



## Legal Services Board

# CONSULTATION ON PROPOSED REGULATORY PERFORMANCE ASSESSMENT FRAMEWORK

A response by  
CILEx Regulation

13 June 2022

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## **EXECUTIVE SUMMARY**

1. CILEx Regulation Limited (CRL) welcomes the Legal Services Board (LSB) consultation and is supportive of proposals to improve oversight of regulators' performance and improve operational efficiency for both the LSB and those it regulates.
2. As the LSB develops its proposals, we encourage further consideration of the assessment terms (see response to Q7) and favour a move to four rating options.

## **RESPONSE**

**Q1. Do you agree with the stated aims of our proposed performance framework to place the responsibility on regulators and their boards to meet the standards in order to provide assurance that they are well-led and effective in their approach to, and delivery of, regulation for the public?**

CRL agrees with the stated aims of the framework to place responsibility on regulators and their boards to meet the standards in order to provide assurance that they are well-led and effective in their approach to, and delivery of, regulation for the public. As set out in the consultation paper, the revised standards cover most of the same expectations in the existing framework building on current sources of assurance and accountability. We note the proposed framework is intended to assist regulators in discharging their regulatory functions to meet the regulatory objectives and to have regard to the better regulation principles and good regulatory practice

**Q2. Do you agree that the proposed standards are clear in their focus and expectations to provide assurance of effective regulators? If not, what changes would you propose and please explain your reasons.**

CRL agrees that the proposed standards appear to be clear in their focus and expectations.

**Q3. Do you agree that the proposed characteristics which support the standards are reasonable expectations of the skills and processes that an effective regulator will have? If not, what changes would you propose and please explain your reasons.**

Apart from the comments below relating to Characteristics 3 and 7, CRL has no changes to suggest.

3. The independence of legal regulation from the profession and representative groups is fundamental to the current regulatory framework (as set out at s.30 LSA and the IGR). Whilst it accepts that legal regulators should engage constructively with the profession and representative groups, CRL considers this characteristic should be strengthened to acknowledge the importance of independence in ensuring the statutory obligations of the legal regulator (particularly in promoting the regulatory objectives) prevail where they diverge from the interests of the profession and representative groups.

- 7, Looking at the experience of other sectors, CRL suggests this characteristic should be reframed to encourage legal regulators to work proactively with each other, concentrating on learnings from what has been done well.

**Q4. Does the sourcebook provide sufficient information to assist regulators in providing assurance in meeting the standards? If not, how could we better achieve this? Do you have any comments about the examples of evidence and publications noted in the sourcebook?**

Yes, CRL agrees that the sourcebook provides sufficient information on relevant examples of evidence. We welcome the fact that the list is not exhaustive and that regulators will have discretion to provide other supporting information relevant to the different contexts within which legal regulators operate.

**Q5. Do you agree with our proposal to maintain the sourcebook as a living document to ensure it remains current, including taking account of new LSB policies, Rules and guidance? If not, what other approach would you propose?**

CRL supports the aim to ensure that the sourcebook remains current but suggests that set reviews could be a more helpful approach to ensure the most effective use of regulators' resources, especially where new examples of evidence are added. The addition of relevant LSB publications is not considered to be an issue as the regulators will already be aware of these materials.

**Q6. Do you agree with the proposal that we would primarily rely on information used by each regulator's board and its executive to monitor its own performance to provide assurance? What changes, if any, would you suggest?**

Yes, CRL supports the proposal that the LSB will rely primarily on evidence used by each regulator's board and executive to monitor its own performance to provide assurance. CRL also welcomes the plans to discontinue the annual or semi-annual performance management data requests.

**Q7. Do you have any comments on the proposed introduction of narrative assessments and the revised rating system?**

CRL is in favour of narrative assessments using a consistent format and language which will be able to offer a more nuanced assessment of a regulator's performance.

In terms of the revised rating system, a top rating of 'adequate' does not seem to satisfactorily reflect the fact that in this instance there are no concerns about a regulator's performance.

The proposed partial assurance rating is intended to cover both:

- Concerns which should be addressed before the next assessment, and
- Where insufficient information is available to gain adequate assurance.

CRL encourages further consideration of assessment terms, including a move to four rating options eg

- high assurance – where there are no concerns,

- reasonable assurance – one or more concerns requiring action,
- partial assurance – where further information is required by the LSB, and
- inadequate assurance – serious concerns.

**Q8. Do you agree that the regulatory performance assessment process document is sufficiently clear about our proposed approach to performance assessment and how we will use our assessment tools? If not, how could it be clearer?**

Yes, CRL considers that document is reasonably clear.

**Q9. Do you have any comments about our proposal to undertake a hybrid approach to our 2022 annual performance assessments of regulators?**

CRL is content that the LSB adopts a hybrid approach (option c).

**Q10. Do you have any comments about the proposed focus, timing, and process for our assessments under the revised framework from 2023 onwards?**

CRL supports the proposed focus and we welcome the fact that the first assessment will be limited to focusing on one or two standards in order to provide regulators with the time to adjust to the changes. CRL also supports:

- The revised timetable which will allow regulators more time for meaningful consideration of the draft assessments from 2023 onwards.
- The targeted approach to subsequent assessments from 2024 as this makes the best use of regulators resources.

**Q11. Do you have any comments on the proposed framework's impact on equality issues? Are there any wider equality issues and interventions that we should consider?**

No, CRL has no comments on equality issues.

**Q12. Do you have any comments on the potential impact of the proposed framework, including the likely costs and anticipated benefits?**

CRL anticipates that streamlining and avoiding duplication will result in cost savings once the new process has been embedded.

**Q13. Do you have any other comments about the proposed framework?**

No.