



**CONFIDENTIAL MINUTES OF THE STRATEGY SESSION OF
THE BOARD OF DIRECTORS OF CILEx REGULATION LIMITED
HELD ON 9 MAY 2023**

Present:

Jonathan Rees (Chair), Helen Astle, Alice Belcher, Douglas Blackstock and Patricia White

In attendance (CILEx Regulation):

Victoria Purtill, Acting Chief Executive Officer
Robert Morris, Interim Chief Executive Officer
David Pope, Director of Operations
Simon Blandy, Director of Governance
Beccy Snape, Personal Assistant (minutes)

1 Welcome and Apologies

The Chair opened the strategy session. There were no apologies for absence.

2 Declarations of Interests

No other declarations of interests were made in addition to those already included on the register of interests.

3 LSB Investigation: CRL's Draft Consultation

PRIVATE DISCUSSION

4 Ongoing Competence

The Chair introduced the item. He said the new LSB Chair had a keen interest in ongoing competence and the importance of this area as a focus of the LSB.

The Acting CEO advised that the LSB had published its statement of policy on ongoing competence. CRL had reviewed its current supervision activity against the LSB's statement of policy. It had developed and submitted the required action plan to enhance its current arrangements for individual supervision by 31 January 2023 deadline. The action plan had been updated to the end of Q1 2023 with actions completed. All actions had to be completed by the 31 December 2023 deadline.

CRL had received positive feedback at its recent LSB relationship management meeting the previous week, following the LSB's review of submissions at its April Board meeting. There was particular interest in CRL's newly developed risk matrices and the rich data generated on CILEX membership, which as well as being used for ongoing competence, could also be used for a wide range of issues.

The LSB's aim was to increase public trust through increasing the emphasis on supervision though there was no evidence to suggest there was an issue at CRL. This was confirmed by the lack of service complaints data received by the Legal Ombudsman and its reluctance to engage with CRL on how complaints handling could be improved.



The risk-based algorithms had been developed based on existing knowledge in the sector and would evolve over time. After some prompting from CRL, CILEX had developed a CPD module on ethics but that was focused entirely on law firms. There was emerging evidence that in-house lawyers were vulnerable to pressure from their employers not to raise concerns on ethical issues. This was the type of risk which needed to be addressed in any module on ethics.

Summing up, the Chair highlighted CRL's good work on ongoing competence and confirmed that CRL would continue to encourage CILEX to ensure the ethics module took account of those working outside of SRA or CRL regulated firms. The LSB would monitor the progress of the action plan and by the end of the year CRL would put in a rule change application that allowed CRL to fulfill its responsibilities in respect of ongoing competence.

CRL intended to recruit a Head of Education, who would have responsibility for ongoing competence as part of their role.

The Board **NOTED** the update.

5 Board Effectiveness Review

The Chair introduced the item and asked the Director of Governance to present the paper.

The Director of Governance reminded the Board that each member had carried out an evaluation in November 2022 and since then there had been a change in the composition of the Board. Overall, the pattern of year on year improved scoring had continued. Recommendations had been made in relation to the areas with low scores: stakeholder engagement, external communications and Board composition.

In discussion the following points were raised:

- The Board agreed in principle that an External Board Evaluation should be commissioned. Given the current uncertainty as to timing and outcome of the review on the Future of Regulation, the Board agreed to review the proposal again at its meeting in September 2023.
- A stakeholder and regulated community engagement survey should be carried out by Q2 2024, subject to scope, timing and funding.
- There had been some improvement in the way in which the portfolio structure worked and it should therefore remain unchanged.
- The composition of the Board had diversified, with three female NEDs and two with a disability. It was noted that with only five sitting on the Board it was difficult to get full representation of age and ethnicity.

Summing up the Chair confirmed the following actions:

- 26/23: [Board member] to attend the enforcement panel training session.
- 27/23: Director of Operations to review current policy to enable Board members to attend meetings of the professional conduct panel and other panels as observers.

- 28/23: the Board to review the proposal to commission an External Board Evaluation Survey at its meeting in September 2023.

The Board **NOTED** the recommendations and **AGREED** to review them again at its meeting in September 2023.

6 KPI and Assurance

The Chair introduced the item and asked the Acting CEO to present the paper.

The Acting CEO invited the Board to review proposals for Key Performance Indicators (KPIs) that could be used by the Board to provide 'at a glance' assurance of CRL's compliance with the LSB's revised Regulatory Performance Assessment requirements, as well as enabling the Board to identify areas that may require attention and proposals for revisions for future reporting.

In discussion the following points were made:

- The evidence required by the LSB was prescriptive and centered around LSB expectations, rather than the levels of service CRL provided to the regulated community.
- The Board commented on this one-size-fits-all approach to regulation, as this put a disproportionate burden on smaller regulators. This could be communicated to the LSB Chair, though it might be interpreted by the LSB as evidence of lack of capacity and capability.
- The responsibility for completing the work fell more heavily on the Executive Team, rather than other staff.
- KPIs reported to the Board could be reduced, with a threshold for alerting the Board to a potential risk to the organisation if a KPI was not being met.

The Board **AGREED** the proposals to remove suggested KPIs from reporting and monitor at executive level.

At the request of the Chair, the Director of Governance provided a report on preparations for the LSB's Regulatory Performance Review 2023. The Director of Governance advised Board members that the LSB had decided to focus its 2023 assessment on regulators' performance against standards one and two of the new Assessment Framework and updated Board members on progress.

Standard 1: Well-led Regulators are well-led with the resources and capability required to work for the public and to meet the regulatory objectives effectively.

CRL had sufficient evidence to demonstrate competence in this area. In particular, work had been undertaken to comply with the policy on publication of Board papers. CRL was now publishing Board papers and minutes as well as continuing to publish the Chair's blog.

Standard 2: Effective approach to regulation Regulators act on behalf of the public to apply their knowledge to identify opportunities and address risks to meeting the regulatory objectives.



CRL had some evidence for standard two, though decisions needed to be made of the nature and purpose of research to be carried out. A risk management policy needed to be developed (the Board would be asked to consider options at its meeting on 10 May 2023).

Analysis had begun of data for the 2023 EDI Survey. CRL was conscious of the current pressures on its regulated firms and was careful to limit any additional requests for information.

The Chair suggested that the Board could usefully spend more time on the risk register and external risks on a more regular basis to understand the operating environment and how it could impact on CRL.

In summary, the Chair confirmed the Board had received assurance in respect of the work completed to date and planned activities. The Chair highlighted the following actions to ensure the Board continued to receive assurance:

- 29/23: Board to receive regular updates on analysis of 2023 EDI data.
- 30/23: Board to receive regular reports on progress in complying with the LSB Regulatory Performance Framework.
- 31/23: Board to receive a proposal on annual reporting of risk and review of risk appetite.
- 32/23: Acting CEO to circulate the last risk appetite completed in 2018.

Jonathan Rees
Chair of the Board