

Minutes of a meeting of the Legal Services Board's Remuneration and Nomination Committee (RNC) held on 27 April 2012

Date: 27 April 2012
Time: 12.30 – 2.30pm
Venue: Victoria House, Southampton Row, London WC1B 4AD

Present: William Moyes Chair
(Members) Chris Kenny Chief Executive (except item 14)
 Ed Nally (by telephone)
 Nicole Smith

In attendance: Sandra Jenner Independent Adviser to the Committee
 Edwin Josephs Director of Finance and Services (by telephone) except items 10 and 14
 Julie Myers Corporate Director except item 10
 Holly Perry Corporate Governance Manager (minutes) except item 10

Item 1 – Welcome and apologies

1. The Chairman welcomed those present and in attendance to the meeting.

Item 2 – Declarations of interests etc

2. There were no new declarations of interests.

Item 3 – Minutes: 30 November 2011

3. **The Committee resolved to agree the minutes of the meeting held on 30 November 2011 and to submit them for signing as an accurate record to the Chairman.**

Item 4 – Report of action points

4. **The Committee resolved to note the report of action points. The Committee would receive an update on the colleague engagement survey at its 25 June meeting (action point (12) 05 refers).**

Item 5 – Paper (12) 01 (RNC) Remuneration and Nomination Committee Terms of Reference

5. The Chair presented the revised Terms of Reference (ToR) for the Remuneration and Nomination Committee, which had been the subject of extensive discussion out of committee in advance of the meeting. The proposed ToR aimed to separate out more clearly remuneration responsibilities and nomination responsibilities, and to cover agreed ways of working, communication and confidentiality expectations between the executive and non-executive.

6. The Committee was broadly in agreement with the final version of the ToR, subject to the following amendments:

- page 2, second bullet to be amended to read ‘for example, any plans for new senior management posts’ – this meant the Chief Executive’s direct reports
- page 2, third bullet to be amended to read ‘to monitor and evaluate - at a strategic level and on an exception basis – the impact of the LSB’s HR policies’
- page 2, fourth bullet to be amended to read ‘to review periodically the design of the objective-setting and appraisal process’
- page 4, in relation to quorum it was confirmed that the Legal Services Act required a minimum of three members to be present. Rather than appointing an additional member to the Committee, it was agreed that where any meeting was not quorate, the meeting would nevertheless go ahead with decisions to be ratified later once the Committee was quorate, at the next meeting of the Committee or the full Board as appropriate. This would be reflected in the Terms of Reference
- page 5, second paragraph, in relation to the participation of members in discussions about their own position or succession – it was agreed that it was acceptable for members to be present, but not to participate in decisions on such matters
- page 5, table of current members and other attendees – the external adviser would be added as an attendee
- on nomination issues generally, no specific amendments were proposed. However the Committee remained interested to see how this area of the Terms of Reference would operate in practice.

7. **The Committee resolved to:**

- **approve the revised Remuneration and Nomination Committee Terms of Reference subject to the amendments discussed**
- **submit the final Terms of Reference to the Board’s 30 May meeting for approval.**

Item 6 – Paper (12) 02 (RNC) Agreed programme of business

8. The Corporate Director presented the Committee’s programme of business for consideration which had been kept open on the basis of finalising the Terms of Reference.

9. The Committee agreed:

- to holding two meetings a year, with further meetings to be held on an *ad hoc* basis to consider nomination issues when these arose
- to the principle of a winter meeting and a summer meeting rather than specifying particular months when meetings would be held
- that the annual report to the Board of Board Members’ aggregated expenses and senior colleagues’ disaggregated expenses was a matter more properly for the Audit and Risk Committee than the RNC [*Post Meeting Note*: the Chair of the Audit and Risk Committee has indicated its agreement to this proposal].

- 10. The Committee resolved to approve the programme of business and timetable for future reviews of LSB policies, subject to the points raised in discussion.**

Item 7 – Paper (12) 03 (RNC) Pensions governance update

11. The Corporate Director presented the annual review of pensions governance prepared by the LSB's pensions' adviser, Barnett Waddingham. The Chief Executive confirmed that the Executive agreed with the main conclusions of the review and that Scottish Widows remained an appropriate choice as the provider of the LSB pensions plan.
12. The following points were raised in discussion and noted by the Committee:
- the intention of the review was to confirm that the arrangements remained fit for purpose rather than confirming that they were the best available in the market
 - there was no need, on the basis of the outcome of the 2011 review, for the LSB to re-tender for a new provider
 - Barnett Waddingham's review provided the Committee with assurance that it had scrutinised current market performance and that in this context, Scottish Widows' performance remained adequate
 - Committee members queried the extent of the employer's duty of care in relation to colleagues' understanding of the need to make provision for their future pensions. The Executive confirmed that Barnett Waddingham delivered a detailed presentation to colleagues on an annual basis on the importance of pension provision and the detail of the Scottish Widows plan as well as other options. Members suggested that a list of questions might be drawn up to act as a prompt for colleagues – the Corporate Director would check whether or not the presentation already included such a list of questions
 - Committee members queried whether there was a need to find a mechanism to test colleagues' satisfaction with the scheme, from a process perspective, and to capture any perceived lack of communications or lack of comprehension of the scheme. The Executive confirmed that a question would be added to the next staff survey
 - the Executive confirmed that Barnett Waddingham provided a helpline, and that Scottish Widows provided a wide range of online tools to assist colleagues with managing their pension plan
 - communications with colleagues made clear that there was the opportunity to put money into another scheme if that was preferred – a number had taken up this option
 - Committee members queried the alignment of the scheme with the LSB's corporate values. The Executive confirmed that the plan offered a range of options which colleagues could actively manage including the option of an ethical investment portfolio.
13. **The Committee resolved to note:**
- a) **Barnett Waddingham's annual governance review of pensions**
 - b) **that the Executive had taken forward the recommendations and further conclusions set out at pages 2 and 3 of the report.**

Item 8 – Paper (12) 04 (RNC) Approach to appraisals 2012/13

14. The Corporate Director presented a paper which reminded the Committee of the approach adopted to performance management in the LSB and which summarised the outcome of the 2011/12 round of performance reviews.
15. The following points were raised in discussion and noted by the Committee:
- the proportion of colleagues rated ‘high’, had increased from 30% to 50%, and over 90% of staff were now in the top two performance categories although it was noted that the tranches of staff were not the same in 2010 and 2011, given staff turnover. The Committee discussed whether any distribution of markings should be imposed or an ideal distribution identified. It was agreed that these issues be considered further as part of the next substantive review of the process and that the Executive should consider carefully the distribution of markings when it came to the moderation of the process this year.
 - ratings were initially recommended by line managers, and this was followed by a rigorous moderation process by senior management. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]. Factors to be borne in mind included: the small size of the organisation (usual rating distribution patterns were not expected to apply); the fact the LSB represented a ‘staging post’ in colleagues’ careers, rather than a ‘job for life’; in 2010/11 ratings had not been linked to pay awards on the basis that the organisation was in pay freeze
 - in terms of feedback on the process in 2011/12, the Corporate Director had collated informal feedback from individuals. Feedback from 2010/11 had been that the process had taken too long end-to-end, and that there has been too many requests for 360 degree feedback. These issues did not appear to have been an issue in the second year of operation. For 2012, feedback would again be gathered on the process, perhaps by adding a box to the form
 - in terms of interaction between colleagues and Board members, objective 2 on the form (Annex A) was clarified as being focused on understanding the work of the LSB and the strategic context, and was therefore the appropriate place for Board and non executive interaction to be captured
 - the paper did not make any recommendations about the process for linking performance to reward which would need to be the subject of a future discussion.
16. **The Committee resolved to note the report of the second year of operation of the LSB’s performance management system, and that the Executive would consider the points raised in discussion for the 2012 appraisal round.**

Item 9 – Paper (12) 05 (RNC) Approach to pay for 2012/13

17. The Chief Executive gave a presentation to the Committee on the plans for the LSB pay review July 2012.
18. The following points were raised in discussion and noted by the Committee:
- the overall LSB remuneration structure – the ‘total reward framework’ – remained as per the structure in May 2010 on set up of the LSB

- only very marginal adjustments had been made to the five pay bands, and no colleagues sat outside the bands
- [REDACTED]
- according to informal feedback, colleagues were satisfied with the current 'total reward' package
- the LSB had a contractual obligation to conduct a pay review each July. However the review was subject to public sector pay controls generally and the LSB was required to submit a pay remit to MoJ for approval
- the LSB was emerging from a pay freeze in 2012 and therefore for the first year, was in a position to agree a remit that included an element of pay uplift
- HM Treasury guidance meant a limit of 1% on the percentage increase in overall remuneration costs for staff (excluding senior civil servants (SCS) or NDPB equivalents, which for the LSB meant 'Directors' and 'Heads' and above) – the overall 'pot' for the LSB was therefore in the order of £20k including SCS equivalents and £12k excluding SCS equivalents – guidance for SCS had not yet been published by HM Treasury
- [REDACTED]
- contract terms for new starters and promotees to make clear that staff will need to have been in post for a minimum of a year before becoming eligible for a pay review
- [REDACTED]

19. The Committee resolved to agree:

- a) [REDACTED]
- b) **contract terms for new staff to make clear that post-holders will need to have been in post for a minimum of a year before becoming eligible for a pay review.**

Item 10 – Private Session - Paper (12) 06 (RNC) Senior Executive succession plan

20. The Committee considered the paper from the Chief Executive, which described proposals for emergency succession arrangements, moves in 12 to 18 months and colleagues who might develop into plausible successors in three to four years.

21. The following points were raised in discussion and the Committee noted:

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

- [REDACTED]

22. The Committee resolved to note:

- **that the Chief Executive would finalise the plan, taking account of the Committee's comments**
- [REDACTED]

Item 11 – Paper (12) 07 (RNC) Schedule of appointments and re-appointments to the Board, Office for Legal Complaints and Legal Services Consumer Panel

23. The Corporate Governance Manager presented a paper on the schedules of appointments and re-appointments to the Board, Office for Legal Complaints (OLC) and Legal Services Consumer Panel (LSCP), covering the period to 2014/15.

24. The following points were raised in discussion and noted by the Committee:

- the MoJ would lead the process to appoint to new Board members effective from 1 April 2013, with the LSB Chairman sitting on the recruitment panel. The Committee's role was to contribute to the Chairman's input to the Board and MoJ, through influencing the process and feeding in intelligence. MoJ was understood to have a clear understanding of the LSB's need to input
- the induction plan for the two new Board members would be factored into the Committee's work programme (for consideration at the winter meeting)
- a more detailed plan needed to be prepared, covering 18 to 24 months, which looked at the scheduling of appointments (eg Chair of OLC to be recruited ahead of the appointment of members of the OLC, so that the Chair could participate in the member appointments), and so that points in the timetable when the Nomination Committee would need to sit could be identified
- detailed criteria needed to be formulated for making recommendations to the Chairman/Board/MoJ on re-appointments and appointments, including on such factors as skills mix, person specification etc for the OLC and Consumer Panel roles in particular
- information would be collated from the OLC and Consumer Panel Chairs on their respective bodies' effectiveness work in 2012, to feed into the process.

25. The Committee resolved to:

- a) note the schedule of appointments and re-appointments, which would be expanded to cover the points raised in discussion**
- b) consider further the issues in relation to the appointment of two new Board members (one Lay and one non-Lay) at its meeting on 25 June**
- c) consider further the issues in relation to the Consumer Panel, which would also be considered at the Committee's 25 June meeting**

Item 12 – Paper (12) 08 (RNC) Draft Annual Report of the work Committee for 2011/12

26. The Corporate Governance Manager presented the draft report on the activities of the Committee covering the period 1 April 2011 to 31 March 2012 for the Committee's consideration.
27. **The Committee resolved to approve the draft report about the activities of the Remuneration and Nomination Committee during 2011/12, subject to final drafting points being submitted to the Corporate Governance Manager by 11 May, for onward submission to the Board's 30 May meeting.**

Item 13 – Any other business

28. There was no other business.

Item 14 – Chief Executive's remuneration

29. The Committee Chair presented the item, which concerned the Board's recommendation that the Chief Executive's 5% Additional Benefits Allowance should be made contractual and be paid as additional Employer's Pension Contributions.
30. The following points were raised in discussion and noted by the Committee:
- with the Chair's permission, the Corporate Director had held discussions with the external adviser on the issue in advance of the meeting
 - it was clear that the MoJ had no formal role in the process – the decision was properly a matter for the Board as specified in the Legal Services Act, however the Committee needed to be mindful, in finalising its advice to the Board, of the numerous reports and guidance from the Cabinet Office in respect of Chief Executive remuneration. MoJ would expect the LSB to act consistently with public pay policy
 - the external adviser confirmed, as per the paper circulated to the Committee in 2010, that there were no relevant equivalents against which to benchmark the Chief Executive's pension entitlement – the unfunded Principal Civil Service Pension Scheme for example factored in 'notional' employee contributions which underestimated the costs of providing the generous benefits. It was generally agreed that if the PCSPS terms were valued on an actuarial basis that the employer's contribution rate would be at least 25% and probably in excess of 30% against the 22% recommended for the LSB Chief Executive
 - on the basis of the Committee's agreement that the figure proposed in light of the above advice was not novel or contentious, the external adviser would undertake further analysis to provide assurance to the Committee that the pension contribution was not out of line with other public sector Chief Executive pension contributions
 - the recommendation needed to be finalised in time for the 30 May Board.
31. **The Committee resolved to approve the proposed pension contribution for the Chief Executive, for onward submission to the Board's 30 May meeting, subject to the further analysis to be undertaken by the external adviser.**

Item 15 – Date of next meeting

32. The Committee would next meet on 25 June 2012. The venue would be LSB's offices at Victoria House, Southampton Row, London WC1B 4AD.

HP, 30/04/12

Signed as an accurate record of the meeting

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Date