

<b>To:</b>	Legal Services Board	
<b>Date of Meeting:</b>	22 October 2015	<b>Item:</b> Paper (15) 56

<b>Title:</b>	Q2 Performance Report: 1 July – 30 September 2015	
<b>Workstream(s):</b>	Business Plan 2015/16	
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<b>Status:</b>	Official	

**Summary:**

This paper provides a summary of the Board's performance in delivering its published Business Plan commitments during Q2 2015/16 (July - September).

A narrative cover for the Ministry of Justice (MoJ) Q2 report is at **Annex A**. This includes a summary of all Section 55 information gathering notices that have been issued in this quarter (if any). The paper also contains the draft Q2 submission for the MoJ's performance reporting requirements (**Appendix 1**), the Consumer Panel's quarterly report of activity (**Appendix 2**) and a report on regulatory decisions made during the quarter (**Appendix 3**).

**Recommendations:**

The Board is invited to:

- 1) review and comment on the draft Q2 performance report; and
- 2) agree to its use as a basis for discussion with MoJ.

**Risks and mitigations**

**Financial:** N/A

**Legal:** N/A

**Reputational:** N/A

**Resource:** N/A

Consultation	Yes	No	Who / why?
<b>Board Members:</b>		✓	Regular performance report.
<b>Consumer Panel:</b>		✓	Regular performance report – report also includes Consumer Panel Q1 report.
<b>Others:</b>			

<b>Freedom of Information Act 2000 (Fol)</b>		
<b>Para ref</b>	<b>Fol exemption and summary</b>	<b>Expires</b>
Appendix 1 All <i>Risks</i> and <i>Overall status</i> '	Section 36(2)(b)(ii): information would inhibit the exchange of views for the purposes of deliberation	

## LEGAL SERVICES BOARD

<b>To:</b>	Legal Services Board	
<b>Date of Meeting:</b>	22 October 2015	<b>Item:</b> Paper (15) 56

### Q2 Performance Report: April – June 2015

#### Recommendations

The Board is invited to:

- 1) review and comment on the draft Q2 performance report; and
- 2) agree to its use as a basis for discussion with MoJ.

#### Introduction

1. This paper provides a summary of the Board's performance in delivering its published Business Plan commitments during Q2 2015/16 (July - September 2015).
2. It also contains the draft Q2 submission for the MoJ's performance reporting requirements (**Appendix 1**), the Consumer Panel's quarterly report of activity (**Appendix 2**) and a report on statutory decisions made during the quarter (**Appendix 3**). A narrative cover for the MoJ Q2 report is at **Annex A**.

#### Overview

3. The LSB Business Plan for 2015/16 describes the LSB's proposed activities on a quarter-by-quarter basis. Progress against those commitments for Q2 is reported below.
4. The table above only reports on publicly committed deliverables and, as such, does not present a full picture of the Board's achievements to date, all of which have been reported to the Board on a monthly basis through the Chief Executive's progress reports.

<b>Q2 2015/16 commitment</b>	<b>Progress</b>
Report to the Board with report and recommendations on reviewing regulatory restrictions on in-house lawyers	<b>Complete:</b> Report presented to the September Board and public consultation on principles for regulatory arrangements launched 23 September.
Publish 'in depth' research report for Cost of Regulation project	<b>Complete:</b> Research report published on 15 September based on financial information provided by 64 practitioners working across the market

Undertake scoping exercise for a thematic review on the restrictions on choice of insurer	<b>Complete:</b> Scoping exercise complete with PID presented to Senior Leadership Team in September
Undertake analysis of powers in section 163 of the Act (voluntary arrangements)	<b>Complete:</b> Internal legal analysis has been provided and this will be fed into the Regulated/Unregulated project
Undertake scoping exercise for a project to understand and help improve affordability	<b>Slightly delayed:</b> Scoping document was reviewed and approved by SLT in week 2 of Q3.
Evidence gathering to begin on a project to support increased accessibility of legal services	<b>On track:</b> Work on this is underway and is due to finish by the end of Q3
Undertake review of appointments processes for Chairs of regulatory bodies.	<b>Rescheduled to Q4</b>
Implement protocols and processes to allow the LSB to carry out its obligations as an ADR competent authority	<b>On hold:</b> This work is on hold until the Legal Ombudsman chooses whether or not to submit an application
Evidence gathering and analysis for market evaluation	<b>Delayed:</b> This work has been delayed due to research resource being diverted to other projects but is due to be completed in November 2015.

<b>Q1 2015/16 commitment</b>	<b>Progress</b>
Publish summary document to discussion paper on reviewing regulatory restrictions on in-house lawyers	<b>Complete:</b> This work went to the Board in September
Benchmarking of regulators' costs	<b>Re-scoped:</b> Benchmarking was found to be infeasible and so work regarding transparency of data provided by the regulators has been undertaken instead
Publish Ministerial summit reports on: <ul style="list-style-type: none"> <li>• Deregulatory achievements</li> <li>• Potential clausal changes and options for a new legislative framework beyond the act</li> <li>• Alternatives to handling client money</li> </ul>	<b>Complete:</b> These reports were published in July
Publish report on innovation in the provision of legal services	<b>Complete:</b> This report was published in July

Publish report on small businesses legal needs survey	<b>Delayed:</b> Publication will take place in October
Publish research report on the impact of unbundled services on consumers (joint with Consumer Panel)	<b>Complete:</b> This report was published in September
Evidence gathering and analysis of current data and tools available in the sector (open data project)	<b>Complete:</b> Work on this is now complete

### MoJ performance management framework

5. The draft Q2 performance report for MoJ (**Appendix 1**) contains all of the fields requested by MoJ, including headline risks for each project. Also attached is the quarterly report on applications for statutory decisions (**Appendix 2**), a quarterly report from the Consumer Panel (**Appendix 3**). A narrative cover for the MoJ Q2 report is at **Annex A**.

**To: Ministry of Justice**

**Legal Services Board 2015/16 Q2 Performance Report**

**Overview of the Quarter**

1. The programme highlight report at **Appendix 1** provides a comprehensive overview of the Board's work to deliver its Business Plan during Q2 2015/16. The report is based upon the LSB's overarching programme and individual project plans.
2. Attached at **Appendix 2** is a quarterly report on Consumer Panel activity, and at **Appendix 3** is an overview of our work in relation to requests for statutory decisions.
3. We have **issued** nine Section 55 information requirements this quarter. The notices were issued in July to each approved regulator, requiring them to complete a self-assessment of regulatory performance. These self-assessments form a key component of the LSB's overall assessment of legal services regulators' performance against LSB's regulatory standards. The self-assessments are due to be completed and returned to the LSB by 30 October.
4. Based on an assessment of the status of individual projects, the LSB judges the status of its overarching programme to deliver its Business Plan for 2015/16 and thus its regulatory responsibilities is **Green**. This reflects that at the mid-year point of the business year we are largely on track to deliver our Business Plan milestones, and those that have slipped are being actively managed and will be completed shortly.
5. Matters of note not specifically addressed by the programme report include the following:

**Organisation development and governance**

6. Two new colleagues have started with the LSB this quarter. Annaliese Budimir has joined as the Executive Assistant to the Chairman and Chief Executive and Meghan Eyre as a Regulatory Associate to cover a six-month period of maternity leave. For the Consumer Panel this quarter, Lola Bello, took up her post as the Consumer Panel Manager.
7. This quarter, the LSB has received two resignations; Jessica Clay, Legal Advisor, handed in her notice in July as did Richard Moriarty, Chief Executive. The Legal Advisor role has now been recruited to and the successful candidate will start in November. Recruitment has commenced for the Chief Executive role with Saxton Bampfylde assisting. The recruiting panel comprised the Chair, Helen Phillips and

Anneliese Day QC. Shaun Gallagher, Deputy Director, Access to Justice from the MoJ also joined the final interview panel recognising that the CEO will also act as the Accounting Officer for the LSB. The competition closed on 14 September and the interviews took place on 12 October.

8. In regards to Board appointments, both Bill Moyes' and Ed Nally's terms came to a close at the end of this quarter. Shortlisting for a new lay member took place on 21 July, however the Minister decided to halt the process at that point. The process to recruit two non-lay members is currently underway and the process closed on 8 October. We understand that 26 applications were received.
9. The consequences of these delays are that, from 30 September 2015, the Board's membership will fail to meet the criteria set out in Schedule 1 of the Legal Services Act (the Act) namely a Chair, a Chief Executive and "at least 7, but no more than 10, other persons appointed by the Lord Chancellor". As at 1 October 2015, the Board will comprise a Chair, a Chief Executive and five other members. In terms of the impact on the Board, aside from inevitable operational impacts and risk to quorums, the Act (at Schedule 1 para 22) does make clear that "the validity of any act of the Board is not affected by a vacancy... amongst the members". We are therefore assured that the Board can continue to perform its statutory functions legitimately.
10. The Chair wrote to the Lord Chancellor to express his concern at the situation regarding appointments on 23 September as the LSB now has fewer members than the statute requires.
11. Following constructive discussions with MoJ finance in June over the question of LSB Financial Transaction Limits, we prepared and submitted a number of business cases to support requests for exemption or variation. We are currently considering the disappointing decisions to reject our cases for exemptions to the recruitment and communications controls.

### **QASA judicial review**

12. The LSB are currently awaiting judgement from the Supreme Court on costs and the matter should be concluded in early Quarter 3. The LSB anticipate that it will receive partial reimbursement. We will ensure that there is transparency as to the final costs of this action, particularly when setting the levy for 2016/17.

### **Relations with OLC**

13. The Board has been updated regularly on developments at the OLC. This has included Board to Board discussion on performance in light of the section 121 targets and section 120 reporting obligations set by the Board, updates on the OLC's performance and governance review and the ongoing situation with the OLC's ADR application.

14. Last quarter, the LSB used its power under sections 121 and 120 of the Act to set performance targets and reporting obligations on the OLC. As the OLC have missed targets each month of Quarter 2, the Board have received three reports explaining to the LSB why performance has slipped and what steps the OLC is taking to remedy the situation. As part of their presentation to the Board in September, the OLC reiterated the conclusion they had reached in January 2015 that the measures that had been historically in place were no longer suitable. Going forward, it was likely that a “balanced scorecard” type approach would be adopted, and the OLC has engaged internally and externally to develop more appropriate key performance indicators (KPIs).
15. The LSB has also used its powers under section 120 to require the OLC to provide a report to the LSB by 1 November 2015 that, amongst other things, sets out the OLC’s proposals for a comprehensive framework for key performance indicators and performance measures to apply to the performance of the Legal Ombudsman scheme from April 2016 onwards. The work, mentioned above, will inform the report on this matter. The September Board received an interim report in which the OLC reiterated its commitment to develop a balanced suite of measures for output, time, and the quality of the Legal Ombudsman scheme and is undertaking research to understand consumer needs and expectations of the scheme. Representatives from the OLC Board will be attending the November LSB meeting.
16. On 28 August, the LSB received formal notification from the OLC that it was withdrawing its application to become an ADR entity. The primary reason for this is that the OLC Board have concluded, on legal advice, that they need to consult, not just on the technical details of Scheme Rule changes, but also on the principle of whether they should change the Scheme Rules at all. OLC recognises, however, that without an unequivocal commitment to making the Scheme Rule changes its application for certification by OLC is not complete. Given its previous public statements on this issue, we stressed to the OLC the importance of it clarifying its position and ensuring it minimises any confusion among consumers and legal services providers in the lead up to the 1 October deadline for the trader signposting obligations under the BIS Regulations. The consultation was launched 7 September and is due to run until 2 November.

### **Communications and stakeholder relations**

17. On 7 July, the LSB launched, jointly with the SRA, the Innovation in legal services report. This launch was preceded by a press briefing for interested journalists and the report was picked up by the usual trade press stakeholders. It was followed by the CEO delivering a key note speech to a Westminster Legal Policy Forum event: “Innovation in the legal services market - growth, skills and new business models”. The speech highlighted the broad themes outlined in the



research, and these were subsequently reported on again by those in the media who were present.

18. As indicated above, the various papers and suggestions that resulted from the follow up activities to the ministerial summit in 2014 were published in July. The collective response of the regulators was put out on 20 July and the legislative options beyond the LSA 2007 paper was published on 27 July. Both sets of publications were picked up in the trade press with the 'options' paper getting slightly more traction.
19. The Chair and the Chief Executive continued with their regular programme of meetings with regulators and representative bodies, the judiciary and other public bodies and they also met a number of representatives from the financial sector and professional services sector. These meetings are invaluable in ensuring we have the broadest perspective on the provision of legal services.
20. Vibeke Bjornfors represented LSB at a conference at Birmingham Law School and the Chairman participated in a panel discussion organised by the outgoing President of the Law Society.
21. Planning for the LSB's public event with OLC and the Consumer Panel in Leeds in November is going well with excellent support from local groups in Leeds, in particular from Leeds Law Society.
22. The LSB's following on twitter has passed the four figure mark. We now have 1,021 followers (as of 20 August).