against this WL1 outcome, one year after the publication of the findings of the Well-led review. In the meantime, we will carry out ongoing monitoring throughout the year.

Outcome		<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
<b>November 2021</b>	<b>LSB assessment</b>	<p>It is clear from the papers considered by the BSB's Board that it has been significantly underperforming over an extended period against its KPIs. While the BSB has improved productivity in handling reports and authorisations, it does not expect to meet its KPI targets until later this financial year, due to the backlog of existing cases that had exceeded their KPI limit.</p> <p>It is also evident from other events that have arisen this year, that the BSB needs to strengthen its capacity, capability, or resources to effectively and efficiently carry out its regulatory functions and protect the public. In particular, the independent review of the August 2020 Bar exams published this year, made recommendations concerning the BSB's handling of the exams, to ensure that future risks are better assessed, mitigated and managed. Another example of an issue that highlights capability issues this year is the BSB's mishandling of an application from a bar student for the grant of an exemption from the vocational component of training to be a barrister, which was remitted back to the BSB by the High Court for fresh consideration.</p>

Outcome		<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>We note the BSB is taking action to strengthen its capacity and capability in the future and address the underperformance in meeting KPIs it continues to experience. This was reflected in part, by the Director General's strategic update to the September Board, in which it was noted that the Budget for 2022/23, provides for the BSB to recruit additional posts immediately to address its resource issues and provide greater resilience for the teams handling core regulatory operations. We also acknowledge the BSB's work to address the recommendations following the independent review of the August 2020 Bar exams.</p> <p>In respect of the mishandling of the application for an exemption, we have received assurance from the BSB that its Independent Reviewer generally upholds the quality of the BSB's decision making although we have not had the opportunity to test that assurance. We also note that the BSB is conducting a "lessons learned exercise" following the High Court decision.</p> <p>While we welcome the BSB's plans and work to address these resourcing challenges, to meet this outcome, the BSB must demonstrate that it has strengthened its capacity and capability and is effectively and efficiently carrying out these important aspects of its regulatory function.</p>
	<b>Action needed</b>	The BSB to make progress in respect of this WL2 outcome and demonstrate that this outcome is being met, through its decision making and actions which may be evidenced in its published papers including the Director General's Strategic update to the Board as well as the forthcoming joint Bar Council and BSB PCF application for 2022/23, which the LSB will monitor. We also look forward to receiving "the lesson learned" report next year.
	<b>Timing</b>	We will monitor the BSB's progress against this WL2 outcome in the first quarter of 2022.

Outcome		<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.
<b>November 2021</b>	<b>LSB assessment</b>	The Well-led review concluded that the BSB did not meet outcome WL3. The BSB's action plan included actions and commitments that are relevant to demonstrating improved performance in relation to this

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.
		<p>outcome. We have assessed the BSB's performance against WL3 taking into account the BSB's progress update.</p> <p>The BSB has set out the steps it has taken so far to meet its actions, and address WL3, although these are yet to be evidenced in the Board's decision making given that there has only been one public Board meeting since July, (in September) and the minutes of that Board meeting have not yet been published (at the time of this review). Moreover, as a result of the recommendations of an independent review of the BSB's governance and effectiveness from <i>Independent Audit</i>, completed in autumn 2021, we note that the BSB will take a number of additional actions<sup>8</sup> to meet this outcome. Therefore, there remains further work to be done by the BSB to demonstrate that its action plan has been implemented and that it is delivering demonstrable improvements in performance against this outcome.</p>
	Action needed	The BSB to continue to make progress in delivering against its action plan and provide evidence of the WL3 outcome being met, through published papers and materials and any changes to its governance documentation, which the LSB will monitor.
	Timing	We will require a further progress update from the BSB in May 2022 to inform our reassessment of the BSB's progress against this WL3 outcome in July 2022, one year after the publication of the findings of the Well-led review. In the meantime, we will carry out ongoing monitoring throughout the year.

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.
November 2021	LSB assessment	The Well-led review concluded that the BSB did not meet outcome WL5. The BSB's action plan included actions and commitments that are relevant to demonstrating improved performance in relation to this

<sup>8</sup> The Board expects that this will ensure that its public sessions are more substantive and strategically focused than in the past. The consultations on the Board's strategy for the next three years will largely take the form of engagement with external stakeholders, including with consumer facing organisations. The Board will approve and own engagement strategies with key stakeholders and Board members will pair with those stakeholders.

Outcome		<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>outcome. We have assessed the BSB's performance against WL5 taking into account the BSB's progress update.</p> <p>While the BSB has taken active steps to start to address these actions, such as ensuring that the template for Board papers makes clear what regulatory objectives are engaged, and has commissioned the independent review of the Board, there remains further work to be done by the BSB to demonstrate that its action plan has been implemented and that it is delivering demonstrable improvements in performance against WL5. The BSB has provided a report on the actions it will take as a result of the recommendations set out independent review by <i>Independent Audit</i><sup>9</sup> which are aimed at strengthening the Board's effectiveness.</p>
	<b>Action needed</b>	The BSB to continue to make progress in delivering these actions and provide evidence of the WL5 outcome being met, through published papers and materials and any changes to its governance documentation, which the LSB will monitor.
	<b>Timing</b>	We will require a further progress update supported by evidence from the BSB, in May 2022 to inform our further assessment of the BSB's progress against this outcome in July 2022, one year after the publication of the findings of the Well-led review. In the meantime, we will carry out ongoing monitoring throughout the year.

Outcome		<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; ensure appropriate and accurate information is effectively taken into account in its work.
<b>November 2021</b>	<b>LSB assessment</b>	The Well-led review concluded that the BSB did not meet outcome WL5. The BSB's action plan included actions and commitments that are relevant to demonstrating improved performance in relation to this

<sup>9</sup> The Board agreed to better prioritise the use of the Board's time, with more focus on strategic issues relevant to the regulatory objectives; promote stakeholder engagement, including by pairing Board members with key stakeholders; and promote stronger Board cohesion, including through more informal opportunities for engagement such as informal strategy seminars focused on issues at a formative stage.

<b>Outcome</b>		<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; ensure appropriate and accurate information is effectively taken into account in its work.
		<p>outcome. We have assessed the BSB's performance against WL5 taking into account the BSB's progress update.</p> <p>The BSB has demonstrated that it has taken a range of actions to improve consumer and other stakeholder engagement, including; establishing a pool of consumer facing organisations; recruiting an additional consumer expert to its advisory pool of experts; the Board's consideration of the effectiveness and impact of its current approach to promoting public legal education, such as Legal Choices, at its May Board meeting<sup>10</sup> and case for developing a cross sector strategy which goes beyond the provision of information provided through the Legal Choices website at its September Board<sup>11</sup>. However, there remains further work to be done by the BSB to demonstrate that its action plan has been fully implemented and that it is delivering demonstrable improvements in performance against this outcome.</p> <p>The BSB has provided an update on relevant actions and commitments it has set out in the action plan in response to the recommendations in the Independent Review of the August 2020 Bar exams<sup>12</sup> which was commissioned by the BSB as a result of the difficulties experienced by candidates who sat these exams. It has reported that it has established a student liaison group with representatives invited from each Training Provider<sup>13</sup> and a pupil liaison group with representatives from each Inn and Circuit<sup>14</sup>. We note that the BSB has also stated that following discussions with Inns and Providers Groups, a separate group will be set up by the end of 2021.</p>
	<b>Action needed</b>	The BSB to make progress in delivering these actions and will seek evidence of the WL6 outcome being met, through published papers, materials, and its cross-sector strategy work on public legal education, which the LSB will monitor.

<sup>10</sup> <https://www.barstandardsboard.org.uk/uploads/assets/149bc989-ccf4-4875-bfbc20500d4bc3f4/BSB-agenda-Part-1-211923.pdf> (item 8 paragraphs 13 to 17)

<sup>11</sup> <https://www.barstandardsboard.org.uk/uploads/assets/149bc989-ccf4-4875-bfbc20500d4bc3f4/BSB-agenda-Part-1-211923.pdf> (paper 034, paragraph 9)

<sup>12</sup> <https://www.barstandardsboard.org.uk/resources/bsb-publishes-independent-review-of-the-august-2020-bptc-exams.html>

<sup>13</sup> The BSB has stated that this group should include students from each of the protected characteristic categories as well as international students.

<sup>14</sup> Practice areas and protected characteristics will be represented on the group.

<b>Outcome</b>		<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; ensure appropriate and accurate information is effectively taken into account in its work.
	<b>Timing</b>	<p>We will require a further progress update from the BSB in May 2022 to inform our reassessment of the BSB's progress against this outcome in July 2022, one year after the publication of the findings of the Well-led review. In the meantime, we will carry out ongoing monitoring throughout the year.</p> <p>We will also require the BSB to confirm when it has completed its outstanding action in respect of the Independent Review of the August 2020 Bar exams.</p>

<b>Outcome</b>		<b>RA2:</b> Regulatory arrangements and supporting guidance documentation are regularly reviewed and, where necessary, updated based on a robust evidence-base.
<b>November 2021</b>	<b>LSB assessment</b>	<p>A key component for meeting this outcome is effective engagement with the LSB's rule approval process. A deterioration in the quality of the BSB's applications to alter its regulatory arrangements in 2019, means that we cannot currently consider this outcome as met.</p> <p>In November 2019 assessment we assessed this outcome as <i>not met – action being taken</i>, in respect of some recent applications to alter its regulatory arrangements, including those which have proposed to implement significant policy changes, there have been a number of issues which resulted in challenges for the BSB in the approval process.</p> <p>The BSB informed us in November 2019 of the steps it had taken to ensure that future applications to alter its regulatory arrangements are complete and that all quality issues have been addressed before applications are submitted for approval.</p> <p>However, the BSB has not submitted a substantive rule change application since 2019, although they have submitted exempt changes, for which we have issued exemption directions. Although these applications had improved significantly, given that we are yet to receive a full rule change application, we do not consider that we have sufficient evidence to recommend that the rating for this RA2 outcome be changed to <i>met</i>. The BSB has advised that it will submit at least one full rule change application in early 2022.</p>

Outcome		RA2: Regulatory arrangements and supporting guidance documentation are regularly reviewed and, where necessary, updated based on a robust evidence-base.
	Action needed	The BSB to take the necessary steps to ensure that future applications to amend its regulatory arrangements are complete and that all quality issues have been addressed before applications are submitted for approval.
	Timing	Immediate action and prior to submission of any future application to amend its regulatory arrangements. We will review progress against this RA2 outcome on receipt of each rule change application.

## CILEx Regulation (CRL)

### Overview

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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In November 2021 we assessed CILEx Regulation's performance on outcomes RA2, S3 and WL2, following a targeted information request. We focused on these outcomes based on an initial desk review of CILEx Regulation's published material, consideration of CILEx Regulation's applications to the LSB to change regulatory arrangements during the year, and our ongoing relationship management work.

CILEx Regulation has *met* the outcomes. We have upgraded CILEx Regulation against two outcomes:

- We have changed our assessment on RA2 to reflect progress by CILEx Regulation in improvements to its quality of applications to change regulatory arrangements.
- We now consider S3 is *met*, following CILEx Regulation's amendments to its supervision rules to remove outdated references to QASA and add further competency requirements.

We also consider that CILEx Regulation continues to meet outcome WL2. We see scope for improvement in its performance here though, in terms of how CILEx Regulation articulates what work it is doing and why, and how it deploys its resources to deliver against its own deadlines. We understand that CILEx Regulation is making some internal changes which will help to address these concerns. We will assess CILEx Regulation against this outcome again in June 2022.

## Met

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 2021	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.</p> <p>Since our last performance assessment, the LSB has received and approved several applications for changes to regulatory arrangements from CILEx Regulation relating to significant policy changes (including education standards, and the transfer of ACCA-regulated professionals).</p> <p>We consider there has been an improvement in the quality of these applications compared to those in previous years. We are satisfied that CILEx Regulation is now regularly giving a clear articulation in its applications of why changes are being proposed and how such changes are expected to impact on the regulatory objectives.</p> <p>However, we consider that there are still improvements to be made, particularly around the volume of information provided by CILEx Regulation in its applications, and the need to supply only the necessary and sufficient information for the LSB to make its decisions.</p> <p>CILEx Regulation has explained to us the detail of changes to its internal processes to provide additional quality assurance to applications. We will monitor the implementation of these changes. As a result, we have concluded that CILEx Regulation now meets this outcome.</p>
	Action needed	No action required.
	Timing	Ongoing monitoring.

Outcome		<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
November 2021	<b>LSB assessment</b>	<p>CILEx Regulation made changes to its competency requirements this year to take account of its education and training review, remove references to an outdated assessment process and impose additional requirements around youth competency.</p> <p>We are satisfied that these changes, which we approved, are sufficient to address our concerns from our last assessment. Therefore, we consider this outcome should be changed to <i>met</i>.</p>
	<b>Action needed</b>	No action required
	<b>Timing</b>	Ongoing monitoring

Outcome		<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.
November 2021	<b>LSB assessment</b>	<p>A key component for meeting this outcome is effective deployment of resources and an understanding of how best to deploy these to conduct the necessary regulatory activity.</p> <p>We have had concerns during the year about how CILEx Regulation chooses to deploy its resources to carry out its regulatory activities. Through our engagement with CILEx Regulation across the year and consideration of its applications to change regulatory arrangements, we have observed a lack of clear understanding of the most appropriate use of its resources. This includes through overly large applications and poor communication around changing priorities.</p> <p>At times, we have seen CILEx Regulation conduct its regulatory activity effectively and efficiently since our last assessment, for example in making changes at short notice to its compensation arrangements. We want to see this certainty exhibited consistently across its regulatory activities.</p> <p>This year has been one of significant change in personnel for CILEx Regulation, at Board and senior executive level. We know CILEx Regulation has put in place new processes and is further planning to</p>

<b>Outcome</b>		<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>restructure its operations internally. We consider that some of these changes will help CILEx Regulation to better deploy its resources.</p> <p>We have concluded that CILEx Regulation has <i>met</i> this outcome.</p>
	<b>Action needed</b>	We invite CILEx Regulation to consider its approach to deploying its resources and continue to undertake planned changes to support this.
	<b>Timing</b>	We will assess CILEx Regulation against this outcome again in June 2022.

## Council for Licensed Conveyancers (CLC)

### Overview

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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We focused this assessment on outcomes RA2, E3, E4, A5 and WL3 following analysis of information in the public domain, such as CLC Council papers and minutes, CLC Consultation documents, applications for changes to regulatory arrangements, and our routine engagement with CLC through the year.

Our assessment of the CLC is that while it continues to improve its performance there are key areas of concern, in particular:

- Public transparency of decision making
- Engagement with stakeholders

The CLC has committed to reviewing these areas of concern and we will monitor and report on its progress.

We have made two changes to the following outcomes:

- outcome RA2 to *not met- action being taken* as the CLC was unable to demonstrate meaningful consultation and engagement with the regulated community, consumers and stakeholders that contributes to the development of a robust evidence base
- outcome WL3 to *not met - action being taken* on the grounds the CLC is not achieving sufficient transparency in how it makes decisions or develops its regulatory approach.

In addition, we would like to explore with the CLC how it ensures that the public can have confidence that it will take appropriate action with firms and practitioners that fall below expected standards including, where appropriate, the deployment of disciplinary and enforcement actions as well as reflecting these actions on the CLC's register. While we do not propose to change the relevant assessment at this time, this is an area we are likely to focus on in the coming period.

Outcome		E3: The enforcement process and any associated appeals process is: consistent; independent; risk-based; evidence-based; documented; transparent; proportionate; focused on consumer protection, maintaining professional principles and protecting the public interest.
November 2021	LSB assessment	<p>We asked the CLC to explain its approach to handling disciplinary matters and consequent enforcement actions in order to be assured that its focus on informal resolution of issues did not result in a lack of transparency and potential harm to consumers.</p> <p>The CLC stated that its approach of assisted compliance is effective in avoiding the need for disciplinary action in some cases and that it is not proportionate or just to publicise cases where compliance has been restored rapidly. While the LSB endorses an approach that seeks to minimise recourse to formal disciplinary and enforcement activity, the instances of such intervention in the case of the CLC are so low as to generate questions as to whether it is in fact sufficient to support public confidence. While the conveyancing market generates around one million transactions annually, the CLC has taken disciplinary action on only ten occasions since 2017. We would like to understand better how the CLC assures itself (and through it, the public) that its approach is proportionate to the risk.</p> <p>In its 2021 PCF application, the CLC set out that it would be using its supervision and, if required, its enforcement powers to monitor and investigate how firms were dealing with first tier complaints handling. We note that CLC has committed to a review of the Adjudication Panel Rules which will be consulted on in early 2022; this review will touch on fast track and interim order powers.</p>
	Action needed	Further assurance that the CLC's approach to disciplinary and enforcement activity is sufficient to underpin public confidence.
	Timing	CLC to submit a report by 28 February 2022.

Outcome		A5: The regulator's list of those they regulate is accessible, accurate and provides information on the disciplinary records of those regulated.
November 2021	LSB assessment	<p>Last year we said that we would be working with the CLC on linking disciplinary data and transparency around lessor disciplinary sanctions agreed with firms and Licensed Conveyancers, such as fines or rebukes, to its live register.</p> <p>The CLC has a register that seeks to identify and link to any disciplinary findings of those authorised to practise. There remain two areas in which there is scope for CLC to improve the accessibility and reliability of its register:</p> <ol style="list-style-type: none"> <li>1) We have concerns about the length of time it takes the CLC to link findings from the Adjudication Panel to an individual's entry on the register. It is imperative that this is addressed urgently.</li> <li>2) As set out above under E3, the CLC's approach to enforcement results in very small numbers of published enforcement decisions. This means that in practice, we were only able to find disciplinary information linked to one authorised person, which means very limited transparency in relation to its enforcement work.</li> </ol> <p>The CLC informed us that it plans to review whether information about disqualification will be published on its register. In addition, CLC outlined that it would be aiming to resolve how to link detailed disciplinary information about lessor disciplinary sanctions in the next iteration of its register.</p>
	Action needed	CLC to confirm that measures are in place to ensure that the register is updated promptly following disciplinary cases and to progress its work to consider how it could include information on additional disciplinary sanctions on the register.
	Timing	For the CLC to provide an update on its progress by 28 February 2022 on how it will ensure that an individual's entry on the register is updated in a timely manner after an Adjudication Panel finding.

## 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 2021	LSB assessment	<p>Last year we raised concerns surrounding effective and meaningful consultation on regulatory proposals. This followed feedback provided on the 2020/21 Compensation Fund Contributions and practising certificate fee (PCF) applications.</p> <p>The LSB initially refused the CLC's 2021/22 PCF application partly on the grounds that the CLC failed to engage effectively with a sufficient range of stakeholders as reasonably practicable. We also raised concerns with the CLC about the robustness of the CLC's policy development in determining its then preferred methodology. The application was resubmitted by the CLC and subsequently approved</p> <p>We asked what steps that the CLC is taking to increase engagement with its proposals. The CLC plans to trial consultations being accompanied by a simplified questionnaire to encourage more of those potentially affected by the CLC's policies as well as stakeholders to share their views.</p> <p>On the basis of ongoing concerns with the engagement and transparency of regulatory decisions the LSB considers that this outcome is rated as <i>not met - action being taken</i> as CLC is focusing on improving its stakeholder engagement.</p>
	Action needed	For the CLC to demonstrate meaningful consultation and engagement with the regulated community, consumers and stakeholders that contributes to the development of a robust evidence base.
	Timing	For future proposals for changes to regulatory arrangements or practising certificate fees to demonstrate meaningful consultation and engagement.

<b>Outcome</b>	<b>WL3:</b> The regulator is transparent about its own: <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>▪ financial costs.</li> </ul>
<b>November 2021</b>	<b>LSB assessment</b> <p>Last year we assessed the CLC as <i>met</i> against WL3 as it delivered its outstanding action to improve transparency on how it holds itself to account. This was achieved through introducing the KPI framework and publishing the performance data along with Council papers on the CLC website.</p> <p>As part of an overall focus on the Well-led standard leading to the reviews of the BSB and FO this year we undertook a more detailed analysis of the CLC's overall transparency in practice. We were unable to assess the quality of the information provided to the CLC Council from published documents. We have identified the following areas where the CLC is not achieving substantive transparency:</p> <ul style="list-style-type: none"> <li>▪ Decision making, in what information evidence the CLC relies on to make decisions and how to take account of stakeholder views: <ul style="list-style-type: none"> <li>○ Published CLC Council papers only contain a high-level summary of the decisions to be made, with the substantive papers which detail the evidence for the decisions being unpublished. We could not find evidence that this information is made available elsewhere.</li> <li>○ Papers submitted to the April 2021 Council meeting remained unpublished in November 2021</li> <li>○ The reasons why the CLC Council made decisions is not readily apparent from the published minutes from meetings or elsewhere.</li> </ul> </li> <li>▪ Regulatory approach, in how the CLC develops policy <ul style="list-style-type: none"> <li>○ There were significant delays in publishing the 2021 CLC business plan</li> <li>○ The CLC failed to engage effectively with a sufficient range of stakeholders as reasonably practicable as set out in our initial decision of its 2021/2022 PCF application</li> </ul> </li> </ul> <p>The CLC has committed in 2022 to review both the performance data on how it holds itself to account as well as a review of its publication policy which determines what information is made publicly available. This review is an opportunity to address the gap in substantive transparency on how it makes decisions and develops policy options.</p>

<b>Outcome</b>		<b>WL3:</b> The regulator is transparent about its own: <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>▪ financial costs.</li> </ul>
	<b>Action needed</b>	We expect the CLC to progress in 2022 both its review of the CLC publication scheme, how to increase transparency of decision making and the review of its performance data (KPIs).
	<b>Timing</b>	The CLC to provide an update on these reviews by 31 March 2022.

## Costs Lawyer Standards Board (CLSB)

### Overview

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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The last regulatory performance assessment of the CLSB was published in May 2021. At that time we had received updates from CLSB on the four remaining not met outcomes (RA3, RA4, WL2, WL4). As a result of the progress made, we were satisfied that outcomes RA3, WL2 and WL4 were now *met*. This just left RA4 as *not met – action being taken*. Considerable progress had already been made towards meeting outcome RA4 at that time.

Our updated assessment confirms that CLSB has now evidenced that it currently meets outcome RA4. This is the culmination of CLSB's turnaround from a total of nine *not met* outcomes, to now meeting all the outcomes contained within the LSB's regulatory performance framework. This is a significant achievement for which the CLSB and its leadership is to be commended. The improvement in CLSB's performance is the result of substantial ongoing work. In order to maintain its current assessment, we expect CLSB to sustain its focus on regulatory performance by demonstrating further improvements against each of the outcomes over time.

The continued work by CLSB demonstrates its commitment to becoming an effective regulator. This is seen not only in its efforts to meet each of the outcomes but also in its innovative approaches to its work. A good example of this is its recent success in obtaining funding from the Regulators' Pioneer Fund to run a research project looking at whether Costs Lawyers could bring about downward pressure on the cost of legal services. This type of innovation has the potential to provide significant benefits for consumers and shows the work CLSB is doing in order to make positive change within the sector.

We expect CLSB to continue its good work in developing its evidence base and, as set out above, improving its performance against each of the outcomes with a clear focus on the regulatory objectives.

## Met

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.
November 2021	LSB assessment	<p>We set an action for CLSB to demonstrate continued use of its consumer engagement strategy, in particular, its consumer outcomes framework, once it was in operation. We set an expectation to receive evidence of the impact made by the framework over time and to be updated on further progress against its 2021 business plan priorities for improving its regulatory arrangements.</p> <p>The update from CLSB shows that it has taken steps to obtain evidence directly from individual consumers of legal services from Costs Lawyers. Additionally, CLSB has made use of its consumer outcomes framework when considering and setting its business plan for 2022.</p> <p>CLSB has also been able to provide evidence that it has progressed its improvements to regulatory arrangements actively, not least through its work developing a new competency statement for costs lawyers and its updates to regulatory guidance notes.</p> <p>We are satisfied that CLSB has demonstrated its ongoing work making use of its learning over time.</p>
	Action needed	N/A
	Timing	N/A

## The Faculty Office (FO)

### Overview

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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The Faculty Office (FO) continues to meet the majority of the outcomes in the performance framework. However, there are some specific areas of concern, which we expect FO to focus on addressing over the coming months to meet the relevant standards. This includes:

- On RA2, we expect the FO to demonstrate transparency on any engagements that inform its budget, transparency on planned activities, and clarity on how it will measure and evaluate its activities, including its regulatory work. The FO should also ensure that LSB rules and guidance are adhered to and that applications contain all relevant information required so that there is clarity and transparency on what is being proposed. We plan on reassessing the FO against this standard in April 2022.
- On RA5, we expect the FO to evaluate its position after it has completed its planned activities, including its consumer survey in January 2022 and its Action Plan commitments, to assess how best to engage directly with consumers, including working with other regulators to define opportunities for doing so. We expect the FO to evaluate the extent to which these activities advance its understanding of the impact of its regulatory arrangements on consumers, and to consider what further, and ongoing, activities will be needed to meet the RA5 standard.

Delivering on the Action Plan that the FO prepared in response to the LSB's Well-led Review will be an important part in ensuring that the FO has the policies, processes and procedures in place to be a Well-led regulator. It will also help the FO to demonstrate it has met RA2 and RA5, and enhance its commitment to transparency.

Beyond the specific actions on RA2 and RA5, and the delivery of its Action Plan, it is important that the FO reflects on the overall purpose of any planned activities, and that it clearly demonstrates how such activities relate to its strategic and regulatory objectives.

## Actions not being reviewed

We completed our Review of the FO's performance against the regulatory performance framework Well-led standard in September 2021. Based on the evidence gathered during this review,<sup>15</sup> we determined that the FO did not meet four outcomes under the Well-led standard: WL2, WL3, WL4 and WL6.<sup>16</sup>

The FO accepted the findings in the review report and that it must do more to meet the Well-led standard. It submitted an Action Plan<sup>17</sup> designed to address the findings and to enable it to demonstrate improved performance. As such, we believe that it is too soon after the completion of the Well-led Review, and the resultant Action Plan, to make a meaningful assessment of the FO's progress in meeting the four outcomes under the Well-led standard. We will continue to monitor the FO's progress against the Action Plan milestones through our regular relationship management meetings.

## Not met: action being taken (November 2021 assessment and September 2021 Well- Led Review assessment)

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 2021	LSB assessment	<p>The action for the FO from the 2020 assessment was to review its current procedures and take the necessary steps to ensure that future applications to alter regulatory arrangements are complete and that all quality issues have been addressed before applications are submitted for approval.</p> <p>The FO did not submit any applications to alter regulatory arrangements for which we were able to make a decision within the period of the 2021 assessment. We considered the FO's 2021 PCF application (submitted on 1 September 2021, with LSB decision notice issued on 5 October 2021) as evidence for our assessment, and we have concluded that although the overall quality of the application had improved, more progress is needed, ensuring transparency on any engagements that inform the FO's budget, transparency on planned activities, and clarity on how the FO will measure and evaluate its activities, including its regulatory work. We note that the FO has stated that the Governance Manual, which it is developing as part of the Well-led review Action Plan, will enable it to prepare high quality and effective applications. The Governance Manual is due to be published in January 2022.</p> <p>As such, we cannot consider this outcome to be met. We will reassess this outcome after the publication of the new Governance Manual, and when further applications have been considered.</p>

<sup>15</sup> LSB, 'Well-led review of the Faculty Office: findings report' (September 2021) <https://legalservicesboard.org.uk/wp-content/uploads/2021/09/Faculty-office-Well-led-review-report.pdf>

<sup>16</sup> <https://legalservicesboard.org.uk/wp-content/uploads/2021/09/FO-Well-led-review-performance-assessment-1.pdf>

<sup>17</sup> <https://legalservicesboard.org.uk/wp-content/uploads/2021/09/FO-action-plan.pdf>

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.
	Action needed	Faculty Office to review its current procedures and take the necessary steps to ensure that future applications the LSB for approval of regulatory arrangements contain detail on how work programmes were developed, clarity on how activities will be evaluated, that they follow the LSB rules and guidance and that all quality issues have been addressed before applications are submitted for approval.
	Timing	We will reassess in April 2022, after the Governance Manual has been completed, and at which point we expect to be able to include an application to alter regulatory arrangements in our assessment.

Outcome		RA5: The regulator understands the impact of its regulatory arrangements and guidance on consumers, the regulated community, the market and the regulatory objectives
November 2021	LSB assessment	<p>Since November 2020, the FO has made some progress in ensuring that it understands the impacts of its regulatory arrangements and guidance, such as recruitment of two additional lay members to its Advisory Board, a consumer champion and sharing its consultations more widely.</p> <p>However, there is room for further improvement. This is something that the FO itself acknowledges and is actively taking steps to address, and which is proved by the following:</p> <ul style="list-style-type: none"> <li>• The FO has committed, in the Action Plan published in response to the LSB's Well-led Review of the FO, to assess how best to engage directly with consumers, and that it will work with other regulators to define opportunities for doing so</li> <li>• The FO is taking steps to design and deliver a consumer survey, which it intends on launching in January 2022</li> </ul> <p>We expect the FO to evaluate its position after it has completed its planned activities. As part of this evaluation, we expect the FO to identify what further, and ongoing work, will be needed to meet the RA5 standard. We also expect the FO to consider wider changes within the sector and how they may impact on consumers of notarial services. This includes considering any LSB statements of policy.</p> <p>More broadly, we expect the FO to articulate how its planned activities deliver upon its strategic and regulatory objectives.</p>

Outcome		<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
		As such, we have assessed this outcome as <i>not met – action being taken</i> . We will reassess this outcome when the FO has completed its planned activities.
	<b>Action needed</b>	<p>We recommend the following actions:</p> <ul style="list-style-type: none"> <li>FO to follow through with plans to develop a consumer survey so that it can better understand the impact of its regulatory arrangements and guidance on consumers of notarial services</li> <li>FO to follow through with its Action Plan, including assessing how best to engage directly with consumers, and considering how it can work with other regulators to define opportunities for doing so</li> <li>FO to consider how wider developments within the sector, such as PII and cyber coverage, impacts on consumers, and consider how it can work with other regulators to mitigate any potential impacts</li> <li>FO to consider how its planned activities deliver upon its regulatory and strategic objectives.</li> </ul>
	<b>Timing</b>	We will reassess in April 2022, at which point we expect the FO to have completed the relevant actions in its Action Plan and evaluated what ongoing, and further, work is needed in meeting this standard.

Outcome		<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.
<b>September 2021</b>	<b>LSB assessment</b>	<p>Our Well-led Review found that the FO did not have a complete and comprehensive set of governance arrangements in place that would enable it to ensure it can regulate effectively. We identified the following specific issues:</p> <ul style="list-style-type: none"> <li>FO staff did not have role descriptions defining their respective responsibilities.</li> <li>In most cases, the FO did not have documented arrangements setting out how decision-making powers were delegated, both by the Master and by senior staff.</li> </ul>

Outcome	<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.	
		<ul style="list-style-type: none"> <li>▪ The FO did not have a policy for managing conflicts of interest, which was particularly important given its relationship with the law firm (LBMW), which provides the FO's staff and carries out its notarial regulation work.</li> <li>▪ The FO did not have policies for the recruitment of staff and members of its boards and committees, which meant that its recruitment processes, including those for its Advisory and Qualifications Boards and the Master's Audit Committee were not sufficiently open.</li> <li>▪ The presence of notarial society members on the Advisory Board, and the fact that under the Notaries Qualification Rules 2017 the Master consults with the two societies about the appointment of notary members to the Qualifications Board, raise potential concerns of undue influence by the societies in the FO's decision-making processes.</li> </ul>
	<b>Action needed</b>	<p>We welcome the commitments and actions set out in the FO's Action Plan that are relevant to demonstrating improved performance in relation to this outcome. These are:</p> <p>(1) The development and introduction of role descriptions for all FO staff members, which will:</p> <ul style="list-style-type: none"> <li>▪ Define each staff member's role in decision making and in which matters delegated by the Master they can expect to take part</li> <li>▪ Bring consistency and clarity to the way key decisions are made</li> </ul> <p>(2) The development of a documented delegation scheme, which will define how decisions at all key levels are made and will specify which decisions are delegated by the Master and to which staff members and committees. This will:</p> <ul style="list-style-type: none"> <li>▪ Ensure consistency in delegated decision making</li> <li>▪ Make clear to stakeholders and interested parties how decisions are made and by whom, and</li> <li>▪ Ensure consistency in recording of advice that is formally provided to the Master</li> </ul> <p>(3) The development of a policy document on staff with both FO and LBMW work responsibilities, which will provide clarity as to staff with dual roles and/or joint responsibilities should manage competing priorities and potential conflicts of interest as well as allocation of the LBMW management fee</p>

Outcome		WL2: The regulator understands the resources (financial, human and technical) and organisational structure it needs to carry out its regulatory functions (including authorisation, supervision and enforcement) effectively and efficiently and these are implemented.
		<p>(4) The development of a policy document covering recruitment of both executive and non-executive staff, board and committee members. This will help to provide confidence that recruitment for all roles is fair, open and is designed to ensure appropriate diversity. It will also clarify the role of the notarial societies in relation to the Advisory and Qualifications Boards and help to address any concerns about potential conflicts of interest. The FO has already added lay members to its Advisory Board to improve its range of experience. It is also seeking to expand the membership of the Master's Audit Committee to ensure it has the right skills and experience to provide rigorous assessment of the FO's work.</p> <p>As well as the above actions, the FO has committed to developing a governance manual which will:</p> <ul style="list-style-type: none"> <li>▪ Establish consistent, transparent and coherent practices for delivering and overseeing the FO's governance, and</li> <li>▪ Ensure that good governance processes are embedded across the FO and consistently applied to a high standard</li> </ul> <p>The governance manual will be overarching and will be applied across all the Well-led outcomes.</p> <p>In its Action Plan the FO has committed to delivering all the above actions by the end of March 2022. We will expect to be kept informed of the FO's progress in delivering these actions and will seek evidence of the outcome being met, through Board papers, minutes and other published material.</p>
	Timing	The LSB will review the FO's progress on the above actions and meeting this outcome in April 2022.

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.
September 2021	LSB assessment	Our Well-Led Review found that the FO's decision-making processes were not sufficiently consistent and transparent, and that it was therefore not possible for the LSB or others to be assured that the FO took decisions, particularly in respect policy and the FO's finances and budgets, with sufficient scrutiny and due regard to the regulatory objectives, evidence and risks.

Outcome	<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>While, the FO increased the amount of transparency it provides during the review period, we consider that there are aspects of its decision-making processes, such as the Qualifications Board, where more transparency is required. We also considered that the FO needed to revise its processes to ensure that all decisions taken by the Master that could have a significant impact on the regulated community are consistently and transparently recorded and published.</p> <p>We found that there was a potential conflict of interest arising from the FO's relationship with Lee Bolton Monier Williams (LBMW), the solicitors' firm which provides services to the FO.</p>
	<b>Action needed</b>	<p>We welcome the commitments and actions set out in the FO's Action Plan that are relevant to demonstrating improved performance in relation to this outcome. These are:</p> <p>The FO will continue to develop its recently introduced risk matrix. The Master's Audit Committee will review the matrix at all of its meetings to provide confidence that the FO is keeping known risks under close review and scanning for potential new ones.</p> <p>The FO will develop a transparency policy which will enable stakeholders and interested parties to follow how the FO undertakes and monitors its key activities. Issues and activities covered will include:</p> <ul style="list-style-type: none"> <li>▪ The FO's decision-making processes</li> <li>▪ Its approach to regulation</li> <li>▪ Its risk and mitigation strategies</li> <li>▪ Its performance against established KPIs</li> <li>▪ Its costs</li> </ul> <p>The transparency policy will be included in the FO's new governance manual.</p> <p>The FO will also introduce complementary procedures to ensure appropriate and consistent transparency of its decision-making processes via minutes and other papers, including those containing information about financial matters of interest to the regulated community, significant decisions affecting the regulatory community and, as appropriate, decisions made by its Qualifications Board.</p>

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.
		<p>To ensure stakeholders have confidence that the FO's resources are well spent and to address any potential conflict of interest, the FO will also provide increased transparency of its relationship with LBMW by:</p> <ul style="list-style-type: none"> <li>▪ Formally contracting with LBMW for its services</li> <li>▪ Conducting a four-yearly 'value for money' review of LBMW's services, which may result in an open tendering process. The first review is scheduled for the first quarter of 2023.</li> </ul> <p>The FO will develop a plan to eliminate its current 'notarial deficit' and grow its reserves to the appropriate level. Progress towards these goals will be monitored by the Master's Audit Committee. This work will provide transparency about the FO's financial position to its regulated community.</p> <p>In its Action Plan the FO has committed to delivering all the above actions by the end of January 2022. We will expect to be kept informed of the FO's progress in delivering these actions and will seek evidence of the outcome being met, through Board papers, minutes and other published material.</p>
	Timing	The LSB will review the FO's progress on the above actions and meeting this outcome in April 2022.

Outcome		WL4: The regulator learns from its own work, stakeholders, the legal sector and other sectors and uses that learning to improve its work.
September 2021	LSB assessment	In our Well-Led Review, we found that while the FO has well-established methods for obtaining information about notaries, it has a largely reactive approach to gathering information about the issues facing them and the wider market. Up to now the FO has tended to engage with individual notaries about such issues rather than undertaking a proactive approach to horizon scanning and research to better understand them and direct its regulatory activities.
	Action needed	We welcome the commitments and actions set out in the FO's Action Plan that are relevant to demonstrating improved performance in relation to this outcome, which are as follows:

<b>Outcome</b>		<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>The FO will develop a programme for proactive horizon scanning and research, which will also involve the notarial societies, notaries and other regulators. This aims of this programme will be to improve the FO's ability to anticipate developments and engage and learn from the regulated community, stakeholders and others.</p> <p>In its Action Plan the FO has committed to delivering all the above actions by the end of March 2022. We will expect to be kept informed of the FO's progress in delivering these actions and will seek evidence of the outcome being met, through Board papers, minutes and other published material.</p>
	<b>Timing</b>	The LSB will review the FO's progress on the above actions and meeting this outcome in April 2022.

<b>Outcome</b>		<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; ensure appropriate and accurate information is effectively taken into account in its work.
<b>September 2021</b>	<b>LSB assessment</b>	<p>We found that although the FO has well-established procedures for gathering information about notaries, it needs to improve its engagement with consumers of notarial services in order show it has a sufficient understanding of their needs and concerns as well as those of other stakeholders. We note that the FO has recently recruited two new members to its Advisory Board to increase its diversity and widen its collective experience.</p> <p>We also found that while the FO has a process for undertaking consultations, it does not always apply it consistently as to how widely it consults and how it demonstrates that it has taken account of the responses it receives.</p>
	<b>Action needed</b>	We welcome the commitments and actions set out in the FO's Action Plan that are relevant to demonstrating improved performance in relation to this outcome, which are as follows:

<b>Outcome</b>		<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; ensure appropriate and accurate information is effectively taken into account in its work.
		<ul style="list-style-type: none"> <li>▪ The FO will develop an expanded strategy for engaging with consumers, which will include working with the Legal Services Consumer Panel and other regulators. This strategy is intended to provide increased opportunities for the FO to engage directly with consumers and learn from them. It should also enable the FO to learn from and share insights with other regulators.</li> <li>▪ The FO will develop a consultation policy to set out how it will undertake consultations, ensure it is transparent about how it evaluates responses and takes account of them in its decision making. This policy is intended to reassure stakeholders and other parties that their views are considered and that the FO's consultations are consistently undertaken in an effective and transparent manner.</li> </ul> <p>In its Action Plan the FO has committed to delivering all the above actions by the end of January 2022. We will expect to be kept informed of the FO's progress in delivering these actions and will seek evidence of the outcome being met, through Board papers, minutes and other published material.</p>
	<b>Timing</b>	The LSB will review the FO's progress on the above actions and meeting this outcome in April 2022.

## Institute for Chartered Accountants in England and Wales (ICAEW)

### Overview

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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The last regulatory performance assessment of the ICAEW was published in December 2020. The ICAEW met all outcomes except R2, A5 and WL3. ICAEW was rated 'not met – action being taken', for R2 and A5 and 'not met – action required' for WL3.

We received updates from the ICAEW on the three remaining not met outcomes (RA2, A5 and WL3) at the end of June 2021 and in November 2021. We commend the ICAEW for improvements made against unmet outcomes RA2 and WL3. We consider that:

- As a result of the progress made, we are satisfied that outcomes WL3 and RA2 are now rated 'Met'
- Planned actions remain outstanding on A5 and therefore we intend to re-assess this outcome to 'not met – action required' to reflect that this issue has endured since January 2019 and needs to be addressed as a priority given the direct impact on consumers. Given the length of time that ICAEW has not been in compliance with this outcome, we will now take steps to secure compliance.

As part of this year's information request, we also asked for evidence around how ICAEW meets outcome A1, concerning standards and authorisation for education and training providers. On the evidence that is publicly available and that was provided to the LSB, it is not clear how ICAEW ensures that providers are meeting an adequate standard or what quality assurance mechanisms it has in place. This is important because these providers play a key role in decisions on who to authorise. We consider that ICAEW meets this outcome but we intend to pursue this further over the coming year to fully understand the position and what action might be needed to provide better public confidence.

We will assess unmet outcomes again as part of our annual performance assessment in October 2022.

## Met

Outcome		A1: Only those who meet the regulator's standards are authorised to provide education and training
November 2021	LSB assessment	<p>ICAEW has set out the training requirements that those authorised for probate must meet under <a href="#">4.1 of the probate regulations</a>. This section also sets out that there are no prescribed courses for the purposes of meeting relevant learning required to be authorised by ICAEW for probate. However, it does set out what the training and assessment must cover to meet this criteria.</p> <p>ICAEW's website lists different ways a candidate can demonstrate how they meet the qualification criteria set out in the regulations and on the same website there is a link to Mercia UK as the training provider for the ICAEW probate course, which suggests that ICAEW promotes this course to its members.</p> <p>ICAEW has not provided assurance on any targeted quality assurance of Mercia to ensure that it is delivering an appropriate standard of training and assessment or that it meets its criteria in 4.1. Mercia appears to play an important role in authorisation as the go-to training provider for individuals seeking to qualify for probate authorisation. As such, it is important for consumer protection and public confidence that ICAEW is able to demonstrate appropriate quality assurance mechanisms.</p>
	Action needed	ICAEW to provide information about how it determines what providers/courses meet its requirements under 4.1 and what mechanisms it has in place for ongoing quality assurance of these courses.
	Timing	ICAEW to provide information about the shortcomings identified for outcome A1 by 31 March 2022.

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 2021	LSB assessment	<p>In December 2020, we set an action for the 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.</p> <p>ICAEW referred to the following steps in their November 2021 update:</p>

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.
		<ul style="list-style-type: none"> <li>the ICAEW Regulatory Board has determined that a protocol should be developed to govern the consultation process for prospective changes to bye-laws and rules and regulations governing all ICAEW members and regulated firms in all statutory and voluntary areas.</li> <li>A dedicated 'consultations' page has been set up on the ICAEW website, which will provide information for both the regulated population and the public on consultations being run by the ICAEW Professional Standards Department.</li> <li>Since April 2021 ICAEW has consulted on proposed amendments to the minimum approved wording to clarify cyber coverage in policies of qualifying insurance, the 2022 probate fees and consumer transparency. As a consequence, some drafting amendments were made to the proposals.</li> <li>The ICAEW Regulatory Board has begun reviewing proposals for changes to regulatory arrangements.</li> </ul> <p>We note that the ICAEW's update does not provide specific information about any review of its internal procedures to ensure that all future applications provide adequate evidence to support the proposed changes. However, we deduct from the IRB's new involvement in the scrutiny process and the improved quality of ICAEW's last three applications to us that such a review has taken place.</p> <p>We welcome the ICAEW's new approach to meaningful engagement with those affected by changes to regulatory arrangements. We expect that the evidence gathered during consultation and engagement will provide helpful evidence to inform policy making. We note that the evidence base in recent applications to the LSB for approval of changes to regulatory arrangements has been strengthened by the evidence gathered during consultation on the proposals.</p>
	Action needed	Action complete
	Timing	N/A

Outcome		<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.
November 2021	<b>LSB assessment</b>	<p>In December 2020, we set an action for the ICAEW to establish a means of publishing relevant information related to legal services regulatory decision-making.</p> <p>ICAEW referred to the recent publication of several documents including the annual report for the ICAEW Regulatory Board which contains targeted information on probate. The ICAEW has also launched a monthly regulatory standards newsletter which increases transparency about how the Professional Standards Department at the ICAEW carries out its regulatory work. Furthermore, the ICAEW confirmed that the ICAEW Regulatory Board has agreed a new policy on transparency which has led to the publication of relevant board papers from August 2021.</p> <p>We welcome the positive steps the ICAEW has taken towards meeting this outcome. We note that ICAEW has taken active steps to establish a means of publishing relevant information related to legal services regulatory decision-making.</p> <p>After reviewing the papers published after the August ICAEW Regulatory Board we conclude that ICAEW now meets this outcome.</p>
	<b>Action needed</b>	Action complete
	<b>Timing</b>	N/A

### Not met: action required

Outcome		<b>A5:</b> The regulator's list of those they regulate is accessible, accurate and provides information on the disciplinary records of those regulated.
November 2021	<b>LSB assessment</b>	ICAEW has not been able to demonstrate that it meets this important outcome since January 2019.

Outcome		A5: The regulator's list of those they regulate is accessible, accurate and provides information on the disciplinary records of those regulated.
		<p>In December 2020, we set an action for the ICAEW to add disciplinary information for probate to the Find a Chartered Accountant (FACA) register, identified as the proposed means of meeting this outcome.</p> <p>The ICAEW update set out that in April 2021 a Disciplinary Database covering all service areas regulated by ICAEW was made available to all users of the ICAEW website. We welcome the new disciplinary database.</p> <p>We note that there are three separate registers for consumers to refer to in order to gain a complete picture of whether a probate firm has a disciplinary finding on the record. These are the probate register, the stand-alone list of probate firms with disciplinary records and the disciplinary records database. The first two of these documents are listed immediately next to each other on the relevant ICAEW probate webpage.</p> <p>However, these documents are not easily searchable, appear to have incomplete information, are not easy to navigate and do not automatically cross refer to each other. When we manually cross checked the status of firms across the documents, we found inconsistencies with several of the firms we checked. ICAEW has explained that there are different disclosure periods for the disciplinary records database and the separate list of probate firms with disciplinary records which mean a record may still appear on the latter list but be removed from the database. We note that ICAEW has published a document for the disclosure periods linked to the disciplinary records database. However, no such information is available to aid the consumer with using the other registers in terms of e.g. last update of a document or disclosure periods.</p> <p>We cannot consider this outcome met until ICAEW has a register of probate firms which is accessible, accurate and provides information on the disciplinary records of those regulated.</p> <p>Given the length of time that ICAEW has not been in compliance with this outcome, we will now take steps to secure compliance. In doing so, we will consider action that ICAEW has taken, following receipt of our assessment, to rationalise its registers and improve accessibility.</p>
	Action needed	ICAEW to create a register of probate firms which is accessible, accurate and provides information on the disciplinary records of those regulated under the Legal Services Act 2007.
	Timing	N/A

# Intellectual Property Regulation Board (IPReg)

## Overview

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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We assessed IPReg’s performance on outcomes RA2, RA3, E2, WL1 and WL3 in November 2021, following a targeted information request and review of the information we have gathered during the year. We concluded that IPReg does not meet four outcomes: RA2, RA3, E2 and WL3. We also consider WL1 to be at risk due to the lack of assurance we can take from the information available.

Outcomes RA2, RA3 and E2 were first assessed as unmet in November 2020 and remain unmet in this assessment. We acknowledge that for RA2 and E2, it will be difficult to reassess IPReg’s progress meaningfully until its comprehensive review of regulatory arrangements is complete. This is because IPReg has offered the delivery of this work as assurance that it will meet RA2 and E2. We welcome IPReg’s progress on the review and look forward to further updates.

On RA3, IPReg has made some positive progress since our last assessment, notably completing a diversity survey to give it access to up to date and reliable data about its registrants. We welcome IPReg’s commitment to integrate consideration of EDI matters into its review of regulatory arrangements. IPReg has also completed research with a partner on patent filings with the IPO.

Overall, we remain concerned about the limited access IPReg has to an adequate evidence base to inform its decision-making. IPReg has identified some activities it will and/or may undertake to improve the information it has about the regulated community, consumers of IP services and issues affecting the IP market. However, there is little transparency regarding IPReg’s plan to move these activities forward, which we have raised as an issue with IPReg previously. We have also been clear that an appropriate evidence base will be important to support any proposed changes to IPReg’s regulatory arrangements following its review of regulatory arrangements to enable it to demonstrate their impact.

IPReg has said it needs to carry out significant additional data gathering e.g. from regulated firms to build a full risk model for its compensation fund. There is no transparency of the specific activities that it will undertake to access data or possible areas of research that will support this, either in IPReg’s published board papers or draft business plan. We note that IPReg’s funding for research has been reduced from £50k of reserves to £15k in its budget and that we have raised concerns about IPReg’s funding of its performance commitments in our decision notice approving IPReg’s 2022 Practising Certificate Fee. We also raised other concerns about the transparency of IPReg’s application, including how it allocates its reserves and how it reached the decision to determine the PCF level.

We have additional concerns about the transparency of IPReg's decision-making. For example, in IPReg's public consultation to establish the compensation fund, changes limiting eligibility to individual consumers and microbusinesses were proposed, but there was no analysis or evidence to demonstrate whether these groups are regular consumers of IP services, and as a result, what consumer protection is afforded by the fund. We set out our concerns about transparency and expectation that IPReg obtains evidence of who may need to access the fund in the decision notice approving IPReg's application for changes to its regulatory arrangements.

The examples of when IPReg has not provided sufficient transparency, as set out in this assessment, have led us to assess that IPReg does not meet outcome WL3. IPReg must do more to provide meaningful transparency to the stakeholders to whom it is accountable of its decision-making and regulatory approach, which is essential to being a well-led regulator.

IPReg's response to our wider well-led queries have left us without assurance as to whether it meets WL1. The IPReg board has told us that it considers the information provided to it by the executive on which to base its decisions entirely appropriate. We have been unable so far to test this view because of the limited transparency of what is provided. Indeed, it would be hard to draw a similar conclusion to that of IPReg's board based solely on the current information available to us. We therefore consider WL1 to be at risk and further exploration of this standard is likely to be necessary.

## Met

Outcome		WL1: The Board/Council holds the executive to account for the regulator's performance to ensure that it operates effectively and efficiently and in a way which is compatible with the regulatory objectives.
November 2021	LSB assessment	<p>We asked IPReg to provide information about lessons learned from the well-led review of the BSB, particularly in respect of governance and consumer engagement.</p> <p>In response, IPReg said that the IPReg board had considered the lessons from the review, as well as lessons from the well-led review of the FO. It agreed to make some minor governance improvements, for example, referencing the regulatory objectives in board papers and publishing governance documents on its website, which is positive.</p> <p>The board was also asked to consider if there should be any improvements to the quantity and/or quality of information provided to the board, in papers and generally. It agreed that what it is provided is 'entirely appropriate'. We have limited sight of what is provided to the board to enable it to assert this. Based on what is publicly available and what has been provided to the LSB, it is difficult to draw this conclusion. In particular, as noted above, we have concerns about the extent of IPReg's evidence base and therefore its ability to analyse the likely impact of its work on consumers and the regulatory objectives.</p>

Outcome		<b>WL1:</b> The Board/Council holds the executive to account for the regulator's performance to ensure that it operates effectively and efficiently and in a way which is compatible with the regulatory objectives.
		<p>The IPReg board's response also raised concerns about the insight of the board, which did not appear to reflect on the issues with IPReg's evidence base that the board has been engaged with during the past 12 months. It would appear that the board has missed an opportunity to drive improvement and identify information that would support it to make better informed decisions, for the benefit of its regulated community and IP consumers.</p> <p>Overall, we consider WL1 to be at risk due to the lack of assurance we can take from the information available, and that further exploration of this standard is likely to be necessary.</p>
	<b>Action needed</b>	We expect the IPReg board to provide a response that explains how it holds the executive to account efficiently and effectively in a way which is compatible with the regulatory objectives and provides demonstrable evidence of this in practice. The response should also set out how it can demonstrate this transparency to stakeholders for greater accountability.
	<b>Timing</b>	We expect a response from the IPReg board by 31 January 2022, in order to retain its met assessment.

### Not met: action being taken

Outcome		<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.
<b>November 2021</b>	<b>LSB assessment</b>	<p>In November 2020, we assessed that IPReg did not meet outcome RA2 because of material delays and changes to the scope of its review of regulatory arrangements.</p> <p>The LSB had previously relied on the review as assurance of IPReg's performance and was concerned that activities that were delayed constituted clear commitments in previous business plans, as well as practising certificate fee consultations and applications to the LSB for approval.</p> <p>We recognised that decisions to alter the timeframe and scope of the review were matters for the IPReg board, but said that we consider it important to the credibility of regulation in the legal services sector that</p>

Outcome	<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>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>Since our assessment last year, we have been grateful for periodic updates from IPReg on the progress of the review. For our current assessment, IPReg has confirmed that there have been no material changes to the timing or scope of the review and that it is progressing well. We welcome IPReg’s continued engagement on the review and look forward to receiving future progress updates, noting this outcome is unlikely to be able to be assessed as met until completion of this work.</p> <p>We also note the relevance of IPReg’s performance commitments in respect of RA3 and the need for IPReg to have a robust evidence base to support any changes to its regulatory arrangements it wishes to make following completion of the review.</p> <p>During the past 12 months, additional concerns about IPReg’s performance under RA2 have emerged through applications for changes to regulatory arrangements made by IPReg. IPReg’s proposals to establish a new compensation fund and its setting of the level of PCF for 2022 both lacked transparency, which meant that it was not clear to the regulated community and the consumers of IP services, to whom IPReg is accountable, what the impact of the changes to its regulatory arrangements would be. On both occasions, we requested significant additional information to understand the level of consumer protection afforded by the new compensation fund and how resources would be allocated to deliver IPReg’s regulatory priorities, which was noted in the relevant decision notices.<sup>18</sup></p>
	<b>Action needed</b>	<p>We have welcomed the progress updates that IPReg has provided to the LSB throughout the year and expect it to continue to do so. IPReg should also continue to provide transparency and accountability of this work to stakeholders, including the regulated community and consumers of IP services.</p> <p>In respect of future applications to the LSB for statutory approval, we have made clear that we expect IPReg to provide greater transparency of its proposals for the benefit of the stakeholders to whom it is accountable.</p>

<sup>18</sup> [LSB decision notice re: compensation fund](#); [LSB decision notice re: 2022 PCF](#).

Outcome		<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.
	<b>Timing</b>	We expect IPReg to continue to provide proactive updates on its progress with the review of regulatory arrangements. We also expect future applications for regulatory arrangements submitted by IPReg to demonstrate improved transparency.

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>
<b>November 2021</b>	<b>LSB assessment</b>	<p>In November 2020, we assessed that IPReg did not meet outcome E2 because it does not have measures for interim orders.</p> <p>The background to this was that, as set out in outcome E2, the LSB expects regulators to have an interim orders panel to which they can refer cases where appropriate.</p> <p>All other regulatory bodies have introduced some form of interim orders mechanism and IPReg is accordingly out of step with practice across the sector.</p> <p>IPReg put forward the position that it does not need interim orders measures and cited that no recent cases have raised the need for them.</p> <p>The LSB accepted that these are powers that would always be used sparingly and, for a regulator with a small number of disciplinary cases such as IPReg are likely to be used infrequently. However, we said that 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.</p> <p>Since our assessment last year, IPReg has confirmed that it will propose to introduce powers relating to interim orders in its upcoming consultation on its draft revised regulatory arrangements.</p>
	<b>Action needed</b>	IPReg to consider the introduction of powers relating to interim orders, as planned. Following the planned consultation, if IPReg does not consider it is necessary to introduce an interim orders mechanism, we would expect IPReg to make clear its reasons for not doing so and how it will address the potential public protection

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>
		risks identified. This will provide transparency and accountability of this work to stakeholders, including the regulated community and consumers of IP services.
	<b>Timing</b>	We expect IPReg to continue to provide proactive updates on its progress with the review of regulatory arrangements.

### 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 2021</b>	<b>LSB assessment</b>	<p>In November 2020, we assessed that IPReg did not meet outcome RA3 because of concerns about the robustness of its evidence base. We noted in particular the poor quality of its diversity data and its lack of research or thematic or benchmarking reviews. We said this raised wider concerns about the 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 set out that we expected IPReg to launch its diversity survey as planned and assess its progress against the four outcomes in the LSB's 2017 diversity guidance after it had completed the survey and was in possession of the data. We also invited IPReg to provide a plan to the LSB with proposals for how it could develop its evidence base and understanding of its regulatory community and the consumers of these services.</p> <p>IPReg has made some positive progress in building its evidence base during the year. This has included carrying out the diversity survey of registrants and taking forward diversity initiatives including funding to IP Inclusive and committing to ensure that EDI is integrated in its review of regulatory arrangements. We also note the work it has commissioned from a partner to understand patent filings with the IPO and collaboration with the LSB's small business legal needs research.</p>

Outcome		<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>However, we do not have assurance that IPReg will take forward other activities necessary to improve its wider evidence base. It has said it will consider undertaking a survey of its regulated community about their work with consumers, further work with a partner to understand Trade Mark filings and research with other regulators. None of these activities are confirmed and there has been no indicative timing provided in its business plan or to the LSB.</p> <p>We are also aware that IPReg has been advised that it will need a significant amount of research and data gathering to build a complete risk model to support its new compensation fund. In its response to our information request, IPReg said that its Data Working Group had agreed a forward plan for data gathering and possible areas of research, but it has not shared any details of the activity or associated costs in its business plan or with the LSB. We also note it has reduced its research reserve from £50k to £15k to divert resources to the compensation fund in its budget, which raises concerns about how IPReg will fund its performance commitments. While IPReg has other reserves that it could draw on, there is little transparency of how it manages these reserves, which we raised as a concern in the decision notice approving IPReg's 2022 PCF application.</p> <p>During the year, we have asked IPReg to provide a plan for how it will meet RA3. From the information we have been provided, we do not have assurance that IPReg has a comprehensive plan in place. This is of particular concern noting that IPReg will need to draw on a robust evidence base to support any proposals to change its regulatory arrangements as part of its review of regulatory arrangements.</p>
	Action needed	<p>We expect IPReg to provide a detailed plan setting out the actions it will take in 2022 to ensure it has a robust evidence base from a range of sources. The plan should include commitments to undertake relevant activities, timescales for delivery of the activities and clear demonstration of how the activities contribute to developing a robust evidence base.</p>
	Timing	<p>IPReg was invited to provide a plan following our November 2020 performance assessment and has shared some information about potential activities it will take forward to meet RA3. We expect IPReg to provide a more detailed plan no later than 31 January 2022.</p>

<b>Outcome</b>	<b>WL3:</b> The regulator is transparent about its own: <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>November 2021</b>	<b>LSB assessment</b> <p>We asked IPReg to provide information about transparency, including how it takes account of the regulatory objectives in its work and decision-making and ensures that information (such as policies) is published to its website and kept updated.</p> <p>In response, IPReg provided evidence of how its core regulatory functions engage the regulatory objectives. It also committed that following its review of regulatory arrangements, the new arrangements will include consideration of which of the regulatory objectives are impacted, which is to be welcomed.</p> <p>We also asked how IPReg demonstrated a commitment to public accountability and transparency in respect of decision-making and how its board holds the executive to account. IPReg stated its intention to publish board papers and minutes as soon as possible and with limited redactions, which is good practice, although we encourage IPReg to consider if there is more information that can be made available publicly. For example, information about IPReg's performance under the performance framework is typically redacted from the public record, which means that stakeholders have little insight into areas where IPReg is doing well or needs to improve, such as taking action to ensure it has an adequate evidence base.</p> <p>As set out in detail in our RA3 assessment, we have raised issues with the transparency of IPReg's plans to improve its evidence base, including the information it holds about consumers' needs and use of legal services and the regulated community. IPReg has not provided meaningful commitments or timeframes for how and when it will deliver on its plans, despite this being a key public commitment to improve its performance. We have also raised concerns about the transparency of IPReg's proposals to establish a new compensation fund and determine the 2022 PCF, which is set out in detail under our RA2 assessment. This includes concerns about the lack of clarity on the impact of its proposals on consumers and how it funds regulatory performance commitments. The ongoing issues with the information made available to stakeholders about IPReg's regulatory approach and decision-making have led us to assess that IPReg does not meet WL3. We expect it to take action to address the transparency concerns identified in the examples provided in this assessment.</p>

<b>Outcome</b>		<b>WL3:</b> The regulator is transparent about its own: <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 expect the IPReg board to provide greater transparency of its decision-making and regulatory approach to its regulated community, IP consumers and other stakeholders, including the LSB. We expect the board to provide a response that explains how it will achieve this.
	<b>Timing</b>	We expect a response from the IPReg board by 31 January 2022.

## Solicitors Regulation Authority (SRA)

### Overview

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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Last year, our assessment of the SRA concluded that it had met all 27 outcomes. Based on our ongoing monitoring over the year and our information request, we consider that the SRA continues to meet all 27 outcomes.

In our information request, we focused on outcomes A5, E1, E2 and WL6. The SRA was able to provide assurance in relation to them. We set out in detail below our findings and actions in relation to outcomes A5 and E1 and E2.

In relation to WL6 and how the SRA ensures it is accountable to its stakeholders, we will monitor how the SRA applies the lessons on how it handles communications and publicity that it has identified from its experiences with SQE, SIF and other issues in respect of current and upcoming matters. These matters being its consultations on its fining powers and its disciplinary publication policy as well as its engagement with issues affecting its regulated community such as PII.

The SRA will need to undertake the actions for the outcomes noted in this assessment to ensure they retain assessed as *met*.

In 2022, we will be increasing our focus on regulatory bodies' enforcement practices and will expect the SRA to engage proactively with this work and consider how it applies to its enforcement work.

We also asked the SRA about its general approach to transparency and how it had taken account of the findings of our review of the BSB's performance against the Well-led standard.

We consider that the SRA provides a high degree of transparency in respect of its work, decision-making and accountability, but we encourage it to think how it might provide more. We also note that the SRA has drawn lessons for its own work from our review of the BSB's performance against the Well-led standard,

and we will monitor how it implements them. We are especially interested in the SRA Board's engagement with the regulatory objectives when it makes decisions.

## Met

Outcome		<b>A5:</b> The regulator's list of those they regulate is accessible, accurate and provides information on the disciplinary records of those regulated.
November 2021	<b>LSB assessment</b>	<p>In our 2020 assessment we determined that this outcome should remain met, but that we would keep the SRA's performance on publishing disciplinary decisions and when it uses its discretion not to publish a decision under review during 2021. We would also monitor the progress of the SRA's review of its publication policy for disciplinary decisions.</p> <p>In response to our information request, the SRA has provided us with information about its publication of its disciplinary decisions over the past year. In respect of fines, rebukes, s43 Orders and s.99 Disqualification Orders it has published all but one of its decisions and has provided us with its grounds for not doing so in this one instance.</p> <p>The SRA has not exercised its discretion to extend the three-year publication period of regulatory decisions between 1 January to 30 September 2021. We note that the three-year standard period of publication does not apply to all regulatory decisions. More serious regulatory decisions taken by the SRA such as Section 43 orders are published indefinitely, as are key Solicitors Disciplinary Tribunal decisions such as, where a solicitor is struck off.</p> <p>At the start of 2021, the SRA advised us that it intended to undertake a review of its disciplinary publication policy. We now understand that it will, in accordance with its published Business Plan for 2021/22, undertake and complete this review, including a consultation on its proposals, during 2022.</p> <p><b><i>We consider that the SRA continues to meet this outcome</i></b> on the basis that it maintains its current high levels of publication of disciplinary decisions and completes its review of its publication policy during 2022.</p> <p>To assist our monitoring of the publication of disciplinary decisions by regulators we will, as part of our current Regulatory Performance Framework Review, consider including information on publication of disciplinary decisions in our regular Performance Management Data requests.</p>
	<b>Action needed</b>	<p>SRA to maintain current high level of publication of disciplinary decisions.</p> <p>SRA to complete its review of its publication policy.</p>

<b>Outcome</b>		<b>A5:</b> The regulator's list of those they regulate is accessible, accurate and provides information on the disciplinary records of those regulated.
	<b>Timing</b>	By September 2022

<b>Outcome</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> <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>
<b>November 2021</b>	<b>LSB assessment</b>	<p>Over the past year, we received complaints from consumers about how the SRA had handled their complaints about solicitors. We reviewed the complaints we received about the SRA to understand the extent of the problem and for evidence of specific themes and systemic issues. We also reviewed the performance management data that the SRA regularly provides us with, which includes information about the number of complaints the SRA receives about its performance and whether these are upheld in part.</p> <p>The issues raised with us about the SRA's handling of complaints included:</p> <ul style="list-style-type: none"> <li>• a lack of explanation as to the type of complaints the SRA can look at, how its complaints process works, and when the complainant should expect to receive progress updates,</li> <li>• not acknowledging or responding to complaints,</li> <li>• failing to deliver on time,</li> <li>• and that the SRA has not handled the complaint fairly.</li> </ul> <p>In our information request, we asked the SRA to explain and provide examples of how it takes account of issues raised about its complaints handling process and the actions it takes to address these issues.</p> <p>Based on our review of the issues raised by complainants with us about the SRA and the SRA's response to our questions, <b><i>we consider that these two outcomes remain met.</i></b></p> <p>This is because the SRA has demonstrated that it does proactively take account of issues raised about its complaints handling process by:</p>

Outcome		<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> <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>
		<ul style="list-style-type: none"> <li>• further investing in its casework teams to address timeliness issues, and</li> <li>• in respect of communication and fairness issues revising its training materials and introducing other relevant training, including unconscious bias and EDI.</li> </ul> <p>It has also improved the information on its website about the types of complaints about solicitors it will investigate, how it looks at these, and how long investigations usually take. It has implemented stricter standards for acknowledging and substantively responding to customers' communications.</p> <p>The SRA also has mechanisms for improving its complaints handling performance, including monthly meetings to address issues, an annual independent review of complaints and a newly introduced arms-length quality assurance team.</p> <p>The SRA's Board actively monitors the SRA's timeliness in responding to complaints through its KPIs.</p> <p>While we consider that these two outcomes remain <i>met</i>, we are still concerned about the numbers of complaints we receive, the issues they raise, and the levels of partially upheld complaints in the Performance Management Data. We will continue to monitor these and the SRA's performance in handling complaints and addressing the issues both it, its Independent Reviewer, and we identify. We will also monitor whether the measures the SRA takes to improve how it handles complaints have a positive impact on the numbers it receives and which its internal review process assess as being justified.</p> <p>For our part, the LSB will continue to monitor the number of complaints we receive, and the issues raised in them and seek assurance that the SRA is addressing these.</p> <p>We note that we will be focusing on regulatory bodies' enforcement practices over the next year through both specific work in this area and our regulatory performance framework review.</p>
	<b>Action needed</b>	The SRA's quality assurance team to progress its review of the complaints handling processes during 2022 and contribute to measures to address any issues it finds. The SRA to demonstrate that it has taken

<b>Outcome</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> <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>
		account of, and progressed changes to address, issues raised by complainants and its Independent Reviewer
	<b>Timing</b>	By September 2022