

To:	Legal Services Board	
Date of Meeting:	10 July 2013	Item: Paper (13) 49

Title:	Chief Executive's Progress Report - July 2013	
Workstream(s):	All	
Author / Introduced by:	Chris Kenny, Chief Executive chris.kenny@legalservicesboard.org.uk / 020 7271 0057	
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
	None	

LEGAL SERVICES BOARD

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Chief Executive's Progress Report - May 2013

Operations and governance Issues

1. We have received a revised draft of our Framework Agreement with the Ministry of Justice (MoJ) for review. Whilst most of the proposed changes are minor drafting amendments, we are in discussion with MoJ Corporate Finance about some changes which may affect our spending autonomy. At this point we have no reason to believe that the proposed amendments are anything other than inadvertent application of standard MoJ ALB Framework Agreement drafting. Pending the outcome of discussions with MoJ I will update the Board on this and the potentially related subject of "shared services."
2. Following agreement by Remco, the Executive have submitted our annual pay remit request to the MoJ. This has been prepared in line with HMT guidance.
3. Olivia Marley has joined the LSB as a Regulatory Associate. Board Members may recall that Olivia has previously worked with us on secondment from the Legal Services Institute.
4. The process to appoint six new members of the Legal Services Consumer Panel is underway and advertising closed on 5 July. At time of drafting, circa 30 applications had been received with another circa 40 expressions of intent to apply known. Advertising for a new Chair for the OLC is due to commence on 7 July. Finally, planning meetings are being held with the MoJ on 4 July to confirm the timing and process to appoint a new LSB Chair and Members. We will report on developments.
5. I am grateful to colleagues for completing the Board evaluation questionnaire. We will circulate a summary paper shortly and will be seeking a date for a Board dinner in September to enable a full discussion.

Project update

6. There are no major project slippages to report. The Quarterly Programme Report is on the agenda and Board members will have received the June Programme Board report before the meeting.

Research

7. Since the last Board meeting we have:

- Published reports on: behavioural economics; understanding consumers; and the proportionality of regulation;
- Completed phase 1 of the work on barriers to entry, exit and merger project which we commissioned jointly with The Law Society

8. Over the coming period we expect to

- Publish research on consumers of legal services with learning disabilities which was commissioned jointly with the Consumer Panel and Mencap;
- Complete initial data analysis and draft an initial report on competition and regulation;
- Build data sets of access to justice indicators, using Ilex Professional Services data and Office for National Statistics census data to support future work;
- Late last year we secured ESRC funding for a PhD student at Warwick University to study conflicts of interest in large law firms under outcomes focused regulations. The three year PhD programme involves a small financial contribution from the LSB together with a one month placement per year for the student at the LSB. Professor Julian Webb from Warwick University will be supervising the student. Following an open recruitment exercise, a successful candidate was appointed to begin in October 2013. We expect this to support the further development of our ties with academia and enhance our ability to deliver a cost effective research programme.

Cab rank rule research

9. In May 2012 we commissioned Professors Flood (University of Westminster) and Hviid (University of East Anglia) to produce a paper considering the practical and economic impact of the cab rank rule on the provision of legal services by barristers, building on existing literature and theory to assess the likely impact of the rule in practice.
10. The report was published in January 2013 alongside a short LSB summary highlighting the purpose and conclusions of the research, and inviting stakeholders to respond on the report's analysis and suggestions. The report generated significant debate and received full responses from the Bar Council and Bar Standards Board. It was amended as a result of the responses, and the Bar Council and BSB have chosen not to make any further comment.
11. It is our view that our research work on the cab rank rule is completed. The research has been used to inform our understanding of the rule and its impact on the market and will thus inform our responses to rule applications across the range of the BSB's work. In particular, as discussed in the paper on the BSB handbook, the debate has helped to shift the BSB to agree to further discussion of the extension of the cab rank rule to public access clients.

Statutory decisions and investigations

12. Since the last report I have approved the application from the Solicitors Regulation Authority for changes to the SRA Indemnity Insurance Rules [2013]. The application from the Bar Standards Board for approval of its revised Handbook has continued and is covered in a separate report to the Board.
13. The assessment of the designation applications is continuing:
 - ICAEW – further meetings have taken place to discuss governance arrangements for the Probate Committee and to review the programme to be used in Practice Assurance Visits to probate practitioners. The report to the Board on this application had been expected to be made in July but has been delayed to allow ICAEW to make some changes to the application. We will be asking the Legal Services Consumer Panel whether the changes to the application would affect the advice that it submitted in March. I have separately spoken to Sir Christopher Kelly's independent review group on the management of the ICAEW's regulatory functions and there has been some trade press comment on the exchange of correspondence between ICAEW and the Law Society on governance arrangements;
 - CILEx/IPS – Advice was received from the LSCP and the Office of Fair Trading (OFT) on the designation application for probate and reserved instrument activities. Advice has been sought from the Lord Chief Justice on that designation application and the rules change application on litigation rights. The Justice Select Committee has confirmed that they do not wish to comment;
 - CIPA/ITMA/IPReg – the initial review of the application has been completed and advice requested from the LSCP and the OFT

Policy developments

QASA

14. Our consideration of the application for approval of changes to regulatory arrangements in respect of QASA is ongoing. On 5 June we issued an extension notice to the SRA, BSB and IPS which extends the period in which we have to make a decision to 11 August. The reason for the extension was to give us adequate time to consider all the information submitted alongside that received during our initial review of the application. We have also taken external legal advice. The Board will be provided with a verbal update of the current status of the application during the meeting and we are likely to return to the Board for a full discussion on 24 July.

LETR

15. The final report of the Legal Education and Training Review (LETR) was published on 25 June. It is a long and detailed document containing 26 recommendations. In welcoming the report we made clear our view that this was an important milestone rather than the end of the process, and we await responses from the commissioning regulators. The Board will note that the report has already attracted a range of comment from stakeholders. It is fair to say that both enthusiasm and condemnation have been marked by their general absence. We aim to present a full paper to the Board on the report and its recommendations for discussion at the session in Birmingham on 24 July.

SRA Issues

16. In addition to the performance issues, we have continued to discuss the potential risks arising to performance from the management transition at the SRA. I will update colleagues orally and we will circulate fuller briefing following the meeting to prepare for the joint meeting on 24 July.

Legal issues

17. On 31 May we received a Letter before Claim threatening a judicial review of the decision to introduce QASA. The Claimant is a practising barrister and both the LSB and BSB have been identified as potential Defendants. The LSB has instructed Herbert Smith Freehills and, on their advice, the Claimant was informed that any claim was premature pending a decision by the LSB on the application for approval of an alteration to regulatory arrangements with respect to QASA. The Claimant has indicated that she will re-present her claim in the event that the LSB grants approval to the rule change.

Legal Ombudsman/Office for Legal Complaints (OLC)

18. Discussions continue with MoJ and OLC around the way in which the Legal Ombudsman should extend its jurisdiction to be able to accept service complaints about claims management companies (CMCs). This includes the proposal to make CMCs “leviable bodies” for the purposes of complaints handling. OLC are clearly frustrated by the impasse that has been reached but are aware of our objections on both legal and practical grounds. The matter was also the subject of a meeting between MoJ officials, the Chairman and I and as a consequence I have agreed to approach the Treasury Officer of Accounts.

19. Steve Green attended a Q4 KPI meeting with OLC and the Legal Ombudsman at the beginning of June. The report showed that by year end 2012/13 they had received 71,194 contacts, compared to the business plan assumption of 75000 contacts. The case conversion rate for Q4 was lower than expected and they indicated that they will be monitoring this to understand and compare the longer term impact on case volumes and resource requirements. The case conversion rate in 2013/14 is important because of its impact on their case fee income which

is key to their budget assumptions. The numbers had increased in April, but they are still behind where they planned to be. The backlog that had emerged in Q3 had reduced to an acceptable WIP level.

20. Three Junior Ombudsmen have been recruited to the team and another is due to start in July. This and a new 'early warning' system should help keep the backlog down in future. In April, the Assessment Centre quality measures remained above 80% and the resolution centre scores continued to improve, although process scores dipped slightly. The case fee waiver rate is now regularly reported to the OLC Board after it emerged that the rate had been increasing over the last year. Training has been introduced to address the issue.
21. Following the discussion at the last Board meeting and after consultation with its staff, we have issued a s.120 request to the OLC seeking data about complaints for Damages Based Agreements. We have requested that they confirm to us by 15 July what information they will be able to provide in response to the request. A final report is required by 1 April 2015.

Legal Services Consumer Panel

22. The Panel met on 27 June with Barbara Saunders attending as an observer. Their report to the Board on financial protection arrangements is a separate item on today's agenda. This has generated some adverse reaction from The Law Society.
23. The Board will also have seen that the Panel published its final two releases during June to draw attention to their annual Tracker Survey with the final release focusing on scores relating to consumers' trust in lawyers.

Communications and stakeholder engagement

24. Highlights of external communications since the last Board meeting have included:
 - On 22 May the "small businesses as consumers of legal services" research was published and received some trade press coverage. The report has also been picked up by a small number of legal providers who have used the results to draw attention to their own offerings to small businesses. The report was also sent to key Parliamentarians and a range of business bodies. We are also pursuing contacts with Special Advisers in BIS to develop this agenda and also strengthen links more generally;
 - The BSB's regulatory standards report was published on 30 May receiving significant trade press attention. It also caught the attention of the Daily Mail which fed some of the conclusions into its post-Leveson reporting on media regulation. The Daily Telegraph also picked the story up on the back of the Mail's coverage. (Quite separately, we have had a number of

discussions with DCMS officials, who were keen to learn of our experience in set-up as they consider the shape of a post-Leveson “verification body”;

- The LSB’s annual report was published on 11 June alongside the Board’s paper on oversight regulation. The latter received some sensible coverage in the trade press, but, neither the report itself nor the accompanying document on our view of the scope of oversight regulation as yet appear to have provoked any stakeholder reaction;
- On 14 June I spoke at the University of Michigan’s Reinvent Law London Conference;
- On 24 June the Chairman and I met Helen Grant MP to discuss the Annual Report. I have separately reported to colleagues on this productive meeting;
- On 26 June, I attended a “Consumer Rights Round Table”, hosted by Baroness Hayter and Ian Murray MP to discuss the proposed Consumer Bill of Rights. Later that day, I met Bruce Beveridge, President of the Law Society of Scotland.

03.07.13