

## Minutes of a meeting of Legal Services Board (LSB) on 30 November 2011

**Date:** 30 November 2011

**Time:** 1.05pm – 4.45 pm

**Venue:** Victoria House, Southampton Row, London WC1B 4AD

**Present:** David Edmonds Chairman  
**(Members)** Chris Kenny Chief Executive  
 Steve Green  
 Bill Moyes  
 Ed Nally  
 Barbara Saunders  
 Nicole Smith  
 Andrew Whittaker  
 David Wolfe (from 1.20pm)

**Guests:** Elisabeth Davies Chair, Legal Services Consumer Panel  
 Holly Perry Corporate Governance Manager designate (from 1.20pm)

**In attendance:** Nicholas Baré Business Planning Associate (Item 11)  
 Steve Brooker Consumer Panel Manager  
 Paul Greening Regulatory Associate (Item 11)  
 Wendy Harris Project Manager (Items 5-6)  
 Alanna Linn Consumer Panel Associate (Items 5-6)  
 Bruce Macmillan General Counsel  
 James Meyrick Project Manager (Items 1-2)  
 Crispin Passmore Strategy Director  
 Karen Marchant Corporate Affairs Associate (Minutes)

### Item 1 – Welcome and apologies

1. The Chairman welcomed those present and in attendance to the meeting. In particular, he welcomed: Elisabeth Davies (Chair, Legal Services Panel) and Holly Perry, who would be taking up the post of Corporate Governance Manager on 19 December.
2. There were apologies for absence from Julie Myers (Corporate Director) and Edwin Josephs (Director of Finance and Services).

### Item 2 – Declarations of interests etc.

3. There were no new declarations of interests. David Edmonds (Chairman) declared that he would be stepping down as Chair of Wincanton PLC on 13 December.
4. Board Members were reminded to notify the Corporate Affairs Associate about hospitality extended / received in the course of their LSB work.

### **Item 3 – Paper (11) 77: Independence – Internal Governance Rules (IGR) Compliance**

5. Chris Kenny (Chief Executive) introduced a report about The Law Society's shared services arrangements with and oversight of Solicitors Regulation Authority (SRA).
6. The Board noted that:
  - a newly created Board (provisionally entitled Business and Oversight Board) would take over the management of shared services and oversight of the SRA
  - the new Board, combined with a restructure of The Law Society's senior management team, and the proposal to transfer line management of Support Services from the Chief Executive of The Law Society to a newly created post reporting to the Chair of the Business and Oversight Board, provided the Executive with assurance that the new structures could potentially lead to The Law Society and SRA becoming compliant with the LSB's IGRs (albeit the make-up of the SRA Board would become compliant in January 2013 as previously agreed)
  - The Law Society and SRA had provided some but not all of the documentation that the Executive had requested
  - the Executive would consider whether what it had to date was enough information to assess compliance
  - the LSB would undertake proportionate monitoring of the early implementation of the new arrangements, using its information gathering powers under section 55 of the Act
  - the changes to delegations were subject to The Law Society Council agreeing to grant them at its 14 December meeting
  - despite the disappointingly lengthy time taken to reach the current position, these developments marked a significant step forward in The Law Society and SRA's relationship
  - compliance could only be secured (and demonstrated) through appropriate behaviours and operation of the proposed structures.

#### **The Board resolved to:**

- a. **note the current position of The Law Society and SRA work towards resolving the issues that the 2011 IGR exercise exposed**
- b. **agree to conduct substantive monitoring of the new arrangements, including use of information gathering powers under section 55 of the Act**
- c. **delegate approval of the final statement on The Law Society / SRA regulatory independence certificate for 2011 to the Chairman and Chief Executive, subject to the relevant delegations being granted by The Law Society Council on 14 December.**

#### Item 4 – Paper (11) 78: Developing regulatory standards – progress report

7. Fran Gillon (Director of Regulatory Practice) introduced a paper that invited the Board to endorse the self-assessment process and agree a draft decision document.
8. The Board noted that:
  - the issues raised at the last meeting of the Board about the approach had been addressed in the paper
  - in particular:
    - the Executive considered that the experience of the past two years in areas, such as the IGRs process, had provided sufficient expertise within the LSB to assess responses from the Approved Regulators, with recourse to external advice should it be necessary, once responses had been received
    - expectations of transparency and full involvement of the Boards of the Approved Regulators to ensure honesty and accuracy in responses
    - the four principal questions of the self-assessment had been re-structured to focus more on the better regulation principles
    - section 55 of the Act would be utilised to ensure that submissions would be received on time
    - in the event of the views of the LSB differing from those of the Approved Regulator, the LSB would still publish its assessment
    - a timeframe for repeating the process at a suitable point would be agreed with the Approved Regulator as part of the agreed action plan (this would also be subject to internal resource).
9. The Board further noted that:
  - there should be a strong expectation that Approved Regulators subject their returns to independent scrutiny, usually from external auditors, before submission to the LSB
  - the principle should be “comply or explain” with the issue reflected as necessary in future rounds
  - the self-assessment exercise was only one element of how the LSB undertook its scrutiny and monitoring functions and other activities such as the rule approval process, IGRs process and the levy process all contributed to this work
  - together these tools provided for the LSB to push for improvements and a move towards outcomes focused regulation
  - the Executive would ask the Approved Regulators as part of the process what their specific challenges and priorities were in 2012-13 and consider this alongside the scrutiny of systems and processes.

**The Board resolved:**

- a) **to endorse the approach to self-assessment, subject to the comments above being built into the self-assessment process, in particular, the expectation that Approved Regulators have their returns independently reviewed before submission to the LSB**
- b) **to agree to the decision document being published, subject to the Chairman and Chief Executive agreeing any final changes to reflect the Board's discussion.**

**Item 5 – Paper (11) 79: Legal Services Consumer Panel Advice – Voluntary Quality Schemes (VQS)**

10. Elisabeth Davies (Chair of the Legal Services Consumer Panel) introduced the Panel's advice about VQS in legal services.
11. The Board noted that:
  - the advice had been published on 24 November and had been informed by a review of thirteen VQS
  - the Panel had recommended ten essential characteristics that VQS needed to demonstrate to enjoy consumer confidence and that these headline areas had been developed through a workshop involving the operators of the schemes, who had not disputed them
  - the Executive would consider how the work would influence LSB approach in other key areas such as the Quality Toolkit, the Scope of Regulation and the Education and Training Review, as well as responding to the specific recommendations
  - the Executive should consult the Office for Fair Trading (OFT) to see what lessons there were from its code approval process
  - it would consider a draft response to the Panel's advice at a meeting early in 2012, and would be provided with an opportunity to review the likely content of the draft response in advance of formal approval.

**The Board resolved:**

- a) **to commend the high quality of the advice and report, thanking Alanna Linn in particular for the quality of her work**
- b) **to receive the advice from the Panel "Voluntary schemes in legal services."**

**Item 6 – Paper (11) 80: Quality Toolkit and Risk Assessment Framework**

12. Crispin Passmore (Strategy Director) introduced a progress report that provided an update on quality assurance work and proposed an approach to development of a discussion paper and potential statutory guidance on quality.

13. The Board noted that:

- the paper proposed regulatory interventions aligned to the three characteristics of quality: technical quality, utility of advice and client care, focused on the individual consumers needs
- the ideas had been tested with stakeholders and were reasonably well received
- a discussion document setting the various issues out more clearly to both test the policy framework and to seek to develop an approach to implementation proportionate to the risks and regulatory effectiveness would be developed
- this in turn may lead to statutory guidance to regulators to underpin any final proposals
- the work would be a significant challenge for the Approved Regulators and would depend upon their ability to assess risks more clearly than they currently do and understand the effect of their actions on the market
- the Executive would consider how an organisation's approach to performance management would fit with its approach to quality in the discussion document
- the Executive would aim to provide a draft discussion document to the Board for consideration at the January meeting, with a view to publication in March.

**The Board resolved:**

- a) to note the update of work on quality assurance**
- b) agree the proposed approach and timeframe for delivery.**

**Item 7 – Paper (11) 81: ABS Implementation: Next Steps – Key Issues and Risks**

14. The Director of Regulatory Practice introduced the final standing progress report about the implementation of ABS, which included a summary of next steps, potential risks, mitigations and changes in risk status.

15. The Board noted that:

- the Section 80 Order and the Rehabilitation of Offenders Exception Order had come into force that day
- the Order to designate the SRA as a Licensing Authority had been made on 29 November and, if not prayed against, would come into force on 23 December
- all risks were green or closed.

**The Board commended the work of the team and resolved:**

- a) to note the progress report of the implementation of ABS**
- b) to note that any necessary future updates would be included in the Chief Executive's progress report.**

### **Item 8 – Minutes: 12 October 2011**

16. **The Board resolved to agree the minutes of the meeting held on 12 October 2011 and to submit them for signing as an accurate record to the Chairman.**

### **Item 9 – Report of action points**

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

### **Item 10 – Paper (11) 82: Chief Executive’s progress report: November 2011 and LSB Evaluation Framework**

18. The Chief Executive presented his progress report.
19. The Board noted that:
- initial information from the Ministry of Justice (MoJ) about the Triennial Review of the LSB and the OLC had been received and the Board would work closely with the review team throughout the process
  - QASA remained on track for April implementation and the Chairman and Chief Executive would use the opportunity of meetings with the Chairman and Chief Executives of the SRA and the BSB on 12 December to seek an update on progress
  - the meeting with the Number 10 Policy Unit referenced in paragraph 11 of the progress report had been rescheduled for January
  - the latest performance figures from the Solicitors’ Disciplinary Tribunal had shown that it had met one Key Performance Indicator and was close to meeting two others
  - a LSB team would spend four days visiting the Council for Licensed Conveyancers (CLC) in January to better understand its organisational approach and regulatory capacity to inform decisions about new reserved activities
  - the Chief Executive would be using his delegated authority to commence the process for extending the statutory time for the LSB to make a decision about the CLC’s application by four months
  - helpful feedback from the SRA had been received about the planned intervention in the Prudential case and that the formal intervention letter would be sent very shortly
  - the Chairman and Chief Executive had visited the Board of the OLC on 14 November and had been impressed by the effectiveness of the Board’s scrutiny of Legal Ombudsman performance
  - the Chief Executive had written to the Claims Management Regulator about the possibility of second-tier complaints being taken on by the Legal Ombudsman
  - the LSB’s Health and Safety Policy had been reviewed by the Executive and remained current.

**The Board resolved:**

- a) to note the Chief Executive's progress report**
- b) to note and agree the LSB Health and Safety Policy Statement.**

**Item 11 – Paper (11) 83: Draft LSB Strategic and Business Plan 2012-13 and Equality Strategy**

20. The Chief Executive introduced the Draft LSB Strategic and Business Plan 2012-13, which included the planned budget, and the Equality Strategy, designed to meet the LSB's statutory obligations under the Equality Act 2010.
21. The Board noted that:
  - the Plan reflected the outcomes of the Board's discussion at its September strategy day and comments received from MoJ
  - a further draft would be shared with the Minister
  - the focus on the Board's three early priorities would remain, but would be built upon through work on the scope of regulation, regulatory effectiveness and standards and ensuring the markets work well for consumers
  - the diagram showing the strategic and operational delivery framework would be revised and some of the more technical language used in the document as well as the Chair's foreword would be reviewed
  - there was a proposed 9% reduction on last year's budget, which had been the subject of review by the Audit and Risk Committee
  - the Executive would consider the most appropriate time to publish the Evaluation Framework and consider further reference to it in the Plan, ensuring there was clear mapping between activities and outcomes
  - the consultation on the Plan would seek views on what issues the Board should seek advice from the Panel about.

The Board noted and commended the Equality Strategy to be published alongside the Business Plan for consultation.

**The Board resolved:**

- a. to delegate final approval of the document to be issued for consultation to the Chairman and Chief Executive**
- b. to agree a draft budget for 2012/13 of £4,498k (2011/12 £4,931k)**
- c. to approve the Equality Strategy and Proposed Objectives for consultation alongside the draft Plan.**

**Item 11 – Process for the LSB to Review OLC Performance**

22. Steve Green (Board Member) provided an update on the process that had been agreed with the OLC on the Board's review of the OLC's performance management of the Legal Ombudsman.

23. The Board noted that:

- the OLC had robust processes in place to ensure the effective performance of the Legal Ombudsman
- LeO was currently seeking to understand why 40% of its decisions were requiring an Ombudsman decision, against a planned figure of 10%
- LeO was still operating below initially predicted volumes, although both numbers of cases received and cleared had started to rise in recent weeks.

**The Board resolved:**

- a. to note the process for considering the OLC's reports of LeO performance**
- b. to note LeO's quarter 2 performance report and the OLC's assessment of it.**

**Item 13a – Paper (11) 85: Audit and Risk Committee 10 October 2011**

24. Steve Green (Committee Chair) introduced the minutes of the 10 October Audit and Risk Committee, a verbal report about which had been provided at the October Board meeting.

**The Board resolved to note the minutes.**

**Item 13b – Paper (11) 86: LSB Risk Management Strategy Annual Review**

25. **Based on the recommendation of the Audit and Risk Committee, the Board resolved to endorse and adopt the revised LSB Risk Management Strategy.**

**Item 13c – Paper (11) 87: LSB Corporate Risk Register**



26. The Chief Executive introduced the revised risk register.
27. The Board noted that:
- the revised register reflected Audit and Risk Committee comments about ‘crystalised risks’
  - the risk register would be subject to a full review once the business plan had been agreed.

**The Board thanked Nicholas Baré for the work on this and the Business Plan and resolved to note the LSB’s Corporate Risk Register.**

**Item 13d - Paper (11) 88: LSB Governance Manual – Annual Review**

28. **Based on the recommendation of the Audit and Risk Committee, the Board resolved to adopt the revisions to the LSB Governance Manual as set-out in the paper.**

**Item 14 – Paper (11) 89: Finance Report – October 2011**

29. **The Board resolved to note the Finance Report.**

**Item 15 – Any other business**

30. No other business.

**Item 16 – Date of next meeting**

31. The Board would next meet on 25 January 2012, 09.30 – 15.50. The venue would be LSB’s offices at Victoria House, Southampton Row, London WC1B 4AD.

KM 2.12.11

Signed as an accurate record of the meeting

.....  
Date

.....