

Minutes of a meeting of the Legal Services Board (LSB) on 30 April 2014

Date: 30 April 2014
Time: 10:30 – 12:30
Venue: One Kemble Street, London WC2B 4AN

Present: David Edmonds Chairman
(Members) Chris Kenny Chief Executive
Terry Babbs
Anneliese Day QC
David Eveleigh
Marina Gibbs
Bill Moyes
Ed Nally

In attendance: Sir Michael Pitt Chairman Designate, LSB
Chidi Alufuo Finance and Resources Associate (observing)
Paul Greening Regulatory Associate (item 3)
Chris Handford Regulatory Project Manager (item 4)
Julie Myers Corporate Director
Fran Gillon Director of Regulatory Practice
Nick Glockling Legal Director
Edwin Josephs Director of Finance and Services
Caroline Wallace Strategy Director designate
Adewale Kadiri Corporate Governance Manager (minutes)

Item 1 – Welcome and apologies

1. The Chairman welcomed those present and in attendance to the meeting, in particular Marina Gibbs and David Eveleigh, who were attending their first meeting as new lay and non-lay Board members respectively. He also welcomed Chidi Alufuo, who had recently taken up the role of Finance and Resources Associate at the LSB and was attending the meeting to observe.

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 5 – Paper (14) 23 Abolition of the Licensing Authority Committee

4. Julie Myers introduced this item. The Licensing Authority Committee (LAC) had been set up in January 2011, in the event that the LSB was required to become a licensing authority of last resort for ABS because there was no competent authority that could fulfil this requirement. However, the MoJ had never commenced the relevant part of the Act that would enable the LSB to play this role, and it has become clear that the overall development of licensing practice and the increasing number of licensing authorities are significantly reducing the likelihood of the LSB ever having to undertake the function.
5. The LAC has therefore never met, and is highly unlikely to be required to do so. This anomaly was picked up by the internal auditors, and as such the recommendation made to the Board was for the Committee to be abolished.
6. **The Board resolved to abolish the Licensing Authority Committee until such time as it might be required.**

Item 6 – Paper (14) 24 Membership of the Audit and Risk Committee

7. Chris Kenny introduced this paper. Board Committees are required to have a lay majority, but as a result of the Board being one lay member short, interim arrangements are required to enable Committees achieve a quorum. It is intended that a more in-depth discussion about Committee membership will take place at the July Board meeting.
8. The most pressing issue is the ARC meeting on 13 May, for which a Chair and a lay member are required. Terry Babbs has been asked if he would be prepared to chair the Committee and he has indicated his willingness to do so. Mike Pitt has also been asked if he would be prepared to be co-opted onto the Committee for that meeting only, and he has agreed.
9. **The Board resolved to**
 - (a) **Approve Terry Babbs as Chair of the Audit and Risk Committee, and**
 - (b) **Approve the co-opting of Mike Pitt onto the Committee for the 13 May 2014 meeting only.**

Item 3 – Paper (14) 21 Section 80 recommendations to the Lord Chancellor

10. Paul Greening presented this paper, reminding the Board that in December 2013, they had approved applications from ICAEW, CIPA and ITMA that they be designated as licensing authorities. These recommendations were accepted by the Lord Chancellor in March 2014. Within those applications, the three organisations had proposed that any appeals against their decisions would be heard and determined by the General Regulatory Chamber of the First Tier Tribunal. A consultation exercise had been undertaken in relation to this proposal. Only one response had been received, and this was supportive.

11. The Board noted that no comments had been received on the draft order or the impact assessments, but that the process for drafting orders generally had become a major burden on the LSB and approved regulators and that the issue was being discussed with MoJ at a senior level.
12. **The Board resolved to**
 - (a) **Note the content of the response document**
 - (b) **Approve the publication of the response document and the making of the recommendations set out in the response document, and**
 - (c) **Note the draft statutory instruments and impact assessments accompanying the recommendations.**

Item 4 – Paper (14) 22 Appointments and reappointments to regulatory boards

13. Chris Handford presented this paper, reminding the Board that they had decided at their meeting in January 2014 to require the chair of each regulatory board to be a lay person. In response to some of the comments made to that consultation about the robustness of the appointment and reappointment process, the Board decided to further consult on proposals for strengthening the independence of this process. The Board had noted the risk that representative bodies could exert undue influence over the appointment process
14. Seven responses had been received to this consultation, most of which were in favour of the proposal. Only the Law Society and an individual solicitor, a member of the Law Society Council, were against it. On the basis of these responses, the recommendation to the Board was to proceed with all the proposals, with the exception of the requirement that appointment and reappointment arrangements must be approved by the LSB. It was considered that this was an unnecessary extra level of bureaucracy.
15. In the course of the discussion, the following points were made:
 - The proposals were considered to strike the right balance and address the perception of bias
 - Although there is a risk of legal challenge, this is unlikely, and the LSB had received strong external advice at the time of making the lay chairs decision. This more recent decision raised no new substantive issues.
 - In terms of handling, the Board asked that the documentation should be clear that the LSB does not intend to sit on appointment panels
 - In relation to the appropriateness of the existing Bar Council/BSB selection panel as set out in paragraph 32 of the cover paper, the Board expressed scepticism about appointment by nomination to panels.

16. The Board resolved to:

- (a) Agree the recommended changes to the IGR schedule,**
- (b) Agree the implementation, and**
- (c) Delegate clearance of the final decision document following Board comments to the Chairman and Chief Executive.**

Item 7 – Minutes of the Board Meeting held on 26 March 2014

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

Item 8 – Report of action points

18. 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 April 2014

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

Operations and governance issues

20. The process for appointing Board members had been rather slow, but the MoJ has indicated its willingness to restart the appointment process as soon as possible, both to recruit the additional lay member, but also to identify an early successor for Bill Moyes. It is possible that an advertisement will go out before the summer
21. A new Regulatory Project Manager has been recruited. Her name is Kate Webb, and she will join from the Professional Standards Agency where she has worked on the performance assessment of health regulators. She has been appointed from a strong field, and there is the prospect that that the LSB will be up to its full staff complement by the summer. Stephen Mayson, an academic and well known legal commentator has signed up to work for the LSB in 2014-15 for 40 days a year.
22. There was discussion about of the Head of Development post. The Board were reassured that research will continue to retain a high profile within the LSB and the Executive would consider the points made about job title.
23. The audit issue that had been raised at the last meeting has now been discussed extensively with MoJ and NAO, who have confirmed that the issue of qualification does not arise. The issue has been raised at Director-General level at the MoJ, and there is some confidence that a permanent solution will be found during the course of this financial year. The accounting implication is that a notional entry has been made indicating that the levy was paid into the Consolidated Fund, and a payment of the

same amount was recorded as having been made to the LSB. This will be considered further by the ARC at its meeting on 13 May.

Policy Reviews

24. On the MoJ's call for evidence, it is possible that an announcement could be made within the next few days. It is likely that the Government will encourage action on deregulation and simplification. [Post Board note: a ministerial statement announcing the outcome of the call for evidence was made on 1 May]

SRA issues

25. As part of their response to the MoJ there are early indications of an encouraging change in approach to regulation from the SRA. There is not yet sufficient detail about the programme and project management arrangements to underpin delivery of this and the LSB would wish to gain a better understanding of relative priorities as work progresses in 2014-15 and beyond.
26. Work has been continuing on analysing monthly reports on the speed of authorising ABS. [REDACTED]. [Fol exempt s36(2)(b)(i)] Meetings are to be held with senior Executives at the end of May to discuss options for streamlining the process. Examples have been provided as part of the LSB's section 13 work of investors being putting through significant difficulty and expense as part of the authorisation process.

QASA judicial review

27. The decision on the applicants' oral application for leave to appeal is awaited on 9 May.

Statutory decisions

29. Following a review of recent PCF applications ARs have been asked to report on how they allocate PCF income for permitted purposes. The aim of this work is to ensure that PCF income is appropriately allocated going forward.

Solicitors Disciplinary Tribunal

(Ed Nally declared an interest as a solicitor member of the SDT)

30. The LSB received the SDT's annual report as to how it is meeting its KPIs. The performance of the tribunal has improved significantly in the three years since the appointment of the new clerk, and it continues to meet most of the current KPI's. The User Group was providing an increasingly useful forum to discuss issues around the articulation between SDT and SRA processes.

Legal Services Consumer Panel

- 31 The initial responses from professional commentators to the Panel's McKenzie Friend report has been hostile, but the Panel were working hard to engage stakeholders to ensure that the full recommendations were understood. A full discussion of the report will take place at the July Board meeting.

Office for Legal Complaints

- 32 All ADR schemes are required to have a certification body, but the LSB may be asked to verify that the OLC are fit and proper to play this role for those within the legal sector who wish to provide ADR. In the event that ADR schemes appear for non-reserved activities, the LSB may be required to act as their certification body as well. The Board's response to the BIS consultation would flag the need for certification bodies to work to common standards to minimise the burden on ADR schemes covered by more than one body.

Communications and stakeholders engagement

- 33 The LSB has increased the level of its engagement with the Welsh Assembly Government, and it is likely that the 27 October Board meeting would be held in Cardiff rather than London.

- 34. The Board resolved to note the Chief Executive's update.**

Item 10 – Paper (14) 26 Q4 Performance Report: January to March 2014

35. Julie Myers presented this report. This report summarises organisational performance during Q4 2013/14, and will form the basis of discussions with the MoJ sponsor team. The status of the overall programme and the majority of projects within it is green.

- 36 The Board congratulated the team on this achievement.

- 37 The Board resolved to:**

- a) Receive the draft Q4 performance report, and**
- b) Agree to its use as the basis for discussion with MoJ.**

Item 11 – Paper (14) 27 Finance Report to March 2014

38. Edwin Josephs introduced this item. The Board noted the significant year end underspend which had been achieved, in spite the extra cost of the QASA legal challenge, largely through the holding the vacant posts and lower office accommodation costs.

39. The Board noted the Finance Report.

Item 12 – Any other business

- 40. The Board agreed to formally make the amendment to the levy rules and this was signed by all Board members.
- 41. This was David Edmonds' last meeting as Chairman of the LSB and he took the opportunity to thank fellow Board members, Chris Kenny and the Executive team for all their support during his six year tenure. He commented on the quality of the Executive leadership, and on how well the Board and the Executive work together. Bill Moyes, on behalf of the Board, thanked David for his leadership over the period. The best possible platform had been laid down from which the Board could address its continuing challenges..

Item 13 - Date of next meeting

- 42. The Board would next meet on 22 May 2014 at 09.30am. The venue would be LSB's offices at One Kemble Street, London WC2B 4AN.

AK, 02/05/14

Signed as an accurate record of the meeting

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Date

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