

# QUARTERLY PROJECT HIGHLIGHT REPORT



**PROGRAMME/POLICY AREA:** A: Regulatory Performance and Oversight

**KEY OBJECTIVES:** Developing Standards and Performance, Reviewing progress on prior year initiatives, Reviewing of regulatory sanctions and appeals processes, Ending the transitional arrangement for licensable bodies and the regulation of “special bodies”.

**LINK TO REGULATORY OBJECTIVES:** RO1, RO4, RO6, RO7

## PROJECT HEADLINES

### Key achievements of Q1 13/14 reporting period:

#### **Developing standards and performance:**

- The BSB’s self assessment report was published following a factual accuracy check by BSB. The Mail and Telegraph, produced very critical articles based on the report although a subsequent Guardian article noted that this may be more to do with Leveson conclusions. We will remain cognisant of the impact of such reporting.
- The confirmed BSB action plan was added to the regulator’s action log and will be included in the regular programme of monitoring all regulators action plans.
- This project has now been closed down and a close down report has been produced which includes final milestones and next steps for ongoing monitoring.

#### **Reviewing progress on prior year initiatives:**

##### ***Referral fees, referral arrangement and fee sharing:***

- Considered BSB’s approach to referral fees as part of the consideration of their new handbook. A decision will be made at the Board meeting on 10 July.
- S. 120 notice issued to the OLC relating to the provision of information regarding damage-based agreements. The OLC are required to confirm to us by the 15 July what information they will be in a position to provide in response to the request. A final report is required by April 2014.

##### ***First-tier complaints handling (FTCH):***

- Meetings were held with the SRA, CLC and BSB to discuss issues and progress on this project. An initial review of the SRA and BSB’s responses was conducted, both reports had come in late.
- Trilateral meeting held with SRA and BSB to discuss BSB concerns about difficulties experienced by barristers in meeting their obligations due to actions/inaction of solicitors and to propose possible approaches to facilitate barrister compliance with FTCH obligations
- Limited engagement and prioritisation by approved regulators of this issue, in comparison to the level of priority allocated to it by the LSB. This has become apparent in correspondence and failure to work together where necessary. A review is therefore being undertaken to look at the project history and objectives, including the obligations placed on the regulators and the timetable for next steps.

#### **Reviewing of regulatory sanctions and appeals processes:**

- Followed-up possible implications of legal research by counsel, in particular issues around the statutory basis for the COIC (Council of the Inns of Court) arrangements and exploration of options – this entailed seeking further advice from counsel. The legal advice was at variance with the BSB’s perception of its powers in respect of COIC. Our advice is that the power resides with the Judges not the BSB. LSB is still considering handling.
- Developed a best practice matrix that assesses the Administrative Justice and Tribunals Council (AJTC) Principles for Administrative Justice and Macrory effective sanction principles and characteristics against the Better Regulation Principles and at the different stages of regulatory decision making (Investigation, Adjudication, Implementation, Appeal and Assurance on governance etc).
- Continued review of good regulatory practice in terms of structures and mechanisms (in appeals and

sanctions) in other sectors by compiling a portfolio of sources and research papers using the best practice matrix.

- Made a site visit to the Tribunal Suite at The Bar Tribunals and Adjudication Service.
- Interim workshop held to review the findings from the project so far and discuss next steps

#### **Ending the transitional arrangement for licensable bodies and the regulation of “special bodies”:**

- Individual meetings held with special bodies (CAB, ASA, LawWorks and LCN), SRA and CLC to discuss our policy proposals and timetable for action.
- Delivered two workshops attended by a wide range of stakeholders, including MoJ, BSB and SRA, and a range of special bodies to discuss proposals for guidance and the issues these may raise
- Paper to May Board with draft guidance for licensing authorities on licensing rules relating to special bodies. In light of pressures faced by special bodies and the Lord Chancellor’s decision on will writing, the Board decided that work should be postponed pending the outcome of the MoJ work on regulatory simplification and the LSB’s cost and complexity work. A paper has been prepared confirming this decision for the July Board meeting and a statement has been prepared to brief stakeholders on the implications for the transitional protection currently in place under S.23 of the LSA.

#### **Key activities for Q2 13/14 reporting period:**

##### **Developing standards and performance:**

- Regular monitoring of the regulators’ action management log
- Provide a report on progress made in the first quarter of 2013/14 to inform LSB conversation with regulators.

##### **Reviewing progress on prior year initiatives:**

##### ***Referral fees, referral arrangement and fee sharing***

- CLC’s rule change application for regulating referral fees due.

##### ***Immigration:***

- Reports from regulators demonstrating their progress to achieving the outcomes for consumers due in July 2013.

##### ***First-tier complaints handling:***

- Follow up letter to BSB and SRA following above meeting, encouraging and setting deadlines for action
- Full review of and recommendations on SRA and BSB responses to LSB letters on FTCH requirements of July 2012
- Reminder to remaining approved regulators that their deadline for action/response on the letters of July 2012 is approaching

##### **Reviewing of regulatory sanctions and appeals processes:**

- Pull together information for September Board that will:
  - outline findings from the project, including the legal constraints to change;
  - present what we think best practice looks like from our research;
  - set out why we think effective sanctions and appeals processes are important for the regulatory objectives and where the current arrangements might be falling short; and
  - propose what we think needs to be done and is achievable in the short/medium and long term in terms of reforming sanctions and appeals arrangements in legal regulation.

#### **Ending the transitional arrangement for licensable bodies and the regulation of “special bodies”:**

- Issue statement to stakeholders about the decision and its implications for the transitional protection currently in place under S23 of the LSA and address any resulting queries. Specific contact will be made with stakeholders who attended the LSB workshops in April to assist with the policy development and

PROJECT MILESTONES		
PROGRAMME / POLICY DELIVERABLES	PROJECT MILESTONE	MILESTONE DELIVERY DATE
Developing standards and performance	• Receive and review reports from regulators on progress on delivering their action plans and other areas where action is needed	Ongoing Q1-4
	• Provide report to report with update on progress	Oct 2013
	• Finalise plans for future self-assessment	March 2014
Immigration	• Review qualifying regulator's progress to achieving the outcomes for consumers set out in our July 2012 letter to regulators	July 2013
First-tier complaints handling	• Receive and analyse reports from regulators on progress against actions points set out in our July 2012 letters	July 2013
Review of regulatory sanctions and appeals processes	• Publish discussion document	March 2014
Special Bodies	• Issue draft guidance for licensing authorities	Project reviewed TBC
Licensable bodies	• Work with regulators to understand how those they regulate will be affected by ending the transitional protection	Project reviewed TBC

RISKS (new or raised):				
Risk	Impact (1-5)	Likelihood (1-4)	RAG Rating	Action Taken
[REDACTED]				

ISSUES:		
ISSUE	PRIORITY	ACTION TAKEN
[REDACTED]		

**OVERALL STATUS:**

4

3

2

1

[REDACTED]

# QUARTERLY PROJECT HIGHLIGHT REPORT



**PROGRAMME/POLICY AREA:** B: Strategy Development and Research

**KEY OBJECTIVES:** Reviewing the Scope of Regulation, Developing a Workforce for a Changing Market, Putting consumer interests at the heart of regulation, Cost and complexity of regulation, Research – evaluation and evidence

**LINK TO REGULATORY OBJECTIVES:** RO1, RO2, RO3, RO4,RO5, RO6, RO7, RO8,

## PROJECT HEADLINES

### Key achievements of Q1 13/14 reporting period:

#### **Scope of Regulation:**

- The impact assessment for our recommendation for will-writing to be made a reserved legal activity was passed by the Regulatory Policy Committee with a green rating. However, the Government rejected the LSB's recommendation that will-writing is made a reserved legal activity.
- A Board paper to be presented at the July Board has been drafted setting out the Executive's proposed response to the Lord Chancellor's decision not to reserve will-writing. Key points are:
  - Unregulated sector - bring together industry stakeholders and market participants in a roundtable to begin discussions about any possible improvement to industry led schemes but limit activity to this
  - Authorised persons writing wills (mainly solicitor firms) - write to regulators saying that it is not appropriate for them to deliver a set of rules and regulation for will-writing as if it were a reserved activity but we expect them to demonstrate that they have reviewed our investigation evidence and used this to inform their risk profiling and supervision
  - General legal advice – formally end project to review the absence of regulation in this area
- First detailed paper setting out the context and proposed methodology for taking forward the new work stream of reviewing the cost and complexity of regulation that was included in this year's business plan presented to the Board.
- Paper prepared around cost and complexity in response to MoJ's simplification work call for evidence which includes a project plan for the first stage of the project.
- Internal workshop was held in relation to the cost and complexity work to inform the analysis of the risks that legal services should protect against and how these place out across different segments of the market.

#### **Developing a changing workforce for a changing market.**

##### ***Education and Training:***

- Completed review of current regulatory arrangements for education and training (including potential barriers to change) and areas where regulators are already delivering on LETR recommendations
- Met BSB and Skills for Justice to discuss education and training developments
- CEO level meeting held with commissioning regulators ahead of LETR publication to discuss plans for publication and next steps, including LSB plans to issue statutory guidance later this year (as set out in the Business Plan). We will now focus on developing these plans and agreeing a provisional timetable, including our proposed communication strategy. This is likely to be informed by reactions to the report itself
- Received final report from the Legal Education and Training Review (published on 25 June) and completed initial review of the recommendations. We will continue our analysis over the next month in preparation for a Board discussion at the end of July.

**Diversity:**

- Completed our review of regulators progress in delivery of their action plans for diversity data collection and transparency which has involved meetings with each of the approved regulators. Report drafted for July Board - overall it finds a mixed picture and concludes that there is still some way to go in delivering the objectives contained with the guidance, particularly in relation to response rates.
- Given the findings of the report we may need to revisit our guidance on diversity data collection to ensure that the key messages of our strategy is clear and understood. We will also need to give careful consideration to handling with approved regulators, particularly where we have been critical of progress.
- The SRA's report was particularly impressive and we wrote to them to congratulate them on the quality of the report and thematic review of compliance with Principle 9 (to encourage equality of opportunity and respect for diversity) of the Handbook
- BSB completed a sampling exercise of 40 chambers assessing compliance with the equality and diversity rules in its code of conduct
- We also met the Judicial Office to discuss their work in development of a diversity strategy and our diversity work

**Quality Assurance:**

- On 24 April both the SRA and BSB Board's approved their new regulatory arrangements for QASA. IPS having previously completed this stage.
- A joint application from all three regulators for us to approve their respective regulatory arrangements is currently being reviewed by the rules team.
- Major FOI request received regarding QASA in the context of potentially threatened legal action
- The Board considered a paper on the Consumer Panel's report on empowering consumers which is part of the choosing and using legal services project. We have written to the Consumer Panel confirming our acceptance of the challenges raised in their report and have also written to regulators reiterating the relevant regulatory actions and timescales in our Business Plan
- Wrote to the regulators to express an expectation that they will monitor developments in the area of price transparency in general and particularly of damages-based agreements. Agreed and issued formal notice under section 120 to the Office of Legal Complaints relating to the provision of information regarding damages-based agreements. The OLC are required to confirm to us by 15 July what information they will be in a position to provide in response to the request. A final report is required by 1 April 2015.

**Research:**

- Ongoing management of externally commissioned research projects:  
Publication stage (all due w/c 1st July):
  - Behavioural economics – applying for the first time a research approach to legal services to understand how this discipline can support better regulation and service design;
  - Consumers' who don't use or trust – understanding consumer choices around not using regulated legal service providers, building on consumer legal need research published in 2012;
  - Proportionality of regulation scoping project – identification of specific areas of regulation that prima facie have the potential to be disproportionate to the risks they are design to protect consumers against.Project management stage:
  - Consumers valuation of regulation – applying for the first contingent valuation research methods to legal services regulation to provide a basis for more objective cost benefit analysis of regulation. Fieldwork completed report in final stages of redrafting;
  - Legal services experience of people with learning disabilities – Qualitative research into the experience of this vulnerable group of consumers to highlight issues for regulators to address. Carried out jointly with Mencap and Law Society. Fieldwork completed, and report being drafted.
  - Investigating barriers to entry exit and merger – Jointly funded project with the Law Society to identify potential regulatory barriers and inform the Cost and Complexity of Regulation project. Fieldwork in progress.

Project commissioning stage:

- International study into innovation and regulation of legal services – Non funded project. Network of academics being developed further via ILAG conference attended by Head of Development and Research.
- Investigation into competition and regulation: In-house analysis of SRA regulatory information and consumer and supplier survey data applied to the market segmentation framework, to identify which market segments are the least competitive, and explore why. Four part report due for completion in September:
  - I. Geography of market segments – analysis completed and report section drafted
  - II. Changes in market share and entry and exit - analysis completed and report section drafted
  - III. Changes in structure and ownership of SRA regulated firms – Analysis yet to start
  - IV. Review of range of new service offerings – Review of trade press yet to start, survey of ABS licence holders drafted and ready to pilot.
- Evaluation - Initial data analysis and collation for competition and regulation work begun
- Small Business research reports published – the report shows that small businesses legal needs are currently not being met by existing services and products offered by legal firms. Response articles were also published in Law Society Gazette and the British Chambers of Commerce

**Key activities for Q2 13/14 reporting period:**

**Scope of Regulation:**

- Further work to prepare our response to MoJ's call for evidence due in September including producing the underpinning analysis that informs our thinking on cost and complexity.
- Engage with stakeholders and encourage them to respond to the call for evidence.

**Developing a changing workforce for a changing market.**

***Education and Training:***

- Continue analysis of LETR report
- Begin developing plans for statutory guidance and agree provisional timetable, including our proposed communication strategy. This is likely to be informed by reactions to the report itself.

***Diversity:***

- Consider next steps in light of Board discussion around report on progress with diversity data collection and publication requirements.

***Quality Assurance:***

- Hold meeting with representatives from Human Assets (who previously conducted research for the LSB on assessment methodology for QASA) in relation to the planned two year review. The outcome of this meeting will feed into our discussions with JAG regarding the terms of reference for future review.

**Research:**

- Managing ongoing projects through meetings, contract finalisation, and end communications as above.
- Begin Investigation into competition and regulation – continuing with data analysis, launching survey of ABS, and starting review of trade press for examples of innovation.
- Dissemination – Planned article in Modern Law Review Magazine, and refresh and updating of research web pages library . Presentations on small business research findings to LSCP and IPO
- Drafting of specifications for planned 2013/14 research projects

PROJECT MILESTONES		
PROGRAMME / POLICY DELIVERABLES	PROJECT MILESTONE	MILESTONE DELIVERY DATE
Will writing, probate activity and estate administration	• Lord Chancellor decision on recommendations for will-writing and estate administration	Completed 31/05/2013
	• Subject to decision, work with MoJ to take forward to proposals	N/A
	• Begin work with stakeholders to facilitate development of voluntary initiatives for estate administration	N/A
General legal advice	• Publication of discussion document	Work suspended
Education and training	• Hold roundtable on education and training in response to the LETR	30/09/2013
	• Consider need for statutory guidance or policy criteria in light of initial views on way ahead from regulators	30/09/2013
Diversity	• Review of regulators' implementation of action plans	30/06/2013
	• Carry out research into best practice and conceptualisation of talent to promote a positive approach to diversity issues with progression and retention	31/03/2014
Approaches to Quality	• Revisit actions on comparison websites with regulators	31/12/2013
Consumers	• Review consumer toolkit to update and reflect BS18477 and consumer how to make available to regulators	Delayed 31/08/2013
Cost and Complexity of regulation	• Publication of work programme	Delayed 31/07/2013
	• Publish initial report	31/12/2013
Research	• Publish research Strategy	Completed 30/04/2013

RISKS:				
RISK	IMPACT (1-5)	LIKELIHOOD (1-4)	RAG RATING	ACTION TAKEN

ISSUES:		
ISSUE	PRIORITY	ACTION TAKEN



**OVERALL PROJECT STATUS:**

4
3
2
1
0

[REDACTED]

# QUARTERLY HIGHLIGHT REPORT

**PROGRAMME/POLICY AREA:** External relations

**KEY OBJECTIVES:** Communications and public affairs

**LINK TO REGULATORY OBJECTIVES:** N/A

## PROJECT HEADLINES

### Key achievements of Q1 13/14 reporting period:

- Crispin Passmore spoke at a *Regulatory Policy Institute* event on the Future of Regulation
- Chris Kenny participated at a number of conferences including:
  - *Modern Law magazine's* one day conference
  - *Association of Cost Lawyers* annual conference
  - *The Law Society's* Presidents and Secretaries conference
  - Ombudsman Association conference at Loughborough University.
- Chris Kenny spoke to the Bar Commercial, Finance and Industry Group and the University of Michigan's Reinvent Law conference
- Following the Lord Chancellor's decision not to reserve will-writing there was significant media interest in our reaction to his decision
- Publication of Business plan
- Annual report published
- Publication of 'Approach to overseeing regulation'

### Key activities for Q2 13/14 reporting period:

1. Continue to manage publication of research pieces (as listed in previous section)
2. Manage communication around LSB response to MoJ call for evidence and the LSB's response to Lord Chancellor decision not to make will-writing a reserved activity.

## PROJECT MILESTONES

PROGRAMME / POLICY DELIVERABLES	PROJECT MILESTONE	MILESTONE DELIVERY DATE
Communications and Public Affairs	<ul style="list-style-type: none"> <li>• Conduct programme of speeches</li> </ul>	On-going

## OVERALL PROJECT STATUS:

4	[REDACTED]
3	
2	
1	
0	

# QUARTERLY HIGHLIGHT REPORT



**PROGRAMME/POLICY AREA:** Finance and Funding Mechanism (Levy)

**KEY OBJECTIVES:** Finance

**LINK TO REGULATORY OBJECTIVES:**

## PROJECT HEADLINES

### Key achievements of Q1 13/14 reporting period:

1. Clear Line of Sight: Completed Quarter Four consolidation information and sent to the MoJ corporate finance team
2. Completed NAO final statutory audit and prepared and published Annual Report and Accounts, which were laid in Parliament on 11 June- no audit issues were raised in the NAO Audit Completion Report
3. Provided regular monthly submissions and reports to MoJ for HMT in line with reporting deadlines
4. Provided on-going reports for monitoring of LSB's spending position to the Board, Executive Group and budget holders

### Key activities for Q2 13/14 reporting period:

1. Assist the Accounting Officer to formally agree budget delegations (once a formal delegation has been received from MoJ)
2. Financial appraisal of spending decisions

## PROJECT MILESTONES

PROGRAMME / POLICY DELIVERABLES	PROJECT MILESTONE	MILESTONE DELIVERY DATE
Levy Review	<ul style="list-style-type: none"> <li>• Informal meetings with regulators</li> <li>• Prepare and publish proposals for consultation</li> </ul>	30/09/2013 31/12/2013
Ensure that the LSB does not breach its expenditure budget	<ul style="list-style-type: none"> <li>• Provide monthly financial reports for the Board and MoJ</li> </ul>	On-going

## OVERALL PROJECT STATUS:

4	[REDACTED]
3	
2	
1	
0	

# QUARTERLY HIGHLIGHT REPORT



**PROGRAMME/POLICY AREA:** Risk

**KEY OBJECTIVES:** Ensuring that a system of risk management is maintained to inform decisions on financial and operational planning

**LINK TO REGULATORY OBJECTIVES:** All projects are risk assessed and measures taken to mitigate or exploit are integral to planning, approval and operational activities

## PROJECT HEADLINES

### Key achievements of Q1 13/14 reporting period:

1. May Audit and Risk Committee meeting held – committee challenged LSB to review the risk register with a clear steer to reduce the number of risks and focus on what the LSB were actually managing.
2. Review of risk register undertaken for agreement by ARC in October
3. Regular monthly review of risk at Gateway meetings

### Key activities for Q2 13/14 reporting period:

4. Review of risk register completed
5. Regular monthly review of risk at Gateway meetings

## PROJECT MILESTONES

PROGRAMME / POLICY DELIVERABLES	PROJECT MILESTONE	MILESTONE DELIVERY DATE
Formal risk management system maintained by executive and reviewed by Audit and Risk Committee	<ul style="list-style-type: none"> <li>• 2<sup>nd</sup> Audit and Risk Committee meeting of 2013 held</li> <li>• 3<sup>rd</sup> Audit and Risk Committee meeting of 2013 held</li> <li>• 1<sup>st</sup> Audit and Risk Committee meeting of 2014 held</li> </ul>	Completed (13/05/13) 23/10/2013  January 2014
All projects are risk assessed and measures taken to mitigate or exploit are integral to planning, approval and operational activities	<ul style="list-style-type: none"> <li>• Ongoing project and corporate risk maintenance in line with risk strategy</li> </ul>	On-going

## PROJECT RISKS:

RISK	IMPACT (1-5)	LIKELIH OOD (1-4)	RAG RATING	ACTION TAKEN
N/A				

## OVERALL PROJECT STATUS:

4	[REDACTED]
3	
2	
1	
0	