

To:	Legal Services Board	
Date of Meeting:	23 March 2016	Item: Paper (16) 10

Title:	Business Plan and budget 2016/17 - update	
Workstream(s):	Corporate	
Author / Introduced by:	Neil Buckley, Chief Executive Julie Myers, Corporate Director Edwin Josephs, Director of Finance and Services	
Status:	Official	

Summary:

This paper updates the Board on the status of discussions with the Ministry of Justice (MoJ) on the Board's budget for 2016/17.

At the time of drafting (16 March 2016), these have not yet been concluded, and so the Executive is unable to bring a final Business Plan and budget for 2016/17 to the Board for approval.

The Board will find attached:

- a) The submission made by LSB to the Lord Chancellor in response to a request that further savings on the LSB's original budget submission for 2016/17 be made (Annex A)
- b) A work in progress draft summary of responses to consultation which will be finalised once the budget position is clear and final decisions on the work programme can be made (Annex B)

The Board are asked to note that Annex B is a work in progress draft and remains subject to internal review, proofing and polishing.

The draft Business Plan 2016/17 is not included as final drafting amendments will not be made until the outcome of this discussion and the budget decision are known.

This paper requests that the Board note and discuss the latest budget situation and discusses the recommendations made by the Executive in relation to the proposed work programme for 2016/17 following consultation.

The key points to note are: the need to reduce the amount of research we commission from external sources (although we would plan to increase the amount of internal desk based research and to maximise our use of commissioned research to date through more data analysis/mining); and the proposals not to proceed with the full list of activities in the draft Business Plan. This reflects not only our capacity but also our intention to focus on a smaller number of high-impact activities.

One specific decision is needed in relation to the decision to postpone work on reviewing the transitional protections for special bodies in the Legal Services Act 2007 (the Act). In November 2014 the Board had previously suggested that it would be ready to review the position in Autumn 2016. Whilst this was an area of activity supported by some respondents to consultation (including those willing to

take on the regulation of these entities), the Executive is not convinced that proactive work in this area in 2016/17 makes best use of scarce resources in light of the lack of evidence of detriment for either consumers or special bodies from the current arrangements. In addition, we are aware that some regulators are currently exploring possible regulatory solutions for special bodies themselves; we need to monitor this and whether or not there is a take-up by such bodies.

We will update the Board at the meeting with any information we receive from the MoJ on the budget situation.

Recommendation(s):

The Board is invited to:

- a) Note the latest position on budget for 2016/17
- b) Discuss and agree the proposed adjustments to the work programme for 2016/17 and delegate to the Chairman and CEO final drafting and publication of the Business Plan 2016/17 and response to consultation
- c) Agree to defer work on transitional protections for special bodies.

Risks and mitigations

Financial: There is a risk that Ministers will not make a decision on the Board's budget in time for the Board's 23 March meeting. There is also a risk that Ministers may not approve the current budget proposal and seek further reductions. The Executive is providing all of the information requested by the MoJ to assist with Minister's decision-making. If a decision is not made by 1 April 2016 then MoJ will need to provide us with a letter of assurance confirming authority to spend until the matter is resolved.

Legal:

[Redacted]

Reputational:

A small number of respondents to the Business Plan consultation expressed concern at LSB cutting its budget too deep if that were to impact on delivery of its statutory functions. We will ensure that our final response document makes clear that budget reductions are not expected to have this effect. [Redacted]

Resource:

The budget currently before Ministers will create a more pressured resource envelope in 2016/17 and beyond.

Consultation	Yes	No	Who / why?
Board Members:	X		The Chairman agreed the revised submission to Ministers. The Audit and Risk Assurance Committee reviewed the latest budget submission at its March meeting.
Consumer Panel:		X	

Others:		
Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
Risks and mitigations: Legal section and final sentence in Reputational section; Annex A	Section 36(2)(b)(ii): information likely to inhibit the exchange of views for the purposes of deliberation	
Annex B	Section 22: information intended for future publication	

LEGAL SERVICES BOARD

To:	Legal Services Board	
Date of Meeting:	23 March 2016	Item: Paper (16) 10

Business Plan and budget 2016/17 - update

Summary

1. At its 26 November 2015 meeting, the Board agreed a draft budget for 2016/17 of **£4,198k** (£4,298k 2015/16) for inclusion in the consultation on the draft Business Plan for 2016/17. The draft Plan has been the subject of consultation from January to February and would normally be presented to the Board at this meeting for approval of both the content and the budget to undertake the proposed activities.
2. In line with previous years, the budget proposal was also submitted to Ministers for approval. The Lord Chancellor is required to approve the amount we collect via the levy each year. Whilst the Business Plan is not subject to Lord Chancellor approval, it does provide the basis for his decision-making.
3. Typically, LSB would receive approval in principle from the Minister before consultation on the draft Plan. This year, however, in view of the tougher public spending environment and pressure on overall MoJ budget, the MoJ introduced a new cross-MoJ process for budget approval which meant that approval in principle was not provided before consultation. It was agreed with the MoJ that LSB should consult on a draft Plan and budget making clear that the latter remained subject to Ministerial approval.
4. On 25 January 2016, the Chairman and Chief Executive met our then junior Minister, Shailesh Vara. In that meeting, the Minister made clear that the level of budget reduction proposed by the LSB was inadequate. In light of that meeting, LSB was asked to re-submit its budget taking account of the Ministerial steer.
5. After careful consideration, the Chairman and Chief Executive agreed to submit a revised budget containing a further £150k reduction for 2016/17 (**£3,998k** in 2016/17 and reducing to £3,503k by 2019/20 – an overall reduction of 18% by the end of the Spending Review period). The submission made to the Lord Chancellor is attached at **Annex A**. This addresses the firm steer from the

Minister that LSB must “*identify further reductions and specifically whether there are any activities that go beyond what is essential for our statutory obligations, and evaluating whether these actually need to be done or can be done more efficiently.*”

6. The expectation is that the majority of this additional saving will have to be absorbed by our research and evidence-gathering programme but we will have to make more general efficiencies.
7. It is important to state that, as yet, we have not had any indication from MoJ that this revised proposal is acceptable nor do we have a clear indication of the timing of the final decision. We understand that Departmental allocations will be made by mid-March and that allocations for Arms Length Bodies will follow.
8. We will update the Board as soon as we can once we receive the views of Ministers. We may need a very rapid discussion on next steps if the decision is to reject our budget proposals.
9. At this stage, we are hopeful that our revised proposals will be accepted and so the Executive is preparing the Final Business Plan 2016/17 on the assumption that the revised budget will be approved. In so doing, the Executive has taken account of the responses to consultation and also made an assessment of the capacity of the organisation in order to be realistic about the activity we can plan to deliver over 2016/17. As a consequence, some of the work proposed for 2016/17 in the draft Business Plan will either not proceed or be scaled back.

Draft Business Plan 2016/17

10. On 20 January 2016, we published a consultation on our draft Business Plan for 2016/17. The document was news released and sent by email to regulators and representative bodies, consumer and citizen groups, professional groups, other regulators, the judiciary and a variety of other interested parties. The consultation closed on 19 February 2016. We held a workshop with stakeholders during the consultation period. The attendees all submitted written responses subsequently and we received 13 responses to our consultation. The overall tenor of responses was supportive of the direction and of the outcomes the LSB

is looking to deliver for consumers, the public and the profession. There was a degree of support for all aspects of the work proposed in the Plan.

11. All of the consultation responses are available if Board members wish to review them and they will be available at the Board meeting. They will all be published on our website alongside the Final Plan in due course.
12. The Plan is intended to be an operational document, providing clarity to stakeholders about the work we will do in-year and indicating when during the year work may start and finish. We are aware that this signalling is important to the smaller regulators in particular. In light of the delay to a final budget decision, we are still developing the milestones for activity and will include these in the final Plan when published.
13. The analysis of responses to the consultation is at **Annex B**. Key points made and proposed changes are highlighted below.

Consumer Panel commission

14. Those who commented on the Commission were broadly supportive and a number welcomed the opportunity to work with the Panel.

Work programme - general

15. Reaction to the areas of work proposed by the LSB were more positive overall than in previous years, no doubt in line with the strong continuity from the past year and the maintenance of our three strategic themes. Some common themes were rehearsed: the need to avoid a 'one size fits all' approach to regulation; and a need for joint working and to avoid duplication of effort. Both are themes that we recognise and take account of in the way we work.

Work where we propose adjustments to the draft Plan

- a. *Barriers to investment* – we had anticipated commissioning external support in this area but, on review, feel able to resource the work in-house albeit with a narrower scope.
- b. *Special bodies* – we had proposed to act on the previous Board commitment to return to the transitional protections provided by the Act for special bodies in Autumn 2016, including updating research. In light of the likely reduction in our research budget, and the lack of evidence

of detriment to either consumers or special bodies as a result of the current arrangements, it is proposed to pause this work and the position be reviewed again for our 2017/18 Plan. This is somewhat at odds with the views of some stakeholders, a number of whom were interested in seeing this work proceed. In particular, The Law Society felt that where these bodies directly compete with the commercial market, it is more difficult to see why there should be differences in arrangements and they feel there is unsatisfactory protection for clients in this situation.

- c. *Open data* – in light of the current CMA study, we propose to conclude our current activity in this area and then pause until the outcome of the CMA work is known. At the time we expect to be ready to review our position in this area, we will also be informed by the commission we give to the Consumer Panel.
- d. *Unregulated services* – in light of the conclusions emerging from our work in 2015/16 in this area (due to be discussion by the Board in April), we do not believe that further work will deliver a demonstrable impact in terms of greater consumer protection at this time. As such, committing to resource further work in this area is not considered to be value for money. This does not mean that the unregulated sector will not be an important feature in our broader consideration of the legal services sector.
- e. *Benefits and risks attached to the changing shape of regulation* – this work will be more clearly focused on the potential risks arising from the increasingly complex legal services landscape.

Budget proposal

16. Those stakeholders that commented on our budget proposal, as contained in the draft Business Plan, welcomed the direction of travel although some urged caution that budget should not be cut so much as to reduce our ability to deliver our statutory functions.

RECOMMENDATION

The Board is invited to:

- a) Note the latest position on budget for 2016/17
- b) Discuss and agree the proposed adjustments to the work programme for 2016/17 and delegate to the Chairman and CEO final drafting and publication of the Business Plan 2016/17 and response to consultation
- c) Agree to defer work on transitional protections for special bodies.

16.03.2016