

<b>To:</b>	Board
<b>Date of Meeting:</b>	25 April 2012
<b>Item:</b>	Paper (12) 32

<b>Title:</b>	Chief Executive's Progress Report: April 2012
<b>Workstream(s):</b>	All
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<b>Status:</b>	Protect

<b>Summary:</b>
<p>The paper updates Board members about:</p> <ul style="list-style-type: none"> <li>operational and governance issues</li> <li>progress on key projects</li> <li>other internal and external policy developments</li> <li>stakeholder and communications activities.</li> </ul>
<b>Recommendation(s):</b>
The Board is invited to note the Chief Executive's progress 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.

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

Freedom of Information Act 2000 (Fol)		
Para ref	Fol exemption and summary	Expires
17 (last two sentences) and 18-20	S36 - inhibit the free and frank provision of advice	
25	S44 - is restricted information obtained by the Board in the exercise of its functions	

## LEGAL SERVICES BOARD

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### Chief Executive's Progress Report – April 2012

#### Operations and Governance Issues

##### *Organisation development*

1. Vincent McGovern joined the LSB as Communications Manager on 10 April 2012. Immediately prior to joining the LSB, Vincent had been working at G4S Cash Solutions where he had been leading on Government and stakeholder engagement work. Prior to this, Vincent worked at Tube Lines, and in Brussels where he worked in an agency setting and at Business Europe, a pan-Europe trade association representing business interests.
2. We have now made a third appointment to the role of Regulatory Associate: Tom Peplow will be joining the LSB on 14 May, working with Emily Lyn in the area of workforce development. Tom is currently a Policy Officer at the General Dental Council and has held a number of roles at the GDC, including work on developing revalidation for dentists and coordinating fitness to practise hearings. His experience in healthcare regulation will be extremely valuable for our ongoing work on quality, education and training and diversity.
3. A reminder that Harriet Gamper will also be joining the LSB on 14 May as the new Consumer Panel Associate. 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.

##### *Governance*

4. Further to Abigail Plenty's Triennial Review update to the Board's 28 March meeting, it appears that MoJ are now considering involving the Board in the second part of the Review, on governance.
5. The Corporate Director and Corporate Governance Manager are currently finalising a governance self-assessment for the LSB, in accordance with the Triennial Review template provided by MoJ, and will then work through the outputs with MoJ. The outputs will then be presented to the MoJ's Project Board and Peer Reviewer, who will determine what, if any, areas they would want to explore further. This is likely to entail the Peer Reviewer attending the Board to discuss directly. In terms of timing, the 30 May meeting of the Board is a possibility, with the alternative being a sub group of the Board meeting with the Peer Reviewer sometime during early to mid June.
6. Some stakeholders' submissions on the first phase of the review attracted high levels of coverage in the specialist press in their accusations of "mission creep", claims of duplication and calls for budgetary reductions of two-thirds

over two years. Only a small number of responses have so far been made publicly available. We are aware that about 30 were received in total (addressing both the LSB and OLC). MoJ do not plan to publish the responses and so we have only seen those where respondents chose to place in public domain. Board members have seen our own submission to the Review.

7. When asked for comment on the criticisms, we have been robust in our responses, both privately and publicly, emphasising the legitimacy of our actions in terms of the Act, stressing that our role goes wider than our three initial priorities (which account for less than half of the statute) and stressing that our size is ultimately determined by regulators' own actions, rather than our own volition. The Board will discuss this further at its next meeting.

## **Project Update**

### *Project Update*

8. The Q4 Performance Report covering the period 1 January to 31 March 2012 is attached at item 13, Paper (12) 33. The Programme Highlight report will be sent to Board members under separate cover in the week commencing 23 April, which will show progress made across the LSB's projects to 2 April. But there are no major items of concern to report, although there remains scope for slippage and dispute with the QASA scheme until the next consultation document issues in satisfactory form. Project Managers have worked closely with the Business Planning Associate to plan delivery of their components of the Business Plan 2012/13 and so we now have a comprehensive Programme Plan for the year ahead.

## **Legal Services Consumer Panel**

9. The Panel published their Work Programme, as discussed at the last Board meeting, on 16 April and received good coverage of a variety of elements in the legal press.
10. The proposed response to the Legal Services Consumer Panel research into comparison websites is attached at item 7, Paper (12) 31. We are also continuing to study the Panel's report on deaf consumers, referred to by Elisabeth Davies at the last meeting and will advise the Board on a response in due course.
11. Board members may wish to be aware that the Panel, and other Consumer Panels in the economy, were also explicitly excluded from the recent BIS announcement on the future of consumer protection and advocacy following consultation. Members may recall that there had been a proposal to subsume all consumer advocacy bodies into Citizens Advice. The Government now proposes, initially at least, to develop a „Regulated Industry Unit' around post and energy only. It is expected that discussions will continue between BIS

and individual Departments as to whether or not additional consumer bodies might transfer at some unspecified point in the future.

## **Research**

12. These are the key areas of work we have been progressing since the Board's last meeting:

- Published the draft baseline evaluation report.
- Published the business and consumer probate reports
- Commissioned work to enhance the research section of the LSB's website.
- Received interim report from the value of regulation study (Opinion Leader)
- Published the 2012/13 research plan
- Received the final reports on understanding consumer needs from legal information sources, and alternative to cost protection rules as well as draft reports on consumer's use of legal services, small business survey methodology and benchmarking professional ethics
- Finished piloting the High Street Research.

13. Our focus over the coming months will include:

- Publish remaining research reports from 2011/12 research programme
- Undertake main stage of High Street Research
- Commence research with Dr Chris Hanretty on statistical modelling of advocacy quality
- Commence statistical testing of contingent valuation report in value of regulation study
- Complete project developing an enhanced LSB research website
- Commission research on cab rank rule.

## **Regulatory Decisions**

### *Decisions*

14. The Decision Notice confirming the Board's decision not to grant the CLC designation application was issued on 2 April 2012. The CLC issued a measured press release in response and I will update the Board on my discussion with the CLC Board scheduled for 19 April.

15. One exemption direction has been issued in respect of changes to the Master of Faculties Public Notaries (Practising Certificate) Rules 1982 increasing the minimum professional indemnity insurance cover.

16. In relation to the BSB application to introduce new standard contract terms for the Cab Rank Rule, eight submissions have been received in response to the request for advice following the issue of the Warning Notice in January. The BSB are now considering the responses and have until 11 May to make representations to LSB.

## Other Policy Developments

### *SRA issues generally*

17. Board members will recall that the section 69 Order that was made for the SRA and the CLC gave the SRA the ability to operate a single compensation fund for ABS and non-ABS. That power was time limited and expires on 31 December 2012. The rationale for the time limit was based on the SRA's policy statement issued in April 2011 that it would carry out a fundamental review of the operation of its compensation arrangements with a view to putting long term ones in place before the sunset clause was triggered. [REDACTED]

[REDACTED]

18. [REDACTED]

19. [REDACTED]

20. [REDACTED]

21. More generally, we have continued to discuss a number of issues of concern about the SRA's interactions with the Board with their senior team and have seen some signs of progress on a number of issues. In particular, we continue to monitor closely their plans to ensure that there is no repeat of this year's difficulties in issuing practicing certificate fees and that the delay in IT investment in regulatory systems caused by the focus on that issue does not lead to adverse outcomes.

### *Judicial Reviews*

22. Our application to the Supreme Court to intervene in the Prudential case, regarding legal professional privilege, has been successful. The LSB has now been directed to make written submissions only. We have been invited to address, in our submissions, the type of criteria we would regard as consistent with the regulatory objectives. This will be taken forward with advice from our counsel, Philip Havers QC.

### *ICAEW and accountancy bodies*

23. We continue to be in discussion with the Institute of Chartered Accountants of England and Wales (ICAEW) about their aspirations to become an approved regulator and licensing authority and we expect them to publish a consultation document shortly. Our current assessment is that they are making reasonable progress, but issues around their governance, appeals and their ambitions around professional privilege issue remain challenging. We are also meeting them on 18 April on the issue of professional privilege, and, with the SRA on the separate business rule and how it is hampering other professionals from contemplating becoming or investing in ABS. I will update members as necessary at the meeting.

24. It is likely that we will require a section 69 order in relation to compensation arrangements in order to progress their application. They are currently examining their Charter to determine if there are any other institutional or legal barriers in the way of the ICAEW becoming an approved regulator and licensing authority which will require amendment through the section 69 process.

25. [REDACTED]

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

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

- The first meeting of the Redress and Regulation Working Group took place on 30 March. I attended along with Barbara Saunders for the LSB, with David Thomas and Adam Sampson for the OLC, and Abigail Plenty and Dawn Sanderson for the MoJ. The purpose of the group is to help to ensure that the moves planned by the OLC and LSB to explore changes to the edges of

redress and regulation in legal services do not conflict. We made clear that the group should ensure coordination of dates to avoid overlap, but should not have any executive role. There were useful exchanges on the timing of a voluntary jurisdiction and our work on general legal advice, the extent to which consumer credit licensing might be a helpful analogy on both redress and scope issues and possible implications for the levy of a claims management jurisdiction for the Legal Ombudsman. The group will meet again in late May/early June.

- The next meeting with OLC to discuss Legal Ombudsman performance against KPIs, and in particular, the results of its customer satisfaction survey, is on 2 May. We understand that the results are positive.

27. A joint meeting of the LSB and OLC follows today's Board Meeting. Adam Sampson and I will give a joint presentation on the strategic context for both organisations over the next 10 years.

### **Bar Standards Board**

28. Steve Green and I followed up the joint meeting of the Board and BSB held on 9 February with a discussion on risk issues with the BSB Director and Audit Committee Chair on 28 March.

### **Communications**

29. As mentioned above, there has been a degree of trade press coverage of responses to the Triennial Review. We addressed many of these during our successful media briefing to accompany the launch of our Baseline Market Impact Report and Business Plan which took place on 3 April. This provided an ideal and useful opportunity to engage in an open and frank manner with a variety of interested commentators and we received informed coverage of our findings, and our general position, as a result.

30. We have held further Education and Training Review seminars in Leeds and Warwick. Both were well-attended and stimulated interesting debate. By the time of the Board meeting, we will have released our next steps on scope of regulation, will-writing, estate administration and probate, and special bodies' regulation. On the same day, the Chairman is due to speak to the Legal Futures Conference at which the Minister is also speaking.

18.04.12