

To:	Legal Services Board	
Date of Meeting:	23 May 2013	Item: Paper (13) 38

Title:	Chief Executive's Progress Report - May 2013	
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):
The Board is invited to note the Chief Executive's progress report.

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
14, final sentence	Section 36(2)(b) - Likely to inhibit: (i) the free and frank provision of advice, and (ii) the exchange of views for the purposes of deliberation	

LEGAL SERVICES BOARD

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Chief Executive's Progress Report - May 2013

Operations and governance Issues

1. The Ministry of Justice announced the outcome of its services and structures review on 13 May. This does not seem to have implications for the sponsorship arrangements for LSB, but may mean that we face more pressure to share services with the Ministry. This will become clearer after a briefing event on 6 June.
2. I will update colleagues orally on progress on accommodation issues.

Project update

3. There are no major project slippages to report. The full Programme Board report for end April will be circulated separately after review by the Gateway Group at its meeting on 22 May.

Research

4. Since the last Board meeting we have:
 - Worked on draft reports for Behavioural Economics; Understanding Consumers; Cost of Regulation and Value of Regulation projects.
 - Commissioned jointly with The Law Society the Regulatory Policy Institute, to carry out research into barriers to firm entry, exit, and merger.
 - Finalised research plans for 2013/14.
 - Started the implementation of amendments to LSB research pages.
5. We plan to publish our research report on Small Business Use of Legal Services on 22/5 and will be briefing the trade press in advance. This is an important report, which provides much of the underpinning for our recent emphasis on stressing the contribution more proportionate legal services regulation can make to economic growth. The findings are summarised at **Annex A**.

6. Over the coming period we expect to:
 - Publish reports on: Behavioural Economics; Understanding Consumers; Cost of Regulation and Value of Regulation projects
 - Complete initial data analysis and draft initial report on competition and regulation as part of our evaluation strategy
 - Build data sets of Access to Justice indicators, IPS, and Office for National Statistics census data sets development, to support future work.

Statutory Decisions And Investigations

7. Two exemption directions have been issued for changes to the Costs Lawyer Standards Board's Practising Rules.
8. The Bar Standards Board has submitted the application for approval of the revised Handbook; this is being considered and the Board will receive a full report at its July meeting.
9. We are continuing the assessment of the recent designation (for probate and reserved instrument activities) and rules change applications from ILEX Professional Services. Warning Notices have been issued on the rules change applications to extend the scope of the litigation certification rules and to introduce regulatory arrangements for immigration advisers; this allows us to seek some external advice which will assist in the assessment of the applications.
10. The assessment of the designation application from the Institute of Chartered Accountants in England and Wales (ICAEW) is continuing, not least through helpful contact with the Financial Reporting Council (FRC) and Insolvency Service. The Law Society has submitted a letter suggesting that we should decline the application on the grounds that, among other things, the proposed governance arrangements do not deliver sufficient separation of representative and regulatory functions, the risks associated with a very narrow scope (the regulatory arrangements will allow only non-contentious probate work to be undertaken) and the application does not demonstrate that the ICAEW meet the LSB's expectations on regulatory standards. ICAEW has been invited to comment on the letter. Both the Law Society letter and the ICAEW response will be published on our website in due course.
11. As this report was being finalised, we also received the Licensing Authority application from IPReg. Analysis will begin shortly.

Policy Developments

QASA

12. The scheme has now been approved by each of the regulatory Boards and an application for LSB approval of the changes to regulatory arrangements is expected imminently. It is our initial assessment from what we have seen in draft that the scheme is likely to meet the policy principles agreed collectively by JAG in consultation with members of the senior judiciary, CPS and the LSB. Once the application is received it will be assessed in accordance with our rule approval process and the criteria set out in the Legal Services Act 2007. Barbara Saunders and Anneliese Day have seen copies of the draft application and all colleagues will be updated on any changes once we have completed our analysis. As discussed at the last meeting, I will keep the Board updated ahead of any formal decision (which lies within my delegated authority), both on the progress of our analysis and on the reception of the scheme, opposition to which is becoming increasingly confused with opposition to the Government's consultation proposals on criminal competitive tendering.

Equality and Diversity

13. We are now close to completing our review of implementation of the diversity data collection guidance. A full paper including the draft report will be brought to the Board in July. What has emerged so far is quite a mixed picture in terms of delivering the objectives in the guidance with response rates identified as an area where further focus is needed, as results have differed markedly between different regulators. We are working with the approved regulators to establish how best to address these issues and what needs to be done to achieve a profession wide dataset. Our findings therefore support what we have said in the business plan regarding the need for consolidation in this area. However the Board should note some positive examples of progress such as the recent SRA report on the outcome of its data collection exercise and thematic review of compliance with Principle 9 of the Code of Conduct (concerning equality and diversity) which demonstrates real progress towards approaching diversity as a regulatory issue.

Will Writing

14. I circulated colleagues on 14 May with the disappointing news that the Government had turned down our recommendation on will-writing. [REDACTED]
[REDACTED]
[REDACTED]

- [REDACTED]
- [REDACTED]
15. We will continue to study the Lord Chancellor's response carefully and aim to make a measured response in the next few weeks, responding to individual points, setting out plans for a more limited work programme seeking to tackle the detriments identified in other ways and exploring the implications of the decision for wider work on cost and complexity. While I would welcome any initial comments from colleagues today, our intention is to return to the Board in July with reflections on what we can learn from the process and specific proposals on the way forward.

Separate Business Rule

16. Colleagues will recall that the SRA's separate business rule has been an issues of concern since approval of their new handbook and that this concern has sharpened in recent months as it appears that the rule may be having a dampening effect on innovation and new entrants. This is related to a broader debate about the SRA's nervousness in relaxing its regulatory grip on non-reserved activities, where we have been urging them to take a risk-based approach, rather than applying current controls in a blanket way. A senior level meeting with SRA on 7 May suggested some narrowing of the gap between our positions with a clear SRA commitment to undertake a major review in 2014 and willingness to address the issues on the narrow canvases of MDPs involving professionals such as accountants regulated separately elsewhere, other legal services that have been delivered safely outside of regulation for an extended period and advisory services offered by special bodies. Although slower than we would wish, this is welcome progress and we will revert to the Board when there are any decisions to make or substantial issues to note.

Legal Ombudsman/Office for Legal Complaints (OLC)

17. The most significant update this month is that the MoJ sponsor team have come back to us with a proposal from Treasury about how to fund the OLC's CMC complaints handling. They have suggested that Claims Management Companies should be made leviable bodies for the LSB to invoice. This proposal is currently being considered by the LSB and OLC, but, as reported to the ARC on 13 May, it appears problematic legally. We have agreed to discuss the matter further with LeO and a teleconference is planned for the 16 May and will update the Board at the meeting.

Legal Services Consumer Panel

18. The Consumer Panel's Annual Report 2011/12 is a separate item on today's agenda (Paper (13) 37 refers).

Communications and stakeholder engagement

19. Given the relatively short period of time since the last Board meeting the number of communications actions which can be reported on are relatively few during. The highlights for this period are primarily speaking opportunities at a number of different conferences:

- Crispin Passmore spoke at a *Regulatory Policy Institute* event on the Future of Regulation on 26 April. His contribution focused on the independent regulation of legal services. The presentation he made was posted to our website where it was picked up by some of the trade press
- The Chairman and I met Anna Bradley and Sheila Kumar of the Council for Licensed Conveyancers on 30 April. This was a very positive discussion, showing good progress with their action plan and a range of broader governance and management issues
- I participated in a panel session at *Modern Law magazine's* one day conference on 1 May, sharing a panel with Adam Sampson and representatives of the BSB and the Law Society
- On 10 May I spoke at both the *Association of Cost Lawyers* annual conference and at the *Law Society's* Presidents and Secretaries conference
- On 14 May the Lord Chancellor announced his decision on will-writing. There was significant media interest in our reaction to his decision
- Also on 14 May, I spoke to the Bar Commercial, Finance and Industry Group and Crispin Passmore represented the LSB speaking at a two day conference for senior commercial firm leaders organised by the University of Strathclyde
- On 16 May, I spoke on the importance of accessibility in Ombudsman Schemes at the Ombudsman Association conference at Loughborough University.

15.05.13