

SRA BOARD
23 January 2019

CLASSIFICATION – PUBLIC



This paper will be published

Legal Services Board (LSB) assessment of our regulatory performance

Purpose

- 1 This paper reports on the LSB's recent assessment of our regulatory performance and our proposed action plan (at annex 1).

Recommendations

- 2 The Board is asked:
 - (a) to note the outcome of the LSB's regulatory performance assessment and agree the proposed action plan.

If you have any questions about this paper please contact: Robert Loughlin, Executive Director of Operations and Performance, Robert.Loughlin@sra.org.uk, 0121 329 6576

Equality, Diversity and Inclusion considerations

Consideration	Paragraph nos
Meeting many of the LSB's outcomes will help to support people from all backgrounds and at particularly vulnerable times. For example, met outcome RA1 requires that our guidance be written in plain English, which makes our material accessible to as many people as possible. Met outcome E1 means that we have accessible and clear processes for people to raise concerns with us, making it as easy as possible for everyone, whatever their background or prior experience, to contact us.	9
Outcome WL:GL6 of the LSB's performance assessment framework requires us to communicate with a diverse range of stakeholders to account for our plans, progress and performance and ensure appropriate and accurate information is effectively taken into account in our work. The LSB concluded that we have met this outcome.	9

SRA BOARD
23 January 2019

CLASSIFICATION – PUBLIC



Legal Services Board (LSB) assessment of our regulatory performance

Background

- 3 The LSB published a new framework for assessing the performance of the approved regulators in December 2017. The previous framework required us to self assess to the LSB against a range of outcomes and action plans on a regular basis.
- 4 We worked closely with the LSB during the development of the new framework. The new framework is more targeted and proportionate. The LSB uses publicly available information, stakeholder feedback and regulators' performance management data to make its own assessment of our (and other regulators') performance. Performance is assessed against 26 outcomes (see annex 2) set out under five function based standards. The LSB will monitor us on an ongoing basis against those areas where it considers action is required. It undertakes a separate assessment of our work to meet its diversity outcomes.
- 5 The LSB carried out its initial transitional assessment of our performance against the new framework in the first half of 2018. In July 2018, we provided specific responses to a request from the LSB for further information against some of the outcomes.
- 6 At time of writing, the LSB plans to publish its overall Regulatory Performance: Transitional assessment review on its website at www.legalservicesboard.org.uk around January 15.

Outcome of the LSB's assessment

- 7 The LSB's framework uses the following grading scale to assess our performance against each of the outcomes:
 - Met
 - Not met – action being taken
 - Not met – action required
- 8 Following its initial assessment, the LSB concluded that we have met the majority of the required outcomes (23 out of 26) against the standards. It plans to make this public early in 2019.
- 9 One of the outcomes that the LSB considered was not met (WL:GL:3), but where action is being taken, is an outcome on developing an accessible register that we have not met since 2012, due to wider corporate development work, including our IT programme. We are also taking actions which will address the other two outcomes, transparency and monitoring the regulated community. The LSB also identified two common themes arising across the

CLASSIFICATION – PUBLIC

regulators, transparency and accessible registers), where they plan to undertake specific thematic reviews.

- 10 Meeting many of the LSB's outcomes will help to support people from all backgrounds and at particularly vulnerable times. For example, met outcome RA1 requires that our guidance be written in plain English, which makes our material accessible to as many people as possible. Met outcome E1 means that we have accessible and clear processes for people to raise concerns with us, making it as easy as possible for everyone, whatever their background or prior experience, to contact us. In addition, outcome WL:GL6 of the LSB's performance assessment framework requires us to communicate with a diverse range of stakeholders to account for our plans, progress and performance and ensure appropriate and accurate information is effectively taken into account in our work. The LSB concluded that we have met this outcome
- 11 The three areas where the LSB concluded we have not met the required outcome but are already taking action towards doing so are set out below.

Outcome A5: the regulator's list of those they regulate is accessible, accurate and provides information on disciplinary records of those regulated.

- 12 The LSB noted the work we are already progressing to implement a new digital register. The LSB indicated that, in order for this outcome to be met, the register needs to be easily accessible and contain information on all disciplinary action taken against individuals or entities. It will review our progress against this outcome in May 2019.
- 13 The LSB also plans to undertake a specific review across all regulators in this area.

Outcome S3: The regulated community are monitored to provide assurance that standards are met. If they are not, steps are taken to remedy this.

- 14 The LSB said that it cannot consider this outcome to be met until our work programme to develop a new approach to assuring the continuing competence of solicitor advocates has been completed.
- 15 This is a new issue. In previous years, the LSB has considered this outcome to be met. It is difficult to see how this outcome has been assessed as not met this year, unless the standard has been changed.
- 16 The background is that we have taken the decision not to implement the Quality Assurance Scheme for Advocates (QASA). QASA is out of step with a modern, targeted approach to regulation because it imposes a blanket accreditation and re-accreditation requirement regardless of whether there are any actual concerns about an advocate's performance. The BSB takes the same view. They have already had LSB approval for the removal of its QASA regulations.

SRA BOARD

23 January 2019

CLASSIFICATION – PUBLIC



- 17 Instead of QASA we have told the LSB that we are looking at different ways to assure advocacy standards. We are reviewing the way advocacy is assessed; looking at resources to help solicitors meet standards and checking whether we can improve reporting arrangements. We plan to update the Board on progress in due course and are looking at whether further consultation may be required.
- 18 There is no evidence that our processes have changed for the worse since previous evaluations when we were considered to have met this outcome. QASA was never introduced and we have been clear about the action we are taking. We plan to discuss this further with the LSB.

Outcome WL:GL3: The regulator is transparent about its own: decision making; regulatory approach; the risks it and its regulatory community face and how these are being monitored; performance; regulated community and related markets; financial costs.

- 19 The LSB said that, while we do publish some details about supporting evidence for decisions made by our Board or Executive which impact on its regulated community and some performance information on how the Board holds the executive to account, it considers that we are not sufficiently transparent in this regard. The LSB suggested that we should publish more information and do so more promptly.
- 20 The LSB indicated that this was a common theme coming out of its assessment of all regulators and is the second area where it plans to undertake a specific, cross-regulator review. We look forward to working with the LSB and fellow regulators to ensure that we are providing sufficient accessible, meaningful information for both the public and the profession.

Next steps

- 21 We will work collaboratively with the LSB as it takes forward the new framework and undertakes its themed, cross-regulator reviews. We will meet the LSB early in 2019 to discuss the outcomes of the assessment and to agree how best we can work together.
- 22 We are already progressing work to meet the three outstanding outcomes. This is set out in the action plan at annex 1.

Recommendation: the Board is asked:

- (a) to note the outcome of the LSB's regulatory performance assessment and agree the proposed action plan.

SRA BOARD
23 January 2019

CLASSIFICATION – PUBLIC



Supporting information

Links to the Corporate Strategy and/or Business Plan

- 23 The LSB's assessment of our regulatory performance is aligned to, and takes account of, our progress against the delivery of all of our strategic objectives. The new framework is based on five function based standards which relate to our core functions: regulatory approach, supervision, authorisation, enforcement and governance and leadership.

How the issues support the regulatory objectives and best regulatory practice

- 24 The LSB's new regulatory performance assessment framework is targeted and risk based and aligned to the regulatory objectives and the better regulation principles.

Public/Consumer impact

- 25 One of our five strategic objectives is to make sure that our regulatory arrangements work as effectively as possible for the public, businesses, solicitors and firms in the context of constitutional developments within the UK and any new relationship with the EU. The LSB's regulatory performance assessment enables them to hold us to account against this, and our other, objectives.
- 26 The LSB uses stakeholder feedback to inform its performance assessment. The results of the performance assessments will be published for the benefit of all stakeholders.

What equality and diversity considerations relate to this issue

- 27 The LSB undertakes a separate assessment of our work on promoting diversity in the profession.
- 28 Meeting many of the overall LSB's outcomes will help support people and SMEs at vulnerable times. (See paragraph 9).
- 29 Outcome WL:GL6 of the LSB's performance assessment framework requires us to communicate with a diverse range of stakeholders to account for our plans, progress and performance and ensure appropriate and accurate information is effectively taken into account in its work. The LSB concluded that we have met this outcome.

How the work will be evaluated

- 30 We will continue to work with the LSB on the new performance assessment framework. The LSB will monitor our progress against the three unmet outcomes in May 2019.

SRA BOARD
23 January 2019

CLASSIFICATION – PUBLIC



Author: Maxine Warr, Policy Manager

Contact Details: 0121 329 6020, maxine.warr@sra.org.uk

Date: 3 January 2019

Annexes

Annex 1: LSB regulatory performance assessment – action plan

Annex 2: List of regulatory performance assessment outcomes

SRA BOARD
23 January 2019

CLASSIFICATION – PUBLIC



Annex 1

LSB regulatory performance assessment – action plan

Outcome to be met	Action
<p>The regulator's list of those they regulate is accessible, accurate and provides information on disciplinary records of these regulated.</p>	<p>We are working to develop our new digital register as part of our modernising IT programme.</p> <p>We continue to monitor the use of our popular Law Firm Search service and will use that information to inform the development of our digital register.</p> <p>We will meet with the LSB early in 2019 to understand more about their proposed thematic review.</p>
<p>The regulated community are monitored to provide assurance that standards are met. If they are not, steps are taken to remedy this.</p> <p>(The LSB can not consider this outcome to be met until our work programme to develop a new approach to assuring the continuing competence of solicitor advocates has been completed.)</p>	<p>It is difficult to see how this outcome has been assessed as not met this year, unless the standard has been recalibrated. We plan to discuss this with the LSB.</p> <p>are.</p>
<p>The regulator is transparent about its own: decision making; regulatory approach; the risks it and its regulatory community face and how these are being monitored; performance; regulated community and related markets; financial costs.</p>	<p>We will meet with the LSB early in 2019 to seek clarity on their expectations around transparency. We will also work closely with the LSB and legal regulators on the LSB thematic review.</p>