

<b>To:</b>	Legal Services Board	
<b>Date of Meeting:</b>	21 January 2016	<b>Item:</b> Paper (16) 08

<b>Title:</b>	Q3 Performance Report: 1 October – 31 December 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 Q3 2015/16 (October - December).

A narrative cover for the Ministry of Justice (MoJ) Q3 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 Q3 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 Q3 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)(i): information would inhibit the free and frank provision of advice	

## LEGAL SERVICES BOARD

<b>To:</b>	Legal Services Board	
<b>Date of Meeting:</b>	21 January 2015	<b>Item:</b> Paper (16) 08

### Q3 Performance Report: October – December 2015

#### Recommendations

The Board is invited to:

- 1) review and comment on the draft Q3 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 Q3 2015/16 (October - December 2015).
2. It also contains the draft Q3 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 Q3 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 Q3 is reported below.
4. The table below 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.

Q3 2015/16 commitment	Progress
Undertake scoping exercise on the regulation of special bodies/non-commercial bodies	<b>Postponed to next business year:</b> It was agreed by the Senior Leadership Team in December to move this work into the next business plan year due to certain projects requiring more resources than initially envisaged.
Report to the Board on Cost of Regulation and recommend any further work	<b>Complete:</b> The report was presented to the Board in November. A further report including

	recommendations will be provided to the Board in March 2016.
Choice of insurer: identify and evaluate relevant regulator restrictions and complete an assessment of regulatory restrictions against legislative requirements	<b>On track:</b> Work is underway and is due to finish by the end of Q4.
Implement protocols and processes to allow the LSB to carry out its obligations as an ADR competent authority	<b>Closed down:</b> The OLC withdrew their application to become an ADR entity.
Publish consultation on processes for handling our statutory decision making responsibilities (if necessary)	<b>Delayed:</b> The decision on whether or not to consult has been delayed. A report will be considered by the SLT in January along with a plan for the next stages of the project.
Undertake research into unregulated providers of legal services	<b>On track:</b> Research was commissioned in October and the contract was signed in November.
Evidence gathering into what 'affordability means' and identify barriers to affordability	<b>Re-scheduled:</b> Evidence gathering into what affordability means has been completed. SLT agreed that the work on identifying barriers be moved to 2016/17
Review arrangements for open data in other sectors and undertake research into quality and price information	<b>Complete:</b> Work on this was completed in Q3.
Assess implications of section 112 work for ADR directive requirements	<b>Complete:</b> Work on this was completed in Q3.
Undertake a scoping exercise on trading behaviour risk engage with appropriate external bodies	<b>On track:</b> The scoping of this project will be completed by Q4.
Consider budget application from SDT	<b>Complete:</b> Work on this was completed in Q3.
Approved regulators to submit self-assessments to the LSB	<b>Complete:</b> All self-assessments have been received.

<b>Q2 2015/16 commitment</b>	<b>Progress</b>
Undertake scoping exercise for a project to understand and help improve affordability	<b>Now complete:</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>Now complete:</b> Work on this was completed in Q3.
Undertake review of appointments processes for Chairs of regulatory bodies.	<b>Rescheduled to Q4:</b> This work was moved to Q4 to allow for extra resources on the regulatory standards work
Evidence gathering and analysis for market evaluation	<b>Ongoing:</b> This work is due to be completed in Q4

### MoJ performance management framework

5. The draft Q3 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 Q3 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 Q3 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 not issued any Section 55 requests this quarter.
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/Amber**. This reflects that, whilst we have needed to undertake some re-scoping, we remain broadly on track to deliver our Business Plan milestones, and those that have slipped are being actively managed and will be completed shortly. The pressure on resources as a consequence of vacancies and the need to react to external initiatives is the reason we are Green/Amber rather than Green.
5. Matters of note not specifically addressed by the programme report include the following:

**Organisation development and governance**

6. One new colleague has started with the LSB this quarter; Nicola Tysoe joined as the Legal Advisor in November. Also this quarter the LSB received one resignation; Project Associate Cat Kelly handed in her notice in November and will leave LSB in February.
7. The recruitment of the LSB's new Chief Executive was finalised this quarter with interviews taking place in mid-October. An offer was made and accepted by Neil Buckley who started in his new role 4 January.
8. In regards to Board appointments, the Chairman, as part of a MoJ constituted appointment panel, undertook short-listing for two new non-lay members November. Interviews were held early in Quarter 4. The process for appointing new lay members will also begin in Quarter 4.

9. As the Board are aware, a consequence of the delays around appointments is that the Board's membership continues to 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". We are assured, however, that the Board can continue to perform its statutory functions legitimately.
10. The LSB Audit and Risk Assurance Committee met in October. The agenda included the budget proposal for 2016/17, a verbal update on the internal audit and an update on the introduction of inherent risk measures to the LSB's Risk Management Strategy.
11. Last Quarter the MoJ implemented a series of 'emergency spending controls' for the rest of this financial year and these have been made mandatory on all bodies associated with the department. As the LSB is classified as a 'central government body' by the Office for National Statistics, it will also be subject to these controls. Areas affected include travel, away days, conferences and catering, engaging consultants, recruiting new colleagues and marketing and communications.

### **QASA judicial review**

12. The Supreme Court has awarded costs in favour of the LSB, up to the cap set out in a Protected Costs Order. Solicitors acting for the claimants have confirmed that they will pay all costs now due to the LSB without the need for a detailed assessment. The LSB therefore currently awaits receipt of approximately £220k, which covers around half of the costs it incurred in successfully defending the litigation. 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 monthly updates on OLC performance in light of the section 121 targets and section 120 reporting obligations set by the Board and a discussion on the draft OLC budget for 2016/17.
14. In Quarter 1, the LSB used its power under sections 121 and 120 of the Act to set performance targets and reporting obligations on the OLC. The OLC have continued to miss these targets throughout Quarter 3 (although December did show a marked increase in timeliness), and as a result 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.
15. The LSB 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. This work was presented by representatives of the OLC Board to the Board in November and discussed. The Board noted the progress that had been made and steps that were being taken to make further progress.

16. Following the formal notification from the OLC in Quarter 2 that it was withdrawing its application to become an ADR entity in order to consult on the principle of whether they should change the Scheme Rules, the OLC announced in December that it would not proceed with the current proposal to become an ADR entity. The OLC released a statement explaining that instead they have decided to explore whether there is an alternative approach to operating as an ADR entity, such as introducing a parallel scheme or offering new “alternative” dispute resolution services that better mitigates the risk and issues it has identified. It further concluded that, given that the organisation’s key priority at present is to improve the efficiency and quality of its statutory scheme, it is not the right time to take on the additional risks and operational changes that would arise from proceeding with the scheme rules changes as proposed. This concludes the LSB’s responsibilities as a competent authority for the Legal Ombudsman for the present.

## **Communications and stakeholder relations**

### *Speaking engagements*

17. The Chairman was a panel member at the National Pro Bono Week breakfast event which was held at the Law Society on 2 November. He shared the panel with high level representatives of the Bar Council, TLS and CILEx. Richard Moriarty spoke at the 360 Legal annual conference on 1 October and attended the 2015 Legal Wales conference on 9 October. Steve Brooker spoke at the CIPA 2015 Congress on 2 October. Richard also met with representatives from Which? and the General Counsel FTSE 100 group.
18. Steve Brooker and Caroline Wallace represented the LSB at the Legal Futures Innovation conference on 17 November. Steve gave an introductory presentation on the Innovation research report while Caroline participated in a panel discussion about ABS and Innovation.
19. Richard participated in a Welsh Government legal services thought leadership roundtable in London on 25 November. The event was hosted by PWC and attended by the Lord Chief Justice, Lord Thomas. The Legal Services Consumer Panel (LSCP) were also present and sent a Panel member to the follow on roundtable in Cardiff the next day.

### *Meetings to note*

20. Several Board members joined Richard and Mike Pitt for a meeting and then dinner with Board members of the SRA and, separately, with Board members of



the BSB. These provided useful opportunities to exchange views on a variety of topics relating to the legal services market and its regulation.

21. Richard participated in a Joint V Presidents (presidents of Liverpool, Manchester, Birmingham, Bristol and Leeds Law Societies) event held in Leeds on 5 November.
22. Richard and Mike met with representatives of Leeds Law Society prior to the Board meeting and stakeholder event on 26 November. The Board meeting was followed by the stakeholder event (jointly with the LSCP and Legal Ombudsman) for legal professionals and anyone interested in legal services in Leeds Town Hall that evening
23. As part of the LSB's general engagement with Parliament, Mike met with Robert Neil MP (Chair of the Justice Select Committee) on 1 December and with Dominic Grieve QC MP on the 15 December.

#### *Publications and media engagement*

24. The LSB issued a number of publications during the quarter. In addition to those described below these included: the Board's response to the BSB undertakings; research on the impact of 'unbundled' services on consumers; the results of in-depth provider interviews (cost of regulation); and the consultation on Section 15 (in-house lawyers) principles. All garnered trade press attention.
25. The LSB issued its small business legal needs update report on 19 October. It followed this up with an event on 9 November hosted by BIS which focused on this research and the innovation research issued earlier in the year. Representatives of the SRA, the Federation of Small Business and Rocket Lawyer participated in this event. Senior stakeholders from government, business and regulators among others were also in attendance.
26. Short articles were provided to the Law Society Gazette (in support of the 'changes in prices of legal services' survey which started on 12 November) and to Modern Law magazine outlining the key findings of the small business legal needs updated report. Richard was also interviewed by Modern Law magazine for their October/November edition.
27. The LSB issued a statement welcoming the government announcement (on 30 November) on cutting red tape, and opening up markets to new and innovative businesses plans. The LSB response was focused on the reform of the legislative framework for the regulation of legal services elements of the announcement.
28. The LSB's currently has 1,157 followers on twitter (as of 8 January). The separate twitter account (@LSB\_Leeds\_2015) which was opened to promote the

joint LSB / LSCP / LeO event in Leeds on 26 November will be renamed and retained for use in promoting future events.