

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

Date: 25 May 2017
Commencing: 1 pm
Venue: Meeting Room 1, 2nd Floor, ORR, One Kemble Street, London WC2B 4AN

Present: Dr Helen Phillips Interim Chair
(Members) Terry Babbs
 Jemima Coleman
 David Eveleigh
 Marina Gibbs
 Jeremy Mayhew (from 2.15 pm)
 Michael Smyth CBE QC (Hon)
 Catharine Seddon (from 3 pm)

In attendance: 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:

Dawn Reid Head of Regulatory Performance and Operations
 Emma Kelly-Dempster Regulatory Project Manager
 Faye Alessandrello Regulatory Associate
 Kate Webb Head of Regulatory Reviews and Investigations
 Chris Nichols Regulatory Project Manager
 Jenny Prior Business Planning Associate
 Marlene Winfield and Lola Bello Legal Services Consumer Panel

External attendance: Simon Davies Chief People Legal and Strategy Officer of Lloyds Banking Group

Note: Agenda item 10 was considered before agenda item 7.

Item 1 Welcome and apologies

1. Apologies were received from Catharine Seddon (who would dial into the meeting at 3 pm), Julie Myers and Nick Glockling. Legal Advisor Nicola Tysoe attended in Nick Glockling's absence. Jeremy Mayhew attended the meeting from 2.15 pm.

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

2. There were no declarations of interest.

Item 3 **Legal Services Consumer Panel (Consumer Panel) Annual Report | Paper (17) 36**

Marlene Winfield and Lola Bello attended the meeting

3. Marlene Winfield introduced the Consumer Panel's Annual Report. The Consumer Panel had focused on four themes which would benefit consumers:
 - informing
 - supporting
 - responding to consultations and
 - nudging regulators, the Legal Ombudsman and the LSB.
4. The Consumer Panel had attended the CMA meetings to provide input on price and quality and would continue to support the CMA in the implementation phase. It had worked with the LSB on *Effective Remedies*, proposing nine criteria for regulatory intervention. It had also undertaken an annual Tracker Survey.
5. The Consumer Panel did not see its role as just being to consider and recommend changes: it also sought to provide 'tool kits' that could be used to identify and address problems. It had been asked by three front line regulators to undertake education and training sessions with the focus on the consumer. It would also would continue to inform, support and nudge the Legal Ombudsman, regulators and also the LSB.
6. The Board noted:
 - The training the Consumer Panel had undertaken with regulators, which provided guidance and highlighted the different vulnerabilities consumers may experience at various times when accessing legal services;
 - The 2016 *Tracker Survey* findings showed:
 - minority groups were not benefitting from wider market improvements with BME groups experiencing trust and confidence issues when using a lawyer;
 - the number of silent sufferers (people who had a complaint but did nothing about it) had dropped from 42% in 2015 to 35% in 2016. This figure was higher than the average across other regulated sectors (of 25%). The Board were made aware that provisional results showed that the figure had now risen to 50%. There were many and varied reasons why consumers did not complain;
 - the increased trend of consumers who did not trust lawyers to tell the truth. The underlying reasons were varied and could include factors such as perception of fees and services.
7. The Board would encourage the Legal Ombudsman (LeO) to reassess accessibility and attitudes to improve first tier complaints to see if this could reduce the number of silent sufferers. The Interim Chair and CEO would raise the issue at their next meeting with LeO.
8. The Interim Chair and CEO when they meet with their counterparts will encourage the Boards of other front line regulators to take advantage of the Consumer Panel's willingness to provide training on consumer issues.
9. The Board thanked the Consumer Panel for its excellent, clear and concise report.
10. **The Board NOTED the Consumer Panel's Annual Report.**

Item 4 Regulatory Performance Assessment Framework | Paper (17) 37

Dawn Reid, Emma Kelly-Dempster and Faye Alessandrello attended the meeting

11. After the last full regulatory standards assessment (May 2016), it was acknowledged that it was an appropriate time to review the framework to consider whether it operated in a risk-based, proportionate and targeted way. The framework also needed to be clearly linked to the regulatory objectives and the better regulation principles, enabling the LSB to have confidence and assurance about the regulators' performance.
12. As part of the review, discussions were held with colleagues, regulators, and the Consumer Panel to discuss the framework. Benchmarking had been undertaken using other regulators' (both UK and internationally) performance frameworks.
13. The LSB proposes a move to a framework which would enable monitoring of the regulators' performance on an ongoing basis. That monitoring would allow the LSB to be assured (or not) about a regulator's performance. Tailored and proportionate actions would be used to address any concerns in line with our regulatory approach.
14. The framework contains four key elements (as detailed in the consultation papers package):
 - the regulatory performance standards
 - evidence-gathering
 - the assessment process
 - gradings.
15. The elements had been tested with the regulators, the Consumer Panel and reviewed by the internal auditors. The feedback received had been generally positive. The framework was put to Board for its consideration.
16. The Board made the following observations:
 - the need to reflect within the consultation document that in developing the revised framework we have built on our previous regulatory standards work. A suggestion was made that a preface could be included that sets out what has and has not changed from the previous framework.
 - to review the questions that we ask in the consultation document to ensure that they are more "open"; this will enable us to collect meaningful feedback on the proposed model. They should also be expanded to include questions on:
 - how we can best present and share good practice with the regulators that we identify from our monitoring and review work.
 - how to encourage the regulators to publish their performance management datasets ie regulators should be transparent about their performance.
 - the need to link the regulatory performance assessment framework with the work being undertaken in relation to the CMA recommendations.
 - to review the regulatory performance standards to include examples of supporting evidence including matters relating to transparency and Board/Council engagement with the regulators' stakeholders.

- to be clearer whether the grade awarded to the regulators is ongoing or relates to a point in time; how to mitigate the risk of subjectivity in the grades that we award to the regulators.
 - to review the document through a 'Brexit lens' to ensure that the framework is sufficiently flexible to respond to emerging issues.
 - to consider, in the future, whether there should be a similar performance oversight approach to the SDT and the OLC as well as the front-line regulators.
17. The Board also discussed the proposal in relation to transitional arrangements. Following a transitional review, assessment of the regulator's performance would move to the risk-based process. The Board noted that the transitional approach recommended by the internal auditors was different but that ARAC agreed that the executive's recommendation was the most appropriate option as we already had a large amount of information about the regulators' performance. The Board agreed this approach.
18. A revised consultation document reflecting the Board's feedback would be circulated to the Board before the next meeting for final approval. The consultation period would commence after the General Election and be open for 12 weeks.

ACTION: Updated Regulatory Performance Assessment Framework Consultation document would be circulated out of Board for approval (DR/June)

Dawn Reid, Emma Kelly-Dempster and Faye Alessandrello left the meeting

Item 5 Strategy presentation | Simon Davies, Lloyds Banking Group

Simon Davies attended the meeting

19. The Board welcomed Simon Davies, Chief People, Legal and Strategy Officer of Lloyds Banking Group. Simon gave a presentation which provided insight into key developments in legal services and their impact on the corporate sector. The presentation was followed by a Q&A session.

Simon Davies left the meeting

Item 6 Regulatory approach | Paper (17) 38

Kate Webb and Chris Nichols attended the meeting

20. The Board considered the feedback from regulators to the LSB's Regulatory Approach. LeO had confirmed and responded, acknowledging that it applied to them. No significant concerns had been raised. The Board considered the paper, all of the annexes and made a number of observations that they asked to be included in the document. The Board also noted that Annex C set out the LSB's interpretation of the Regulatory Objectives. The revised drafting had not previously been before the Board. The Board noted that there were no substantive changes proposed from the existing version.

- 21. The Board approved Annex C.**

- 22. Subject to the observations made above, the Board approved the LSB's regulatory approach and delegated sign off of the final document to the Interim Chair and CEO .**

Kate Webb and Chris Nichols left the meeting

Item 10 Corporate risk register six monthly review | Paper (17) 40

Jenny Prior attended the meeting

23. The Board noted that the corporate risk register had been considered by ARAC at its meeting on 9 May 2017 and by the Senior Leadership Team (SLT) at its monthly meetings.

24. [REDACTED]
[REDACTED] [FOIA exempt s36(2)(b)(ii)]

25. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [FOIA exempt s36(2)(b)(ii)]

26. ARAC had confirmed their support for the executive for the risk register to include assurance mapping. The Executive would scope in conjunction with ARAC's adviser and bring back to ARAC.

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

Jenny Prior left the meeting

Catharine Seddon dialling into the meeting.

Item 7 Minutes of the previous meeting

28. The minutes of the meeting held on 28 April 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 8 Action tracker

29. The Board considered the action tracker. The tripartite operating protocol agreement between the MoJ/OLC/LSB had been completed. The executive needed to raise the issue of a review of the MoU between the OLC and LSB. This remained outstanding and this would be reflected in the action. All further actions were noted as on track.

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

Item 9 Chief Executive's progress report | Paper (17) 39

31. The Chief Executive presented the CEO progress report, covering the period April to May and highlighted the following items:

- the Interim Chair and CEO had met with the Chair of OLC and their discussions had included performance assurance reporting.
- the LSB, MoJ and OLC tripartite operating protocol has now been agreed.
- ICAEW designation application: the Board would be asked to make a decision 'out of meeting'.

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

Item 11 Finance report for April 2017 | Paper (17) 41

33. Edwin Josephs provided a financial report. The Board noted the report which covered one month into the new financial year.

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

Item 12 Audit and Risk Assurance Committee (ARAC) report of 9 May 2017 Meeting | Paper (17) 42

35. The Chair of ARAC outlined items considered by ARAC at its meeting on 9 May 2017.

[REDACTED]
[REDACTED]
[REDACTED] [FOIA exempt s36(2)(b)(ii)]

36. The Board NOTED the ARAC report.

Item 13 Any other business

37. On the 19 July the Board would be holding a strategy session and Board meeting. The Board strategy session, approximately 3 hours, would be held in the morning, before the Board meeting. Board members noted the proposed format for the strategy session and made contributions. Additionally, there would be an informal Board session for members to consider Board operational issues.

38. The Interim Chair proposed to hold Board-to-Board meetings with front line regulator boards. These would be set up to coincide, where possible, with LSB Board meetings.

There being no further business the meeting closed at 3.55 pm.

Date of next meeting

The Board would next meet on 19 July 2017 for a Board Meeting and Strategy Session. 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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