

| | | |
|-------------------------|----------------------|----------------------------|
| To: | Legal Services Board | |
| Date of Meeting: | 14 July 2016 | Item: Paper (16) 45 |

| | | |
|--------------------------------|--|--|
| Title: | LSB position on the future legislative framework | |
| Work stream(s): | Developing options for legislative change | |
| Author / Introduced by: | Caroline Wallace, Strategy Director caroline.wallace@legalservicesboard.org.uk 020 7271 0086 Steve Brooker, Head of Research and Development Steve.brooker@legalservicesboard.org.uk 020 7271 0074 | |
| Status: | Official | |

Summary:

Since October 2015, the LSB, assisted by Professor Stephen Mayson, has been developing its vision for a future legislative framework, addressing the issues raised in the 'July 2015 options paper' submitted to Ministers by all the regulators.

The Board has engaged extensively throughout the project including three informal sessions and one formal session. At the informal session in May this year the Board gave a steer on all the outstanding policy issues, which is reflected in the latest version of the policy position paper (see Annex A). We are now in a position to seek the Board's sign-off for this final version of the paper.

The Board is also asked to endorse a communications plan in light of the sensitive nature of the work and the complex and changing external operating environment.

[REDACTED]

Recommendation(s):

The Board is invited to:

1. Endorse the final policy position paper;
2. Endorse the communications approach; and

3. Agree that the LSB publish the document at the optimal time to inform Government consideration of these issues. [REDACTED]

In line with the Schedule of Delegations, and pending discussion of this paper, the Chief Executive and Chair will approve the final version of the report for publication.

Risks and mitigations

Financial: N/A

Legal: No legal risks have been identified. The Legal Director has been kept informed of developments via Senior Leadership Team discussions and advised on relevant issues.

Reputational: There are considerable reputational risks and opportunities associated with this work. The LSB has taken a leadership role and doing this work should maximise its influence over the direction of any future legislative reform. [REDACTED]
[REDACTED]
[REDACTED].
The work takes place in a dynamic external environment, including political developments and the CMA market study.

Resource: This workstream is included in the LSB’s 2016/17 Business Plan. The level of ongoing resource will depend on the appetite for reform prompted by changes in the external environment.

| Consultation | Yes | No | Who / why? |
|------------------------|-----|----|--|
| Board Members: | X | | Three informal Board sessions and one formal session have been held. The Chairman has been involved in all internal discussions on the future direction of the LSB’s legislative reform work. |
| Consumer Panel: | X | | Professor Stephen Mayson and the Head of Research and Development attended two LSCP meetings to elicit its views. The Panel Chair participated in the first informal Board session and was invited to the second one. LSCP has also sent in a paper, which the Board considered at its meeting on 27 April this year. It has since sent in further views on the Board’s emerging position on the regulatory objectives, risk assessment and the consumer voice which it has requested that the Board consider – see Annex C. |

| | |
|----------------|--|
| Others: | Cross-regulator discussions led to the July 2015 legislative options paper. In developing the LSB's response to the July 2015 paper, the project team sought the views of a group of external commentators and an infrastructure regulator (via the UK Regulators' Network) on how any new regulatory framework could allow for future developments and build in regulatory agility. |
|----------------|--|

| Freedom of Information Act 2000 (Fol) | | |
|--|---|----------------|
| Para ref | Fol exemption and summary | Expires |
| Summary box, third paragraph, second and third sentences Recommendations box, last sentence of number 3 Risks and mitigation – Reputational Para 1, last sentence Para 7, all bullets Para 8, first sentence Para 9, second, third, fourth, fifth and sixth sentences Para 10, second sentence Para's 11-17, except the first three sentences of para 14 | Section 36: intended to promote a free and frank exchange of views for the purposes of deliberation by the Board. | N/A |
| Annex A | Section 22: information intended for future publication | |
| Annex B | Section 36: intended to promote a free and frank exchange of views for the purposes of deliberation by the Board. | N/A |
| Annex C | Section 36: intended to promote a free and frank exchange of views for the purposes of deliberation by the Board. | N/A |

LEGAL SERVICES BOARD

| | | |
|-------------------------|----------------------|----------------------------|
| To: | Legal Services Board | |
| Date of Meeting: | 14 July 2016 | Item: Paper (16) 45 |

LSB position on a future legislative framework

RECOMMENDATION

1. The Board is invited to:
 - (i) Endorse the final policy position paper for publication;
 - (ii) Endorse the communications approach; and
 - (iii) Agree that the LSB publish the document at the optimal time to inform Government consideration of these issues. [REDACTED]

Background

2. The Board is by now very familiar with the background to this work. Briefly, following a ministerial summit in 2014 designed to find opportunities for further deregulation, in July 2015 the LSB submitted a paper to Ministers (the July 2015 paper) that was the product of cross-regulator discussions facilitated by Professor Mayson, exploring the key issues for consideration in any comprehensive reform of the Legal Services Act 2007 (the Act). At its October 2015 meeting, the Board agreed that Professor Mayson be asked to work with the LSB to develop an LSB response to the six questions posed in the July 2015 paper – effectively the LSB's position on a future legislative framework. The Board agreed the scope of this work at its November 2015 meeting.
3. Since then the executive team has worked alongside Professor Mayson to develop its position, initially revisiting the September 2013 'Blueprint' document¹ to consider how the LSB's views may (or may not) have moved on since then. The Board has engaged extensively in the project, including holding two informal sessions with Professor Mayson to discuss the key issues and another informal session in May to provide a steer on the outstanding policy issues. The Board considered this work in a formal session at the April meeting and has received regular updates via the CEO's reports since the start of the year.
4. The work has also benefited from a programme of stakeholder engagement including the initial cross-regulator discussions which led to the July 2015 paper, participation in discussions at two meetings of the Legal Services Consumer

¹ The Blueprint was the LSB's response to the Ministry of Justice's 2013 call for evidence on legal services regulation.

Panel, and the convening of an external expert group to take account of social, technology and demographic issues, against which the ideas for the future regulatory framework could be sense-checked.

5. Professor Stephen Mayson has continued to assist us in the development of further iterations of the position paper and once again we are extremely grateful to have benefited from his ongoing advice and support.

Final position paper

6. Following a series of executive level and board discussions we are now seeking the Board's endorsement of a final policy position paper, provided at **Annex A**. An updated version of the one-page summary is at **Annex B**.
7. The key changes made in light of the Board's feedback in May, are as follows (following the order they appear in the document):

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

[REDACTED]

[REDACTED]

[REDACTED]

8. The transition to the new framework that we are proposing will involve some interactions between activity- and title-based regulation. We have given these interactions considerable thought with the help of Professor Mayson, and are proposing to develop some careful Q&A and scenario materials to explain how these interactions would work in practice. We will use these materials to answer queries from stakeholders and to assist us in briefing journalists.

9. Professor Mayson has kindly reviewed the latest draft of the report. [REDACTED]

Communications approach

10. The Board had an initial discussion on the type and timing of outputs at its November 2015 meeting and revisited this at its April 2016 meeting. [REDACTED]

11. [REDACTED]

² A number of the issues raised in the letter are also about the principles that should underlie consumer engagement rather than the principles which should underlie the design of a consumer body, and are therefore beyond the scope of the position paper.

³ The call for evidence appears to restate the long-term policy intention of the previous coalition government to make Citizens Advice the single body for advice and advocacy across the economy. The four sectors have a range of consumer advocacy models, but the communications sector has a statutory consumer panel on a similar model to the LSCP. The steer provided by the Board in May not to specify the form that consumer advocacy should take would seem strengthened in light of this development.

[Redacted text block]

12. [Redacted section header]

- [Redacted list item]

- [Redacted list item]

- [Redacted list item]

- [Redacted list item]

- [Redacted]

- [Redacted]

- [Redacted]

13. [Redacted]

14. The Chairman is due to give a speech on regulatory reform at the [Westminster Legal Policy Forum on 12 September](#). The SRA, Law Society and CMA are also due to make speeches at the event in following sessions. Although the exact timing is unknown, responses to the CMA's consultation on the interim findings of its market study are likely to be due around the same time. [Redacted]

[Redacted]

15. [Redacted]

16. [Redacted]

⁴ The final result of the Conservative Party leadership contest is expected on 9 September.

[Redacted]

17. [Redacted]

Next steps

18. In line with the Schedule of Delegations, and subject to any final comments from the Board, the Chief Executive and Chair will approve the final version of the policy position paper for publication.

5 July 2016