

<b>To:</b>	Legal Services Board	<b>Agenda Item:</b> Item 7
<b>Date of Meeting:</b>	18 January 2017	<b>Item:</b> Paper (17) 03

<b>Title:</b>	Diversity – the role of the regulators in driving improvement	
<b>Workstream(s):</b>	Performance, evaluation and oversight	
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<b>Status:</b>	Official	

#### Summary:

In September 2016, the Board agreed to the consultation on proposed changes to the diversity guidance for regulators first issued by the LSB in 2011, as well as the proposed guidance. This paper updates the Board on the responses to and outcomes of that consultation and invites the Board to agree the decision document and final form of the guidance.

We published the consultation on 29 September, and it ran for nine weeks. We publicly advertised the consultation, used colleague contacts at other organisations and within the profession and actively engaged with organisations with specific interests in diversity. We received 19 responses, including responses from all regulators with the exception of ICAEW. We also met with a number of the regulators to discuss our proposals.

The feedback was generally positive, and most respondents felt that the move to an outcomes focused approach, and the flexibility afforded to the regulators will have a positive impact on the diversity of the profession.

Where we have received comments on our approach and we have agreed with them, we have amended the guidance. If we do not agree with comments, we have either considered the legal position or provided evidence to support our approach and addressed these comments in the decision document.

#### Recommendation(s):

The Board is invited to:

- Note the responses received to the consultation (hard copies will be available at the meeting)
- Agree the response to the consultation (Annex A)

- Agree the final s162 guidance (annexed to Annex A).

<b>Risks and mitigations</b>	
<b>Financial:</b>	None
<b>Legal:</b>	[REDACTED]
<b>Reputational:</b>	If we do not publish the guidance that results from this work, there is a risk that the LSB will not be fulfilling its role on diversity.
<b>Resource:</b>	Meetings with the regulators will form a part of the LSB business plan for 2017/18. The proposed work would be within the resources set aside for the project.

<b>Consultation</b>	<b>Yes</b>	<b>No</b>	<b>Who / why?</b>
<b>Board Members:</b>	X		We updated Jemima Coleman at the close of the consultation period.
<b>Consumer Panel:</b>	X		The Panel provided a response as part of the wider consultation process.
<b>Others:</b>			The LSB published the consultation on its website, and proactively engaged with a number of organisations with different expertise on encouraging diversity. We received responses from all regulators, with the exception of ICAEW. A full list of all 19 respondents is annexed to the decision document.

<b>Freedom of Information Act 2000 (Fol)</b>		
<b>Para ref</b>	<b>Fol exemption and summary</b>	<b>Expires</b>
Risks and mitigations: Legal	Section 42: information subject to legal professional privilege	
Para's 6-15	Section 22: information intended for future publication	On publication
Annex A	Section 22: information intended for future publication	On publication

## LEGAL SERVICES BOARD

<b>To:</b>	Legal Services Board	<b>Agenda Item:</b> Item 7
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### Diversity – the role of regulators in driving improvement

#### Recommendations

1. The Board is invited to:
  - Note the responses received to the consultation (hard copies will be available at the meeting)
  - Agree the response to the consultation (Annex A)
  - Agree the final s162 guidance (annexed to Annex A).

#### Background

2. Encouraging diversity in the legal profession is a specific regulatory objective in the Legal Services Act 2007 (the Act).<sup>1</sup> We have made it clear that the LSB will promote diversity and social mobility through our regulatory framework and we expect approved regulators to do the same. In 2011, the LSB published guidance for the regulators on diversity data collection to support their work on this issue.
3. In May 2016, the LSB published a report that detailed each regulator's progress since the publication of the 2011 guidance.<sup>2</sup> The report found that while some regulators have used the data they have collected to implement changes across their regulatory activities; others have merely collected the data and not used it to inform their work. These findings, supported by a positive attitude from the regulators at a round table meeting, led the Board to agree to a review of the 2011 guidance.
4. The Board had previously agreed, in April 2015, to develop a long-term strategy for embedding diversity into the regulatory standards used to judge the performance of the approved regulators. We view the new guidance as the first step to delivering a performance assessment on diversity issues, and the consultation included questions about how best to carry out an assessment.
5. In September 2016, the Board agreed to the approach set out in the consultation and the proposed guidance. It also recommended including provision for a check on regulators' progress in August 2017.

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<sup>1</sup> [http://www.legalservicesboard.org.uk/news\\_publications/publications/pdf/regulatory\\_objectives.pdf](http://www.legalservicesboard.org.uk/news_publications/publications/pdf/regulatory_objectives.pdf)

<sup>2</sup> [http://www.legalservicesboard.org.uk/about\\_us/our\\_staff/equality\\_and\\_diversity/pdf/20160525\\_Diversity\\_And\\_The\\_Legal\\_Services\\_Regulators.pdf](http://www.legalservicesboard.org.uk/about_us/our_staff/equality_and_diversity/pdf/20160525_Diversity_And_The_Legal_Services_Regulators.pdf)

## Consultation process and responses

6. [Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

7. [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

13. [REDACTED]

[REDACTED]

[REDACTED]

**Performance assessment**

16. As mentioned in paragraph 4, it has been a long-term LSB commitment to begin assessing regulator performance on diversity issues. We asked a specific question in the consultation on the most effective way of assessing performance. There was not a consensus amongst respondents on the best format, but almost all were supportive of the idea. In their responses, some regulators discussed evidence they may present, and which they feel shows they are already working towards delivering the outcomes in the proposed guidance.

17. As well as undertaking our own self-assessment (para 15, above), we will consider the feedback gathered through the consultation exercise and propose to finalise the assessment approach following our review with regulators in August 2017.

**Conclusions and next steps**

18. We welcome the broad support from respondents for the renewed guidance and its focus on outcomes. The consensus is that the outcomes will allow regulators more freedom to approach diversity within their specific regulated communities, and therefore the legal workforce as a whole.

19. Subject to the Board’s decision, we intend to publish the decision document and guidance in February. This will be accompanied by a letter to regulator chief executives thanking them for their engagement so far and outlining the next steps.

20. The regulators will have six months to begin developing work directed at delivering the outcomes, at which point we will again engage with all regulators to find out their progress and again discuss potential performance assessment formats.
21. We will also use what we learn from the regulators in August 2017 to confirm the guidance, and the flexibility it allows the regulators, is working as intended.

09.01.16

**Annex A**

**[REDACTED]**