

## **Minutes of a meeting of Legal Services Board (LSB) on 13 December 2010**

**Date:** 13 December 2010  
**Time:** 11.00 am – 12.05 pm

**Venue:** Office for Legal Complaints (OLC), Baskerville House, Centenary Square, Broad Street, Birmingham B1 2ND

**Present:** David Edmonds Chairman  
**(Members)** Chris Kenny Chief Executive  
Terry Connor  
Steve Green  
Bill Moyes  
Nicole Smith (Item 7 onwards)  
Andrew Whittaker  
David Wolfe

**In attendance:** Fran Gillon Director of Regulatory Practice (Items 1-8)  
Edwin Josephs Director of Finance and Services  
Bruce Macmillan General Counsel (Items 1-8)  
Julie Myers Corporate Director  
Crispin Passmore Strategy Director (Items 1-8)  
Bryan Hislop Board Secretary (Minutes)

### **Item 1 – Welcome and apologies**

1. The Chairman welcomed those present and in attendance to the meeting.
2. There was an apology for absence from Barbara Saunders (Board Member).

### **Item 2 – Declarations of interests etc.**

3. There were no declarations of interests.
4. Board Members were reminded to notify the Board Secretary about hospitality extended / received in the course of their LSB work.

### **Item 3 – Minutes: 30 November 2010**

5. **The Board resolved to agree the minutes of the meeting held on 30 November 2010 and to submit them for signing as an authorised record to the Chairman.**

### **Item 4 – Report of action points**

6. **The Board resolved to note the Report of action points.**

**Item 5 – [REDACTED]**

7. [REDACTED]  
[REDACTED]  
[REDACTED]

8. The Board noted that:

- [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**The Board resolved:**

- a) [REDACTED]  
[REDACTED]
- b) [REDACTED]  
[REDACTED]  
[REDACTED]
- c) [REDACTED]  
[REDACTED]
- d) [REDACTED]  
[REDACTED]

**Item 6 – Paper (10) 95: Preparing LSB to become a Licensing Authority**

9. Fran Gillon (Director of Regulatory Practice) introduced a paper about the governance and other arrangements necessary to permit direct licensing by LSB, which built on the Board's discussion at the last meeting.

10. The Board complimented the paper and noted that:

- in the absence of timely applications by Approved Regulators (AR) to be designated as Licensing Authorities (LA), direct licensing by LSB would be necessary to enable the implementation of alternative business structures

- (ABS) on 6 October 2011;
- the paper set out, amongst other things: a high-level timetable for the implementation of ABS; operational-level changes necessary to permit direct licensing (including establishing an LA subcommittee of Board Members); possible approaches to direct licensing (including in respect of the development of licensing rules and operational capacity); and regulatory arrangements relevant to direct licensing;
  - Legal Services Act 2007 ('the Act') permitted LSB either to delegate or, as the Board preferred, to outsource any of its functions as an LA to such persons as it considered appropriate (Section 73(3)), but required it to pay any sum received in its capacity as an LA to the Consolidated Fund (Section 175(1)); and
  - an informal communications strategy would be developed to justify contingency planning in the form of direct licensing by LSB, although it was recalled that Charles Plant (Chairman, Solicitors Regulation Authority (SRA)) had confirmed to the Board on 28 October that SRA was on course for the implementation of ABS on 6 October 2011.

**The Board resolved:**

- a) **to agree in principle to establish an LA subcommittee of Board Members:**
  - i. **to keep the need for LSB to become an LA under active review and to advise the Board accordingly in light of developments;**
  - ii. **subject to a future Board decision, to ensure that the necessary action is taken to ensure that the Board can undertake this role in a way that is compliant with the Act;**
- b) **to note the proposed approach to direct licensing, which the Executive would develop for review by the LA subcommittee in late January / early February; and**
- c) **to agree to authorise the Executive to continue contingency planning on the broad basis outlined in the paper.**

**Item 7 – Paper (10) 96: Legal Services Act 2007: Part 5 – Impact assessment**

11. The Director of Regulatory Practice introduced a paper about the draft impact assessment for the commencement of Part 5 of the Act (relating to ABS).
12. The Board noted that:
  - the Parliamentary Under-Secretary of State's endorsement of ABS in a speech to The Law Society on 22 September was subject to the secondary legislation meeting the necessary requirements for impact assessments;
  - the paper provided a high-level summary of the initial conclusions of the draft impact assessment, which built on the now historic impact assessment for the commencement of the Act and other limited but more recent data;

- the draft impact assessment would be developed to include the pre-ABS baseline and the direct impact of ABS in relation to the Regulatory Objectives, particularly in respect of consumers and market share;
- the proposed market segmentation research would deliver an improved evidence base, which would in turn inform cross-organisation policy development in general and a post-implementation impact assessment in particular; and
- the draft impact assessment, revised to take account of the Board's discussion, would be circulated by the end of December to the Board for comment in January.

**Action**

(10) 27 – To circulate by the end of December the draft impact assessment for the commencement of Part 5 of the Act to the Board for comment in January.

**The Board resolved:**

- a) to note the paper about the draft impact assessment for the commencement of Part 5 of the Act; and
- b) to agree to review post-meeting the draft impact assessment.

**Item 8 – Paper (10) 97: ABS – appeal arrangements: recommendation to the Lord Chancellor and consultation response**

13. The Director of Regulatory Practice introduced a paper recommending, amongst other things, the approval of a post-consultation summary of responses and decision document and a recommendation to the Lord Chancellor to make an Order under Section 80 of the Act for appeals against decisions of LAs to be heard and determined by the First-tier Tribunal, General Regulatory Chamber (GRC).
14. The Board noted that:
  - the paper set out: the proposed recommendation to the Lord Chancellor; supplementary guidance about the content of licensing rules in relation to appeals against the decisions of LAs; rules on the period for the making of appeals against decisions of an LA in relation to financial penalties; and the draft post-consultation summary of responses and decision document;
  - the approval of the proposed recommendation to the Lord Chancellor would be subject first to receiving: clarification of Tribunals Service's position in respect of altering its rules on costs; and formal consent to the recommendation from the relevant ARs and the Tribunals Service;
  - any rules / guidance in respect of costs would have to be supplemented by the conditioning of behaviours; and
  - [REDACTED]

**The Board resolved:**

- a) to agree in principle the recommendation to the Lord Chancellor in relation to the proposed Order under Section 80 of the Act, subject to receiving:
  - i. clarification of Tribunals Service's position in respect of altering its rules on costs;
  - ii. formal consent to the recommendation from the relevant ARs and the Tribunals Service;
- b) to consent to the recommendation in relation to the relevant appellate body, as a body from whose decisions (in its capacity as an LA) the appeals are to be made;
- c) to agree to issue supplementary guidance to LAs on the content of licensing rules;
- d) to make rules under Section 96 of the Act in relation to the relevant period for appeals against the imposition of a financial penalty by an LA; and
- e) to agree to delegate authority to publish the summary of responses and decision document, 'Alternative business structures: appeal arrangements', to the Chairman and the Chief Executive.

**Item 9 – Paper (10) 98: Remuneration and Nomination Committee – 30 November**

15. Terry Connor (Committee Chairman) presented the draft minutes of the meeting held on 30 November.
16. The Board noted that:
  - the interviews for a new Non-Lay Board Member, originally scheduled for 3 December, had been postponed as a result of the adverse weather conditions to 21 January 2011, more than one year after the Chairman submitted proposals in respect of the appointment process to Ministry of Justice (MoJ);
  - the Chairman had made a very provisional approach to MoJ about the process for determining (re-appointments) to the Board in 2011, and that he would welcome from the Committee (and other Board Members) comments in respect of the (re-)appointments process; and
  - the Chairman would be considering the process for determining (re-)appointments to the OLC Board in 2011.

**Action**

(10) 28 – The Remuneration and Nomination Committee (and other Board Members) to comment on the (re-appointments) process to the Board in 2011.

**The Board resolved to note the draft minutes of the Remuneration and Nomination Committee on 30 November 2010.**

**Item 10 – LSB / OLC joint Board session**

17. A joint session of the LSB and OLC Boards would be convened after the meeting.

**Item 11 – Any other business**

18. The Board had been invited to dinner at the official residence of the President of The Law Society on 28 March 2011.
19. The Chairman acknowledged the quality and volume of work from Board Members, the Executive and other colleagues during what he considered to be a successful year. The Board commended the leadership of the Chairman and the Chief Executive, who in turn extended his gratitude for non-executive colleagues' constructive challenge and support during 2010.

**Item 12 – Date of next meeting**

20. The Board would next meet on 27 January 2011, 3-5.30pm (timing to be confirmed). The venue would be LSB's offices at Victoria House, Southampton Row, London WC1B 4AD.

BH 14.12.10

Signed as an accurate record of the meeting

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Date

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