

To:	Legal Services Board	
Date of Meeting:	27/04/2016	Item: Paper (16) 22

Title:	Cost of Regulation – LSB transparency report and Discussion Paper	
Workstream(s):	Reviewing and removing regulatory obligations	
Author / Introduced by:	Vibeke Bjornfors, LSB Project Manager Vibeke.bjornfors@legalservicesboard.org.uk / 020 7271 Ext. 0060	
Status:	Official	

Summary:

The cost of regulation project has had a number of stages since it started over a year ago. The work under this project will be completed with the publication of this report. We set out below the work we propose to do going forward.

This paper sets out results of the final work stream which concerns transparency of the regulators costs and presents a report which sets out key insights from across the entire project and outlines next steps in light of the evidence gathered.

The key results from the project are:

- a. [REDACTED]
- b. [REDACTED]
- c. [REDACTED]

It is proposed that future work should focus on improving transparency around the regulators' costs with the key proposal being to work with them to agree what further information should be published.

In addition, the report signals that as the body that has to approve the practising fees, the LSB needs to ensure that such costs are scrutinised carefully.

Recommendation(s):

The Board is invited to:

1) Endorse the report for publication, including the main proposal to focus future work on improving transparency of the regulators' costs.

2) Note the draft transparency report on the LSB's costs.

(Transparency reports on the approved regulators have been circulated electronically to the Board and printed copies will be available at the meeting.)

3) Delegate final sign off of report and all the individual transparency reports to the Chief Executive and Chair.

Risks and mitigations

Financial:

Legal: There is both a legal and reputational risk to the LSB that the transparency reports are perceived as misleading and/or unfair. This risk has been mitigated by checking reports with regulators before publication and treating the LSB in a similar manner to every other regulator.

Reputational: There is a reputational risk regarding whether the LSB is taking sufficient action given our investment in time and resources to date and perceptions of poor value for money of regulation. However, we believe that the proposed next steps are substantial undertakings which are both proportional and targeted in improving accountability and transparency in the sector.

Resource:

Consultation	Yes	No	Who / why?
Board Members:	Y		Marina Gibbs, is the Board Project Sponsor for this project and has been consulted regularly throughout the life of this project Ad hoc updates of Board Members via CEO's update. Chair updated on 25 January. Chief Executive briefed on an ongoing basis.
Consumer Panel:		N	
Others:	An external reference group consisting of representatives from regulators and representative bodies as well as the OLC, and an external economist and legal sector expert has met on several occasions during the project. The approved regulators were sent their transparency reports for accuracy checking and all have agreed these.		

Freedom of Information Act 2000 (Fol)

Para ref	Fol exemption and summary	Expires
Summary box: points a – c;	Section 22: information intended for future publication	

Para 3(a)-(c); Table 1; Annexes A and B		
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LEGAL SERVICES BOARD

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Cost of Regulation

Recommendation:

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Background

1. The LSB started the cost of regulation project in the 2014/15 business year. This work arose from the LSB's triennial review in 2012 and the Legal Services Red Tape Challenge Review in 2013.
2. This project has been split in two work strands:
 - a. **undertaking research to understand the regulatory costs faced by legal services providers** – this consisted of an attitudinal survey of nearly 1000 providers exploring perceptions of value for money and areas where regulation could potentially be scaled back; and a small scale qualitative in-depth study to estimate broadly representative costs of legal services regulation based on financial information supplied by respondents. This second 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; and
 - b. **Compiling reports on the historic costs of each of the approved regulators and the LSB** based on publicly available information as an initiative to increase transparency. A report on the ICAEW was not produced since it is a new regulator in this market.

The report

3. As discussed by the Board in November the LSB has produced a paper setting out the key findings and insights from the cost of regulation project as a whole – **Annex A**. In summary, the key insights are:
 - a. [REDACTED]
 - b. [REDACTED]
 - c. [REDACTED]
4. We consider that the next phase of our work should be focused on the key area of improving transparency around the regulators' costs with the main proposal being to work with them to agree what further information could be published in future. Our aim is that the regulators should lead this work so that they take ownership of the issues. Based on informal feedback we are hopeful that at least one regulator might agree to lead this work. Should this not transpire, the LSB will need to take the initiative. However, the Board should note our legal powers in this area are limited: we cannot mandate the creation of new data and will need to rely on our influencing powers.
5. In addition, the report signals that as the body that has to approve the practising fees, the LSB will be scrutinising such costs carefully, in particular at a time when there is an expectation that regulatory costs should be reducing over time (as is the case with the LSB's costs).
6. The project considered very carefully whether it would be possible to benchmark regulators against comparable bodies based on corporate and/or regulatory functions. However, as the Board agreed in November, conducting

a benchmarking exercise is beyond the resources of the LSB as benchmarks on regulatory functions do not currently exist and creating such benchmarks would be very expensive and could take several years to achieve.

Benchmarking that allows comparison of corporate functions do exist but are likely to be too expensive for the smaller regulators in particular.

Transparency of reporting

7. In November 2015, the Board discussed the transparency work stream which has been carried out to understand how much information an interested observer, such as a practising certificate holder, would be able to find and understand about the costs of their regulator. This is the first comprehensive work in this area and we aim to repeat this exercise at an appropriate time after the level of information that should be disclosed has been reviewed.
8. As set out in the November Board paper the intention with the transparency exercise is that it will help incentivise the regulators to provide good value for money to their regulated communities. A focus on value for money may prompt greater discussion and awareness of the cost profiles of the different regulators. Any cost savings should ultimately be passed on to consumers.
9. At the November meeting, the Board agreed that the LSB chair should write to chairs at the regulators asking how they hold their executives to account for their spend and whether they consider that the right level of information about their organisation's costs is currently published.
10. The table below provides an overview of progress on accuracy checking and responses from the chairs. Two replies remain outstanding although they are expected before the Board meets. Annex D in the overview report provides more detailed information about the regulators' governance arrangements and future plans. Overall, the regulators have welcomed the LSB's work on the cost of regulation in general terms and outlined existing governance arrangements in some detail. However, few regulators provided specific commitments or plans to improve transparency.

Table 1 – Summary of responses to LSB Chairman’s letter

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	

The LSB transparency report

11. Alongside transparency reports for all the approved regulators, we have also prepared a transparency report for the LSB – **Annex B**. This report has been completed following the same process and covering the same areas (where relevant) as the reports for the individual regulators. This report shows a positive position in relation to reducing absolute and unit costs. The inclusion of the LSB report in the suite of transparency reports is important as it shows that the LSB is fully committed to the transparency agenda.
12. To promote transparency it is important that the Board leads by example. We have been able to publish a full data set for the LSB which has not been possible for all of the other regulators. Furthermore, the data for LSB could all be found in one source (the annual reports) whereas for some regulators many different sources, sometimes relating to different time periods and types of financial information had to be used. However, we are not complacent and will consider whether there is scope to enhance our transparency still further.

Next Steps:

13. The next step is to publish all the transparency reports and the accompanying report. A press release will be drafted to accompany publication. As with other publications from the cost of regulation project, as a courtesy we plan to share embargoed versions of the discussion paper with the approved regulators 24 hours before publication (all have agreed their own transparency reports).
14. The next phase of work will have a new project team and project plan. The CEO will write to the regulators outlining his expectations.

19.04.16