

**Minutes of a meeting of the Legal Services Board (LSB) on 24 July 2013**

**Date:** 24 July 2013  
**Time:** 14:30 – 16:30  
**Venue:** SRA Offices, The Cube, 199 Wharfside Street, Birmingham B1 1RN

**Present:** David Edmonds Chairman  
**(Members)** Chris Kenny Chief Executive  
 Ed Nally  
 Bill Moyes  
 Steve Green  
 Barbara Saunders

**In attendance:** Julie Myers Corporate Director  
 Crispin Passmore Strategy Director  
 Fran Gillon Director of Regulatory Practice  
 Nick Glockling Legal Director  
 Adewale Kadiri Corporate Governance Manager (minutes)

**By telephone link:** Edwin Josephs Director of Finance and Services (items 4-9)  
 Alex Roy Head of Development and Research (items 4-5)  
 Paul Greening Regulatory Associate (item 4)  
 Jessica Clay Legal Advisor (item 4-5)  
 Emily Lyn Regulatory project Manager (item 4-5)  
 Tom Peplow Regulatory Associate (item 5)

**Item 1 – Welcome and apologies**

1. The Chairman welcomed those present and in attendance to the meeting. Apologies had been received from Anneliese Day QC, Terry Babbs and Andrew Whittaker.

**Item 2 – Declarations of interests relevant to the business of the Board**

2. There were no declarations of interest.

**Item 3 – Reflections from the Board to Board session with SRA**

3. The Board were unanimous in their view that the session with the SRA Board had been useful, and long overdue. Some SRA Board members had also commented to this effect. It was suggested that such sessions should henceforth be held annually. The Chairman extended his congratulations to the Board for the way the session had been handled.

**4. The Board resolved that:**

- a) The next regulatory review of the SRA should take place in July 2014, and**
- b) This should be followed by a Board to Board session in September or October**

**Item 4 – Paper (13) 53 Quality Assurance Scheme for Advocates (QASA) rule change application**

5. Crispin Passmore presented this paper in Dawn Reid's absence. The Executive's recommendation was that the application be approved.
6. The Board noted:
  - The history of the QASA proposal went back to 2009/10 during which time a series of papers had been presented to the Board
  - A fine line had to be treaded between the LSB's duty under section 4 of the Act to help in the development of regulatory standards, and its responsibility under paragraph 3, Schedule 4 to consider and approve applications for alterations to regulatory arrangements
  - Many criminal advocates are either not in favour of the scheme, or had argued that it ought to be targeted at other practitioners, and one barrister had already expressed the intention to seek judicial review should the application be approved
  - The Act allows applications of this nature to be approved by the Chief Executive, but this application had been referred to the Board due to its sensitivity and high profile. In the event that it is approved, the Board would be asked to delegate approval of the drafting of the Decision Notice to the Chairman and Chief Executive
  - The recommendation from the executive (with the Legal Director dissenting) to approve had been informed by internal and external legal advice. The Legal Director advised that the Board should issue a Warning Notice and consider refusing the application. When pressed by the Board as to what further advice would assist the Board in its decision, the Legal Director advised seeking the views of the judiciary as to whether it could manage the risk to judicial independence from judicial evaluation. It was accepted that any legal challenge was likely to result in a delay to implementation of the Scheme. However the decision on whether to approve the application or not was within the scope of the Board's discretion, and had to be made only on the basis of criteria set out in Schedule 4 to the Act. There was no indication that further information received at this stage would be any more helpful
  - The application had been made by the Joint Advocacy Group (JAG) on behalf of the three commissioning regulators: Bar Standards Board (BSB), Solicitors Regulation Authority (SRA) and ILEX Professional Standards Ltd (IPS). The relevant rules of each regulator had been considered, and it was confirmed that there was no basis for refusing the application

7. **The Board considered in detail the arguments set out in the paper proposing the approval of the application. The Board also considered the privileged legal advice set out in Annex B, and noted the potential legal challenge, but concluded that the argument in favour of granting the application was sufficiently strong notwithstanding the risks as set out. The Board therefore resolved to:**
- a) Approve the application from the (BSB), (SRA) and (IPS) for changes to regulatory arrangements resulting in the introduction of the Quality Assurance Scheme for Advocates (criminal), and**
  - b) Delegate approval of the final drafting of the Decision Notice to the Chief Executive and Chairman**
8. The Board congratulated the team on the quality of the analysis and clarity of the draft Decision Notice

#### **Item 5 – Paper (13) 54 LETR briefing**

9. Crispin Passmore presented this paper. The Board were reminded of the length of time it had taken to undertake and complete this review of legal education and training. The report is quite lengthy and contains 26 separate recommendations.
10. The Board noted:
- The way the report had been drafted offered encouragement both to those regulators that are in favour of modernisation and liberalisation, but it also offered comfort to those with a more conservative outlook. It starts from the premise that the current system is broadly effective and fit for purpose
  - In view of the length of time that had elapsed since the need for a review had been identified, the LSB needed to move quickly to avoid drift, and to issue statutory guidance in accordance with section 162 of the Act, building on some of the principles emerging from the LETR. Although this would not create enforceable obligations, it would send an important signal to the regulators. In this regard, the Board made particular note of:
    - The need for a more prominent role for entities in identifying and delivering training
    - The possibility of more common training across the professions, including early work on a revamp of CPD and re-accreditation
    - The need to debunk the argument around the over-supply of new entrants
    - The fact that the professions are still focused on the concept of training by title
  - LETR had recommended the establishment of a Legal Education Council, but this had not been well received by the professions. A lot of thinking was required on this issue

**11. The Board resolved to:**

- a) **Note the briefing on the LETR, and**
- b) **Ask the executive to prepare draft guidance for discussion at the September Board**

**Item 6 – Chief Executive’s update (verbal)**

12. The Chief Executive provided a verbal update on the following matters:

- The progress that had been made in securing new office accommodation for LSB
- In relation to the Bar Council investigation, 300 pages of evidence had been digested into a 30 page paper which had been sent to the Bar Council for factual accuracy checks, and they had been asked to report back by the end of this week. A final legal analysis would subsequently be made as to whether there had been a breach of the relevant internal governance rules and if the actions taken were detrimental to the regulatory objectives. There was confidence that a recommendation would be reached by the end of August for consideration at the September Board meeting.
- The BSB had welcomed the approval of the changes to their Handbook, and in doing so had publicly highlighted their outcomes based approach to regulation
- The OLC has put 10% of its staff at risk of redundancy. This is primarily as a consequence of case volumes remaining lower than those anticipated at establishment
- LSB had received information regarding legal action by a struck off solicitor, who had previously sued the Law Society and SRA, without success, in the US. In this case, LSB and MoJ were being asked to attend court to clarify whether the Law Society was an organ of state such that it could not be sued overseas.

[REDACTED]  
[REDACTED]  
[REDACTED] [FOIA exempt: s42]

**13. The Board resolved to note the Chief Executive’s update.**

**Item 7 – Any other business**

14. There were no further items of business.

**Item 8 – date of next meeting**

15. The Board would next meet on 29 August 2013 at 09:30 to 11:00. The venue would be LSB’s offices at Victoria House, Southampton Row, London WC1B 4AD.

AK, 26/7/13  
Signed as an accurate record of the meeting

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Date

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