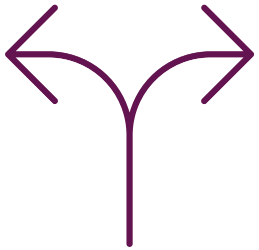
LEGAL SERVICES
BOARD

Regulatory performance assessment - update
Annex A

6 June 2023

How we thought our previous framework could be improved

Our experience of our previous framework suggested:

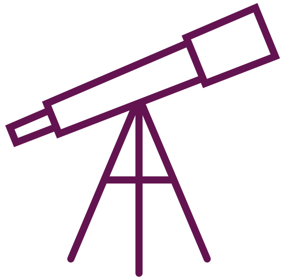


There were other approaches which would better:

- reflect the importance of all the regulatory objectives and
- provide regulators with more independence and ownership in how they advance them

There were opportunities to improve the framework's comprehensiveness, flexibility and clarity and for the LSB to:

- make clearer how LSB policy and other work fits into the framework
- improve how we assess regulators' performance
- improve how we present our assessments
- encourage regulators to continuously improve



The revised framework's aims

‘For the public, with the professions: framework for effective regulation in the legal sector’

- Ensure the regulatory objectives are at the centre of regulators' work and that regulatory boards take ownership of them
- Emphasise the role of regulatory boards in ensuring regulators are well-led, have appropriate governance and sufficient capacity and capability to effectively discharge their regulatory functions and statutory obligations
- Ensure that the performance framework is sufficiently flexible to address market and policy developments
- Make it easier for the public, regulated community and others to understand how regulators’ work affects them

Changes to standards

Previous five standards and 27 outcomes replaced with three standards supported by 20 characteristics

- **Standard 1: Well led:** Regulators are well led with the resources and capability required to work for the public and to meet the regulatory objectives effectively.
- **Standard 2: Effective approach to regulation**: Regulators act on behalf of the public to apply their knowledge to identify opportunities and address risks to meeting the regulatory objectives.
- **Standard 3: Operational delivery:** Regulators' operational activity (eg education and training, authorisation, supervision, enforcement) is effective and clearly focused on the public interest.

Standards and characteristics are supported by a 'sourcebook' with information to assist regulators to show how they meet the standards.

Sourcebook

Explains how the new standards and characteristics interact with the overall policy environment and regulatory framework including:

- the regulatory objectives, the better regulation principles, the professional principles and regulatory arrangements in the LSA 2007
- LSB policy statements, rules, guidance and statutory decisions made under the Act
- applicable publications from other bodies

Will be regularly updated, to:

- include resources regulators will need to take account of (eg rules, guidance and policy statements made by the LSB under the Act)
- refer to other relevant evidence and documents regulators may consider

Revised ratings and narrative assessments

We:

- assess regulators' overall performance and their performance against each standard rather than against individual characteristics.
- have replaced 'met/not met' ratings with ones reflecting level of assurance we have received: **Sufficient, Partial, Insufficient**
- retained RAG ratings for the standards
- produce complementary narrative assessments of each regulator's performance against each standard as well as a narrative assessment of its overall performance

These assessments will be presented using a consistent format and language. They will highlight good practice as well as areas for improvement and concerns.

We have retained our other assessment tools eg targeted and thematic reviews

Revised rating system

Sufficient assurance

- The regulator’s performance raises no concerns.
- We may identify areas where we would expect the regulator to review its policies and approach and consider how it could improve.

Partial assurance

- The regulator’s performance raises one or more concerns that should be addressed before the next assessment.
- This rating would also be used when it has not been possible to gain adequate assurance from the information available. In this instance, the regulator would need to provide further information

Insufficient assurance

- The regulator’s performance raises serious concerns in at least one area or multiple concerns. The regulator would need to take immediate action to address these concerns, including developing its own action plan.

What is different under our revised framework?

Regulators provide the LSB with evidence which gives assurance that the standards are being met

Well-led regulators will have to provide the LSB with no more material than is available to their Boards or is publicly available - so long as the material provided to boards provides sufficient information to give assurance

We will no longer routinely gather performance management data but would request further information whenever we consider it necessary for assurance

But we still retain the annual performance assessment

Implementation and transition 2022

We used a hybrid approach for the 2022 annual assessment :

- Information requests issued in September
- Assessments were made against the previous framework’s standards and outcomes but we used the revised assurance ratings supplemented by narrative assessments
- Report and assessments published in January following moderation and fact-checking by regulators prior to publication


LSB LEGAL SERVICES BOARD

Regulatory performance: Performance assessment November 2021

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

22 December 2021

Implementation and transition 2023

2023 – first assessment under revised framework

Timing	Action
June 2023	LSB issues information requests to regulators covering the period October 2022 to May 2023. Regulators have six weeks to respond.
July 2023	LSB receives regulators' responses.
August – September 2023	LSB assesses regulators' performance and undertakes internal moderation processes.
October 2023	LSB sends draft assessments to regulators for their comments on the assessments' substance and factual accuracy. Regulators have three weeks to respond, including identifying any actions that are necessary to address the issues raised.
November 2023	LSB receives regulators' responses, finalises its assessments and publishes its report.

What will the assessment/our information requests cover? (1)

For all regulators

- We will ask regulators for their assurance mapping or alternative ways they can demonstrate their Board is satisfied they are meeting the Well-led and Effective approach to regulation standards. Our 2022 assessment found issues with overall performance against the previous framework’s equivalent standards.

- We will particularly be seeking assurance about:
  - transparency of decision-making (C5)
  - capacity and capability (S1) (C6)
  - use and deployment of evidence (C12)
  - levels of proactiveness in supervisory work (C9), and
  - resources, capability and capacity for enforcement (C6)

- As relevant to these standards, we will also be seeking assurance about regulators’ progress on implementing the ongoing competence and consumer empowerment statements of policy. (C7, C9, C10)

What will the assessment/our information requests cover? (2)

For individual regulators

- We will seek assurance on specific areas for improvement we identified in our 2022 assessment.
- Where these related to the old well-led and regulatory approach standards we will include tailored questions relating to the new well-led and effective approach to regulation standards.
- Where these related to the old authorisation, supervision and enforcement standards we will address them under the new operational delivery standard.

The assessment will cover the period from October 2022 to May 2023

- Regulators will have 6 weeks from the issue of our information request to respond

What we’ve done so far and next steps

So far we have:

- ✓ Met informally with some regulators
- ✓ Written to all regulators' Chairs encouraging them to carry out assurance mapping against the new framework
- ✓ Held an open Q&A event for regulators (10 May)
- ✓ Circulated the slides from and note of the Q&A event to all regulators

What happens next:

- ✓ Hold further meetings with any regulators who request them
- ✓ Prepare to issue information requests in early June