

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

Date: 19 July 2017
Commencing: 2.10 pm
Venue: Meeting Room 1, 2nd Floor, ORR, One Kemble Street, London WC2B 4AN

Present: Dr Helen Phillips Interim Chair
(Members) Neil Buckley CEO
 Terry Babbs
 Jemima Coleman
 David Eveleigh
 Marina Gibbs
 Jeremy Mayhew
 Michael Smyth CBE QC (Hon)
 Catharine Seddon

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

In attendance for specific agenda items:
 Kate Webb Head of Regulatory Reviews and
 Investigations
 Bryony Sheldon Regulatory Project Manager

External attendance: Wanda Goldwag Chair, OLC

Observer: Craig Wakeford Regulatory Associate

Item 1 Welcome and apologies

1. Apologies were received from Nick Glockling with Nicola Tysoe, Legal Advisor attending in his absence. The Board welcomed Craig Wakeford, attending as an observer.

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

2. There were no declarations of interest.

Item 3 Presentation by OLC Chair

Wanda Goldwag attended the meeting

3. Wanda Goldwag, Chair of OLC, set out her views on the future of the legal market and the role OLC /LeO will play, and OLC's relationship with LSB.
4. The OLC Chair updated the Board on current and future appointments to both OLC's Board and Executive team. The CEO, Nick Hawkins, would be leaving in September.

[REDACTED]. [FoIA exempt s36] The appointment would be for a 3 year term. The OLC Chair provided an overview of the possible challenges OLC could face should the Legal Ombudsman begin to take complaints from individuals who had used unregulated legal services, with the potential for increased complaints. The Chair advised that the new IT roll out was going to help the OLC drive efficiencies going forward [REDACTED]

[REDACTED] [FoIA exempt s36] The Chair thanked the LSB Board for including her in the morning's LSB strategy session.

5. **The Board NOTED the OLC's Chair presentation.**

Item 4 OLC performance assurance | Paper (17) 45

6. The LSB had agreed that it would continue to monitor OLC's performance in administering an effective Legal Ombudsman (LeO) without using its statutory powers with the proviso that OLC provided assurance on performance on a voluntary basis. The OLC had outlined a proposal for the nature of these voluntary assurances, which would include a short assurance report after each OLC meeting, the first of which had been received on 18 July. The OLC had yet to begin reporting publicly on its performance.
7. The Chair of LSB's Audit and Risk Assurance Committee (ARAC) informed both the Board and the OLC Chair that ARAC would be meeting on 15 September to consider and review OLC related risks and LSB's approach to assurance of OLC performance. It would be an opportunity for LSB to consider what good looks like in relation to OLC's performance and set a framework to monitor ongoing performance. The OLC Chair endorsed the need to understand what good looks like; to have in place KPIs which would assist annual performance assessment and would ensure LeO remained a high performing ombudsman.
8. The Board noted:
 - the Tripartite Operating Protocol (between the MoJ, LSB and OLC) outlined assurance arrangements
 - the CMA report had made recommendations for LeO to release data on complaints received which the OLC Chair agreed in principle
 - the ARAC Chair would provide feedback to the Board after the September ARAC meeting.
9. The Board confirmed Marina Gibbs would be the Board lead for OLC matters, attending future OLC Board meetings and 4-way meetings.
10. **The Board NOTED the voluntary arrangements proposed by the OLC for providing assurance on their administration of the Legal Ombudsman scheme as regards performance to the LSB.**

Wanda Goldwag left the meeting

Item 5 Board Committee appointment | Paper (17) 46

11. [REDACTED] [FoIA exempt s36] The Board would consider Committee appointments in September. **[The item was not considered at the Board**

meeting, the paper accompanying the item has been withdrawn from the agenda.]

Item 6 Independence of regulation | Paper (17) 47

Bryony Sheldon attended the meeting

12. The Internal Governance Rules (IGR) are a requirement on LSB to make. They are intended to ensure the independence of regulatory functions from approved regulator representative functions.
13. The context for the review was that the IGRs had not been reviewed holistically since they were first put in place at the end of 2009. In addition, the language used was open to interpretation and unclear in places, and a steady stream of issues between approved regulators and their regulatory boards were raised with the LSB. With the prospect of legislative reform to deliver full structural separation of regulators from representative bodies uncertain, it was timely for the LSB to review the IGRs to make the most of the current legal framework. [redacted]. [FolA exempt s42] Informal initial engagement with approved regulators and front line regulators was underway.
14. The Board considered the proposed phased approach to consulting on revised IGRs was the appropriate way forward [redacted]. [redacted]. [redacted]. [redacted]. [redacted]. [FolA exempt s22] Colleagues should also explore how independence of regulation is achieved in similar regulatory bodies.
15. **The Board APPROVED:**
 - **the proposed two phased approach to the review and**
 - **publication of a 'green' paper on regulatory 'independence' principles later this year.**
16. The Board would receive an update at the September Board meeting.

Bryony Sheldon left the meeting

Item 7 LSB's policy on use of enforcement powers | Paper (17) 48

Kate Webb attended the meeting

17. The Statement of Policy on Enforcement had last been updated in 2009 and 2010, with supplementary updates in 2011. No substantive changes were proposed in this update.
18. The Board considered the draft policy and noted:
 - the revised policy took account of best regulatory practice whilst also ensuring the LSB had appropriate flexibility if the need arose to set a financial penalty, and whether this could include a situation where party falling into non-compliance and admitting doing so, should incur a lower financial penalty ('leniency').
 - the policy should capture that the LSB would publish decisions;
 - all LSB policies should have a pre-planned review date.

19. **Subject to the above, the Board APPROVED the draft revised statement of policy on enforcement and to issue a notice seeking representations on the revised draft LSB Enforcement Policy.**

Item 8 LSB rules: proposals for revisions | Paper (17) 49

20. Alongside the review of the LSB's enforcement policy statement a review had been undertaken of the LSB's rules.
21. The review had highlighted inconsistencies and the need for improved clarity. The Board considered three new sets of rules which addressed these issues.
22. Separately, the Board agreed that David Eveleigh should oversee the consequential, non-material changes to other sets of rules that arise from the three new sets of rules. This work would be done ahead of the Board being asked to approve all the amended rules in November.
23. **The Board APPROVED the draft rules for:**
- **making oral and written representations and giving oral and written evidence**
 - **powers of entry following cancellation of designation**
 - **applications to cancel designation as a licensing authority.**
24. **The Board also APPROVED seeking representations on these three sets of rules.**
25. The Board would be asked to approve the amended rules in November.

Julie Myers, Caroline Wallace, Edwin Josephs, Nicola Tysoe and Toni Whitby stepped out of the meeting for Item 9.

Item 9 Investigation update

26. The Board were updated on the ongoing LSB investigation into whether The Law Society's oversight and monitoring of the Solicitors Regulation Authority (SRA) was such that representative functions impaired the independence or effectiveness of the performance of the SRA's regulatory functions, in breach of rule 8 of the LSB's internal governance rules.

Kate Webb left the meeting

Julie Myers, Caroline Wallace, Edwin Josephs, Nicola Tysoe and Toni Whitby returned to the meeting.

Item 10 Minutes of the previous meeting

27. The minutes of the meeting held on 25 May 2017 had already been approved via electronic correspondence and published on the website. The minutes were signed by the Interim Chair as an accurate record.

Item 11 Action tracker

28. The Board considered the action tracker noting the approach to be taken to setting and assessing the LSB's and other regulators' budgets would be discussed at the October Board Meeting. All further actions were noted as on track.

29. **The Board noted the action tracker.**

Item 12 Chief Executive's progress report | Paper (17) 50

30. The Chief Executive presented the CEO progress report, covering the June period and highlighted the additional following points:

- the LSB's Annual Report and Accounts had been laid before Parliament on 13 July. A costs statement, summarising key financial data, had also been published today;
- the recruitment of the LSB Chair was ongoing;
- the Tailored Review Report had been agreed by Ministers and external publication was due today. The Board would discuss the Tailored Review Report's findings at its September Board meeting;
- CMA update:
 - all the front line regulators had produced their action plans, which would be reviewed by the LSB over the summer
 - to date no response had been received to the CMA's report (published in December 2016) from the MoJ;
- the round table meeting chaired by Michael Smyth to publish the vulnerable consumer research had gone well.

31. The Board asked that a letter of welcome be sent to the new Lord Chief Justice.

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

Item 13 Finance report for June 2017 | Paper (17) 51

33. The Board considered the financial report noting the underspend on staffing costs. The LSB would need to start recruitment for both OLC and LSCP replacement members.

34. **The Board noted the contents of the finance report.**

Item 14 Q1 performance report April to June 2017 | Paper (17) 52

35. The Board were informed that the Executive were currently developing metrics which would be provided alongside future performance reporting.

36. **The Board noted the performance report for Q1.**

Item 15 Remuneration and Nomination Committee (RNC) meeting report | Paper (17) 53

37. The Chair of RNC highlighted the items considered by RNC at its meeting on 6 July 2017. The Executive had been asked to explore cost effective recruitment exercises for future appointments to OLC and LSCP. [REDACTED]

[FOIA exempt s22]

38. **The Board NOTED the RNC report.**

Item 16 Board Quorum | Paper (17) 54

39. [REDACTED] [FOIA exempt s36] The Board would consider Board quorum in September. **[The item was not considered at the Board meeting, the paper accompanying the item has been withdrawn from the agenda.]**

Item 17 Any other business

40. The Board thanked colleagues for a well-run and constructive Board Strategy Session. Future strategy sessions should continue to use straw man models and the Board welcomed such models being used in other fields of interest. The Board had found the collation of newspaper clippings provided as background reading useful and suggested that this sort of material might usefully be provided in future out of Board updates.

There being no further business the meeting closed at 4.20 pm.

Date of next meeting

The Board would next meet on 21 September 2017. The meeting will be held at the Office of Rail and Rail, 2nd Floor, One Kemble Street, London WC2B 4AN.

Signed as an accurate record of the meeting

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Date
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