

<b>To:</b>	Legal Services Board	
<b>Date of Meeting:</b>	23 March 2016	<b>Item:</b> Paper (16) 18

<b>Title:</b>	Chief Executive's update – March 2016	
<b>LSB Strategy fit</b>	All work streams	
<b>Author / Introduced by:</b>	Neil Buckley, Chief Executive neil.buckley@legalservicesboard.org.uk / 020 7271 0057	
<b>Status:</b>	Official	

**Summary:**

The paper updates Board Members on key developments across the organisation since the January 2016 meeting.

The Board's attention is drawn, in particular to the following three developments:

**Board membership**

Two new non-lay appointments have now been made, with appointments due to commence on 17 April 2016. It is hoped that both new Members will be in attendance for our April meeting and the Executive will be making the necessary arrangements for their induction prior to that meeting.

**MoJ Forward look to 2020**

The MoJ asked us to prepare a forward look on an annual basis to 2020 of our staffing numbers, organisation structure and location justification. We responded advising that as the Board had not yet taken a view, we considered it would be premature to provide any definitive analysis. We affirmed our proposal to cut costs by 18% through to the end of the spending review period.

**Cost of regulation project**

The project is progressing well. Since the last Board meeting, the Chairman has written to all the Chairs of regulators emphasising the importance of our work in this area. Some of the responses indicate that this is a sensitive area for the regulators. We are in the process of checking certain information with the regulators and will bring a report and paper to the April board after which we will publish the report.

**Recommendation(s):**

The Board is invited to note this report.

**Risks and mitigations**

**Financial:** N/A.

<b>Legal:</b>	N/A.
<b>Reputational:</b>	N/A.
<b>Resource:</b>	N/A.

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

<b>Freedom of Information Act 2000 (Fol)</b>		
<b>Para ref</b>	<b>Fol exemption and summary</b>	<b>Expires</b>
Fifth sentence of para 8	Section 36(2)(c): information likely to prejudice the effective conduct of public affairs	
Annex A	Section 22: information intended for future publication	

## LEGAL SERVICES BOARD

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### CHIEF EXECUTIVE'S UPDATE – MARCH 2016

1. As I mentioned in my January update, I am in the process of reviewing the format of this report. As before, any feedback from Board Members on this version would be most useful.

#### **Sponsor relations**

##### Board appointments

2. The Board will be aware that two new non-lay appointments have now been made, with appointments due to commence on 17 April 2016. I hope that both new Members will be in attendance for our April meeting and the Executive will be making the necessary arrangements for their induction. The process to identify two new lay members is still to commence and the latest timeline we have seen suggests that members would not be appointed until 1 September 2016 at the earliest. This is clearly unsatisfactory but there seems to be little we can do to change this position.

##### Other sponsorship matters

3. At the time of drafting, we have not had any response from the MoJ to our revised budget submission (Paper (16) 10 refers). I will update the Board at the meeting.
4. In the course of our budget discussions, during February, we (along with all MoJ Departments and Arm's Length Bodies) were asked to prepare a forward look on an annual basis to 2020 of our staffing numbers, organisation structure and location justification. Whilst we were able to provide the steady-state analysis, in line with our response to previous commissions of this type, we reiterated our position that the future shape and location of the LSB was a matter for the Board bearing in mind our statutory responsibilities. As the Board had not yet taken a view, we said it would be premature to provide any such definitive analysis. We reiterated our proposal to reduce costs by 18% by the end of the spending review period and advised that as our lease would conclude in December 2019, the Board would make a decision on location in advance of that time.

5. On 15<sup>th</sup> March we were advised in an email from a policy advisor at the MoJ that their view of the LSB's risk status has been increased from 1 (the lowest level) to 2 (on a three point scale). This would place us in the same risk category as OLC. We had no advanced warning and this assessment does not match our view of the LSB's risk profile. At the time of drafting I have not received an adequate justification for this change in status. I am pursuing with Catherine Lee.

## **Governance**

### Office for Legal Complaints and Legal Services Consumer Panel (LSCP)

6. Matters relating to OLC and LSCP are included in the agenda.

## **Staffing and organisation matters**

7. We have one vacancy for a Regulatory Associate and expect two colleagues to depart on maternity leave shortly. We have been awaiting clarity on our budget submission before making a case to MoJ for agreement to recruit to cover these vacancies.

## **Regulation**

### Cost of regulation

8. Following the Board's discussion of the SRA's transparency report at the November 2015 meeting, the Chairman wrote to all Chairs of regulators emphasising the importance of our work in this area. The letter also asked how their Boards hold their executive to account, and whether they consider that the right amount of information is made available in the public domain. The letters were issued at the same time as the transparency reports were sent to individual regulators for accuracy checking, and they have generated some correspondence. This is clearly a sensitive area for the regulators. [REDACTED]

[REDACTED]  
[REDACTED] We have responded noting the real need for further transparency of cost information from the approved regulators. The accuracy checking of the transparency reports is now in its final stages. The report and the summary paper, which is scheduled for the April Board, will include an outline of the key messages from the responses.

### Judicial Executive Board consultation on McKenzie Friends

9. On 25 February the Judicial Executive Board published a consultation on "reforming the courts' approach to McKenzie Friends". The consultation includes a number of important proposals:

- Replacing current practice guidance on McKenzie Friends with rules of court.
- Introducing a standard form of notice for litigants in person wishing to use a McKenzie Friend.
- Banning McKenzie Friends from charging fees or recovering expenses.

This consultation is relevant to our unregulated project. We consider the LSB should respond. A draft consultation response will be presented to the Board in April to allow time for submission before the deadline of 19 May 2016.

### Regulator performance

10. Good progress has been made on this project. The LSB team has met all of the regulators to share general views on their performance and to obtain any additional information needed to fill gaps in knowledge. The team is now in the process of drafting the regulators' individual performance reports, which will shortly be sent to them for factual accuracy checking. Once these individual reports have been shared with the regulators, we will draft a report which will (a) pull out common themes (both positive and those where further action is needed), and (b) highlight case studies of particular practices which are noteworthy and from which other regulators could learn. The report will be considered at the April Board meeting and published thereafter.

### Statutory decisions

11. Since my last report, one statutory decision has been issued - the granting of the application from the SRA approving alterations to its regulatory arrangements in respect of certain 'reserved activities'. This change followed the Board's decision at its last meeting.

12. We analysed in great detail the Practising Certificate Fee (PCF) application from the Bar Council. We considered we needed to thoroughly review the 1.25% increase in PCF that was proposed. For the first time, I wrote formally to the Bar Council's CEO advising him that pending the receipt of further information we could not approve the application. Their response included a great deal more information about the financial position of both the Bar Council and the BSB. It also included data about their pension liabilities, reserves and income projections. Following these clarifications on the budget we decided we should approve the application. While we did so, the decision letter (which is published) included a strong message that we expect the trajectory of PCF levels to go down not up.

13. We published our consultation document on changes to the PCF Rules on 11 February. The consultation runs for eight weeks and closes on 8 April 2016.

14. We have completed our assessment of the BSB's licensing authority application. A paper recommending the Board's approval of the application is included as an item on the agenda.

## Research

15. Draft reports have been received for all the following research projects, all of which will be published over the next few months:

- Pye Tait Consulting's joint research (with the BSB) on Public Access Barristers. The outcomes from this will support our market evaluation work.
- Economic Insight is supporting the project to map the unregulated legal services sector, focusing in particular on intellectual property, divorce, wills and estate administration. The research report will be considered by the Board at its April meeting.
- Research on the prices of common legal services in support of the market evaluation and affordability projects.
- The individual legal needs survey – jointly funded by the Legal Education Foundation and The Law Society.
- Oxford Economic Consulting has been appointed to provide economic advice on assessing the likely market impact of changes to regulation between 2010 and 2015. This analysis will be used to support the market evaluation project.

16. The research on the prices of common legal services, such as conveyancing, suggests that consumers would benefit from shopping around to obtain the best price. There is wide variation in the lower and upper prices charged for identical services. One key finding is the importance of price transparency. While less than one in five firms currently display prices on their websites, those which do publish are cheaper than those which do not. Unsurprisingly, fixed prices also tend to be cheaper than services charged at an hourly rate. The research is likely to be of great interest to the CMA and we have shared a draft report with them.

17. We will endeavour to interest the press in this research. Publication is planned for Tuesday 5<sup>th</sup> April and summary materials are attached at **Annex A**. A comprehensive communications plan including pre-briefing for journalists is being prepared.

## Better regulation

18. On 11 February 2016, the Department for Business, Innovation and Skills published a consultation on three better regulation measures: the Business Impact Target, Growth Duty and Small Business Appeals Champions. At present the Legal Services Board (and the approved regulators) will not be covered by any of these measures. We continue to monitor relevant developments in this area through engagement with BIS officials and colleagues across UKRN.

### Independence of regulators

19. HM Treasury announced in November 2015 that government departments would consult on a number of measures to boost competition. In the field of legal services, MoJ has been tasked with setting out proposals to remove barriers to entry for ABS and to make regulatory bodies fully independent of their representative arms. We have been told by the MoJ that they plan to publish the consultation before the Easter recess. We will submit a formal response to the consultation, and the issue of regulatory independence is part of our ongoing work on proposals for legislative reform.

### **Communication and external engagement**

20. Set out below is a list of mine and the Chairman's engagements since the last Board meeting:

<b>Stakeholder</b>	<b>LSB</b>	<b>Date</b>
Quarterly LSB-Bar Council CEO and Chair 4 way meeting	CEO, Chair	25 Jan
Meeting with Shailesh Vara MP following up submission on a future legal regulatory framework	CEO, Chair	25 Jan
LSB/Law Society CEO and President Introductory meeting	CEO	28 Jan
LSB/Association for Personal Injury Lawyers (APIL) CEO Introductory meeting	CEO, NB	01 Feb
Meeting with the CEOs of the Bar Standards Board and Bar Council on PCF proposals	CEO, NG	02 Feb
Introductory meeting with the Association of British Insurers	CEO, AA	02 Feb
Introductory meeting with a representative of the Welsh Government	CEO, AA, CW	02 Feb
Introductory meeting with the CEO of the Society of Will Writers	CEO, AA, ME, CN	04 Feb
LSB/CILEx CEO Bi-annual meeting	CEO, AA	08 Feb
Quarterly 4-Way LSB/OLC CEO and Chair 4 way meeting	CEO, Chair	09 Feb
LSB annual meeting with the CEO of the Judicial Appointments Commission (JAC)	CEO, Chair	09 Feb
LSB/SRA CEO and Chair 4-Way monthly meeting	CEO, Chair	09 Feb
Meeting with CEO of CLC on the transparency of reporting	CEO	11 Feb
Introductory meeting with Kevin Rousell from MOJ (Claims Management Regulator)	CEO	11 Feb
LSB/BSB Monthly CEO meeting	CEO	11 Feb
Follow up meeting with Lord Hunt of Wirral	CEO	11 Feb
LSB/MOJ Q3 Report meeting	CEO	29 Feb
Introductory meeting with George Bull of Baker Tilly (Now RSM)	CEO, NT	03 Mar
LSB/MOJ Accounting officer meeting	CEO	04 Mar
LSB/Legal Ombudsman CEO meeting to discuss performance	CEO	07 Mar
LSB/Regulatory Futures Review introductory meeting and to discuss their regulatory project	CEO, JM	08 Mar
ICAEW Annual Dinner	CEO	08 Mar

Other attendees:

AA – Antonet Abbink, Corporate Services Associate

NB – Nicholas Baré, Regulatory Associate

ME – Meghan Eyre, former Regulatory Associate

NG – Nick Glockling, Legal Director



JM – Julie Myers, Corporate Director  
CN - Chris Nichols, Regulatory Project Manager  
NT – Nicola Tysoe, Legal Advisor

21. The LSB has launched a number of consultations since the last Board meeting. The *BSB section 80 consultation*, the *PCF rules change consultation* and the *first-tier complaints handling consultation* were all published with accompanying press releases and picked up by the trade press.
22. We responded and published our response to the CMA's legal services market study statement of scope on 3 February.
23. We published the LSB *statement of policy on in-house lawyers* in early February and provided an article to Modern Law magazine on it.
24. We issued our decision on the *BSB/Bar Council 2016 PCF application* on 12 February.
25. As of 11 March, the LSB has 1,228 followers on twitter.

**16 March 2016**