

Cost of regulation: transparency of reporting

Legal Services Board

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1. Introduction

- Establishing the cost of regulation in legal services is important because these costs are borne by businesses and ultimately by consumers. Our research has found concern among legal services providers about the cost of regulation, but little understanding about what these costs pay for¹.
- 2. Providers pay for the costs of the regulators through practising certificate fees. To help improve transparency around these costs, the LSB has produced a report for each regulator providing a basic analysis of its costs using information which is available in the public domain. These reports do not set out to analyse the income and expenditure of each approved regulator but simply to understand what information is made publicly available.
- 3. The costs of the LSB are also paid for by providers so it is important that we are transparent about our own costs and lead by example. Therefore, we have produced this report to show our historic cost trends over a five-year period. This report is based on the same template as the reports on the approved regulators, although as an oversight regulator some information is more relevant than others and the report is tailored accordingly.
- 4. Considering all the reports on the approved regulators as a whole, compiling this information proved far more challenging and time-consuming than it should have been. The LSB recognises that it has not previously set requirements in this area, and further that each regulator will have reasons for deciding on the content and format of the financial information that it publishes. Nonetheless, we were disappointed by the level of available information, which has frustrated our efforts to present as full a picture of the cost of the regulators as we would have liked.
- 5. Alongside these reports we are publishing a paper which summarises the overall findings of its cost of regulation project and sets out next steps. There is a clear need to improve the level and quality of published information about regulatory costs. Over the coming months, we will be working, together with the approved regulators to ensure more data is available.

List of charts used in this report

6. The charts in this report cover the period between 2010 and 2014, as all regulators have published data for this period.

Ref	Name of Chart	Purpose of Chart
A1	Number of authorised individuals in England and Wales	This chart indicates the size of the LSB for contextual purposes based on the number of individuals and entities in the market for which is has oversight responsibilities.
B1	Levy cost of LSB to authorised individuals	This chart indicates the direct cost to the profession of the regulator based on the annual levy collected by the LSB.
C1	Expenditure relative to levy income and other income	This chart indicate expenditure relative to levy income and other income. Other income streams may be used to subsidise the cost of regulation.
D1	Breakdown of expenditure	This chart provides an overview of expenditure for categories of activity.
E1	Unit cost	This chart gives an indication of the cost of the regulation per authorised individual based on expenditure.

2. Background to the Legal Services Board

- 7. The Legal Services Board (LSB) was established on 1 January 2009 and became fully operational on 1 January 2010². As the oversight regulator of the approved regulators of legal services in England and Wales, we are responsible for overseeing the regulation of 170,581 lawyers in England and Wales. We also oversee the organisation established to handle consumer complaints about lawyers, the Office for Legal Complaints.³ For more information about the LSB, please see our website.⁴
- 8. The time series in this report covers the period between 2010 and 2014. However, the market that we have oversight responsibilities for has continued to change since then, with approved regulators expanding the list of reserved activities that they authorise and the types of individuals and firms that they authorise.
- 9. As a guide to the current picture, the fact box below includes basic information about the regulated community and the LSB's size and expenditure.

No. of individuals authorised to undertake reserved legal activities	170,581 as of 1 April 2015 ⁵
Reserved activities	The LSB does not authorise individuals or entities. Rather we oversee 11 legal services regulators, 9 of which can authorise individuals and or entities in a range of reserved legal activities.
Entity regulator	No
Licensing authority	No
Employees	As of 31 March 2015: 27 full time employees and three part time employees ⁶
Expenditure (2014/15)	£3,921,000 ⁷

LSB Fact Box (As of February 2016)

General notes to LSB figures

- 10. Data from this report has been drawn from the annual reports and accounts published by the LSB each year. Data on the size of the regulated community has generally been taken from the same source. However, except for April 2013 levy figures, only rounded numbers are available in the public domain. As the regulators provide us with an accurate tally for the number of persons authorised to undertake reserved legal activities as at 1 April each year, these numbers have been used in this report.
- 11. The LSB is the oversight regulator of the approved regulators of legal services in England and Wales. As such our functions are different to the approved regulators. Whereas the approved regulators directly regulate individuals and / or entities our role is to hold these regulators to account.
- 12. The approved regulators⁸ are:
 - 1) The Law Society
 - 2) The Bar Council
 - 3) The Chartered Institute of Legal Executives
 - 4) Council for Licenced Conveyancers
 - 5) Chartered Institute of Patent Attorneys
 - 6) Institute of Trade Mark Attorneys
 - 7) Association of Costs Lawyers
 - 8) Faculty Office / Master of Faculties
 - 9) Institute of Chartered Accountants in England and Wales
 - 10) Institute of Chartered Accountants of Scotland (ICAS)
 - 11) Association of Chartered Certified Accountants (ACCA)
- 13. The LSB's financial year runs from 1 April to 31 March each year.
- 14. Under the Legal Services Act 2007 ("the Act"), 'authorised persons' refers to both individuals and entities. Where data in this report relates only to individuals or entities, for simplicity the terms 'individuals' and 'entities' is used. 'Authorised persons' is only used where the figures relate to both individuals and entities.

3. Transparency charts

A. Number of authorised legal practitioners per regulator

- 15. The cost of a regulator must be considered relative to the number of individuals or firms that it authorises. The LSB does not authorise individuals or entities but oversees a series of approved regulators which each authorise their own communities of individuals and entities. The figures below represent the total number of individuals authorised to undertake reserved legal activities as at 1 April each year across all the regulators.
- 16. The number of authorised individuals increased by 14 per cent between 2010/11 and 2013/14 from 143,419 to 163,110 respectively.
- 17. The LSB does not collect information on the number of entities during the course of levy work. However, this report is able to provide some data based on information publically available from the approved regulators. During the time period included in this report only the SRA, CLC and IPReg authorised entities. Since the data series is incomplete for all three regulators the total number of entities shown does not reflect the true number of entities for any one year. The date of the count of entities differs and have been matched to the LSB data on persons authorised in Table A1 as follows.

Date in Table A1	Date for persons authorised	Date for SRA data	Date for CLC data	Date for IPReg data
2010/11	1 April 2010	31 March 2010	Not included	unavailable
2011/12	1 April 2011	31 March 2011	2011 (date unknown)	31 December 2011
2012/13	1 April 2012	unavailable	unavailable	31 December 2012
2013/14	1 April 2013	unavailable	unavailable	31 December 2013

18. For Table A1, the number of individuals appears as a rounded figure in the LSB's annual reports and accounts. However, to increase transparency the exact figures are published in this report. The approved regulators submit exact figures for the number of individuals authorised to undertake reserved legal activities that they are responsible for as of 1 April each year.

Year	2010/11	2011/12	2012/13	2013/14	% change 2010/11 - 2013/14
Total number of individuals authorised to undertake reserved legal activities	143,419 ⁹	147,095 ¹⁰	148,191 ¹¹	163,110 ¹²	+13.73%
SRA entities	10,975 ¹³	10,927 ¹⁴			N/A
CLC entities		221 ¹⁵			N/A
IPReg entities		181 ¹⁶	184 ¹⁷	200 ¹⁸	N/A

Table A1 - Number of individuals and entities in England and Wales





B. LSB Levy

- 19. The LSB is funded via a levy on the approved regulators. This is in accordance with the Act, which stipulates that the costs of the LSB should be recouped by means of a levy which it should collect from the approved regulators on behalf of the Treasury¹⁹. The methodology for calculating the levy up to 2014 was set out in the Statutory Instrument *The Legal Services Act 2007 (Levy)(No.2) Rules 2010.*²⁰ This statutory instrument (SI) was amended in 2014 to set out that contributions to the OLC are determined on the number of complaints the OLC has received from authorised individuals regulated by a particular approved regulator over the most recent three year period rather than the original period of 2007 to 2009, to stipulate a minimum level of contribution to the OLC and to correct some drafting in the original SI.²¹ The LSB's levy is calculated based on the number of individuals authorised to undertake reserved legal activities per approved regulator as at 1 April each year.
- 20. The approved regulators can fund this levy either through the practising certificate fee they collect from their community or from other sources of income. Table B1 shows the cost of the LSB per individual in England and Wales. This shows that the number of individuals increased by 14% over the period 2010-14, but levy income reduced by 11% and the approximate cost of the LSB per individual reduced by 22% over the same period.
- 21. The information on levy income is from LSB annual reports and accounts from the relevant years. The total number of individuals is the same as the one used in Table A1. Ideally, Table B1 would split the cost of the LSB between authorised individuals and entities as these are different types of regulated status which incur different fees from the approved regulators. However, as levy income is not broken down in this way this has not been possible. It is a matter for the approved regulators to decide how to recoup the LSB levy from their regulated communities.

Table B1 - Levy cost of LSB to authorised individuals

	2010/11	2011/12	2012/13	2013/14	% change 2010/11 - 2013/14
Levy income	£4,734,000 ²²	£4,502,000 ²³	£4,244,000 ²⁴	£4,210,000 ²⁵	-11.07%
Total no of authorised individuals	143,419	147,095	148,191	163,110	+13.73%
Cost of LSB per authorised individual	£33.01	£30.61	£28.64	£25.81	-21.80%

Chart B1 - Levy cost of LSB to authorised individuals



C. Expenditure relative to levy income and other income

- 22. As well as income from the levy, the LSB may receive infrequent and small amounts of other income from certain types of applications, such as to become a licensing authority which can licence alternative business structures. These fees are set by the LSB but approved by the Lord Chancellor and are offset against amounts recouped through the levy.
- 23. Income and expenditure is accounted for on an accruals basis. This treatment results in neither a deficit nor a surplus. Each year the LSB will defer any income over and above its actual expenditure for that year and this will result in a reduced levy for the subsequent year.²⁶
- 24. Information on income from designation and application fees and expenditure included in Table C1 is from LSB annual reports and accounts for the relevant year. To find total income these two categories have been combined. Table C1 shows total levy income was between 98% and 100% of total income between 2010/11 and 2013/14.

	2010/11	2011/12	2012/13	2013/14	% change 2010/11 - 2013/14
Levy income	£4,734,000	£4,502,000	£4,244,000	£4,210,000	-11.07%
Designation and application fees	-	£76,000 ²⁷	£20,000 ²⁸	£56,000 ²⁹	-26.32%ª
Total income	£4,734,000	£4,578,000	£4,264,000	£4,266,000	-9.89%
LSB expenditure	£4,734,000 ³⁰	£4,578,000 ³¹	£4,264,000 ³²	£4,266,000 ³³	-9.89%
Levy income to all income	100.00%	98.34%	99.53%	98.69%	

Table C1 - Expenditure relative to levy income and other income

^a Based on comparison of 2011/12 and 2013/14.



Chart C1 - Expenditure relative to levy income and other income

D. Breakdown of expenditure over time

- 25. This report has so far attempted to establish the summary level costs of the LSB. This section of the report provides a breakdown of expenditure to give an understanding of the various activities that make up the cost of regulation.
- 26. All the data included in Table D1 is from the LSB annual reports and accounts for the relevant year. Each year the LSB publishes a detailed account of other expenditure, which includes everything except staff costs and depreciation/ amortisation. To allow for this report to present an overview of costs, they have been grouped into clusters which are as set out below. The endnotes to Table D1 provides details about the sources of each number in the table.

Cluster	Contains the following categories
Professional advisers (including legal)	 External legal costs Professional advisers / consultancy fees in 2010/11 only
Accommodation and running costs	 Rentals under operating leases (accommodation) Running costs
Outsourced services	Outsourced services only
Research costs	Research costs only
Other programme costs	 Other programme costs all other years / Other Administration 2010/11 only
Miscellaneous	 Audit fees for statutory audit work Internal audit fees Legal library services and reference (2012/13 and 2013/14 only) Training Consumer Panel (non pay) (2012/13 and 2013/14 only) Travel, subsistence and hospitality Recruitment

	2010/11	2011/12	2012/13	2013/14		
Staff costs	£2,819,000 ³⁴	£2,833,000 ³⁵	£2,583,000 ³⁶	£2,618,000 ³⁷		
Depreciation/ Amortisation	£133,000 ³⁸	£81,000 ³⁹	£58,000 ⁴⁰	£35,000 ⁴¹		
Professional advisers (including legal)	£121,000 ⁴²	£107,000 ⁴³	£76,000 ⁴⁴	£353,000 ^{45*}		
Accommodation and running costs	£522,000 ⁴⁶	£545,000 ⁴⁷	£555,000 ⁴⁸	£481,000 ⁴⁹		
Outsourced services	£249,000 ⁵⁰	£239,000 ⁵¹	£253,000 ⁵²	£220,000 ⁵³		
Research costs	£611,000 ⁵⁴	£482,000 ⁵⁵	£445,000 ⁵⁶	£218,000 ⁵⁷		
Other programme costs	£115,000 ⁵⁸	£114,000 ⁵⁹	£69,000 ⁶⁰	£68,000 ⁶¹		
Profit on disposal of asset	-£1,000 ⁶²	-	-	-		
Miscellaneous	£165,000 ⁶³	£177,000 ⁶⁴	£225,000 ⁶⁵	£273,000 ⁶⁶		
Total	£4,734,000	£4,578,000	£4,264,000	£4,266,000		

Table D1 - Breakdown of expenditure

* In 2013/14 the LSB incurred substantial legal cost in defending a judicial review on the Quality Assurance Scheme for Advocates (QASA). However, we successfully defended the judicial review of our approval of the QASA in the High Court, Court of Appeal and the Supreme Court and recovered a substantial part of our costs in 2015/16, which reduced the amounts paid by approved regulators through the levy.

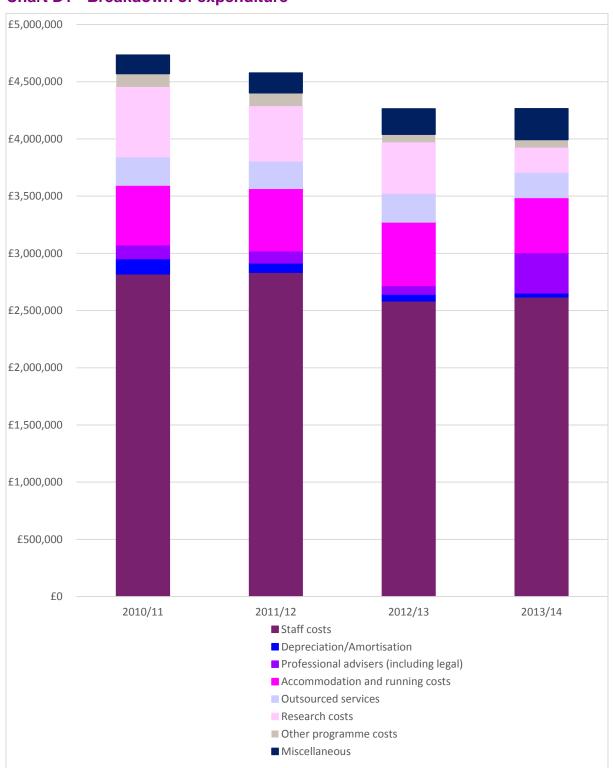


Chart D1 - Breakdown of expenditure

E. Unit cost

- 27. One way to analyse the cost of legal regulation is to calculate the unit cost of a regulator relative to the size of its regulated community. This is calculated by dividing the total expenditure by the number of authorised individuals and entities.
- 28. However, unit costs should be treated with a high degree of caution as they are not comparable from regulator to regulator as the scope and complexity of the activities of each regulator is different. No comparison should be made between the unit cost of an oversight regulator such as the LSB and approved regulators as the activities these different types of regulators undertake are very different.
- 29. Table E1 shows that the unit cost of the LSB decreased by 21% between 2010/11 and 2013/14. This is based on the number of authorised individuals only.
- 30. The data in Table F1 has previously been included in Table C1 and A1 where full references are included in the endnotes. Ideally, Table E1 would have calculated the unit cost for entities but as discussed in section A and B published data to enable such a calculation is not available.

	2010/11	2011/12	2012/13	2013/14	% change 2010/11 - 2013/14
Expenditure	£4,734,000	£4,578,000	£4,264,000	£4,266,000	-9.89%
Authorised individuals	143,419	147,095	148,191	163,110	+13.73%
Unit cost	£33.01	£31.12	£28.77	£26.15	-20.76%

Table E1 - Unit cost

Chart E1 - Unit cost



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