

Regulatory performance assessment framework

Sourcebook of Standards and Characteristics

27 October 2022

Introduction

- This Sourcebook sets out and provides supporting information for the standards and characteristics of effective regulators. It is designed to assist regulators to understand the LSB's expectations in meeting the standards.
- 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 28.¹
- 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 LSB rules and take account of 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.²
- 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.

¹ 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>

² For example, the OECD Guidance on public centred justice: [Executive summary | OECD Framework and Good Practice Principles for People-Centred Justice | OECD iLibrary \(oecd-ilibrary.org\)](#).

- This Sourcebook will be a living document that will be fully reviewed annually and also updated when we publish new or revised versions of rules, guidance or policy statements, where relevant. We will inform regulators and others when the Sourcebook is updated, listing the changes we have made.

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"> ▪ Strategy/vision ▪ Values statement ▪ Business plan ▪ Board involvement in development and direction of strategy ▪ Board away day ▪ Comprehensive evidence base 	
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"> ▪ Governance manual/handbook ▪ Board and Committee attendance levels ▪ Number of Board and Committee meetings ▪ Board agendas and minutes – evidence of Board taking decisions ▪ Progress against planned activity ▪ Performance against KPIs ▪ Complaints about the regulator ▪ Board effectiveness reviews 	<ul style="list-style-type: none"> ▪ Internal Governance Rules 2019 (July 2019) ▪ LSB Guidance on Internal Governance Rules (July 2019)

	Characteristics	Examples of Evidence	Relevant LSB publications
		<ul style="list-style-type: none"> ▪ Annual accounts and reporting of data to Board and publicly ▪ Board and Executive meet regularly to foster collaborative relationships 	
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"> ▪ Compliance with IGRs ▪ Examples of collaborative work and attempts at collaboration ▪ Examples of innovative work 	<ul style="list-style-type: none"> ▪ Internal Governance Rules 2019 (July 2019) ▪ LSB Guidance on Internal Governance Rules (July 2019)
4	Understands the needs of consumers and the public interest and assesses the impact of its work in meeting their interests.	<ul style="list-style-type: none"> ▪ Research into public concerns ▪ Research into levels of public confidence in the regulator ▪ Assessment of impact of regulator's work in addressing concerns raised by and issues facing the public 	
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"> ▪ Publication policy ▪ Annual Report ▪ Annual accounts and reporting of data to Board and publicly ▪ Board papers and minutes ▪ Costs report ▪ KPIs and performance reports ▪ Complaints about the regulator ▪ Regulator engagement with stakeholders 	<ul style="list-style-type: none"> ▪ Applications to Alter Regulatory Arrangements Rules 2021 (December 2021) ▪ Well-led review of the Bar Standards Board: findings report (July 2021) ▪ Well-led review of the Faculty Office: findings report (September 2021)

	Characteristics	Examples of Evidence	Relevant LSB publications
		<ul style="list-style-type: none"> ▪ Process in place to ensure plain English approach to communications ▪ Consumer engagement strategy including vulnerable consumers ▪ Diversity report ▪ Clear terms of reference for the Board and associated committees (and for staff) ▪ Consideration of diversity of the Board (and of staff) ▪ Board review processes ▪ Appointment processes and terms ▪ Code of conduct (for Board and staff) ▪ Disciplinary processes ▪ Skills review processes ▪ Internal/External Audit ▪ Risk outlook ▪ Risk policy ▪ Risk assessment policy 	
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"> ▪ Numbers of staff assigned to regulatory activities against number of vacancies ▪ Training available to staff and decision makers ▪ Cost of regulation information ▪ Practising Certificate Fee 	<ul style="list-style-type: none"> ▪ LSB Practising Fees Rules 2021 (January 2021) ▪ LSB Guidance on Practising Fee Rules 2021 (January 2021)

	Characteristics	Examples of Evidence	Relevant LSB publications
		<ul style="list-style-type: none"> ▪ HR monitoring of staff turnover rates ▪ Contingency planning (to deal with resource pressures) 	
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"> ▪ Consideration and evaluation of Board engagement with the regulated community and others (eg OPBAS, CMA) ▪ Horizon scanning ▪ Feedback from stakeholders ▪ Information about the market that is available 	<ul style="list-style-type: none"> ▪ Applications to Alter Regulatory Arrangements Rules 2021 (December 2021) ▪ Statement of policy: Cancellation of designation as a licensing authority (April 2011)
8	Has fit for purpose governance systems that align to best practice.	<ul style="list-style-type: none"> ▪ Governance manual/handbook ▪ Clear terms of reference for the Board and associated committees (and for staff) ▪ Consideration of diversity of the Board (and of staff) ▪ Board review processes ▪ Appointment processes and terms ▪ Code of conduct (for Board and staff) ▪ Disciplinary processes ▪ Skills review processes ▪ Internal/External Audit ▪ Risk outlook ▪ Risk policy ▪ Risk assessment policy 	<p>Well-led review of the Bar Standards Board: findings report (July 2021)</p> <p>Well-led review of the Faculty Office: findings report (September 2021)</p>

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.

	Characteristics	Examples of Evidence	Relevant LSB publications
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">▪ Investment in research and research plan▪ Published programmes of activity▪ Strategic and business plans▪ Risk management policy which explains approach to identifying current and future policy developments and their impact including risks▪ Risk outlook and explanation as to how this has informed regulatory activity▪ Sectoral risk assessments to identify where further information needed▪ Description of evidence used to inform regulatory activity▪ Feedback on regulatory processes from those under review▪ Outcomes of regulator's collaborative work to understand consumers' needs	<ul style="list-style-type: none">▪ Statement of policy on empowering consumers (April 2022)

		<ul style="list-style-type: none"> ▪ Learning from and using other bodies' experience and evidence to inform regulatory activity ▪ Regulatory community engagement survey ▪ Feedback surveys and outcomes ▪ Full consultation responses and decision documents ▪ Use of new and different channels to engage with stakeholders and publicise consultations ▪ Publication of annual reports, accounts and reporting of data ▪ Examples of engagement with stakeholders ▪ Strategy/Vision ▪ Business Plan ▪ Processes to ensure use of plain English ▪ Strategy for engaging consumers, including vulnerable consumers ▪ Examples of how stakeholders, including consumers, have informed decisions 	
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"> ▪ Strategy for engaging consumers, including vulnerable consumers ▪ Strategy for engaging regulated community ▪ Research into public concerns 	Statement of policy on empowering consumers (April 2022)

		<ul style="list-style-type: none"> ▪ Research into levels of public confidence in the regulator ▪ Regulator engagement with stakeholders ▪ Consideration and evaluation of Board engagement with the regulated community and others ▪ Horizon scanning ▪ Feedback from stakeholders 	
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"> ▪ Documented use of both formal and informal levers and evaluation of their respective impacts ▪ Issues and risks addressed (eg complaints on particular topics) ▪ Examples where stakeholders have influenced thinking ▪ Systematic approach to reviewing regulatory interventions including periodic reviews ▪ Responses to issues raised in between periodic reviews 	<ul style="list-style-type: none"> ▪ Applications to Alter Regulatory Arrangements Rules 2021 (December 2021) ▪ Guidance on the Applications to Alter Regulatory Arrangements Rules 2021 (December 2021)
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"> ▪ Data underpinning research results is published ▪ Tracker and stakeholder perception surveys ▪ Examples of data collected from the regulatory community ▪ Performance against KPIs 	

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"> ▪ Regulator has own innovation policy ▪ Regulator demonstrates in-house innovation and technology capability or shows it has access to such capability ▪ Horizon scanning ▪ Engagement with stakeholders, including innovators, about benefits and risks of innovation ▪ Changes to regulatory activities as a result of engagement ▪ Use of waivers and exemptions to facilitate innovation 	
14	Committed to improving the diversity of, and reducing inequalities in, the profession at all levels and implements actions to reduce barriers to equality and inclusion.	<ul style="list-style-type: none"> ▪ Regulator has own professional diversity and inclusion policy that takes account of current best practice ▪ Regulator focuses on the protected characteristics in the Equality Act 2010 and socio-economic diversity ▪ Regulator takes action to address the barriers to equality, diversity and inclusion that it has uncovered ▪ Diversity data collection, awareness and understanding of diversity initiatives and work being undertaken by others 	<ul style="list-style-type: none"> ▪ Guidance for legal services regulators on encouraging a diverse workforce (February 2017) ▪ Encouraging a diverse workforce: LSB Decision Document (February 2017)

		<ul style="list-style-type: none"> ▪ Use of diversity data and analysis to evaluate effectiveness of actions and inform policy development ▪ Collaboration with others to share data, insights from own initiatives and examples of good practice. ▪ Regulator leads changes by setting aspirational goals for the profession and recommending examples of effective initiatives to achieve them ▪ Regulator promotes the value of training for legal professionals on equality, diversity and inclusion ▪ Regulator highlights the importance of inclusive recruitment and working practices in the profession ▪ Regulator has effective processes in place to deal with professional misconduct, such as bullying and harassment ▪ Use of equality impact assessments 	
15	Committed to improving, and reducing inequalities in, access to services for the public and consumers in all their diversity.	<ul style="list-style-type: none"> ▪ Regulator has own diversity and access to justice policies ▪ Regulator's policies take account of current best practice 	

		<ul style="list-style-type: none"> ▪ Actions taken by regulator to address diversity issues it has uncovered ▪ Diversity data collection, awareness and understanding of diversity initiatives and work being undertaken by others ▪ Use of equality impact assessments ▪ Use of diversity data and analysis 	
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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.

	Characteristics	Examples of Evidence	Relevant LSB publications
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"> ▪ Published data on providers' pass rates ▪ Information for students about choosing a training provider and financial protection ▪ Published entry and ongoing practice requirements ▪ Quality assurance mechanisms to test rigour of entry and ongoing competence assessments ▪ Authorisation information requirements 	<ul style="list-style-type: none"> ▪ Guidance on regulatory arrangements for education and training (March 2014) ▪ Statement of policy - ongoing competence (July 2022)

	Characteristics	Examples of Evidence	Relevant LSB publications
		<ul style="list-style-type: none"> ▪ Ongoing competence policy and monitoring plans ▪ Information on ongoing competence checks undertaken and the outcome of those checks ▪ Standards for the regulated community 	
17	Maintains accessible and accurate registers of authorised persons, including information on disciplinary and enforcement action.	<ul style="list-style-type: none"> ▪ Consumer-facing guidance about who is regulated and what this means ▪ Consumer-facing information on the content of the register and what it means to be on it ▪ Information on how to access the register ▪ Information on: <ul style="list-style-type: none"> ○ How and when register is updated ○ How and when its accuracy is checked ○ What enforcement information is publicly available and what will not be disclosed ○ How the regulator is assured the register is used and checked by employers and other interested parties 	<ul style="list-style-type: none"> ▪ Registers of licensed bodies: section 87(4) rules (April 2018)

	Characteristics	Examples of Evidence	Relevant LSB publications
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"> ▪ Published authorisation, supervision and enforcement policies which transparently describe the regulator's approaches 	<ul style="list-style-type: none"> ▪ Guidance on referral fees, referral arrangements and fee sharing to approved regulators (May 2011)
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"> ▪ Published policy for handling complaints/issues including updates for those involved, deadlines for responses and closure of case ▪ Process for managing complaints from LeO and/or other regulators ▪ Evidence of how activity is focused on the public interest and the needs of vulnerable members of the public ▪ Published guidance for staff and decision makers ▪ Template letters used ▪ Complaints resulting in regulatory action where appropriate ▪ Process for review and risk assessment of cases during their lifetime ▪ Outcomes of checks on the process/reviews 	

	Characteristics	Examples of Evidence	Relevant LSB publications
		<ul style="list-style-type: none"> ▪ Uses data gathered from complaints and issues raised to identify thematic issues and develop responses to them ▪ Evidence of follow-up activity in relation to thematic issues ▪ Guidance issued to regulated community 	
20	Proactively seeks to maintain appropriate standards 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"> ▪ Uses data gathered from operational activity to identify thematic issues and develops appropriate responses ▪ Evidence of follow-up activity in relation to thematic issues ▪ Guidance issued to regulated community 	