

<b>To:</b>	Board	
<b>Date of Meeting:</b>	28 April 2011	<b>Item:</b> Paper (11) 27

<b>Title:</b>	Chief Executive's progress report: April 2011	
<b>Workstream(s):</b>	All	
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<b>Status:</b>	Restricted	

<b>Summary:</b>
<p>The paper updates Board Members about:</p> <ul style="list-style-type: none"> <li>• staffing and governance issues</li> <li>• progress on the key project areas, by way of a performance report</li> <li>• other internal and external policy developments</li> <li>• stakeholder and communications activities.</li> </ul>

<b>Risks and mitigations</b> (Covered in assessments of project progress)	
<b>Financial:</b>	N/A
<b>FoIA:</b>	Initial assessment of exempted text is highlighted.
<b>Legal:</b>	N/A
<b>Reputational:</b>	N/A
<b>Resource:</b>	N/A

Consultation	Yes	No	Who / why?
<b>Board Members:</b>		✓	N / A – routine update and personal commentary.
<b>Consumer Panel:</b>		✓	
<b>Others:</b>	N / A		

<b>Recommendation:</b>
The Board is invited to note the Chief Executive's progress report.

## LEGAL SERVICES BOARD

<b>To:</b>	Board		
<b>Date of Meeting:</b>	28 April 2011	<b>Item:</b>	Paper (11) 27

### Chief Executive's progress report: April 2011

#### Recommendation

The Board is invited to note the Chief Executive's progress report.

#### Operations and governance issues

##### Organisation development and governance

1. Colleagues will be aware that we published in early April both the LSB Business Plan 2011/12 and the Evaluation Framework. The Plan, in particular, required a great deal of input from colleagues across the organisation. Corporate colleagues are working hard to remain on track to meet the accelerated timetable for laying LSB's Annual Report and Accounts 2010/11 on 7 June (see below).
2. Following an internal review, we have agreed to renew our contract with our out-sourced HR advisors, Deminos. We have been fortunate not to have to use the service a great deal. However, it has and does provide line managers with the support necessary to manage employment matters at very reasonable cost.
3. There has been some movement on the website issue following the Chairman's letter to Sir Suma Chakrabarti (Permanent Secretary, Ministry of Justice (**MoJ**)). We received a response from Jonathan Slater (Director of Transformation, MoJ), which advised that a request had been sent to Cabinet Office on our behalf to permit us to use an '.independent.gov.uk' domain name (as an alternative to moving to 'justice.gov.uk'). The latter, now that we have seen the revised site, would clearly present difficulties, bearing in mind its use to communicate Government press releases. The Chairman has responded to MoJ indicating that, pending practicalities, it looks to be possible to accommodate a move to '.independent.gov.uk'. We await a response to this and our request for the statutory authority for the instruction. I will update colleagues at the meeting.
4. We have now clarity on the senior management changes at MoJ. Helen Edwards remains the relevant Director-General. Our new Director in the Justice Policy Group will be Catherine Lee, replacing Sarah Albon. At Deputy Director level, Elizabeth Gibby will lead on the remuneration and provider aspects of legal aid reform with effect from 1 June, covering fee reforms and future provider strategy (including competition, the community legal aid helpline and impacts on the not-for-profit sector). As yet, we are not sure who will take over the legal services reform portfolio at that level, nor the timetable for changes below Senior Civil Service level.

## *Governance*

5. As colleagues know, the Lord Chancellor (in consultation with the Lord Chief Justice) has re-appointed David Edmonds as Chairman of LSB for a second, three-year term. The re-appointment is from 1 May 2011 to 20 April 2014.
6. Since the last meeting, the Board has agreed by correspondence:
  - a consultation and a revised recommendation to the Lord Chancellor to make an Order under Section 69 of Legal Services Act 2007 (**the Act**) about the Council for Licensed Conveyancers (**CLC**) and Solicitors Regulation Authority (**SRA**) (April 2011)
  - a recommendation to the Lord Chancellor to make an Order under s80 of the Act to make the General Regulatory Chamber of the First-tier Tribunal the appellate body for CLC in the event that it is designated as a Licensing Authority (April 2011).
7. The Board was also invited to review a first draft of LSB's Annual Report and Accounts 2010/11. The Audit and Risk Committee will review a revised draft in early May, before being invited at its meeting on 23 May to endorse and recommend a final draft of the Annual Report. The agreed Annual Report, as certified by the Comptroller and Auditor-General, is scheduled to be laid before Parliament on 7 June.

## **Project update**

### **Programme highlight report**


8. The monthly Programme Highlight Report was circulated to colleagues on 21 April, following the meetings of the Programme Board and Senior Management Team (**SMT**) at which it was reviewed.
9. Overall progress on the projects is good, although there is much to say on ABS (**Paper (11) 28**). The work for 2010/11 was largely completed and we are now finalising the plans for 2011/12. This year's programme plan will be in place from June.
10. Points to note from the last month include:
  - **Quality Assurance for Advocates (QAA)** – a research report on best practice assessment methods and their application to QAA was published
  - **Diversity** – 24 responses were received to the consultation paper, 'Increasing diversity and social mobility in the legal workforce: transparency and evidence', which closed on 9 March. We are planning further engagement with a range of stakeholders, including a workshop with diversity managers from city law firms and meetings with the Society of Black Lawyers and other diversity interest groups. We had a useful discussion with David Morley, the senior partner of Allen & Overy, about the initiative on social mobility he is coordinating with a number of other 'magic circle' firms

- **First-tier complaints handling** – we received the first cut of LSB’s research in relation to consumer experience with complaints handling and powerpoint summary presentations were developed in relation to each Approved Regulator (**AR**). The reports provide a good lead into the next part of the review. The issue of ‘sign-posting’ remains controversial with The Bar Council.
- **Independence** – information about this year’s process and related documentation has been sent to each AR. Over the next month, we will meet ARs to review the process and to discuss outstanding issues. There may be timing issues in relation to both The Bar Council and The Law Society
- **Rationalising the scope of regulation** – we published a package of information, including the consumer outcomes, economics research and a supporting compendium of essays. In addition, we launched a new web page about the project, including a narrative that sets out clearly how work is progressing and making clear the role of the research strands.

### **Alternative Business Structures (ABS)**

11. The standing report about the key issues and risks facing the implementation of ABS is presented to this meeting (**Paper (11) 28**). Also presented is a paper about CLC’s application to become a Licensing Authority (**Paper (11) 29**).
12. The Chairman and Jonathan Djanogly MP (Parliamentary Under-Secretary of State for Justice) discussed the timetable for ABS, in advance of the latter’s speech about legal services regulation to the Legal Week Conference on 14 April. Colleagues will have seen reports of the Minister’s comments, which demonstrated his continued support for working towards an October timetable, provided that quality of the secondary legislation can be maintained.

### **Research**

13. In the past month:
  - we completed the ‘Knowledge Bank’, with over 600 references
  - we presented a paper on reserved / unreserved activities at the Society of Socio-Legal Studies
  - we received the first results from the YouGov survey of consumer experiences of first-tier complaints handling
  - we received a first draft of Chris Dewberry’s (Birkbeck College) review of academic evidence about the use of aptitude testing.
14. Our focus over the coming month includes:
  - 
  - finalising plans for the publication of the complaints and aptitude testing research
  - hosting a seminar to discuss the aptitude testing research and our study looking at the global role of legal education

- finalising and publishing research plans for 2011/12
- hosting with the Legal Policy Institute a joint seminar about reserved activities.

## Regulatory decisions

### *Rule approval*

15. As reported orally to the last meeting, Bar Standards Board (**BSB**) has withdrawn its application in relation to the introduction of an English Language test for all Bar Professional Training Course Candidates. BSB has also deferred the introduction of an aptitude test until 2012.

### *New designation applications*

16. Both Houses of Parliament debated and made the relevant Order to designate the Institute of Legal Executives (**ILEX**) as an AR for the conduct of litigation. The debates noted that ILEX's own rules initially restrict this to Associate Prosecutors of the Crown Prosecution Service (**CPS**) and that any extension would simply be a change to regulatory arrangements, rather than being subject to Parliamentary approval. A letter suggesting that the Board might want to consider some form of consultation on any rules changes that will allow ILEX to extend the categories of membership to which litigation rights could be granted has been received from Jonathan Djanogly MP, and one is expected from Lord McNally, covering the Lords' debates. We will respond positively.
17. ILEX's application to grant litigation rights to a wider category of membership is being handled as a new designation application and we have had advice from the Lord Chief Justice, Legal Services Consumer Panel (**LSCP**) and Office of Fair Trading (**OFT**). This application (and that for probate) is still being considered.
18. Work has continued on the applications from CLC and SRA to be designated as Licensing Authorities. A paper about CLC's application is covered elsewhere on the agenda (**Paper (11) 29**). A paper about SRA's application will be presented to the Board meeting on 13 June.
19. The advice has been received from LSCP and OFT in relation to CLC's application to be designated as an AR for the reserved legal activities. We will request advice from the Lord Chief Justice in May.

20. [REDACTED]

[REDACTED]

21. [REDACTED]

[s36(2)(b) & 44]

## Other policy developments

22. Other policy developments – about which I will elaborate at the meeting – include:

- **BSB** – Crispin Passmore (Strategy Director), Fran Gillon (Director of Regulatory Practice) and I met Vanessa Davies (BSB Director) and Patricia Robertson QC (BSB Member) on 30 March to discuss the principles of entity regulation. During April, I have had several further meetings with BSB, to discuss, amongst other things, QAA, education, internal governance rules and equality and diversity
- **Legal Complaints Service (LCS)** – I attended an LCS dinner on 12 April, which marked the closure of the service. I am pleased to report that LCS had completed all of its cases by the end of March and, therefore, did not transfer any cases to the Acting Legal Services Ombudsman
- **The Bar Council** – the Chairman met Peter Lodder QC, Chairman of The Bar Council, for a formal introductory meeting on 19 April. The focus of discussion was priorities for the year-ahead, including The Bar Council's response to our draft 2011/12 Business Plan consultation
- **CPS and Legal Services Commission (LSC)** – Crispin Passmore and I met Kier Starmer (Director of Public Prosecutions), Mike Kennedy and Keith Milburn (also of the CPS ) and Carolyn Downs and Hugh Barrett (both of the LSC) on 30 March to discuss matters of mutual interest, including QAA and the CPS' new advocacy panel, equality and diversity and ILEX's application for litigation rights for Associate Prosecutors.

23. The Prime Minister has launched a 'red-tape challenge', designed to reduce regulation. Over 40,000 Statutory Instruments are subject to review by crowd sourcing, with the onus being put on Departments to justify retention (rather than abolition). We understand that legal services will be subject to this process in November and we are beginning discussions with MoJ to shape its thinking in relation to the implications for legal services regulation.

## Judicial reviews

24.



25. Colleagues will recall from the last meeting that LSB is an 'Interested Party' in a new action relating to the impact of the QLTS on those students who are currently studying for the Bar on a part-time basis and who might wish to seek to re-qualify as solicitors. [REDACTED]

[s44].

[s36(2)]

### **Legal Ombudsman (LeO) / Office for Legal Complaints (OLC)**

26. Colleagues will have seen Adam Sampson's (Chief Executive / Chief Ombudsman, LeO) interview in The Guardian reporting concerns about the implications for LeO of ABS. Similar concerns were raised by Elizabeth France (Chair, OLC) at APIL's Annual Conference in Wales. The need for cross-sector engagement to understand the complaints-handling implications of ABS was identified early in the ABS development process and initially formed a part of the cross-party working group of ARs and others with an interest in the issue. It appears that the anticipated engagement did not take place between the parties. We are now facilitating the necessary discussions between ARs and LeO and will broaden to involve other Ombudsman Schemes.
27. OLC published in early April both its Strategy for 2011-13 and Business Plan 2011/12. It also announced the appointment of Walter Merricks, the former Financial Services Ombudsman, as its Independent Adjudicator.
28. OLC's decision to postpone a decision on whether to publish the names of firms complained against has attracted some hostile comment, notably from LSCP. The recent Government policy paper on consumer empowerment – 'Better choices: better deals – Consumers powering growth' – highlights OLC as one body that could publish more information.

### **Legal Services Consumer Panel**

29. LSCP published in early April its Work Programme 2011/12 and its Annual Report 2010/11 will be presented to the Board on 28 May. Baroness Hayter (Chair, LSCP) will attend this meeting to provide an overview of both documents and a general report about the activities of LSCP.
30. Our understanding is that the Government's proposals for the new consumer architecture will now be published in May, after the devolved and local elections. We will provide an update about the possible outcomes at the meeting.

### **Communications**

31. We have briefed both Graham Stuart MP and Conor Burns MP about our work in relation to will-writing.
32. We also provided a general briefing about forthcoming LSB activity to a new media contact, Ros Taylor (Editor of the Guardian online law section). We are arranging to meet Frances Gibb (Editor of The Times law section).

33. A major speaking engagement for the Chairman was the Legal Futures Conference on 11 April, at which he was interviewed on stage by site editor, Neil Rose. This detailed conversation focused heavily on ABS, relationships across the ARs and the performance of the regulatory regime. Other speaking engagements included the Society of Socio-Legal Studies and the Association of Costs Lawyers' annual conference.

20.04.11