

CC

To:	Legal Services Board	
Date of Meeting:	22 May 2014	Item: Paper (14) 28

Title:	LSB Strategy: Chair's Perspective
Workstream(s):	All
Author / Introduced by:	Sir Michael Pitt, Chairman Mike.pitt@legalservicesboard.org.uk / 020 7271 0064
Status:	Official

Summary:

Brief summary: The purpose of this paper is to set out my initial impressions about the LSB and the sector within which it operates, and to share my early thoughts about our direction of travel for 2014/15.

Recommendation(s):

The Board is invited:
(1) to note and discuss the contents of the paper

Risks and mitigations

Financial: N/A

Legal: N/A

Reputational: N/A

Resource: N/A

Consultation	Yes	No	Who / why?
Board Members:	√		Chris Kenny
Consumer Panel:		√	
Others:	Members of the Gateway Group		

Freedom of Information Act 2000 (Fol)

Para ref	Fol exemption and summary	Expires

LEGAL SERVICES BOARD

To:	Legal Services Board	
Date of Meeting:	22 May 2014	Item: Paper (14) 28

LSB Strategy: Chair's perspective

1. On 1 May I took up the post as Chair of the LSB and thought it might be helpful to put some initial ideas down on paper which we could talk about at the end of the Board meeting on 22 May. These are personal first thoughts as I settle into the role, rather than definitive, but it seemed useful to set out some broad aspirations early on, both in relation to the coming year and the medium-term.
2. The first thing to say is how much I am looking forward to working with all of you. I have been speaking to each of you in turn and am already clear that I am fortunate to have a Board with such a wealth of experience and commitment to the task. I know that Chris feels he has been lucky in having a group of colleagues who have been consistently engaged, supportive and challenging, rather than simply turning up for meetings and saying their piece. I hope that we will be able to hold on to this model as David, Marina and I settle in, adding our own experiences to the already rich mix.
3. Second, I am starting from a position of deep respect for the ability, professionalism and ethical standards of lawyers and legal businesses. I know from my time at the Planning Inspectorate and from my days as a Chief Executive in local government how essential expert and accessible legal services are in helping businesses and consumers navigate the problems which confront us, day in, day out. So, although we will continue to bring challenge - and sometimes very significant challenge - to existing practices, we should ensure that we are proportionate and celebrate good practice when we see it. The same applies when we pursue the regulatory objectives about the rule of law, the professional principles and the wider public interest that underpins everything we do.
4. Moreover, there is little value in tough regulation if legal services remain inaccessible to many of our fellow citizens. There's a tendency amongst professional lawyers to emphasise 'public interest' and to interpret this as upholding the law and the role of lawyers in this respect. This is fine, so long as that point of view does not drown out the importance of better access, affordability and customer care. The LSB has been criticised for its "consumer obsession" by some of the regulators and indeed the senior judiciary. I am similarly obsessed and for me it is a starting point. We still have a market which is far too intimidating, too uniform and, in many cases, too expensive. I am aware that this is a wide generalisation and that the LSB's work in recent years has helped to set the tectonic plates moving, but it still seems as if we have a great deal to do when it comes to improving the experience of the bulk of consumers – and, above all, their doubts about whether the law is really "for them".

5. The legal sector is a part of the wider economy. It is clearly an important and valuable part, not least in terms of the aspects of public interest that it protects and promotes. But, in the wider economy, customers are generally best served by well-functioning markets, with public interest safeguards and regulation targeted only where justified in light of the fundamental characteristics of the market (for example the inevitable disparities in knowledge between consumers and the professionals they consult).
6. The challenge is working out how the LSB's activity – and the bulk of confusing statute which underpins it, the variety of bodies we oversee and their bulky rule books – relates to the day-to-day experience of consumers. We want users of legal services to make informed choices. It is hard to see how the sheer volume and complexity of the statutory framework can do anything other than get in the way of a crisp and clean relationship between the lawyer and client/consumer. I would like to think that every decision we make is informed by a 'consumer interest' test of whether legal services are becoming more rather than less accessible. I believe there is much to be gained in this respect by learning from the Consumer Panel and the OLC (see later) who have access to significant evidence relating to consumer behaviours and experiences.
7. I am excited by the LSB's "Blueprint" document produced for the MOJ's call for evidence. I start from the position that less regulation, effectively targeted and enforced, is the right way to go – not out of any belief in an unfettered free market, but because unnecessary regulation confuses and undermines the credibility and effectiveness of regulation as a whole. I hope, over the coming months, we will continue to work on the Blueprint, strengthen its arguments and turn it into a compelling vision of the future. I also hope we will continue to implement aspects of the plan where it lies in our power to do so, in order to promote better integration of the legal sector into the wider economy and to become ever more persuasive in winning others, including the politicians, over to its core Blueprint messages.
8. The Written Ministerial Statement made earlier this month, which followed the MoJ's call for evidence, has not gone as far as I would have liked. However, the statement does at least lend confidence and further support to the actions we are taking – and leaves the door open for us to build productive relationships, pursue longer-term change and provide leadership.
9. On that theme, I am conscious of arriving at what feels like a pivotal moment in regulation, with major changes of personnel around our board table, in Chris' team, in the Chairs of our two high profile regulators and with other changes to come in the senior team at the SRA and The Law Society. We are also, of course, reaching the end of the current political cycle, with uncertainty about what comes next. I support the direction the Board has taken and I hope 2014-15 will be a year of maintaining momentum and laying strong foundations in terms of both strategy development and robust partnerships.
10. My first thoughts are that we need to:
 - Continue pressing hard on delivery of improved regulatory performance. I know the regulators have action plans in place. Our credibility and theirs rests

on the demonstrable improvement flowing from implementation and I will be making this clear to their respective chairs as I continue to meet them in the coming weeks.

- I want the LSB to communicate more strongly and build on its reputation for “thought leadership” through the generation of evidence and fresh thinking including, for example, examining further the functioning of the legal services market and its position relative to change in other sectors of the wider economy.
 - We and the sector can only gain by engagement of people like Professor George Yarrow, whose presentation I enjoyed at the March meeting and whose thinking has already started to have an impact on the SRA. Chris is also arranging for us to work more closely with Professor Stephen Mayson over the next 12 months.
 - One opportunity I am keen to explore is whether we can encourage further slimming of rulebooks by producing some form of model framework or template ourselves. It might capture the underlying principles of effective regulation which all front line regulators of legal services should share, encouraging a greater degree of convergence over time;
 - There’s plenty of unfinished business such as exercising closer supervision of OLC (which we discussed prior to our last Board meeting), keeping Will Writing on the political agenda, supporting the practical implementation of QASA and reviewing the funding of regulation. Also, what should be our attitude to Fee-charging McKenzie Friends and the expansion of self-help, including for example, on-line divorce? When assessing such developments, we may wish to describe ‘what good looks like’ and offer encouragement for the players to self-organise accordingly.
 - Finally, as a former Chief Executive and Accounting Officer in the public sector, it is important that we continue to focus on good governance and risk management. I am heartened when Chris tells me that MoJ have been scrupulous in respecting our independence – if also rather depressed when I hear tales of how long simple processes (such as making Board appointments!) have taken. We need to end those constraints when we can and make faster progress within them when we cannot.
11. If we get all of this right, then by this time next year we will be starting to engage with a new Government on the basis of seeking improved performance on key regulatory issues (in particular around authorisation and more innovative business structures) and have a core of intellectually strong work which we can use to both influence government’s agenda directly and contribute to achievement of shared objectives. In a perfect world the new government will be prepared to promote changes to primary legislation leading to a step change in the overall regulatory architecture.
12. To make progress, we need to properly refresh our own strategy and approaches through the year. I know that Caroline Wallace is keen to achieve

this. We're not starting with a blank sheet of paper, but we should go back to first principles where we can in looking at:

- The experiences of consumers and where the evidence tells us that the market needs to develop further and faster.
 - Where regulation can help or hinder achieving the necessary changes;
 - How we engage not simply with government, but also with political, industry and social stakeholders. There is a limit to what we can do with 30 people, so the challenge is to direct our resources with great care;
 - Whether we achieve those regulatory changes by direct action (including enforcement when necessary) or more gentle persuasion.
13. We will measure our success by what gets delivered. My hope is that the wide-ranging change of personnel mentioned above will mean that it will be possible for them to work more willingly to LSB requirements without being seen as traitors to their professional cause.
14. I know that Chris, Julie, Caroline and the team are starting to think through these issues and that there will be a lot more to be done in the coming three or four months, not least at our July and September meetings. I will want to talk publically about where we are heading, starting at the Westminster Policy Forum on 4 September.
15. Finally, I will want us to spend some time thinking through how we operate as a Board and relate to senior colleagues, the entire executive team and to wider stakeholders. I know that there has been some experience of Board-to-Board meetings, good use of members in 'shadowing' individual projects and NEDs involved in "Ambassadorial" duties. I am also conscious that three of us are newcomers, Terry and Anneliese have been in place for only a little more than a year, leaving only Chris, Bill and Ed with the longest track records. Based on my telephone conversations, Board members are willing to do more and I am keen that we find effective ways for this new Board to operate rather than automatically replicating what has been there in the past.
16. I hope this gives you some indication of what I am looking for in terms of a balance between continuity and change and, to revert to my starting point, I look forward to working with you all as things start to take shape in the summer months and beyond.