

Minutes of the first meeting of the “Alternative Business Structures (ABS) Implementation Group” held on Thursday, 16th July 2009 from 10:10 to 11:35 at the Legal Services Board, Victoria House, Southampton Row, London, WC1B 4AD

Attendees

Simon Blandy:	Council for Licensed Conveyancers	(“CLC”)
Alison Crawley:	Solicitors’ Regulation Authority	(“SRA”)
Geraint Davies:	Ministry of Justice	(“MoJ”)
Fran Gillon:	Legal Services Board	(“LSB”)
James Hutchinson:	Legal Services Board	
Chris Kenny:	Legal Services Board	(“Chair”)
Mike Knight:	Intellectual Property Regulation Board	(“IPREG”)
Mandie Lavin:	Bar Standards Board	(“BSB”)
Ian Watson:	Institute of Legal Executives	(“ILEX”)

Regulatory representatives of the Association of Law Costs Draftsmen and Master of the Faculties were unable to attend.

Background

This was the first meeting of the ABS Implementation Group. On 29 May 2009, the LSB invited views on the proposed structure and terms of reference for an ABS Implementation Group and Open Forum. The LSB will also invite the Chair designate of the Consumer Panel now that her appointment has been confirmed. In due course, the LSB will also invite an external independent advisor with a capital markets and regulatory background to the ABS Implementation Group.

Agenda

A. Introductions

B. Agree Terms of Reference:

- a) To monitor/review progress of all Approved Regulators (ARs) that are likely to want to become a Licensing Authority and the LSB against proposed timescales for implementation.
- b) To suggest improvements and identify possible impediments to the efficient operation of an ABS regime.
- c) To suggest to ARs and the LSB ways to resolve difficulties in meeting timescales.
- d) To report on market developments relevant to ABS.

- e) To keep the ABS Forum informed and to consider suggestions from it.
- f) To develop success criteria, or identify benchmark research, aimed at ensuring ABS meets consumer needs.
- g) To discuss any other issues the Chair considers appropriate.

C. LSB/MoJ: Timetable and key milestones

D. Specific new work-streams for LSB lead: e.g. HoLP/HoFA competencies, fit and proper test for external owners, access to justice provisions, compensation and indemnification, appellate bodies, special bodies

- a) What else needs to be included?
- b) How should this be taken forward – e.g. working groups?

E. Open Forum – outline plans for Autumn event

F. Next dates for Implementation Group: August – December 2009

G. Items arising out of business

A. Introductions

1. The Chair opened proceedings by stating the three guiding principles of the meetings: that momentum should be maintained, that any timetabling issues should be identified sooner rather than later, and that this ABS Implementation Group should be a collaborative and shared endeavour. The Chair also noted that the ABS Implementation Group cannot duplicate the LSB's Board: he noted that the Group was intended as a practical forum of regulators.
2. It was resolved that the minutes should be published and that, unless otherwise stated, documents provided to the meeting are non-confidential, although, if circulated further, their status as "work in progress" rather than a definitive statement of the Board's position should be made clear.
3. The SRA summarised their current position: at the moment, they are regulating LDPs and will therefore have to be ready to license ABSs when the legislation switches on. They have carried out high-level consultations on their project planning and are in the process of resourcing additional skills. They are also engaging an external law firm for help in drafting.

4. IPREG summarised their position: Institute of Trade Mark Attorneys (“**ITMA**”) and the Chartered Institute of Patent Attorneys (“**CIPA**”) are ‘at the starting block’. No significant planning has been put into ABSs although there are a few potential ABSs in the sector. IPREG will seek to engage with ITMA and CIPA on these issues.
5. ILEX summarised their position: their first concern, and the first step for them, is extending the rights of their lawyers. ILEX is committed to becoming a licensing authority by 2012 and the next LSB consultation will be important for them: an earlier date is not realistic for them.
6. The CLC summarised their position: they are currently considering whether they should extend their reserved legal activities to include advocacy and litigation. Any application to apply as a licensing authority would be joined to such an extension of rights. The decision is due to be taken shortly. They are very much waiting for the next round of guidance to be issued on what the ABS framework will look like.
7. The BSB summarised their position: the BSB have issued two consultation papers on LDPs and are currently taking legal advice to ensure that decisions can be made in October. Draft responses to the LSB’s and SRA’s ABS-related consultations are to be considered at its next meeting.

B. Terms of Reference

8. The proposed terms of reference were then considered.
9. The Chair noted that since the agenda had been circulated to the members of the forum, the terms of reference had been amended and paragraph ‘f’ (“To develop success criteria, or identify benchmark research, aimed at ensuring ABS meets consumer needs”) was added. The Chair also noted that paragraphs ‘b’ and ‘g’ gave the forum scope to commission shared items of work on individual issues.
10. The BSB noted that the terms of reference could be recast to convey a more ‘positive’ tone which emphasises pragmatic solutions and collaborative working.
11. The SRA suggested making the work-streams suggested at item ‘D’ of the agenda an explicit remit within paragraph ‘a’ (“To monitor/review progress of all Approved Regulators (ARs) that are likely to want to become a Licensing Authority and the LSB against proposed timescales for implementation”) of the terms of reference.

C. Timetable

12. The LSB and MoJ gave a presentation on 'key dates' in the ABS timetable. Particular attention was drawn to commencement dates, dates of consultations and the point at which the LSB would have to consider whether to directly license (the 'direct licensing tipping point').
13. The slides of that presentation are appended to these minutes.

Action points:

The LSB resolved to amend the terms of reference in light of the comments above (see *Appendix 1*)

The LSB resolved to share the MoJ/LSB/OLC joint commencement plan, subject to the agreement of the other owners of that document.

D. LSB Policy Lead Areas

14. The Chair noted that the aim of this item was to identify areas in which the LSB should take the lead on policy development. No new work areas were suggested other than those itemised on the agenda.
15. The LSB noted that Fran Gillon would be the key contact point for the ABS work-stream, and that two new recruits would be joining the LSB who would be able to assist in this policy development. The work-streams would seek to involve Implementation Group members or their nominees, perhaps through individual working groups where appropriate.
16. MoJ then queried whether any of the members of the Group would be willing to license special bodies and the SRA indicated that they would be willing to do so.

Action point:

The LSB resolved to share a contact list for those people taking the lead on the working groups identified in the agenda as soon as possible.

E. Open Forum

17. The LSB noted that on a quarterly basis, it would be going out to various parts of the country. The first open forum will be held in September or October. Craig Jones, the LSB's Media and Public Affairs Manager, will be in charge of organising the events and the LSB's overall communications strategy; in

particular he will be examining how to encourage good attendance at the meetings and what people and consumer groups to target. One of the Open Forum events will almost certainly be held in Manchester. The idea is that people interested in ABSs will be able to express their views and any issues they may have; it should provide a valuable 'on-the-ground' perspective.

18. The BSB offered to provide their 'specialist bar networks' to help communicate the event to barristers. It was noted that Mandie Lavin would be the appropriate point of contact for the LSB on this issue.

F. Next dates for Implementation Group (August – December 2009)

19. The Chair proposed monthly meetings and suggested meeting in the latter half of August (w/c 17th August).

Action point:

The LSB will circulate a precise date for the next meeting and arrange meetings to the end of the year.

G. Items arising out of business

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

Appendix 1

Amended Terms of Reference

- a) To monitor and assess the progress of the LSB and all Approved Regulators (ARs) that are likely to want to become a Licensing Authority, against the proposed timescales for implementation.
- b) To identify possible challenges to the efficient operation of an ABS regime and to identify appropriate solutions.
- c) To work out ways to resolve potential difficulties in meeting timescales.
- d) To report on market developments relevant to ABS.
- e) To keep the ABS Forum informed and to consider suggestions from it.
- f) To develop success criteria, or identify benchmark research, aimed at ensuring ABS meets consumer needs.
- g) To discuss any other issues the Chair considers appropriate.