

<b>To:</b>	Legal Services Board	
<b>Date of Meeting:</b>	24 January 2018	<b>Item:</b> Paper (18) 03

<b>Title:</b>	Chief Executive's progress report – January 2018	
<b>Strategic theme</b>	All	
<b>Introduced by:</b>	Neil Buckley, Chief Executive neil.buckley@legalservicesboard.org.uk / 020 7271 0057	
<b>Status:</b>	Official	

<b>Summary:</b>
<p>This paper updates Board Members on key developments across the organisation since the November 2017 meeting. The Board's attention is drawn, in particular, to the following matters:</p> <ol style="list-style-type: none"> <li>1. Following the Cabinet reshuffle and the appointment of a new Justice Secretary and Lord Chancellor, David Gauke; Lord Keen has retained his responsibilities for legal services.</li> <li>2. The changes in Ministers at the MoJ means that the recruitment of the LSB Chair is likely to be subject to a further delay.</li> </ol>

<b>Recommendation:</b>
The Board is invited to <b>note</b> this report.

<b>Risks and mitigations</b>			
<b>Financial:</b>	N/A.		
<b>Legal:</b>	N/A.		
<b>Reputational:</b>	N/A.		
<b>Resource:</b>	N/A.		
<b>Consultation</b>	<b>Yes</b>	<b>No</b>	<b>Who / why?</b>
<b>Board Members:</b>		✓	Routine report
<b>Consumer Panel:</b>		✓	Routine report
<b>Others:</b>	N/A.		
<b>Freedom of Information Act 2000 (Fol)</b>			
<b>Para ref</b>	<b>Fol exemption and summary</b>		<b>Expires</b>
Para 31	Section 42: information subject to legal professional privilege		

## LEGAL SERVICES BOARD

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### CHIEF EXECUTIVE'S PROGRESS REPORT – JANUARY 2018

#### Ministry of Justice (MoJ) matters

##### New Lord Chancellor

1. As Board Members will be aware, the Cabinet reshuffle of last week led to the appointment of a new Justice Secretary and Lord Chancellor, David Gauke MP as well as a new Minister of State at the MoJ, Rory Stuart OBE MP, and a new Parliamentary Under Secretary of State, Lucy Frazer QC MP. Lord Keen of Elie, QC, retained his responsibilities for legal services.

##### Appointment matters

2. The appointment timetable for the recruitment of the Chair seems to have been impacted by the change of Justice Secretary and an update from MoJ is awaited. I will provide a verbal update on the latest position at the meeting.

##### Other sponsorship matters

3. As reported in further detail in Paper (18) 05 (paragraphs 27 and 28), the revised Framework Document has now been signed off by the Chair and Chief Executive and we are just awaiting confirmation from MoJ that it has been signed off by them.

##### MoJ response to CMA legal services market study recommendations

4. Lord Keen wrote to the CMA on 19 December 2017 to respond to the CMA's recommendations to the MoJ arising from the CMA's legal services market study. A copy of Lord Keen's letter is available to Board Members on request.
5. Lord Keen has stated that he is pleased that the LSB and the regulators have responded positively to the CMA's work. The MoJ has accepted the CMA's recommendations that:
  - the Ministry of Justice (MoJ) should coordinate changes to the content on GOV.UK and introduce signposting to the Legal Choices website across its content
  - the MoJ should work with the Legal Ombudsman, the self-regulatory bodies, Citizens Advice, HMCTS and the Probate Service in order to

- consider whether there is scope to adapt existing data sources to collect additional information relating to the unauthorised part of the sector
- the MoJ should review whether there is a case for extending redress to consumers using unauthorised providers, and if so, how best to achieve this. Lord Keen’s letter says that the MoJ ‘will review any case made for extending redress to consumers using unauthorised providers’.
6. The MoJ has not, however, accepted the CMA’s recommendation that the MoJ should undertake a review of the independence of regulators nor has it accepted the CMA’s recommendation that the MoJ should review the current regulatory framework for legal services.
- In relation to regulatory independence, Lord Keen’s letter states that “now is not the right time to consult on legislative change” and that “there is scope to make more progress within the existing framework”, citing the LSB’s TLS/SRA investigation and the LSB’s IGR consultation.
  - In relation to a review of the framework, Lord Keen’s letter states that “while we cannot commit to a formal review of the regulatory framework at this time, we agree that we will continue to reflect on the potential need for such a review, particularly as the market develops following the steps taken by the regulators to address the transparency and consumer knowledge issues that your report identified.”
7. The LSB issued a brief press release in response to the publication of Lord Keen’s letter, welcoming the Government’s recognition of the positive response of the LSB and the regulators to the CMA’s recommendations directed to them, noting that the LSB continues to believe in full regulatory independence and that we will continue to maximise the potential of the current arrangements.

## **Governance**

### Office for Legal Complaints

#### *Performance*

8. The most recent assurance letter is attached at **Annex A** for reference. I am pleased to note that in response to our feedback on previous letters the latest version contains a section on trajectory for improvement. The next assurance letter will be provided after the next OLC Board on 29 January.
9. In line with the steer provided by the Board at the last meeting, the team provided Legal Ombudsman colleagues with feedback on a draft set of revised KPIs. The feedback was able to take account of the full set of draft KPIs based on scrutiny of the board paper which the OLC was due to consider at its December meeting. The OLC has since consulted on its draft

business plan 2018/19, which includes those KPIs it intends to externally report on. I have reiterated the need for both our organisations to return to the governance and transparency dimensions of 'what good looks like', in addition to finalising operational performance KPIs.

10. The OLC has written to the Ministry of Justice advising them that they are not able to sub-contract complaints work (they had an agreed business case with MoJ to trial such work). This will impact upon their ability to deal speedily with the backlog of cases. We will understand more about the impact when Marina Gibbs and I will attend the performance part of the OLC's Board meeting on 29 January. At that meeting we will also be discussing with them our view on the MoJ response to the CMA report.

#### *Budget*

11. Following the discussion at the last Board meeting, I will be writing to the OLC to confirm the budget acceptance criteria for the 2018/19 budget this month. The Board will be asked consider the OLC's budget at its meeting in March.

#### **Colleague and organisation matters**

12. Recruitment is well underway for the post of Head of Corporate Services, and I will be able to provide a verbal update on the latest position with the recruitment of the Head of Regulatory Performance, which is close to conclusion.
13. I am pleased to announce progress with two appointments – firstly, we have successfully recruited to the role of Research Associate, which has been vacant for some months, and we have also now successfully recruited to the role of Administrative Assistant.
14. I will provide the Board with a verbal update on other staffing matters.

#### *General Data Protection Regulation (GDPR)*

15. Various colleagues at the LSB are to meet on 18 January 2018 to discuss plans to reorganise and optimise the efficient use of our data management system, Wisdom to ensure compliance with our existing data management, retention and disposal policy, and from May 2018, the GDPR.
16. General staff training on the GDPR (Part 1) will commence on 22 January 2018. The training is intended to provide an introduction to the new law on data protection. The practical implications for the LSB, including the launch of various revised policies, and the introduction of bespoke data management phases in our day-to-day work, will be covered in separate, Part 2 training. This training is intended to take place in March 2018.

### Bribery Act 2010 training

17. Training was concluded for LSB colleagues in December 2017. The slides are being sent to Board Members under separate cover, together with additional materials that detail some of the main convictions under the Bribery Act 2010 at Annex B. Both the slides and additional materials are being provided to the Board to facilitate self-study. The Legal Adviser can respond if Board Members would like any further information on this area.

### **Regulatory developments**

#### Horizon scanning

18. The horizon scanning report can be found at **Annex B**. It is pleasing to note from the statistical annex that the number of active ABS has broken through the 1,000 'barrier' for the first time.

#### Internal Governance Rules

19. The current consultation on the internal governance rules (IGR) closes on 9 February 2018. We anticipate bringing an update paper to the 22 March Board meeting, which will provide an overview of responses.

20. While the review is wholly separate to the ongoing LSB investigation of governance arrangements between the Law Society and Solicitors Regulation Authority (which is focused on past events under the current IGR), the consultation notes that we will take into account evidence from the investigation once it has concluded. As we do not expect the LSB report on the investigation to be published before our IGR review consultation closes, stakeholders have been informed that we would be happy to receive additional comments on the IGR in light of the LSB investigation report when it is published.

#### Encouraging a diverse workforce

21. In December 2017 we published an update of the regulators actions in relation to the revised diversity guidance. We were pleased to note that overall the regulators have made progress with regard to the outcomes.

22. We are now considering the scope of a formal review of regulators progress against the outcomes which will take place in August 2018, 18 months after the publication of the revised guidance.

23. We have also completed the self-assessment of the LSB's performance against the four outcomes in the revised objectives – a copy is attached at **Annex C**.

## Research

24. The main developments since the last meeting are:

- Prices – the research was presented to a consumer roundtable organised by the CMA on 5 December. The research was also sent to the Law Commission to support their current study on wills
- Small business legal needs – this is covered elsewhere on the agenda
- Innovation – the contract for the fieldwork has been awarded
- General outreach – the team met with Ministry of Justice and BEIS officials who are interested in our survey data

## Regulatory performance

25. Following the Board meeting in November, the regulatory performance documentation for the revised approach has been published. Performance management datasets for each of the regulators have also been finalised and the regulators will begin reporting on the metrics in their datasets in April 2018. Reporting will then continue in periods of either 6 or 12 months depending on the regulator.

26. The gap analysis work to identify the areas we will need to focus on in the transitional reviews has also now commenced. The transitional reviews will be completed over an approximately 18 month period, with the revised regulatory performance approach implemented once the reviews have been completed.

## Switching regulators data

27. In January 2017 we looked at the level of switching between legal services regulators and the risks that this presents. Having identified that no action was needed at this time, it was agreed we would continue to monitor this area. In relation to this, data has been collated on the regulator switching activity the entity regulators experienced between 1 May and 1 December 2017. This is set out at **Annex D**.

28. The data is consistent with our previous findings and again indicates a very low level of switching by providers between legal services regulators.

29. The changes that the CLC and SRA recently made to their run-off requirements may facilitate greater switching but have had little opportunity to have any impact. The Consumer Panel also recently wrote to us to highlight their concerns in relation to regulatory switching.

30. We therefore plan to repeat the exercise and will again ask the entity regulators to report on the regulator switching activity they experience. The data will be reported to us in 2019.

31. [REDACTED]

### Communications and external engagement

32. Since the last report to the Board, representatives of the LSB spoke at:

- a WLPF event on standards in legal services, and
- an ARK 'risk and compliance' event

33. Other communications and external engagement activity has included:

- providing articles to Modern Law magazine and Legal Futures for publication;
- starting and widely publicising consultations on our annual business plan and next three year strategy;
- publishing an update on regulators progress against the revised guidance for legal services regulators for encouraging a diverse workforce and our response to the consultation on its revised regulatory performance assessment approach and the revised final process documentation;
- welcoming a delegation of Chinese civil servants and briefing them on legal services regulation reform in England and Wales.

34. The table below lists all of my and the Interim Chair's meetings held or due to be held since the last Board meeting:

<b>Stakeholder / purpose of meeting</b>	<b>LSB representative(s)</b>	<b>Date of meeting</b>
Meeting with Dr Anna van der Gaag, Chair of the Business Oversight Board of TLS	NB	27 November 2017
Keynote address at Westminster Legal Policy Forum conference on quality assurance and standards in legal services	NB	29 November 2017
Joint seminar with LSB and PSA	NB and SLT members	29 November 2017
UKRN / UKCN Chief Executives meeting	NB	5 December 2017
Meeting with Chief Executive of CILEx Regulation	NB	6 December 2017
Board to Board meeting with the Bar Council	HP, NB and Board	8 December 2017
Meeting with the Chief Executive of CLC	NB	14 December 2017

Meeting with the Chief Executive and Director of Professional Oversight, Audit and Actuarial Regulation Division, Financial Reporting Council	NB	18 December 2017
Board to Board meeting with IPReg	HP, NB and Board	18 December 2017
Meeting with Lord Keen	HP, NB	19 December 2017
Meeting with the Chief Executive of BSB	NB	9 January 2018
Meeting with the Chief Executive of SRA	NB	12 January 2018
Outreach to city firms – hosted by Herbert Smith Freehills	HP, NB and Board	15 January 2018
Meeting with the Chief Executive of CILEx	NB	16 January 2018
Meeting with the Chair and Chief Executive of the Bar Council	HP, NB	16 January 2018
Meeting with the Chair and Chief Executive of CLC	HP, NB and CS	17 January 2018
Meeting with the Chair and Chief Executive of CILEx	HP, NB	17 January 2018
Regulators Chairs meeting	HP, NB	17 January 2018
Meeting with President of the Supreme Court	HP, NB	22 January 2018
Meeting with the Chief Executive of the Legal Aid Agency	NB	22 January 2018
Board to Board meeting with CILEx Regulation	HP, NB and Board	24 January 2018