

**Minutes of a meeting of the Legal Services Board (LSB) on 26 March 2014**

**Date:** 26 March 2014  
**Time:** 14:00 – 16:30  
**Venue:** One Kemble Street, London WC2B 4AN

**Present:** David Edmonds Chairman  
**(Members)** Chris Kenny Chief Executive  
 Terry Babbs  
 Steve Green  
 Bill Moyes  
 Ed Nally  
 Barbara Saunders  
 Andrew Whittaker (items 3 -17)

**In attendance:** Sir Michael Pitt Chairman Designate, LSB (items 1-6)  
 Elizabeth France Chair, Office for Legal Complaints (items 3-4)  
 Adam Sampson Chief Legal Ombudsman (items 3-4)  
 Elisabeth Davies Chair, Legal Services Consumer Panel (item 5)  
 Julie Myers Corporate Director  
 Steve Brooker Consumer Panel Manager (item 5)  
 Robert Cross Research Project Manager (item 7)  
 Fran Gillon Director of Regulatory Practice  
 Nick Glockling Legal Director  
 Chris Handford Regulatory Project Manager (item 7)  
 Michelle Jacobs Business Planning Associate (items 4-6)  
 Edwin Josephs Director of Finance and Services  
 Alex Roy Head of Development and Research (item 7)  
 Caroline Wallace Strategy Director designate  
 Adewale Kadiri Corporate Governance Manager (minutes)

**Apologies:** Anneliese Day QC

**Item 1 – Welcome and apologies**

1. The Chairman welcomed those present and in attendance to the meeting, in particular Sir Michael Pitt, who would be taking over as Chairman of the LSB from 1 May 2014. Apologies had been received from Anneliese Day QC, and Andrew Whittaker had indicated that he would be arriving late.

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

2. There were no declarations of interest.

3. Board Members were reminded to notify the Corporate Governance Manager of any hospitality extended and/or received in the course of their LSB work.

**Item 3 – Paper (14) 11 OLC Budget 2014/15 for approval**

4. Elizabeth France introduced this item, reminding the Board that the draft budget had been presented to the Board at their meeting in November. The Board was now being asked to review and agree the final budget. In the course of the discussion, the following points were noted:

- The OLC had maintained dialogue with LSB colleagues throughout the development of the budget
- The downward drive of the overall budget is continuing, and the amount proposed for 2014/15 is below £14m
- In terms of reviewing performance during 2013/14, whilst staffing reductions have had an impact, all targets have been met, including timeliness
- However, there is some concern to make sure that demanding timeliness targets do not have unintended consequences for quality and fairness
- The organisation is planning for a move to a new building which will deliver cost savings
- Current forecasts suggest that the unit cost for 2013/14 will come in closer to £1800 than £1900
- Some uncertainty remains around the parliamentary timetable for the implementation of the Claims Management Complaint jurisdiction, but the cost of preparatory work for this is accounted for separately from leviable work. A record of costs being incurred at this start up stage is being kept, which the Ministry of Justice would be required to reimburse. A five month run-in will be required to allow for all necessary arrangements to be made, including staff training.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[FolA exempt: s36]

- All fixed costs incurred from work that is directly connected to CMCs would be apportioned appropriately. The basis upon which this would be done will be discussed with the LSB in due course
- [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[FolA exempt: s36]

- There are no current concerns about management capacity to manage the CMC work.

5. The Board congratulated the OLC Board on the savings that they have been able to achieve, in this and in previous years. As Ms France's term of office ends on 31 March, the Board took the opportunity to thank her for her work in setting up the OLC and the Legal Ombudsman scheme, and placing both on a firm footing. This had been one of the LSB's key achievements, but it would not have been possible without Ms France's efforts. The Board wished her all the best for the future.
6. **The Board resolved to agree the OLC's budget of £13.9m for 2014/15.**

#### **Item 4 – Paper (14) 20 Levy Rules Decision**

7. Edwin Josephs presented this paper and directed the Board to the draft Decision document at Annex A. This set out a number of proposed changes to the current levy rules. These changes had been consulted on during the period December 2013 to February 2014, but none of the responses had raised any substantive points warranting a change to the proposals.
8. **The Board resolved to approve the draft Decision document, and to delegate final drafting changes to the Decision document to the Chairman and Chief Executive.**

#### **Item 5 – Paper (14) 12 Consumer Panel draft work programme 2014/15**

9. Elisabeth Davies presented the Consumer Panel's draft work programme for 2014/15. Feedback received from stakeholders had indicated that there was a growing acceptance of the Panel's work, and the Panel had received much recognition, in particular for the work with Mencap on people with learning disabilities accessing legal services, and will writing. On the other hand, there was concern from some stakeholders that over the last twelve months, the Panel may have spread itself too thinly, and had not had sufficient impact on approved regulators and the LSB. It was noted that recommendations on referral fees and will writing had not been accepted, and there was a need for the Panel to re-package its interventions. The tracker survey was still seen by some as the Panel's most important contribution. The work programme had been informed by this feedback.
10. Key themes from the work programme were:
  - Although it is an extensive programme, there is a much tighter focus on a small number of projects. There is a limited number of new initiatives
  - The Panel is in a consolidation phase, and would be returning to some existing and previous projects, including the work on open data
  - Equality of access would be an area of focus, with work to be done on litigants in person and online self help tools
  - Training on consumer principles is to be rolled out, and a similar approach is to be taken with regard to vulnerable consumers

- The LSB plans to commission advice from the Panel on the action that it should be taking in the period up to 2020 to secure the interests of consumers

11. In the course of the discussion it was noted that:

- The work programme strikes a balance between access to justice on the one hand and adequate consumer protection on the other. The consumer impact report goes to the heart of the work programme, and offers tangible proposals
- There was some scepticism as to how accurately the strategic risks to 2020 could be forecasted. This had been commissioned as a piece of horizon scanning to ensure that the LSB had a strong forward look which included the consumer voice. There is good material that could be drawn on, including the impact of technology, the smaller state and globalisation, but the uncertainty was acknowledged
- It was acknowledged that the output of the 2020 work might not be immediately tangible; it may be rather more of an iterative process that would influence future business plans.

12. **The Board resolved to:**

**Endorse the Consumer Panel's work programme for 2014/15, subject to an amendment of the work to be done in response to the LSB's invitation for advice.**

#### **Item 5 – Paper (14) 13 Final LSB Business Plan and budget 2014/15**

13. The Chief Executive introduced this item noting that the text of the Business Plan is still a work in progress in light of the continuing lack of clarity about the outcome of the MoJ's call for evidence. As such, the opening statement for the Plan has not been finalised. The Board were advised that the main changes to the Plan were to refine areas for thematic review in light of an internal prioritisation exercise and responses to consultation and confirmation of the Research Plan. As 2014/15 is the third year of the existing strategic plan, the LSB will seek to concentrate on maintaining its focus on regulatory performance.

14. In the course of the discussion the following points were noted:

- In the budget, £150k worth of savings were being offered. This could be managed, whilst also allowing for some flexibility in year, but significant risks remained and no further savings should be offered. [Post Board note: Ministers have now confirmed approval of the budget]
- The consultation on the draft business plan had generated 11 responses.
- The Audit and Risk Committee had considered the proposals and had been content with its contents
- The Board determined that the forward should be written by the outgoing Chairman, and that this will be circulated by email once drafted

- The research plan would be clarified to make clear the rationale for selecting certain projects.

**15. The Board resolved to:**

- a) Agree the Business Plan for 2014/15 (including the research plan) subject to the suggested amendments, and**
- b) Agree a budget of £4,298k to deliver the Plan for 2014/15.**

**Item 6 – Paper (14) 14 Investigation into the cost of legal services regulation**

16. Alex Roy introduced this item. This project had initially been included in the 2013/14 Business Plan, but had been re-scheduled as a result of the resource requirement for the preparation of the response to the MoJ call for evidence. It has now been included in the 2014/15 Business Plan.

17. The following points were noted in the course of the discussion:

- Stage 1 of the project would involve the gathering of readily available information, while gap analysis and prioritisation decisions would take place in stage 2
- There are two potential issues, both of which would be difficult to address:
  - Detailed consideration of LSB costs, and
  - The cost of regulation to businesses – how regulation imposes costs on businesses and ultimately consumers
- The project is to be carried out by a combination of in-house analysis and commissioned work, and two Board members are to be asked to join the steering group that is to be set up to oversee the work
- The need to engage external involvement in the specification and scrutiny of the work was stressed, in order that the outcomes would have credibility
- It was decided that publication of the final report would be moved into Q1 15/16
- The overall focus of the project should be on the broader regulatory structure and in particular the duplication inherent within the present system. It would be important to identify the overarching objectives of the project so that the exercise is not misconstrued
- Consideration was given to including the cost of insurance and compensation within the specification, but it was acknowledged that managing the project within the research budget would be a challenge. The Executive agreed to reflect on the scope of the project and how much could be done in different areas.

**18. The Board resolved to note the proposal for a project to be carried out considering the cost of legal services regulation, which would be included within the 2014/15 Business Plan.**

### **Item 7 – Minutes of the Board Meeting held on 29 January 2014**

19. The minutes of the meeting were agreed as an accurate record.

### **Item 8 – Report of action points**

20. All actions were noted as on-track, and all items had either been included on the agenda or are on the Board forward plan for future agendas.

### **Item 9 – Paper (14) 15 Chief Executive's progress report March 2014**

21. The Chief Executive presented his progress report. The Board noted:

#### Operations and governance issues

22. The office move had gone well, with initial teething issues now resolved, but it had uncovered the fragility of the IT infrastructure. Planned upgrades to the system are now being brought forward to address the issues. The Chairman acknowledged the hard work that had been put in by the Director of Finance and Services, both during the move and since.
23. A meeting had been held with the Arm's Length Bodies Governance team at the MoJ to discuss their shared services agenda. It had however been made clear to them that the LSB could not be compelled to take on services that did not meet its needs, did not represent value for money, or undermined its independence. MoJ officials appear to have accepted this position.

#### Appointments

24. Notification was still awaited from MoJ on the appointment of three new Members for the LSB to take up post on 1 April 2014. Members would be informed as soon as there was word.

#### Equality and diversity

25. A draft report on LSB's progress in delivering its equality objectives for 2013/14 was noted by the Board. This would be published on the LSB's website in due course in line with its responsibilities under the Equality Act 2010.

#### QASA judicial review

26. No news had been received as to the whether the applicants had been granted leave to appeal. [Post Board note: notification has now been received that the Court of Appeal has refused the applicants leave to appeal, but they have another seven days to seek an oral hearing] To date, only 100 lawyers have signed up. It was noted however that this low figure could be as a result of the fact that implementation of the scheme is presently stayed.

#### Regulatory issues

27. Fran Gillon reported the ABS authorisation figures from February. A total of 270 licenses have been issued, and 51 applications are at the work in progress stage, 23 of which are from 2013 (some date back to June). A total of 110 applications have been withdrawn. On average, it takes 7 months to process applications, and the average age of work in progress cases is three months. 11% of these cases are over six months old, but there are none over nine months old.
28. The SRA are making steady progress. Recruitments are underway, and this may lead to further improvements, but there is still some concern about the point in the process when the formal timeline for dealing with applications comes into play. However, the length of time that applications are spending at stage 1 of the process is reducing. The SRA is also working with applicants to ensure that any deficiencies in their applications are addressed before the process starts. The SRA's survey of ABS applicants has been completed and is to be published soon.
29. The problems of slow approval of non-traditional models, especially multi-disciplinary practices, are beginning to be addressed as is the related issue of the Separate Business Rule. Firm proposals are awaited. The advertisement for the role of SRA Chairman has now been published and it is to be filled by a lay person.
30. The Gus John report received some media coverage and the LSB has had correspondence with the Society of Black Lawyers about it. The report found no evidence of direct racism and offers interesting analysis of the wider social structure of the profession, but it does not offer a compelling analysis of the causes of the observed disproportionality. The new Chief Executive wants to lead from the front on this issue and there will be a full response to the report and action plan shortly.

#### Office for Legal Complaints

31. The BIS consultation on the ADR directive has been published. The proposals for detailed transposition are as expected, but there are hints that the Government may wish to simplify the ADR landscape in the longer term. The document indicates that there could be more than one competent authority. The LSB may need to respond to the consultation in order to define whether it wishes to become a competent authority and, if so, for reserved legal services or all legal services. The complexities of the Legal Ombudsman possibly being subject to different requirements from two authorities should also be highlighted. A paper will be brought to the April meeting.

#### MoJ reviews

32. It is not yet clear what Sir Bill Jeffrey's review of criminal advocacy will recommend and it is not anticipated that his report will be published before Easter.
33. The Chief Executive and the Chair of the Consumer Panel co-chaired a meeting on the release of data to comparison websites. The regulators have started to shift their position in this area.
34. **The Board resolved to note the Chief Executive's update.**

**Item 10 – Paper (14) 16 Report of the 13 March 2014 Audit and Risk Committee meeting**

35. Steve Green presented this report. The issue of most concern that had been discussed at the meeting was the NAO technical team's latest advice on accounting for levy receipts. This would be to bring it in strict compliance with s175 of the Legal Services Act 2007 and the requirement to pass this into the Consolidated Fund instead of complying with the intention of Parliament at the time the Act was debated. The Board was apprised of the consequences of this. The Director of Finance and Services has been working with the NAO in seeking an acceptable solution for the 2013/14 accounts and working the Ministry of Justice to identify a suitable legislative vehicle to make primary legislation changes to the Act..
36. **The Board resolved to note the key points arising from the Audit and Risk Committee meeting held on 13 March 2014, and the steps being taken to resolve the issues around the treatment of LSB accounts.**

**Item 11 – Paper (14) 17 Finance Report to 28 February 2014**

37. Edwin Josephs introduced this item. The Board noted the amount of money that the LSB had been able to save to fund the legal defence of the QASA judicial review.
38. **The Board noted the Finance Report.**

**Item 12 – Paper (14) 18 Report of the 29 January Remuneration and Nominations Committee meeting**

**Item 13 – Paper (14) 19 Remuneration and Nominations Committee Annual Report 2013/14**

39. Both of these agenda items were considered by the Board in Private Session.

**Item 14 – Any other business**

40. The Chairman noted that this would be the last meeting for Andrew Whittaker, Barbara Saunders and Steve Green. He recorded his and the Board's thanks for the important roles that they had all played in the organisation's set up and successful operation over the years. He noted that all three had contributed in various ways throughout their tenures, and that the organisation would not be where it is without their unique and collective contributions.

**Item 15 - Date of next meeting**

41. The Board would next meet on 30 April 2014 at 09.30am. The venue would be LSB's offices at One Kemble Street, London WC2B 4AN.



Signed as an accurate record of the meeting

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Date

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