

<b>Date</b>	<b>10 May 2023</b>
<b>Item</b>	<b>10.0</b>
<b>Title</b>	<b>Legal Technology Review</b>
<b>Author</b>	<b>Simon Blandy, Director of Governance</b>
<b>Purpose</b>	This paper provides the Board with a report on progress to date and proposed activity for 2023
<b>Recommendation</b>	The Board is asked to: <ul style="list-style-type: none"> <li>(a) <b>NOTE</b> progress to date</li> <li>(b) <b>DISCUSS</b> and <b>APPROVE</b> the proposed activities for 2023</li> <li>(c) <b>APPROVE</b> the provisional contribution to a research project to be commissioned by Legal Regulators Forum (paragraph 22).</li> </ul>
<b>Timing</b>	This Report details activity for 2023
<b>Impact assessment</b>	The actions to be agreed by the Board will provide assurance to the LSB, consumers, regulated members and other stakeholders that CRL is committed to the promotion of innovation and technology with appropriate mitigation
<b>Impact on Regulatory Objectives</b>	The assurance provided by this report has a positive impact on the following regulatory objectives: <ul style="list-style-type: none"> <li>- Access to Justice</li> <li>- Public interest</li> <li>- Consumer interest</li> <li>- Independent, strong, diverse profession</li> <li>- Competition</li> <li>- Rule of Law</li> </ul>
<b>Implications for resources</b>	The Board is asked to approve a provisional allocation £15,000 from Reserves as CRL's contribution to research to be commissioned by the Legal Regulators Research Forum
<b>Impact on consumer empowerment</b>	The actions set out in this paper promote to consumer empowerment
<b>Impact on ongoing competence</b>	N/A
<b>Publication status</b>	For publication
<b>Appendices</b>	No Appendices

### Introduction

1. This paper provides the Board with a review of progress on the technology and innovation strategic objective.
2. The paper is divided into three parts:
  - Part 1 reviews progress to date
  - Part 2 introduces the LSB's Emerging Technology and Innovation Policy and outlines other recent developments
  - Part 3 sets out the proposed activity for CRL for technology and innovation in 2023

### **Recommendation**

3. The Board is asked to:
  - (a) **NOTE** progress to date
  - (b) **DISCUSS** and **APPROVE** the proposed activities for 2023
  - (c) **APPROVE** the provisional contribution of up to £15,000 to research project to be commissioned by Legal Regulators Forum (paragraph 22).

### **Background**

4. CRL has committed in the [Strategic Objective 2022-24](#) to:

Contribute to the development of new technologies and other innovations which can transform delivery of legal services to the consumer and enhance our understanding of the impact technology may have on the consumer.

### **Part One: Review of progress to date**

5. In recognition of the key role technology and innovation<sup>1</sup> have to the promotion of the regulatory objectives (in particular access to justice, public interest, consumer and competition), each stage of the CPQ syllabus<sup>2</sup> includes requirements for the legal professional to appreciate
  - the potential impact of the growth in technology for the legal sector and in specific areas of practice, such as dispute resolution and conveyancing
  - how legal technology can improve processes for customers and organisations
  - the challenges and benefits of technological advancements.
6. CRL's online register of authorised persons includes information about disciplinary records. CRL's entity register is accessible from the CRL website. CRL has responded positively to enquiries from companies developing digital comparison tools (DCT) for the legal services market providing data from its registers at no charge.
7. The [Transparency Rules](#) which came into force in 2019 for CRL entities and have applied to CILEX-ACCA Probate firms from January 2022 require firms to state that they are regulated by CRL and to provide on their websites (or if they have no website, make available on request) information about their regulatory status, services they provide, costs and complaints handling. They also require firms to display a smart badge confirming the firm's website has been verified.
8. In September 2020 CRL convened a design sprint, in collaboration with NextGen Professional Services (established under the Government's Industrial Strategy Challenge Fund (ISCF) to find out how AI technologies could improve the conveyancing process. Following on from that event a bid for a £60,000 grant was submitted in July 2021 to the Regulators' Pioneer Fund in collaboration with the SRA,

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<sup>1</sup> In this context innovation is a broader concept than technology and can encompass developments in the delivery of legal services beyond those that can be enhanced by technology. See also UK definition of innovation in [UK Innovation Survey Report 2021](#)

<sup>2</sup> Derived from CRL's education standards through both knowledge and competence [Annex-9-General-pathway.pdf \(cilexregulation.org.uk\)](#)

the CLC and the Open Data Institute. The proposal was ‘to assess the availability of and gain better access to data held by law firms that could support the development of innovative products in the conveyancing sector’. The bid was unsuccessful. The assessors felt the proposal would have been strengthened with further evidence of the demand for regulatory change, particularly from business, and additional information on the difference public funding would make to the project.

9. CRL has reviewed the feedback on complaints handling provided to other regulators in the LSB’s Regulatory Performance Assessments. The [consumer page](#) of the CRL website has recently been refreshed to incorporate examples of good practice identified in the review. This has made it easier for consumers to access information about those we regulate, and to understand how to obtain legal advice and raise issues of concern if things go wrong.
10. The [Technology and Innovation page](#) on the CRL website includes a link to its [Waiver Policy](#) and provides an overview of the initiatives with which CRL has engaged, including LawTechUK,
11. CRL has participated in initiatives led by [LawTechUK](#) which was funded through [TechNation](#) from 2019 until 31 March 2022 (when TechNation closed). LawTechUK established the [UK Jurisdiction Taskforce](#) (UKJT), an industry-led initiative, tasked with promoting the use of English law and UK jurisdiction for technology and digital innovation. The Taskforce’s projects included smarter contracts, digital securities and crypto assets, which while clearly contributing to the sustainability and growth of legal services in the UK have been of marginal benefit to the regulated community and less so to consumers.
12. CRL continues as a member of LawTechUK’s [Regulatory Response Unit](#) (RRU), a forum aimed at driving the confident adoption of technology in the legal sector. CRL has responded promptly to referrals received through [LawTechUK Sandbox](#), but to date none has gone beyond the initial enquiry stage. CRL’s [Waiver Policy](#) provides a framework to respond constructively and flexibly to applications for regulatory waivers.
13. CRL is a member of a series of working groups supporting long term projects which will have substantial impact on consumers and the legal profession: [Land Registry digital transformation](#) and [DCMS Digital Identity](#). It has recently been [reported](#) that a working group has been unable to agree how, or whether, e-signature platforms should be regulated.

## **Part Two: LSB’s Emerging Technology and Innovation Policy and Other Recent Developments**

### **A. LSB’s Emerging Technology and Innovation Policy**

14. In its report [Striking the Balance](#) the LSB commented disparagingly  

The approach of the legal services sector to technology and innovation to date has largely been one of ‘wait and see’.
15. It favoured an interventionist approach

By proactively embracing the opportunities that technology offers and managing its risks, regulators can help unlock access to legal services for the public and enhance the ability of legal professionals to deliver services.

16. A [paper](#) to the LSB Board in January 2023 stated that its technology and Innovation survey was due to be published 'soon' [to date it has not been published]. It highlighted that one of the impacts of the COVID-19 pandemic was to increase the legal profession's rate of adoption of 'technologies for access', for example custom-built applications, live chat functions and videoconferencing. Surveys it had carried out confirmed there was more scope for technology for access to address the level of unmet legal need. The paper (which was [accepted by the Board](#)) proposed that the LSB should develop statutory guidance including good practice examples to 'make clear the importance of, and support regulators to make, further progress in this area with appropriate ambition and pace'. This will be incorporated into the Regulatory Performance Framework [Sourcebook](#) against Characteristic 13, 'Actively encourages innovation and innovators in the interests of improving access to services; identifies and mitigates risks appropriately without allowing them to become obstacles' (see further paragraphs 23 to 24 below). The LSB Board agreed that new draft guidance should be developed for consideration by the Board in mid-2023, with the intent that this be followed by a public consultation.

#### B. Other Recent Developments

17. With effect from 1 April 2023 LawTechUK is under the management of CodeBase and Legal Geek with [government funding of £3 million](#) 'to turbocharge the development and use of technology in the legal sector'. CRL will attend the re-launch event for LawTechUK on 18 May 2023.
18. The Government released a [White Paper](#) on 29 March 2023 advocating a pro-innovation approach to AI. The current proposal is that there should be a duty on regulators to have regard to 5 principles:

to guide and inform the responsible development and use of AI in all sectors of the economy:

- Safety, security and robustness
- Appropriate transparency and explainability
- Fairness
- Accountability and governance
- Contestability and redress

...A duty requiring regulators to have regard to the principles should allow regulators the flexibility to exercise judgement when applying the principles in particular contexts, while also strengthening their mandate to implement them.

19. ChatGPT was launched in March 2023 with remarkable capabilities potentially making large swathes of the workforce, including lawyers, redundant. ChatGPT (and other Large Language Machines – LLMs) come with significant risks. They are notorious for "hallucinating" – generating completely false answers, often supported by fictitious citations and, according to [Stuart Russell](#)<sup>3</sup>, no-one really has any idea how they work.

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<sup>3</sup> professor of computer science at the University of California, Berkeley

He argues [with other academics](#) that in line with the [OECD's AI principles](#) 'no such system should be released until the developer can show convincingly it does not present an undue risk'.

20. [Research by the Community for Justice](#) highlights the continuing financial pressures on the not for profit legal sector.

### Part Three: Proposed activity for CRL

#### A. Research Proposal

21. A proposal has been put to the Legal Regulators Research Forum for legal regulators to collaborate on a research project. Members of the Forum have been asked to express views on the research projects set out below, though other projects may be suggested. The intent is for the Forum to select a research project by the end of May 2023 with a view to issuing an invitation to tender by the end of June 2023.

	<b>Project Name</b>	<b>Description</b>
A	Digital Exclusion	Consumer research looking at experiences of digitally excluded consumers and impact of digital exclusion on delivery of legal services
B	Contextualisation and Standardisation	Consumer research testing effective contextualisation of transparency information about legal prices and services
C	Technology and Innovation – Consumer Impact	Consumer research looking at the impact of Lawtech and / or Legaltech on legal consumers

22. Collaboration on a research project has the potential for CRL to understand how risk can be managed so it can most effectively influence innovation and innovators to improve access to services subject to appropriate mitigation for the benefit of consumers. CRL has responded indicating a preference to collaborate with Projects A or C. Whilst at this stage no indicative total cost has been suggested, it is proposed that CRL should be willing to make a contribution to be funded from Reserves. This would be in addition to CRL's research budget for the current year which has been allocated<sup>4</sup>.

<sup>4</sup> Research Activities in Strategy Implementation Plan 2023

2. research to explore the legal services landscape to understand the regulatory market from the perspectives of the regulated community and consumers
3. Research with regulated community to identify limitations of regulation by specialism v generalist authorisation
18. Research to identify and work to resolve barriers faced by regulated community and consumers from diverse backgrounds to improve access to legal services

B. Progress against LSB Expectations

23. The [LSB's Sourcebook](#) for its Regulatory performance assessment framework sets out evidence it expects regulators to provide (see below together with CRL Evidence against each of the LSB's examples of evidence):

	<b>Characteristic</b>	<b>Evidence</b>	<b>CRL Evidence</b>
13	Actively encourages innovation and innovators in the interests of improving access to services; identifies and mitigates risks appropriately without allowing them to become obstacles.	Regulator has own innovation policy	CRL has an innovation strategic objective (see paragraph 4 above) and <a href="#">Waiver Policy</a> , and will develop a risk mitigation policy
		Regulator demonstrates in-house innovation and technology capability or shows it has access to such capability	<ul style="list-style-type: none"> <li>• Led by DoG</li> <li>• Research and Performance Analyst in post</li> <li>• Legal Tech post (combined with practitioner and entity policy) currently vacant</li> <li>• Membership of LawTechUK Regulatory Response Unit (RRU) (see paragraph 12 above)</li> </ul>
		Horizon scanning	Through engagement with LawTechUK and regular scanning activities of legal and general press
		Engagement with stakeholders, including innovators, about benefits and risks of innovation	<ul style="list-style-type: none"> <li>• Engagement through LawTechUK (pending re-launch on 18 May 2023).</li> <li>• Member of Land Registry Advisory Council</li> <li>• Attendee at DCMS Digital Identity working groups</li> </ul>
		Changes to regulatory activities as a result of engagement	To date no changes have been made
		Use of waivers and exemptions to facilitate innovation	<a href="#">CRL Waiver Policy</a>

24. The paper to the LSB Board (see paragraph 16 above) identified three key outcomes with examples of assurance in relation to each outcome set out below (together with CRL Evidence against each of the LSB's examples of assurance):

Outcome 1 Regulators should be proactive in removing barriers to entry and competition to ensure the sector is open to technology and innovation.

	<b>Example of Assurance</b>	<b>CRL Evidence</b>
1(a)	evidence of regulator driven pilot schemes for technologies/services or innovative approaches to service delivery;	Potential for Technology and Innovation – Consumer Impact Research Project (see

		paragraphs 21-22 above) to provide assurance
1(b)	sharing data and providing open access to it, where appropriate;	CRL has responded constructively to requests to share data and has entered a data sharing agreement with a DCT provider
1(c)	regulator development/participation in regulatory sandboxes to actively encourage collaboration with providers on new services.	Participated in LawTechUK Sandbox (see paragraph 12 above)

Outcome 2 Regulators should have a consumer-centric approach to technology and innovation and understand, and work to address, barriers that consumers face in accessing service innovations and technology.

	<b>Example of Assurance</b>	<b>CRL Evidence</b>
2(a)	evidence of direct engagement between regulators and consumers with consumer testing/pilots of new products or services with a pro-active approach to obtaining and acting on consumer feedback;	Potential for Technology and Innovation – Consumer Impact Research Project (see paragraphs 21-22 above) to provide assurance
2(b)	the use of technological solutions to improve consumer empowerment by providing consumers with information about choice, price, quality and routes for redress.	CRL Transparency Rules have been in force since 2019. CRL is due to complete an evaluation by Q3 2023.

Outcome 3 Regulators should understand the opportunities and risks relating to the use of technology and respond to risks in a manner that does not have a dampening effect.

	<b>Example of Assurance</b>	<b>CRL Evidence</b>
3(a)	evidence of regulator collaboration with developers and innovators on risk assessments for new and existing products;	Participated in LawTechUK RRU (see paragraph 12 above)
(b)	development and adoption of regulator risk mitigation strategies for technology.	CRL to carry out a review of risks and mitigations for technology and innovation prior to drafting a regulator risk mitigation strategy for technology and innovation

25. The Board is asked to:

- (a) **NOTE** progress to date
- (b) **DISCUSS** and **APPROVE** the proposed activities for 2023
- (c) **APPROVE** the provisional contribution to a research project to be commissioned by Legal Regulators Forum (paragraph 22).



**Impact Assessment:**

<b>Public/Consumer</b>	
Consumer	Increased commitment of CRL entities and members to innovation and technology with appropriate mitigation improves access to services for consumers in all their diversity
Public interest	It is in the public interest that regulators and those they regulate are committed to innovation and technology
Access to Justice	Commitment to innovation and technology is an important element in improving Access to Justice
Public Legal Education	Confidence that legal providers are committed to innovation and technology with appropriate mitigation increases consumers' confidence in seeking advice when they have a legal need
<b>Other Regulatory Objectives</b>	
Rule of Law	A commitment to innovation and technology with appropriate mitigation supports the rule of law by ensuring the public and consumers are able to access legal services
Competition	A commitment to innovation and technology with appropriate mitigation is important for legal entities to achieve competitive advantage
Professional principles	A commitment to innovation and technology with appropriate mitigation helps lawyers to comply with the professional principles, including the requirement to act in the best interests of clients
<b>Other issues</b>	
Environment	No direct impact
<b>Regulated Community</b>	
Cost of Regulation	This is unlikely to impact on the cost of regulation since the proposal is to fund CRL's contribution towards the research proposed from Reserves. There may be a longer term cost impact in ensuring CRL as a regulator is able to manage issues and challenges associated to technology and innovation as they arise.
Equality and Diversity	Commitment to innovation and technology with appropriate mitigation has no direct impact on equality and diversity. The use of historic data to inform work on technology and innovation needs to take account of the possibility for bias to be present in the data.
<b>Us</b>	
Reputation/Brand	Continued commitment to innovation and technology with appropriate mitigation contributes to maintenance and enhancement of CRL's reputation
Resources:	Aside from proposal for CRL's contribution of up to £15,000 to the costs of research from Reserves, it is not anticipated that there will be any further resource requirements
Operations:	No additional resourcing from operations is anticipated for the planned activity.
Risk:	Failure by the CRL to promote innovation and technology with appropriate mitigation is likely to have a detrimental impact on its reputation





Finance:	It is proposed that CRL's contribution of up to £15,000 to the costs of research from Reserves
Legal:	No direct impact
IT:	No direct impact