

To:	Legal Services Board	
Date of Meeting:	22 October 2015	Item: Paper (15) 52

Title:	LSB response to MOJ request for “innovation plans”	
Workstream(s):	Breaking down regulatory barriers	
Author / Introduced by:	Kate Webb, Head of Regulatory Reviews and Investigations kate.webb@legalservicesboard.org.uk / 020 7271 Ext. 0090	
Status:	Official	

Summary:
<p>The Chancellor’s <i>Productivity Plan</i> was launched on 10 July 2015. This included the government’s commitment to work with regulators to publish innovation plans by spring 2016 across all government departments.</p> <p>The Ministry of Justice (MoJ) has asked the LSB to provide a short contribution to the MoJ’s plan by the end of October. A response has been drafted around three headings provided by the Better Regulation Executive and supplementary questions from the MoJ.</p> <p>The Board is invited to discuss the proposed response.</p>

Recommendation(s):
<p>The Board is invited:</p> <ol style="list-style-type: none"> 1. to discuss the proposed response to the MoJ’s request at Annex B 2. to delegate approval of the final document to the Chief Executive.

Risks and mitigations	
Financial:	N/A
Legal:	Responding to the request is within our vires.
Reputational:	The LSB response will be used by MoJ to draft a single innovation plan, subject to public consultation in early 2016.
Resource:	n/a

Consultation	Yes	No	Who / why?
Board Members:		x	Board was provided with an update on innovation plans in September 2015 CEO Report
Consumer Panel:		x	
Others:			

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires

Annex B	Section 22: information intended for future publication	N/A
---------	---	-----

LEGAL SERVICES BOARD

To:	Legal Services Board	
Date of Meeting:	22 October 2015	Item: Paper (15) 52

LSB response to MOJ request for Innovation Plans

Background

1. The Chancellor's *Productivity Plan* was launched on 10 July 2015.¹ This included the government's commitment to work with regulators to publish innovation plans by spring 2016. On the same day, Graham Turnock, Chief Executive of the Better Regulation Executive, wrote to all national regulators with further details around the objectives and content of plans. This letter is at Annex A.
2. On 14 September 2015, the Ministry of Justice (MoJ) wrote to regulators to confirm that it intends to prepare, consult and publish a single plan for the department and its regulators ahead of the March 2016 Budget.
3. The LSB was asked to provide a short contribution by the end of October covering the following topics:
 - How legislation and enforcement frameworks could adapt to new technologies and disruptive business models to encourage growth
 - An assessment of how new technology is likely to shape the sectors being regulated
 - Actions for how regulators could better utilise new technologies to generate efficiency savings and reduce burdens on business.
4. The LSB is well placed to respond to this request. Our recent research on innovation in legal services provides useful data on the drivers and barriers to innovation in the sector, alongside a timely survey of the extent of new service development. This research data complements current work being undertaken to identify necessary regulatory and legislative reforms, and these projects can be set against the long term objectives for a liberalised legal services market set out in the Legal Services Act 2007.
5. The proposed response to the MoJ is at Annex B.

Recommendations

6. The Board is invited:
 - to discuss the proposed response to the MoJ's request at Annex B
 - to delegate approval of the final document to the Chief Executive.

Next steps

7. Once submissions have been received, the MoJ will create a single plan and share with regulators by the end of November. A public consultation on the plan

¹ Productivity Plan 2015. Available at: <https://www.gov.uk/government/news/productivity-plan-launched>

will be carried out by MoJ in early 2016, with publication scheduled for early March 2016.

12.10.15

10 July letter from Graham Turnock, Better Regulation Executive

To: Board Level Champions

10 July 2015

INNOVATION PLANS

This letter gives more detail about today's [Productivity Plan announcement](#) that

“The government will... require departments to work with regulators to publish Innovation Plans by spring 2016. These will set out how legislation and enforcement frameworks could adapt to emerging technologies and disruptive business models.”

Why innovation plans?

Innovation is an important driver of productivity and competitive markets. To ensure the UK benefits from the effects of innovation and competition, firms need to be able to move faster than their international competitors in bringing new technologies to market; and our business environment needs to set the conditions that supports innovative, disruptive businesses to start up and expand.

Regulation can have significant effects on the ability of businesses to innovate or enter / create markets, and to do so quickly. Regulation needs to keep pace with innovation, whilst continuing to provide assurance that intended protections remain in place. Equally, innovation can pose important challenges to regulation if it bypasses intended protections in previously unanticipated ways.

The Chancellor's announcement is aimed at getting assurance that UK regulatory framework is working effectively to support innovation and disruptive business models – and that regulators are using innovation to deliver their own work more effectively, and to reduce burdens on business. He has asked for that assurance in the form of innovation plans. The preparation of plans will also provide the opportunity for identification and sharing of good practice, as well as the identification of any cross-cutting issues that may require further intervention.

Consultation with business about draft plans will ensure that they take account of businesses' needs, as well as those of Departments and regulators. This is a crucial part of the assurance process. Please consult widely, making every effort to bring in recent entrants and businesses which are most likely to innovate, as well as established players.

It's not only new technology which can improve productivity. New business models – often exploiting fairly well-established technologies – can also have great potential for delivering better, cheaper and quicker service to customers. They can also pose challenges for regulators. Examples of recent disruptive business models prompting fresh thoughts about the approach to regulation include peer-to-peer lending and the Uber taxi service.

Preparation of plans

Please work to prepare these plans with all the regulators – economic or non-economic, independent or otherwise – for which your Department has policy responsibility. Each plan will need to reflect the responsibilities of both your Department (eg preparing legislation) and the regulators (eg providing advice to businesses). You are not required to cover any work done by your regulators for the devolved administrations.

Please ensure that plans cover the main areas of regulation for which your Department is responsible. It's up to you whether that should mean a separate plan for each area or a single plan covering the work of your Department and all its regulators.

You and regulators may already have good work in hand to give assurance that regulation is supportive of innovation. That may allow you to prepare a fairly brief plan which points to this existing work. If, by contrast, this is not an issue which has previously received much consideration you may need to produce something longer. We would nonetheless hope that most plans can be kept to just a few pages: what is needed is assurance, not lots of fine detail.

Please bear in mind that innovation is often a very sensitive topic. Firms may be very reluctant to divulge innovative ideas for fear of losing their competitive edge. Please take this into account both in consulting business – you may need to give strong and prominent assurance about handling of responses – and in considering how innovating firms will approach the regulatory system.

Content of plans

The Chancellor has asked that plans should cover three issues. We will not be issuing prescriptive guidance about the content of plans, but the following paragraphs set out some more thinking around these issues which you and your regulators may find helpful.

How legislation and enforcement frameworks could adapt to new technologies and disruptive business models to encourage growth

For instance, if regulatory legislation in a given area is cast in terms of detailed technical specifications, it may not be possible for firms to develop innovative options – even if those options would be better in meeting the underlying objectives of regulation. You may want to consider whether legislation should become more outcome-focussed. Technical specifications are sometimes better specified in recognised standards, which can move more quickly to reflect technological changes – but it is important when these are framed that the process is fully open to all businesses, including potential innovators. Please don't ignore any impacts of European or international regulation.

You may want to consider how a firm with an innovative technology or business model would engage with your regulatory regime – whether they were a tiny start-up business or an established player. To whom would they be likely to bring their initial questions – and is that person equipped to give a supportive response? How would issues be escalated within the regulator and/or your Department? How quickly could you respond – and how would that pace compare with the business's likely needs?

It may be worth looking at case studies of recent responses to innovative ideas. However the success of the regulatory system in responding to one innovation does not necessarily mean that the system is innovation-friendly – there may be dozens of

other examples, unknown to anyone, where regulation has stifled innovation in the inventor's "garage".

An assessment of how new technology is likely to shape the sectors being regulated

You are not asked to anticipate specific technological developments – you're unlikely to be able to do so! But in considering this question, you should look at relevant major trends, including those which haven't yet affected your sector, and consider their likely applicability. For example, we are seeing rapid development in sensing technologies. If you are regulating product safety, could those technologies begin to provide alternatives to out-of-service testing? Which parts of your sectors have most potential for innovation? Innovate UK is the government's prime body supporting business on innovation, and has a wealth of relevant expertise on which you can draw. Please contact Nick Appleyard, IUK's Deputy Director for Government Partnerships (nick.appleyard@innovateuk.gov.uk) for more information.

Actions for how regulators could better utilise new technologies to generate efficiency savings and reduce burdens on business.

This heading is more self-explanatory. You are encouraged to think creatively and over the medium-term to consider how regulators could exploit new technology. For instance, does "big data" offer new ways of gathering regulatory information which are both cheaper for regulated businesses and more effective for the regulator? What are the legislative or other barriers to such innovation?

Next steps

Please brief relevant officials in regulators about the Chancellor's requirement. You should feel free to forward them a copy of this letter.

The Productivity Plan says that Departments should have consulted on and published Innovation Plans by spring 2016. In practice, that means that all plans should be published in final form by next March's Budget. Given the need for consultation, you will need to make an early start.

In September we will run a seminar for Departments and regulators to share good ideas which are going into these plans. Please let my office know by the end of July who should attend from your Department and regulators: we will then try to find a date. The seminar will not lead to revised requirements for the plans – so there is no need to delay starting work on them. Indeed we hope that you will come to the seminar with at least some initial thoughts to share with colleagues.

In the meantime, please direct any questions about this letter to Rob Brightwell rob.brightwell@bis.gsi.gov.uk (020 7215 1388) here.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized initial 'G' followed by a series of connected loops and a final horizontal stroke.

Graham Turnock
Chief Executive
Better Regulation Executive