

To:	Legal Services Board	
Date of Meeting:	15 October 2013	Item: Paper (13) 71

Title:	Chief Executive's Progress Report - October 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
8, last sentence	Section 41 - Information provided in confidence	

LEGAL SERVICES BOARD

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Chief Executive's Progress Report - October 2013

Operations and governance Issues

1. I have now signed the MOTO with the Office for Rail Regulation to govern our occupation of space at 1 Kemble Street. There remains a great deal of work associated with the move, not least space planning and the securing of new IT services, and this is in train. I will update the Board at the meeting on timing and related issues.
2. On 25 September, the Corporate Director and I took part in a discussion with NAO as part of their review of the Triennial Review process. This gave us another opportunity to share our thoughts on where process improvements could be made – not least about transparency.
3. On appointment matters:
 - a. Legal Services Consumer Panel – on 7 October we were advised informally that Ministers had approved the Board's new Consumer Panel appointments but official notification had not been received at time of drafting. I hope that by the time of the Board meeting candidates will have been informed and we will be close to making an announcement of the new members, but the change of Minister may add a little delay.
 - b. OLC Chair and Members – long listing for the OLC Chair took place on 24 September with short listing due to take place on 21 October. Advertising for OLC Members will commence on 14 October.
 - c. LSB Chair and Members – this process is managed by the MoJ Public Appointments team and advertising for these posts is expected to have commenced prior to the Board meeting.
4. Further to the Board dinner, an action plan to take forward the recommendations emerging from the Board evaluation exercise based on the paper circulated before the dinner will be presented to the next meeting. Unlike previous years, where the plan has been very extensive, we will aim to narrow down to no more than five proposals to ensure that we keep a tight grip on delivery.

Project update

SRA performance

5. The ABS authorisation data provided by the SRA on 13 September 2013 showed

a similar level of performance to the August and July figures. The data showed that:

- It takes an average of 7 months from the submission of a second stage application for a firm to be granted an ABS licence, 21% of applicants had to wait over 9 months for their licence.
 - The SRA has reduced its work in progress from 142 applications in January 2013 to 98 in September and during this time it has closed 55 applications through withdrawals and granted 117 ABS licences;
 - The average age of a work in progress application is 4.5 months. 28% of the work in progress applications are over 6 months old.
6. Based on this, performance is still below the level of the new SRA KPIs in terms of work in progress. This is because the average age of the work in progress is above 3 months. Figure 1 shows the age profile of the work in progress during each of the months we have been monitoring the SRA.

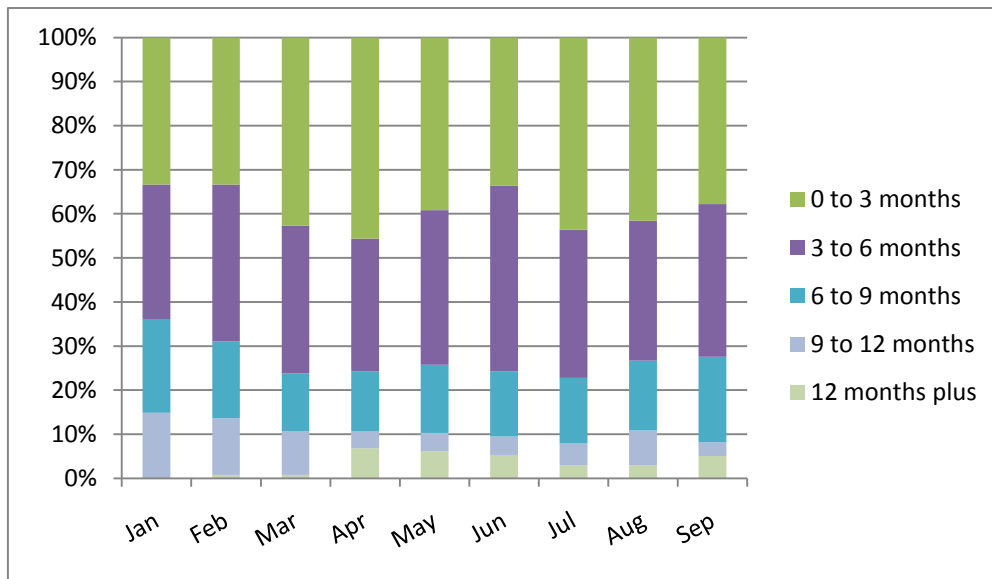


Figure 1: Age profile of work in progress ABS applications

7. Figure 2 shows the time taken from submission of the second stage (or main) application to the granting of an ABS licence up to 13 September 2013. 46% of successful applicants were granted their licence within six months of submission.

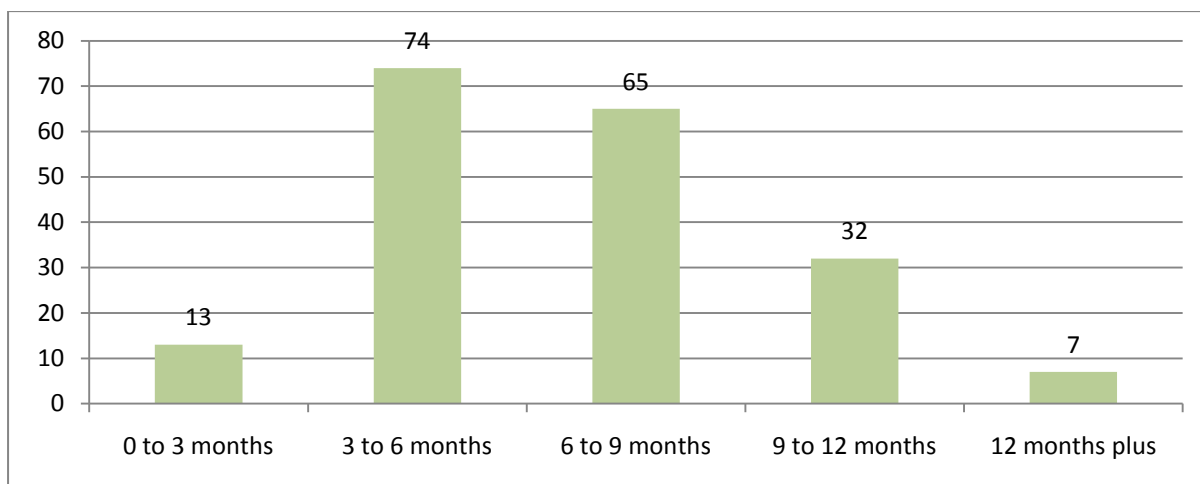


Figure 2 Time taken for ABS licences to be granted

8. This month we have not analysed the data to see whether specific business types or firms new to SRA regulation have / are taking longer to be granted a licence or are withdrawing their application. [REDACTED].
9. The Board will be provided with a full update on SRA ABS authorisations at the January 2014 meeting as agreed at the September meeting.

Research

10. Since the last Board meeting we have:
 - a. Finalised the report on the value consumers place on regulatory protections in preparation for publication.
 - b. Finalised a report on competition and regulation.
 - c. Received a draft report on the barriers to entry, exit and merger project which we commissioned jointly with The Law Society.
 - d. Revised our tender and approach for research considering looking at the consumer experience of online divorce services.
 - e. Developed a specification for research looking at the best ways to help consumers' identify and address legal issues from a behavioural economics perspective.
10. Over the coming period we expect to
 - a. Publish the reports on the value consumers place on regulatory protections and on competition and regulation.
 - b. Receive a final report on the barriers to entry, exit and merger project.
 - c. Hold initial discussions with companies about our proposed research on the consumer experience of online divorce services.
 - d. Commission research on helping consumers' to identify and address legal issues from a behavioural economics perspective.

11. As a follow up to our joint research with the Consumer Panel on the legal problems facing people with learning disability, Mencap have agreed to work with The Law Society to support specific training for lawyers.

Statutory decisions

Rules changes

12. Since the last meeting we have issued decision notices on:

- a. Council for Licensed Conveyancers (CLC) Practising Certificate Fee (PCF)
- b. CLC Adjudication Panel rules change application
- c. ILEX Professional Standards (IPS) exemption direction (QASA consequential amendments)
- d. Cost Lawyers Standard Board (CLSB) Practising Certificate Fee

13. In addition, exemption directions were issued on changes to IPS regulatory arrangements in respect of CPD. The intention is to consolidate the IPS CPD regulations into a single set of regulatory arrangements.

14. We have completed the assessment of CLSB's rule change application to introduce the regulation of trainee Costs Lawyers and are considering rejecting the application in light of the refusal criteria set out in Schedule 4, Part 3 to the Legal Services Act 2007. The CLSB have not provided sufficient evidence to explain the extent of the regulatory problem that it is trying to address. We have therefore come to the view that the proposals have not shown due regard to the BRP, in particular, that the proposals are not proportionate or targeted at a problem which requires regulatory intervention. The Strategy Director will be discussing the issue further with the CLSB at its meeting on 9 October and we will give an oral update.

Designation applications

15. We are continuing to assess the designation application and we expect to bring recommendations to the Board in November. We will give an oral update on progress

IGRs

16. We are awaiting the signed dual self-assessment from The Law Society and the SRA, although we have seen an agreed text. A reminder has been sent.

17. The consultation on lay chairs was issued on 8 October.

Policy developments

QASA

18. Following LSB approval, in July, of the alteration to the regulatory arrangements

of SRA/BSB/IPS, the Joint Advocacy Group published the final QASA Handbook on 23 August 2013. The first Solicitor Advocates have now registered for the scheme, although some solicitor groups and the CBA continue to call for a boycott.

19. We continue to contest the judicial review launched by the Criminal Bar Association, as we do not accept that the Board's decision was unlawful. The LSB is also contesting the individual barristers' application for a Protected Costs Order as the litigation is being brought on behalf of an Association made up of 4000 members, and costs incurred by the LSB will ultimately be passed on to the entire profession via the LSB's levy. Permission has now been granted and we will consent to an expedited hearing in the hope that this matter can be heard before the end of the year. A reciprocal cost cap of £150,000 has now being imposed. Our next step is the preparation of a witness statement for submission by 18 October. A verbal update will be provided at the meeting.

Education and training

20. Our consultation paper on draft guidance for education and training was published on 18 September following the Board's discussion on 11 September. The statement in relation to regulatory restrictions on the numbers entering the profession has generated the most comment in the legal press. We will be scheduling meetings with key stakeholders over the coming months to discuss our proposals and ensure our messages are understood. Alex Roy will also be presenting at a conference on the future of legal education and training at Birmingham University on 18 October.

Diversity

21. We have now published a report on our review of progress against the objectives in our guidance on data collection and transparency. I am grateful to Anneliese for chairing a roundtable with the regulators to discuss how they will make the required improvements to the process and their plans for using the data which agreed a number of specific actions.
22. In light of press coverage of her views on diversity, I wrote to Dame Ursula Brennan, MoJ Permanent Secretary to update her on our work.

First tier complaint handling

23. I attach a short note on recent developments in the first tier complaints handling project at Annex A, by way of preparation for a full discussion in November. This is an area where we and other stakeholders have had concerns about lack of effective engagement by some regulators, but there are difficult issues to be worked through in terms of identifying the right level of priority and resource commitment to be given to work in this area going forward.

Office for Legal Complaints (OLC)/Legal Ombudsman (LeO)

24. Information about OLC appointments is at paragraph 3 above.

25. Elizabeth France will be in attendance at the November board meeting to present the OLC draft budget following agreement by their Board at their next meeting later this month.
26. A much delayed meeting with the Treasury Officer of Accounts on the issue of funding Claims Management Complaints took place on 17 September, producing agreement that primary legislative change would be necessary to enable the OLC to take on this jurisdiction. Central Government continues to search for a suitable legislative vehicle.
27. Board members will be aware that OLC are currently considering issues around their jurisdiction, with responses to the Discussion Paper on the issue having been sought by 30 September. As part of this process, LSB and Consumer Panel colleagues attended an event to discuss the issues raised including the extent to which the Legal Ombudsman scheme could broaden its approach to redress in light of the EU Directive on alternative dispute resolution (ADR), and to exploit the potential benefits of its voluntary jurisdiction under the Act. OLC plan to either publish a Decision document or launch further consultation at the end of October.
28. ADR more generally is currently a topic of interest with the UK and Europe in light of the EU Directive with BIS officials currently considering plans for implementation into the UK with a consultation expected early in 2014. LSB and Consumer Panel colleagues attended a conference organised by the Foundation for Law, Justice and Society on 26 and 27 September which drew attendees from across Europe to share perspectives on Consumer ADR.

Communications and stakeholder engagement

29. September was an active period for external communications.
30. The Chairman and I have started our round of autumn meetings with smaller regulators and have met CILEX, IPS, CLSB and the CLC in recent weeks.
31. We published our submission to the MoJ review of regulation which garnered a degree of attention and comment in the trade press and in *The Guardian*. The Chairman conducted interviews with *Legal Futures*, the *Solicitors Journal*, the *Law Society Gazette* and with the *Guardian's* legal correspondent as part of our activity around the submission. The Chairman also discussed it at the *BIS Professional Business Services Committee* on 7 October and we will continue to present its messages in a programme of action over the next six months. The document was also distributed to a wide group of interested stakeholders.
32. We responded to the Joint Committee on the draft Deregulation Bill highlighting our views on the growth duty requirement and Fran Gillon has been working closely with BIS on the practical details not least to ensure that its provisions apply to all legal regulators. This is a message that appears to have gained traction and understanding with the BIS team.
33. Press releases were issued to draw attention to our consultations on education

and training guidance and on proposals for lay Chairs of regulators. We also confirmed our position on special bodies by way of a public statement. All of these activities gained attention in the trade press and interest from stakeholders. We corrected mistaken apprehensions that the first was a “call for more lawyers by the LSB”.

34. I made a well-received speech at the *360 Legal Conference* at the Belfry on 3 October. Anneliese Day QC represented the LSB on a panel at the *Young Barristers Conference 2013* on 5 October.
35. On the international front, I wrote to the President of the Hong Kong Law Society, who are reviewing their position on ABS, to offer any advice or information he may find useful from our own experience.
36. Perhaps the most interesting communications activities we undertook during this period were those on the 17 September in response to the BSB’s mistaken cost figures in relation to the LSB, and the Bar Council’s use of them in its press release about their submission to the MoJ’s review. In addition to a letter to me from the BSB apologising for the mistake, we also secured a public retraction of the Bar Council’s press release. In addition, we communicated with those trade journals that had used the incorrect information in articles, informing them of the unsound nature of the data and gently suggesting to them that they might want to change it.
37. All activities of note have been tweeted using our new Twitter account (@LSB_EngandWal). This includes information about regulatory approvals which would not normally be press released. Indeed our use of Twitter gained us the attention of the Guardian’s social media marketing pages in the papers technology section. They view our starting to use Twitter as “*A hopeful sign; and given that Barristers are calling for the LSB to be disbanded, winning a few advocates via social media might be no bad thing.*” As of 8 October the LSB has 127 followers.
38. Looking ahead, Helen Grant’s promotion to Minister of State in DCMS means that we face our fourth junior minister in five years in the form of Shailesh Vara, a solicitor like his two predecessors with a strong interest in small business. The Chairman and I will be seeking an early meeting.
39. Additionally, Vincent McGovern and I will be attending the *Legal Wales 2013* conference on 11 October which represents what we hope will be the re-start of our active engagement in that country. Although a meeting with the Counsel General was cancelled, a fresh date is being sought in December. And I will also be speaking at a European Commission conference on a single market for lawyers on 28 October.
40. Finally, as part of our response to the challenge made by the Board at its strategy day on outreach to political stakeholders, we have developed an e-bulletin to be sent to all Westminster and Cardiff Parliamentarians providing information and links to our work. We will circulate the first edition very shortly.

First Tier Complaint Handling Background Note

41. A perception of poor complaints handling by the approved regulators (ARs) and those they regulate was one of the main drivers behind the passing of the LSA. The LSB's programme of work on first tier complaint handling (FTCH) resulted in the "signposting requirements", guidance on outcomes consumers should expect from effective complaint handling, and a definition of a complaint, being introduced in October 2010. The signposting requirements mean that ARs must require all individuals and entities that they regulate to notify clients in writing and at particular times of their right to complain (including to the Legal Ombudsman (LeO)) and how this can be done.
42. Workshops, research and procedural reviews also culminated in letters being issued to each of the ARs in July 2012. These contained targeted actions, which were considered necessary to keep ARs focussed on FTCH, drawing on (among other things) information from the regulatory standards work, draft self assessments, and forthcoming consumer research. Responses have been received from seven of the eight ARs (CLC is still outstanding).
43. Earlier this year we also facilitated a meeting between the BSB and SRA on FTCH, at the request of the BSB (which does not appear to have sought to arrange the meeting separately). In the meantime, more research relating to this issue has emerged from a number of sources. Work has also been done, for example by LeO, to help authorised persons meet their obligations. As well as some good examples of initiatives by authorised persons to meet obligations, we have also received evidence of lack of necessary cooperation between some which has hindered compliance. Some bodies, notably the OFT in its submission to the MoJ on regulatory simplification, have also recently expressed concerns about progress on FTCH.
44. A number of actions are planned for the next month. These will effectively conclude previously scoped work on FTCH. We will therefore bring forward recommendations to the November Board meeting on what, if any, further work is needed and how this might be taken forward.