

## Annex A: Board report: Regulatory standards actions to date – 30 September 2013 (1H 2013/14)

This report highlights progress that the approved regulators have made against their regulatory standards action plans that each regulator submitted with their self-assessments to 30 September 2013, building on an earlier report of progress to 30 June 2013. It is not a general report on each of the regulators' business plan KPIs or on other activity they may be undertaking. Information on progress has been gathered from public documents, including board papers and minutes, as well as from meetings. It represents what intelligence we have been able to gather without directly asking the regulators to provide detailed responses on their progress. The latest version of the full regulators' action log is available [here](#).

The report also contains actions that have come from the LSB's own reports on the regulators' self-assessments.

### SRA

#### SRA completed actions to 30 September 2013

- Human resources action completed:
  - a Director of Enforcement, Gordon Ramsey was appointed (starts in October)
  - the talent management programme cohort began with its first placements
  - proposals on senior leadership development were presented to the SRA Board in September
  - two consumer affairs specialists for the Standards and the Regulatory Risk departments were recruited
- Research carried-out:
  - vulnerability, consumer outcomes and the role of information - this helped inform the SRA's Risk Outlook 2013. It highlighted risks of poor quality and service, especially with vulnerable clients. The SRA will publish a short paper based on the research
  - policing the perimeter - which considered risks associated with breaches of the perimeter of legal service and a review of the SRA's related processes
  - a review of the scope of SRA regulation has been used as an internal document to inform its approach, as well as to inform its response to the MoJ on the future of legal services regulation
- The enforcement strategy was implemented for the ARP and associated prosecutions before the SDT
- A cost benefit analysis was developed and used it to inform the SRA's market impact assessment of OFR that was published in February 2013
- PEST analysis has been superseded by the new Risk Outlook, which provides a clearer view of market changes
- Performance monitoring is ongoing, with improvements seen in Contact Centre performance in July and September reporting
- The consumer empowerment programme: A Better Deal for Consumers, was launched, including details on the Legal Choices website
- Consultations were carried-out on co-operation agreements, referral fees, Red Tape Challenge 2, international practice and indicative guidance on financial penalties – all of which were completed and responses were published
- The LSB approved the SRA's joint QASA application on 26 July 2013, though it has since being challenged for judicial review proceedings

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Actions completed to 30 June 2013				
<ul style="list-style-type: none"> <li>▪ The Legal Education Training Review report was release and the SRA will develop its own action plan</li> <li>▪ An impact assessment report on OFR was published in February 2013</li> <li>▪ The LSB published a decision notice to a rule change application, granting a change to the SRA’s referral fee arrangements</li> <li>▪ A lay majority board was in place</li> <li>▪ All staff moved to the single site in Birmingham</li> <li>▪ The 2013 practising certificate round was carried-out without the problems of the 2012 round</li> <li>▪ Strategic and business planning was completed and published</li> </ul>				
SRA non-completed actions to 30 September 2013				
Regulatory factor	Action / output	Achieved?	Progress	Regulatory standards view Proposed or taken action
OFR	Carry-out first tier complaints handling visits	Partially	Our ongoing interaction with the SRA suggest that at best, first tier complaints handling amounts to best practice being discussed with entities during supervision visits	A paper is going to the LSB’s November Board meeting to discuss this topic more fully
OFR	Review of ABS licensing	Partially	Delays in ABS licensing became a general concern to the LSB, which resulted in us sending a Section 55 request to monitor the regulator’s authorisation process. Given the backlog that the SRA was facing, the regulator decided to delay its ABS review to allow it time to reduce the backlog.	S55 request in place – LSB Board has agreed to continue monitoring. Reports are given to LSB Board on monthly basis.
OFR	Market segmentation of in-house lawyers	Partially	In progress – to be published in October as noted in SRA Board minutes	Monitor
OFR	Research into the disproportionality of SRA interventions	Partially	In progress – [REDACTED] The client survey will commence in October 2013 and be completed in early 2014	Monitor
Supervision	Review of the SRA’s approach to supervision high impact firms	Partially	In progress – the Regulatory Management survey is underway, which will be published in early 2014 to follow-on from the 2013 report on the impact of OFR	Monitor

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Supervision	Complete supervision resourcing	Partially	In progress – approved in July and recruitment campaign launched over the summer. Assessments and interviews for posts begin in October.	Monitor
<b>SRA Actions to 31 December 2013</b>				
Risk Mgmt	Approval of 'R-view'			
Risk Mgmt	Effectively incorporate consumer segmentation into the research programme's work			
Supervision	Develop an understanding on the costs / benefits of the new supervision approach			
Enforcement	Complete recruitment to the new roles in the Legal and Enforcement Directorate			
Enforcement	Continue to ensure the timely consideration of cases at the SDT			
Enforcement	Better align the KPIs of the SRA and SDT and increase transparency of enforcement processes			
Strategy	Closure of assigned risk pool and its replacement.			
Strategy	Completion of development and implementation of the risk framework			
Strategy	Embedding of risk based and outcome focused regulation			
Strategy	Complete review of overseas practice and in-house practice and implement any required changes.			
Strategy	Review of IT systems for regulated persons that were meant to go online during 2012 but were delayed			
Strategy	Emphasis on ensuring that benefits of IT systems are being realised.			

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LSB report observations				
Generic topic	Specific observations	Reference	LSB code	Activities
Evidence base, management information, scrutiny and transparency	The SRA Board should satisfy itself that it has the right management information to challenge corporate performance / outcomes achievement	P23 – 3.48	SRA03	To be added by end 2013/14
	SRA and LeO to improve information sharing channels	P24 – 3.56	SRA05	
	Better align the KPIs of the SRA and SDT and increase transparency of enforcement processes	P20 – 3.40	SRA06	
	SRA Board to ensure that it has a clear understanding of how to measure operational and cultural changes for OFR	P12 – Obsv	SRA10	
Consumer engagement and understanding	Educate the regulatory community about assessing risks to consumers	P10 – 3.9	SRA08	To be added by end 2013/14
	Seek feedback from consumers on the effectiveness of the SRA's approach to regulation	P10 – 3.11	SRA09	
	Effectively incorporate consumer segmentation into the research programme's work	P14 – 3.19	SRA14	
Measuring impact and improving regulation	Review the separate business rule	P9 - 3.7	SRA11	To be added by end 2013/14
	Continually seek out rules that no longer are required due to reduced risks and develop a more principles based approach	P9 – 3.6	SRA07	
Capacity, internal policy and regulatory processes	Develop an understanding on the costs / benefits of the new supervision approach	P18 – 3.34	SRA15	To be added by end 2013/14
	Complete supervision resourcing by end of Q1 2013	P17 – 3.32	SRA01	
	Increased levels of joined-up formal processes running through risk, supervision and enforcement	P22 – 3.45	SRA02	
	Ensure that supervision remains focused on risk and is typified by constructive firm engagement	P16 – 3.28	SRA13	
	Build staff and Board understanding of the new risk approach	P14 – 3.21	SRA12	
	Management to engage with staff to evaluate the full impact of the culture change programme	P23 – 3.52	SRA04	

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### BSB

BSB completed actions to 30 September 2013				
<ul style="list-style-type: none"> <li>▪ A new manager was recruited for COIC</li> <li>▪ The enforcement strategy was developed and completed</li> <li>▪ A decision notice was issued on 26 July 2013 for QASA. The BSB now has IT systems in place to manage relevant records</li> <li>▪ The BSB Handbook's was approved by the LSB on 23 July 2013</li> <li>▪ The TRIP board completed the first stage of its regulatory improvement programme on 'costs of regulation' and 'BSB staff skills audit'</li> <li>▪ The BSB's consultation on risk-based supervision closed on 14 June and it is now considering the responses</li> </ul>				
BSB non-completed actions to 30 September 2013				
Regulatory factor	Action / output	Achieved?	Progress	Regulatory standards view Proposed or taken action
OFR	Entity regulation application made / implemented	No	It was agreed between the BSB and the LSB that its entity and ABS applications should be made after the licensing authority application	While this application has been delayed, much of the work has already been completed
OFR	Entity regulation implemented – skills analysis	No	Delayed for the same reason as entity regulation	No action necessary
Enforcement	Submit disciplinary tribunal application	No	Delayed for the same reason as entity regulation	No action necessary
Supervision	Development of risk based supervision	Partially	A summary of responses will go to the September board meeting alongside the revised strategy	No action necessary
Enforcement	New enforcement database implemented	Partially	A contract was signed for the new Document Management System (DMS) on 28 June 2013	Detailed scoping and planning now taking place
C & C	Contract manager in place to review contract management system and complete COIC contract	Partially	A contract has been agreed and is due to be signed on 23 October 2013	Monitor
OFR	Waiver system reviewed	Partially	A review commenced in May 2013 with the initial phase completed but this will now not be completed until December 2013. The implementation plan is currently being drawn-up	Monitor

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BSB actions to 31 December 2013		
OFR	Implementation of the new Handbook and non-ABS entity regulation	Carry-out training and publicity on Handbook
OFR	Implementation of the new Handbook and non-ABS entity regulation	Ensure education and training arrangements are in place
OFR	Entity regulation implemented	Publicity and training
OFR	Entity regulation implemented	New systems in place to authorise, supervise & prosecute
OFR	Rules and guidance established for barristers to conduct litigation	Publicity and training
OFR	Waiver system reviewed	Recommendation implemented
OFR	Development and operation of QASA	Implement Phase One of the scheme
OFR	Development and operation of QASA	Develop quality assurance of advocacy in Youth Courts
OFR	Deliver BCAT 2013 and evaluate first year of operation	Delivery complete
OFR	Commence implementation of CPD regulations	Proposal and plan agreed
OFR	Consider regulatory arrangements for special bodies	Make recommendations to the BSB Board
Risk Mgmt	Risk assessment framework	Framework developed
Risk Mgmt	Evidence base	Identify existing evidence
Risk Mgmt	Policy framework development	Policy framework in place
Supervision	Development of risk based supervision	Board approval and comms strategy developed
Enforcement	Develop new enforcement strategy	Enforcement strategy development completed
Enforcement	Develop new enforcement strategy	Strategy published
C & C	IT systems in place	New enforcement database implemented
C & C	IT systems in place	Intranet and DMS implemented
C & C	Stakeholder engagement	Contribute editorial content to relevant publications
C & C	Stakeholder engagement	Launch internal interaction enforcement policy/guidelines
C & C	Stakeholder engagement	Formal review on web content
C & C	Review contract management system	Current system reviewed
C & C	Regulatory improvement programme implemented	Discovery phase and skills audit completed
C & C	Regulatory improvement programme implemented	Learning and development plan agreed
C & C	Regulatory improvement programme implemented	New organisational structure identified
C & C	Regulatory improvement programme implemented	Learning and development plan implemented

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<b>LSB report observations</b>				
<b>Generic topic</b>	<b>Specific observations</b>	<b>Reference</b>	<b>LSB code</b>	<b>Activities</b>
Capacity, internal policy and regulatory processes	Empower executive staff to make decisions and use committees in more of an advisory way	7.3	BSB02	To be added by end 2013/14
	Train staff and Board members about the new approach of the updated Handbook	4.15	BSB08	
	Breaches of regulation are followed up with appropriate sanctions / remediation	6.9	BSB11	
Measuring impact and improving regulation	Continue to develop the Handbook to ensure that rules only remain in place where there is evidence of risk	4.10	BSB05	To be added by end 2013/14
	Communicate the benefits of OFR to the regulatory community	4.11	BSB06	
	How does the BSB intend to measure the impact of changes to the Handbook on enforcement activity	7.11	BSB01	
Consumer understanding and engagement	Review the remit of the current consumer network to create a better focus for consumers	4.12	BSB07	To be added by end 2013/14
Evidence base, management information, scrutiny and transparency	Determine a cost-effective way to research segmentation in the BSB's market to understand consumer risks	5.3	BSB09	To be added by end 2013/14
	Improve information sharing between the BSB/LeO	6.8	BSB10	
	Develop an end-to-end measurement approach when working from investigation through to enforcement	Enf – Obsv	BSB03	
	Become more evidence based in delivering outcomes by reviewing current research material and planning further research – in regard to segmentation	4.5	BSB04	

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### CLC

CLC completed actions to 30 September 2013				
<ul style="list-style-type: none"> <li>▪ Following improved cooperation with LeO, the CLC has announced two thematic reviews on ‘complaints handling’ and ‘managing conflicts of interest’</li> <li>▪ The CLC has collected information from its regulated community on consumer types and referral arrangements and has more generally used its intelligence to inform its regulatory risk, policy and consumer education activities</li> <li>▪ Board meeting minutes were published for the first time on the CLC corporate website for the 25 July 2013 meeting – showing a growing level of transparency</li> <li>▪ The MoJ and CLC met on 05 August 2013 to discuss its S69 enforcement harmonising Order</li> <li>▪ The CLC Board agreed to redesign its regulatory risk processes for high-risk entities</li> <li>▪ The CLC continues to work with all major lender to establish a consistent and favourable position with regard to its panel management</li> </ul>				
CLC non-completed actions to 30 September 2013				
Regulatory factor	Action / output	Achieved?	Progress	Regulatory standards view Proposed or taken action
Risk Mgmt	Thematic review of the ABS specific risks – regulatory risk approach evolves, informed by developments in the ABS market	Partially	CEO and an LPIs to contact by phone all ABS to gauge regulatory arrangement experience	Monitor
Enforcement	Simplify disciplinary and appeal processes – increased parity of process	Partially	The Adjudication Panel’s terms of reference were discussed at the 25 July 2013 Board meeting in preparation for harmonisation	No action necessary
C & C	Build capacity and capability in our key development areas – regulatory arrangements for, and approach to all activities promotes consumer and public interest	Partially	The 25 July 2013 Board minutes suggest that there are a number of staff vacancies and that more Legal Practice Inspectors to be recruited	Enquire at next senior-level meeting on progress
CLC actions to 31 December 2013				
OFR	Review financial protection arrangements			
OFR	Apply and expand consumer research programme			
Supervision	Interrogate distance learning and college pass rates			
Supervision	Review the structure of our regulatory fees			
Enforcement	Simplify the disciplinary, reviews and appeals processes			
C & C	Performance review focus upon behaviours			
C & C	Review key arrangements for management of people (including pay and grading structure, recruiting arrangements and staff development)			

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LSB report observations				
Generic topic	Specific observations	Reference	LSB code	Activities
Evidence base, management information, scrutiny and transparency	Provide a greater level of corporate reporting and decision documents on the CLC website to promote transparency	P52 – 9.28	CLC01	To be added by end 2013/14
	Improve information sharing with LeO to add value to risk management	P50 – 9.21	CLC06	
Consumer understanding and engagement	Made the CLC website more consumer friendly	P53 – 9.30	CLC02	To be added by end 2013/14
	Develop an understanding of market segmentation to understand risks to consumers	P49 – 9.14	CLC05	
Measuring impact and improving regulation	Continue to remove rules from the Code when there is no long a sufficient risk present	P48 – 9.9	CLC03	To be added by end 2013/14
	Embed the recently updated code	P48 – 9.12	CLC04	

## ILEX IPS

ILEX IPS completed actions to 30 September 2013				
<ul style="list-style-type: none"> <li>▪ IPS's joint application for QASA with the BSB and SRA was approved</li> <li>▪ IPS has been recruiting new staff member in preparation for its new rights</li> <li>▪ IPS has been work through its current applications with the LSB to: <ul style="list-style-type: none"> <li>▪ allow for its community to be designated for probate and conveyancing activity</li> <li>▪ alter its current arrangements to extend rights to conduct litigation to suitably qualified chartered legal executives for civil, family and criminal proceedings</li> <li>▪ alter its current arrangements for authorising and regulating those providing immigration advice/services</li> </ul> </li> </ul>				
ILEX IPS non-completed actions to 30 September 2013				
Regulatory factor	Action / output	Achieved?	Progress	Regulatory standards view Proposed or taken action
OFR	Consumer action plan 2012: contains series of actions planned by IPS to improve consumer engagement. Major work planned in complaints, information gathering and data sharing. Also timetable is a literature review of consumer expectation and experiences in the legal sector.	Partially	Agreed at 15 Nov 12 Board meeting. Updated and noted at 16 Jan Board meeting; no detail on specific progress given.	This is behind and little movement has been made since the IPS report was released. The LSB need to push on this as part of IPS's applications and regulatory standards work generally.
IPS Actions to 31 December 2013 - None				

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LSB report observations				
Generic topic	Specific observations	Reference	LSB code	Activities
Evidence base, management information, scrutiny and transparency	Develop MoUs with other regulators and LeO to share risk based information	P34 – 7.16/19	ILEX IPS01	To be added by end 2013/14
Capacity, internal policy and regulatory processes	Develop a proactive (rather than reactive) approach to risk identification, supervision and enforcement that work for both individuals and entities as part of the designation application	P35 – 7.21	ILEX IPS02	To be added by end 2013/14
	IPS has appropriate levels of staffing with the desired skill sets to deliver the regulatory objectives	P37 – 7.25	ILEX IPS03	

### IPReg

IPReg completed actions to 30 September 2013				
<ul style="list-style-type: none"> <li>▪ A member of the IPReg team has been offer (and accepted) a permanent post as the regulator prepares for new rights</li> <li>▪ Accommodation arrangements have been finalised for the coming 12 months with IPReg and ITMA agreeing to co-lease more space</li> <li>▪ IPReg completed a wholesale review of the risk profile of its practitioners and entities</li> <li>▪ IPReg updated its website to improve the consumer experience and to provide efficient reporting mechanisms for practitioners</li> </ul>				
IPReg non-completed actions to 30 September 2013				
Regulatory factor	Action / output	Achieved?	Progress	Regulatory standards view Proposed or taken action
Enforcement	Revision of the IPReg Disciplinary Rules	Partially	Application for ABS designation submitted on 15 May 13. Decision by 20 May 2014 <sup>1</sup>	Currently with Team Rules
OFR	Amendments to the registration (licensing) requirements for entities	Partially	Application for ABS designation submitted on 15 May 13. Decision by 20 May 2014 <sup>1</sup>	Currently with Team Rules
OFR	Issue of a revised IPReg Code of Conduct (although subject to LSB approval earlier implementation is proposed)	Partially	Application for ABS designation submitted on 15 May 13. Decision by 20 May 2014 <sup>1</sup>	Currently with Team Rules
Risk Management	Agreement of a risk matrix for entities and risk profiling of those entities (before submission of the application to the LSB in autumn 2012)	Partially	Part of current application	This work is progressing well

<sup>1</sup> Note of Clarification (added 12 December 2014) – this date refers to the date by which the LSB was required to have made a recommendation on the application. Please see this website page for more information - [http://www.legalservicesboard.org.uk/Projects/statutory\\_decision\\_making/iprbla.htm](http://www.legalservicesboard.org.uk/Projects/statutory_decision_making/iprbla.htm)

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<b>IPReg Actions to 31 December 2013</b>	
OFR	The consumer project will be implemented and completed

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LSB report observations				
Generic topic	Specific observations	Reference	LSB code	Activities
Consumer understanding and engagement	Use information gathered in the 2012 questionnaire to develop a picture of consumer segmentation	P39 – 8.7	IPReg01	To be added by end 2013/14
	Pay particular attention of the risks to 'Fred in the shed' consumers following the results of consumer segmentation	P42 – 8.19/20	IPReg02	
Measuring impact and improving regulation	Measure the acceptance of IPReg's code of conduct with its members	P40 – 8.11	IPReg03	To be added by end 2013/14
	Ensure that the revised enforcement policy is clear on industry whistle blowers / vexatious complainants	P44 – 8.30	IPReg05	
	Measure the confidence that consumers have in IPReg as a regulator	P44 – 8.34	IPReg06	
Capacity, internal policy and regulatory processes	Ensure that staffing levels are correct and that skill sets match requirements	P44 – 8.35	IPReg07	To be added by end 2013/14
	Develop robust disaster recovery systems and clear succession plans	P45 – 8.37	IPReg08	
	Develop an approach and policy for both ABS and non-ABS supervision	P42 - 8.22/6	IPReg04	

### CLSB

CLSB completed actions to 30 September 2013
<ul style="list-style-type: none"> <li>▪ A disaster recovery plan was approved by the Board on 03 October 2013</li> <li>▪ Relations between ACL and the CLSB have improved</li> <li>▪ CLSB drafted a chart showing the consumer loop of Costs Lawyer services, which now needs to be populated with relevant transaction figures</li> <li>▪ A random audit of 2012 CPD record cards was undertaken in June 2013 and no failures to comply were found</li> <li>▪ The CLSB continues to only provide practicing certificates to those that can demonstrate clear first tier complaints procedures and necessary insurance policies</li> <li>▪ The CLSB continues to contribute to LeO initiatives and a new Board member attended a LeO introduction meeting</li> <li>▪ The CLSB continues to review its policies and procedures that allow it to carry-out an effective remote supervision programme</li> <li>▪ The content of the CLSB website also remains under constant review</li> <li>▪ The CLSB reported the findings of its diversity questions from the application</li> <li>▪ The CLSB updated its risk matrix to consider consumer risks for the first time</li> <li>▪ Questions on consumer profiles were included in its practising certificate application form for 2013</li> <li>▪ Risk specific information in the practising certificate application was also collected, though this information has yet to be reported</li> <li>▪ A CPD audit was completed and enforcement guidance was issued on rights to administer oaths, ATE insurance and changed to Principle 3.6</li> </ul>

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CLSB non-completed actions to 30 September 2013				
Regulatory factor	Action / output	Achieved?	Progress	Regulatory standards view Proposed or taken action
Risk Management	Continue to lobby LSB and others to ensure Law Costs Draftsmen/Costs Draftsman, who CLSB has already identified as the greatest risk within the profession and to the consumer, is addressed sooner rather than later.	Partially	The CLSB continues to put its case that unregulated costs draftsmen should not be able to practice	Crispin Passmore will attend the CLSB's next board meeting to discuss this and other points
Risk Management	CLSB will continue to request that ACL seeks to protect the title "Costs Lawyer"	Partially	CLSB has asked ACL to seek advice on this, and on protection of the title through a Royal Charter, as ILEX IPS has	ACL is yet to respond
CLSB Actions to 31 December 2013 - None				

CLSB Actions to 31 December 2013 - None				
LSB report observations				
Generic topic	Specific observations	Reference	LSB code	Activities
Evidence base, management information, scrutiny and transparency	Improve transparency by providing board papers and strategic direction documents on the CLSB's website	P27 – 6.32	CLSB01	To be added by end 2013/14
Consumer understanding and engagement	Develop an understanding of market segmentation to understand risks to consumers	P22 – 6.11/2	CLSB02	To be added by end 2013/14
Capacity, internal policy and regulatory processes	Develop a plan for when transitional arrangements have come to an end, in regard to regulating entities	P24 – 6.21	CLSB03	To be added by end 2013/14
	Develop and put in place a robust supervisory approach based on the findings of the 2013 practitioner survey	P25 – 6.25	CLSB04	

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### Master of Faculties

Master of Faculties completed actions to 30 September 2013				
<ul style="list-style-type: none"> <li>▪ Work has been commissioned to develop an update Code of Practice to include OFR principles to sit alongside the Office’s practice rules</li> <li>▪ A “significant” information gathering exercise has started as part of the Office’s practising certificate renewal process – this data will be published in February 2014</li> <li>▪ The Master has agreed to take steps to encourage notaries to understand consumer vulnerability and to develop a consumer action plan</li> <li>▪ The Master also agreed in its recent practising certification application to introduce a regime of inspections of notarial practices and a complete revision and upgrade of the Faculty Office website</li> </ul>				
Master of Faculties to 30 September 2013				
Regulatory factor	Action / output	Achieved?	Progress	Regulatory standards view Proposed or taken action
OFR	To review the Notary Practice Rules (2009) and bring a revision application in early to mid 2013 to address consumer vulnerability	No	This timetable has been delayed while regime inspections are being introduced which may uncover other necessary changes to the rules	Inspections to commence in January 2014 with rules to follow - monitor
OFR	Faculty Office and Advisory Board to keep OFR under review and to look at ways of introducing and overarching provision which would specifically introduce a requirement that any rules and regulations made by the Master are read and interpreted in line with the principles of better regulation	Partially	Ongoing – the Advisory Board and Faculty Office have given assurances that they intend to introduce new overarching OFR principles	Monitor
Master of Faculties Actions to 31 December 2013 – None				

LSB report observations				
Generic topic	Specific observations	Reference	LSB code	Activities
Evidence base, management information, scrutiny and transparency	Develop plain language policies and guidance for the Office's website and public decision making and corporate documents	P61 – Obsv	MoF01	To be added by end 2013/14
Capacity, internal policy and regulatory processes	Develop a plan for when transitional arrangements have come to an end, in regard to regulating entities	P57 – 10.9	MoF02	To be added by end 2013/14
Consumer understanding and engagement	Develop an understanding of market segmentation to understand risks to consumers to address the needs of vulnerable clients	P58 – 10.11	MoF03	To be added by end 2013/14

## **Annex B: Progress of approved regulators**

### **The first report: the smaller regulators**

1. This was published in December 2012 and identified a number of common issues. Generally however we concluded that there was a generally lower risk to the regulatory objectives from the operation of these regulators, bar the CLC. This was because of the consumer base and working circumstances of those they regulate. The common issues we identified were:
  - a lack of understanding of the needs of the consumers who use the legal services provided by those they regulate
  - a lack of consumer engagement
  - a failure to use the common framework that has been developed by Oxera as the basis for understanding the markets they regulate
  - general information sharing issues between regulators.

### ***The Costs Lawyer Standards Board (CLSB)***

2. The CLSB is the youngest of the regulators and was only delegated its powers in November 2011. Our report noted that it inherited very little information about those it regulates and about the consumers who use services provided by costs lawyers. But, it had quickly built an organisation with clear procedures and appropriate governance arrangements. The CLSB did not provide evidence for a number of aspects of its self-assessment and did not provide a clear picture on supervision and risk identification. Its action plan had milestones until April 2013 and a number of ongoing tasks.
3. The CLSB has completed many of the actions in its action plan. They continue to seek protection for the title 'costs lawyer' and have been working on education and training issues over the last year (including their application to subject trainee costs lawyers to the CLSB's regulatory arrangements).
4. The CLSB has conducted some work on entity regulation although we have not detected any specific urgency in this work as they have prioritised the education and trainee regulation work. They have collected more information about those they regulate. However, it is not known whether they have done specific work to understand the consumers of services provided by costs lawyers. We also consider that the CLSB could still work on their transparency, for instance, by publishing Board papers. We also understand that the CLSB has used its enforcement powers, and reportedly they worked effectively, but the decision has not been made public.
5. At this point we consider that the CLSB has made progress and completed its action plan. In response to our observations in the report it has made a number of changes. However, areas such as transparency and consumer understanding still require attention.

### ***The Council for Licensed Conveyancers (CLC)***

6. The CLC provided one of the most complete self-assessments of all the regulators. It provided detailed evidence of how it delivers the regulatory standards. This included information on risk assessment, supervision and enforcement. However, it did identify issues with regard to its information systems. The CLC noted that the CLC had not planned much consumer engagement activity or actions to understand the needs of consumers who use the services provided by those regulated by the CLC.

7. The CLC's action plan runs through to 2016 although the majority of tasks were due to be completed at Q4 2013. The CLC has been making steady progress on what was a challenging action plan. It has been working on harmonising its powers and processes in relation to ABS and licensed conveyancer firms, improving transparency, consumer understanding and is beginning to work on a redesign of its risk assessment process. It has invested significantly in its information systems. It still has actions planned in relation to performance management and reviewing its OFR work.
8. In general we are confident that the CLC will continue to deliver the broad objectives of its action plan to deliver the regulatory standards. We note that while it has invested in information systems it appears to be the case that these are not yet operating at the optimal level the CLC aimed for. It is also important that the CLC complete its programme of work on consumer understanding that is underway and also on increasing transparency.

### ***The Master of Faculties (Faculty Office)***

9. The Faculty Office's self-assessment provided very little evidence to support its assessment. The report observed that the Faculty Office had taken steps to introduce new regulatory requirements for those that pose higher regulatory risks. The Faculty Office also did not provide a detailed action plan. However, it did agree to introduce risk-based inspections, embed the better regulation principles and to begin work on consumer engagement.
10. The Faculty Office's action plan contained no clear milestones. But instead committed to keeping issues under review. However, during the exercise the Faculty Office did commit to a number of activities. For instance the Faculty Office has undertaken work to greater understand those it regulates and is working on activity to develop a risk based supervision framework for notaries. It has now raised funds to complete these risk based supervisory visits.
11. We do not know what steps have been taken to take greater consideration of the needs of consumers in its regulations, particularly vulnerable consumers. We are not aware of work on making the Faculty Office more transparent or the website more accessible to consumers and the regulatory community. These were significant observations in the report published in December 2012.

### ***ILEX Professional Standards (IPS)***

12. The IPS self-assessment provided greater detail about outcomes focused regulation and enforcement and its enforcement section was stronger than most as it had effective feedback mechanisms for consumers and CILEX fellows. However, its risk identification and supervision activities were not very developed.
13. The IPS action plan was completed in February 2013. However to support its various applications to extend IPS's regulatory scope it planned significant work on risk, to fill its gaps on supervision, improve its understanding of consumer needs and gather greater information on the services provided by CILEX fellows. All these activities would help to support the required regulatory standards.
14. In the IPS's various applications to extend its regulatory scope IPS has addressed many of the observations made by the LSB. This includes extensive work developing a risk assessment framework for future IPS

regulated entities. It is also proposing a number of positive steps in relation to increasing consumer understanding and seeking direct feedback from consumer of services from IPS regulated entities. It has also expanded, and plans to further expand, its capacity and capabilities.

15. Based on the information we have gathered from the IPS application we consider that the IPS has taken significant steps to develop its capacity to deliver and embed the required regulatory standards. However, it is worth noting that much of this is yet to be implemented and so there will be a challenge to ensure that it is delivered in practice.

### **Intellectual Property Regulation Board (IPReg)**

16. The IPReg self-assessment illustrated how it had developed quickly (it was only delegated its regulatory powers at the start of 2010) and embraced OFR (the IPReg Code of Conduct is 14 pages long). Its action plan included activities to help it understand those it regulated in more detail and to develop a risk assessment framework model.
17. IPReg's milestones in its action plan went to April 2013 and it has completed the activities detailed within them. Particular activities to note are the increased understanding it has developed of those it regulates. It completed this through a detailed survey of those it regulates. Using this information it developed a risk matrix and has risk assessed all its entities. It has also upgraded its website to make it more accessible to consumers and those regulated by IPReg. During the period in question it has also made use of its enforcement procedure. It is now developing a supervision framework based on the risk framework it has developed.

### **The second report: The Solicitors Regulatory Authority (SRA)**

18. The LSB's report on the SRA's self-assessment was published in February 2013. Our headline on the report was "*much done, more to do*" and we concluded that:
  - a. Its assessment did not address the issue of the delays to ABS (and recognised body) authorisations;
  - b. The quality of the enforcement assessment was poor – for instance it cited the fact that it had over 500 open cases as evidence of that it was established and effective; and,
  - c. We had concerns about how the SRA Board holds the executive to account.
19. The report also noted that it had problems in the past in relation to major IT projects and the need to ensure the successful delivery of the planned IT projects. These projects are necessary to deliver improvements to its risk assessment process and supervision activity.
20. In response to this the LSB decided to monitor the SRA's performance in clearing the backlog of ABS applications. It has now cleared the backlog and performance has improved. The LSB Board has received regular reports on performance in relation to ABS authorisation and the apparent remaining issues in relation to "multi-disciplinary" type applicants. The SRA has also reduced the number of open enforcement cases (226 at the end of August 2013) and the average age of cases issued to the SDT has reduced.

21. The LSB in its Board to Board meeting with the SRA in July 2013 discussed the approach the SRA Board takes to hold the executive to account. We consider that there has been a change in relation to this and the SRA Board appears to be taking a keener interest in performance.
22. The SRA's action plan ran until Q3 2013. However, the SRA also submitted its 2013-2015 Strategic Plan with its self-assessment to support this work. We are also using this plan as part of the monitoring.
23. We understand that progress on r-view continues. But, as it is not due to be implemented until during 2014 at the earliest then they continue to operate in the sub-optimal manner they identified in their self-assessment. However, the SRA has produced its first risk outlook during 2013 and plans to do this again in 2014. We consider that this work (and other similar activities) is a positive step to ensure that all SRA staff understand the risks in the market and so act in a manner sensitive to those risks.
24. The SRA also appears to have increased its level of transparency. This was particularly evident in relation to the Board papers on firm failure. However, it remains the case that in general the SRA's Board papers are difficult to find as they reside on Law Society's governance web pages and these are not (or do not appear to be) accessible directly through the SRA or Law Society's main website.
25. The SRA has proceeded well against its action plan and strategic plan. However, there has necessarily been a number of reprioritisations. This is primarily been due to the need to resolve issues in relation to firm failure and to deal with issues in relation to authorisations (both ABS and of recognised bodies). The actions that have been delayed due to this reprioritisation has primarily been those related to its research programme and consumer understanding and engagement. Although the SRA has continued to produce work in this area and has recently set out its consumer plans for the next year. There remains a risk of drift due to forthcoming senior departures.

### **The third report: The Bar Standards Board (BSB)**

26. The LSB's report on the BSB was published in May 2013 and the main headline was "*the challenge of change*" and we concluded that:
  - a. There was a significant challenge from the scale of the BSB's ambitions.
  - b. The size and scale of its committee structure (143 committee posts and 81 positions are held by barristers) appears large for the size of the BSB (76.4 FTE)
  - c. The BSB needs to resolve issues in enforcement with regard to COIC and the need for more transparency and speeding up investigations and enforcement activity.
  - d. The BSB is starting from a relatively low base and gaps in evidence (particularly in relation to consumers).
  - e. We also made a number of observations regarding concerns about the independence of the BSB from the Bar Council and the profession.
27. The LSB observed that it would expect the BSB to demonstrate significant progress embedding the regulatory standards into its day to day operations in

the various planned applications to expand the areas and businesses it is able to regulate.

28. The LSB compiled the BSB's action plan from the information provided with the self-assessment together with the BSB strategic plan for 2013/16. The action plan contains quarter by quarter detail up to Q4 2013/14, however there are actions that run to 2015/16.
29. The BSB has experienced a bit of slippage in relation to its action plan. This is primarily related to its decision to split its various planned applications. It has however, delivered a consultation on risk based supervision and the production of an enforcement database (which will be extended to cover supervision) appears to be progressing. Together with TBAS, progress is being made in implementing the recommendations of the Browne QC review into the operation of COIC. However, the BSB has a large number of actions due to be completed at the end of the 2013 and it is not clear the extent to which these activities have been progressed and whether they will be delivered by the end of the year.
30. The BSB in its self-assessment also committed to commission research on consumer segmentation in mid to late summer 2013. It is not clear that this has been done, although the BSB did produce a significant piece of consumer research in relation to users of immigration services provided by barristers. We remain concerned that it has not developed enough evidence in the needs of consumers and its regulatory arrangements remain complex and not sufficiently outcomes focused.
31. The BSB has produced reports on the performance of its enforcement department. However, the LSB is still aware of a number of very old cases within the system and we still consider that issues related to the complexity and lack of transparency of its approach are present. During 2013 we have also had cause to instigate an investigation into the behaviour of the Bar Council in relation to regulatory independence. This concerned events during 2012 (and also before) when the BSB was completing their draft self-assessment.

## Annex C: Extracts from the Regulatory Standards decision document

### **Box 1: Professional Standards Authority for Health and Social care (PSA)**

#### *Summary of Approach*

The PSA, previously known as the Council for Healthcare Regulatory Excellence (CHRE), operates as an oversight regulator, supervising the nine health professions regulators. Specifically, the PSA has a statutory obligation to report annually on the regulators' performance.

PSA's annual Performance Review is laid before Parliament and the devolved governments in June each year. It contains a detailed assessment of each regulator's performance against the standards set by CHRE in relation to the regulators' four key statutory functions: standards and guidance; education and training; registration; and fitness to practise.

Regulators are required to submit outcome-focused evidence of how they have met the standards set by PSA in relation to each standard. PSA staff carry out a desk-based review of the evidence provided by the regulators as well as feedback received from third party stakeholders (including feedback received specifically in relation to the performance review, but also thematic issues raised during the course of the year by those wishing to complain about the regulators). PSA staff then meet with the senior management within each individual regulator, before finalising their assessment of that regulator's performance.

#### *Resource commitment*

The PSA comprises 19 people and an independent lay board. Six people work full-time in the Scrutiny & Quality team that is responsible for the Performance Review process. The Performance Review process takes up a significant proportion of that team's time, particularly during the period from December – April each year. Issues that arise from analysis of the evidence submitted to the Performance Review may also lead to the identification of areas for future policy work by PSA.

#### *Timescales*

All timescales are driven by the statutory obligation to publish the Performance Review report, which is laid before Parliament and the devolved governments before their summer recess. The Performance Review process begins in October each year when PSA send out the evidence template (a form of self-assessment) – which the regulators are required to complete and return by December. Analysis and testing of the evidence provided, together with additional questioning of the regulators then takes place, before the report is drafted and circulated to the regulators for comments in April/May, before being finalised for publication.

### **Box 2: Financial Reporting Council (FRC)**

#### *Summary of approach*

The FRC's professional oversight board operates as an oversight regulator of the auditing and actuarial profession by the Recognised Qualifying and Recognised Supervisory bodies and the actuarial bodies. Most of the FRC's powers are derived from statutory powers (e.g. Companies Act 2006) delegated directly, or from statutory obligations on other parties to meet requirements set by the FRC. The Actuarial arrangement is a voluntary one following the Morrison Report into Actuarial Standards.

The FRC's strategy towards regulation is a principles-based approach. The practical implementation of this is through inspection, with staff sent on-site to regulators.

The approach taken by the FRC is broken down into several areas: professional standards including disciplinary arrangements; professional qualifications which include entry requirements; and complaints handling. The FRC focuses on information gathering such as mapping processes within

regulators and also for the identification of risks and possible weaknesses in procedures.

Private reports on these visits are sent to the Bodies with the main points being reported annually to the secretary of state in a report which is published. In that document, key findings and recommendations from the oversight process are made public, and the scope and coverage of regulatory inspections commented on. The threat of publication of a refusal to explain why recommendations are being ignored acts as a method of shaping behaviour. If any thematic problems arise, the FRC has the capacity to follow this up with more in-depth reviews.

By sending FRC staff on inspection visits to regulators the accuracy of the assessment has been improved as well as the evidence base for its regulatory decisions.

#### *Resource commitment*

FRC staff spend a week with each supervisory and qualifying body reviewing a pre-selected area and running through progress on previous recommendations made. During which the FRC can gather detail on regulators' procedures for meeting their statutory requirements under the Companies Act.

The Bodies are required to submit an annual return which contains information to help the FRC inform which areas to concentrate on in their annual reviews. They also use many sources of information for selecting our areas of review, including complaints and general issues arising in the financial press.

In order to complete the inspections there are about 1.5 people per year working full time on assessment and oversight. The regulatory assessment unit at the FRC in total comprises around 4.5 people who collectively undertake oversight activities and the regulation of audit.

A further 20 people work in the audit inspection unit (AIU) which reviews public interest audits. Thematic issues identified by this unit may be taken up by the FRC for further investigation. This approach provides the FRC with scope to pin-point certain issues and look across all areas of the regulators' operations, rather than remaining too predictable.

#### *Timescales*

The oversight process is undertaken on an annual basis. The process of oversight is typically several months in length and includes a staff member being in situ with each of the RSBs and RQBs being assessed. Although this can vary from depending on the area being reviewed and the FRC's perception of the degree of risk at each body.