

**SRA BOARD**

6 June 2023

**CLASSIFICATION – PUBLIC***This paper will be published***Legal Services Board Regulatory Performance Assessment 2023**

<b>Reason for paper</b>	To provide the Board with an overview of this year's Legal Services Board (LSB) regulatory performance assessment.
<b>Decisions(s)</b>	<p>The Board is asked to</p> <ul style="list-style-type: none"> <li>a) note the approach and timeline for this year's regulatory performance assessment (paragraphs 5 to 8)</li> <li>b) agree our approach to providing assurance to the Board on our progress against the LSB's regulatory performance framework (paragraphs 9 to 14)</li> <li>c) agree that approval for our final submission to the LSB for this year's performance assessment is delegated to the Chair.</li> </ul>
<b>Previous Board and committee consideration</b>	The LSB's 2022 performance assessment report was discussed with the Board as part of March's Chief Executive's report. A summary of the new approach the LSB is taking to its regulatory performance assessment was provided in the September 2022 Chief Executive's report.
<b>Next steps</b>	<p>We will continue to work on our submission for the LSB's performance assessment 2023 with a view to the Chair signing off our final submission (subject to agreement by the Board).</p> <p>We plan to include our ongoing assurance to the Board on our performance against the LSB's regulatory performance framework in our regular quarterly performance reporting.</p>

**If you have any questions about this paper, please contact Jane Malcolm, Executive Director, External and Corporate Affairs, [jane.malcolm@sra.org.uk](mailto:jane.malcolm@sra.org.uk).**

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### Legal Services Board Regulatory Performance Assessment 2023

#### Background

- 1 Each year, the LSB assesses the performance of the regulatory bodies it has oversight of against its regulatory performance standards. The assessment is published.
- 2 From 1 January 2023, following consultation, a new regulatory performance framework with new standards was introduced. This followed a transition period during 2022, when the LSB took a hybrid approach with the old and new assessment frameworks. Regulators were assessed against the standards from the 2018-22 framework, but the LSB used the assessment approach from the new framework. This meant it moved from assessing whether regulators had 'met' the standards to assessing the level of assurance it had been given on performance against the standards. The new assessment levels are as follows: 'sufficient' assurance, 'partial' assurance and 'insufficient' assurance.
- 3 Our 2022 assessment report was [published](#) on 12 January 2023. We were assessed as providing 'sufficient assurance' on four of the five standards and as providing 'partial assurance' for the Enforcement standard.
- 4 2023 will see us assessed against the three new standards set out in the [Regulatory Performance Assessment Framework Sourcebook of Standards and Characteristics](#) (attached at annex 1). The standards have 20 supporting characteristics which describe the features of effective regulators, derived from regulators' statutory duties and regulatory arrangements. The three standards are:
  - Well-led: regulators are well-led with the resources and capability required to work for the public and to meet the regulatory objectives effectively.
  - 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 (e.g. education and training, authorisation, supervision, enforcement) is effective and clearly focused on the public interest.

#### Discussion

##### 2023 Approach and timelines

- 5 The first assessment under the new performance assessment framework will cover the eight-month period from the start of October 2022 to the end of May 2023 and will then move into a yearly cycle.

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- 6 The LSB has decided to focus its 2023 assessment on regulators' performance against the 'well-led' and the 'effective approach to regulation' standards. This is because it found in its 2022 assessment that regulators' overall performance against these standards remained a concern, with the following common themes:
- transparency of decision-making,
  - capacity and capability,
  - use and deployment of evidence,
  - levels of proactiveness in supervisory work, and
  - resources, capability and capacity for enforcement.
- 7 The LSB will also ask regulators to provide updates on any other specific areas for improvement/future focus identified in the 2022 assessment. It may also make general comments on regulators' performance against the operational delivery standard. It will also take into account the material we provide throughout the year, for example, periodic updates on our key metrics, all our Board material, publications such as our annual reporting, thematic reviews, risk papers, research and consultations, as well as the content of our two monthly relationship management meetings and other engagements.
- 8 This month, the LSB will formally issue information requests to regulators for the 2023 assessment. We will have four weeks to respond. The LSB will assess the information we provide over the summer with a view to issuing draft assessments to us for comments in October. Publication of assessments is then planned for November.

**Assurance mapping**

- 9 In February 2023, the Chair received a letter from the Chair of the LSB on providing assurance under the LSB's new regulatory performance assessment framework. The letter (attached at annex 2) set out a suggested approach for how the Boards of regulatory bodies might seek their own assurance for how regulators are performing against the framework, with the intention of reducing the amount of additional information the LSB requests of us during the assessment.
- 10 The LSB is encouraging us to provide regular assurance to the Board by completing an assurance mapping exercise to show the Board the sources of information we have to demonstrate how we are meeting the standards and demonstrating the 20 characteristics in the LSB's Sourcebook (please see annex 1).
- 11 Given this, we have completed a mapping exercise of the sources of assurance that we have in place against the 20 characteristics. We have taken a view of the assurance we have and given a red/amber/green rating for each characteristic. This work is attached at annex 3. Sitting behind this, we have completed detailed mapping work for each characteristic against the suggested examples of evidence set out in the LSB's Sourcebook.

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- 12 Overall, we believe we are in a good place and we have currently rated ourselves as ‘green’ across all the characteristics. This reflects that our work is progressing well and as expected. Following discussion by the Board, we will continue to refine our assurance mapping work, with a view to asking the Chair to approve the final version for publication.
- 13 Once we have made this year’s submission for the performance assessment, we plan to provide regular assurance to the Board on our performance against the LSB’s regulatory performance standards using the mapping attached at annex 3. Our proposal is to do this through our quarterly performance pack to the Board.
- 14 We have met the LSB to discuss our approach to assurance mapping, and it was supportive of the proposed approach we were taking in response to the LSB Chair’s letter. It had not had sight of the specifics in the document attached at annex 3 at the time of writing, but it has asked if we would be willing to share our template for the mapping exercise with other regulators.

**Future focus areas as set out in 2022 assessment**

- 15 As noted above, the LSB has said that it will request an update against the areas of focus/improvement that it identified in our 2022 performance assessment as part of this year’s assessment.
- 16 For the ‘well-led’ standard, the LSB highlighted the following areas for which it requires us to provide updates:
- how we have responded to concerns from some stakeholders that we could be more transparent given we no longer have public Board meetings
  - changes to our Governance Handbook to ensure the Board can always operate with a lay majority
  - the findings of the Board’s effectiveness review and any actions taken as a result
  - outcomes of our review of other bodies’ transparency practices
  - how we learn from our own work and those of others, including in respect of how we engage with stakeholders.
- 17 We are progressing well in these areas. We introduced post Board media briefings, which have been well attended. We also have completed our review of a range of other bodies’ transparency practices and have not found anything that would warrant us changing our approach, although we plan to keep this under review. Changes to our Governance Handbook to ensure we can always operate with a lay majority, and following the Board effectiveness review, are subject to Board agreement at today’s meeting. And we will set out in detail how we review and learn from our own work and engagement with

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stakeholders, for example through our informal engagement and formal consultation work.

- 18 For the 'effective approach to regulation' standard, we will need to provide the following:
- specific examples of where our risk assessment work, horizon scanning activities and feedback received via regulatory work has informed revisions to regulatory arrangements and guidance
  - further information about how we have developed our response to the sanctions regime
  - how we continue to respond to the LSB's statement of policy on consumer empowerment and how we intend to take account of the statement in future
  - how we use our enhanced fining powers and provide sufficient transparency about our decisions.
- 19 Again, we think we have a good narrative in relation to these areas. We can give a number of specific examples of where our work has led to revisions to regulatory arrangements, including our wellbeing rule changes and guidance published following last year's [Immigration and asylum thematic review](#). Our sanctions regime work is progressing, as Board is aware, as is our consumer facing work.
- 20 For the operational delivery standard, we will need to update on the following:
- work on the improvements to the Police Station Representatives Accreditation Scheme (PSRAS) and Higher Rights of Audience qualification
  - the transition from the Legal Practice Course to the Solicitors Qualifying Examination (SQE)
  - providing SQE provider pass rate information to candidates, and any other changes to the information we publish for candidates
  - our annual review of the SQE functioning legal knowledge requirements
  - our review of our disciplinary decision publication policy and the implementation of the new policy
  - the publication of decisions on, and improvements to, the Solicitors register
  - actions we have taken to address risks and issues identified by supervisory activities

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- how we are continuing to share lessons learned from supervisory activity with the regulated community and training providers
  - how our Quality Assurance team has identified issues in our complaints handling processes and how we have applied the lessons learned
  - our response to LSB questions about our handling of complaints and a plan for how we will address any systemic issues identified
  - our plans for increasing our investigation and enforcement team's capacity and capability to deal with more complex cases and process all cases more efficiently.
  - improvements to the navigability of the material on enforcement and disciplinary processes on its website.
- 21 Many of these are areas that the Board has discussed and that we have reported on in detail. We will also be providing further assurance to the LSB on our investigation and enforcement work.
- 22 We have developed a detailed narrative for each of the areas highlighted above, which we will continue to update over the next few weeks. Our proposal is to ask the Chair to sign off our final update before it is submitted to the LSB.

#### **Recommendations: the Board is asked to:**

- a) note the approach and timeline for this year's regulatory performance assessment (paragraphs 5 to 8)**
- b) agree our approach to providing assurance to the Board on our progress against the LSB's regulatory performance framework (paragraphs 9 to 14)**
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### Supporting information

#### Links to the Corporate Strategy and/or Business Plan

- 23 The LSB's assessment provides its view on how we are performing against core regulatory standards and provides an assessment on the progress we are making as an organisation. This links to a number of areas covered in our Corporate Strategy and Business Plan.

#### How the issues support the regulatory objectives and best regulatory practice

- 24 The LSB's assessment framework is directly linked to the regulatory objectives and the standards expected of effective regulators.

#### Public/Consumer impact

- 25 Regulating in the public interest and consumer impact are features throughout the standards in the LSB's performance assessment framework that we are assessed against.

#### What engagement approach has been used to inform the work and what further communication and engagement is needed?

- 26 We have been engaging with the LSB about this year's regulatory performance assessment and its expectations of us. This will continue as needed throughout the assessment process.

#### What equality and diversity considerations relate to this issue?

- 27 Equality and diversity is strongly reflected in the LSB's regulatory performance assessment framework and against which we are assessed. The assurance we have in relation to our equality and diversity work is set out in annex 1 to the report.

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#### Annexes

**Annex 1** LSB Regulatory performance assessment framework sourcebook of standards and characteristics  
**Annex 2** Letter from LSB Chair  
**Annex 3** SRA assurance mapping against the LSB's regulatory performance assessment sourcebook