

Minutes of a meeting of the Legal Services Board (LSB)

Date: 24 November 2016
Commencing: 14.00
Venue: Deans Court Chambers, 24 St John Street, Manchester M3 4DF

Present: Sir Michael Pitt Chairman
(Members) Neil Buckley Chief Executive
 Terry Babbs
 David Eveleigh
 Marina Gibbs
 Jeremy Mayhew
 Dr Helen Phillips
 Catharine Seddon
 Michael Smyth CBE QC (Hon)

In attendance: Nick Glockling Legal Director
 Edwin Josephs Director of Finance and Services
 Julie Myers Corporate Director
 Caroline Wallace Strategy Director
 Kate Webb Head of Regulatory Reviews and
 Investigations
 Toni Whitby Corporate Governance Manager
 (minutes)

In attendance for specific agenda items:

Bryony Sheldon Project Manager
 Jenny Prior Business Planning Associate

Observers: Danielle Viall and Stephanie Borthwick

External attendance:

Steve Green Chair, OLC
 Kathryn Stone, OBE Chief Legal Ombudsman, LeO
 Rob Powell Director of Corporate Services, LeO

Item 1 Welcome and apologies

1. The Chairman welcomed Danielle Viall and Stephanie Borthwick, new colleagues who attended the meeting as observers. Apologies were received from Jemima Coleman. Helen Philips attended the meeting from Item 6.

Item 2 Declarations of interests relevant to the business of the Board

2. There were no declarations of interest.

Item 3 Exploring consumer vulnerability in legal services | Paper (16) 69

Bryony Sheldon attended the meeting

3. The Board were updated on the commitment within the LSB's business plan for 2016/17 to research the experiences of vulnerable consumers, including the scope of such research. LSB has commissioned research to understand the experiences of vulnerable consumers with different legal services providers. This is with the aim of understanding if approved regulators are applying effective measures to protect the interests of these consumers and possible ways that these measures might be improved. Given the breadth of possible areas for study on the subject of vulnerability, LSB has taken account of existing evidence (including understanding areas where research is being, or has been, done and interrogating the relevant datasets that LSB holds).
4. Guidance by the Legal Services Consumer Panel (the Panel) recognises that consumer vulnerability is a multi-faceted issue. The commitment to undertake research stems partly from LSB's work on accessibility, which explored measures to address barriers that contribute to unmet legal need.
5. The Board acknowledged that as there was a small research budget it would not be possible to cover all types of vulnerable consumer (ie juveniles/under 18's) but the outcome of the research should identify core themes (eg customer service) which could be considered in the future to understand unmet and unidentified unmet legal need.
6. Bryony set out the timetable for the research noting Research Works had now been appointed. There will be sixty interviews (20 to cover carers; 20 to cover mental health; 20 to cover dementia). The sample size would need to be appropriate to ensure good and valuable research. Should there be a need to scale down the research focus, the Board prioritised mental health.
7. The assigned Board member was Michael Smyth for this work and information would be shared with him as the work progressed. The Board would assist in facilitating relationships and consider their contacts with charities, including potential for future collaborative initiatives. Board Members would provide details of potentially useful contacts for this work to Bryony by 31 January 2017. The Board also recommended reviewing other regulators' work with vulnerable consumers. All information would help to develop a wider platform for publishing the completed work, expected in Q1 2017.
8. The Board noted possible contacts and areas to cover within the supplementary work to map good practice such as:
 - that Magistrates Courts were working to ensure that they were better informed about mental illness;

- the Royal College of Psychiatrists;
 - accredited mental health professionals;
 - other contacts such as Citizens Advice Bureaux in relation to their community law services, Prison National Offender Management Service, MIND, Carers UK and immigration services (noting the BSB had undertaken extensive work in this area).
9. **The Board noted the report having considered the best use of limited resources to maximise the impact of the research. The Board would be updated in March 2017.**

Item 4 LSB vision statement | Paper (16) 70

10. The Board considered a draft vision statement at its September away day. This had been developed by colleagues following feedback from the 2015 Colleague Survey. The vision statement had been revised by the Senior Leadership Team (SLT) in line with the Board's feedback. It now returned to the Board for consideration.
11. The Board's discussion of the proposed statement included the following points:
- a single clear strapline was beneficial to explaining the LSB's role;
 - any vision statement would need to be simple to remember and relevant;
 - whether the strapline could be made to be more 'active';
 - whether and how to use references to LSB's role as a change agent. The importance of being clear that references to change were about change that is needed as opposed to change for change's sake was stressed.
12. **ACTION: Board Members David Eveleigh and Catharine Seddon would work with the Executive to agree the vision statement on behalf of the Board.**

Item 5 Reviewing our regulatory approach | Paper (16) 71

13. Kate Webb summarised the matters that had been presented to the Board in September and addressed the two requests that had emerged:
- more information on the tools available to the LSB to hold regulators to account; and
 - the problems we see in the legal sector at present.
14. Considering the powers available to the Board under the Legal Services Act 2007 (the Act), it was noted that to date the LSB had conducted one investigation. The Board considered whether this reflected on the LSB's powers being inadequate or rather did it reflect LSB reluctance to use the powers the Act provided - a range of tools to use to hold regulators to account.
15. The Board's approach to date had been to work with front-line regulators, considering that long-term relationships would be best served by using encouragement rather than enforcement. At the October Board, the Competition and Markets Authority (CMA) had given a presentation to the Board, noting that the legal sector started from a low base in terms of transparency of information for consumers and competition. It was for the Board to consider whether the LSB should use its powers to enforce change. The Board reflected on their approach to OLC.

16. The Board had always considered the size of the LSB, the availability of resources, costs (including opportunity costs) and proportionality before deciding how to use its powers. It was noted that greater transparency about the regulatory costs of the current framework would be relevant to ongoing consideration of legislative change. The Board regularly considered its risk appetite.
17. **ACTION: The Board agreed to set up a sub-group comprising Jeremy Mayhew, Terry Babbs, Marina Gibbs and Helen Phillips to work with the Executive to develop/consider the LSB's future regulatory approach and risk appetite for formal investigations.**

Bryony Sheldon left the meeting

- Coffee break -

Item 6 Draft LSB Business Plan and budget 2017/18 | Paper (16) 72

Helen Phillips attended the meeting.

Jenny Prior attended the meeting.

18. Neil Buckley presented the draft LSB Business Plan and budget for 2017/18, for review, following which it would be issued for external consultation. The final Plan would return to the Board in March 2017 for approval. The external consultation would launch with a press release, expected to be on 5 December, with the consultation period lasting 11 weeks, closing on 17 February.
19. The draft Business Plan comprises the work programme for the third and final year of the LSB's three year strategic planning period.
20. The Board considered the draft Business Plan and noted that:
 - it should capture expected timings for the Tailored Review and CMA Report and be clearer about the potential for additional work, once the CMA report and findings were published, capturing the impact on resources;
 - the proposal to review end to end enforcement processes in part reflected the increasing scrutiny of the SRA and SDT;
 - the tone should be clearer that change required was necessary change not change for change's sake;
 - it should highlight that the research budget was £100k but that we also used funding partnerships and other bodies' research to ensure value for money.
21. The Board considered the Budget, which came to it with the endorsement of Audit and the Risk Assurance Committee (ARAC) who had considered it in October, and noted:
 - colleague turnover had been high in 2016 - close to 22% - which if replicated in 2017 would impact adversely on the budget, which had little in the way of slack;
 - the work LSB may be required to undertake to deliver any CMA recommendations might be significant and could impact on resources, but had the potential to improve outcomes for consumers significantly;
 - assurance was sought and provided by the Chair of ARAC that the proposed budget reductions will not impair the ability of the LSB to discharge its statutory functions.
22. **Subject to amendments in line with discussion, the Board APPROVED the draft Business Plan and budget for 2017/18 for consultation.**

Item 7 Minutes of the previous meeting

23. The minutes of the meeting held 26 October 2016 had already been approved via electronic correspondence and published on the website. The minutes would be signed by the Chairman as an accurate record.

Item 8 Report of action points

24. Three actions were closed by the Board and two actions were updated.
25. **The Board noted the action tracker.**

Item 9 Review of LSB corporate risk register | Paper (16) 73

26. Jenny Prior introduced the corporate risk register which was brought to the Board for its six monthly review. It was noted that ARAC had reviewed the risk register at its meeting in October and that the SLT reviewed it monthly. The Executive are the owners of the risk register, with ARAC providing check and challenge. The Board owns the risk management strategy. The Board considered the risk register and noted:

- Risk CR001 required a correction to the technical scoring error;

- [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted] [FoIA exempt s36(2)(b)(ii)]

27. **The Board noted the corporate risk register.**

Jenny Prior left the meeting.

Item 10 Chief Executive's progress report | Paper (16) 74

28. Neil Buckley presented his progress report for November 2016 and highlighted the following items:
- the Lord Chancellor's response to the appointments to the Legal Services Consumer Panel was awaited;
 - the competition to identify a new Chair and Member for the Office for Legal Complaints had now gone public;
 - Tailored Reviews of LSB and OLC had been launched on 27 October 2016 and the Tailored Review Team had met with two Board Members, with others to follow. The Board would consider the draft Tailored Review submission later in the meeting;
 - administration review: the CEO noted that he proposed to supplement administration support with the recruitment of an apprentice administrator.

29. **The Board noted the contents of the Chief Executive's progress report.**

Item 11 Annual Review of the LSB Health and Safety policy (16) 75

30. As an employer of more than five, the LSB is required to have in place a signed statement of general policy of Health and Safety and the Board reviews the statement and policy annually.
31. **The Board noted that there had been no incidents or accidents during the year. The Board APPROVED the Health and Safety Policy Statement and Policy.**

Item 12 Finance report for October 2016 | paper (16) 76

32. Edwin Josephs provided a financial report on LSB finances which was in line with expected and forecasted variances in spending.
33. **The Board noted the contents of the finance report.**

Item 13 OLC: 2017/18 Budget Principles | Paper (16) 77

OLC attended the meeting.

34. Steve Green, Chair of OLC, Kathryn Stone, Chief Legal Ombudsman and Rob Powell, Director of Corporate Services, LeO attended the meeting to present the initial principles for the OLC Budget 2017/18. The final budget will come to the Board in March 2017 to approve and the MoJ will then need to provide *authority to spend* in the form of a budget delegation to the OLC's Accounting Officer.
35. In response to questions from the Board, Steve Green confirmed:
- Rob Powell's appointment meant the LeO senior team was now complete;
 - initial assumptions and the outcome of internal planning with regard to the indicative budget would mean a modest decrease in the legal jurisdiction budget and an increase in the claims management jurisdiction budget. The latter arose from increased bad debt expenses which were offset by increased income from case fees and had been discussed with MoJ;
 - the budget also included a requirement for capital budget to allow for essential investment in IT;
 - OLC were developing a new three-year strategy which would be agreed by the OLC in March. This would provide the context for discussion with the LSB when the budget returned for approval in March. Budget issues which were discussed included CMC bad debt, managing the financial and workforce planning implications of the proposed transfer of the claims management jurisdiction to the Financial Ombudsman Service and assurance that the proposed budget allowed sufficient capacity to deliver OLC's Modernisation Programme.
36. In response to a question from the Board, Kathryn Stone explained that, when a claims management company closed down, the case fees owed to OLC were often low on the list of debts to be repaid (with monies owed to claimants a higher priority). OLC had issued a call for evidence on the scheme rules which may lead to a consultation on revised Scheme Rules over the course of the next year which would consider refinements to the current case fee regime which could reduce CMC bad debt expenses and case fee income. Any revisions to the Scheme Rules would need to be consented to by the LSB.

37. **The Board noted the OLC 2017/18 budget principles.**

OLC left the meeting.

Item 14 LSB response to the Tailored Reviews | Paper (16) 78

38. MoJ had launched a call for evidence to inform their Tailored Reviews of the LSB and OLC on 27 October 2016. Although not a specific requirement, the Executive had prepared a draft response as a submission addressing the questions asked within the call for evidence.

39. The Board considered the draft submission and noted:
- boxes with the salient points highlighted would be beneficial as it was a long report;
 - clearer examples of LSB achievements would enhance the document;
 - insertion of the diagram showing the number of bodies operating in legal services regulation would help to illustrate the complexity;
 - a table showing how LSB had driven down its costs should be inserted; and
 - considered the paper to be a good basis for a submission and the Board agreed the inclusion of views on desirable recommendations of the review.

40. **The Board were asked to provide Julie Myers with any additional commentary or input to the Tailored Review submission before it was sent to the MoJ at 5 pm on Tuesday 29 November 2016.**

Item 15 Any other business

41. The Board received a briefing on the stakeholder event due to be held later that evening at the University of Law, Manchester.

There being no further business the meeting closed at 16.15.

Date of next meeting

The Board would next meet on 18 January 2017 at 13.00. The venue would be Office of Rail and Road, One Kemble Street, London WC2B 4AN.

Signed as an accurate record of the meeting

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Date
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