

	CILEx Regulation Limited
Date	14 November 2024
Item	ITEM 7.0
Title	Strategy (2022-2024) Standards strategic objective review
Author	Simon Blandy, Director of Regulation
Purpose	This paper provides the Board with a report on achievements against the CRL Standards Strategy in the 2022-24 Strategy period
Recommendation	The Board is asked to NOTE progress in the 2022-24 Strategy period
Timing	This is a Report on achievements
Impact assessment	Attached
Impact on Regulatory Objectives	These are covered in the impact assessment below
Implications for Resources	There are no additional resource requirement.
Impact on Consumer Empowerment	Ensuring that CRL continually reviews and updates its standards protects and promotes the interests of consumers
Impact on Ongoing Competence	The report covers the progress made in the supervision of ongoing competence in 2024.
Publication Status	The report is for publication.
Appendix	None

PURPOSE OF REPORT:

1. This paper provides the Board with a report on achievements against the CRL Standards Strategy in the 2022-24 Strategy period.

INTRODUCTION:

2. This paper provides the Board with an update on the actions taken under the standards objective during the [2022-24 Strategy](#) cycle.
3. A paper outlining the proposed workstreams 2025 for the standards objective will be presented to the Board after the Corporate Plan 2025 in support of the 2025-2027 Corporate Strategy has been agreed.

RECOMMENDATION:

4. The Board is asked to **NOTE** progress in the period 2022-2024, particularly 2024.

REVIEW OF PROGRESS AGAINST OBJECTIVES

5. The Board decided the strategic direction for standards in 2022 as follows:

- Undertake a review of the regulatory model, starting with entity regulation, to ascertain the value to the public interest and plausibility of developing alternative options in order to increase access, and develop value, for a diverse regulated community and consumers.
- Embed a culture of continuous improvement at CRL to develop and enhance an innovative approach to service in legal services regulation. Enable the use of technology to improve legal services delivery and to improve the way we deal with internal processes.
- Develop an enhanced approach to individual supervision to assure ongoing competence of our regulated community, in partnership with other regulators.

6. This section of the report considers progress against these objectives achieved 2022 to 2024.

Objective 1: Undertake a review of the regulatory model, starting with entity regulation.

Introduction:

7. Objective 1 required CRL to review how consumer protections could be retained using alternative, possibly technology-based, solutions that may reduce the costs to firms and create an effective alternative structure for law firm regulation.
8. The objective was set to account for the difficulties in the insurance market relating to access to PII for law firms and the difficulties in establishing a long term compensation arrangements.

Objectives from the strategy implementation plan:

Review regulatory model

9. This objective has been sub-divided into two stages:
 - to undertake research on the possible development of a new model for entity authorisation and supervision.
 - to take forward research into the unregulated market once the LSB and the SRA had completed their research into the operation of unregulated legal services.

Stage 1 - Research

10. The research on use of a Third-Party Managed Account or TPMA and the development of 'Law Firm in a Box' was completed by IRN Spinnaker Research.
11. The practical use of TPMA identified significant issues with the proposal for some CRL regulated firms (primarily for firms who have high volumes of low value transactions and those that receive and issue cheques), and so this was not a viable solution to address compensation arrangements. An application has been made at the LSB's request for approval of the current compensation fees.
12. It has not been possible to progress the Law Firm in a Box proposal presented to the Board at the September 2022 Board meeting until the future of regulatory arrangements for the CRL regulated community has been resolved. That has hampered all discussions with interested parties by CRL and its brokers.

Stage 2 - Review of legal landscape

13. The LSB Board [determined](#) in 2022 that there is not a compelling case to justify pursuing a resource-intensive full statutory review of the reserved legal activities at this time. Although proposed at that time it does not appear that the LSB has engaged with other regulators (such as the Professional Standards Authority) to explore the feasibility of pursuing voluntary arrangements in the unregulated sector.
14. In 2023 the SRA published its research paper '[Understanding the unregulated market](#)'. The key conclusions that they made from the report were as follows:
 - The market is growing but fairly small at 6-8% of the total legal market turnover.
 - Customers are individuals and small businesses.
 - Providers are mainly in will and estate administration work (25%), family work (12%) and employment (11%) work.
 - About half of unregulated providers thought that people do not understand the difference between regulated and unregulated services.
 - 14% unregulated providers said they would become regulated if they had to disclose their regulatory status.
15. CRL commissioned a literature review of unregulated legal providers. This picked up the conclusions of the SRA research paper and the LSB view that a statutory review is not justified. It also reflected the conclusion of the CMA investigation in 2016 and 2020 that a full review was needed of the Legal Services Act 2007 and that there should be a mandatory register of unregulated providers. Professor Mayson's [2020](#) and [2022](#) research papers advocated a move away from the current title-based regulation towards risk-based regulation of all legal practise areas, whether reserved or non-reserved. This research paper raises some interesting points, which need to be considered more widely. CRL has raised with both the LSCP and LSB the possibility of taking this forward, in partnership, initially through discussion at a roundtable event, with sector and other stakeholders.

Objective 2: Use of technology to improve processes (external and internal)

Objectives from the strategy implementation plan

External focus: Attendance at external meetings and collaboration with other frontline regulators.

16. CRL was an observer on the SRA's [unbundling pilot study](#) published in June 2023. Whilst clearly a potentially attractive option for consumers, there are concerns around the impact on firms' insurance premiums and the possibility of legal action if things go wrong even if the provider is not responsible.
17. In April 2024 the LSB published its [statutory guidance](#) on promoting technology and innovation to improve access to legal services. CRL hosted a webinar in July 2024 with an audience of 200 from within the CILEX community. A recording of the webinar is available on-line. The webinar discussed issues around AI and regulation but also provided a demonstration of LexisNexis+ AI. CRL has continued to produce regular articles for the Journal and Newsletter.
18. CRL has had discussions with education providers about the use of AI by students within their course work. Measures are being considered within the education sector

to monitor and control this. Self-validation by students about their use of AI is currently considered the best way forward and course providers will need to determine whether to include training in the use of AI within their curriculum so students have an understanding of the risks and benefits of AI in the work place.

19. With CLC and ICAEW, CRL continues collaboration in a digital exclusion research project led by the BSB. The aim of the research is to provide strong evidence about the people who experience digital exclusion and the types of digital exclusion experienced. It will increase knowledge of initiatives and ways to overcome the difficulties and barriers these people face. Following stakeholder interviews and initial research, adjustments have been made to the script to improve participation rates. The research partner is considering mitigating actions if interview responses rates are lower than initially anticipated.

Internal focus: Utilise technology and innovation within CRL and embed a culture of continuous improvement to aid delivery of best value legal regulation.

20. CRL has invested in licences for Lexis+ AI for the Enforcement Team so the potential of AI in streamlining and improving CRL's internal processes can be considered.

Objective 3: Develop an enhanced approach to individual supervision to assure ongoing competence of our regulated community, in partnership with other regulators.

21. The following activities were identified to be completed within this strategy period:

- a. Understand and develop risk profiles of the regulated community once the practitioner risk matrix is live in CRM,
- b. Develop options to enhance supervision of the regulated community through increased understanding of individual risk profiles, and
- c. Develop rule changes to introduce new supervisory tools.

22. The Risk Matrix project was successfully completed in 2023 and applied to identify non-authorized members potentially conducting litigation and providing immigration advice when not permitted to do so.

23. As explained in [its Response](#) to the LSB's Statement of Policy on ongoing competence the risk matrices:

- reflect the individual's membership status and where they work
- the type of work that the individual carries out
- the types of clients that they carry out work for; and
- their regulatory history.

This assists CRL in considering both ongoing competence requirements and the prioritisation of misconduct complaints.

24. The individual scores remain confidential to CRL and are not provided to CILEX members or other bodies. For 2023/24 CPD Sampling Exercise, CILEX Fellows (Chartered Legal Executives and CILEC Practitioners), Chartered Legal Executive Advocates, ACCA accountants offering probate services and Associate Prosecutors scoring a risk matrix score of 17 and above are being automatically included in the sample.

25. A particular score from the risk matrix does not imply that any individual poses a higher or lower risk. It is purely an assessment of circumstances where an individual may benefit from great supervision.
26. The risk matrix is applied in combination with
- Feedback from consumers
 - Intelligence from the SRA and other legal regulators
 - Monitoring data from
 - Legal Ombudsman
 - The Office of the Immigration Services Commissioner
 - Crown Prosecution Service
 - HMRC.

Activity-Based Regulation (as it operates at CRL):

27. Chartered Legal Executives are rightly proud of their professional title. Since a large percentage of them work in a regulated practice, in Government (both central and local) and in industry, they have not had to consider whether they needed additional accreditation to practise unsupervised. As the number of non-authorized legal practices confirm, it is also possible successfully to deliver legal services without being entitled to carry on a reserved legal activity¹ or immigration services.
28. From 2014 the limitations in not being able to deliver some legal services unsupervised have become increasingly apparent. Effectively, it is now mandatory to make applications and submit documents to Government agencies online (Land Registry, HM Courts and Tribunals Service and probate applications). Identification and validation of the lawyer submitting the application is part of that process with the expectation they are entitled to carry on the relevant reserved legal activity.
29. Applications to CRL for practice rights, notably conveyancing, have increased over the last four years from 30 (0.42% 7,202 Fellows) in May 2020 to 414 (5.42% 7,637 Fellows) in October 2024, at least in part to reflect that expectation.

As at 10 October 2024		
Practice Rights	Number	%
Conveyancing	205	50
Probate	87	21
Civil Litigation	78	19
Criminal Litigation	14	3
Family Litigation	18	4
Immigration	12	3
Total	414	100

30. CILEX has introduced the CILEX Professional Qualification (CPQ) which incorporates the potential as part of the Chartered Legal Executive qualification to obtain practice rights in one or more of the reserved or regulated activities. The first cohort of CPQ qualifiers are now starting to apply for practice rights but it is difficult to predict the timing of applications which is dependent on satisfying the qualifying

¹ S.13 & [schedule 2](#) Legal Services Act 2007

employment requirements. Chartered Legal Executives are able to apply separately for practice rights.

31. In his [2020](#) and [2022](#) research papers Professor Mayson advocated the move away from title based to activity based regulation of legal services. Whilst there may be changes to the way in which legal services are currently regulated, there appears to be no appetite in Government to consider a move to activity based regulation.
32. CILEX remains a key partner in promoting practice rights. It is anticipated that CRL and CILEX will continue encouraging those who are currently qualified and those starting out on a course of study to apply for practice rights.

Principles-based code

Background

33. The Code of Conduct has not been reviewed within the current Strategy period, though it remains a longer term objective.
34. The current priority is the development of guidance to improve the quality and timeliness of investigations. Guidance on applying for interim orders is currently being trialled.

Impact Assessment:

Public/Consumer	
Consumer	Ensuring that CRL continually reviews and updates its standards protects and promotes the interests of consumers.
Public interest	It is in the public interest that regulators continually review and update standards.
Access to Justice	Ensuring the regulated community is able to deliver legal activities to the public promotes access to justice.
Public Legal Education	No direct impact
Other Regulatory Objectives	
Rule of Law	Setting and maintaining high standards supports the rule of law by ensuring the public and consumers are able to access effective legal services
Competition	A commitment to maintaining and enhancing standards for authorisation of individuals and firms is essential for legal entities to achieve competitive advantage
Professional principles	A commitment to high standards helps lawyers to comply with the professional principles, including the requirement to act in the best interests of clients
Other issues	
Environment	No direct impact
Regulated Community	

Cost of Regulation	There is the potential for the new supervision requirements to have a negative impact on the cost of regulation owing to increased requirements for reaccreditation.
Equality and Diversity	CRL's regulated community is more diverse than some other parts of the legal profession and therefore making positive changes to ensure access to authorisation should have a positive impact on equality and diversity. The additional requirements for ongoing competence will require monitoring to ensure there is no adverse impact on EDI.
Us	
Reputation/Brand	Continued commitment to high standards contributes to maintenance of CRL's reputation
Resources:	The proposals are likely to have additional resource requirements, particularly for ongoing competence.
Operations:	CRL is keeping this under review. At present, CRL believes that resourcing through the Operations Directorate may be sufficiently flexible to enable the additional requirements to be completed without additional human resource requirements, although CRL will probably need additional IT support.
Risk:	Failure by the CRL to continue to maintain and enhance standards for all is likely to have a detrimental impact on its reputation
Finance:	Additional resources may require additional financial support, both for IT changes and human resources.
Legal:	No direct impact
IT:	There are likely to be additional demands on CRM development in 2025.