

To:	Legal Services Board	
Date of Meeting:	22 October 2015	Item: Paper (15) 49

Title:	Update on legislative reform	
Work stream(s):	Developing options for legislative change	
Author / Introduced by:	Caroline Wallace, Strategy Director caroline.wallace@legalservicesboard.org.uk 020 7271 0086	
Status:	Official	

Summary:

The purpose of this paper is to:

- (i) update the Board on key recent developments; and
- (ii) seek Board endorsement of actions in response to these developments.

This paper follows on from July's Board Paper (15) 37 and September's strategy session and update in the CEO's report.

The overall objective of the LSB's work remains to drive forward reform of the legislative framework for legal services regulation – through incremental improvement or more fundamental change as circumstances allow – to deliver a well-functioning market while appropriately protecting consumers and the public interest.

The prospect of an immediate overhaul of the framework appears to have receded somewhat in recent weeks. [REDACTED]

[REDACTED] But Ministers have also strongly encouraged the LSB to continue working with officials to develop proposals for change, and the LSB's latest contributions (see **Annex A**) have been warmly received (see **Annex B**).

[REDACTED]

Recommendation(s):

The Board is invited to:

<ul style="list-style-type: none"> • <u>Note</u> recent developments in the LSB's work on legislative reform, including the LSB's planned involvement in further collaborative work with the legal services regulators and the arrangements for the governance of this work; • [REDACTED] • [REDACTED].

Risks and mitigations	
Financial:	N/A
Legal:	No legal risks have been identified. The Legal Director has been kept informed of developments via Gateway discussions.
Reputational:	There are considerable reputational risks and opportunities associated with this work. On one hand, the LSB has taken a leadership role and may be perceived as being responsible for delivering a consensus, or encroaching on the regulators' independence. On the other hand, this work is an opportunity for the LSB to act as a champion of cross-regulator working, to build its credibility in this role with the MoJ and Ministers, and to maximise its influence over the direction of any future legislative reform.
Resource:	This work has been formally factored into the 2015/16 Business Plan, with the exception of the resources required [REDACTED] [REDACTED] [REDACTED] [REDACTED]

Consultation	Yes	No	Who / why?
Board Members:	X		The Chairman has hosted all regulator chairs' meetings to date and has been involved in all internal discussions on the future direction of the LSB's legislative reform work.
Consumer Panel:		X	Although the Panel has not been formally engaged, the LSB Chairman has briefed the LSCP Chair and Stephen Mayson interviewed the LSCP Chair for the work stream on legislative options beyond the LSA.

Others:	
----------------	--

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
<p>Summary: Para 3, second sentence Para 4, second sentence</p> <p>Recommendations: Third bullet</p> <p>Risks and Mitigation – Resource: from ‘..to form a...’ to the end of the paragraph</p> <p>Main paper: Para 1, third bullet Para 3 – second sentence Para 4 – (i) to (iii) Para’s 6 – 9 (including heading) Para 12 as highlighted Annexes A and B</p>	<p>Section 36(2)(b)(ii): information likely to inhibit the exchange of views for the purposes of deliberation</p>	N/A
<p>Summary: Para 4 - first sentence</p> <p>Recommendations: Second bullet</p> <p>Main paper: Para 1, second bullet Para 5 – end of second sentence</p>	<p>Section 44: restricted information under s167 LSA which was obtained by the Board in the exercise of its functions and therefore must not be disclosed</p>	N/A

LEGAL SERVICES BOARD

To:	Legal Services Board	
Date of Meeting:	22 October 2015	Item: Paper (15) 49

Update on legislative reform

RECOMMENDATION

1. The Board is invited to:

- Note recent developments in the LSB's work on legislative reform, including the LSB's planned involvement in further collaborative work with the legal services regulators and the arrangements for the governance of this work;
- [REDACTED]
- [REDACTED]

RECENT DEVELOPMENTS

'Clausal' changes to the Legal Services Act (the Act)

2. The LSB and the regulators have been working with MoJ officials to flesh out the regulators' joint proposals (submitted to Ministers in July) for minor changes to parts of the Act. These changes were discussed with the Board earlier this year (see Board Paper (15) 12). They are aimed at reducing burdens on business and streamlining regulatory processes. So far, discussions with MoJ officials have covered:

- The processes for licensing and setting rules for ABS (schedules 11 and 13 of the Act); and
- The procedural requirements for the use of the LSB's enforcement powers (schedules 7, 8, 9 and 10(part)).

3. While unable to guarantee if or when these changes will be made, officials are clearly committed to working up sensible re-draftings of the relevant parts of the Act in light of the real world input of the regulators. [REDACTED]

Further collaborative working amongst the regulators

4. The LSB convened a meeting of regulator CEOs on 6 October to discuss potential areas for future collaborative working, following on from the successful

collaboration earlier in the year on clausal changes, client money and reporting on progress on deregulation. It has been agreed that:

- collaborative work on the following topics will be scoped out:
 - (i) [REDACTED]
 - (ii) [REDACTED]
 - (iii) [REDACTED]
- subsets of regulators may work on topics of interest to them – there is no expectation that all regulators will work on all topics;
- CEOs will meet 3-4 times a year to review progress on collaborative working and to discuss any other issues of mutual interest; and
- Chairs will meet once or twice a year to consider progress made by the CEOs' group and (as with the CEOs' group) to discuss issues of common interest.

Broader legislative reform

5. As noted at the September Board meeting, the Lord Chancellor committed to a review of the Act during the lifetime of this Parliament at his first Select Committee appearance on 15 July. The Lord Chancellor subsequently told the regulators present at the round table on the quality of advocacy on 3 September (LSB, SRA, BSB and CILEx Regulation) that further thought will be given to reform of the LSA [REDACTED]. But Ministers have also strongly encouraged the LSB to continue working with officials to develop proposals for change, and the LSB's latest ideas for 'intermediate' reforms (see **Annex A**) have been warmly received (see **Annex B**).

PROPOSED NEXT STEPS

- [REDACTED]
6. [REDACTED]
 7. [REDACTED]
 8. [REDACTED]

9. [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Further work on the LSB’s vision for the future legislative framework

10. As reported to the Board in September, the LSB submitted a paper to Ministers in July that was the product of cross-regulator discussions facilitated by Professor Stephen Mayson, exploring the issues relevant to comprehensive reform of the Act.

11. Without attempting to provide definitive answers or positions, the paper considered a core set of issues that could frame possible future reform, such as:

- the case for fundamental change to the Act including what should be regulated;
- the rationale for sector-specific regulation;
- the dynamics and tension between regulation of activities, individuals, entities and titles;
- regulatory independence; and
- the shape of the regulatory infrastructure.

12. It is now proposed that Professor Mayson be asked to work with the LSB [REDACTED]

[REDACTED]. A paper setting out the suggested scope for this work in more detail will be presented at the November Board meeting. [REDACTED]

[REDACTED] Sessions with the Board will be necessary as part of this work, and also with the LSCP. While other stakeholders’ comments may be sought, the object of the work will be to document the LSB’s corporate position. [REDACTED]

[REDACTED]. The output will be a published LSB policy paper or similar, with a target publication date around the end of the financial year.

[REDACTED]

12 October 2015