

To:	Board
Date of Meeting:	28 March 2012
Item:	Paper (12) 21

Title:	Chief Executive's Progress Report: March 2012
Workstream(s):	All
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Status:	Protect

Summary:
<p>The paper updates Board members about:</p> <ul style="list-style-type: none"> operational and governance issues progress on key projects other internal and external policy developments stakeholder and communications activities.
Recommendation(s):
<p>The Board is invited to:</p> <ul style="list-style-type: none"> note the Chief Executive's progress report; confirm it is content to now receive SDT performance information on an annual basis, with quarterly reporting on an exception basis only (paragraph 15 refers).

Risks and mitigations
Financial: N/A.
Legal: N/A.
Reputational: N/A.
Resource: N/A.

Consultation	Yes	No	Who / why?
Board Members:		✓	N/A.
Consumer Panel:		✓	N/A.
Others:	N/A.		

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
8 (bullet 3) 18, 19, 21 (last sentence)	S36	

22	S43	
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LEGAL SERVICES BOARD

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Chief Executive's Progress Report – March 2012

Operations and Governance Issues

Organisation development

1. Since the last meeting, we have said goodbye to Bruce MacMillan (General Counsel), Alanna Linn (Consumer Panel Associate) and Rosaline Sullivan (Research Associate).
2. Jessica Clay joined the LSB as Legal Adviser on 19 March 2012. Jessica was formerly a solicitor and a member of the Public and Regulatory Law team at Field Fisher Waterhouse.
3. Harriet Gamper will be joining the LSB as the new Consumer Panel Associate on 14 May. Harriet is currently a consultant at Civic Consulting, an economic and public policy consultancy based in Berlin where her work has focused on consumer policy. By the time of the Board meeting, I also hope to be able to confirm the name of the new Communications Manager to replace Craig Jones, who will be leaving on 5 April.
4. We have also made two internal appointments to the role of Regulatory Associate, and a third external appointment will be announced shortly:
 - Karen Marchant, who moved to the role on 26 February
 - Nicholas Baré, who will begin his move across to the role on a part time basis from 11 March. (The remainder of his time will be spent continuing to cover the role of Business Planning Associate until the substantive post-holder returns from maternity leave.)

2011/12 levy

5. We sent out payment notices for the 2011/12 levy for both the LSB and the OLC at the start of March. In line with the levy rules, approved regulators have 28 days to make full payment. Based on the prompt payment by approved regulators for the last two years of the levy collection, we have no reason to anticipate any problems in receiving the full amount before the end of March.

Commercial insurance

6. Further to MoJ confirming that they had no objection to the LSB purchasing commercial insurance in line with provisions in *Managing Public Money*, I am pleased to report that we now have cover in place as follows:

Employers' Liability	Limit of Indemnity £10m
Public/Products Liability	Limit of Indemnity £2m
Legal Expenses	Limit any one claim £0.5m
	Limit any one Period of Insurance £0.5m
Directors and Officers Liability	Limit of indemnity £1m

This cover is provided at annual premium of just over £2.8k.

Governance

- Abigail Plenty of the MoJ will be joining the meeting to present the Board with a briefing on the Triennial Review and the next steps in relation to reaching a final decision by the summer (agenda item 8 on today's refers). We will be setting some time aside at the Board's 30 May meeting for discussion in the light of the interim output of the Review.

Project Update

Project Update

- The Programme Highlight report, which will be sent to Board members under a different cover shows progress made across the LSB's projects to 9 March 2012. Areas to highlight in period include:
 - Progress on self-assessments by the approved regulators in developing regulatory standards
 - Progress on comparing disciplinary appeals mechanisms and identifying good practice as a part of our investigation. The BSB have also been keeping us informed of their remediation action to address COIC's failure to make valid appointments to appeal tribunals
 - [REDACTED]
 - Progress on developing a web-based dissemination tool to highlight our regulatory information review
 - Discussion document published for comment on immigration regulation
 - Delays on the procedural and qualitative assessments for first tier complaints handling mean that the summary Board paper will now come in April
 - Diversity action plans were received from the SRA, BSB, ILEX and the CLC for the LSB to assess and review. The Chairman's speech to Northumbria Law School on 23 March is likely to comment unfavourably on unwillingness to impose transparency obligations at firm level. We will update the Board fully next month
 - Published a paper to stimulate debate and held our first two seminars to complement the education and training review. The LETR team has produced a new set of papers including a summary literature review and call for evidence which rightly show a greater emphasis on regulatory as opposed to purely educational issues

- Considerable senior time and effort continues to be devoted to Quality Assurance of Advocacy. At the time of writing, the immediate flashpoint issue of assessment of those advocates who do little or no trial work appears to have been resolved and a new timetable and a more rigorous approach to project management agreed, but I will update further at the meeting
- Our discussion document on Quality was published on 13 March.

Legal Services Consumer Panel

Report on comparison websites

9. The Legal Services Consumer Panel published the results of its research into comparison websites at the beginning of February. The report found that such websites could improve access to legal advice and stimulate greater competition on price and quality grounds, although cautioned that they should commit to voluntary standards. A response will be put forward for the Board's consideration at the 25 April meeting.
10. The Panel's call to regulate probate and estate administration, published on 19 March, has also attracted press attention.

Research

11. These are the key areas of work we have been progressing since the Board's last meeting:
 - Appointed TNS BMRB for the High Street Research and carried out initial cognitive testing of the questionnaire.
 - Completed the draft Evaluation report and circulated it to the Executive and Board.
 - Submitted annual data requests to the approved regulators.
 - Had topics for papers accepted for the Socio-Legal Studies and Legal Services Research Centre conferences.
 - Developed a research plan for 2012/13
 - Published reports for our business (IFF Research) and consumer studies (YouGov) which are looking at probate and estate administration.
 - Received a draft report from Vanilla Research on understanding consumer needs from legal information sources.
 - Received an initial report from Professor Richard Moorhead considering methodological options for benchmarking professional ethics.
 - Received the data from the BDRC Continental general survey of consumers' approach to handling legal problems.
 - Received draft report on legal alternatives to cost protection rules.
 - Commissioned Dr Chris Hanretty to produce a short paper piloting the use of a statistical model to measure the quality of Barristers
 - Met Tim Kelsey (Cabinet Office "Transparency Czar") to discuss how best to promote more open access to data in the legal services market.

12. Our focus over the coming months will include:

- Publishing the outstanding reports from the 2011/12 research programme including: business and consumer probate reports, small business survey methodology, understanding consumer needs from legal information sources, benchmarking professional ethics and legal alternative to cost protection rules.
- Commission work to enhance the LSB's research website.
- Receive interim report from the value of regulation study (Opinion Leader).
- Publish the 2012/13 research plan.
- Undertake piloting and commence main stage of High Street Research.

Regulatory Decisions

Decisions

13. Two Decision Notices have been issued since my last report:

- Master of Faculties (MoF) – introduction of a requirement on Notaries who are operating on their own account and commencing conveyancing and probate activities for the first time to undergo a period of supervision. This is proposed in response to the Smedley Report
- MoF – a requirement on Notaries acting on their own account and who hold client money to provide an annual Accountant's Report to the Faculty Office.

14. Two directions to exempt have been issued since the last report:

- BSB Code of Conduct and Bar Training Regulations – definition of authorised body amended for consistency
- BSB Code of Conduct and Practising Certificate Regulations – clarifying authorisation for immigration advice and services

Solicitors Disciplinary Tribunal (SDT) – Key Performance Indicators (KPIs) for quarter 4 2011 and for the year to 31 December 2011

15. The quarterly report was received from the SDT on 22 February. A short analysis of the report can be found in **Annex A**. In summary, there has, overall been continued improvement in most measures and there are plans in place for those that have not been achieved. The next report is due at the end of April. On the basis of the consistent improvement made by the SDT, we would now plan to report quarterly to the Board only on an exception basis, but to have a full look back at performance annually at the time of budget approval.

Law Society/SRA independence and section 55 notice

16. The Law Society and SRA are broadly complying with the revised section 55 notice. The notice requires them to provide the LSB with papers relating to the Business and Oversight Board following the relevant meeting (as opposed to in advance in the original notice) and a monthly report on the implementation of the agreement and other independence issues. The discussions around the MP3 IT project at the March Business and Oversight Board (and subsequently at council) will be an important test. We should know the outcome at the time of the Board meeting and will report orally.
17. We are also challenging the SRA on why the monthly reports have not included details of the information requests received by the SRA from the Society. The agreement suggests that the SRA is required to keep a record of requests and the section 55 requirement makes a clear reference for the report to include this information.

Other Policy Developments

SRA issues generally

18. [REDACTED]
19. [REDACTED]

Judicial Reviews

20. We have received a new claim in relation to the SRA's rule change for qualified lawyers transferring to the Roll of solicitors. The Claimant is a qualified barrister who has not secured pupillage and finds she is unable to apply for admission as a solicitor under the previous rules. There is no criticism of the LSB in her application and therefore no cause of action has been set out. The claim is out of time and the Claimant made no attempt to follow the pre-action protocol or even enter into pre-action correspondence. On the basis of internal legal advice, we have applied to the court for an order that permission to bring a judicial review be denied.

ICAEW

21. We continue in discussion with the Institute of Chartered Accountants of England and Wales (ICAEW) about their aspirations to become an AR and Licensing Authority. [REDACTED]

22. [REDACTED]

Office for Legal Complaints (OLC)/Legal Ombudsman

23. Recent and forthcoming issues of interaction with OLC include:

- Since the last meeting of the Board, new members of the OLC have been appointed to 31 March 2015. The Chairman has met Karen Silcock and Maureen Vevers as part of their induction.
- The Chairman and I also had our regular four-way meeting with the OLC Chair, Elizabeth France, and the Chief Ombudsman, Adam Sampson, on 2 February, where we covered a wide range of matters, including the Triennial Reviews.
- A sub-group of the Board approved the OLC's budget for 2012/13 on 29 February, subject to receiving further assurances on the funding arrangements for extension of the Legal Ombudsman's jurisdiction (see Paper (12) 13).
- A joint meeting of the LSB and OLC takes place on 25 April. Board Members will be provided with a paper in advance of the meeting that will consider the jurisdiction of the Legal Ombudsman. I will be meeting Adam Sampson on 22 March to discuss the joint Board session in more detail and a high level group comprising Barbara Saunders, OLC Board Member, David Thomas, MoJ's Abigail Plenty, Adam and I will meet to discuss how best to take forward the work on voluntary jurisdictions on 30 March. We are also expecting MoJ to convene a joint meeting with OLC and ourselves to discuss issues connected to LeO taking on responsibility for dealing with complaints about claims management companies where the legislative provisions are different to that for voluntary jurisdictions.
- We have received an update from Elizabeth France on the OLC's work towards providing the information that the Board requested of it in a section 120 notice issued on 27 January.

- On 15 March, the Corporate Director attended an initial workshop looking at possible changes to the OLC's scheme rules. The OLC is likely to issue this consultation in week beginning 19 March with changes likely to be around proposals for broadening the scope of who can complain (including a discussion of their party complaints), whether limits on charity income should be amended and whether limits on awards should be increased. The consultation will also consider changes to the case fee regime. Any amendment to the scheme rules will need to come to the Board for consent, with some also, potentially, requiring a Lord Chancellor Order. OLC expect that they would like to make their submission to the September LSB meeting.

Bar Standards Board

24. A sub-group of our Board and the BSB's met on 9 February to discuss our business plan. An agreed note of the discussion is attached at **Annex B**. Steve Green and I have a follow up meeting on risk issues with the BSB Director and Audit Committee Chair on 28 March.

Communications

25. This month has seen the publication of a comment piece in my name in *The Times*. The article focused on achievements to date in delivering on the reform programme, as well as the main themes of the new strategic and business plan. We have also authored an opinion piece for the ILEX journal which focuses on workforce development and diversity.
26. A number of speaking invitations have been fulfilled. These include the Chief Executive's address to the Joint Four Law Societies at event held in Liverpool, as well as a presentation to the Council for Mortgage Lenders and a webinar for the University of Miami's "Law without Walls" programme. Alex Roy spoke on our behalf to the European Law Student Association. The Chairman delivered the keynote address to the first event in our series of education and training seminars at the College of Law and is speaking on diversity at the University of Northumbria on 23 March.
27. The contribution of the legal services sector to driving social mobility was praised in *The Times*, with coverage driven by the launch of the social mobility toolkit, which the LSB co-funded, in a project initiated by my post-Milburn Report group and now steered by Professions for Good.

Conclusion

28. The Board is invited to confirm it is content to now receive SDT performance information on an annual basis, with quarterly reporting on an exception basis only (paragraph 15 refers).

ANNEX A

Solicitors Disciplinary Tribunal – Report against key performance indicators Q4 2011 and the year ending 31 December 2011

Overall assessment: SDT continues to make progress against the targets (where set) and in some cases have achieved the target in a number of months.

Performance Measure 1: Proceedings issued or notice on non-certification sent to applicant within 10 days – target 85%	
Q4 2011: 98% (2010: 74%)	Year 2011: 84% (2010: 51%)

In Q4 100% was achieved in 2 out of 3 months and in the other month only one case missed the target. Over the course of the year the target was achieved in 6 out of 12 months (compared to 1 out of 12 in 2010).

Performance Measure 2: Determination by hearing to be completed within 6 month of issue of proceedings– target 70%	
Q4 2011: 38% (2010: 35%)	Year 2011: 35% (2010: 32%)

Some, but very small improvement and the performance through the year is erratic (range 0% to 67%). SDT comment that old outstanding cases have reduced significantly during the year (no numbers given) and are being actively managed. The obstacles for achieving the target are often outside the control of the SDT, e.g. securing mutually available dates between the parties, time estimates too short so cases adjourned and rescheduled (77 court days lost as a result of adjournments in 2011). Actions being taken to improve performance to target are the development of a “warned cases” list so that cases can be heard at short notice to use up days available through adjournments and the recruit of an additional case officer to increase case management capacity. The SDT are also considering recruitment of another clerk so that more courts can be held (though this would also need them to secure additional accommodation).

Performance Measure 3: Average case per court (no specific target)	
Q4 2011: 57 cases average cost of £7511 (2010: 104 cases average cost £5738)	Year 2011: 272 cases average cost £6436 (2010: 272 cases average cost 7040)

The general trend is downward year on year

Performance Measure 4: 80% of judgements to be served within 7 weeks of determination	
Q4 2011: 96% (2010: 18%)	Year 2011: 77% (2010: 22%)

While over the year the target was narrowly missed there has been significant improvement in this measure with the target being met in 6 out of 12 months, met every month for the last four months and 100% achieved in December. The improvement is largely attributable to the increase in number and experience of the staff.

Performance Measure 5: Number of SDT decisions appealed (no specific target)

2011: 24 from 272 cases

3 concluded – 2 dismissed: 1 discontinued

2010: 19 from 272 cases

13 concluded: 6 allowed; 7 dismissed; 1 discontinued; 2 resolved with SRA consent