

# **Proposed regulatory performance assessment framework – consultation paper**

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A consultation on our proposed regulatory  
performance assessment framework

**7 April 2022**

**Responses welcome by 1 July 2022**

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**This consultation paper will be of interest to:**

Approved regulators

Regulatory bodies

Representative bodies

Consumer groups

Members of the legal profession

Members of the public

## Executive summary

1. The Legal Services Board (LSB) is the oversight regulator for legal services in England and Wales. We oversee the approved regulators, some of which have delegated their regulatory functions to independent regulatory bodies (regulators).<sup>1</sup> We are independent of both government and the profession.
2. The LSB was established by the Legal Services Act 2007 (the Act), which provides that in discharging its functions, the LSB must comply with and thus meet the regulatory objectives set out in section 1:
  - protecting and promoting the public interest;
  - supporting the constitutional principle of the rule of law;
  - improving access to justice;
  - protecting and promoting the interests of consumers;
  - promoting competition in the provision of services within subsection (2);<sup>2</sup>
  - encouraging an independent, strong, diverse and effective legal profession;
  - increasing public understanding of the citizen's legal rights and duties;
  - promoting and maintaining adherence to the professional principles.<sup>3</sup>
3. The Act also states that the LSB must assist in the maintenance and development of standards in relation to the regulation by regulators of persons authorised by them to carry on reserved legal activities under section 4 of the Act; and the maintenance and development of standards in relation to the education and training of persons so authorised, under section 4 of the Act.<sup>4</sup> In doing so, one of our core functions is overseeing the regulators' performance under the regulatory performance assessment framework, which currently consists of standards and outcomes that we expect regulators will meet to demonstrate they are effective regulators.

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<sup>1</sup> LSB [Approved regulators | The Legal Services Board](#).

<sup>2</sup> The services within this subsection of the Act (<https://www.legislation.gov.uk/ukpga/2007/29/section/1>) are services such as are provided by authorised persons (including services which do not involve the carrying on of activities which are reserved legal activities)

<sup>3</sup> The professional principles, set out in section 1(3) of the Act (<https://www.legislation.gov.uk/ukpga/2007/29/section/1>), are: (a) that authorised persons should act with independence and integrity, (b) that authorised persons should maintain proper standards of work, (c) that authorised persons should act in the best interests of their clients, (d) that persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice, and (e) that the affairs of clients should be kept confidential.

<sup>4</sup> Section 4 of the Act: <https://www.legislation.gov.uk/ukpga/2007/29/section/4>.

4. We have reviewed the current framework to ensure it remains fit for purpose. The framework, which has been in place since 2018, has helped us to improve our oversight of regulators' performance and to address instances of poor performance through regular assessments and thematic and targeted reviews. This has led to significant improvements in some regulators' performance and has demonstrated the efficacy of performance monitoring.
5. Nevertheless, our experience of the current framework suggests that there are different approaches which could be more effective and better reflect the importance of the regulatory objectives.
6. We also recognise that there are opportunities for streamlining and improving the clarity of the framework's current standards and outcomes, some of which overlap or could be expressed more clearly. Other areas for improvement include revising how we assess and present our assessments of regulators' performance so they are more informative for the public and other interested stakeholders; encouraging continuous improvement by regulators; and encouraging them to make better use of data, particularly in identifying emerging performance issues.
7. This consultation seeks views on our proposals for a revised framework against which we will assess regulators' performance. This includes proposed standards and characteristics (the features of effective regulators e.g. knowledge, processes), which are intended to be supported by a sourcebook that provides additional information to assist regulators in demonstrating how they meet the standards. The proposed standards and characteristics are intended to replace the existing standards and outcomes in the current framework. We will expect regulators to meet the standards in order to provide assurance that they are well-led and effective in their approach to, and delivery of, regulation for the public.
8. We are also consulting on changes to how we gain assurance from regulators of their performance against the framework and how we present our assessments of regulators' performance. This includes proposals for a revised ratings system and updates to our tools for assessing regulators' performance and how we engage with regulators.
9. Under the revised framework, we propose that regulators will provide the LSB with evidence to give assurance of how they are meeting the standards. This proposed approach places greater emphasis on the boards of regulators to ensure that they are well-led bodies with appropriate governance in place to ensure effective discharge of their regulatory functions and statutory obligations. This greater emphasis recognises the role of the boards of the regulators to take responsibility for performance, and to provide assurance to us that effective regulation is taking place to us.

10. Our proposals for the revised framework are intended to advance all eight of the regulatory objectives and, in discharging their regulatory functions, to encourage regulators and their boards to take ownership of meeting them. We note that where we refer to meeting the regulatory objectives and having regard to better regulation principles, we do so within the meaning set out and consistent with the Act at sections 3 and 28.<sup>5</sup>
11. We aim to place emphasis on regulators having effective leadership, capability and capacity to meet the regulatory objectives and to hold the regulators to account for putting the regulatory objectives at the centre of what they do. In doing so, we are making a fundamental shift in our approach to assessing performance, by providing greater space for the independent regulators we oversee to shape their own activities, while at the same time being clear that we expect regulation to deliver clear benefits for the public and the legal professions.
12. We also want a framework that provides sufficient flexibility to account for developments in the legal services market, as well as the overall policy environment and regulatory framework. In this consultation, we set out how the standards and characteristics interact with the overall policy environment and regulatory framework, including:
- the regulatory objectives, the better regulation principles, professional principles and regulatory arrangements set out in the Act;
  - our own statements of policy, rules, guidance and statutory decisions made under the Act;
  - applicable publications from other bodies.
13. In developing our proposals, we have drawn on a range of evidence, such as contributions from stakeholders, including the regulators and Legal Services Consumer Panel (LSCP), and our own research into the approaches to performance monitoring adopted by regulators in other sectors.<sup>6</sup>
14. We have had regard to the better regulation principles<sup>7</sup> in developing the proposals and consider that the proposed revisions to the framework are proportionate, transparent, accountable, consistent, targeted and effective to provide assurance that regulators are effectively and efficiently regulating in the public interest.
15. We welcome responses to this consultation on the revised framework, including comments on how we can improve our approach to better meet our stated aims.

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<sup>5</sup> Section 3 of the Act: <https://www.legislation.gov.uk/ukpga/2007/29/section/3>; Section 28 of the Act: <https://www.legislation.gov.uk/ukpga/2007/29/section/28>

<sup>6</sup> <https://legalservicesboard.org.uk/wp-content/uploads/2021/11/05.-21-59-Reg-Framework-review.pdf>

<sup>7</sup> <https://www.gov.uk/government/publications/better-regulation-framework>.

16. The consultation period begins on 7 April 2022 and runs until 1 July 2022.

## Regulatory performance assessment framework

### ***About the Legal Services Board***

17. The LSB is the independent body that oversees the regulation of legal services in England and Wales. The Act provides that in discharging its functions, the LSB and approved regulators must, so far as is reasonably practicable, comply with and thus meet the regulatory objectives.

### ***Background***

#### *Purpose and evolution of the regulatory performance framework*

18. As the oversight regulator, one of our core functions is overseeing the regulators' performance under the regulatory performance assessment framework. This is central to our duty to meet the regulatory objectives and have regard to the better regulation principles. In considering how to best meet the objectives, we have set out our strategic ambition to reshape legal services to better meet society's needs and provide the public with fairer outcomes, increased confidence and better services in the *Reshaping legal services strategy*.<sup>8</sup>
19. Our first approach to assessing the regulators' performance was developed in 2011 and used for assessment exercises from 2012/13 to 2017. Our current framework was introduced in 2018 with an expectation that it would be reviewed regularly to ensure it remained fit for purpose. As well as our commitment to regularly evaluate the effectiveness of the framework, we and the regulators have now accumulated sufficient experience of how the current framework operates, what it does well and what it could do better, that a review was timely.
20. The current framework has helped us to improve oversight of regulators' performance and better address instances of poor performance through both regular assessments and thematic and targeted reviews.
21. To understand any issues with the current framework or identify areas for improvement, we gathered views from the regulators and the LSCP. We also conducted a review of how regulators in other sectors approach performance monitoring, including the Professional Standards Authority and the financial regulators. We also considered the National Audit Office report on performance measurement by regulators.

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<sup>8</sup> [https://legalservicesboard.org.uk/wp-content/uploads/2021/03/Strategy\\_FINAL-For-Web2.pdf](https://legalservicesboard.org.uk/wp-content/uploads/2021/03/Strategy_FINAL-For-Web2.pdf)

### *Aims of our framework review*

22. Our engagement and research, combined with our own experience of undertaking performance assessments and reviews, suggested that there are other approaches which could be more effective. This includes placing greater emphasis on the regulatory objectives and the strategic leadership of the regulators, as well as streamlining the framework and improving the clarity of our expectations. Other areas for improvement include revising how we assess and present our assessments of regulators' performance and making better use of data.
23. Overall, we determined that we ought to develop proposals for a revised framework that places responsibility on regulators and their boards to meet the standards in order to provide assurance that they are well-led and effective in their approach to, and delivery of, regulation for the public. We intend for this framework to achieve the following aims:
- encourage regulators and their boards to take ownership of all of the regulatory objectives in discharging their regulatory functions
  - place sufficient emphasis on regulators having effective leadership, capability and capacity to meet the regulatory objectives
  - hold the regulators to account for putting the regulatory objectives at the centre of what they do
  - be flexible so it can account for developments in the legal services market and policy environment
  - make it easier for the public, regulated community and others to understand how regulators' work benefits them.

#### **Consultation question**

Q1. Do you agree with the stated aims of our proposed performance framework to place the responsibility on regulators and their boards to meet the standards in order to provide assurance that they are well-led and effective in their approach to, and delivery of, regulation for the public?

### ***Proposals for a revised framework***

24. To achieve these aims, we are proposing a revised framework that comprises:
- revised standards and characteristics (to replace the current standards and outcomes);
  - a supporting suite of policies and guidance (a sourcebook) that would sit below the standards and characteristics; and
  - a revised assessment approach and rating system.



## *Standards and characteristics*

25. At the core of the current framework are the standards and outcomes. In developing the proposed framework, we carried out a mapping exercise of the existing standards and outcomes to the regulatory objectives, better regulation principles and regulatory arrangements set out in the Act. We also considered the requirements contained within Rules and expectations in guidance and statements of policy made by the LSB under the Act. We identified that the current framework does not fully reflect the requirements and expectations in these documents, some of which have been revised since the current framework was introduced. We also identified some areas where the framework's clarity could be improved, including by reducing repetition and overlap.
26. Using this as the starting point, we prepared three high-level standards and 20 supporting characteristics (features e.g. knowledge and processes of effective regulators) that we propose will replace the existing five standards and 27 outcomes as the core of the framework. The three proposed standards are as follows:
- **Well-led:** Regulators are well-led with the resources and capability required to work for the public and meet the regulatory objectives.
  - **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.
  - **Operational delivery:** Regulators' operational activity is effective and clearly focused on the public interest.
27. These three revised standards cover most of the same expectations in the existing five standards: Well-led is similar to the current Well-led: Leadership and Governance standard; the Effective approach to regulation standard is similar to the Regulatory Approach standard; and the Operational delivery standard contains elements from the Authorisation, Supervision and Enforcement standards.
28. Each of the proposed standards is supported by a set of characteristics that we would expect the regulators to demonstrate to provide assurance that they are well-led and effective in their approach to, and delivery of, regulation for the public. These characteristics, which are the features of effective regulators (e.g. knowledge and processes), cover a range of important elements, for example, strategic leadership, transparency and risk-based regulation. As with the revised standards, there are some similarities between the existing outcomes and the proposed characteristics. However, we have deliberately moved away from prescribing specific outcomes in the framework itself, as we consider that regulators should have the responsibility for determining their own outcomes.

29. We note that in the current framework, we monitor approved regulators' compliance with the Internal Governance Rules 2019 (IGR) under outcome WL7 (Regulatory independence delivered by the IGR). We propose that we will monitor approved regulators' compliance through alternative means in the future. This means that under the proposed framework, there is no equivalent characteristic to WL7 that applies to approved regulators. Proposed characteristic 3 (Independent of the regulated professions but understands and collaborates effectively with the profession and representative groups to meet the regulatory objectives) applies to regulators. This means that approved regulators who do not exercise regulatory functions will not come under the proposed performance framework.
30. The standards and characteristics will be supported by a sourcebook that provides additional information intended to assist regulators in demonstrating how they meet the standards. This will include some resources that regulators will need to take account of, such as rules, guidance and statements of policy made by the LSB under the Act. The sourcebook will also refer to other relevant evidence and documents that regulators may wish to consider. We provide further explanation about the sourcebook's purpose at paragraphs 34-38.
31. Through the high-level nature of the proposed standards and characteristics, we have aimed to strike the right balance between providing clarity about our expectations of regulators' performance while allowing regulators to determine how best to meet the standards. We intend for the framework to assist regulators in discharging their regulatory functions to meet the regulatory objectives and to have regard to the better regulation principles and good regulatory practice.
32. Central to this approach is that it provides more autonomy to the independent regulators. We will expect regulators to provide evidence of how their own programmes of activities are designed to meet the regulatory objectives and the outcomes, which they will determine, that they are seeking to deliver; and assurance that demonstrates that they meet the standards (see Annex A). We provide further explanation of how we propose to assess regulators against the standards at paragraphs 39-50.
33. The proposed standards and characteristics are set out in Figure 1 below.

**Figure 1: Table of proposed Standards and Characteristics**

**Regulatory performance assessment framework**

*For the public, with the professions: Framework for effective regulation in the legal services sector.*

<b>Standard 1: Well led</b> <i>Regulators are well led with the resources and capability required to work for the public and to meet the regulatory objectives effectively.</i>	
1	A clear sense of purpose and strategy focused on regulation in the public interest and ensuring public confidence in the regulator.
2	Board takes ownership of and accountability for the organisation's performance and for meeting the regulatory objectives; holds its executive to account.
3	Independent of the regulated professions but understands and collaborates effectively with the profession and representative groups to meet the regulatory objectives.
4	Understands the needs of consumers and the broader public's needs and assesses the impact of its work in meeting their interests.
5	Delivers high levels of transparency, including ensuring decisions are clear and accessible to all those with an interest.
6	Understands, secures and deploys the necessary resources to support meeting the regulatory objectives, including through collaboration where relevant.
7	Understands the legislative and policy framework within which it operates; works constructively and in collaboration with the LSB, other relevant authorities and relevant stakeholders.
8	Has fit for purpose governance systems that align to best practice.

## 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.*

9	Has a comprehensive understanding of the market it regulates, including the consumers of services, and proactively identifies risks to the regulatory objectives; has a clear programme of activity to address those risks.
10	Engages proactively and meaningfully with a diverse range of interested stakeholders, including the public, consumers and regulated community to inform decisions.
11	Understands the range of formal (eg rules) and informal (eg influence) regulatory levers at its disposal and how to best make use of them; implements appropriate regulatory interventions and evaluates their impact, changing the approach where necessary to improve outcomes.
12	Obtains and makes effective use of data, including by making it available to others, to inform how it meets the regulatory objectives.
13	Actively encourages innovation and innovators in the interests of improving access to services; identifies and mitigates risks appropriately without allowing them to become obstacles.
14	Committed to improving the diversity of the profession at all levels and implements actions to address barriers to inclusion.
15	Committed to improving access to services for the public and consumers in all their diversity.

### Standard 3: Operational delivery

*Regulators' operational activity (eg education and training, authorisation, supervision, enforcement) is effective and clearly focused on the public interest.*

16	Ensures that authorised persons have and maintain the right skills, knowledge, behaviours and professional ethics to practise throughout their careers.
17	Maintains accessible and accurate registers of authorised persons, including information on disciplinary and enforcement action.
18	Sets out clear, accessible criteria for taking decisions about the authorisation, supervision of authorised persons and enforcement proceedings against them to protect the public; adheres to the criteria when taking decisions.
19	Takes concerns raised by the public, the profession and other stakeholders seriously; pursues those concerns with appropriate rigour and pace under a transparent process.
20	Proactively seeks to maintain high standard of conduct and responds to thematic issues arising from operational activity, including ensuring that those they regulate take action, where relevant.

#### Sourcebook

34. We propose that the framework will include a sourcebook that sets out the range of resources we would expect regulators to draw on in meeting the standards, or that may be relevant for them to consider.
35. The proposed sourcebook contains some resources that regulators will need to take account of, such as rules, guidance and statements of policy made by the LSB under the Act. It also includes other resources that may be helpful, such as a non-exhaustive list of examples of the types of evidence regulators may provide as assurance, if appropriate. This is similar to some of the examples of evidence we provide under the current framework, such as board papers or annual reports. Further, it refers to resources not created by the LSB that regulators may find insightful such as guidance from other oversight regulators and other bodies, such as the OECD.
36. We note that not all the proposed characteristics will have relevant LSB Rules, policies or guidance at this time, but they may do in the future. The sourcebook will be a dynamic resource that will be updated regularly. For example, following consultation on and introduction of a new or revised statement of policy issued under s49 of the Act, the sourcebook would be updated. There are several areas of our current work where this would apply, including our proposed statements of policy on consumer empowerment and ongoing competence, on which regulators and other stakeholders have provided feedback. We are now finalising these statements of policy.

37. An extract from the sourcebook in Annex A is set out in Figure 2 below:

**Figure 2: Well-led Standard, Characteristic 3**

	Characteristics	Examples of Evidence	Relevant LSB publications
3	Independent of the regulated professions but understands and collaborates effectively with the profession and representative groups to meet the regulatory objectives.	<ul style="list-style-type: none"><li>▪ Compliance with IGRs</li><li>▪ Examples of collaborative work</li><li>▪ Examples of innovative work</li></ul>	<ul style="list-style-type: none"><li>▪ <a href="#">Internal Governance Rules 2019</a></li><li>▪ <a href="#">Statutory Guidance on Internal Governance Rules 2019</a></li></ul>

38. In addition to the sourcebook, we propose that regulators could consider the evidence and analysis in the *Reshaping legal services: sector-wide strategy*<sup>9</sup> document for assistance in setting the outcomes they want to achieve in their own strategies and business plans. The nine challenges set out in the strategy closely link to both the regulatory objectives and areas where effective regulation can contribute to resolving sector-wide issues.

#### **Consultation questions**

Q2. Do you agree that the proposed standards are clear in their focus and expectations to provide assurance of effective regulators? If not, what changes would you propose and please explain your reasons.

Q3. Do you agree that the proposed characteristics which support the standards are reasonable expectations of the skills and processes that an effective regulator will have? If not, what changes would you propose and please explain your reasons.

Q4. Does the sourcebook provide sufficient information to assist regulators in providing assurance in meeting the standards? If not, how could we better achieve this? Do you have any comments about the examples of evidence and publications noted in the sourcebook?

Q5. Do you agree with our proposal to maintain the sourcebook as a living document to ensure it remains current, including taking account of new LSB

<sup>9</sup> [https://legalservicesboard.org.uk/wp-content/uploads/2021/03/Strategy\\_FINAL-For-Web2.pdf](https://legalservicesboard.org.uk/wp-content/uploads/2021/03/Strategy_FINAL-For-Web2.pdf).

policies, Rules and guidance? If not, what other approach would you propose?

### ***Proposals to change how we assess regulators' performance***

39. To support our aims of encouraging regulators to take ownership of all the regulatory objectives and provide them with more autonomy on how they meet the standards, we are proposing changes to how we assess regulators' performance. This includes changes to how we seek assurance, how we rate regulators' performance and present our assessments.

#### *Assurance*

40. Under the current framework we request information from regulators to enable us to assess their performance. We also request performance management data relating to four of our current standards (Well Led, Authorisation, Supervision and Enforcement) on an annual or bi-annual basis.

41. Under the revised framework, we are proposing that regulators would proactively provide us with evidence to give assurance of how they are meeting the standards. In particular we will expect:

- evidence of how their own programmes of activities are designed to meet the regulatory objectives and deliver their own outcomes; and
- evidence which demonstrates that they meet the standards of a regulator that is well-led and effective in its approach to, and delivery of, regulation.

42. We consider that for well-led regulators, our proposal would typically require no more material than is available to regulators' own boards or made publicly available e.g. on regulators' websites. We consider that this approach should mean a limited additional burden on regulators in providing assurance, assuming that the information provided to boards is of an appropriate quality. In line with this approach, we propose that we would no longer gather performance management data on an annual or semi-annual basis from regulators. We would consider requesting further information from the regulators whenever we consider it necessary for assurance. More information about the information we may take account of or request from regulators is set out in the revised process document at Annex B.

#### *Revised rating and narrative assessments*

43. To complement the proposed changes to how we seek assurance, we propose to revise how we assess the regulators. We propose to replace the current red-amber-green (RAG) met/not met ratings with ratings that reflect the level of assurance that we have received from the regulators:

- **Adequate 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.
- **Inadequate 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.

44. To support the ratings, we would produce narrative assessments that describe, in a consistent format and language, how each regulator is performing overall and against the three standards and referencing individual characteristics, where relevant. In the narrative assessments, we would identify instances of good practice, areas for improvement and areas of concern.

45. We considered whether alternative rating options would be feasible, including modified versions of the current RAG rating system and other rating scales. For example:

- Met and not met
- Met – good practice, met – minimum standards and not met
- Good, improvement required and poor.

46. Our experience with met/not met ratings is that, while to some extent they may appear straightforward for stakeholders to understand, they may not accurately reflect the nuances of regulators’ overall performance. We consider that similar issues could arise with a rating scale that relies on value-based terms like good and poor.

47. We consider that focusing on the level of assurance provided by the regulators, which they have control over, will enable us to carry out more accurate and clearer assessments of each regulator’s performance. We will be able to better identify and highlight aspects of performance where regulators exhibit good practice, which can be shared with others for learning purposes. We will also be able to gain greater transparency of areas where there is a lack of assurance about regulators’ performance.

48. More information about how we propose to run the assessment process, including the timing of our requests for assurance and our engagement with regulators during the assessment process, is set out at paragraphs 5-63.



### *Other assessment tools*

49. In addition to our annual assessments, under the current framework we sometimes carry out more in-depth reviews of regulators. This may be a targeted review when we do not have sufficient assurance about one or more areas of a regulator's performance, or where we have identified an area as one of concern. It could also be a thematic review that looks into a specific area of a regulator(s) performance in more detail. We have found the targeted reviews of the BSB and FO's respective performance against the current Well-led standard to be highly effective in helping us understand the regulators' practices and to identify the root causes of the performance issues. We therefore consider them to be a vital part of our toolkit for assuring ourselves about regulators' performance.
50. We propose to retain the ability to carry out reviews and use other assessment tools on the same basis that we do currently. More information about the factors that we will consider when determining to undertake a review or use our other tools are set out in the revised process document at Annex B. The key point to note is that in undertaking any review, we will have regard to the better regulation principles, in particular, proportionality.

#### **Consultation questions**

- Q6. Do you agree with the proposal that we would primarily rely on information used by each regulator's board and its executive to monitor its own performance to provide assurance? What changes, if any, would you suggest?
- Q7. Do you have any comments on the proposed introduction of narrative assessments and the revised rating system?
- Q8. Do you agree that the regulatory performance assessment process document is sufficiently clear about our proposed approach to performance assessment and how we will use our assessment tools? If not, how could it be clearer?

## **Implementation**

51. While the revised framework's introduction will naturally involve some changes for the regulators, we have considered how we can make that transition as smooth as possible.

### **Transition to the revised framework**

#### *2022 performance assessment*

52. Subject to the outcome of this consultation, we considered several options to transition to undertaking assessments against the revised framework, including:

- Option a: undertaking the 2022 assessment against the current framework and delaying any implementation of the proposed framework until 2023
- Option b: not undertaking an assessment in 2022 and delaying any implementation of the proposed framework until 2023
- Option c: adopting a hybrid approach and undertaking the 2022 assessment against the current framework, but using the revised assessment process. We would then apply the proposed framework in 2023 and undertake the first assessment against the proposed standards and characteristics in 2023
- Option d: undertaking the 2022 assessment against the proposed framework.

53. Having considered the various options, we consider that immediately transitioning to the proposed framework (option d) is not proportionate as it would not allow time to adjust to the changes. We also consider that delaying any implementation of the proposed framework until 2023 would be not optimal (options a and b). The delay would result in there being some time before we start to see the benefits of the revised approach. With option b in particular, there would be a gap in the performance assessment process, potentially leaving time for performance issues to arise or worsen. We instead propose to adopt option c, the hybrid approach, which would provide a useful opportunity for both the LSB and regulators to gain experience of the revised assessment approach prior to the introduction of the proposed standards and characteristics in 2023.

54. We therefore propose to issue information requests as we usually do at the end of September 2022, focusing on regulators' existing not met standards and outcomes and areas of concern. We would then assess regulators against the existing standards (Well-led, Regulatory Approach, Authorisation, Supervision and Enforcement) but using the proposed assurance-based ratings (ie adequate assurance; partial assurance; inadequate assurance) accompanied by narrative assessments. The timetable would be similar to previous years, with the assessments published in December and regulators given an opportunity to provide a fact-check prior to publication.

#### *2023 performance assessment - process*

55. We propose that our first assessment under the revised framework will take place in 2023, under a different timetable to what we have typically followed under the current framework. We have found that with our current timetable, under which we aim to publish annual assessments before Christmas, the process is compressed and there is pressure on resourcing. When we spoke to regulators about the current approach, several said they would welcome an opportunity to comment substantively on our assessments.

56. While regulators are currently given time to complete a fact-check of the LSB assessment, they do not have the opportunity to consider our assessments in

detail prior to their publication. We consider that providing regulators the opportunity to comment more fully on our assessments would help ensure their accuracy and encourage regulators to work with us in addressing any issues. We consider that it would give regulators more autonomy to identify any actions that are necessary to address performance concerns.

57. We have considered a range of options for assessments under the new framework and in Figure 3 below we propose the following schedule for our first full assessment:

**Figure 3: Timetable for the first assessment under the proposed framework**

<b>Timing</b>	<b>Action</b>
June 2023	LSB issues information requests to regulators covering the period October 2022 to May 2023. Regulators have four weeks to respond. Regulators are made aware of this and so can begin compiling evidence and assurance in advance of this time.
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.

58. This timetable means that our first assessment report under the revised framework will cover assurance provided in the eight-month period between October 2022 and May 2023.

#### *2023 performance assessment - focus*

59. We have considered whether our first assessment under the proposed framework should cover regulators' performance against all three proposed standards. As we are proposing a transition to revised standards and characteristics, as well as a revised approach to seeking assurance and making our assessments, we propose to focus on one or two standards in 2023. This should make for an effective use of resources and allow time to adjust to the changes.
60. For example, we may ask regulators for evidence and assurance relevant to the Well-led and/or Operational delivery standards (subject to the outcome of this consultation). The rationale for this could be that whether a regulator is well led, and has the leadership, capability and capacity to be an effective regulator, affects all other aspects of its work. We also know that some regulators have ongoing issues in this area under the current framework. As for the Operational

delivery standard, this is the aspect of regulators' performance that most directly impacts consumers and the wider public.

61. We note that we would still intend to follow up on existing performance concerns, for example, any not met ratings from the 2022 assessment. This will ensure that any concerns about regulators' performance, or areas of their performance where we do not have sufficient assurance, are addressed.

#### *Subsequent assessments (2024 onwards)*

62. We propose that in subsequent years, we will not necessarily seek assurance of regulators' performance against all three standards on an annual basis. This would allow us to take a more targeted approach, and to better identify and focus resources on addressing thematic issues.
63. We consider that we should seek assurance from regulators about the Operational delivery standard regularly because as noted in paragraph 60, performance against this standard directly impacts consumers and the wider public. This standard also covers different elements of regulation (education and training, authorisation, supervision and enforcement) regulators deliver and we may wish to look at a specific one of these elements in any given year.

#### **Consultation questions**

- Q9. Do you have any comments about our proposal to undertake a hybrid approach to our 2022 annual performance assessments of regulators?
- Q10. Do you have any comments about the proposed focus, timing, and process for our assessments under the revised framework from 2023 onwards?

## **Equality impact assessment**

64. We have given due consideration to our obligations under the Equality Act 2010, including consideration of the public sector equality duty.<sup>10</sup>
65. In our revised framework, we have sought to enhance our focus on diversity issues and highlight the regulatory objectives that are relevant to diversity such as encouraging an independent, strong, diverse and effective legal profession, improving access to justice and protecting and promoting the interests of consumers.
66. We propose that in the revised framework, diversity will be given greater prominence in two ways. First, regulators will be expected to take responsibility

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<sup>10</sup> GOV.UK (2012), [Public sector equality duty - GOV.UK \(www.gov.uk\)](https://www.gov.uk/public-sector-equality-duty)

for meeting all of the regulatory objectives in their approach to and delivery of the regulation. Secondly, we have included two diversity characteristics:

- Committed to improving the diversity of the profession at all levels and implements actions to address barriers to inclusion.
- Committed to improving access to services for the public and consumers in all their diversity.

67. The proposed sourcebook contains examples of evidence and policy, guidance and other materials that will assist regulators in understanding our expectations on diversity. Regulators may also want to consider how they can contribute to addressing the challenges in the *Reshaping Legal Services: Sector-Wide Strategy*<sup>11</sup>, which include:

- Achieving fairer outcomes for people experiencing greater disadvantage.
- Dismantling barriers to a diverse and inclusive profession at all levels.

68. One of our stated aims in revising the framework is to ensure it has sufficient flexibility to address policy developments. Diversity issues have at times moved with pace and may do again. We consider that our proposed approach to ensuring the framework remains relevant, for example by updating the sourcebook and statements of policy, will enable us to respond quickly to developments on diversity and other policy issues.

69. Overall, we do not consider there is anything in the proposed framework which will negatively impact those groups with protected characteristics. Our view is that the revised framework should positively impact these groups, but we would particularly welcome views from stakeholders on this through the consultation.

### Consultation questions

Q11. Do you have any comments on the proposed framework's impact on equality issues? Are there any wider equality issues and interventions that we should consider?

## Impact assessment

70. We have considered the likely impact of the proposed framework on the regulators, their regulated communities, consumers and the wider public.

71. We recognise that revising the framework and requiring regulators to provide us with assurance that they meet the revised standards has, at least during the

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<sup>11</sup> [https://legalservicesboard.org.uk/wp-content/uploads/2021/03/Strategy\\_FINAL-For-Web2.pdf](https://legalservicesboard.org.uk/wp-content/uploads/2021/03/Strategy_FINAL-For-Web2.pdf).

period of transition, the potential to increase the work they will need to do. However, we do not expect regulators would require significant additional resources resulting in costs that would be passed onto regulated communities and their consumers.

72. This is because we consider well-led regulators should only need to provide us with the information they already use to assure themselves of their own performance, assuming that the information provided to boards is of an appropriate quality. For example, well-led regulators would already take account of the regulatory objectives in determining their work programmes and this should be evidenced in materials provided to their boards. Regulators that do find it challenging will potentially require more resources, but are likely to improve how they undertake their regulatory activities which will benefit their regulated community and its consumers.
73. One of the stated aims of this work is to encourage regulators and their boards to take ownership of all the regulatory objectives in discharging their regulatory functions. Our proposals would give more discretion to the regulators to determine how best to meet the standards and we do not prescribe the types of information that they must provide to us. When we engaged with regulators on their experience with the current framework, they said that they would prefer a framework that is less prescriptive and enabled them to set out how their approach to regulation was the most effective.
74. We have had regard to the better regulation principles in our development of the proposals. We consider that the revised framework will be a proportionate, transparent, accountable, consistent, targeted and effective means for assuring regulators' performance in meeting the regulatory objectives.
75. We welcome comments on the potential impact of the revised framework and any quantification of the likely costs and anticipated benefits, to further inform our assessment of the regulatory impact of the proposed revisions.

#### **Consultation questions**

- Q12. Do you have any comments on the potential impact of the proposed framework, including the likely costs and anticipated benefits?
- Q13. Do you have any other comments about the proposed framework?

#### **Next steps**

76. This consultation closes on 1 July 2022. Once the consultation has closed, we will consider all feedback received and make any resulting changes as appropriate to the framework.

77. We will publish our response to the consultation when we issue the revised framework later in 2022.

## Responding to the consultation

78. The questions posed in this consultation are listed below for reference:

- Q1. Do you agree with the stated aims of our proposed performance framework to place the responsibility on regulators and their boards to meet the standards in order to provide assurance that they are well-led and effective in their approach to, and delivery of, regulation for the public?
- Q2. Do you agree that the proposed standards are clear in their focus and expectations to provide assurance of effective regulators? If not, what changes would you propose and please explain your reasons.
- Q3. Do you agree that the proposed characteristics which support the standards are reasonable expectations of the skills and processes that an effective regulator will have? If not, what changes would you propose and please explain your reasons.
- Q4. Does the sourcebook provide sufficient information to assist regulators in providing assurance in meeting the standards? If not, how could we better achieve this? Do you have any comments about the examples of evidence and publications noted in the sourcebook?
- Q5. Do you agree with our proposal to maintain the sourcebook as a living document to ensure it remains current, including taking account of new LSB policies, Rules and guidance? If not, what other approach would you propose?
- Q6. Do you agree with the proposal that we would primarily rely on information used by each regulator's board and its executive to monitor its own performance to provide assurance? What changes, if any, would you suggest?
- Q7. Do you have any comments on the proposed introduction of narrative assessments and the revised rating system?
- Q8. Do you agree that the regulatory performance assessment process document is sufficiently clear about our proposed approach to performance assessment and how we will use our assessment tools? If not, how could it be clearer?
- Q9. Do you have any comments about our proposal to undertake a hybrid approach to our 2022 annual performance assessments of regulators?

Q10. Do you have any comments about the proposed focus, timing, and process for our assessments under the revised framework from 2023 onwards?

Q11. Do you have any comments on the proposed framework's impact on equality issues? Are there any wider equality issues and interventions that we should consider?

Q12. Do you have any comments on the potential impact of the proposed framework, including the likely costs and anticipated benefits?

Q13. Do you have any other comments about the proposed framework?

79. Any representations should be made to the LSB by 5pm on **1 July 2022**. Please ensure that responses reach us by the closing date as we cannot guarantee that responses received after this date will be considered.

80. We would prefer to receive responses electronically but hard copy responses by post are also welcome.

81. Responses should be sent to:

- Email: [consultations@legalservicesboard.org.uk](mailto:consultations@legalservicesboard.org.uk)
- Post: Legal Services Board, 3<sup>rd</sup> floor, The Rookery, 2 Dyott Street, London, WC1A 1DE

82. We intend to publish all responses to this consultation, with personal data redacted, on our website unless a respondent explicitly requests that a specific part of the response, or its entirety, should be kept confidential. We will record the identity of the respondent and the fact that they have submitted a confidential response in our summary of responses.

83. If you wish to discuss any aspect of this paper or need advice on how to respond to the consultation, please contact the LSB by one of the methods described above or by telephone (020 7271 0050).

84. Any complaints or queries about this process should be sent to the Legal Services Board via the consultations inbox or by post.

**Annex A** – Proposed Regulatory Performance Assessment Framework  
Sourcebook of Standards and Characteristics

**Annex B** – Proposed Regulatory Performance Assessment Framework Process document



## Annex A: Proposed Regulatory Performance Framework Sourcebook of Standards and Characteristics

### Introduction

- This Sourcebook supports the standards and characteristics of effective regulators. It is designed to assist regulators to understand the LSB's expectations in meeting the standards and characteristics.
- The standards and characteristics are derived from regulators' statutory duties and regulatory arrangements. This includes the duty to meet the regulatory objectives and have regard to the better regulation principles in the Legal Services Act 2007 (the Act). The provisions of the Act, and any rules made under those provisions, will prevail. Where we refer to meeting the regulatory objectives and having regard to better regulation principles, we do so within the meaning set out and consistent with the Act at sections 3 and 28.<sup>12</sup>
- There is a range of different ways that regulators could meet the standards. It is for regulators' own boards to determine the most appropriate and proportionate means to do so, taking account of relevant information including LSB rules, guidance and statements of policy issued under the Act.
- Regulators should comply with current and future LSB rules and take account of current and future LSB policy statements, which will be subject to consultation. Regulators may also wish to consider relevant material from other sources, such as reports from other UK regulators, international regulators, consumer bodies and academic studies.<sup>13</sup>
- The LSB will expect regulators to provide assurance that they meet the standards. We have provided non-exhaustive examples to illustrate the types of evidence they may provide as assurance, which is material that should be available in supporting the decision making of regulators' own boards and/or publicly available.
- This Sourcebook will be updated from time to time to ensure that it remains current and fit for purpose.

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<sup>12</sup> Section 3 of the Act: <https://www.legislation.gov.uk/ukpga/2007/29/section/3>; Section 28 of the Act: <https://www.legislation.gov.uk/ukpga/2007/29/section/28>

<sup>13</sup> For example, the OECD Guidance on public centred justice: [Executive summary | OECD Framework and Good Practice Principles for People-Centred Justice | OECD iLibrary \(oecd-ilibrary.org\)](#).

## Regulatory performance assessment framework

*For the public, with the professions: Framework for effective regulation in the legal services sector.*

### 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.*

	Characteristics	Examples of Evidence	Relevant LSB publications
1	A clear sense of purpose and strategy focused on regulation in the public interest and ensuring public confidence in the regulator.	<ul style="list-style-type: none"><li>▪ Strategy/vision</li><li>▪ Values statement</li><li>▪ Business plan</li><li>▪ Board involvement in development and direction of strategy</li><li>▪ Board away day</li><li>▪ Comprehensive evidence base</li></ul>	
2	Board takes ownership of and accountability for the organisation's performance and for meeting the regulatory objectives; holds its executive to account.	<ul style="list-style-type: none"><li>▪ Governance manual/handbook</li><li>▪ Board and Committee attendance levels</li><li>▪ Number of Board and Committee meetings</li><li>▪ Board agendas and minutes – evidence of Board taking decisions</li><li>▪ Progress against planned activity</li><li>▪ Performance against KPIs</li><li>▪ Complaints about the regulator</li><li>▪ Board effectiveness reviews</li><li>▪ Annual accounts and reporting of data to Board and publicly</li></ul>	<ul style="list-style-type: none"><li>▪ <a href="#">Internal Governance Rules 2019</a></li><li>▪ <a href="#">Statutory Guidance on Internal Governance Rules 2019</a></li></ul>

	Characteristics	Examples of Evidence	Relevant LSB publications
		<ul style="list-style-type: none"> <li>Board and Executive meet regularly to foster collaborative relationships</li> </ul>	
3	Independent of the regulated professions but understands and collaborates effectively with the profession and representative groups to meet the regulatory objectives.	<ul style="list-style-type: none"> <li>Compliance with IGRs</li> <li>Examples of collaborative work</li> <li>Examples of innovative work</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">Internal Governance Rules 2019</a></li> <li><a href="#">Statutory Guidance on Internal Governance Rules 2019</a></li> </ul>
4	Understands the needs of consumers and the broader public's needs and assesses the impact of its work in meeting their interests.	<ul style="list-style-type: none"> <li>Research into public concerns</li> <li>Research into levels of public confidence in the regulator</li> <li>Assessment of impact of regulator's work in addressing concerns raised by and issues facing the public</li> </ul>	
5	Delivers high levels of transparency, including ensuring decisions are clear and accessible to all those with an interest.	<ul style="list-style-type: none"> <li>Publication policy</li> <li>Annual Report</li> <li>Annual accounts and reporting of data to Board and publicly</li> <li>Board papers and minutes</li> <li>Costs report</li> <li>KPIs and performance reports</li> <li>Complaints about the regulator</li> <li>Regulator engagement with stakeholders</li> <li>Process in place to ensure plain English approach to communications</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">Rules for applications to alter regulatory arrangements 2021</a></li> <li><a href="#">2021 Bar Standards Board Well-led review report</a></li> <li><a href="#">2021 Faculty Office Well-led review report</a></li> </ul>

	Characteristics	Examples of Evidence	Relevant LSB publications
		<ul style="list-style-type: none"> <li>▪ Consumer engagement strategy including vulnerable consumers</li> <li>▪ Diversity report</li> <li>▪ Clear terms of reference for the Board and associated committees (and for staff)</li> <li>▪ Consideration of diversity of the Board (and of staff)</li> <li>▪ Board review processes</li> <li>▪ Appointment processes and terms</li> <li>▪ Code of conduct (for Board and staff)</li> <li>▪ Disciplinary processes</li> <li>▪ Skills review processes</li> <li>▪ Internal/External Audit</li> <li>▪ Risk outlook</li> <li>▪ Risk policy</li> <li>▪ Risk assessment policy</li> </ul>	
6	Understands, secures and deploys the necessary resources to support meeting the regulatory objectives, including through collaboration where relevant.	<ul style="list-style-type: none"> <li>▪ Numbers of staff assigned to regulatory activities against number of vacancies</li> <li>▪ Training available to staff and decision makers</li> <li>▪ Cost of regulation information</li> <li>▪ Practising Certificate Fee</li> <li>▪ HR monitoring of staff turnover rates</li> <li>▪ Contingency planning (to deal with resource pressures)</li> </ul>	<ul style="list-style-type: none"> <li>▪ <a href="#">Practising Fees Rules 2021</a></li> <li>▪ <a href="#">Practising Fees Rules Guidance 2021</a></li> </ul>

	<b>Characteristics</b>	<b>Examples of Evidence</b>	<b>Relevant LSB publications</b>
7	Understands the legislative and policy framework within which it operates; works constructively and in collaboration with the LSB, other relevant authorities and relevant stakeholders.	<ul style="list-style-type: none"> <li>▪ Consideration and evaluation of Board engagement with the regulated community and others (OPBAS, CMA)</li> <li>▪ Horizon scanning</li> <li>▪ Feedback from stakeholders</li> <li>▪ Information about the market that is available</li> </ul>	<ul style="list-style-type: none"> <li>▪ <a href="#">Rules for applications to alter regulatory arrangements 2021</a></li> <li>▪ <a href="#">Statement of policy: Cancellation of designation as a licensing authority</a></li> </ul>
8	Has fit for purpose governance systems that align to best practice.	<ul style="list-style-type: none"> <li>▪ Governance manual/handbook</li> <li>▪ Clear terms of reference for the Board and associated committees (and for staff)</li> <li>▪ Consideration of diversity of the Board (and of staff)</li> <li>▪ Board review processes</li> <li>▪ Appointment processes and terms</li> <li>▪ Code of conduct (for Board and staff)</li> <li>▪ Disciplinary processes</li> <li>▪ Skills review processes</li> <li>▪ Internal/External Audit</li> <li>▪ Risk outlook</li> <li>▪ Risk policy</li> <li>▪ Risk assessment policy</li> </ul>	<ul style="list-style-type: none"> <li>▪ <a href="#">2021 Bar Standards Board Well-led review report</a></li> <li>▪ <a href="#">2021 Faculty Office Well-led review report</a></li> </ul>

**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.*

	<b>Characteristics</b>	<b>Examples of Evidence</b>	<b>Relevant LSB publications</b>
9	Has a comprehensive understanding of the market it regulates, including the consumers of services, and proactively identifies risks to the regulatory objectives; has a clear programme of activity to address those risks.	<ul style="list-style-type: none"><li>▪ Investment in research and research plan</li><li>▪ Published programmes of activity</li><li>▪ Strategic and business plans</li><li>▪ Risk management policy which explains approach to identifying current and future policy developments and their impact including risks</li><li>▪ Risk outlook and explanation as to how this has informed regulatory activity</li><li>▪ Sectoral risk assessments to identify where further information needed</li><li>▪ Description of evidence used to inform regulatory activity</li><li>▪ Feedback on regulatory processes from those under review</li><li>▪ Outcomes of regulator's collaborative work to understand consumers' needs</li><li>▪ Learning from and using other bodies' experience and evidence to inform regulatory activity</li></ul>	

		<ul style="list-style-type: none"> <li>▪ Regulatory community engagement survey</li> <li>▪ Feedback surveys and outcomes</li> <li>▪ Full consultation responses and decision documents</li> <li>▪ Use of new and different channels to engage with stakeholders and publicise consultations</li> <li>▪ Publication of annual reports, accounts and reporting of data</li> <li>▪ Examples of engagement with stakeholders</li> <li>▪ Strategy/Vision</li> <li>▪ Business Plan</li> <li>▪ Processes to ensure use of plain English</li> <li>▪ Strategy for engaging consumers, including vulnerable consumers</li> <li>▪ Examples of how stakeholders, including consumers, have informed decisions</li> </ul>	
10	Engages proactively and meaningfully with a diverse range of interested stakeholders, including the public, consumers and regulated community to inform decisions.	<ul style="list-style-type: none"> <li>▪ Strategy for engaging consumers, including vulnerable consumers</li> <li>▪ Strategy for engaging regulated community</li> <li>▪ Research into public concerns</li> <li>▪ Research into levels of public confidence in the regulator</li> <li>▪ Regulator engagement with stakeholders</li> </ul>	

		<ul style="list-style-type: none"> <li>▪ Consideration and evaluation of Board engagement with the regulated community and others</li> <li>▪ Horizon scanning</li> <li>▪ Feedback from stakeholders</li> </ul>	
11	Understands the range of formal (eg rules) and informal (eg influence) regulatory levers at its disposal and how to best make use of them; implements appropriate regulatory interventions and evaluates their impact, changing the approach where necessary to improve outcomes.	<ul style="list-style-type: none"> <li>▪ Documented use of both formal and informal levers and evaluation of their respective impacts</li> <li>▪ Issues and risks addressed (eg complaints on particular topics)</li> <li>▪ Examples where stakeholders have influenced thinking</li> <li>▪ Systematic approach to reviewing regulatory interventions including periodic reviews</li> <li>▪ Responses to issues raised in between periodic reviews</li> </ul>	<ul style="list-style-type: none"> <li>▪ <a href="#">Rules for applications to alter regulatory arrangements 2021</a></li> </ul>
12	Obtains and makes effective use of data, including by making it available to others, to inform how it meets the regulatory objectives.	<ul style="list-style-type: none"> <li>▪ Data underpinning research results is published</li> <li>▪ Tracker and stakeholder perception surveys</li> <li>▪ Examples of data collected from the regulatory community</li> <li>▪ Performance against KPIs</li> </ul>	
13	Actively encourages innovation and innovators in the interests of improving access to services; identifies and mitigates risks appropriately without allowing them to become obstacles.	<ul style="list-style-type: none"> <li>▪ Regulator has own innovation policy</li> <li>▪ Horizon scanning</li> <li>▪ Engagement with stakeholders, including innovators, about benefits and risks of innovation</li> </ul>	



		<ul style="list-style-type: none"> <li>▪ Changes to regulatory activities as a result of engagement</li> <li>▪ Use of waivers and exemptions to facilitate innovation</li> </ul>	
14	Committed to improving the diversity of the profession at all levels and implements actions to address barriers to inclusion.	<ul style="list-style-type: none"> <li>▪ Regulator has own professional diversity policy</li> <li>▪ Regulator's policies take account of current best practice</li> <li>▪ Actions taken by regulator to address diversity issues it has uncovered</li> <li>▪ Diversity data collection, awareness and understanding of diversity initiatives and work being undertaken by others</li> <li>▪ Use of equality impact assessments</li> <li>▪ Use of diversity data and analysis</li> </ul>	<ul style="list-style-type: none"> <li>▪ <a href="#">Encouraging a diverse workforce: LSB Decision Document 2017</a></li> </ul>
15	Committed to improving access to services for the public and consumers in all their diversity.	<ul style="list-style-type: none"> <li>▪ Regulator has own diversity and access to justice policies</li> <li>▪ Regulator's policies take account of current best practice</li> <li>▪ Actions taken by regulator to address diversity issues it has uncovered</li> <li>▪ Diversity data collection, awareness and understanding of diversity initiatives and work being undertaken by others</li> </ul>	

		<ul style="list-style-type: none"> <li>▪ Use of equality impact assessments</li> <li>▪ Use of diversity data and analysis</li> </ul>	
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### **Standard 3: Operational delivery**

*Regulators' operational activity (eg education and training, authorisation, supervision, enforcement) is effective and clearly focused on the public interest.*

	<b>Characteristics</b>	<b>Examples of Evidence</b>	<b>Relevant LSB publications</b>
16	Ensures that authorised persons have and maintain the right skills, knowledge, behaviours and professional ethics to practise throughout their careers.	<ul style="list-style-type: none"> <li>▪ Published data on providers' pass rates</li> <li>▪ Information for students about choosing a training provider and financial protection</li> <li>▪ Published entry and ongoing practice requirements</li> <li>▪ Quality assurance mechanisms to test rigour of entry and ongoing competence assessments</li> <li>▪ Authorisation information requirements</li> <li>▪ Ongoing competence policy and monitoring plans</li> <li>▪ Information on ongoing competence checks undertaken and the outcome of those checks</li> <li>▪ Standards for the regulated community</li> </ul>	<ul style="list-style-type: none"> <li>▪ <a href="#">Guidance on regulatory arrangements for education and training 2014</a></li> </ul>

	Characteristics	Examples of Evidence	Relevant LSB publications
17	Maintains accessible and accurate registers of authorised persons, including information on disciplinary and enforcement action.	<ul style="list-style-type: none"> <li>▪ Consumer-facing guidance about who is regulated and what this means</li> <li>▪ Consumer-facing information on the content of the register and what it means to be on it</li> <li>▪ Information on how to access the register</li> <li>▪ Information on: <ul style="list-style-type: none"> <li>○ How and when register is updated</li> <li>○ How and when its accuracy is checked</li> <li>○ What enforcement information is publicly available and what will not be disclosed</li> <li>○ How the regulator is assured the register is used and checked by employers and other interested parties</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ <a href="#">Registers of licensed bodies: section 87(4) rules 2018</a></li> </ul>
18	Sets out clear, accessible criteria for taking decisions about the authorisation, supervision of authorised persons and enforcement proceedings against them to protect the public; adheres to the criteria when taking decisions.	<ul style="list-style-type: none"> <li>▪ Published authorisation, supervision and e policies</li> <li>▪ Approach to regulation</li> <li>▪ How supervision is are carried out</li> </ul>	<ul style="list-style-type: none"> <li>▪ <a href="#">2011 guidance on referral fees, referral arrangements and fee sharing to approved regulators</a></li> <li>▪ <a href="#">2011 LSA 2007 (Licensing Authorities) (Maximum Penalty) Rules</a></li> </ul>

	Characteristics	Examples of Evidence	Relevant LSB publications
			<ul style="list-style-type: none"> <li>▪ <a href="#">2018 LSB statement on enforcement</a></li> </ul>
19	Takes concerns raised by the public, the profession and other stakeholders seriously; pursues those concerns with appropriate rigour and pace under a transparent process.	<ul style="list-style-type: none"> <li>▪ Published policy for handling complaints/issues including updates for those involved, deadlines for responses and closure of case</li> <li>▪ Process for managing complaints from LeO and/or other regulators</li> <li>▪ Evidence of how activity is focused on the public interest and the needs of vulnerable members of the public</li> <li>▪ Published guidance for staff and decision makers</li> <li>▪ Template letters used</li> <li>▪ Complaints resulting in regulatory action where appropriate</li> <li>▪ Process for review and risk assessment of cases during their lifetime</li> <li>▪ Outcomes of checks on the process/reviews</li> <li>▪ Uses data gathered from complaints and issues raised to identify thematic issues and develop responses to them</li> <li>▪ Evidence of follow-up activity in relation to thematic issues</li> </ul>	<ul style="list-style-type: none"> <li>▪ <a href="#">2018 LSB statement on enforcement</a></li> </ul>

	Characteristics	Examples of Evidence	Relevant LSB publications
		<ul style="list-style-type: none"> <li>▪ Guidance issued to regulated community</li> </ul>	
20	Proactively seeks to maintain high standard of conduct and responds to thematic issues arising from operational activity, including ensuring that those they regulate take action, where relevant.	<ul style="list-style-type: none"> <li>▪ Uses data gathered from operational activity to identify thematic issues and develops appropriate responses</li> <li>▪ Evidence of follow-up activity in relation to thematic issues</li> <li>▪ Guidance issued to regulated community</li> </ul>	



**DRAFT**

# **Regulatory performance assessment framework**

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The process

## About the LSB

### Our purpose

1. The Legal Services Board (LSB) is the oversight regulator for legal services in England and Wales. We oversee the approved regulators, some of which have delegated their regulatory functions to independent regulatory bodies (regulators).<sup>14</sup> We are independent of both government and the profession.
2. The LSB operates within a statutory framework enacted by Parliament through the Legal Services Act 2007 (the Act), which describes our functions and gives us our powers. The Act sets out eight regulatory objectives that we share with the regulators that we oversee:
  - protecting and promoting the public interest;
  - supporting the constitutional principle of the rule of law;
  - improving access to justice;
  - protecting and promoting the interests of consumers;
  - promoting competition in the provision of services within subsection (2)<sup>15</sup>;
  - encouraging an independent, strong, diverse and effective legal profession;
  - increasing public understanding of the citizen's legal rights and duties;
  - promoting and maintaining adherence to the professional principles<sup>16</sup>.

### Our regulatory responsibilities

3. Our core functions include overseeing the regulators' performance, setting the annual fees that practitioners pay and approving changes to rules and other arrangements. We ensure that regulation of legal services is carried out independently of the organisations that represent providers.
4. In all of our work, we consider how best to meet the regulatory objectives. We must also have regard to the better regulation principles, enshrined within the Act. In all our activities, we are transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed. We note that

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<sup>14</sup> LSB [Approved regulators | The Legal Services Board](#).

<sup>15</sup> The services within this subsection of the Act (<https://www.legislation.gov.uk/ukpga/2007/29/section/1>) are services such as are provided by authorised persons (including services which do not involve the carrying on of activities which are reserved legal activities).

<sup>16</sup> The professional principles, set out in section 1(3) of the Act (<https://www.legislation.gov.uk/ukpga/2007/29/section/1>), are: (a) that authorised persons should act with independence and integrity, (b) that authorised persons should maintain proper standards of work, (c) that authorised persons should act in the best interests of their clients, (d) that persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice, and (e) that the affairs of clients should be kept confidential.

where we refer to meeting the regulatory objectives and having regard to better regulation principles, we do so within the meaning set out and consistent with the Act at sections 3 and 28.<sup>17</sup>

## Our regulatory approach

5. We take account of the need to be proportionate and targeted in our use of our powers to ensure the regulators perform effectively for the benefit of consumers and the wider public. We use evidence to determine which of our regulatory tools will address the regulatory issues that we identify. The range of regulatory levers we have available to us are both informal and formal and include:

- advocacy and communications
- publishing research findings, best practice recommendations and guidance
- making statutory decisions
- assessing regulatory performance
- agreeing action plans and monitoring performance against them
- seeking informal resolution of concerns
- using formal enforcement powers
- exercising other statutory powers, such as recommending legislative changes in some circumstances.

6. Our approach to meeting our responsibilities can be broadly characterised by the diagram below. The five activities are connected and there is feedback between different activities as necessary.



7. Our assessment of the regulators' performance is central to our role as an oversight regulator. How we do this in line with our regulatory approach is demonstrated below:

<sup>17</sup> Section 3 of the Act: <https://www.legislation.gov.uk/ukpga/2007/29/section/3>; Section 28 of the Act: <https://www.legislation.gov.uk/ukpga/2007/29/section/28>



- **Identifying the key risks** – our regulatory performance standards focus on the key risks to an effective regulator’s performance. We target our resources on addressing areas of performance where we have insufficient assurance.
- **Setting our expectations** – the regulatory performance standards and supporting characteristics set out what is expected of a regulator that is well-led and effective in its approach to, and delivery of, regulation.
- **Seeking assurance through oversight** – our assessments are central to our oversight of regulator performance and regulators are expected to provide evidence of how their work programmes meet the regulatory objectives. We will take account of all information that we receive from regulators across all our contact with them, including applications to alter regulatory arrangements and practising certificate fees.
- **Tackling concerns** – when we do not have sufficient assurance of a regulator’s performance, we will consider what further steps to take. We may ask for further information from the regulator or others and we may also seek assurance ourselves, for example, through a targeted or thematic review. In order for the LSB to be assured, regulators will be expected to identify actions they will take to address performance concerns.
- **Taking formal action** – it will be open to us to take formal action to tackle concerns about a regulator’s performance. We will only take formal enforcement action in response to the most serious or sustained failings and in line with our *Statement of policy for enforcement*.<sup>18</sup> We will always use our powers proportionately and will use the least intrusive measure that we think will be effective at achieving the required improvement.

## The regulatory performance standards and characteristics

8. We assess the regulators’ performance against three standards:

- The **Well-Led** standard requires regulators to have the necessary resources and capability to work for the public and meet the regulatory objectives effectively.
- The **Effective approach to regulation** standard requires regulators to act on behalf of the public to apply their knowledge to identify opportunities and address risks to promoting the regulatory objectives.

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<sup>18</sup>[https://legalservicesboard.org.uk/what\\_we\\_do/regulation/pdf/New%20folder%20\(3\)/FINAL\\_Statement\\_of\\_Policy\\_for\\_Enforcement\\_v3.pdf](https://legalservicesboard.org.uk/what_we_do/regulation/pdf/New%20folder%20(3)/FINAL_Statement_of_Policy_for_Enforcement_v3.pdf).

- The **Operational delivery** standard requires regulators to have operational activity that is effective and clearly focused on the public interest.
9. The standards are supported by 20 characteristics (features eg knowledge, processes) of effective regulators:

### Table of Standards and Characteristics

*For the public, with the professions: Framework for effective regulation in the legal services sector.*

Standard 1: Well led	
<i>Regulators are well led with the resources and capability required to work for the public and to meet the regulatory objectives effectively.</i>	
1	A clear sense of purpose and strategy focused on regulation in the public interest and ensuring public confidence in the regulator.
2	Board takes ownership of and accountability for the organisation's performance and for meeting the regulatory objectives; holds its executive to account.
3	Independent of the regulated professions but understands and collaborates effectively with the profession and representative groups to meet the regulatory objectives.
4	Understands the needs of consumers and the broader public's needs and assesses the impact of its work in meeting their interests.
5	Delivers high levels of transparency, including ensuring decisions are clear and accessible to all those with an interest.
6	Understands, secures and deploys the necessary resources to support meeting the regulatory objectives, including through collaboration where relevant.
7	Understands the legislative and policy framework within which it operates; works constructively and in collaboration with the LSB, other relevant authorities and relevant stakeholders.
8	Has fit for purpose governance systems that align to best practice.

## 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.*

9	Has a comprehensive understanding of the market it regulates, including the consumers of services, and proactively identifies risks to the regulatory objectives; has a clear programme of activity to address those risks.
10	Engages proactively and meaningfully with a diverse range of interested stakeholders, including the public, consumers and regulated community to inform decisions.
11	Understands the range of formal (eg rules) and informal (eg influence) regulatory levers at its disposal and how to best make use of them; implements appropriate regulatory interventions and evaluates their impact, changing the approach where necessary to improve outcomes.
12	Obtains and makes effective use of data, including by making it available to others, to inform how it meets the regulatory objectives.
13	Actively encourages innovation and innovators in the interests of improving access to services; identifies and mitigates risks appropriately without allowing them to become obstacles.
14	Committed to improving the diversity of the profession at all levels and implements actions to address barriers to inclusion.
15	Committed to improving access to services for the public and consumers in all their diversity.

Standard 3: Operational delivery	
<i>Regulators' operational activity (eg education and training, authorisation, supervision, enforcement) is effective and clearly focused on the public interest.</i>	
16	Ensures that authorised persons have and maintain the right skills, knowledge, behaviours and professional ethics to practise throughout their careers.
17	Maintains accessible and accurate registers of authorised persons, including information on disciplinary and enforcement action.
18	Sets out clear, accessible criteria for taking decisions about the authorisation, supervision of authorised persons and enforcement proceedings against them to protect the public; adheres to the criteria when taking decisions.
19	Takes concerns raised by the public, the profession and other stakeholders seriously; pursues those concerns with appropriate rigour and pace under a transparent process.
20	Proactively seeks to maintain high standard of conduct and responds to thematic issues arising from operational activity, including ensuring that those they regulate take action, where relevant.

10. The standards and characteristics require regulators and their boards to take ownership of all the regulatory objectives and provide assurance that they are well-led and effective in their approach to, and delivery of, regulation for the public. They are high-level and it is for regulators to determine how best to demonstrate that they meet the standards.
11. The framework is supported by a sourcebook which contains resources that regulators will need to take account of, such as LSB rules, guidance and statements of policy. It also includes other resources that may be helpful, such as a non-exhaustive list of examples of the types of evidence regulators may provide as assurance, if appropriate. Further, it refers to resources not created by the LSB such as guidance from other oversight regulators and other bodies that regulators may find insightful.
12. The sourcebook is updated from time to time, for example, following consultation on a new LSB statement of policy, and can be found on our website.

## **Evidence gathering**

13. Our approach to the assessment of the regulators' performance against the standards and supporting characteristics is evidence-based. We ask for evidence to:

- have assurance that the regulators are meeting the standards
- identify where we may need to ask for more information to have assurance about a regulator's performance
- carry out a review of the regulator
- where appropriate, identify good practice that can be shared.

### *Assurance from the regulators*

14. The standards and characteristics are high level and we do not prescribe how the regulators demonstrate they meet the standards. We recognise this will vary across the regulators and that performance against some standards may need to be assessed within the context of a specific regulator. We will ask regulators to provide assurance of their performance and will expect:

- evidence of how their own programmes of activities are designed to meet the regulatory objectives and deliver their own outcomes; and
- evidence which shows that they meet the standards and characteristics of a regulator that is well-led and effective in its approach to, and delivery of, regulation.

15. Central to this approach is that regulators are best placed to demonstrate how they meet the standards. Typically, for well-led regulators, we will require no more information than is already made available to a regulators own board. In this way there should be a limited additional burden on regulators in providing assurance to the LSB, assuming that the information provided to boards is of an appropriate quality, including:

- That there is sufficient and appropriate evidence to inform board decision-making processes
- That the evidence demonstrates that the regulator has taken account of the regulatory objectives and better regulation principles when making decisions
- There is evidence that the regulator has clearly assessed the likely impact of their decisions including relevant risks, costs, and benefits to a range of stakeholders.

16. Where we find that the information does not provide us with adequate assurance then we will ask for further information. We may also take account of publicly available information such as board papers, performance information and consultation documents, as well as information shared with us in meetings (eg

relationship management meetings, see ongoing monitoring section) or through our work (eg when taking statutory decisions). We will consider requesting further information from the regulators whenever it is necessary for assurance.

17. To support the regulators and to develop a shared understanding of what information could be provided as assurance, we have set out examples of the types of evidence that could be provided in an illustrative, non-exhaustive list in the sourcebook.

### *Information requests*

18. We may make proportionate and targeted information requests to gain assurance of the regulators' performance. The form and frequency of our information requests will vary, however all requests will take account of the information we have already collected through the assurance provided by the regulators, our ongoing monitoring (see paragraphs 23-24), other aspects of our work (eg statutory decisions) and information that is publicly available. We will typically request information from regulators informally. However, if we need more information we may use our formal information gathering powers under section 55 of the Act to obtain it.<sup>19</sup>
19. Information requests will only seek information necessary to provide assurance about performance. If the response to an information request is unable to provide assurance or raises concerns, we will consider whether we should undertake a review of a regulator's performance (see 'decision to undertake a review' at paragraphs 28-31).

### *Third-party feedback*

20. As part of our ongoing monitoring, we may gather stakeholder feedback about a regulator's performance. This feedback will be obtained through different channels, including correspondence we receive about the regulators, and through our meetings with stakeholder organisations. How we receive specific feedback will vary depending on the circumstances, for example, whether we are gathering evidence to determine the scope of a review or whether we are already conducting a review. Regulators will be given reasonable opportunity to comment on third party feedback. Methods to collect feedback could include:
  - targeted invites to provide feedback
  - receiving formal feedback through our ongoing relationships with organisations or individuals
  - if appropriate, providing an open invitation for stakeholders to provide feedback.

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<sup>19</sup> Section 55 of the Act: <https://www.legislation.gov.uk/ukpga/2007/29/section/55>.

## Rating system

21. In our assessment we will rate the assurance provided by the regulator using the scale set out below. The rating will be accompanied by a narrative assessment of the regulator's overall performance and its performance against each standard, including identifying and encouraging good practice where relevant:

- **Adequate 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.
- **Inadequate 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.

## The assessment process

22. The process we use to assess regulatory performance is risk-based. This enables us to tailor the resources we devote to our oversight activities according to the risks presented by each regulator. Our assessment approach typically involves ongoing monitoring of the regulators' performance and an annual assessment of the regulators.

### *Ongoing monitoring*

23. All regulators are subject to ongoing monitoring of their performance. We monitor regulators' performance on an ongoing basis using the information that we gather ourselves and that is provided by the regulators, whether by correspondence or at relationship management meetings. Relationship management is how we and the regulators regularly engage with each other and discuss developments.

24. We use this information to deepen our understanding of how the regulators are meeting the standards and to inform our assessment process. This allows us to promptly identify specific areas of concern, which warrant closer attention or identify areas where we lack assurance. It also allows us to identify any thematic issues which have emerged for some, or all, of the regulators, and which need to be addressed.

## *Assessment*

25. Typically, regulators are subject to an annual assessment of their performance.

The process that we follow to carry out assessments includes the following steps:

- we ask regulators to provide evidence of how their programmes of activities meet the regulatory objectives and give the LSB assurance that they meet the standards
- we may, in addition, send a targeted information request to regulators, for example, if there is an area of the regulator's performance that we have previously raised concerns about or which our ongoing monitoring has identified
- we review and analyse information provided by the regulators and other information that we have gathered during the year eg through ongoing monitoring and statutory decision-making
- we assess each regulator's performance based on the evidence available
- regulators are provided with our draft assessment and given the opportunity to respond and raise queries about the proposed ratings
- we take account of regulators' feedback when finalising the assessments, prior to publication.

## *Targeted and thematic reviews*

26. Where we have cause for concern that we have been unable to resolve through our ongoing monitoring or annual assessments then we may carry out a review. This could be a targeted review of the performance of a regulator under one or more of the standards<sup>20</sup>. It may also be a thematic review covering a regulator(s) performance against a specific standard. We will give reasonable notice to the regulators in relation to such reviews and more information about the process we follow to undertake reviews is set out at paragraphs 32-35 and in Annex A.

## **Tackling concerns**

27. Where a partial or inadequate assurance rating has been awarded, we will expect regulators to identify and take actions to either provide the necessary assurance or address the concerns about their performance. Depending on the response from the regulator, we may take further steps to ensure that our concerns are addressed, following our regulatory approach set out in paragraphs 5-7 and the steps set out below. It will be open to the LSB to take informal and formal action,

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<sup>20</sup> Reports from previous targeted reviews can be found on our website:  
<https://legalservicesboard.org.uk/our-work/regulatory-performance/targeted-reviews>.



which will be identified and carried out in line with our *Statement of policy for enforcement*.<sup>21</sup>

#### *Decision to undertake a review*

28. Our ongoing monitoring, or an assessment, may identify that we do not have sufficient assurance about an area of a regulator's performance, or may identify an area as one of concern. Where this occurs, we will consider whether a review is necessary.

29. Some of the factors that would lead us to consider undertaking a review include:

- a decline in performance
- limited information provided to give assurance
- recurrence of a single performance issue or a number of smaller performance issues which indicate a pattern of concern
- follow up activity from a previous regulatory performance assessment
- significant changes in regulatory approach
- change in regulatory scope by the regulator
- a major change in the size of the regulated community
- significant legislative changes which have a direct impact upon the regulated community
- a major failing within the regulated community.

30. In deciding whether to carry out a review, we would also consider prioritisation criteria, which include:

- the likely benefit of action to consumers, the regulated community and the wider public interest
- the impact of the underperformance or risk of underperformance on consumers, the regulated community and the wider public interest
- the impact of changes to regulatory approach that may have consequences to the regulated community, consumers and the wider public
- the nature and extent of the underperformance
- whether it is proportionate to undertake a review.

31. Both the list of factors and prioritisation criteria are non-exhaustive and it remains at our discretion to consider other factors and criteria as we consider reasonable and proportionate. Once we have made a decision, we will write to the regulator to advise of our decision to undertake a review and why, as well as explain the next steps.

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<sup>21</sup>[https://legalservicesboard.org.uk/what\\_we\\_do/regulation/pdf/New%20folder%20\(3\)/FINAL\\_Statement\\_of\\_Policy\\_for\\_Enforcement\\_v3.pdf](https://legalservicesboard.org.uk/what_we_do/regulation/pdf/New%20folder%20(3)/FINAL_Statement_of_Policy_for_Enforcement_v3.pdf).

*What is a review likely to involve?*

32. Reviews are likely to include the steps listed below. This list is non-exhaustive and we will undertake any tasks considered necessary to assess accurately whether a standard has been met:

- a review of the available evidence and the data the regulator has provided
- an initial meeting between the LSB and the regulator's senior management to discuss the purpose of the review, any particular areas that will be focused on, the proposed timescales and the LSB's expectations of the regulator during the review. Subsequent to this meeting, we will confirm the scope of the review with the regulator
- a targeted information request may be issued under section 55 of the Act<sup>22</sup>, which also provides an opportunity for the regulator to provide additional detail on its performance if it wishes
- a series of interviews with staff and board members of the regulator
- an exercise to gather stakeholder feedback on areas within the scope of the review, including targeted invites to key stakeholders to submit written feedback on the performance of the regulator; a general invitation to provide feedback both on the LSB's and the regulator's websites; and, where considered appropriate, offers of meetings to selected organisations. The regulator will also have an opportunity to comment on any stakeholder views obtained
- a further meeting with the regulator to discuss outstanding questions we may have.

33. The information generated will be collated and analysed and will form the basis of a findings report providing an assessment of performance. The report will set out where we have adequate assurance of a regulator's performance against the standards and where a regulator has only been able to provide partial or inadequate assurance of its performance against one or more of the standards. Reports will not necessarily set out in detail all the evidence and data considered in an assessment.

34. Reports are subject to quality assurance and consistency checks through our internal governance mechanisms. We will share the draft performance assessment report with the regulator prior to publication for their comments on the findings to allow the regulator to identify any actions that are necessary to address the findings. We will consider any comments made by the regulator about our draft report, and make any changes we consider are necessary prior to publication of the final report on our website. In circumstances where regulators disagree with our assessment or findings, we will offer the option of publishing their comments alongside the final report.

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<sup>22</sup> Section 55 of the Act: <https://www.legislation.gov.uk/ukpga/2007/29/section/55>.

35. Further details about the stages of our review process are set out in Annex A below.

### *Investigations*

36. If we have serious concerns about the performance of a regulator, at any stage of our ongoing monitoring or formal review process, we will consider whether it is necessary to carry out an investigation. This will be consistent with our *Statement of policy for enforcement*.<sup>23</sup>

### **Other considerations**

#### *Access to information implications*

37. We are committed to operating transparently and to meeting all reasonable requests for information about our activities, including the regulatory performance assessments.

38. In accordance with section 167 of the Act<sup>24</sup>, we will treat all information obtained during the course of the performance assessments as confidential, subject to the disclosure gateways in sections 168 and 169 of the Act.<sup>25</sup>

#### *Continuous improvement of the regulatory performance assessment process.*

39. Following our regulatory performance assessments and reviews, we will ask the regulators for their views on the process, to identify any areas for improvement. We intend to review the regulatory performance assessment framework within five years, to ensure it remains fit for purpose.

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<sup>23</sup>[https://legalservicesboard.org.uk/what\\_we\\_do/regulation/pdf/New%20folder%20\(3\)/FINAL\\_Statement\\_of\\_Policy\\_for\\_Enforcement\\_v3.pdf](https://legalservicesboard.org.uk/what_we_do/regulation/pdf/New%20folder%20(3)/FINAL_Statement_of_Policy_for_Enforcement_v3.pdf).

<sup>24</sup> Section 167 of the Act: <https://www.legislation.gov.uk/ukpga/2007/29/section/167>.

<sup>25</sup> Section 168 of the Act: <https://www.legislation.gov.uk/ukpga/2007/29/section/168>; Section 169 of the Act: <https://www.legislation.gov.uk/ukpga/2007/29/section/169>).

## Annex A: Review process

1. Our review process contains the following steps:

Stages	Action
Step 1:	Pre-review discussion (to discuss and agree scope)
Step 2:	Terms of engagement
Step 3:	Review initiation meeting (to discuss information provision including arranging interviews and stakeholder feedback, contact arrangements and timetable)
Step 4:	Request information
Step 5:	Provision of information
Step 6:	Fact-finding and analysis (including interviews and stakeholder feedback)
Step 7:	Interim report (regulator under review has the opportunity to comment on the interim report)
Step 8:	Final report and publication (regulator has the opportunity to comment on publication of sensitive material)

2. The timings for each step are agreed at the review initiation meeting (Step 3). The aim will be to ensure sufficient time is allowed for the regulator(s) and the LSB to meet the expectations at each step.
3. The LSB will ensure that the review is conducted in a fair, transparent, reasonable, efficient and timely way. We will regularly update the regulator(s) about the review's progress.