

<b>To:</b>	Legal Services Board		
<b>Date of Meeting:</b>	23 January 2019	<b>Item:</b>	Paper (19) 03

<b>Title:</b>	Chief Executive's progress report – January 2019		
<b>Workstream(s):</b>	All		
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<b>Introduced by:</b>	Neil Buckley, Chief Executive		
<b>Status:</b>	Official		

**Summary:**

This paper updates Board Members on key developments across the organisation since the 29 November 2018 meeting. The Board's attention is drawn, in particular, to the following matters on which updates are provided:

- Appointments – the latest developments in relation to the Board Member, OLC Board Member, and Legal Services Consumer Panel Member recruitment;
- Latest developments in relation to the office move;
- [REDACTED];
- An update on CMA's report on its statutory audit services market study and Sir John Kingham's report;
- The latest developments in relation to EU exit.

**Annexes:**

Annex A: Horizon-scanning report

Annex B: summaries of CMA paper on its statutory audit services market study and Sir John Kingman's report

**Recommendation:**

The Board is invited to **note** this report.

**Risks and mitigations**

**Financial:** N/A

**Legal:** N/A

**Reputational:** N/A

**Resource:** N/A

Consultation	Yes	No	Who / why?
<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>		
Para ref	Fol exemption and summary	Expires
Summary box: second bullet point Para 16 – 18 Para 24	Section 36(2)(b)(c): information likely to inhibit the free and frank provision of advice and the exchange of views for the purposes of deliberation and likely to prejudice the effective conduct of public affairs	
Para 3 – second and third sentence	Section 36(2)(b): information likely to inhibit the free and frank provision of advice and the exchange of views for the purposes of deliberation	
Para 4 second and third sentence and Para 5	Section 40: personal information	
Para 6 and Para 7 – information in brackets and final sentence Para 8	Section 43(2): information likely to prejudice the commercial interests of any person	
Para 35 – 36	Section 42: information subject to legal professional privilege	

## CHIEF EXECUTIVE'S PROGRESS REPORT – JANUARY 2019

### Ministry of Justice (MoJ) matters

#### Appointment matters

##### *LSB Board members*

1. Eight individuals have been shortlisted for interview at the LSB's offices on 21 and 22 January 2019. The Chair will be able to provide an oral update at the meeting.

##### *OLC Board members*

2. Final panel interviews took place on 3 and 6 December 2018, and a report was circulated out of committee for approval to the Board on 11 December. Offer letters were despatched before the Christmas break and both candidates have accepted. A press release announcing the appointment of Rod Bulmer and Shrinivas Honap as lay members of the OLC Board will be published early in w/c 21 January.

##### *LSCP members*

3. Final panel interviews took place on 10 and 11 January 2019. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

#### Other sponsorship matters

### Colleague and organisation matters

4. We were successful in our Financial Controller recruitment. We have offered the role to [REDACTED]  
[REDACTED]  
[REDACTED]
5. [REDACTED]  
[REDACTED]  
[REDACTED]

**Governance**

Office move

6. [Redacted]

[Redacted]

7. We will continue to work with the Government Property Agency (GPA) to see if there is available and suitable civil estate space as well as exploring options with other centrally located public bodies in private buildings similar to our current offices ([Redacted]). We have also approached the MoJ estates team. [Redacted]

[Redacted]

8. [Redacted]

Office for Legal Complaints

9. The December assurance letter was circulated to the Board by correspondence.

10. The OLC has published its draft business plan and budget for consultation. The plan is the last in the 2017-20 strategy period and contains four priorities:  
a. Improve the quality of our work and develop dispute resolution skills

- b. Build and maintain trust and confidence in LeO through consistently good performance
- c. Maximise impact through more effective feedback of insight, data and targeted stakeholder engagement
- d. Provide faster and more effective redress through a new website platform and digital service development

11. The overall timeliness KPI has been increased to 45% within 90 days, 78% within 180 days and 95% within 365 days (currently 26%, 72% and 90%). This reflects the expectation that LeO will have cleared the opening legacy cases during 2018-19. There is also a deliverable to: 'Explore opportunities for a range of informal resolution techniques, including reviewing effectiveness of approaches in other dispute resolution schemes, to inform 2020-23 strategy'.

12. The OLC has agreed to write a paper for the LSB's technology project as part of the 'perspectives' phase of this work.

## Regulatory developments

### Horizon scanning

13. The horizon scanning report can be found at **Annex A**.

### Technology

14. We have commissioned papers on lessons from the regulation of innovation in other sectors, international perspectives, legal education and blockchain. The bulk of these papers should be delivered by the end of the financial year. Work is ongoing to identify authors for further papers.

### Regulatory performance

15. The report on our transitional assessments of the regulators was published earlier this month. Included in this are the actions required of the regulators on any unmet outcomes and the timetable for their completion.

[Redacted]

16. [Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

17. [Redacted]  
[Redacted]  
[Redacted]

[REDACTED]

18. [REDACTED]

Statutory audit services

19. The CMA has published an update paper on its statutory audit services market study and Sir John Kingman has published his independent review of the Financial Reporting Council. A summary of both papers is at **Annex B**.
20. At the November 2018 meeting, the Board asked the executive to consider making a submission to the CMA market study. The deadline for submissions to inform the CMA's update paper had already passed. We have considered whether to make any representations now in light of the CMA's provisional conclusions. However, our assessment is that, while the findings have relevance for legal services, they are unlikely to affect provision of legal services by audit firms. While we do not plan to respond we will monitor developments closely.

Press Coverage and requests for information relating to the SRA's handling of the Leigh Day case and subsequent appeal

21. On 13 December 2018, the SRA published a breakdown of its costs of its handling of its case against Leigh Day in relation to the firm's involvement in the Al-Sweady inquiry, including the costs of the SRA's investigation, the SDT hearing and the SRA's subsequent appeal of the SDT's judgement. The costs were £3,078,000.
22. Alongside the costs breakdown, the SRA also published correspondence covering the period 28/1/2015 to 15/12/2016 between it, the MoJ, the MoD, an MP, and the Defence Select Committee relating to the case and including discussions about the respective roles and powers of the SRA and SDT.
23. The SRA's publication of this correspondence was covered in the legal media, and subsequently the LSB has received some media enquiries about the nature and extent of our communications with the SRA on the Leigh Day case. We have also received two FOI requests about our interactions with the SRA in relation to this case, which the team are handling.

24. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## EU Exit

25. An agreement was reached between the Government and the EU in November 2018. However, in December 2018, the Government postponed the UK Parliament vote on this agreement until week commencing 14 January 2019. At the time of writing, it is unclear as to whether the UK will leave the EU with or without agreement. As this is a developing situation, an oral update may be appropriate at the meeting.

### *Implications and actions for LSB if there is no deal between the government and EU*

26. If the UK leaves the EU without an agreement by 29 March 2019 the Lawyers' Services Directive and Lawyers' Establishment Directive will no longer apply to the UK and there will be no system of reciprocal arrangements under which European Economic Area (EEA) lawyers (including UK nationals holding European Economic Area qualifications) can provide services and establish on a permanent basis. If there is no deal, this will require alterations to relevant regulatory arrangements to reflect the new legal position and these changes would need to be in place to take effect immediately after 29 March 2019.

### *The exemption direction*

27. The LSB will have a statutory role in approving any consequent regulatory changes in short order. We have prepared a draft one-off exemption direction (ED), the effect of which would be that the approved regulators would not need to submit rule changes relating to the mutual recognition consequences of EU Exit and other consequential amendments clearly related to EU Exit. Approved regulators will still need to check with the LSB as to whether a particular change falls within the exemption directive. A draft has been shared with relevant regulators for comments, and slightly updated in light of comments received. We have issued such blanket directions previously, for example in relation to IGR changes in 2010.

### *Implications and actions for LSB if there is a deal between the government and EU*

28. If there is a deal, there may still be implications for the mutual recognition of professional qualifications and other regulatory areas which could require changes to regulatory arrangements, but there will be a longer transitional period for these.

29. We will be updating the LSB EU Exit part of our website once we know the outcome in January 2019 to set out the LSB's latest work in this area.

### *Update for the EU Exit Board member lead*

30. The Brexit project team has discussed the LSB's work in this area with the Board member lead. Key points that may be of interest to the Board include:
- As noted above, the LSB is working on a blanket ED that will facilitate changes to the regulators' rules that are unavoidable in the event of 'no deal'. There will be a two stage process – after the regulators change their rules under the LSB's ED, they will then need to implement those rules with the cohort of Registered European Lawyers already on their books. We understand that the SRA has about 600 Registered European Lawyers and the Bar Standards Board (BSB) told the LSB that about 40 barristers will be affected, and that the SRA and BSB are working together on a common approach to transition and public communications, even if there is no deal.
  - Under the scheme of delegations, approving alterations to regulatory arrangements (including requests to be exempted from approval requirements) is delegated to the LSB Chief Executive
  - The LSB has been assuring itself that the frontline regulators are preparing for EU exit through CEO/Chair 1:1 meetings and dialogue, and through updates at the CEOs/Chairs meetings convened by the LSB, and by attending at the MoJ-convened cross-regulator roundtables.

### Research

31. The main developments since the last Board meeting are as follows:
- The technology and innovation report was published on 29 November and launched at the Legal Futures innovation conference on the same day. The Head of Policy Development and Research also summarised the key findings at the Board's stakeholder event in Cardiff
  - The questionnaire for the individual legal needs survey is being piloted
  - We have agreed a framework and timetable with EHRC for providing bespoke analysis to assist with their statutory inquiry on legal aid for victims of discrimination
  - Work on the market evaluation exercise has begun ahead of scheduled publication at the end of 2019.

### Statutory decisions

32. Since the last CEO report, the LSB has made the following statutory decisions:

Granted in full the following three rule change applications:



- From Intellectual Property Regulation Board ('IPReg') to make changes to its regulatory arrangements that give IPReg's Registrar the power to refuse removal of an attorney from the register if it is considered such removal poses a potential risk to clients, to the protection of client money or to any investigative process. The changes also prevents any person adversely affected by the Registrar's decision in relation to voluntary removal, to appeal.
- Also from IPReg, changes that will reduce the grace period before an attorney is suspended for non-payment of fees and to allow IPReg to serve correspondence and notices on its regulated community by email.
- An application from Costs Lawyer Standards Board to make changes to its regulatory arrangements to make it clear that Costs Lawyers cannot make unsolicited approaches to private individuals or domestic premises.

Granted two exemption directions:

- The ACCA Rulebook Section 2 Regulations and Section 3 Code of Ethics and Conduct.
- The BSB - miscellaneous amendments to the BSB Handbook to ensure drafting consistency within the BSB Handbook and with BSB regulatory policy and practice and legislation.

33. We also approved IPReg's practising fee. The fee was increased but we were assured by the reasons provide in the application for that increase. In short, we concluded that the proposed increase is to meet costs that will enable IPReg to continue to undertake its regulatory responsibilities in a competent and efficient way.

34. At the time of writing, there were two live statutory decision applications being considered: (a) a rule change application from the BSB for changes to its Qualifications rules related to its Future Bar Training proposals; and (b) the practising certificate application from the Bar Council.

Legal issues

[REDACTED]

35. [REDACTED]  
[REDACTED]  
[REDACTED]

36. [REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Communications and external engagement**

37. In December, communications activity continued at a steady pace in the lead up to Christmas, before naturally slowing down in the third week of the month:

- The LSB launched a consultation on its draft business plan 2019-20, and scheduled a workshop to seek stakeholder views for mid-January.
- The LSB Chair took part in a follow-up phone interview with the Solicitors Journal following the publication of the plan.
- Three stakeholder sessions were held to answer questions and inform responses to the consultation on the new IGR and guidance.
- The LSB Newsletter was published on 12<sup>th</sup> December and sent out to parliamentarians and Welsh Assembly members.
- The LSB has submitted an article focusing on the *Technology and Innovation in Legal Services* research for Modern Law Magazine. The article, written by the LSB's Research Manager Rob Cross, will appear in an upcoming issue.

38. The following is a list of mine and the Chair's meetings with stakeholders since the Board meeting at the end of November, as well as those currently scheduled until the next meeting in February 2019:

<b>LSB Stakeholder Engagement: 4 December -19 February</b>		
<b>Date</b>	<b>LSB</b>	<b>With</b>
4 Dec	CEO	CEO, BSB
7 Dec	CEO	CEO, SRA
11 Dec	CEO	CEO, OLC
14 Dec	CEO	3-CEOs meeting
14 Dec	CEO	CEO, TLS
17 Dec	Chair & CEO	Judiciary (Lord Chief Justice)
17 Dec	Chair & CEO	President & CEO, TLS
8 Jan	Chair & CEO	Chair and CEO, SRA
8 Jan	CEO	CEO, PSA
8 Jan	Chair & CEO	Annabel Burns, MoJ
16 Jan	CEO	CEO, ICAEW
18 Jan	Chair & CEO	Chairs & CEOs meeting
23 Jan	Board	CILEx Reg Board to Board meeting
29 Jan	CEO	CEO, SRA
29 Jan	CEO	CEO, OLC
5 Feb	Chair & CEO	Solicitor General (PLE)
6 Feb	Chair & CEO	OLC, 6-way
14 Feb		Judicial Diversity Forum
19 Feb	Chair & CEO	Chair & CEO, SRA
19 Feb	Board	LSB/SRA Board to Board meeting