

MINUTES OF A MEETING OF THE LEGAL SERVICES BOARD (LSB)

Date: 26 October 2016
Commencing: 13.00
Venue: Office of Rail and Road, 2nd Floor, One Kemble Street,
 London, WC2B 4AN

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

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

In attendance for specific agenda items:

Steve Brooker Head of Research and Development
 Kate Webb Head of Regulatory Reviews and
 Investigations
 Dawn Reid Head of Regulatory Performance and
 Operations
 Graeme MacLachlan Regulatory Associate
 Chris Nichols Project Manager
 Jenny Prior Business Planning Associate

Observers: Karen Naya and Callum Armstrong

External attendance:

Steve Green OLC, Chair
 Kathryn Stone, OBE Chief Legal Ombudsman
 Rachel Merelie)
 Sharon Horwitz)
 Maria Rican-Sevitz)
 Paul Tregear)
 Paul Kellaway)

Item 1 Welcome and apologies

1. The Chairman welcomed Catharine Seddon and Jeremy Mayhew who were new Board Members; Toni Whitby, Corporate Governance Manager; Karen Naya and Callum Armstrong, new colleagues, who were attending the meeting as observers. There were no apologies.

Steve Brooker attending the meeting.

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

2. There were no declarations of interest.

Item 3 LSB vision for legislative reform | Paper (16) 58

3. As agreed by the Board in July, a paper setting out the LSB's vision for legislative reform was published on 12 September, to coincide with a speech by the Chairman at the Westminster Legal Policy Forum.
4. The Chairman's speech at the Westminster Legal Policy Forum was welcomed by many members of the audience at the event. Others sought clarification on matters such as the extent of future regulation of City law firms and how the LSB's vision might interact with the SRA's current proposals to simplify its Handbook.
5. Caroline Wallace updated the Board on the reactions to the publication of the paper including the key themes that have been raised and the LSB's response. The LSB had and would continue to rigorously respond to suggestions that the vision for legislative reform was either not addressing unmet need, or risking the independence of the profession. A blog, responding to these reactions, had been prepared by the LSB and had been published on the Legal Futures website on the day of the Board meeting. The LSB would continue to push for regulatory reform.
6. UCL had agreed to host a stakeholder event on 14 November, chaired by Professor Richard Moorhead (Professor of Law and Professional Ethics and Vice Dean-Research, UCL Faculty of Laws) to discuss the LSB's vision for legislative reform. This would be another opportunity to rebut any suggestion that the vision did not consider unmet need and the importance of the independence of regulation and the profession, whilst also facilitating constructive debate between those who support and oppose the LSB's ideas
7. **The Board agreed to note the feedback received to date, from the blog and the UCL event when the Board considered the Business Plan for next year and noted they would receive an update in January following publication of the CMA's final recommendations.**

Item 4 Update on the CMA market study | paper (16) 59

CMA attended the meeting.

8. The Board welcomed the CMA attendees and thanked them for the Legal Services Market Study presentation which had been provided in advance.
9. Paul Tregear and Paul Kellaway set out specific areas the CMA market study had focussed on, in particular transparency of pricing; accessibility to data and information; and consumer protection. They stressed that no decisions had been taken formally by the CMA as yet and so all recommendations discussed were subject to Board

approval. They indicated that they were provisionally proposing to recommend to the regulators that they further develop and promote the Legal Choices website (which provides some consumer facing information on legal services) as a means of empowering customers.

10. In response to a question from an LSB member, Rachel Merelie and Sharon Horwitz set out examples of other markets in which transparency remedies had worked, noting that legal services covered a wide breadth of activities creating a complex system which was ranged from bespoke to more commoditised services.
11. The CMA were considering a programme of consumer testing and/or piloting to help ensure better information (not necessarily more information) was available to consumers; this would be overseen by a Programme Board with the aim of ensuring a co-ordinated approach to transparency measures, with milestones against which to report and meet.
12. In response to questions from the Board, the CMA saw the role of the front line regulators to push forward on the issue of access to data and transparency of price and quality information for consumers and saw a role for the LSB in providing oversight in the monitoring progress. This would ensure action plans were developed and taken forward; and help tackle unmet need, inconsistencies of transparency and lack of competition.
13. The Board noted that the LSB and the CMA were in agreement about the direction of travel in relation to competition and transparency.
14. The Board asked the CMA to consider how the CMA would anticipate measuring and reporting the impact of the proposed recommendations outlined in the presentation.
16. The CMA noted that a review of the impact within 2 or 3 years would be desirable. The CMA were mindful of the limited resources available to the LSB. The CMA Board would be consulted on what role the LSB and the Consumer Panel could undertake in implementing future remedies and in assessing their impact, possibly including through tracking the consumer perception of choice (as the LSCP currently does through its tracker research) and making use of the LSB's market evaluation work.
17. A Board member noted that the CMA in reaching its conclusions might wish to have regard to the OFT report on QC status, undertaken in 2005.
18. The Board thanked the CMA. The Board looked forward to engaging further with CMA once it had decided upon its recommendations.

CMA left the meeting.

19. The Board considered the next steps the LSB might take when assessing any CMA recommendations and the potential impact on LSB's resources.

20. **The Board would consider the potential resource implications for LSB of any likely recommendations from the CMA when agreeing the Business Plan.**

Steve Brooker left the meeting.

Kate Webb and Chris Nichols attended the meeting.

21. Chris Nichols presented the LSB findings from follow up work with the regulators, since the Board had considered the final report on the accessibility project at its meeting in March.
22. Significant relevant work was being undertaken by the regulators to improve accessibility. Work in many cases had resulted directly from the published report but it was noted that the follow up meetings had been the prompt for all of the regulators to properly consider the report.
23. LSB would like to see more pace in adopting the recommendations in the accessibility report.
24. **The Board noted the report and the learning from both the soft approach and follow up after publication of a report.**

Kate Webb and Chris Nichols left the meeting.

Item 6 Solicitors Disciplinary Tribunal Budget 2017 | Paper (16) 61

Dawn Reid and Graeme McLachlan attended the meeting.

25. Graeme McLachlan set out the requirement for the Solicitors Disciplinary Tribunal (SDT) annual budget to be approved by the LSB, which must be paid by the Law Society.
26. On 9 September the SDT submitted an initial 2017 budget application to the LSB of £3,026,622. After further engagement with the SDT a revised budget was submitted on 13 October which set a budget of £2,905,167 - a decrease of £3,075 (0.11%) on 2016. It was noted that SDT have consulted with the Law Society (in accordance with the statutory requirements).
27. The Board considered the SDT budget and noted the number of hearings that come before the SDT. The Board also considered the proposed reduction to the key performance measure from 70% to 60% of substantive hearings to be heard within six months of issue of proceedings.
28. **The Board approved the SDT budget mindful of the anticipated increased caseload in 2017.**
29. **The Board agreed that a letter would be sent from the LSB accompanying the SDT budget approval which would set out the requirements for future budget submissions.**
30. **The Board asked the Executive to agree a list of guiding principles which would ensure the LSB Board provided challenge and rigour on future budget figures especially the potential for efficiencies, without impacting on standards and performance.**

Dawn Reid and Graeme McLachlan left the meeting.

Item 7 Presentation of OLC Annual Report and Accounts 2015/16 | paper (16) 62

OLC attended the meeting.

31. Steve Green, Chair of OLC and Kathryn Stone, Chief Legal Ombudsman presented the draft OLC Annual Report and Accounts for 2015/16.
32. It was anticipated that these Accounts would be the final “qualified” accounts to be laid. In presenting the Report to the Board, Steve Green noted the challenges of the preceding period, including the challenges around recruitment and resourcing, and the positive work that had been undertaken to address them. In particular, he noted the welcome return of Accounting Officer delegation to the organisation from the Ministry of Justice and the strong contribution being made by OLC Members, all of whom had been appointed by LSB.
33. In response to questions, OLC confirmed:
- Problems with IT infrastructure were now well-understood and plans were in place to resolve them. Advice had been sought from MoJ on the proposed solution. This did not include purchasing a new system but focused instead on reconfiguring, correctly, the existing system. OLC expected the revised system to be operational by July 2017 with dual running to be removed by April 2018.
 - CMC resourcing was clearly ring-fenced from legal complaints resourcing. The CMC jurisdiction had provided valuable learning for the legal jurisdiction most notably around the use of triage and working culture.
 - They continued to look at the relationship between contacts and complaints, where many of the former were premature complaints ie had not yet been submitted to legal services provider. OLC provided assistance to premature complainants by way of template letters and guidance, a service OLC felt was appropriate for an Ombudsman in helping people to have a voice.
34. **The Board received the OLC Annual Report and Accounts for 2015/16.**

OLC left the meeting.

[10 minute break]

Item 8 Minutes of the previous meeting

35. The minutes of the meeting held on 8 September 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 9 Report of action points

36. The single action had been completed and the Board agreed it was CLOSED.

Item 10 Report of the 6 October 2016 meeting of the Audit and Risk Assurance Committee | paper (16) 63

37. Terry Babbs, Chair of the Audit and Risk Assurance Committee (ARAC), reported to the Board on matters considered at the October meeting of ARAC.
38. The Board noted ARAC’s concern that the three way protocol between LSB, Office for Legal Complaints (OLC) and Ministry of Justice had yet to be completed. Neil Buckley had been in contact with the CEO of OLC who had advised him that work would be re-instigated.
39. **The Board noted the ARAC Report.**

40. **The Board asked the Executive to continue to liaise with OLC to progress and complete the three way protocol and to provide the Board with updates.**

Item 11 Review of the LSB Governance Manual | paper (16) 64

41. Amendments to the LSB Governance Manual had been considered by ARAC who endorsed and recommended the updated Governance Manual to the Board to approve.
42. It was noted that the ARAC's Terms of Reference should incorporate the NAO's advice that the Board Chair only attend one ARAC meeting in each year, thus strengthening the independence of the Committee.
43. In response to a query about the internal whistleblowing policy, it was confirmed that Board Members could go directly to the Permanent Secretary at MoJ if they considered they were unable to raise a concern via nominated Board Members or the Chairman.
44. **The Board approved the LSB Governance Manual with the additional amendment to ARAC's Terms of Reference.**

Item 12 Chief Executive's Progress Report | paper (16) 65

45. Neil Buckley presented his progress report October 2016 and highlighted the following items:
- The Chair and the CEO had met and held an introductory meeting with Lord Keen of Elie QC spokesperson for Ministry of Justice (MoJ) business in the Lords on 25 October. This had been a cordial meeting and had included discussion on the LSB vision for legislative reform.
 - Interviews for the positions of Chair and Member to the Consumer Panel had taken place and subject to Board endorsement, approval to the appointments would be sought from the Lord Chancellor.
 - Noted there had been changes to the MoJ Sponsor team.
 - The Terms of Reference for Tailored Reviews of the LSB and the OLC had been cleared by Ministers and the Reviews would be launched on 27 October. The Tailored Review team would wish to meet a small number of the Board. Julie Myers would liaise with the Tailored Review team regarding the agenda for the meetings with Board members.
46. **The Board noted the contents of the Chief Executive's update.**

Item 13 Q2 Performance Report covering the period 1 July to 30 September 2016 | paper (16) 66

Jenny Prior attended the meeting.

47. Julie Myers and Jenny Prior summarised the LSB's performance in delivering the Business Plan commitments during Quarter 2 of 2016/17. The quarterly report forms the basis of the LSB's performance meeting with the MoJ sponsor team. Feedback from the sponsor indicates that they find the report valuable in that it prompts discussion on various topics. The Board noted that all of the projects are currently on track.
48. **The Board noted the contents of the report and that it forms the basis for the discussion with the MoJ.**

Jenny Prior left the meeting.

Item 14 Finance Report for September 2016 | paper (16) 67

49. Edwin Josephs provided a six monthly update on LSB finances which was in line with expected and forecasted variances in spending.

50. **The Board noted the content of the Finance Report.**

Item 15 Any other business

51. **The Board noted an update on the Manchester Stakeholder Event which will follow the November Board meeting.**

There being no further business the meeting closed at 15.31.

Date of next meeting

The Board would next meet on 24 November 2016 at 14.00. The venue would be Deans Court chambers, 24 St John Street, Manchester M3 4DF.

Signed as an accurate record of the meeting

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Date
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