

**Minutes of the fourth meeting of the
Alternative Business Structures (ABS) Implementation Group**

Held on Thursday 29th October 2009 from 11:00 to 12:05

Legal Services Board, Victoria House, Southampton Row, London, WC1B 4AD

Attendees

Simon Blandy	Council for Licensed Conveyancers	(“CLC”)
Sarah Wilson	Solicitors Regulation Authority	(“SRA”)
Elizabeth Gibby	Ministry of Justice	(“MoJ”)
Fran Gillon	Legal Services Board	(“LSB”)
Chris Baas	Legal Services Board	
James Hutchinson	Legal Services Board	
Chris Kenny	Legal Services Board	(“Chair”)
Clare Vicary	Bar Standards Board	(“BSB”)
Charlotte Barbour	Institute of Chartered Accountants of Scotland	(“ICAS”)
Mike Knight	Intellectual Property Regulation Board	(“IPREG”)
Ian Watson	ILEX Professional Standards	(“ILPS”)
Gemma Burnett	ILEX Professional Standards	(“ILPS”)
Dianne Hayter	Chair of Legal Services Consumer Panel	(“CP”)

Apologies

Peter Beesley Master of the Faculties

Regulatory representatives of the Association of Chartered Certified Accountants (“ACCA”), Association of Law Costs Draftsmen and Master of the Faculties were unable to attend.

Background

This was the fourth meeting of the ABS Implementation Group.

Agenda

A. Minutes

B. Matters arising

C. Update on progress towards ABS implementation

D. Update and discussion following Legal Services Board meeting 28/10/09

E. Update on publication, ABS Open Forum and next steps

F. Any Other Business

A. Consideration of minutes from previous meeting and matters arising from those minutes

1. The minutes from the previous meeting were considered. With the note for clarification from ICAS that the report on page 4 that they had been in discussions with the Law Society should be amended to indicate that the discussions had been with the Law Society of Scotland.
2. The minutes were then approved without further amendment.

B. Update on progress towards ABS implementation

3. The SRA reported that the responses to their consultation paper have been considered and a feedback report was prepared for their October Board Meeting. A summary of response will be published shortly. Field Fisher Waterhouse have been appointed and are undertaking detailed analysis on the changes needed for ABS and principle based regulation.
4. The BSB reported that they had received over 120 responses to their paper on self-employed practice – the largest number of consultation responses ever received. On 19 November the board will be meeting and will be making a number of key decisions including allowing barristers to be managers in LDPs and allowing barrister only partnerships. The Board will also be discussing LDPs as a staged transition to ABS. The BSB reported that the Europe Economics report that they had commissioned had been received, but they had asked for more work to be done. BSB stated that a summary was being prepared of the report and that this may be made public in the future. As such it was discussed changing the date for the next ABS implementation group meeting

Action point 1: LSB to rearrange the next meeting of the ABS implementation group for after the BSB's meeting.

5. IPREG reported that ABS was not at the forefront of the mind of the regulators. The focus was on setting up the independent regulation. However, there was an increasing sense of pressure from some in the intellectual property area to understand more about ABS. In either the January or March meeting a paper will be presented that will outline the steps leading to make a decision about becoming a LA. There are concerns and uncertainty about the bureaucracy and cost involved. When asked about whether the rules would require adaptation to allow practitioners to work in ABS, IPREG responded that there was nothing that they were aware of and nothing that could not easily be changed.
6. The CLC reported that they have been carrying on their thinking and are likely to issue consultation papers in early February about becoming a LA and extending the range of reserved legal activities to include advocacy and litigation. It was seen that these two decisions should be taken together. A new council will be appointed in early May and the decisions will be made by the new council.

7. ILPS reported that they were focussing on litigation and probate rights and that a sub group of their board had been formed to consider ABS and entity regulation.
8. ICAS noted that the Scottish bill has been delivered to Hollyrood and noted that it did not propose the creation of a separate board. The Bill is at committee stage and there has been a call for evidence. The Bill allows for different licences and it is envisioned that there may be up to 6 candidates to become licence providers. ICAS also noted that they were canvassing for potential interest from their regulated entities although this was proving difficult as many were “keeping their cards close to their chests”.

C. Update and discussion following Legal Services Board meeting 28/10/09

9. The LSB informed the group that an ABS paper had gone to the Legal Services Board on 28 October. The Board had had a full discussion and were happy with the proposals. Publication authority had been delegated.
10. The LSB then circulated a draft list of proposed outcomes for the group on a confidential basis. It was noted that this would form the basis for the document.

D. Update on publication, ABS Open Forum and next steps

11. The LSB outlined the process prior to publication of the ABS consultation document. This includes providing ARs 48 hours to provide clarification on issues of fact and substance, not policy. The SRA asked that more than 48 hours be provided. The LSB responded that the period between finalisation of the paper and publication was being kept to a minimum and where ARs had issues of policy these would be best addressed through a consultation response.
12. The LSB also referred to the two other consultation documents, the approval of a new LA and the cancellation of designation. It noted that these would be released later than planned as to line up with the LSB’s issuing of the final decisions on authorisation of new approved regulators. CP asked if the cancellation paper included provisions for voluntary cancellation.
13. The LSB noted that they would like to use the ABS implementation group as a vehicle for engagement during the consultation period.
14. The LSB noted that it was about to hold the first ABS open forum in Manchester on 3 November 2009. It noted that more than 100 people had been registered to attend and thanked those who had provided contacts. As this is the first forum of this format the LSB asked if ABS implementation group members could provide feedback from them and their members to inform the design, marketing and format of future events.
15. The LSB offered to meet with any of the Boards or regulated legal service providers of any of the Implementation group members as part of the consultation

period. IPREG suggested that they were interested in such an event and suggested that they would convene a meeting in January.

16. The CP noted that it was difficult to get potential future users of ABS services to provide their views as it was difficult to imagine how different things could be. The development of polyclinics was cited as an example, however, with the proviso that they were easier to show to potential users. The consumer panel also noted that they were interested in those who don't go to see lawyers.

17. The SRA asked for an updated project plan for the ABS project

Action point 2: LSB to circulate an updated project plan

G. Any other business

18. The LSB asked what would be useful on to have on their website. MoJ suggested that summaries of consultation responses were needed to be provided.

19. The LSB reported to the group that Peter Bucks had been appointed as its external advisor and would be looking at a number of ABS related issues.

20. The group agreed that a log of action points should be developed and circulated for the group

Action point 3: LSB to develop a log of action points.

There being no further business, the meeting came to a close.