

To:	Legal Services Board	
Date of Meeting:	25 March 2015	Item: Paper (15) 13

Title:	Chief Executive's update – March 2015	
Workstream(s):	All	
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Status:	Official	

Summary:
<p>The paper updates Board Members on:</p> <ol style="list-style-type: none"> 1. People and governance issues 2. Key projects and workstreams 3. External policy developments 4. Communication and stakeholder activities

Recommendation(s):
The Board is invited <u>to note</u> this report.

Risks and mitigations
Financial: N/A.
Legal: N/A.
Reputational: N/A.
Resource: N/A.

Consultation	Yes	No	Who / why?
Board Members:		✓	Routine report
Consumer Panel:		✓	Routine report
Others:	N/A.		

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
9, last sentence; 11, last two sentences of	Section 36(2)(b)(ii): information likely to inhibit the free and frank exchange of views for the purposes of deliberation by the Board	

first bullet point		
16	Section 42: information subject to legal professional privilege	

LEGAL SERVICES BOARD

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CHIEF EXECUTIVE'S UPDATE – MARCH 2015

1. This is my first report since my arrival in February 2015. I want to use this opportunity to thank all colleagues, including Board members, who have contributed towards my induction.

A. PEOPLE AND GOVERNANCE ISSUES

Recruitment

2. Recruitment has continued to be a major activity for the team. Since the January Board meeting we have made two appointments: Antonet Abbink as Corporate Affairs Associate (started 4 March); and Stephanie Chapman as Consumer Panel Associate (starts 20 April). Antonet brings European policy experience as well as time in an Embassy. Stephanie joins us from the Financial Ombudsman Service.
3. We have also made offers to new Regulatory Project Managers and I will be able to update the Board on these at the meeting. Recruitment is also underway for a Consumer Panel Manager.
4. We continue to be impressed with the high-quality of candidates applying for roles with the LSB. Although we are in transition following the recent departures of some experienced colleagues, we expect to be close to our full complement by mid-June.

Board appointments

5. We are delighted to welcome Helen Phillips to the Board as a new member (lay). At the time of drafting, a decision is still awaited from Ministers on appointment of a new non-lay member following interviews earlier this year. Additionally, a competition will commence shortly for the remaining lay member vacancy. All LSB appointments are managed by the Ministry of Justice's Public Appointments Team. Julie Myers will update the Board if there are any developments.

Office for Legal Complaints

6. Matters relating to OLC Board appointments have been dealt with by the Board outside of this meeting. Matters relating to risk, budget and business plan are elsewhere on this agenda.
7. Terry Babbs, Julie Myers and Jenny Hart met Stella Manzie (OLC Member) and Paul Partridge (LeO Head of Finance) on 12 February for a routine quarterly performance review. In the course of meeting, OLC advised that they would be considering shortly proposals for the future shape of the organisation. It was expected that this would include more resource for data analysis and insight. Work to review the performance framework was also underway and would be shared and discussed with LSB in due course. In addition, proposals for changes to the Scheme Rules would also be discussed by the OLC, before public consultation and discussion with LSB.
8. In terms of OLC performance:
 - Resolution Centre – targets had not been met as a consequence of levels of unallocated work and high levels of Ombudsman work in progress. OLC reported that these issues were being addressed with major reductions in unallocated cases. Ombudsman work progress remained a concern and OLC confirmed that the Board were actively pursuing improvements in this area, some of which related to the historic management structure.
 - Investigator efficiency – figures here were improving, which was positive to note.
 - Customer satisfaction – OLC reported that problems relating to the research methodology had meant that the results were non-comparable with previous data. Irrespective of this, OLC confirmed that they were not content with the figures as reported.
9. In all of the above discussions, LSB pushed the OLC on why there continued to be a lack of robust analysis into the root causes for changes, whether positive or negative. [REDACTED]
[REDACTED]
[REDACTED]

MoJ sponsorship matters

10. I met with MoJ sponsor officials on 27 February to discuss the LSB's quarterly performance report. I am advised that this meeting was a revised format to those held previously, with a formal agenda and MoJ finance officials present. We are told that this is to ensure a more standardised approach to these meetings across

the Ministry. Discussion was constructive on policy matters, and officials were keen to discuss the work we are doing with the regulators in particular.

11. Two key points to note from this meeting related to the OLC and finance.

- OLC. It is clear that matters relating to the OLC and their 2013/14 accounts qualification continue to concern the Ministry. The Permanent Secretary remains the Accounting Officer and discussion between the two bodies continues on regularising some items found novel and contentious.

[REDACTED]

- Finance. The Board will recall discussions with my predecessor on MoJ proposals to impose 'Financial Transaction Limits' (FTLs) on LSB. This is a matter on which we have had lengthy discussion over the past months and to date it remains unresolved. I have asked MoJ officials to meet on 1 April to work through the rationale for our objections and the options available to both side to meet our mutual needs.

12. Relations with the MoJ remain positive throughout all of these issues and we engage with them on a range of more routine matters. Examples include: development of a shared assessment of our risk to MoJ (to decide if we remain a Level 1 body for sponsorships purposes ie the lowest category of risk); and briefing their information assurance (IA) team on our approach to IA.

B. KEY PROJECTS AND WORKSTREAMS

SRA performance

13. The ABS authorisation data provided by the SRA on 13 February 2015 showed that:

- The SRA has granted 372 ABS licences
- It takes on average just over six months from the submission of an application for a firm to be granted an ABS licence
- Of the applications submitted since January 2014 which have been granted a licence (74 licences with published times) the average time taken is just over three and a half months (for applications submitted before then it was nearly seven months)

- The SRA has reduced its work in progress from 142 applications in January 2013 to 39 in February 2015 and during this time it has closed 107 applications through withdrawal and granted 297 ABS licences
- The average age of a work in progress application is just over two months
- None of the work in progress applications are older than nine months and two applications are over six months old (the two applications are linked to the same firm and an extension notice has been issued – although they are now not far off the nine month limit as the clock started on 19 June)

14. The Board are aware that work done by the LSB on Schedule 13 approvals indicated that there is scope for a more proportionate approach by the SRA. Concerns remain as to whether the information required from applicants by the SRA is sufficiently proportionate or targeted to what the Legal Services Act actually stipulates. We had a CEO-to-CEO meeting to discuss this issue and following this we received a much clearer sense of the range of activities they have identified to deliver improvements to their authorisations process. Indeed, communication with the SRA on this subject has improved significantly in recent weeks. We have made clear to the SRA that the S55 notice will remain in place until we can be assured about the scope and impact of the proposed process and policy reforms.

Bar Standards Board (BSB): Standard contractual terms review

15. We met with the BSB on 30 January to discuss their plans for their review of the standard contractual terms. Following this meeting we received a detailed project plan outlining the scope of the review, the key milestones, governance and resourcing details. We have, based on this information, arranged to meet with the BSB at key stages through their review. The first of these meetings took place on 6 March. The BSB provided an update on their progress following the call for evidence and survey, and the plans for public consultation. The timetable for the review remains tight, but based on our current understanding of their plans, we consider they should be in a position to meet the undertaking deadline of 31 July 2015. We will remain in close contact with the BSB on this critical issue.

QASA

16. The Claimants have been granted leave to appeal to the Supreme Court, solely on the application of the Provision of Services directive. The hearing took place on 16 March, and the court aims to publish its judgments within 3 months. We have received correspondence from the court regarding speeches given by Lord Neuberger, who will be one of the judges hearing the case. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Statutory Decisions

17. Since the last report, we have considered and approved three rules change applications:

- ILEX Professional Standards (IPS) Compensation Fund Contributions
- Solicitors Regulation Authority (SRA) Qualified Lawyers Transfer Scheme
- SRA Continuing Competence

18. We have also approved three changes through the issue of an exemption direction:

- Institute of Chartered Accountants in England and Wales – Committees' Terms of Reference
- SRA Indemnity Insurance Rules
- IPS change of name to CILEx Regulation

19. The annual Practising Certificate Fee for the Bar Council/Bar Standards Board (BSB) was approved on 26 January 2015.

20. In relation to the section 69 order consultation for the Council for Licensed Conveyancers, the Deregulation Bill has continued its passage through Parliament and is expected to receive Royal Assent before the end of March. Once the commencement date is clear we will bring forward a recommendation for concluding the section 69 consultation.

21. We have continued our work with the BSB and the Ministry of Justice on an order under section 69 to modify the functions of the Bar Council.

Research

22. Online Divorce – This project was carried out jointly with the Legal Services Consumer Panel, and was about comparing the consumer experience of online and face to face delivery. It was published on 19 March.

23. Innovation: capabilities and barriers in legal services – this is a quantitative investigation into capabilities for and barriers to innovation in the legal services sector, and is being carried out jointly with the SRA. Survey work is ongoing, and the report is due in May.

24. Unbundled research – this is joint work with the Consumer Panel, and is about understanding consumer experiences of providing and receiving discrete

elements of legal services in relation to one case. Focus groups are being held, and the draft report is due at end of March.

25. Small business legal needs – the 2013 survey is being updated to support evaluation of market impacts of the Legal Services Act. Field work closed in March the report is due in June.
26. The individual legal needs survey is being run jointly with the Legal Education Foundation and the Law Society – the 2013 survey is being updated to support evaluation of market impacts of the Legal Services Act. The procurement process has started, and it is likely that the report will be ready in December.
27. Cost of regulation project - the in depth work to quantify the costs of specific areas of regulation is underway. The time allocated to field work has been extended until the end of March to try to generate an increase in participation rates. The report is due in July.
28. Consumer Panel consumer tracker survey – field work to provide the annual update to the Panel closed on 17 March. Data sets are due at the end of March.

Equality and diversity

29. Following the Board's discussion in January of the report on regulators' progress against the LSB's diversity guidance, a roundtable will be held with the regulators on 23 March to discuss their progress and help them identify how they can use the diversity data they are collecting to make a difference on diversity in the legal sector. Guest speakers will include the head researcher from the Black Solicitors Network diversity league table, a representative from Stonewall, a member of the SRA team that developed their diversity benchmarking tool, and the author of an article criticising the regulators' implementation of our guidance and their use of the data.
30. Our report will be updated to include the actions agreed at the roundtable against which we will expect to see progress through our ongoing monitoring. The report will be published by end March.
31. We are also establishing a depository on the LSB's research website for the aggregated diversity data collected by the regulators. This will provide other organisations/researchers access to this raw data to use as they wish.

32. A paper is to be brought to the April Board meeting on the LSB's leadership role on diversity, and specifically improving regulators' actions to drive progress on the retention and progression issues within the sector.

Open data

33. As part of the LSB's work on quality in legal services, the LSB and the Consumer Panel have consistently championed greater transparency and access to data which supports the empowerment of consumers. Part of this work has been to encourage regulators to publish the data they hold on their regulated communities in an easily reusable format, for example an Excel spread sheet. We hope that this will support the development of consumer choice tools (comparison websites) and potentially lead to an effective consumer quality assurance market.

34. This work has been ongoing for a considerable period of time, but real progress has recently been made. As of 16 February, the Ombudsman, Solicitors Disciplinary Tribunal and all but one of the regulators have published the core regulatory data that they hold in a reusable format. IPS have not yet published any data in this way as they are completing work to update their publication policies ahead of publication of data on their members in reusable format by July 2015.

35. Future work will consider whether the data that has been published should be expanded.

Solicitors Disciplinary Tribunal annual report on performance measures

36. The Solicitors Disciplinary Tribunal (SDT) has submitted its annual report of achievement against its performance measures. The results are as follows:

Measure	Target	2014	2013
Proceedings issued or notification of non-certification sent within 7 calendar days of receipt (no. of cases)	85%	100% (117)	90% (94)
Determination of application by substantive hearing or otherwise within 6 months of the issue of proceedings (no. of cases)	70%	55% (101)	54% (144)
Average cost per court		£9,622	£9,532
Judgement served within 7 weeks of determination (no. of cases)	80%	98% (97)	84% (143)
Number of appeals on SDT decisions (% of decisions made)		8 (8%)	19 (13.3%)
Appeal decisions		13	24
<i>Allowed (including part)</i>		4	6
<i>Dismissed</i>		9	18

37. In addition to the 12 appeal cases that were decided, there were a further three cases that did not proceed or were withdrawn. There are also eight cases awaiting a hearing date.
38. As the above figures show, the SDT has continued to perform at a good level although the issue of determinations within six months remains a challenge, primarily for reasons outside the SDT's control. Experience shows that more complex and robustly defended cases can take more than six months as the parties need more time to properly prepare for the hearings.
39. All cases that were scheduled for one or two day hearings were completed within the target of six months and a number of older cases were completed in Q4. Case management processes allow for the careful tracking of cases and at the close of the year there were none that were ready for hearing for which a date had not been set.
40. Given that the target for determination of cases is consistently missed, the Tribunal has considered whether to amend it and so make it more achievable. The Tribunal has concluded that there is a risk that such a change might lead to even further delays, as the parties are likely to seek to maximise the time available to them to prepare a case. The Tribunal has therefore concluded that the current target should remain.

C. EXTERNAL POLICY DEVELOPMENTS

BIS and small business appeals champions

41. Small Business Appeals Champions (SBACs) are one example of the Government's initiatives around better regulation. The champion will be an individual appointed at board-level to report annually on the effectiveness of a regulator's appeals mechanisms, from the perspective of small businesses. However, the champion will not be empowered to intervene in individual cases. The Small Business, Enterprise and Employment Bill currently going through Parliament will provide the statutory basis for SBACs, placing an obligation on ministers to appoint champions to non-economic regulators.
42. In their most recent consultation paper (December 2014), Department for Business, Innovation and Skills (BIS) announced their intention to consider whether legal services regulators, including the LSB, should be brought within the scope of the SBAC policy. For the legal sector the obligation to appoint and to fund SBACs will sit with MoJ. The Better Regulation Executive and the Ministry of Justice have invited LSB and the regulators to a meeting on 26 March 2015 to explore how the policy may be extended to the legal services sector. We have

emphasised to the BRE that the LSB has no role in making decisions about small businesses, and also stressed the importance of the independence of legal services regulation from ministerial involvement.

EU ADR Directive

43. BIS continue to work on proposals to implement the EU ADR Directive into the UK. We have seen the draft Regulations. These include a proposal to make us a 'Competent Authority' for the purposes of the Directive – which would require us to certify the OLC as an ADR body for Directive purposes. This is in line with arrangements being made across the economy for other regulators and statutory ADR schemes.

D. COMMUNICATIONS AND STAKEHOLDER ACTIVITIES

Communications

44. Mike Pitt delivered the keynote address to the Modern Law Magazine annual conference on 11 March. The speech attracted the attention of the three main legal trade press outlets (interestingly each focused their reporting on a different aspect of the speech). Caroline Wallace was on a panel at the 360 Legal Group annual conference on 20 March.

45. We published a number of reports all of which garnered legal trade press attention. We issued the *Section 15 discussion paper* (which was featured on the front page of the Law Society Gazette). The *regulatory standards performance report 2015/16* was put out on 25 February and we announced the appointment of a new member of the Board on 12 March. At the time of drafting we were due to issue the report about the first phase of the *cost of regulation* project on 18 March and the *online divorce research* on 19 March.

46. LSB Newsletter edition #6 was sent out to political stakeholders at the start of March. The LSB twitter account now has 862 followers with that number being added to at the rate of about seven to ten per week.

Stakeholder engagement

47. We are keen to follow up on Bill Moyes's feedback at the January 2015 Board meeting, which followed his dinner with Simon Lofthouse QC, a member of the BSB Board. Specifically, that we look for more opportunities for Board members to engage strategically with the regulators. This will have a number of benefits by:

- building bridges at the strategic level;
- enhancing Board member understanding of the challenges and opportunities faced by the regulators;

- Giving the regulators confidence that the LSB strategy and policy are grounded in a rich source of perspectives and sound governance; and
- Complying with corporate governance best practice that Board members do not exclusively receive information from their Executive.

48. Informal soundings with the regulators so far have suggested they would welcome the LSB reaching out in this way. However, most have suggested that we keep discussions at the strategic level and avoid overly formalising the contact.

49. For 2015/16 we are working on the following basis:

- Inviting the regulators (Board level attendees) to attend an informal session with our Board members at the end of a Board meeting.
- Continuing with the current Board 'shadow' arrangements for the regulators and on some key projects.
- Some ad hoc dinner/lunch engagements.
- Having someone responsible internally for organising/briefing.
- Reviewing progress after 6 months.

17 March 2015