

Cost of Regulation

Discussion of evidence from initial phase – and next steps

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Executive Summary

1. The LSB has reviewed the cost of regulation as it underpins our regulatory objectives. Unnecessary regulation can stifle innovation and the costs are borne by businesses and ultimately by consumers.
2. Legal services providers have previously highlighted concerns about the cost of regulation. As set out in our business plans for 2014/15 and 2015/16, we have been seeking to remedy the lack of evidence in this area.
3. This project has two key strands: firstly research to understand the regulatory costs faced by providers; and secondly providing greater transparency around the costs of eight approved regulators¹, as well as our own costs. All the research reports and transparency reports are available on our website.²

Key findings

4. We have considered two types of regulatory costs: the practising certificate fee (PCF), which all lawyers authorised to carry out reserved legal activities in England and Wales must pay on an annual basis; and ongoing compliance costs, such as compulsory professional indemnity insurance. External regulatory costs, such as anti-money laundering regulations, which impose a cost on providers, but do not stem from legal services regulation, were not considered.
5. Our findings fall into two categories: awareness and transparency of regulatory costs; and perceptions of the value for money of regulation.
6. Under awareness and transparency of regulatory costs the key findings were:
 - There is a lack of awareness of what is paid for by the PCF. This may contribute to dissatisfaction with the cost of regulation.
 - When providers refer to the cost of regulation, they view regulation in its totality rather than only the individual pieces of regulation which are derived from the regulatory framework under the Legal Services Act.
 - Some respondents included voluntary commercially driven costs (e.g. membership of specialist professional associations and accreditation schemes) within their understanding of the cost of regulation.
 - Overall there was quite high awareness among solicitors and barristers that the PCF includes mandatory contributions to fund representational activities. These activities, which are technically called 'non-regulatory permitted

¹ ICAEW was not included in the transparency exercise because it is a relatively new regulator and so historic trend information is not available.

² http://www.legalservicesboard.org.uk/Projects/Reviewing_the_cost_of_regulation/index.htm

purposes³, account for a significant proportion of the PCF and amount to large sums in total.

- Increasing transparency by regulators about their costs could help to address low awareness among providers about how the PCF is spent and offer assurance around value for money. Our analysis of published information suggests that regulators account for their costs in different ways and overall we consider levels of transparency are mixed.

7. Under value for money of regulation the key findings were:

- Nearly half of both solicitors and barristers (the two biggest professional groups) assessed both their PCF and compliance costs as being poor value. The only professional group to assess both the PCF and compliance costs as being either low or reasonable were costs lawyers.
- There was wide variation in views across the regulated communities about particular problem areas with responses differing according to size of business, whether a lawyer was regulated as part of an entity or as an individual, and who is the regulator. This underlines the need to take a segmented and targeted approach which tailors regulation according to risk.
- The two research exercises gathered evidence on the areas of regulation which lawyers experienced as high cost. Again, no area had a consistent response across all regulated groups, but taken as a whole, the five areas of most concern were:
 - 1) Professional Indemnity Insurance – although the majority of respondents agreed with the need to have insurance.
 - 2) The administration involved in the process of the annual renewal of the practising certificate
 - 3) Continuing professional development
 - 4) Enforcement mechanisms
 - 5) Money laundering

³ Regulatory and non-regulatory permitted purposes are included under section 51 of the Legal Services Act 2007 which sets out how the approved regulator may spend income derived from the practising certificate fee that all authorised persons must pay to their regulator. For a full explanation see footnote 6 on page 11.

Next steps

8. All regulators must have regard to the five better regulation principles: transparency and accountability are the two most relevant principles in the context of this report. Providing value for money and limiting the costs of legal service regulation is an important responsibility of frontline regulators. Our role as the oversight regulator is to make sure that the regulated community and the public has an appropriate level of transparency around those costs. In addition, as the body that approves the practising fees, we need to scrutinise such costs carefully, in particular when there is an expectation that regulatory costs should be reducing over time.
9. We will take the following steps focused on increasing transparency:
 - We will carry out a desk review looking at how oversight is used to apply pressure to the costs of regulators elsewhere in the economy.
 - We will initiate a discussion with regulators to agree an approach that will make a greater level of information about their costs available in the public domain. We wish to take forward this work in partnership with the regulators, recognising they know best what cost information is currently available and the desirability of them taking shared ownership of this issue with us.
 - After there is resolution on what further information about regulatory costs will be put into the public domain and this is made available, we will undertake a further exercise reporting on the transparency of regulatory costs.
 - We will be scrutinising closely the PCF approval process looking at the underlying regulatory costs which determine the size of the annual fee for individuals and entities.
 - The LSB understands that improvements in the quality of regulation can lead to additional regulatory costs being incurred. If costs increase following agreed action plans from our ongoing regulatory standards work, this should be visible within the information that regulators publish about their costs.
 - If anticipated Government reforms to fully separate the regulation and representation functions of the regulators are implemented, in due course we will work closely with the regulators on transitional arrangements and seek to embed build greater financial transparency within the new structures.

1. Introduction

10. The Legal Service Board's (LSB) role is to ensure that regulation in the legal services sector is carried out in the public interest and that the interests of consumers are placed at the heart of the system. As the oversight regulator of the legal services regulators in England and Wales, the LSB seeks to ensure that regulation is proportionate and targeted to areas of greatest risk.
11. During the LSB's triennial review in 2012 and the Legal Services Red Tape Challenge Review in 2013, legal services providers raised concerns about the cost of regulation in the legal sector. However, there was limited evidence available against which to assess these concerns.
12. The cost of regulation project begins to remedy this lack of evidence. Investigating the costs of regulation in this sector is important because unnecessary or overly restrictive regulation can stifle innovation and the costs are borne by businesses and ultimately by consumers. Indeed, during the course of this project public scrutiny of the costs and efficiency of regulators across the economy has intensified. For example, the UK Regulators Network (UKRN) is undertaking a feasibility study on establishing the use of shared operations systems, e.g. HR and finance systems.⁴
13. This document reflects on the evidence gathered from the cost of regulation project and sets out next steps for further investigation and analysis.
14. Since the creation of the LSB we have facilitated significant deregulation in the legal services market in England and Wales. Regulatory reform since the Legal Services Act 2007 has been wide ranging. Regulators have increasingly simplified and focused their processes and removed barriers to market entry, enabling innovation among new and existing providers, improving consumer choice and competition. The structure of the legal services market has changed as a consequence. Deregulation has introduced reforms that allow a wider range of business models. Restrictions on business ownership have been removed, making non-lawyer ownership of and investment in a wider range of legal services businesses possible while maintaining emphasis on the interests of the public and consumers. Existing providers have also benefitted, as regulators remove unnecessary rules and target their efforts on areas of greater risk. More information about deregulation can be found in the document entitled 'Progress on deregulation and market liberalisation in legal services', which was published in July 2015.⁵

⁴ HM Treasury published "A better deal: boosting competition to bring down bills for families and firms" in November 2015 in which UKRN committed to producing firm plans in spring 2016 for identifying and delivering business improvements on a bilateral and multilateral basis. The UKRN is currently consulting on a draft business plan which contains further details. <http://www.ukrn.org.uk/wp-content/uploads/2014/05/201617-WP-Consultation.pdf>

⁵ Progress on deregulation and market liberalisation in legal services, http://www.legalservicesboard.org.uk/what_we_do/pdf/20150720_Report_On_Progress_On_Deregulation_And_Market_Liberalisation.pdf

1.1 Aims and approach

15. The aims of this project were fivefold:
 - 1) carry out a detailed and thorough assessment of regulatory costs that authorised persons incur to be able to practise including both a survey of, and interviews with, providers;
 - 2) test the hypothesis that regulation of legal services is too costly;
 - 3) undertake a high level exploration of the cost of the regulators and the LSB;
 - 4) identify any common areas where providers may be able to reduce their compliance costs; and
 - 5) gather evidence for policy makers and regulators to base future work on.

16. This evidence gathering phase of this project had two strands:
 - 1) investigation of the costs of regulation faced by legal services providers; and
 - 2) providing transparency around the costs of the regulators, including the LSB.

17. The first strand of work sought to understand the costs experienced by legal services providers. In the project we have considered two types of regulatory costs: the practising certificate fee (PCF), which all lawyers authorised to carry out reserved legal activities in England and Wales must pay for on an annual basis; and ongoing compliance costs, such as compulsory professional indemnity insurance. External regulatory costs, such as anti-money laundering regulations, which impose a cost on providers, but do stem from legal services regulation, were not considered.

18. The LSB conducted two pieces of primary research:
 - 1) an attitudinal survey of nearly 1000 providers exploring perceptions of value for money and areas where regulation could potentially be scaled back. The LSB has separately published analysis of free-form comments made by respondents as part of this survey; and
 - 2) qualitative in-depth research with 64 providers to estimate broadly representative costs of legal services regulation across the market, based on financial information supplied by respondents. The study examined both total regulatory costs and incremental costs – those which serve only compliance with legal services regulation and no other business or wider regulatory purpose.

19. The research approach necessarily relied on providers volunteering to participate. For this reason the sample was self-selecting rather than representative, and thus was likely to contain a disproportionate number of respondents who are concerned about the impact of regulation on their businesses. Further, legal services providers are one group of stakeholders with an interest in the cost of regulation. The perspectives of others, such as insurers and lenders, and of course consumers, should also be considered. Finally, whereas the focus of the research is on the cost of regulation, this has to be balanced against the economic and other benefits of

regulation. Nevertheless, this research is the first of its kind and the results provide new useful information.

20. For the second strand, initially the LSB wished to benchmark legal regulators against similar regulatory bodies in other sectors, but this proved not to be possible due to an absence of comparable information and the large costs and timescales involved in creating such information. Instead we carried out a simple analysis of the historic costs of the approved regulators and the LSB based on existing published data. The emphasis on published data is important: we wanted to find out what existing information could be found by providers and the public. The work focused on high-level areas such as size of regulator, income from practising certificate and firm fees, fee income allocated to non-regulatory permitted purposes, and unit cost.
21. During the course of the second strand of work, the LSB gathered information from each of the approved regulators about:
 - 1) the ways in which boards oversee executive teams (including the granularity of the information available) in relation to budget and expenditure;
 - 2) the level of information about costs which is publicly available (which are not areas where we have undertaken any detailed research at this stage other than for specific areas and years as set out in the transparency reports); and
 - 3) whether they considered that they should publish more detailed information about regulatory costs in the interests of greater transparency.

2. Discussion of evidence from the initial phase

22. The findings from this project are grouped under the following two broad headings, which are explored in depth below:
 - Awareness and transparency of regulatory costs
 - Value for money of regulation
23. The key findings from our research are discussed in each section. To help with the flow of the document, all the charts are located together in Annex A.
24. The full executive summaries from the underlying research reports generated by this project and which have already been published are included for reference as Annexes B and C.

2.1 Awareness and transparency of regulatory costs

25. The LSB's research reveals a lack of awareness of what is included in the PCF. This may contribute to dissatisfaction with the cost of regulation.

Viewing the totality of regulatory costs

26. A key finding is that when providers refer to the cost of regulation, they view regulation in its totality. When providers raise concerns about the cost of regulation they include a number of areas, such as anti-money laundering regulations, which do not derive from the Legal Services Act 2007 and as such are not controlled by the legal services regulators.⁶ Whilst it is natural for providers to take such a view, it may colour their views about the value for money of the legal sector regulators. At the same time, legal sector regulators need to be mindful of the totality of costs, and how various regulatory requirements interact.
27. The attitudinal survey also showed that some respondents included voluntary commercially driven costs (e.g. membership of specialist professional associations and accreditation schemes) within their understanding of the cost of regulation. This inflates the perceived cost of regulation. However, where membership of such bodies becomes necessary for firms to access part of the market, for example where mortgage lenders require membership of the Law Society's Conveyancing Quality Scheme to access their panels, this is perceived to have the same effect as a regulatory cost.

Non-regulatory permitted purposes

28. Overall there was quite high awareness among solicitors and barristers that the PCF includes mandatory contributions to fund representational activities. LSB's analysis

⁶ The CLC, Faculty Office, Bar Council, ICAEW, Law Society are Supervisors under the money laundering regulations. Whilst they do not have responsibility for drafting the regulations or designing the supervision regime, their enforcement of the regulations forms part of the cost of sector regulation.

reveals that these activities, which are known as ‘non-regulatory permitted purposes’⁷, account for a significant proportion of the PCF and amount to large sums in total. Solicitors have contributed a total of £146.7m during the last five year period to representational activities, such costs made up 26.5% of the PCF in 2014. Barristers have contributed £15.3m to representational activities during the last four year period⁸, such costs represented 38.3% of the PCF in 2014/15.

29. Whilst there was general awareness about non-regulatory permitted purposes the level of awareness of certain of these purposes was low, for example in relation to the provision of pro-bono work, and promotion and protection by law of human rights and fundamental freedoms.
30. The Act gives approved regulators a choice whether to collect fees for ‘permitted purposes’ but clearly the opportunity to collect and use significant sums creates a natural incentive to do so. The LSB anticipates that the forthcoming Ministry of Justice consultation on regulatory independence will seek to address this issue and we will set out our views in more detail at this point. Changes to what constitutes a permitted purpose would require primary legislation. In the meantime, the LSB will continue to scrutinise these arrangements in so far as they impact on the total PCF proposed. In particular we have proposed changes to our rules under section 51 of the Legal Services Act and are reviewing the non-statutory guidance that supports these rules.⁹

Transparency of the regulators’ costs

31. Financial transparency by regulators could help to address low awareness among providers about how the PCF is spent and offer assurance around value for money.

⁷ Regulatory and non-regulatory permitted purposes are included under section 51 of the Legal Services Act 2007 which sets out how the approved regulator may spend income derived from the practising certificate fee that all authorised persons must pay to their regulator. These activities cover the following areas:

- a) the regulation, accreditation, education and training of relevant authorised persons and those wishing to become such persons, including—
 - a. the maintaining and raising of their professional standards, and
 - b. the giving of practical support, and advice about practice management, in relation to practices carried on by such persons;
- b) the payment of a levy imposed on the approved regulator under section 173;
- c) the participation by the approved regulator in law reform and the legislative process;
- d) the provision by relevant authorised persons, and those wishing to become relevant authorised persons, of reserved legal services, immigration advice or immigration services to the public free of charge;
- e) the promotion of the protection by law of human rights and fundamental freedoms;
- f) the promotion of relations between the approved regulator and relevant national or international bodies, governments or the legal professions of other jurisdictions.

These activities can be broken down into regulatory and non-regulatory permitted purposes. Regulatory functions are those carried out by the regulatory arm and non-regulatory activities are those carried out by the Law Society, Bar Council and CILEx as part of their role in representing lawyers and other non-regulatory permitted purposes.

⁸ Period runs from 2011/12 to 2014/15. 2011/12 was a 15 months period as the BSB changed its accounting period. This means that these figures represent a period of 4 years and 3 months in total.

⁹ Changes to rules made under section 51 of the Legal Services Act 2007, Consultation on changes to the Practising Fee Rules 2009,

http://www.legalservicesboard.org.uk/what_we_do/consultations/open/pdf/2016/Consultation%20PCF%20Rules%20Final%20PDF%20Publication.pdf

Alongside this report, for each approved regulator, the LSB has published reports containing a simple analysis of their costs based on published data.

32. This work suggested that regulators account for their costs in different ways. Overall levels of transparency were mixed: some bodies publish comprehensive and clear financial data, but information published by other regulators is quite sparse and/or difficult to understand. Where there is a lack of transparency about how the practising certificate fees, firm fees and other sources of income pay for regulatory activities or non-regulatory permitted purposes, this inhibits awareness of the cost of legal services regulation.
33. Understandably, regulators use standard reporting conventions when presenting their financial data. However, this tells us little about relative levels of spend across the core functions of regulation, such as education and training, supervision, disciplinary activity, and so on¹⁰. Some regulators report on some individual aspects of regulatory functions in these terms, but this tends to be the exception to the rule. The benefits of a more disaggregated “per function” approach, should this be viable, weighed against the burdens on regulators of introducing an additional form of accounting for their regulatory costs would merit discussion.
34. The LSB had originally intended to benchmark the costs of the legal sector regulators against comparable regulatory bodies. ‘Benchmarking clubs’ that allow comparison of *corporate functions* such as HR and financial management exist but are expensive, particularly for the smaller approved regulators. Our analysis suggest there are currently no transferable benchmarks to indicate what good value for money on *regulatory functions* looks like.
35. The LSB wrote to the regulators to gather information about how the boards hold their executives to account for their spend. Furthermore, we asked regulators whether they considered the right level of information on costs was available in the public domain and if they had future plans to increase transparency. This was done in response to the learning from the production of the transparency reports that the costs information available in the public domain varied considerably from one regulator to another. As there was such diversity in the level of publicly available information, the LSB wanted to know if this was mirrored in terms of information available to boards. Furthermore, the LSB wanted to share any good practice in managing cost exhibited by any one regulator with all regulators. A summary of evidence gathered is provided in Annex D.
36. In summary:
 - 1) All of the regulators who responded to the Chair letter¹¹ set out how their boards review and approve budgets, business plans and PCF levels.

¹⁰ Permitted regulatory activities, Section 51 clause 4, Legal Services Act 2007, <http://www.legislation.gov.uk/ukpga/2007/29/section/51>

¹¹ Information was received from the Bar Standards Board, CILEx Regulation, Costs Lawyer Standards Board, Council for Licensed Conveyancers, Intellectual Regulation Property Board and the Solicitors Regulation Authority.

- 2) Some regulators provide quarterly reports to the board on actual expenditure against budgets.
 - 3) In some cases the information provided for the board is put into the public domain.
 - 4) The regulators that responded all share budget information and sometimes the latest annual accounts with their regulated communities as part of their annual PCF approval process.
 - 5) Some regulators publish annual reports and accounts dating back a number of years whereas others only publish the most recent with older information available from Companies House.
 - 6) Some regulators publish and regularly update statistical information about numbers and types of authorised persons.
37. In relation to future plans:
- 1) CILEx and CILEx Regulation are undertaking internal reviews of structure, processes and reporting. As part of this, CILEx Regulation is undertaking a full review of information published on its website. This review incorporates financial data and is expected to result in a significant increase in publicly available analysis and interpretation of financial information. It is expected that the results of the review will be completed during 2016 and will be implemented by the start of the 2017 financial year.
 - 2) The BSB said it will continue to take transparency and accountability seriously and will not be complacent. This means that if there are areas that the BSB can improve upon, the BSB will of course not hesitate to act.
 - 3) The Chair of CLC has asked the executive to look at how the CLC might present key facts and figures more prominently this year when CLC publishes its financial statement in April.

LSB and Legal Ombudsman

38. Part of the PCF funds the cost of the LSB and Legal Ombudsman.¹² Awareness that the PCF funds the LSB ranged from 41% to 67% of respondents in our survey; the range was similar for the Legal Ombudsman, at 43% to 65%. It is important that the LSB and Legal Ombudsman operate transparently so that providers can consider the value for money that each provides. With this in mind, a transparency report on the LSB's costs has been produced, alongside those for each of the approved regulators.

¹² The Legal Ombudsman is largely funded by a general levy, but also by case fees.

2.2 Value for money of regulation

Perceptions of value for money

39. The LSB's research aimed to estimate broadly representative costs of legal services regulation across the market, based on financial information given by 64 providers. Entities reported that the total cost of regulation as a proportion of total practice costs was between 15% and 23%. Individuals placed the range at between 8% and 17%.
40. In the attitudinal survey there were very different views across regulated groups as to whether the cost of regulation – measured by fees paid to their regulator and ongoing compliance costs – represented good value for money. Nearly half of both solicitors and barristers (the two biggest professional groups) assessed both fees and compliance costs as being poor value. The only professional group to assess both fees and compliance costs as being either low or reasonable were costs lawyers. Charts 1 to 4 show these results in further detail.
41. Perceptions of value for money provide a useful insight into the cost of regulation. However, there might, of course, be a difference between perception and what occurs in practice. Providers generally have a poor understanding of what the PCF pays for and attach costs to legal services regulation that are in fact derived from elsewhere. Further, regulation must be effective as well as efficient, and ultimately be measured by the outcomes it delivers. Focusing too heavily on the cost of regulation risks creating a one-dimensional picture of regulation.

The need for a different approach

42. A feature of the survey findings is the wide variation in figures across the regulated communities. There was no consistent view about particular problem areas and views differed by size of business, whether a lawyer was regulated as part of an entity or as an individual and the regulator. This underlines the need to take a segmented and targeted approach which tailors regulation according to risk.
43. Size does appear to matter. The larger the entity, the more likely it is that both fees and the cost of compliance are likely to be viewed as low, reasonable, or high but not excessive. This is to be expected: economies of scale would suggest that the cost of regulation will more easily be absorbed by larger businesses. Please see charts 5 and 6 for further information.
44. Qualitative responses in the attitudinal survey most often focused on proportionality in relation to the size and scope of practices. These included a number of comments about the regulation of sole practitioners. In the words of a **solicitor**: "*Sole practitioners who do not employ any staff appear to be subject to the same internal reporting requirements as larger practices and it is sometimes baffling to have to 'report' on how you are supervising your own activity*". Another **solicitor** suggested that the LSB investigate: "*Where regulation is inappropriate because of the nature of the business e.g. sole practitioners where multiple roles are held by the same person and policies and handbooks are required even if there are no employees*".

45. However, whilst smaller providers tend to be most concerned about the cost of regulation, the research also identified frustration amongst some larger providers, in particular City law firms, that they are cross-subsidising regulation. Certainly, some of the highest risk practice areas due to handling client money, such as conveyancing and estate administration, are predominantly provided by small firms. Further, enforcement data suggests that smaller firms are disproportionately more likely to require enforcement action.
46. The following statement by a **barrister** sums up this issue: “*The idea that the costs of regulating the Bar should fall for the most part on the commercial Bar (which is small and generates very little regulatory risk) is abhorrent to any sense of fairness or equity. It is taxation without mandate*”.

Highest cost areas of regulation

47. The attitudinal survey and the in-depth research gathered evidence on the areas of regulation experienced as high cost. Building on the need for a segmented approach discussed above, no area had a consistent response across all regulated groups. However, taken as a whole, the five areas of most concern were:
- Professional Indemnity Insurance
 - The administration involved in the process of the annual renewal of practising certificates
 - Continuing professional development (CPD)
 - Enforcement mechanisms
 - Money laundering
48. Annex F provides a detailed breakdown for each regulation identified as high cost. Charts 7 to 9 contain the underlying data.
49. In the attitudinal survey providers identified regulations they would keep or remove on the grounds of disproportionate cost. Compliance with rules on HOLP/HOFA and COLP/COFA¹³ scored highest for removal by entities. Anti-money laundering regulations scored highest among individuals and was the second most popular choice for entities. In these two areas, plus complaints handling, more respondents wanted to remove the regulations than keep them. All other areas of regulation either had roughly the same percentage wanting to keep as remove regulations, or a significantly larger percentage wanting to keep than remove the regulations. Charts 10 and 11 contain the underlying data.

¹³ There are two major specified regulatory roles within entities: Compliance Officer for Legal Practice (COLP) or Head of Legal Practice (HOLP) at SRA and CLC entities respectively; and Compliance Officer for Finance and Administration (COFA) or Head of Finance and Administration (HOFA), again at SRA and CLC entities respectively.

50. The main reasons given to justify removal were that regulation fails to achieve its purpose or does not achieve its purpose cost effectively. Conversely, the main reasons offered for keeping regulation were the effect of demonstrating compliance with rules on encouraging clients to use their services, and that collective regulation reduced the costs they would otherwise face.
51. The LSB's research into innovation in legal services, jointly commissioned with the SRA, is informative¹⁴. Legislative factors and regulation were seen both as the two biggest enablers of innovation and the two biggest barriers to innovation. The majority of providers saw regulation as broadly neutral to positive for innovation, but there were some key areas where providers believed regulation has a negative impact on innovation, such as client accounts and complaints-handling.
52. Of course, some regulations might legitimately be high cost yet also be proportionate. Nevertheless, where regulation is viewed as expensive, it is important regularly to examine whether this can be delivered more efficiently whilst maintaining adequate levels of consumer protection. Some of the areas identified by providers have either recently been subject to reviews, or reviews are ongoing. For example;
- 1) Both the SRA and CLC are undertaking significant reviews of financial protection arrangements.
 - 2) Following the Legal Education and Training Review, some regulators have taken steps to liberalise CPD regulations, shifting away from the 'minimum hours' model.
 - 3) The LSB is currently reviewing its rules on first-tier complaints handling.
 - 4) Anti-money laundering regulations are subject to a Cutting Red Tape Challenge by government.
53. More broadly, the work of the legal services regulators has already contributed to reducing regulatory burdens since the commencement of the Legal Services Act. However, in a joint progress report on deregulation and market liberalisation, published in July 2015, all the regulators acknowledged that reform remains a work in progress. The foreword stated that: "*essential changes to out-dated, inflexible and over-complex regulation must be sustained for the benefit for providers, consumers and the wider economy alike. The deregulatory steps that have already been taken will continue to have an impact, and we anticipate reforms planned for the future will also yield benefits. But the limits of the current legislative framework are being reached for some and further progress for those regulators may require more fundamental revision*".¹⁵

¹⁴ Innovation in Legal Services, <https://research.legalservicesboard.org.uk/wp-content/media/Innovation-Report.pdf>

¹⁵ Progress on deregulation and market liberalisation in legal services, http://www.legalservicesboard.org.uk/what_we_do/pdf/20150720_Report_On_Progress_On_Deregulation_And_Market_Liberalisation.pdf

Style of regulation

54. Analysis of the qualitative comments in our attitudinal survey suggests the style of regulatory approach, as well as the substance of the regulatory arrangements, shapes views about the cost of regulation. Providers emphasised the need for regulation to be targeted, proportionate and risk-based.
55. There were comments about the amount of regulation and whether regulation was always as proportionate as possible. A **solicitor** stated that *“It is not just one rule - it is the general way we are authorised which imposes a lot of regulation which creates a lot of time and cost in compliance. The overall compliance/regulation should be reduced which would therefore reduce the time/cost of compliance.”*
56. An area receiving numerous comments was the perceived risk of duplication between regulators. A **chartered legal executive** felt that it was too much of a burden for regulated bodies to *“employ regulated staff with different regulators [therefore incurring the cost of] complying with multiple regulators”*. Duplication was mentioned in relation to non-legal regulators. A **barrister** asked: *“Why do I have to be regulated by the ICO, at a cost, when I can also be disciplined by the BSB for Data Protection issues? It amounts to an extra cost and a double jeopardy of punishment?”*
57. A specific concern around PII was raised in relation to duplication. A self-employed **patent attorney**, acting as a part-time consultant to one specific law firm, stated s/he had to register with IPReg as an individual firm and obtain insurance (even though work for the law firm's clients is covered by its insurance). A **barrister** asked why it is necessary for them to obtain insurance cover when the solicitor's firm already pays it: *“Can it not be assumed that liability for any professional work undertaken in the capacity as agent for the solicitor will also lie with the solicitor? The only people benefiting from this double up in insurance payments are the insurance companies”*.
58. Whilst some of the concerns identified by providers above relate to choices made by each regulator about their day-to-day approach, the issue of duplication also reflects the underlying structure of the Legal Services Act with its multiple regulators. However, the Act contains a series of provisions that are intended to prevent and resolve regulatory conflicts. These provisions relate to conflicts amongst approved regulators, and between approved regulators and non-legal regulators.¹⁶

¹⁶ See sections 52 to 54.

3. Next steps for cost of regulation project

59. All regulators must have regard to the five better regulation principles which are proportionality, accountability, consistency, transparency and targeting. Of these principles transparency and accountability are especially relevant here as they underpin efforts to provide value for money and limit the costs of legal service regulation, which is an important responsibility of frontline regulators and in the interests of providers and consumers alike.
60. The LSB's role as the oversight regulator is to make sure that the regulated community and the public has an appropriate level of transparency around those costs. In addition, as the body that has to approve the practising fees, we need to ensure that such costs are scrutinised carefully, in particular when there is an expectation that regulatory costs should be reducing over time. This is something we have aimed for and achieved with our own costs.
61. Some regulators are already reviewing areas of regulation identified by providers as high cost. We think that LSB can best contribute by improving transparency around the regulators' costs. The transparency reports published alongside this report are a first staging post on this journey.

3.1 Our future plans

62. The next phase of our work on the cost of regulation will begin with a short desk review looking at how oversight is used to apply pressure to the costs of regulators in other parts of the economy. This follows from the scoping activity that we did on benchmarking *regulatory costs*, which we determined is not currently feasible due to the likely cost and absence of comparable data. While 'benchmarking clubs' for *corporate functions* do exist, the small size of a number of the frontline regulators would not allow for any meaningful comparison to other regulators or sectors.
63. As revealed by the transparency reports the level of published information on the costs of regulators currently varies. We will initiate a discussion with the regulators to agree an approach that will make a greater level of information about their costs available in the public domain. We wish to take forward this work in partnership with the regulators, recognising they know best what cost information is currently available and the desirability of them taking shared ownership of this issue with us.
64. After there is resolution on what further information about regulatory costs will be put into the public domain and this is made available, we will update the transparency reports. An example of this greater level of detail might include a breakdown of costs by different regulatory activities such as authorisation and enforcement, although further work is needed to understand the feasibility of this approach and the burden it might involve. The LSB's costs will be included in such an initiative, as they were this time around.

65. The LSB has recently consulted on changes to the practising certificate rules. We will scrutinise the underlying regulatory costs in the PCF approval process which determine in part the size of the annual fee for individuals and entities.
66. We recognise there is a link between performance and cost and accept that if we are expecting regulators to improve this can have resource implications in the short-term. In an environment where it is expected that regulatory costs will be reduced this creates a need to understand more about how money is spent and resources prioritised. We would therefore expect more data to be publicly available to show how a regulator is addressing any improvement needs identified by our ongoing regulatory standards work.
67. The Government is shortly expected to consult on reforms that are intended to deliver full separation between regulation and representation functions. We will wish to contribute evidence from our work so far to inform its thinking. Further, we will be mindful of resources regulators might need to dedicate to internal reorganisation in light of the outcome of any reforms. We will also work closely with regulators on transitional arrangements and to embed more financial transparency into any new arrangements.

Annex A: Charts

Table 1: General awareness of what PCFs are used to fund

	Regulator	LSB	Legal Ombudsman	Representation (where applicable)	Disciplinary (where applicable)	Contingency (where applicable)	Corporate services (BSB only)	Central Services (BSB only)	Other PCF expenditure (IPS only)
Entity									
CLC	83%	41%	52%	-	-	-	-	-	-
SRA	90%	52%	60%	83%	69%	50%	-	-	-
Individual									
BSB	92%	61%	60%	85%	-	-	48%	58%	-
CLSB	94%	55%	57%	-	63%	-	-	-	-
CILEx Regulation	75%	42%	53%	-	-	-	-	-	48%
IPReg	98%	45%	43%	-	54%	29%	-	-	-
MoF	67%	67%	65%	-	-	-	-	-	-

Chart 1: Views on fees paid by individual to their regulator

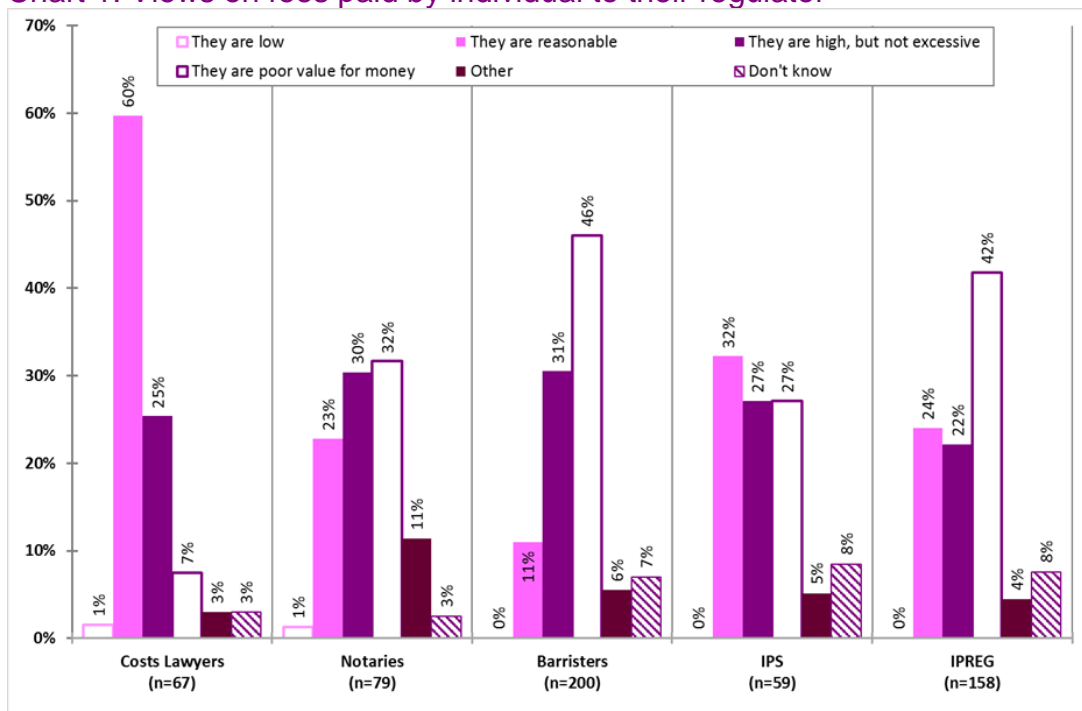


Chart 2: Views on compliance costs incurred by individuals shown by regulator

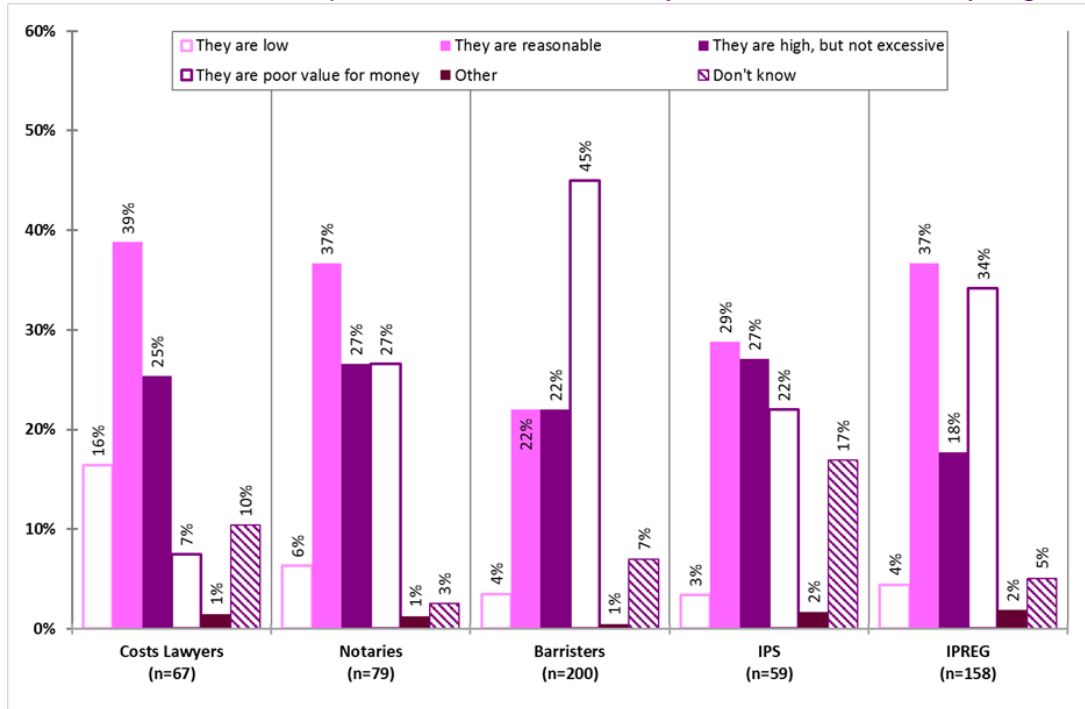


Chart 3: Views on fees paid to regulator by entities

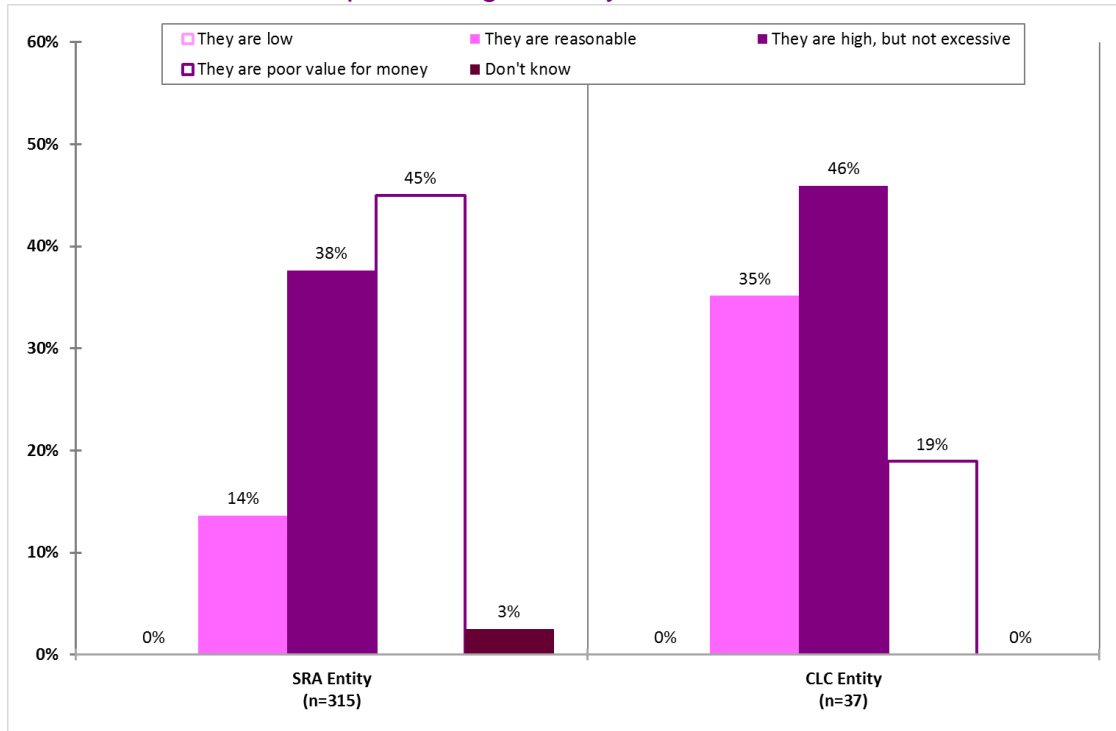


Chart 4: Views on compliance costs incurred by entities shown by regulator

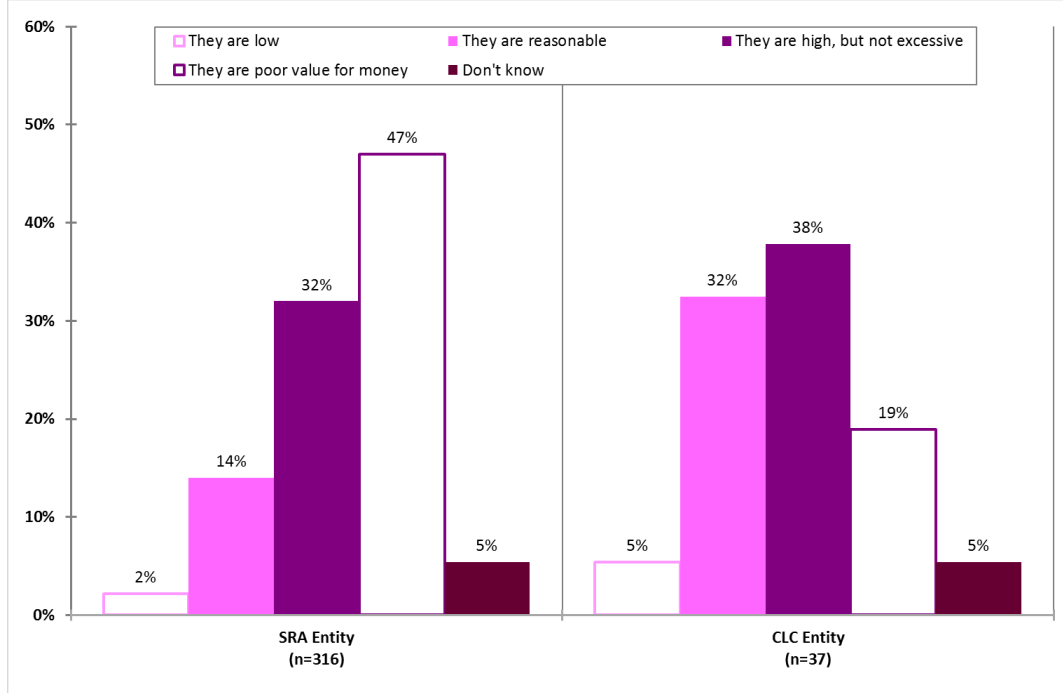


Chart 5: Views on fees paid by entity number of employees

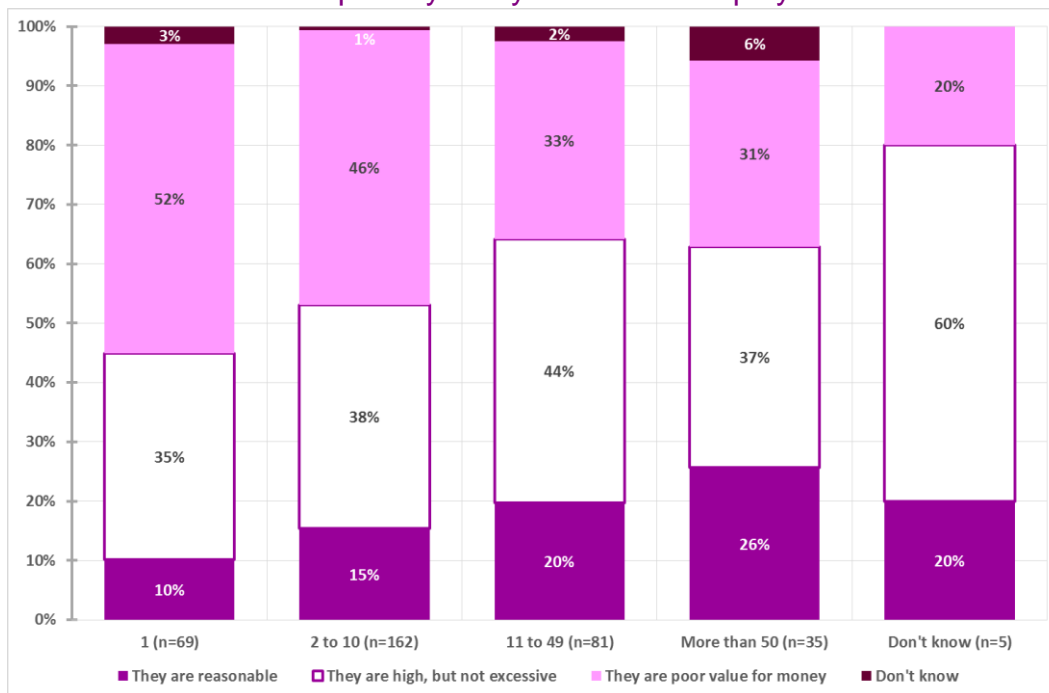


Chart 6: Views on compliance costs by size of entity

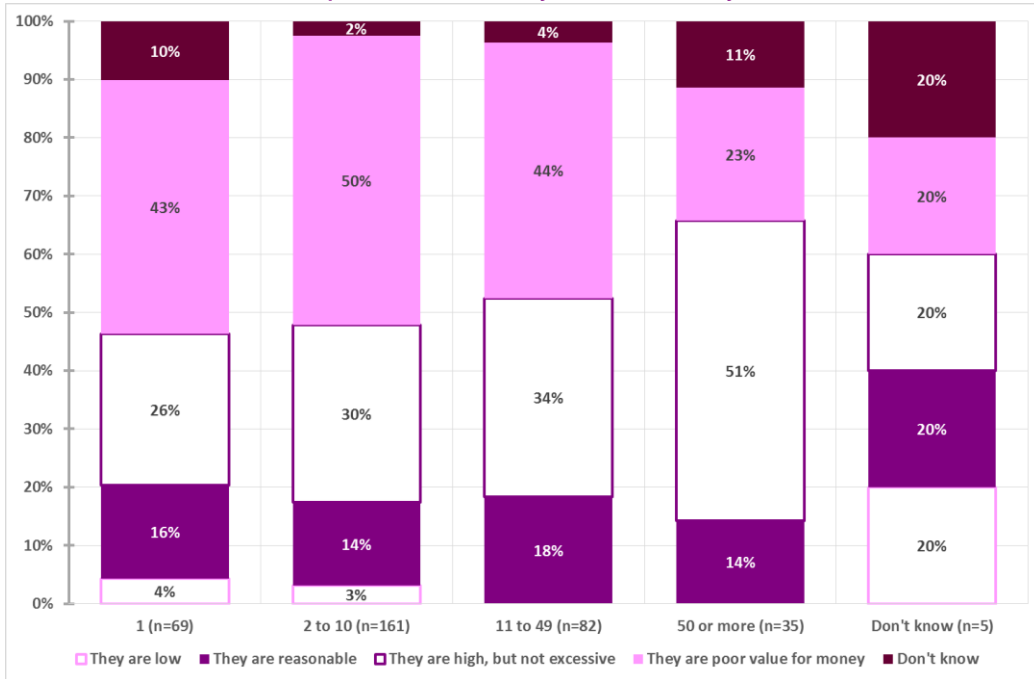


Chart 7: High cost areas for individuals

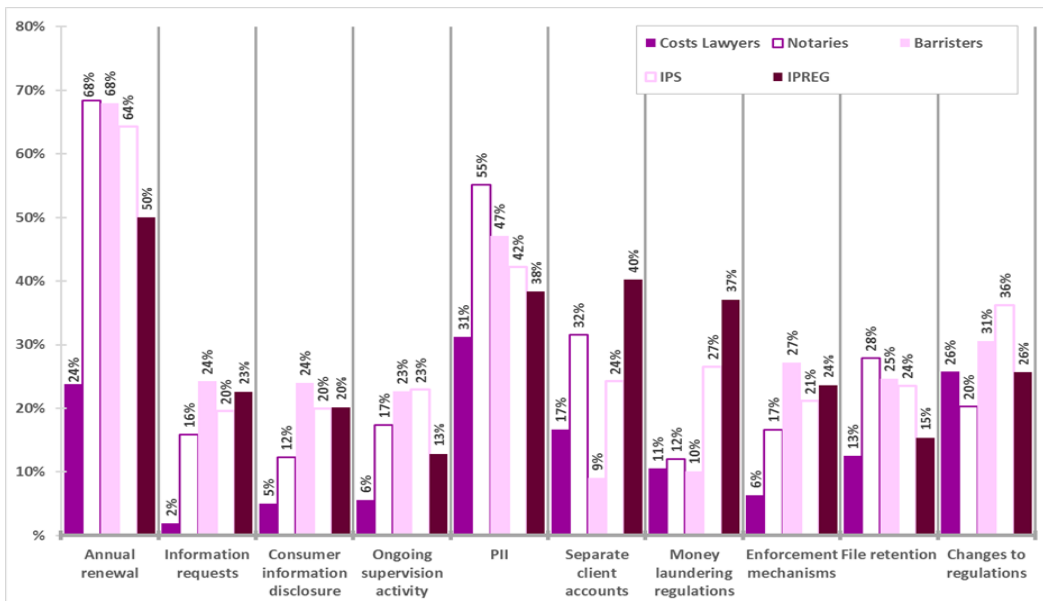


Chart 8: High cost areas for entities

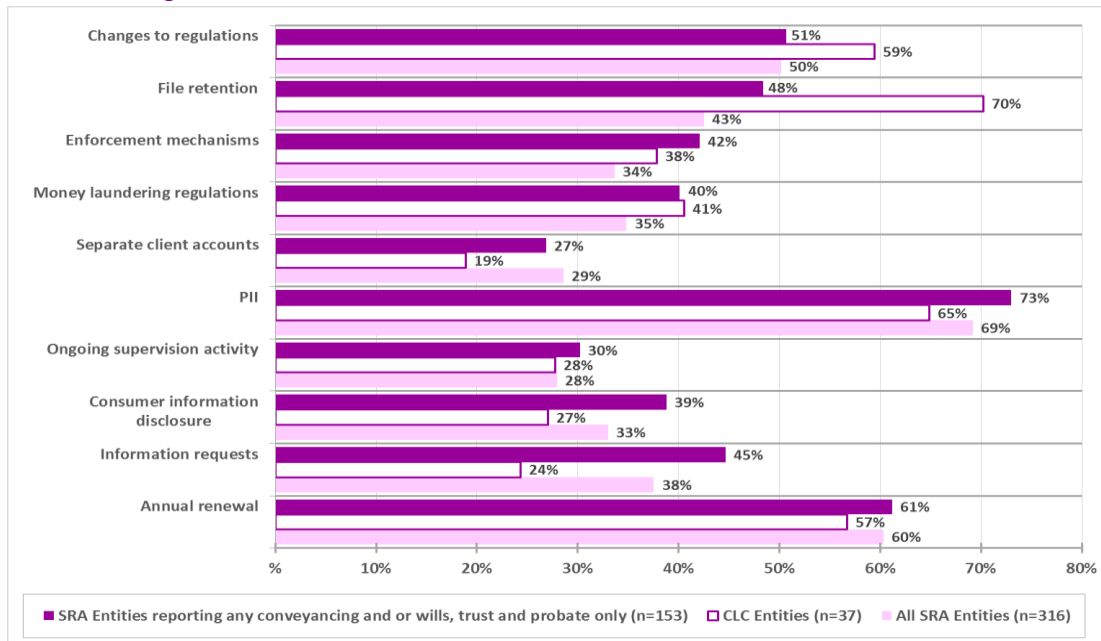


Chart 9: Top areas to remove and keep for individuals

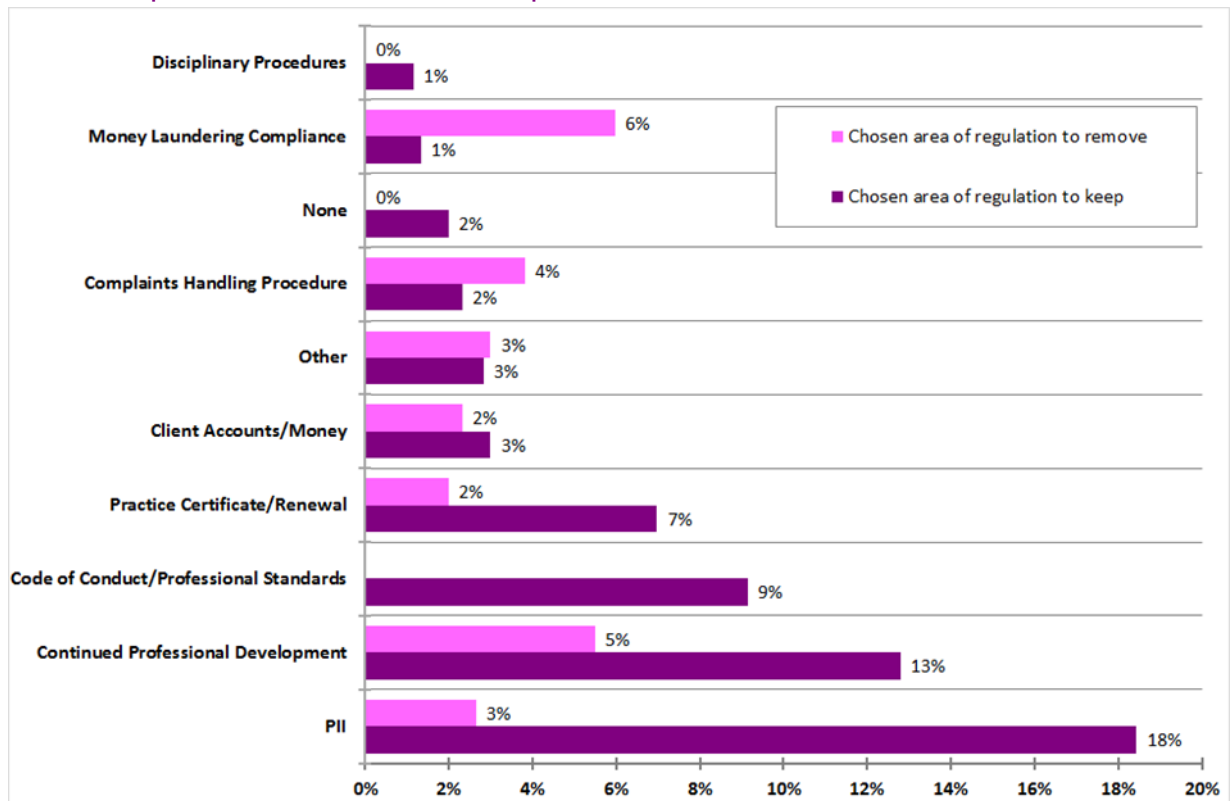
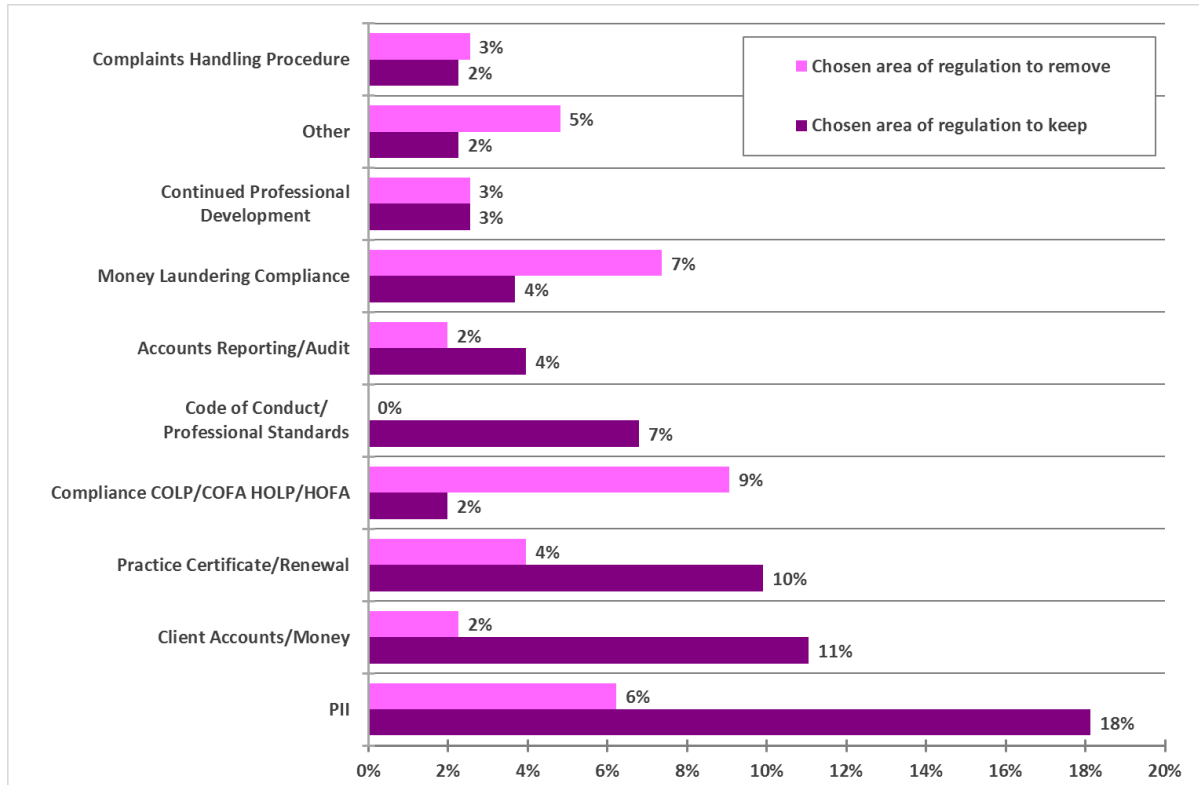


Chart 10: Top areas to remove and keep for entities



Annex B: Executive summary from attitudinal survey

1. The Legal Service Board's (LSB) mandate is to ensure that regulation in the legal services sector is carried out in the public interest and that the interests of consumers are placed at the heart of the system. As the oversight regulator of the legal services regulators in England and Wales, the LSB wants to ensure that regulation is proportionate and targeted to areas of greatest risk.
2. During the LSB's triennial review in 2012 and the Legal Services Red Tape Challenge Review in 2013, legal sector business raised concerns about the cost of regulation in the legal sector. However, there has been limited evidence available against which to assess these concerns.
3. As set out in our business plan 2014/15 and draft business plan for 2015/16, the LSB is undertaking the [cost of regulation](#) project to remedy the lack of evidence in this area. Establishing the cost of regulation in this sector is important because costs are borne by business and ultimately by consumers.
4. This report shares the results of the first stage of our work on the cost of regulation and in particular providers' views on the extent to which regulation represents value for money and areas where regulation could potentially be scaled back. It is based on a survey of 967 providers of legal services during eight weeks from October to December 2014. This report does not attempt to set out solutions to any issues raised by the findings in this report. Any issues arising from these findings within the LSB's remit need to be further explored before the LSB can design effective policy solutions to address them.

The key findings

5. We wanted to understand providers' attitudes towards the cost of regulation in the legal sector. Our findings show that providers consider the totality of regulation that they must comply with rather than the source of this regulation:
 - A significant proportion of both those regulated as entities and individuals rated areas that are **not** regulations specific to legal services (for example complying with Money Laundering regulations under the Proceeds of Crime Act 2002) as a regulatory cost.
 - A proportion of authorised professionals, whether entities or individuals, do not distinguish between statutory regulatory requirements and discretionary costs. A significant proportion of both those regulated as entities and individuals rated areas that are discretionary (for example membership of accreditation schemes) as a regulatory cost.¹⁷

¹⁷ Some accreditation schemes are de facto compulsory if a legal professional wants to practice a particular area of law e.g. Child Law.

6. Across the different professional groups, a number of respondents did not know what they paid for via their practising certificate fee (PCF). The majority of respondents knew that their PCF funded their respective regulator but were less clear on what else the PCF was used to fund:
- Between 41% and 67% knew that the PCF funded the LSB and between 43% and 65% knew that it funded the Legal Ombudsman.
 - Levels of awareness of the PCF funding other non-regulatory permitted purposes, such as certain representative activities, ranged between 29% and 85% but were generally lower than awareness of funding for the Legal Ombudsman and LSB.
7. Views on value for money regarding the fees paid to the regulator and the cost of compliance varied. Barristers and solicitors were more likely to see these as poor value for money:
- Entities regulated by the Solicitors Regulation Authority (SRA), and those regulated by the Bar Standards Board (BSB) and the Intellectual Property Regulation Board (IPReg), were more likely to see practising certificate fees as poor value for money, whereas those regulated by ILEX Professional Standards (IPS) and the Costs Lawyer Standards Board (CLSB) generally thought fees were reasonable.
 - SRA entities and barristers were more likely to see compliance costs as high, whereas costs lawyers, notaries and those regulated by IPReg saw compliance costs as reasonable.
 - The responses provide some indication that views on the cost of regulation vary by practice areas. Those practising criminal law report that they see the cost of fees and compliance as high. However, sample sizes are too small to be conclusive on this point.
 - Generally, views on regulation vary by size of the entity. Over half of sole practitioner entities see fees as poor value for money, whereas more than half of entities with more than 50 employees see fees as either reasonable or high but not excessive. Similarly, about 45% of entities with fewer than 50 employees see compliance costs as poor value for money, whereas 65% of entities with more than 50 employees see compliance costs as either reasonable or high but not excessive.
8. Professional Indemnity Insurance (PII), PCFs and keeping up to date with changes to regulations were perceived to be the highest cost areas of regulation:
- Areas of regulation rated as high cost vary significantly across those regulated as individuals, potentially indicating that the regulators' approach might impact on how much an activity costs for an individual.
 - Entities are more likely than individuals to see all areas of regulation as high cost, except in the case of separate client accounts and practising certificate renewals. Regulation relating to client accounts is seen as high cost by 17% to 40% of individuals in these groups.¹⁸

¹⁸ Individuals regulated by IPReg, Council for Licenced Conveyancers (CLC) and Master of Faculties (MoF) may have client accounts. Individuals working for an SRA-regulated entity may have an entity level client account to comply with licencing rules.

- For entities, we found a significant difference in how SRA entities and CLC entities perceive the cost of file retention, with a significantly higher proportion of CLC entities rating it as high cost. This finding may indicate a need to explore whether the different approaches to regulation by the CLC and SRA lead to different experiences for their regulated communities.
 - Over half of SRA entities see both fees and compliance costs as issues that need to be addressed together.
 - A majority of between 58% and 85% of individuals spend up to 10% of their time complying with regulations while a majority of entity respondents spend up to 25% of their time on compliance.
9. There is limited consensus amongst both those regulated as entities, and among those regulated as individuals, on which parts of regulation should be removed or kept:
- In total, 9% of entity respondents suggested removing COLP/COFA and HOLP/HOFA regulations for a very broad spread of reasons.¹⁹
 - While 19% of entities nominated PII as their priority to keep, 8% identified it as their priority to remove. Of those that wanted to keep PII, 53% - or 10% of all respondents - felt it should be kept because that specific regulation helps them get work and reduces the costs they would otherwise face.
 - A minority of between 16% and 33% of respondents regulated by SRA, CLC, MoF, BSB and IPReg stated they would keep all areas of current regulation. However, for those regulated by CLSB, a majority wanted to keep all regulation, and for those regulated by IPS just under half wanted to keep all regulation.

Methodology

10. The legal services market is regulated by a number of different regulators authorising and regulating their own communities of legal professionals. This is the first time a survey about the cost of regulation has covered all parts of the regulated legal services market. A total of 967 authorised legal professionals provided full completed responses to the survey.
11. The LSB designed the survey to take account of the differences between and within the authorised communities and their specific regulatory arrangements. The survey was designed to be flexible enough to cater for respondents who:
- are regulated as entities or individuals
 - work in-house
 - provide services to individual members of the public, Small and Medium Sized Enterprises (SMEs) and large businesses
 - are members of the different legal professions
 - are in an entity regulated by an approved regulator other than their individual regulator.
12. The survey was designed with reference to previous surveys that touch on this area and with input from representatives from the [LSB Research Strategy Group](#), a regulatory

¹⁹ COLP: Compliance Officer for Legal Practice, COFA: Compliance Officer for Finance and Administration. COLP and COFA are used by SRA regulated entities. HOLP: Head of Legal Practice, HOFA: *Head of Finance and Administration* refers to entities authorised by a licencing authority.

economist, and a legal sector expert.²⁰ The survey was also piloted prior to full field work.

13. Where possible, the survey was sent to a random representative sample of authorised legal practitioners.²¹ Additionally, alongside the sample groups, the survey was open to all regulated legal professionals.
14. The survey generated responses which are broadly representative on a number of measures of the profile of the regulated community. Annex F contains more information. The LSB does recognise that there are a number of potential respondent biases as a result of how respondents were engaged and those self-selecting to respond to the survey.²²
15. That means some caution must be exercised when applying the findings to the whole population, although the survey still provides the views of a reasonable part of the regulated community. This also helps to explore why the cost of regulation is perceived to be a concern.
16. The survey period ran for eight weeks and, while response rates for some groups were low, the overall response rate was nearly twice as high as had originally been sought.²³ The LSB decided to allow a one-week extension to the survey period to encourage additional responses from specific groups, as there had been ample opportunities for individuals and entities to be aware of and respond to the survey.

Next steps

17. This report provides a snap shot of what respondents perceived to be the cost of regulation. To better understand the actual cost behind the perceived costs of regulation, survey respondents were asked to volunteer to participate in a second round of research. This research will seek to assign actual costs to specific areas of regulation. The research will also attempt to understand which costs of regulation arise only as a consequence of legal sector regulation and which costs firms would have incurred anyway as part of good business practice. A total of 181 respondents agreed to participate in this research, which is currently in the field and due to be completed later this year.
18. A number of respondents provided comments about other areas of regulation aside from the ones included in the survey. These comments covered a wide range of areas

²⁰ To ensure ongoing and independent oversight of the research programme, the LSB has brought together a Research Strategy Group (including independent representation) tasked with providing oversight for the research programme.

²¹ SRA entities, barristers and costs lawyers were all targeted via random samples.

²² Those who have responded may potentially be more concerned about the cost of regulation, and/or felt that taking the time to complete the survey was worthwhile. Where published data is available, the weighted profile of respondents broadly matches that of each of the regulated groups. Comparisons with other surveys, and comparisons with survey groups, provide limited or no evidence of these biases actually existing, but they may nevertheless exist.

²³ The original research approaches document put forward a sample size of 587. This was based on a confidence interval of +/- 10% at a 95% confidence level and broke down as: SRA entities - 96; CLC entities - 68; IPReg - 65; BSB - 95; IPS individuals - 95; CLSB individuals - 82; MoF individuals - 86. See http://www.legalservicesboard.org.uk/Projects/Reviewing_the_cost_of_regulation/PDF/CoR_research_approach_%20ii.pdf

spanning current regulatory approaches, such as outcomes-focused regulation (OFR), to views on the unregulated legal sector. The LSB is grateful for all of the suggestions received and will review them as the cost of regulation project progresses.

19. These results are part of a wider project that includes further research and policy analysis to map the cost of regulation. As such, the LSB will publish further analysis and commentary in due course.
20. The full report can be accessed [here](#).

Annex C: Executive summary from In-depth research

Legal service businesses have raised concerns about the costs of regulation in the sector. The Legal Services Board (LSB) has identified a lack of evidence on the costs of regulation as a barrier to addressing these concerns and launched a review to begin to fill this knowledge gap.²⁴ This study was commissioned as part of this review and is built on a major survey of practitioners published in March 2015.²⁵

Study objectives

This study aimed to estimate broadly representative costs of legal services regulation across the market, based on information supplied by a wide range of practitioners. The study examined *total* legal regulatory costs and *incremental* costs, with separate results presented for individuals and entities.²⁶ Incremental costs represent the ‘burden’ of regulation. **In this study incremental costs are those costs incurred that serve only compliance with legal services regulation and no other business or wider regulatory purpose.** This means that were legal services regulations to be removed for one type of regulatory cost included in the study, legal practices would save the amount equal to the incremental cost of that regulatory cost.

Our analysis was based on detailed information provided by 64 practitioners. This means that the findings are qualitative and cannot be claimed to be representative of the cost of regulation felt by practitioners. The sample size meant the results were treated with caution and comparisons between types of practitioners and types of practices were not possible.²⁷ While a number of steps were taken to seek to increase participation, and adjustments were made to account for the anticipated challenges of collecting information on costs, participation in the study was lower than originally planned. Even so, this was the first study of its type attempted in the legal sector and therefore represents a material step forward in the evidence base. Indeed, few studies have attempted to do the same in any sector, the most notable being a study by the Financial Services Authority.²⁸

²⁴ As set out in the LSB’s business plan for 2014/15 and business plan for 2015/16. Further information on the LSB’s review of the costs of regulation can be found at:

http://www.legalservicesboard.org.uk/Projects/Reviewing_the_cost_of_regulation/index.htm

²⁵ http://www.legalservicesboard.org.uk/news_publications/LSB_news/PDF/2015/LSB_Cost_of_Regulation_Survey_Report.pdf

²⁶ Legal services practitioners can be regulated as individuals or as entities, depending on their profession. Practitioners regulated as individuals carry any risk related to the legal services they provide. Legal professionals regulated as part of an entity have, as part of that entity, dedicated compliance officers ensuring that the whole firm complies with relevant legislation. Individual authorised persons within these firms will often have the cost of their individual practising certificates covered by the entity. Other legal professionals who are not authorised persons but who work for an entity are regulated as staff of that entity.

²⁷ In addition there are some limitations on the data which is presented. The Methodology section of this report and Annexes 2, 3 and 4 discuss these issues in detail.

²⁸ Financial Services Authority. (2006). *The cost of regulation study*. Available online at: http://www.fsa.gov.uk/pubs/other/deloitte_cost_of_regulation_report.pdf. The FSA study was based on 68 participants.

Study findings

Regulatory costs for legal professionals regulated as entities

The entity sample consisted of 16 practices regulated by the Solicitors Regulation Authority (SRA) and one regulated by the Council for Licensed Conveyancers (CLC).²⁹ Regulatory costs for this sample were presented as a proportion of their total practice costs (rather than for reserved work only as in the individuals sample).³⁰

Analysis of reported incremental costs revealed the following:

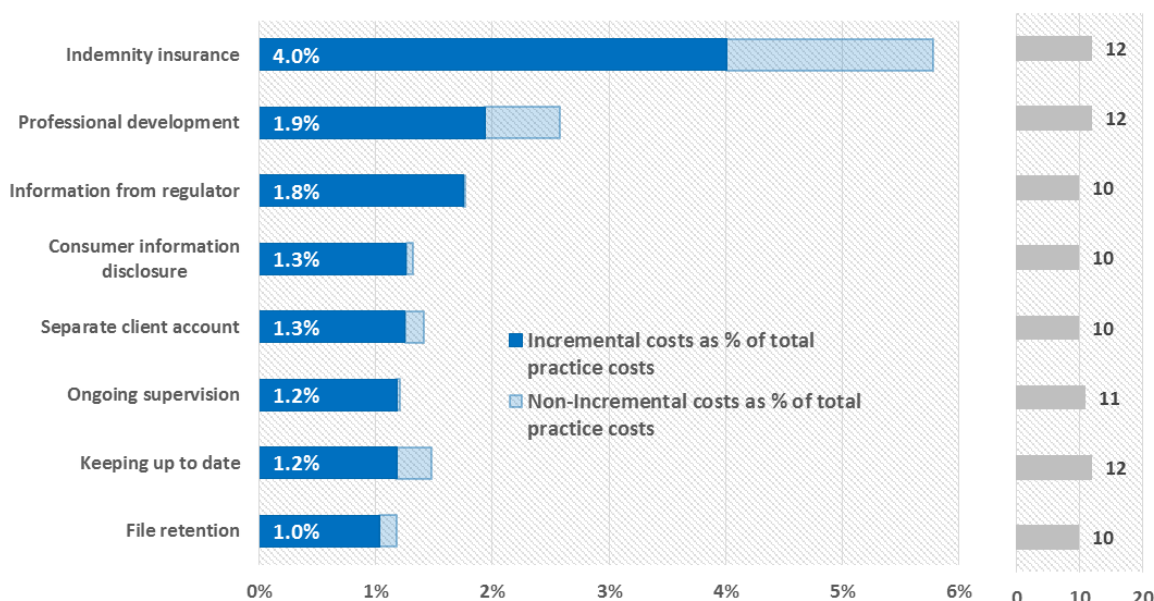
- on average, entities reported that the **total cost of regulation** as a proportion of total practice costs was between 15% and 23%;
- the areas of regulation (cost categories) where incremental costs of regulation (or regulatory burden) were highest were **professional indemnity insurance, professional development, and information from the regulator**;
- the incremental cost of **professional indemnity insurance** regulations was reported as being nearly double that of the next highest incremental cost, however legal professionals recognised that a significant proportion of total regulatory cost in that category would be incurred even absent this regulation, for other commercial reasons; and
- professionals regulated as entities reported that they saw legal regulatory costs primarily as a burden and would only undertake a small proportion of those activities for other regulatory or commercial reasons.

The findings are illustrated in Figure ES1.1. The dark blue bars represent the incremental cost of legal services regulation as a proportion of total practice cost while the light blue bars represent the non-incremental costs. Incremental costs should not be aggregated. This is because practices were asked to estimate the proportion of regulatory costs that are discretionary in each category alone, assuming that other regulations do not change. Any such savings may not be mutually exclusive were regulatory requirements to be relaxed or removed in more than one category simultaneously. The figures on the right show the number of responses in each category.

²⁹ Including self-employed practitioners and participants acting as representatives of their firm.

³⁰ Solicitors and licensed conveyancers are regulated across all the activities they provide to their customers. Therefore the concept of reserved activities are not an appropriate measure of regulatory cost for entities.

Figure ES1.1 Incremental (and non-incremental) costs of legal services regulation by category for professionals regulated as entities (as a proportion of total practice costs)



Source: ICF questionnaire and analysis

Regulatory costs for legal professionals regulated as individuals

The individuals sample contained practitioners authorised on an individual basis by their regulator (see **Error! Reference source not found.** for a full list). Their regulatory costs were presented as a proportion of their costs associated with reserved work only (rather than total practice costs, as in the entities sample), so that responses could be compared with each other.³¹ Analysis of reported incremental costs revealed the following:

- on average, individuals reported the **total cost of regulation** as a proportion of total practice costs associated with reserved activities was between 8% and 17%;
- reported incremental costs were highest for **information requirements from the regulator, professional development requirements, and professional indemnity insurance**;
- nearly all costs associated with **ongoing supervision by the regulator** were reported as incremental costs – this is consistent with the study finding few examples of regulatory or commercial overlap associated with those regulatory costs;
- a significant portion of the total regulatory cost incurred through **compliance with information requirements** from the regulator and **professional development** were incremental, suggesting a small degree of regulatory and commercial overlap; and
- participants reported low incremental costs for the remaining categories of regulatory costs; **professional indemnity insurance requirements, consumer information disclosure, separate client account requirements, keeping up to date with**

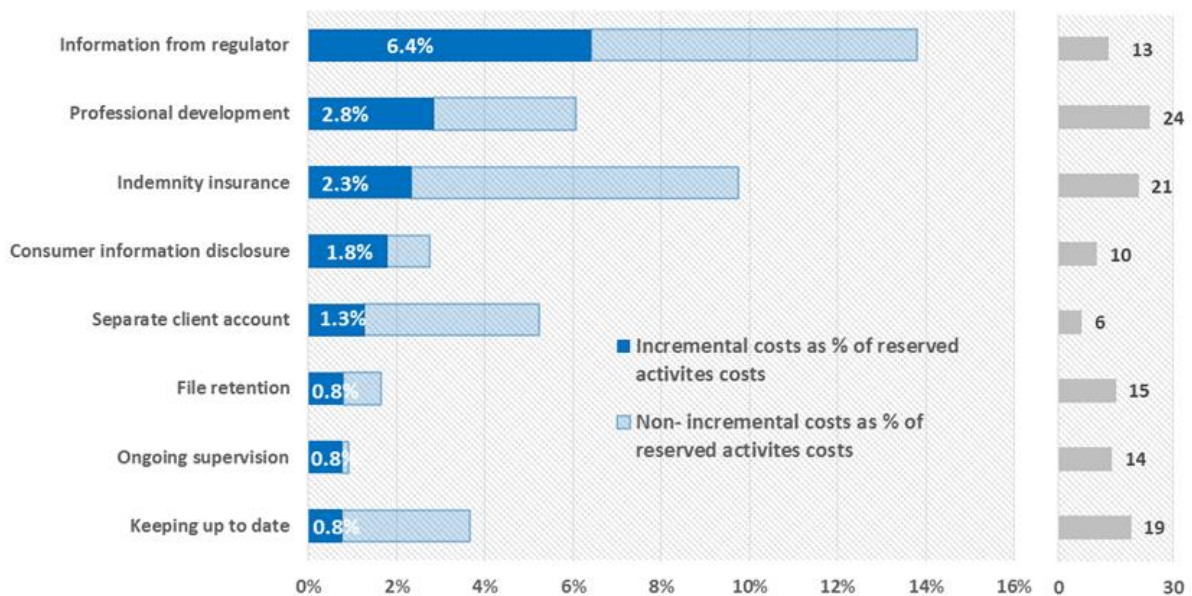
³¹ Results are presented as a proportion of costs associated with regulated work.

regulations and **file retention requirements**. This finding suggests that the regulatory burden associated with these types of costs was low.

Furthermore, for each of these categories, this study found a large degree of regulatory or commercial overlap (the light blue bar in Figure ES1.1) – indicating that although professionals regulated as individuals incurred some significant costs in these areas, a high proportion of these costs would be incurred anyway if legal services regulation were removed in each area. This observation applied to the greatest degree to separate client account requirements, albeit less reliably, being based on only six responses.

The findings are illustrated in Figure ES1.2. The dark blue bars represent the incremental costs of regulation as a proportion of costs of providing reserved work, while the light blue bars represent the non-incremental costs. The figures on the right show the number of responses in each category.

Figure ES1.2 Incremental (and non-incremental) costs of regulation by cost category for professionals regulated as individuals (as a proportion of costs of providing reserved work)



Source: ICF questionnaire and analysis

The full report can be found [here](#).

Annex D: Summary of responses to Chair letters

The following information is taken from letters from the regulators and has not been verified by the LSB.

Regulator	Reply received	Description of current governance arrangements	Future Plans
BSB	Yes	The BSB produces quarterly performance reports on progress against its Business Plans for its public meetings, which means this information can be found on their website (https://barstandardsboard.org.uk/about-bar-standards-board/how-we-do-it/our-staff/professional-conduct-department/performance-reports/annual-and-quarterly-performance-reports/) The most recent report was entitled RPR Committee Report for Q2 (Nov 15) and it helpfully sets out the reporting process which the BSB follows. The Planning, Resources and Performance Committee (PRP) is an assurance body that oversees operational and programme delivery as well as financial performance against the objectives and targets set out in the Business Plan. Although PRP's agenda and minutes are not public, a summary of the Committee's discussions are collated into the PRP Report for the Board, along with detailed quarterly management accounts and commentary. A dashboard of indicators is also published quarterly.	<p>The BSB said it does outstanding work in its aim to be as open and transparent as it reasonably can be. All the information relating to the six areas [in the transparency report] is accessible and published on the BSB website.</p> <p>The BSB also told us it will continue to take transparency and accountability seriously and will not be complacent. This means that if there are areas that the BSB can improve upon, the BSB will of course not hesitate to act.</p>
CILEx Regulation	Yes	The CILEX Regulation Board fully supports the aims and objectives of the costs transparency project and acknowledges its accountability for the cost effectiveness of our regulatory systems. As part of the overall budget setting and approval process, for which decision making is reserved to the Board, it oversees budget development and associated discussions with CILEx throughout the annual budget cycle. In the current year the Board has moved the strategy planning timetable to align more closely with the budget cycle and have directed the executive to bear down on costs in the current year and look to achieve savings in 2017. The Board similarly oversees the PCF calculation, consultation and submission processes.	<p>The Chair is committed to improving costs transparency well beyond fulfilment of statutory requirements.</p> <p>CILEx Regulation is undertaking a review of information published on its website, which is expected to result in a significant increase in publicly available analysis and</p>

		<p>The Board receives management accounts at each meeting. Monitoring of expenditure is carried out in the first instance by the executive teams as part of monthly budget variance review, with exception reporting to the Board. The Board reserves to itself any decisions on allocation of budget between individual programmes, operating costs and any central contingency, in liaison with our Chief Executive about available resources.</p> <p>Overall responsibility for strategy and finance fall to the Chair, although each Board member oversees finance in relation to their own portfolio.</p>	<p>interpretation of financial information available by the start of the 2017 financial year.</p> <p>The executive is looking at ways to restructure the information on their website so that all information about regulatory costs can be found in one place and has reviewed the websites of the other legal services regulators and of regulators in other sectors, to identify best practice that CILEx Regulation might replicate, particularly in relation to trend data.</p> <p>The Board will look to develop a plan for continuous development of costs transparency.</p>
CLC	Yes	<p>The Council sets the annual licence fee regime and other CLC fees and thereby the income for the organisation. These decisions are made alongside Council considerations of the financial and other resourcing requirements for the CLC to meet its responsibilities through its business plan. Draft budgets and the business plan are reviewed and approved by Council on a line by line basis. The Council receives a quarterly report from the executive that sets the organisation's performance against the business plan alongside performance against the budget. Again this is also reviewed by the Audit and Risk committee. This allows the CLC to spot very quickly where there might be departure from the business plan and/or budget and to consider recommendations from the executive team for corrective action. In addition there is a comprehensive internal audit provided by an external provider, which includes a governance assurance statements from the auditors.</p>	<p>The CLC said that a great deal of information is published on the CLC's website. The Chair has asked the executive to look at how the CLC might present key facts and figures more prominently this year when CLC publishes its financial statement in April.</p>
CLSB	Yes	<p>The Board meets on a quarterly basis and there is a fixed agenda item to review financial performance. This takes the form of a report which provides a full</p>	<p>The CLSB said it feels that the management of information</p>

		comparison between actual performance and budget. There is a further report which provides a line by line record of all expenditure and allows all Board members to challenge all or any of its contents. The Board also regularly reviews unspent planned expenditure and confirms the overall solvency of the company. CLSB's annual accounts are also signed off by the Board each year. The CLSB also review the delegated authority to both commit to expenditure and make payments on an annual basis.	currently produced is adequate to allow the diligent governance of the CLSB. Its letter did not describe any plans for making more information publically available.
Faculty Office	No	<ul style="list-style-type: none"> N/A 	N/A
IPReg	Yes	<ul style="list-style-type: none"> The Governance Committee comprises a lay Chair, a second lay board member (an accountant), a patent attorney and a trade mark attorney. The Chair of IPReg always attends. The Governance Committee considers (with the CEO and CFO) a first draft business plan, budget and practice fees in April of each year (in the format as published). The first drafts are remitted to the May Board meeting for a first review. The Governance Committee considers any revisions to the plan, budget and practice fees in June. The Board settles the proposals for consultation in July. The annual consultation runs from end July to September – the date is published (http://ipreg.org.uk/public/about-us/the-ipreg-board/minutes-of-meetings/) The deliberations of the Board regarding the plan budget, and practice fees are minuted in detail. The minutes are published: http://ipreg.org.uk/wp-content/files/2013/01/November_2012_Board_Meeting_Minutes.pdf 	IPReg described its record on transparency as impeccable. Its letter listed the items they publish in the name of transparency but did not describe any plans for making more information publically available.
SRA	Yes	The SRA Board considers and approves the annual Business Plan and budget as well as associated considerations such as fee and Compensation Fund contribution setting. The Chief Executive's report to each Board meeting includes an update on the latest financial position and any significant variances from the budget and Board members can question the Chief Executive and Senior Management Team about this. The Board's Finance and Audit Committee, which is made up of four members of the Board, also scrutinises budgets in draft and regular financial updates and makes reports and recommendations to the Board.	The SRA said it had made significant strides in discussing more of its business in public, in particular on matters of regulatory reform which are now discussed almost exclusively in public sessions of the Board. The SRA said it is also undertaking further work on its position on transparency of

		<p>The Chair ensures that the SRA makes practising certificate information available in the following ways</p> <ul style="list-style-type: none"> • SRA publishes information on its website about the fees, what it charges, why and where the money goes – this includes a fee calculator, case studies and an overall breakdown of how the funds are spent; • SRA provides information to the LSB for scrutiny and publication; • SRA intermittently writes to all those they regulate with details of the practising certificate fee; and, • SRA publishes information about their operating costs and performance in its Annual Review document. 	<p>regulatory information and the Board will continue to discuss ways to take this forward.</p> <p>The SRA said it will reflect on the LSB's final report when it is available and consider whether the SRA can and should publish more detail.</p>
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Annex E: Overview of free-form comments

As part of the cost of regulation survey of legal service providers in late 2014, the LSB asked providers whether there were any other areas they would like the LSB to investigate as part of the cost of regulation project. The LSB will use the evidence provided in these comments alongside all the other evidence compiled during the discovery phase of the cost of regulation project to inform our future priorities. We encourage front line regulators to take a similar approach.

We received a total of 967 survey responses from across the regulated legal professions. 249 of the survey respondents provided suggestions about areas that the LSB investigate further. The top five areas that respondents commented on were:

1. Proportionality
2. Regulator value for money
3. Continuing Professional Development
4. PII
5. Duplication

This note does not attempt to include all the comments on each area, rather this provides an overview of typical comments. Respondents self-selected to give comments which means these comments reflects the underlying bias of the individual respondent. Any views are those of the respondents and do not represent those of the LSB.

Some of the views set out below are as follows:

1. Several respondents thought sole practitioners had a disproportionately high cost of regulation while others suggested ways to make the cost of the practising certificate fairer to different legal providers.
2. Some respondents felt that a variety of regulators were over regulating without delivering any benefit to their professions and without being held to account for over regulation.
3. On CPD one respondent suggested that training courses had become unreasonably expensive for professionals to attend.
4. On PII there was a real spread of comments with some pointing out that they were forced to be over-insured and that the process of applying for PII was very bureaucratic.
5. Several respondents drew our attention to areas of duplication in the regulation they must comply with.

The full report can be found [here](#).

Annex F: Summary of evidence of highest cost areas of regulation

1. This section provides an overview of the key findings regarding high cost areas for both entities and individuals from across the attitudinal survey and the in-depth research. The summary box below each paragraph provides the total percentage of respondents in a group that found an area high cost or wanted to remove or keep that area of regulation. It is noticeable that as a general trend the percentage of respondents wanting to keep regulations is significantly higher than the percentage wanting to remove and area of regulation. For the in-depth survey the summary box provides a number of 1 to 8 with higher numbers signifying higher costs.

2. Key to summary boxes:

CID	CA	K	R
Cost rating in in-depth research	cost rating in attitudinal survey	Area of regulation to keep	area of regulation to remove

3. **Professional Indemnity Insurance (PII):** Evidence indicated that this is either the highest or one of the highest cost areas of regulation. This area was rated as the highest cost for entities and second highest cost for individuals in the attitudinal survey. PII was also the most expensive regulation for entities in the in-depth research. Individuals in the in-depth research listed this area as the third costliest. For entities in the in-depth research the cost of insurance was more than twice as expensive as the second most expensive area. However, despite this fact more respondents want to keep than remove this area of regulation.

Professional Indemnity Insurance							
Entities				Individuals			
CID	CA	K	R	CID	CA	K	R
1	69%	18%	6%	3	44%	19%	3%

4. **Annual renewal of practising certificate:** Evidence indicated that this is one of the highest cost areas of regulation. The annual renewal of the practising certificate was the highest cost area for individuals and the second highest cost area for entities in the attitudinal survey. The cost of the practicing certificate itself was taken as given in the in-depth research as this is a direct cost which is readily identifiable. However, Information requests from the regulator, which includes all the information gathered as part of renewing the practising certificate was the most expensive area for individuals in the in-depth research and the third most expensive area for entities in the in-depth research. Nevertheless, despite the high costs associated with this area of regulation more respondents want to keep than remove this area of regulation.

Annual renewal of practising certificate							
Entities				Individuals			
CID	CA	K	R	CID	CA	K	R
3	60%	10%	4%	1	58%	7%	2%

5. **Continuing professional development:** Evidence indicated that this is one of the highest cost areas of regulation. This area is rated second most expensive for both groups in the in-depth research but was not among the choices included for rating in the attitudinal survey. While it is the second most popular area to remove for individuals there are twice as many respondents wanting to keep this area of regulation.

Continuing professional development							
Entities				Individuals			
CID	CA	K	R	CID	CA	K	R
2	N/A	3%	3%	2	N/A	13%	6%

6. **Changes to regulation / keeping up to date with regulation:** Evidence indicates that this is a high cost area of regulation. Changes to regulation was rated as the third costliest area of regulation by both individuals and entities in the attitudinal survey. This area was not selected by entity respondents for inclusion on either the keep or remove lists. For individuals this is one of the few areas where more respondents wanted to remove than keep an area of regulation.

Changes to regulation / keeping up to date with regulation							
Entities				Individuals			
CID	CA	K	R	CID	CA	K	R
7	50%	N/A	N/A	8	28%	1%	2%

7. **File Retention:** Evidence indicates that this is a high cost area of regulation. File retention was rated as the fourth most expensive area for entities and the joint fifth most expensive for individuals in the attitudinal survey. While 3% of entities would like to remove file retention this area was not ranked within the top 20 areas to keep for the same group.

File Retention							
Entities				Individuals			
CID	CA	K	R	CID	CA	K	R
8	43%	N/A	3%	6	21%	1%	1%

8. **Information requests:** Evidence indicates that this is a high cost area of regulation. Information requests was rated as the fifth and seventh most expensive area of regulation for entities and individuals respectively in the attitudinal survey. Information requests was the sixth and fourth most popular area to remove for entities and individuals, respectively. This area did not feature in the top 20 areas of regulations to keep for either entities or individuals.

Information requests							
Entities				Individuals			
CID	CA	K	R	CID	CA	K	R
3	38%	N/A	4%	1%	20%	N/A	3%

9. **Money laundering:** Evidence indicates that this is a high cost area of regulation. In the attitudinal survey money laundering was rated as the sixth most expensive area

of regulation for entities and the joint seventh most expensive area for individuals. This area was not included in the in-depth research as it does not derive from the regulatory arrangements under the Legal Services Act 2007. Money laundering was the most and second most popular area of regulation to remove in the attitudinal survey for individuals and entities respectively. This is one of the few areas of regulation where more respondents want to remove than keep it.

Money laundering							
Entities				Individuals			
CID	CA	K	R	CID	CA	K	R
N/A	35%	4%	7%	N/A	20%	1%	6%

10. **Enforcement mechanisms:** Evidence indicates that this is a high cost area of regulation. In the attitudinal survey, enforcement mechanisms was rated as the seventh and joint fifth most expensive area for entities and individuals respectively. In the attitudinal survey, entities listed “Compliance COLP/COFA HOLF/HOFA” as the area of regulation that they would most like to remove. In addition, entities ranked a more generic category of “Enforcement Mechanisms” as the 17th most popular areas of regulation to remove. Individuals listed compliance and enforcement mechanisms as an area to remove as 18 and 19 out of 20. This is another area where more respondents want to remove than keep an area of regulation.

Enforcement mechanisms							
Entities				Individuals			
CID	CA	K	R	CID	CA	K	R
N/A	34%	2%	9%	N/A	21%	>1%	1%

11. **Consumer Information disclosure:** Evidence indicates that this is a high cost area of regulation. In the attitudinal survey, consumer Information disclosure was listed as the eighth and ninth most expensive area of regulation for entities and individuals respectively. In the in-depth research this area was listed as the fourth most expensive area of regulation for both entities and individuals. This area was ranked as numbers 13 and 12 on the list of areas of regulation to be removed by entities and individuals, respectively. This area was ranked as numbers 9 and 13 out of 20 of areas of regulations to keep for entities and individuals respectively.

12. *Note the LSB will commission advice from the Legal Services Consumer Panel in 2016/17 on the effectiveness of information remedies in legal services regulation.*

Consumer Information disclosure							
Entities				Individuals			
CID	CA	K	R	CID	CA	K	R
4	33%	2%	2%	4	18%	1%	2%

13. **Separate client accounts:** Evidence indicates that this is a high cost area of regulation. Separate client accounts was the ninth most expensive area of regulation for entities and a joint third most expensive for individuals. In the in-depth research this area of regulation was the fifth most expensive for both entities and individuals. This area was the 11th and ninth most popular area of regulation to remove for

entities and individuals respectively. It was the second and fifth most popular area of regulation to keep for entities and individual respectively.

Separate client accounts							
Entities				Individuals			
CID	CA	K	R	CID	CA	K	R
5	29%	11%	2%	5	28%	3%	2%

14. **Ongoing supervision:** Evidence indicates that this is a high cost area of regulation. In the attitudinal survey ongoing supervision activity was 10th most expensive area for both entities and individuals. In the in-depth research ongoing supervision was the 6th most expensive area for entities and the seventh most expensive area for individuals. This area was ranked as the 14th and 15th most popular areas of regulation to remove for entities and individual respectively. This area is another area with more respondents in favour of removing than keeping regulations.

Ongoing supervision							
Entities				Individuals			
CID	CA	K	R	CID	CA	K	R
6	28%	N/A	1%	8	17%	1%	2%

Chart 13: Summary overview of high cost areas

Area of regulation	Entities				Individuals			
	CID	CA	K	R	CID	CA	K	R
Professional Indemnity Insurance	1	69%	18%	6%	3	44%	19%	3%
Annual renewal of practising certificate	3	60%	10%	4%	1	58%	7%	2%
Continuing professional development	2	N/A	3%	3%	2	N/A	13%	6%
Changes to regulation / keeping up to date with regulation	7	50%	N/A	N/A	8	28%	1%	2%
File Retention	8	43%	N/A	3%	6	21%	1%	1%
Information requests	3	38%	N/A	4%	1%	20%	N/A	3%
Money laundering	N/A	35%	4%	7%	N/A	20%	1%	6%
Enforcement mechanisms	N/A	34%	2%	9%	N/A	21%	>1%	1%
Consumer Information disclosure	4	33%	2%	2%	4	18%	1%	2%
Separate client accounts	5	29%	11%	2%	5	28%	3%	2%
Ongoing supervision	6	28%	N/A	1%	8	17%	1%	2%