

To:	Legal Services Board	
Date of Meeting:	29 January 2014	Item: Paper (14) 07

Title:	Chief Executive's Progress Report - January 2014	
Workstream(s):	All	
Author / Introduced by:	Chris Kenny, Chief Executive chris.kenny@legalservicesboard.org.uk / 020 7271 0057	
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
21 – last sentence	Section 36(2)(c) – likely to prejudice the effective conduct of public affairs	

LEGAL SERVICES BOARD

To:	Legal Services Board		
Date of Meeting:	29 January 2014	Item:	Paper (14) 07

Chief Executive's Progress Report - January 2014

Operations and governance Issues

1. The most significant change to report to colleagues is, of course, our successful move to One Kemble Street. Whilst not wholly without tension, primarily as a consequence of difficulties with our telephony provider, the move has gone smoothly. We have one outstanding build issue to resolve, namely satisfying building control on airflow for meeting rooms, which is causing some irritation ie no doors on meeting rooms. But we have been helped considerably by Office for Rail Regulation and Consumer Futures in terms of access to alternatives. The move is also generating cost savings, helpful in both the short- and medium-term – a point we were at pains to stress during the Junior Minister's successful visit to the office on 21 January, where we were also able to present the work of the Board and Consumer Panel and introduce him to the majority of colleagues.
2. On appointment matters:
 - a. OLC Chair – we can now congratulate Steve Green formally on his appointment as OLC Chair following a successful appearance before the Justice Select Committee in December, which produced a warmly worded report endorsing his appointment;
 - b. OLC Members – a paper is on today's agenda seeking agreement to the appointment of new Members
 - c. LSB Chair and Members – interviews for all posts have been completed and we understand that submissions have been made to Ministers. We have no firm expectations on timing of announcements but mid-February seems probable, at least for members.
3. On staffing matters, short listing for the Strategy Director will have taken place by the time of the Board meeting and I will update Members in the meeting. We have also received notice of Alex Roy's appointment to a new post at the Finance Conduct Authority. Alex's last day will be circa 14 April and we will decide on the recruitment approach in the light of how the Strategy Director post progresses. Recruitment also remains open for a Project Manager.

QASA judicial review

4. I have separately circulated colleagues with details of Lord Leveson's judgement in the QASA JR and well deserved thanks to the many colleagues with a hand in achieving it. The judgement was a clear vindication of our general approach to our rule approval function, exemplified by the clear endorsement of our decision notice. But, as, if not more, importantly, the judgement has confirmed that we have been correctly interpreting our powers and duties in relation to section 3 and 4 of the Act in promulgating our approach to the achievement of the regulatory objectives through very proactive engagement with regulators and others on this and other issues. Clearly we must continue to be just as diligent and thorough in the way we approach legal (and all other) analysis in all our work in future, but this judgement helps to clarify our remit to all our stakeholders.
5. On the case itself, the Legal Director and I will update colleagues on developments in relation to any appeal and costs at the Board meeting. On the scheme as a whole, JAG are considering the way forward in terms of extending the registration period in the initial circuit in order to refresh judicial training and making small changes to address detailed points in the judgement. We will continue to work closely with them as they seek to recover the operational momentum lost during the proceedings.

Bar Council investigation update – delivery of undertakings 1 and 2

6. In keeping with requirements of the first and second undertakings given as part of informal resolution of our recent investigation, the Bar Council published a regulatory independence "protocol" on its website on 20 December <http://www.barcouncil.org.uk/media-centre/news-and-press-releases/2013/december/bar-council-and-bsb-protocol-for-ensuring-regulatory-independence/>. This protocol incorporates the substance of LSB comments on two earlier drafts. In accepting the protocol, we highlighted that it does not negate the Bar Council's (and Bar Standards Board (BSB)) ongoing obligation to comply with the requirements of the Internal Governance Rules.
7. The full text of undertakings one and two is below. These required the Bar Council (and BSB) to:
 - a. Develop proposals to achieve the outcome that Bar Council staff and officers who provide advice or assistance to the BSB on regulatory functions will respect the principle of regulatory independence by ensuring their involvement is transparent and the risk of undue influence on regulatory functions is minimised
 - b. Develop proposals to achieve the outcome that Bar Council staff and officers do not attend non-public sessions of the BSB Board and its committees other than in exceptional circumstances and that any reasons for attendance are documented and made public. For the avoidance of doubt this does not preclude arranging meetings between the BSB and

Bar Council to enable the Bar Council to represent or promote the interests of barristers.

8. Next scheduled dates for action are:

- a. By the end of March 2014 - implementation of measures so that funding of the process that enables barristers to complain about unpaid fees is via the Practising Certificate Fee
- b. By the end of July 2014 – completion and publication of a review (wholly delegated to the BSB) of whether it is appropriate for the arrangements that were the subject of our investigation to remain within the BSB's regulatory arrangements (with any necessary related application to the LSB made by July 2015).

Regulator Issues

9. Other points to note in relation to individual regulators include:

- Continued engagement with SRA on a number of issues with the aim of maintaining momentum on both strategic and performance issues during the current transition in the senior team;
- A very successful session with the senior team at the BSB on 5 December, which provided substantial assurance on implementation of their ambitious change programme: although much remains to be done, it was clear that some effective capability building was already starting to show dividends;
- Following the LSB's decision regarding the CLSB's application to extend its regulatory scope to include trainee costs lawyers (who are not authorised to conduct reserved legal activities), we met its Chairman to discuss a range of issues on 8 January. The CLSB noted that it has strengthened its Board in relation to regulatory experience. It still considers that there is a place for conduct regulation of trainees, but it accepts that a statutory scheme may not be appropriate. It also undertook to consider its options in relation to licensing authority status.

MOJ Reviews

10. The Chairman had a good discussion with the Secretary of State about emerging government thinking on the call for evidence on 15 January. There was a particular focus on deregulatory issues, which seem to be in the forefront of Ministers' minds. The timing of any response, however, remains unclear.

11. We have also maintained good contact with the Jeffrey Review, with Chris Handford and Rob Cross meeting Sir Bill and his team to discuss data issues, where we seem to have produced more helpful and detailed material than other stakeholders. However, conclusions from that still appear to be some way off.

12. Alex Roy also participated in a Ministerial roundtable on whiplash, chaired by Shailesh Vara MP, on 19 January. It is possible that this issue, aligned with pressure on the subject from the Bar Council, may return the question of referral fees and other forms of so called “inducements” to the agenda, although we are not aware of any new evidence that would cause us to alter our sceptical stance on the desirability or practicability of a ban beyond the narrow legislation on personal injury already in place.

Research

13. Since the last Board meeting we have:

- a. Commissioned research from our two published specifications – PI market and data analysis
- b. Published Professor George Yarrow’s final report on the barriers to entry, exit and merger project – this is a very substantial piece of work on which we plan a Board seminar before the March meeting and on which we are already seeking to engage the incoming CEO of the SRA in particular;
- c. Published our specification for research looking at the online divorce market.

14. Over the coming period we expect to

- a. Commission research from our published specification – online divorce market.
- b. Meet research teams within regulators to discuss research plans for 2014/15.

Statutory Decisions

15. Since the last meeting we have published the decisions on the designation applications from the Institute of Chartered Accountants in England and Wales, the Intellectual Property Regulation Board (on behalf of the Chartered Institute of Patent Attorneys and the Institute of Trade Mark Attorneys) and the Chartered Institute of Legal Executives/ILEX Professional Standards Limited (IPS), agreed at the Board’s November meeting. The recommendations on each of these applications have been submitted to the Lord Chancellor. We continue to work with MOJ colleagues on the orders related to the designation orders. The lengthy timetable for these orders remains a source of concern for the Executive and the regulators involved. We do, however, understand that a Ministerial decision may be forthcoming in mid-February.

16. Five applications for approval of changes to regulatory arrangements have been completed and decision notices issued:

- a. Costs Lawyers Standards Board (CLSB) – Regulation of trainee cost lawyers

- b. IPS – amendments to regulatory arrangements for the conduct of litigation and rights of audience
 - c. IPS – regulatory arrangements for immigration advice and services
 - d. CLSB – Costs Lawyers Qualification Aims and Outcomes
 - e. Bar Standards Board (BSB) – Fitness to Practise Regulations.
17. An exemption direction was issued to the BSB in relation to consequential changes arising from the Courts and Crimes Act 2013 (removing jurisdiction of the Visitors to hear appeals) and minor changes.
18. At the close of the year there were no applications being considered. The application for approval of the Bar Council/BSB practising certificate fee for 2014/15 was received on 2 January 2014 and is being assessed.

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

19. The OLC held an Open Strategy Session at which attendees were invited to share their views on the three year strategy and business plan on which they are currently consulting. The session was attended by around 20 stakeholders, divided into three groups for discussions based around the three goals outlined in their plan; „Continuing to improve our efficiency’, ‘helping to create an improved complaints handling system’, and „replicating what we have learned more widely’. Feedback from the event will be fed into the final business plan. The consultation closes at the end of January.
20. Our next KPI meeting is due to take place on 3 February. In light of Steve Green’s appointment as OLC Chair from April, Terry Babbs will be providing the Board oversight.

Communications and stakeholder engagement

21. In addition to the various policy discussions referred to earlier, the Chairman and I had a very helpful catch up meeting with the Lord Chief Justice on 15 January.

[REDACTED]

[REDACTED]

[REDACTED]

22. A number of briefing „chats’ were organised with journalists and took place during the December/January period. The Chairman met Owen Bowcott (Guardian legal correspondent) and I met Jonathan Ames (The Times and The Lawyer), the editor of the Solicitors Journal and Mark Hennessy, the London editor of the Irish Times. These briefings allowed us to remind correspondents of the existence of the LSB and what we do and provide targeted messages in support (eg the blueprint document) or against (eg discussion with Irish Times journalist partly with a view to counter negative comment from both Bar Council and BSB in Ireland regarding legal services reform in England and Wales). I also spoke to

the Institute of Paralegals who will be running an article in their online journal on the Blueprint document and regulation in general.

23. I spoke at the Risk Management for Law Firms Conference, and compered the Net Law Media / Partners Club White Tie Winter Ball 2013. David Edmonds used the opportunity of the Regulatory Policy Institute's Hertford Seminar in Regulation to speak about legal services regulation: past, present, and future. This last speaking event was picked up by a number of media commentators partly because of the strong views expressed about, amongst other things, the Law Society and the Bar seeking to stifle competition (as the headline in Legal Futures put it). I also spoke at the Upjohn debate on 16 January which focused on legal education and training issues with Lady Justice Hallett, Maura McGowan and Professor Stephen Mayson and Alex Roy spoke at the Law Without Walls kick-off event at St Gallen, Switzerland on 18-19 January.
24. The draft LSB business plan (and consultation) was published on 5 December, and the *Understanding Barriers to Entry, Exit and Changes to the Structure of Regulated Law Firms* research was published on 17 December.
25. The media (both trade and national) picked up on quite a lot of what the LSB produced leading into the Christmas period. An article was placed in *Modern Law magazine* on self-regulation. The *investigation into the Bar Council* was picked up and fiercely debated. The *blueprint document* continues to be focused on by some notable commentators (ie Legal Futures and Solicitors Journal). The decision to recommend *IPReg becoming ABS licensing authority* number three and to approve the *CILEX request for IPS to become an approved regulator for probate and reserved activities* also attracted significant attention. The decision to recommend to the Lord Chancellor that the *ICAEW becomes a licensing authority and approved regulator* for legal services attracted broad attention from both the trade and national press. The *Barriers to Entry, Exit and Changes* research was also picked up and led to an exchange of views on the issues raised. We also press released the opening of the office.
26. As colleagues will have observed, the QASA judgement garnered significant media attention in the days that followed.
27. Finally, for those keeping count, our Twitter account is up to 240 followers – an increase of 60 from my last report.